



**Minutes of
THE FLORIDA REAL ESTATE COMMISSION
August 16 and 17, 2005
Meeting**

Chairman Guy P. Sanchez, Jr. called the meeting of the Florida Real Estate Commission to order, at approximately 8:35 a.m., at Orlando, Florida, on this 16th day of August, 2005.

The Chairman introduced the members of the Commission and its legal counsel. The following Commission members were in attendance: Chairman Guy P. Sanchez, Jr.; Vice-Chairman Nancy B. Hogan; Matey H. Veissi, Poul Hornsleth; S.W. Ellis, Bob Beals and James D. Varnado. The Chairman declared a quorum present. Ms. Barbara R. Edwards appeared as counsel for the Commission.

Division staff present at the meeting: Michael E. Murphy, Acting Division Director; Sharon Thayer, Deputy Director; Bennett M. Miller, Chief Attorney; Kathleen Koeberich, Bureau Chief; James P. Harwood, Alpheus C. Parsons, Senior Attorneys; Fred Clanton, Investigator Supervisor; Fred Seli, OPS Supervisor for Unlicensed Activity; Lori Crawford, Regulatory Supervisor/Consultant; Jeanne Adkinson, Regulatory Specialist III; Laurie A. Roessler-Solis, Regulatory Specialist II; Jan Dodd, Regulatory Specialist II; and American Court Reporting, Inc. (407-896-1813) provided court reporter services.

Approval of the Minutes

The Commission unanimously approved the Minutes of the July 19 and 20, 2005, General meeting, as written.

Legal Matters

At approximately 8:40 a.m., the Commission took up the Legal Agenda, consisting of 17 items. The Commission heard 13 items and continued 4. The Commission's decisions on these matters are attached to the official minutes maintained at the Division of Real Estate headquarters.

Counsel for the Commission, Barbara R. Edwards, addressed the Commission to inquire whether she is being instructed to file exceptions in Recommended Orders every time a DOAH Judge rules against the position that the Commission has taken. Commissioners advised Ms. Edwards to execute diligence when deciding to file exceptions.

Commission Business

Division Follow-Up

Unlicensed Activity Report

OPS Supervisor, Fred Seli, and Bureau Chief of Enforcement, Kathleen Koebrich, presented the monthly report regarding unlicensed activity. Mr. Seli informed the Commission of new investigators hired for the Miami area. Mr. Seli addressed several questions from the

Commission regarding the report, including the procedures of the investigation of unlicensed activity.

Vice-Chairman Hogan asked as to why voluntary inactive licensees who conduct business while inactive is not considered unlicensed activity. Acting Director Murphy addressed the Commission on this issue and stated that this is a matter that could be looked into further.

Vice-Chairman Hogan requested that the Department provide a list of things from the State Attorney's Office reflecting what they look for as far as unlicensed activity.

Budget Committee Report

Commissioner Ellis reported that she has not been contacted for any upcoming meetings. Commissioner Varnado stated that he was contacted by Budget Director Whitten at his law office by telephone last week while he was out of town to discuss setting a meeting but had not heard back since.

Acting Director Murphy advised the Commissioners that he would be meeting with the Budget Director on Thursday to discuss various budget issues. Mr. Murphy added that although he is unaware of any specific reason why Commissioner Ellis and Commissioner Varnado have not been contacted on this issue, and stated he would look into this matter. Commissioners Ellis and Varnado agreed to address this issue again at the next meeting. Chairman Sanchez thanked both Commissioners for their efforts. Mr. Murphy guaranteed that Commissioners Ellis and Varnado would be contacted.

Vice-Chairman Hogan had several questions regarding budget issues. Ms. Hogan requested a clarification of whether the Division has a line item budget allocation separate from other professions. Ms. Hogan stated that due to the increase of real estate applications there should be an over abundance of funds to help the Department/Division function in the best interest of the public. Mr. Murphy addressed Commissioner Hogan's concerns regarding this issue and explained that there are sufficient funds; however, he must operate within the amount the Legislature allocates. Ms. Hogan also reported that a fee holiday was discussed at the rule review meeting yesterday.

Draft of Commission Meeting Conduct Guidelines

Chief Attorney, Bennett M. Miller, presented the guidelines to the Commission, orally providing several amendments to the language. The Commission and FREC Counsel provided additional amendments. Mr. Miller stated that he would try to provide the Commission with final draft before the conclusion of this meeting; otherwise it would be placed on the next meeting.

