

MINUTES

A meeting of the Alabama Real Estate Commission was held June 25, 2015, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Nancy Wright; Commissioners Steve Cawthon, Reid Cummings, Cindy Denney, Carole Harrison, Clif Miller, and Danny Sharp; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin and Investigators David Erfman, Chuck Kelly, Phil Bunch and K. C. Baldwin. The Hearing Officer was Tori Adams. Commissioner Dorothy Riggins-Allen was absent with notice.

Other staff members present for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane; Public Relations Specialist Lori Moneyham; Information Technology Manager Brett Scott; Accounting and Personnel Manager Molli Jones, IT Systems Specialist Steven Brown and Public Relations Clerical Aide Matt Estes.

The meeting, having been duly noticed according to the Alabama Open Meetings Act, was called to order at 9:03 a.m. by Chairman Bill Watts and a quorum was declared.

Commissioner Cawthon made a motion to approve the minutes from the May 21, 2015 meeting. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Executive Director Patricia Anderson presented the May 2015 financial report. Revenues continue to exceed projections. Expenditures are above what they were in May 2014 due to some necessary purchases and system upgrades, but they remain under projection and within budget. There was an increase in transfers and new applications in April and May. There were no Recovery Fund payouts in May.

The Commission's strategic planning consultant J. Danny Cooper provided a recap of the legislative session, focusing on bills that were of special interest to the Commission. The Homeowners' Association bill (HB241), was signed into law by Gov. Robert Bentley. The bill will only apply to HOAs that are established after January 1, 2016; however, already established HOAs can opt to follow the new law. He highlighted new revisions to the Alabama Open Meetings Act that became effective upon the signing of SB21 into law and how they affect Commissioners. All boards and commissions were exempted from the legislation in SB76, which created a new division within the State of Alabama Finance Department that will require use of mandated vendors for maintenance of state buildings.

Chairman Watts asked Commissioner Wright to chair a task force that will work with Ms. Anderson to establish a plan to educate licensees on the new HOA legislation. He also appointed Commissioners Denny and Riggins-Allen to serve on the task force. Chairman Watts asked General Counsel Chris Booth to provide information to Commissioners outlining the details of the new provisions of the Alabama Open Meetings Act as passed by the legislature.

Ms. Anderson informed Commissioners of Executive Order 7 that was issued by Gov. Bentley establishing the Alabama Office for Regulatory Oversight of Boards and Commissions. The establishment of the Office stems from the U.S. Supreme Court decision in the case of *North Carolina State Board of Dental Examiners v. FTC*. The decision held that the Dental Board violated anti-trust laws by sending cease and desist letters to unlicensed persons that offered teeth whitening without authority to do so. This action was held by the court to be anti-competitive. The court also held that board members had no immunity from being sued over this decision because there was no state oversight of the Dental Board in place and a majority of the Board members were market participants. According to the Executive Order, the new Oversight Office will review boards and commissions' rules, both past and future, and certain licensing actions to ensure that the rules or board actions do not result in anti-competitive conduct. Funding for the new Office will come from the boards and commissions.

Assistant Executive Director Teresa Hoffman reported on the implementation of fingerprinting for criminal background checks, as mandated by the Alabama Law Enforcement Agency. She recognized the various Divisions for their work and explained that the staff has developed information pieces and devised a method of implementation of this new requirement. Information has been sent to instructors and licensees and is available on the Commission's website and in the upcoming summer 2015 issue of *The Update* newsletter.

Mr. Adair provided a report from the Exam RFP Task Force. The contract with the current exam service provider, AMP, expires on September 30, 2015. The task force - comprised of Commissioner Dorothy Riggins-Allen; Jim Lawrence, representing the Alabama Center for Real Estate; Dot Mash, representing the Alabama Association of REALTORS®; and Earl Martin, representing the Alabama Real Estate Educators Association - was established to develop a Request for Proposal (RFP), solicit and evaluate bids for exam services, and make a recommendation to the Commission. Subsequent to their review, the committee voted to recommend to the Commission that the bid be awarded to AMP. Commissioner Wright made a motion that the bid for exam services be awarded to AMP. Commissioner Miller seconded the motion and it passed unanimously 8-0. Commissioner Wright made a motion authorizing Ms. Anderson to enter into a contract with AMP for exam services in accordance with the specifications outlined in the RFP. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Ms. Anderson informed Commissioners that August 20, 2015, is the tentative date that the Commission will have its hearing before the Sunset Committee. The final schedule will be set sometime in July by Sunset Committee chairman Senator Paul Bussman. Commissioners will vote at the July Commission meeting whether to maintain the scheduled August 19 meeting date or change it to August 20 to coincide with the Sunset hearing date.

Commissioner Wright made a motion to conduct hearing disposition discussions and decisions in an open meeting. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

HEARINGS

John Clayton Patrick, Application for Reciprocal Broker's License, Investigative File I-14,562

Upon discussion of the evidence and testimony presented by Mr. Patrick regarding his application for a reciprocal broker's license, Commissioner Sharp made a motion to approve his application. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Hugh Scott Gwin, Request to Have Temporary Salesperson's License Issued, Investigative File I-14,586

Commissioner Watts stated that he knew the witnesses that were to testify in this case but that he could hear the case and make a fair and impartial ruling. He offered to recuse himself if Mr. Gwin had any objections to him hearing and voting in the case. Mr. Gwin stated that he did not have any objections.

Upon discussion of the evidence and testimony presented by Mr. Gwin regarding his request to have a temporary salesperson's license issued, Commissioner Harrison made a motion to grant his request. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

NOT APPEARING ITEMS FOR RULING

David Herman, Request for Dismissal of Fine, Investigative File I-14,351

Upon review of Mr. Herman's hardship request for waiver of the \$7,500 fine due September 2015, Commissioner Sharp made a motion to reduce his fine to \$3,000 and extend the payment deadline to 12 months. Commissioner Miller seconded the motion. Commissioner Cummings made a friendly amendment to Commissioner Sharp's motion changing the payment schedule to spread the \$3,000 reduced payment over the next three years at \$1,000 per year due each September beginning in 2016. Commissioner Sharp accepted the amendment. Commissioner Miller seconded the motion as amended and it passed unanimously 8-0.

Kenneth Ray Baker, Request for Extension to Apply for Original Salesperson License Due to Medical Hardship, Investigative File I-14,598

Upon review of Mr. Baker's hardship request for an extension until July 31, 2015, to apply for an original salesperson's license, Commissioner Cawthon made a motion to grant the extension. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Confirm Next Meeting Date and Location for the Record: July 23, 2015, 9:00 a.m. in Montgomery

Commissioner Wright made a motion to approve the next Commission meeting for July 23, 2015, in Montgomery. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

There being no further discussion, the meeting adjourned at 11:45 a.m.

Done this 25th day of June, 2015.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary