

**New Mexico Real Estate Commission
Regular Meeting of March 21, 2016
Real Estate Commission Offices
5500 San Antonio Drive NE
Albuquerque, New Mexico 87109**

DRAFT MINUTES

Commissioners Present: Clifford Stroud, President
Greg Foltz, Vice President
Gretchen Koether, Secretary
Kurstin Johnson, Member

Commissioner Absent: Kirk Clifton, Member

Staff Present: Wayne W. Ciddio, Executive Secretary
Lyn Carter, Chief Investigator
Roxanne Romo, Licensing Manager
Gillian Hubka, Investigator
Perry Bryant, Investigator
Germelyn Vivar, Administrative Secretary

Others Present: Jennifer Salazar, Assistant Attorney General
Mona Valicenti, Assistant Attorney General

1. 9:00 a.m.- Call to Order, Welcome, and Introductions-Clifford Stroud

Commission President Clifford Stroud called the meeting to order at approximately 9:00 a.m. He welcomed those in attendance and asked Commissioners, Commission staff, and all in attendance to introduce themselves.

2. Determination of Quorum

With four Commissioners present, Commissioner Stroud determined that a quorum was present.

3. Approval of the Agenda for the March 21, 2016 Meeting

Commissioner Greg Foltz moved approval of the agenda for the March 21, 2016 Regular Commission meeting. Commissioner Kurstin Johnson seconded the motion and it carried unanimously.

4. Old Business

a. Approval of the Minutes of the January 25, 2016 Regular Meeting

Commissioner Johnson moved approval of the minutes of the January 25, 2016 Regular Meeting. Commissioner Foltz seconded the motion and it carried unanimously.

b. Core Course and Instructor Boot Camp Update- Todd Clarke

i. Report on the results of the boot camp including introductions of individuals who graduated from the boot camp.

Mr. Clarke reported on the chronology of events that led to the two-day instructor boot camp held February 18-20, 2016. Twenty prospective instructors participated the event and 16 individuals graduated as new Core Course instructors.

Those graduates present at the Commission meeting were sworn in by Commission President Stroud and presented with certificates of completion. Those individuals were Alice Tozer, James McElroy, Lois Surry, Debbie Harms, Katrina Caswell, Kara Schug, Julie Greenwood, Julia Gelbart, Bob Arguelles, and Charlotte Knutson.

Also graduating from the boot camp but not present at the meeting were David Barker, Vic Bruno, Beverly Hilton, Sara O'Brien, Sarah Rich, and Kate Southard.

ii. Report on the results of the March 15, 2016 Core Course Pilot

Mr. Clarke reported that a combination of boot camp graduates and approved Mandatory Course instructors attended the day-long Core Course Pilot on March 15, 2016. He said the day consisted of small groups presenting and critiquing presentations of the main

components of the Core Course; broker duties, qualifying broker/associate broker relationships; errors and omissions insurance case studies; changes to laws and rules affecting real estate brokerage; and facilitated discussion of law and rule changes.

Mr. Clarke said he believes a total of 36 instructors will be required to handle the demand for roughly 9, 000 brokers needing to take the Core Course annually. That is 11 more instructors than currently exist, including existing Mandatory Course instructors and Boot Camp graduates.

Commissioner Johnson moved that Mr. Clarke work with those Boot Camp participants who ended the program on probationary status to achieve approved status. Commissioner Foltz seconded the motion and it carried unanimously.

After discussion, Commissioner Stroud moved to adopt the “Road Map to Become a Core Course Instructor” proposed by Mr. Clarke, but to delete the reference to the requirement that prospective instructors take an on-line exam as part of the approval process. Commissioner Gretchen Koether seconded the motion and it carried unanimously.

After discussion, Commissioner Johnson moved that the Education Steering Committee (ESC) be charged with ensuring that the Core Course is updated annually. Commissioner Foltz seconded the motion and it carried unanimously.

Commissioner Stroud appointed Commissioners Johnson and Koether to study and make recommendations to the Commission for ensuring quality control of the Core Course in its initial stages.

- c. Report by co-chairs of the New Mexico Real Estate Commission Task Force Mary Kay Gutierrez of Albuquerque and Louis Edwards of Las Cruces, charged with researching and making recommendations to the Commission for changes to Qualifying Broker duties.

Ms. Gutierrez and Mr. Edwards presented a series of detailed recommendations for changes to Qualifying Broker duties in the areas of Qualifying Broker responsibilities; qualifications for a Qualifying Broker's License; and requirements for renewing a qualifying broker's license.

Commissioner Stroud asked that the recommendations be placed on the Commission web site for broker information and comment; that the recommendations be placed on the agenda of the May 16, 2016 Commission meeting for further discussion and possible action; and that Commissioners become familiar with and be prepared to discuss the recommendations at the May 16 meeting.

