

**NEW HAMPSHIRE REAL ESTATE COMMISSION
COMMISSION MEETING MINUTES
JUNE 20, 2017**

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, June 20, 2017 at 8:30 a.m. at 121 South Fruit Street, Room #B119, Concord, New Hampshire 03301.

Present: Commissioners: William Barry, Paul Lipnick, Calley Milne, and John Cronin, Esq.

Also present from OPLC: Executive Director Peter Danles, Division Director Linda Capuchino, Rick Wisler, Bobbie Carter, Kinsman Corthell, Melissa VanSickle, and Attorney Robert Lamberti. Attending from the LBA Audit Division was Vilay Sihabouth. Also present were members of the public.

I. CALL TO ORDER –

The meeting was called to order at 8:30 by Commissioner Cronin. Chair Dan Jones was not present at the meeting. Commissioner Cronin moved that Commissioner Barry preside, seconded by Commissioner Lipnick. The motion unanimously passed.

II. READING AND APPROVAL OF THE MINUTES –

On a motion to approve the May 16, 2017 minutes by Commissioner Cronin, seconded by Commissioner Lipnick, the motion unanimously passed. Action on approving the June 6, 2017 and June 16, 2017 meeting minutes was tabled until the next meeting.

III. NEW BUSINESS –

Presiding Chair Barry informed the audience that one Commission member was not present that may or may not result in a tied vote for any of the scheduled show cause hearings. Participants would be offered an opportunity to either proceed or continue to the next meeting their show cause hearing. Division Director Capuchino advised the Commission that, after consulting with the Attorney General's office, an acting chair may vote on matters before the Commission.

A. MICHAEL LACEY appeared before the Commission regarding his request for equivalency qualifications to be a broker. Mr. Lacey informed the Commission he wished to proceed with the show cause hearing. After administering the oath, the presiding Chair asked Mr. Lacey to present his testimony. Mr. Lacey had been licensed in Florida where he conducted a number of transactions. Mr. Lacey recently relocated to New Hampshire. After review and discussion Commissioner Cronin moved to deny Mr. Lacey's request for equivalency due to lack of experience in New Hampshire. Commissioner Milne seconded the motion. The motion unanimously passed.

B. JOHN FRAWLEY appeared before the Commission to discuss his criminal history. Mr. Frawley informed the Commission he wished to proceed with the show cause hearing. After administering the oath, the presiding Chair asked Mr. Frawley to present his testimony. In addition to the number of prior convictions, Mr. Frawley had answered "no" to application question regarding public confidence. Mr. Frawley replied that he is a different person now and trying to change his life, and that he is involved in assistance programs. Upon further questioning Mr. Frawley stated he is currently working at the town docks in town and has

helped his mother occasionally, who was previously in the real estate business. When asked by Commissioner Cronin if he has shown any houses, Mr. Frawley replied "no". A letter acknowledging awareness of Mr. Frawley's criminal history from Mr. O'Rourke, managing broker, was not requested or provided. Commissioner Cronin moved to conditionally approve Mr. Frawley subject to the Commission receiving a letter from Mr. O'Rourke acknowledging his awareness of Mr. Frawley's criminal past and acknowledging that Mr. Frawley had not been actively involved in real estate transactions. Additionally, Mr. Frawley shall immediately report to the Commission any convictions of a misdemeanor or felony for one year from the date of hearing. Commissioner Lipnick seconded the motion, the motion was unanimously approved.

- C. JACOB PENNEY appeared before the Commission for a show cause hearing regarding his criminal history submitted with an original salesperson's license. Mr. Penney informed the Commission he wished to proceed with the show cause hearing. After administering the oath, the presiding Chair asked Mr. Penney to present his testimony. Following his testimony and questions, the Commission expressed their concerns of the nature of his convictions in relation to the responsibilities and public confidence required of a salesperson. Two witnesses spoke on behalf of Mr. Penney's character. Following Mr. Penney's testimony and questions from the Commission, Commissioner Cronin suggested Mr. Penney may wish to withdraw his application and gain some real estate experience as an unlicensed employee, and re-apply at a later time and provide a probation officer report and other documents to support his good character. After discussion, Commissioner Cronin moved to deny the application, Commissioner Milne seconded. The motion failed on a two in favor (Cronin and Milne) and two opposed (Barry and Lipnick). Commissioner Lipnick then moved to delay the application until the September meeting and require Mr. Penney to submit a probation officer report and other documents that support his good character. The motion was seconded by Commissioner Cronin for discussion. Mr. Penney advised the Commission he wished to withdraw his application and may resubmit at a later time. Commissioner Lipnick withdrew his motion and Commissioner Cronin withdrew his second.
- D. JOSEPH MARASCA appeared before the Commission for a show cause hearing regarding his criminal history and answering "no" on the application whether he had been previously convicted. Mr. Marasca informed the Commission he wished to proceed with the show cause hearing. After administering the oath, the presiding Chair asked Mr. Marasca to present his testimony. Mr. Marasca testified that in 1996 and 2001 he was involved in minor violations that he believed were deleted from his criminal record after a period of time. Following questions and discussion, Commissioner Cronin moved to approve the application, seconded by Commissioner Lipnick. The motion was unanimously approved.

