

MINUTES

South Carolina Real Estate Appraisers Board Meeting

10:00 a.m., February 12, 2015

Synergy Business Park

110 Centerview Drive, Kingstree Building, Room 105

Columbia, South Carolina

Meeting Called to Order

Jake Knight, Chairman, called the meeting of the Real Estate Appraisers Board to order at 10:00 a.m. Other members present for the meeting included: Chris Barczak, Rex Casterline, Christopher Donato, Drew Johnson, and Ann King.

Mr. Knight announced that the meeting was being held in accordance with Section 30-4-80 of the South Carolina Freedom of Information Act by notice mailed to all requesting persons, organizations, and news media. In addition, notice was posed on the bulletin boards at the main entrances to the Kingstree Building.

Staff members participating in the meeting included: Roderick Atkinson, Administrator, Real Estate Commission; Christina Barnes, Administrative Assistant; Laura Smith, Interim Administrator; Erin Baldwin, Office of Disciplinary Counsel; Georgia Lewis, Advice Counsel; Tracy Perlman, Office of Disciplinary Counsel; Sandra Dickert, Administrative Assistant, Office of Board Services; Tom Cullinan, Office of Investigation and Enforcement; and Sharon Wolfe, Office of Investigation and Enforcement.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Introductions

All board members and staff introduced themselves.

Mr. Atkinson stated Laura Smith has been named Interim Administrator for the Appraisers Board. He further stated he will remain the administrator for the Real Estate Commission.

Approval of Excused Absences

MOTION:

Mr. Donato made a motion to approve the absence of Michael Dodds. Ms. King seconded the motion, which carried unanimously.

Approval of Agenda

MOTION:

Mr. Casterline made a motion the Board approve the agenda as presented. Mr. Johnson seconded the motion, which carried unanimously.

Approval of Minutes – November 13, 2014; December 17, 2014; and January 30, 2015

November 13, 2014

The minutes were amended to add the phrase ‘to obtain ‘legal advice’ on line 103.

MOTION:

Mr. Casterline made a motion the minutes of the November 13, 2014 meeting be approved as amended. Mr. Donato seconded the motion, which carried unanimously.

December 17, 2014

The minutes were amended to add the phrase ‘to obtain legal advice’ on line 90.

MOTION:

Mr. Casterline made a motion to approve the minutes as amended. Mr. Johnson seconded the motion, which carried unanimously.

January 30, 2015

Mr. Casterline made a motion to approve the minutes as presented. Mr. Donato seconded the motion, which carried unanimously.

Chairman’s Remarks – Jake Knight

Mr. Knight welcomed everyone to the meeting. He appreciated everyone attending the meeting.

Mr. Knight appreciated Mr. Atkinson’s remarks regarding the administrator’s position.

Administrator’s Remarks – Laura Smith, Interim Administrator

1) Budget Update

Mrs. Smith presented the budget to the board members for their review.

2) Licensure Update

Number of Licensees as of February 9, 2015

| | <u>ACTIVE</u> | <u>INACTIVE</u> | <u>ACTIVE IN RENEWAL</u> | <u>TOTAL</u> |
|------------|---------------|-----------------|--------------------------|--------------|
| APPRENTICE | 133 | 0 | 60 | 183 |
| LICENSED | 154 | 20 | 43 | 217 |

| | | | | |
|----------------------------|-------------|------------|------------|-------------|
| CERTIFIED RESIDENTIAL | 996 | 52 | 94 | 1142 |
| CERTIFIED GENERAL | 934 | 25 | 110 | 1069 |
| LICENSED MASS | 57 | 1 | 6 | 64 |
| CERTIFIED RESIDENTIAL MASS | 61 | 4 | 4 | 69 |
| CERTIFIED GENERAL MASS | <u>28</u> | <u>1</u> | <u>2</u> | <u>31</u> |
| TOTAL | 2363 | 103 | 309 | 2775 |

TEMPORARY PERMITS ISSUED IN 2014 241 ISSUED IN 2015 29

3) Investigations and Enforcement Update – Sharon Wolfe

The Case Report for February 12, 2015 was presented for review. Ms. Wolfe noted one change in the ‘cases closed’ section of the report. She noted there were a total of 65 cases instead of 55 cases.

4) Approval of IRC Report – Sharon Wolfe

The IRC Report from February 2, 2015, was presented for approval.