5. New Business

a. Broker and Public Forum

Kaycee Canter asked the Commission to exempt her from having to take the New Broker Business Practices course that is required of all brokers in their first year of licensure. Her request was based on her prior experience as a broker in Colorado before becoming licensed in New Mexico. The Commission told Ms. Kanter her request would be discussed in Executive Session and she would be notified of the Commission's decision.

b. Adoption of 2016 Open Meetings Resolution

Commissioner Koether moved approval of the Commission's 2016 Open Meetings Resolution, with the understanding that Assistant Attorney General Mona Valicenti would provide that section of the resolution that allows for Commissioners to attend meetings telephonically. Commissioner Foltz seconded the motion and it carried unanimously.

c. Discussion of tracking documents requiring Commissioners' signatures

Commissioner Stroud asked staff to monitor orders requiring Commissioners' signatures to ensure that they are signed in a timely manner and placed in the appropriate case files.

d. Discussion of Commission Investigation Process

Chief Investigator Lyn Carter described the chronology of the complaint investigation process and distributed copies of letters that are sent to complainants and respondents describing the process. He indicated that many investigations are conducted by telephone but offices visits and interviews are conducted when necessary.

e. Discussion of Issuance and Renewals of Broker Licenses

Licensing Manager Roxanne Romo said the time frame for processing license renewals is typically 3-5 business days, and the time frame for processing new license applications is typically 10-14 business days. She said brokers will sometimes receive associate broker and qualifying broker licenses simultaneously because the licensing software will automatically generate a qualifying broker's license to any broker who was ever a qualifying broker even if the broker is no longer acting in that capacity. She also said that brokers can go on to the Commission web site to look up the status of their application.

f. Commission vote on minutes of the Education Steering Committee meetings of January 20, 2016 and March 16, 2016 and individual Education Steering Committee (ESC) recommendations for approval or disapproval of both one-time and permanent course and instructor applications and sponsor applications since the last Commission meeting.

Commissioner Johnson moved approval of the minutes of the January 16, 2016 ESC meeting. Commissioner Koether seconded the motion and it carried unanimously.

Commissioner Foltz moved approval of the minutes of the March 16, 2016 ESC meeting. Commissioner Johnson seconded the motion and it carried unanimously.

Commissioner Foltz moved approval of the ESC recommendations to grant:

- New Mexico CCIM, Advanced Real Estate Tax Planning Considerations, one-time course approval for two (2) Education category credit hours.

- Albuquerque Metro Chapter of National Association of Residential Property Managers (NARPM), Developing Rewarding Owner Relationships, one-time course approval for six (6) Education category credit hours.
- Albuquerque Metro Chapter of NARPM, Ethics, one-time approval for three (3) Education category credit hours.
- NAIOP, Commercial Real Estate Development Association, Real Estate Nuts and Bolts of Economic Development, one-time course approval for five (5) Education category credit hours.
- Crystal LeMaster, permanent instructor approval to teach approved Commission course Why Title Insurance?
- Cindy Levora, permanent instructor approval to teach approved Commission course Using a Reverse Mortgage for a Home Purchase.
- Alan Fowler, new permanent course and instructor approval for Close on Time: Communication, Cooperation, and Accountability, three (3) Education category credit hours.
- Scott Whitefield and John Henderson, new permanent course and instructor approval for Commercial Letter of Intent (LOI/APOD) and Investment Analysis, for four (4) Education category credit hours, and to designate the course as a Core Elective for commercial real estate.
- Sponsor application approval, Homebuilders Association of Central New Mexico.
- Sponsor application approval, Academy of Real Estate.

Commissioner Johnson seconded the motion, and the motion carried with Commissioner Koether voting in favor of all of the recommendations with the exception of the sponsor application approval for Academy of

Real Estate, from which she abstained because she is a principal in the Academy of Real Estate.

- g. Report on the status of request that Commissioners Stroud and Johnson be approved for out-of-state travel to attend the ARELLO Mid-Year Conference in Atlanta, April 13-16, 2016.

Commission Executive Secretary Wayne Ciddio reported that due to budget constraints at the state level out-of-state travel by board and commission members is not being approved. Commissioner Johnson said she would like to seek authorization for out-of-state travel that she will pay for herself.

- h. Proposal by the Santa Fe Association of Realtors (SFAR) for funding from the Commission Education and Training Fund to develop a Santa Fe Specialist course and designation.

SFAR Governmental Affairs Director Donna Nelson presented a proposal requesting \$10,000 from the Education and Training Fund to develop a Santa Fe Specialist course and designation program that could be adapted to other cities and their unique demographics, culture, zoning, and other issues that affect real estate brokerage.