IV. **9:45 MEETING RECESSED** – The Commission recessed the public meeting for a short break.

V. **10:00 PUBLIC MEETING RECONVENED**

VI. **NEW BUSINESS CONTINUED** –

- E. ADAM CONVISER appeared before the Commission regarding his request to extend the time to renew his broker's license. Mr. Conviser informed the Commission he wished to

proceed with the show cause hearing. After administering the oath, the presiding Chair asked Mr. Conviser to present his testimony. Mr. Conviser admitted he did not timely renew his license after it expired in September 2016 and later lapsed in March 2017. After a question from the Commission, Mr. Conviser stated he completed the required courses to renew. Commissioner Cronin moved to approve the time extension for Mr. Conviser to submit his application to renew, seconded by Commissioner Lipnick. The motion was unanimously approved.

- F. CHARLES MONROE appeared before the Commission for a show cause hearing regarding his criminal history from 2003 and answering “no” on the application whether he had been previously convicted. Mr. Monroe informed the Commission he wished to proceed with the show cause hearing. After administering the oath, the presiding Chair asked Mr. Monroe to present his testimony. Mr. Monroe testified he was involved in a minor violation that he believed was deleted from his criminal record after a period of time. Following questions and discussion, Commissioner Cronin moved to approve the application, seconded by Commissioner Lipnick. The motion was unanimously approved.
- G. MELISSA VANSICKLE from the OPLC discussed the Real Estate Commission’s budget and fees. At this time the relation of revenues versus expenses is higher than the 125% target, but is subject to some change when the fiscal year closes the end of June. Final reporting is expected to be finished by the end of July 2017. The Commission asked for detailed financial information that will allow the Commission to adjust fees if needed. This item will be added to the September meeting for full discussion.

The Commission also referenced the comment regarding course accreditation fees submitted in response to the public hearing on the rules. Further discussion on that item will also be held during the overall discussion of fees at the September meeting.

VII. RULES –

- A. Executive Director Danles informed the Commission of the requirements of RSA 332-G:7. The Commission agreed that the implementation will be on a case by case basis as needed. Rules will be drafted in the future to incorporate the requirements of the state law.
- B. Commissioner Barry asked for an explanation of RSA 332-G:11 regarding investigation fees. Division Director Capuchino and Executive Director Danles explained that the Commission may, but are not required to, assess a fee of up to \$10,000 to cover the cost of investigations related to hearings that result in orders. The statute is now in effect, and will also be incorporated in a future rule amendment.

C. 11:24 NON-PUBLIC SESSION –

On a motion by Commissioner Barry, seconded by Commissioner Cronin, the Commission, by roll call vote, voted unanimously to conduct a non-public session for the purpose of the reading and approval of the non-public minutes of the May 16, 2017 meeting, and evaluating complaints against licensees, accredited individuals, institutions, or organization, or persons charged with practicing unlawful brokerage activity, and noting that such a non-public session is authorized by

RSA 91-A:3, II(c), RSA 91-A:5, IV, *Lodge v. Knowlton*, 11 N.H. 574 (1978), and the Commission's executive and deliberative privileges. Each member recorded his or her vote on the motion, which passed by the unanimous vote of all members present.

D. 2:55 PM PUBLIC MEETING RECONVENED -

On an appropriate motion, the Commission adjourned the non-public meeting and immediately reconvened the public meeting

E. NON-PUBLIC MINUTES SEALED -

On an appropriate motion, the Commission unanimously voted to seal the Minutes of the non-public session from public disclosure pursuant to RSA 91-A:3, III (c), on the grounds that public disclosure would likely affect adversely the reputation of licensees, accredited individuals, institutions, or organizations, or persons charged with practicing unlawful brokerage activity. RSA 91-A:5, IV, *Lodge v. Knowlton*, 11 N.H. 574 (1978), and the Commission's executive and deliberative privileges. Each member recorded his or her vote on the motion.

F. ADJOURNMENT -

On a motion by Commissioner Cronin, seconded by Commissioner Milne, the Commission voted unanimously to adjourn the meeting at 3:00 p.m.