New Business

Correspondence from Bruce Hest

Counsel for the Commission, Barbara R. Edwards, addressed the Commission regarding correspondence from Mr. Hest and provided a recommendation. Commissioner Hornsleth moved to deny Respondent's request. Commissioner Varnado seconded the motion. Motion carried unanimously.

Correspondence from Lisbet Garcia

Ms. Edwards addressed the Commission regarding this matter. Vice-Chairman Hogan moved to deny Respondent's request for an extension of time to comply with the Final Order; Commissioner Varnado seconded the motion. Motion carried unanimously.

Communication from Judy Stefanovitz

Ms. Edwards addressed the Commission regarding the request from Ms. Stefanovitz. Ms. Edwards proposed that she could send a letter to Ms. Stefanovitz explaining the procedures for requesting a declaratory statement from the Commission. The Commissioners agreed to not make a decision on this matter and referred it back to Ms. Edwards for the appropriate response.

Ratification of Suspended Licenses

Acting Director Murphy requested that the Commission ratify the reinstatement of real estate licenses of Mary Harwell and Paul Zapulla.

Escrow Disbursement Orders

Upon recommendation of the Legal Section, the Commission unanimously issued 112 Escrow Disbursement Orders and 1 Order. A list of the Orders is attached to the official minutes.

Other discussion – Rules Report

Counsel for the Commission, Barbara R. Edwards, addressed the Commission to obtain a decision on whether to move forward with Rule 61J2-24.003. Commissioner Varnado moved to continue forward with this rule. Commissioner Ellis seconded the motion. Motion carried unanimously.

Ms. Edwards addressed Regulatory Supervisor/Consultant, Lori Crawford, regarding Rules 61J2-3.008, 61J2-3.009, and 61J2-3.020 to inquire whether these forms have been forwarded. Ms. Crawford replied that it is her understanding that they have been forwarded. Ms. Edwards stated that she would follow up on this matter.

Ms. Edwards addressed the Commission on Rules 61J2-10.025, 10.038, 10.039 to request advice on whether to move forward as amended. Commissioner Ellis made a motion to approve these rules as amended. Commissioner Varnado seconded the motion. During discussion, Chairman Sanchez suggested to the Department that Ms. Edwards be provided with additional staff to assist her with her duties. Mr. Murphy stated that he would forward this concern to the Department.

Vice-Chairman Hogan expressed additional concerns regarding this issue. Mr. Murphy added that Secretary Marstiller is expected to attend the next Commission meeting and could address these and all other questions.

Other discussion

Commissioner Veissi addressed Deputy Director, Sharon Thayer, to inquire about the status of the Education Foundation Scholarship program. Ms. Thayer reported that Tallahassee is diligently working on the contract language to move forward with the bidding process.

New Business Continued

ARELLO Conference

Commissioner Veissi asked Acting Director Murphy which Commissioners have been approved to attend the ARELLO Conference. Mr. Murphy stated that Commissioners Veissi and Varnado had been approved.

Chairman Sanchez stated that he had spoken to Deputy Secretary Andy Edwards to inform him that he would not be attending the conference and recommended that Vice-Chairman Hogan and Commissioners Ellis and Varnado attend, to which Mr. Edwards verbally approved. Chairman Sanchez added that it was not until after these Commissioners made their reservations that they were informed only two were approved to attend. Mr. Murphy apologized for not being informed of this earlier and that Mr. Edwards may have intended to approve all, but upon review by the Chief of Staff, on behalf of the Secretary, the Department was not able to approve more than two members to attend the ARELLO conference due to the expense and out-of-country travel. Chairman Sanchez expressed that he feels it is discourteous that the Department did not approve Vice-Chairman Hogan to attend without consulting the Chairman.

During further discussion, Chairman Sanchez, expressed his frustration with the Department and announced his resignation as Chairman to the Florida Real Estate Commission turning the meeting over to Vice-Chairman Hogan. Commissioner Veissi moved that the Commission appoint Commissioner Ellis as Vice-Chairman. Acting Chairman Hogan seconded the motion. Commissioner Hornsleth suggested that a "cooling off period" be allowed. Commissioner Varnado agreed. Ms. Edwards informed Mr. Sanchez that his resignation can not be considered official until it is received in writing. Chairman Sanchez stated that he does not need a "cooling off period", and his opinion will not change. He further stated that he would decide whether he would continue to serve on the Commission.