Mr. Ciddio explained that the Education and Training Fund rule gives the Commission sixty days from the presentation of the proposal to make a decision. He also said the funding, if approved by the Commission, could not be available until the July 1, 2016, the beginning of the new fiscal year.

Commissioner Stroud asked that proposal be placed on the agenda of the May 16, 2016 Commission for further discussion and possible final action.

- i. Discussion and adoption of proposed changes to Parts 1, 3, 5, 6, 7, 13, 15, 16, 19, 23, 24, 27, 32, and 36 of the Commission Rules reviewed and discussed at the February 19, 2016 Commission Rule Hearing.

After discussion during which Assistant Attorneys General Mona Valicenti and Jennifer Salazar indicated that they had concerns about some of the proposed rules and were not prepared to advise the

Commission on those rules, Commissioner Koether moved that action on the proposed rules be postponed until a Special Commission Meeting on April 25, 2016. Commissioner Foltz seconded the motion and it carried unanimously.

Subsequently, Ms. Valicenti advised that Parts 1, 13, 23, and 24 had not been included in the December 30, 2015 notice of rule hearing in the New Mexico Register and suggested that a new rule hearing on those parts be scheduled simultaneously with the May 16, 2016 Commission meeting.

Commissioner Koether moved to cancel the April 25, 2016 Special Meeting and notice a rule hearing on the above-referenced parts for May 16, 2016. Commissioner Johnson seconded the motion and it carried unanimously.

- j. Replacement of ESC members by appointment of Education Advisory Committee (EAC) members with specified appointment terms.

Commissioner Koether moved that replacement of ESC members and appointment of EAC members be postponed until the May 16, 2016 meeting. Commissioner Johnson seconded the motion and it carried unanimously.

- k. Election of Commission Officers

Commissioner Johnson moved that Commissioner Foltz be elected Commission President for 2016. Commissioner Koether seconded the motion and it carried unanimously.

Commissioner Johnson moved that Commissioner Koether be elected Commission Vice President for 2016. Commissioner Stroud seconded the motion and it carried unanimously.

Commissioner Koether moved that Commissioner Johnson be elected Commission Secretary for 2016. Commissioner Stroud seconded the motion and it carried unanimously.

- l. Chief Investigator's Report

Chief Investigator Lyn Carter reported the Commission received eight new complaints in January, seven in February, and five so far in March.

6. Executive Session

Commissioner Johnson moved that pursuant to Section 10-15-1 H (1) of the Open Meetings Act, the Commission go into Executive Session to discuss those items listed under Item 6, Executive Session, on today's agenda, plus the request by Kaycee Canter to be exempted from taking the New Broker Business Practices Course. Commissioner Koether seconded the motion. Mr. Ciddio called the roll. Commissioners Foltz, Koether, Johnson and Stroud voted in favor of the motion. No Commissioners voted against the motion.

At the conclusion of the Executive Session, Commissioner Foltz declared that the Commission was back in open session and attested that that the only matters discussed in Executive Session were the matters specified in the motion to go into Executive Session.

7. Action on Items Discussed in Executive Session.

- i. Administrative Prosecutor's letter to Commission declining to prosecute NMREC Case No. 14-01-07-007, Jennifer Dorgan

Commissioner Johnson moved to dismiss the above-referenced case against Ms. Dorgan and close the file. Commissioner Stroud seconded the motion and it carried unanimously.

- ii. Settlement Offer in NMREC Case No. 14-01-02-002, Charlotte Pinkerton

Commissioner Stroud moved to approve the settlement offer in the above-referenced case and delegate to Commission staff the negotiation of terms of payment of the \$3,500 levied in the case. The other terms of the agreement are that Ms. Pinkerton receive a letter of reprimand and complete for no continuing education credit a four-hour course in Property Management Essentials. Commissioner Koether seconded the motion and it carried unanimously.

iii. License Application from Gilbert X. Garcia

Commissioner Koether moved that the Commission request that the Attorney General issue a Notice of Contemplated Action (NCA) to Mr. Garcia based on violations of Section 61-29-9 and 61-29-10 (A) and (B) of the Real Estate License Law. Commissioner Johnson seconded the motion and it carried unanimously.

iv. Request by Kaycee Canter for waiver of New Broker Business Practices Course.

Commissioner Koether moved that the Commission grant Ms. Kanter's waiver request. Commissioner Foltz seconded the motion and it carried unanimously.

8. Adjourn

Commissioner Koether moved that the meeting adjourn. Commissioner Johnson seconded the motion and it carried unanimously. The meeting adjourned at 2:30 p.m.

Greg Foltz, President
New Mexico Real Estate Commission