MOTION:

Mr. Casterline made a motion to approve the Dismissals portion of the IRC Report from February 2, 2015. Mr. Donato seconded the motion, which carried unanimously.

MOTION:

Mr. Donato made a motion to approve the Dismissal with Cease and Desist portion of the IRC Report from February 2, 2015. Mr. Barczak seconded the motion, which carried unanimously.

MOTION:

Mr. Donato made a motion to approve the Formal Complaint portion of the IRC Report from February 2, 2015. Mr. Casterline seconded the motion, which carried unanimously.

MOTION:

Mr. Donato made a motion to approve the Letter of Caution portion of the IRC Report from February 2, 2015. Mr. Casterline seconded the motion, which carried unanimously.

5) Office of Disciplinary Counsel Update – Erin Baldwin

The Case Load Statistics Report was presented for the Board's review. Ms. Baldwin noted there were changes to the report as presented. There are seven open cases, three cases pending action, two cases pending Consent Agreement/MOAs, two cases pending hearings and ten cases have been closed.

Mr. Atkinson noted that two years ago there were 71 open cases in the Office of Disciplinary Counsel.

New Business

Conservation Easements – W. L. 'Bill' Snow

The South Carolina Conservation Bank (SCCB) requires applicants for funds to submit an appraisal along with an application for funding. The 'application, appraisal, and conservation easement, if applicable, are used to make conservation grant decisions for various organizations and individuals to protect and conserve properties within the State.' SCCB has posed a question to staff regarding the type of format and/or the content of the appraisal that can or should be submitted with an application in order to comply with USPAP standards. The final documents are submitted to the land owner and the sponsor seeking the easement which is solely distributed to the SCCB.

W. L. 'Bill' Snow appeared before the Board to seek clarification on this matter.

The Board determined that a licensed appraiser is fine if he/she can complete an appraisal in two to three pages that is compliant with USPAP standards.

State Ethics Commission

Mrs. Smith reminded the Board members the Statement of Economic Interest forms must be submitted to the State Ethics Commission no later than 12:00 noon, March 30, 2015.

Spring AARO Conference

The Spring AARO conference is scheduled for May 1-3, 2015 in Nashville, Tennessee. Staff will be unable to attend as a result of preparing for the federal audit taking place later in May.

MOTION:

Mr. Casterline moved the Board approve send two board members to attend the Spring AARO conference May 1st through 3rd and that those two members be Jake Knight and Chris Donato. Mr. Johnson seconded the motion, which carried unanimously.

Selection of IRC Professional Member

Staff presented the Board members with resumes of Joseph Rosen and Robert Dozier and asked the members to elect an additional IRC professional member.

MOTION:

Mr. Donato moved the Board enter executive session to seek legal advice. Mr. Casterline seconded the motion, which carried unanimously.

MOTION:

Mr. Donato made a motion to enter Open Session. Mrs. King seconded the motion, which carried unanimously.

Mr. Knight noted for the record that no motions or votes were taken during executive session.

MOTION:

Mr. Casterline made a motion that the AARO conference be approved for one staff member from the investigative side to attend the Spring AARO conference for training. Mr. Johnson seconded the motion, which carried unanimously.

MOTION:

Mr. Casterline made a motion to approve both Joseph B. Rosen and Robert Fenton Dozier as qualified members of the IRC, and asked that Mr. Bob Dozier be designated as the second professional member and that Mr. Joe Rosen be the alternate and that the Board require two of the three professional members be in attendance of all IRC meetings. Mr. Donato seconded the motion, which carried unanimously.

Application Hearing

Kenneth McLain

The Board held an application hearing in the matter of Kenneth McLain. Mr. McLain was present and was not represented by counsel. Discussion ensued.

MOTION:

Mr. Donato made a motion the Board approve Mr. McLain for licensure. Mr. Johnson seconded the motion, which carried unanimously.

This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.

Motion for Expungment

James Bowman, Jr.

The Board heard arguments for expungment in the matter of case #2011-1. Mr. Bowman was present and was represented by Craig Wilkerson, legal counsel. Erin Baldwin represented the State in this matter. Discussion ensued.

MOTION:

Mr. Donato made a motion to enter executive session to seek legal advice. Mr. Casterline seconded the motion, which carried unanimously.

MOTION:

Mr. Donato made a motion to enter Open Session. Mr. Casterline seconded the motion, which carried unanimously.