Commissioner Varnado asked Ms. Edwards for clarification of the procedural requirements as to succession steps for the appointment of a Chairman and Vice-Chairman. Ms. Edwards responded that she is not aware of any legal guidance, nor are they bound by Roberts Rules of Order. Ms. Edwards further stated that she is not sure that the Vice-Chair's position is not empty and does not believe that anything has to be done at this meeting as to the Vice-Chair. Chairman Sanchez stated that he will put his resignation in writing immediately. Commissioner Veissi stated that now the Vice-Chair moves up and now there is a vacancy in the Vice-Chair. Acting Chairman Hogan inquired whether the Chair needs to be confirmed. Commissioner Veissi stated is confirmed when the Commissioner is nominated as Vice-Chair.

Chief Attorney, Bennett M. Miller, stated that Rule 61J2-20.040, provides that the Commission shall elect a Chairperson and a Vice-Chairperson. Commissioner Veissi responded that the rule does not state the position of Chairman must be confirmed by a vote, and normally the Commission would nominate a Vice-Chair and the Chair would be confirmed. Commissioner Beals expressed that although he has much respect for Commissioner Ellis, he

would not support the motion to nominate Ms. Ellis as Vice-Chairman, due to the short period of time that she has served on the Commission.

The Chair called the question; the motion to appoint Commissioner Ellis as the new Vice-Chair carried three to four.

Mr. Miller addressed the Commission to express his concerns regarding compliance with the applicable statutes governing public meetings and asked that the Chair read into the record the reason why this matter was discussed when it had not been calendared on the agenda at least 7 days prior to the meeting, as required by statute. Chairman Hogan stated on the record the reason for addressing this issue. Commissioner Veissi added that on previous occasions there have been additions to the agenda without the required 7 day notice. Commissioner Veissi suggested this issue be observed more carefully. Commissioner Varnado expressed his disagreement with Commissioner Veissi's statement. Mr. Murphy addressed the Commission to stress that Mr. Miller acted as instructed by him and only in the best interest of the Commissioners when advising them of this requirement.

Chairman Sanchez turned in a brief hand written resignation to Ms. Edwards. A copy of the resignation is attached to the official minutes maintained at the Division of Real Estate headquarters.

Summary of Applicants

At approximately 1:40 p.m. Jan Dodd, Regulatory Specialist II, presented the Summary of Applicants requesting to sit for the real estate examination. The Commission's orders on these matters are attached hereto and made part of these minutes.

The Chairman recessed the meeting at approximately 7:50 p.m., August 16, 2005.

August 17, 2005

Chairman Nancy B. Hogan reconvened the meeting of the Florida Real Estate Commission to order, at approximately 8:35 a.m., at Orlando, Florida, on this 17th day of August, 2005.

The following Commission members were in attendance: Chairman Nancy B. Hogan; Vice-Chairman S. W. Ellis; Matey H. Veissi, Bob Beals; James D. Varnado and Poul Hornsleth. The Chairman declared a quorum present. Ms. Barbara R. Edwards appeared as counsel for the Commission.

Department and Division staff present at the meeting: Michael E. Murphy, Acting Division Director; Sharon Thayer, Deputy Director; Kathleen Koeberich, Bureau Chief; Bennett M. Miller, Chief Attorney; James P. Harwood, Senior Attorney; Lori Crawford, Regulatory Supervisor/Consultant; Jeannie Adkinson, Regulatory Specialist III; Laurie A. Roessler-Solis, Regulatory Specialist II; Jan Dodd, Regulatory Specialist II; and American Court Reporting (407-896-1813) provided court reporter services.

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Chairman Hogan expressed her concerns with applicants being placed on the agenda for reconsiderations when there has been no significant change with their application. Acting Director Murphy asked the Commissioners for guidelines they would offer for the Department to follow when making the decision to place applicants on the agenda for reconsiderations. Commissioners Varnado and Veissi expressed that this decision should be up to the Commission and not the Division's staff. Chairman Hogan suggested that this matter be placed on the next legal agenda.

Chairman Hogan also requested to be placed on the agenda the issue of applicants waiting until they come before the Commission to disclose additional charges after being instructed by the Commission to withdraw and amend their application before appearing before them.

Last, Chairman Hogan requested that the matter of how to proceed in the situation of tie votes be placed on the next month's agenda for discussion.

Consent Agenda

The Commission considered 300 applicants from the Summary of Applicants Consent Agenda, requiring 26 applicants from the Consent Agenda to appear before it at a future meeting.

Adjournment

There being no further business and no objection, the Chairman adjourned the meeting at approximately 5:00 p.m. The next general meeting of the Florida Real Estate Commission is scheduled for September 20 and 21, 2005, at the Division Headquarters in Orlando, Florida.

Nancy B. Hogan
Chairman

Michael E. Murphy
Acting Director, Division of Real Estate

Respectfully submitted,

Laurie A. Roessler-Solis

Lori L. Crawford