Mr. Knight noted for the record that no motions or votes were taken while in executive session.

MOTION:

Mr. Casterline made a motion the Board deny the motion for expungment, because this board has not established a procedure under South Carolina 40-1-120(3) for the purpose of expungment. Mr. Johnson seconded the motion, which carried unanimously.

The motion was made without prejudice.

This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.

Motion for Reconsideration

Robert Kuhlman, Jr.

The Board heard arguments involving a motion for reconsideration in the matter of Robert E. Kuhlman, Jr. Mr. Kuhlman was present during the hearing and was represented by legal counsel. Discussion in the matter ensued.

MOTION:

Mr. Donato made a motion the Board enter executive session to seek legal advice. Mr. Casterline seconded the motion, which carried unanimously.

MOTION:

Mr. Donato made a motion the Board enter Open Session. Mr. Casterline seconded the motion, which carried unanimously.

Mr. Knight noted for the record that no motions or votes were taken during the time the Board was in executive session.

MOTION:

Mr. Casterline made a motion to uphold the Cease and Desist dated November 21, 2014 and deny the motion for reconsideration. Based on the testimony presented and the exhibits entered into the record, I'm unconvinced that there is any exception under 40-60-30 of the South Carolina Code, and I'm equally unconvinced that we should interpret South Carolina Code 12-43-365 to be interpreted to exclude the Respondent's requirement to be a licensed Real Estate Appraiser if he's establishing the value of golf course real property. Mr. Donato seconded the motion, which carried unanimously.

This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.

Disciplinary Hearings

Michael Falato

James Rhyne

The Board held a disciplinary hearing regarding Michael Falato and James Rhyne. Mr. Falato and Mr. Rhyne were present for the hearing and were represented by legal counsel. Erin Baldwin represented the State and Tracy Perlman was present to read documents for Ms. Baldwin. Discussion ensued.

Mr. Casterline noted for the record that he has an ongoing working relation with Mr. Falato's wife; however, he feels he is able to make an unbiased decision in this matter.

This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.

MOTION:

Mr. Donato made a motion the Board enter executive session to seek legal advice. Mr. Johnson seconded the motion, which carried unanimously.

MOTION:

Mr. Donato made a motion to return to Open Session. Mr. Johnson seconded the motion, which carried unanimously.

Mr. Knight noted for the record that no motions or votes were taken during the time the Board was in executive session.

Michael Falato

MOTION:

Mr. Casterline made a motion to accept the Memorandum of Agreement and stipulations signed by the party and entered as State's Exhibit Number One; that there would be a finding of

violation of South Carolina Code Section 40-60-110, Subsection 8 by the violation of USPAP Standard Rule 1.4, but that the Board take notice that proper procedures have been established by this Respondent to address the concerns of the Board and that the Board issue a non-disciplinary letter of caution. Mr. Donato seconded the motion, which carried unanimously.

James Rhyne

MOTION

Mr. Casterline made a motion the Board accept the Memorandum of agreement and Stipulations signed by the Parties and entered as State's Exhibit Number Three, that there would be a finding of violation of South Carolina Code Section 40-60-110, Subsection 8 by the violation of USPAP Standard Rule 1.4, but that the Board take notice that procedures have been established by this Respondent to address the concerns of the Board and that the Board issue a non-disciplinary letter of caution. Mr. Donato seconded the motion, which carried unanimously.

Unfinished Business

Review and Approval of Task Force Recommendations

The Board referred to the minutes of the January 30, 2015 meeting.

MOTION:

Mr. Donato made a motion to accept the Task Force recommendations with the exception of Section 40-60-30(1). Mr. Casterline seconded the motion, which carried unanimously.

Expungment Procedure

MOTION:

Mr. Donato made a motion the Board table this matter to the next meeting. Mr. Johnson seconded the motion, which carried unanimously.

Public Comments

Marshall West, of SCPAC, stated the Board should be receiving a letter supporting the Board's decision regarding the legislation.

Ms. Lewis presented the members with a recent opinion from the Administrative Law Court.

Adjournment

MOTION:

There being no further business to be brought before the Board, Mr. Donato made a motion the meeting be adjourned. Mr. Johnson seconded the motion, which carried unanimously.

The February 12, 2015 meeting of the SC Appraisers Board adjourned at 5:15 p.m.