



North Dakota Real Estate Commission Meeting Minutes -- FINAL
10:00 a.m., Thursday, June 8, 2023 – virtual only
1120 College Dr Ste 204, Bismarck, ND

www.realestatend.org

Present: Steven Link, chair; Tate Cymbaluk, vice chair; members: Scott Breidenbach, Sandra Meyer, Steven Bitz; David Phillips, special assistant attorney general; staff: Jeanne Prom, executive director; Rob Yost, CPA/auditor; Cieana Schneider, licensing specialist. All commissioners present by Teams except Tate Cymbaluk, who was present in person. Members of the public also present by Teams.

1. Call to order, roll call and determination of quorum. Chair Mr. Steven Link called the meeting to order at 10:00 a.m. Ms. Jeanne Prom, executive director, called the roll, with a quorum of all 5 members present. Mr. Link congratulated Mr. Steven Bitz, who was reappointed by the Governor to a 5-year term on the commission.
2. Review and approval of agenda. Ms. Prom stated that agenda item 6.C. Nancy Rodriguez v. Debra Brumfield, should be complaint number 2023-02, not 2023-03. Mr. Tate Cymbaluk moved to approve the agenda as corrected. Mr. Bitz seconded. Motion carried by unanimous voice vote.
3. Financial reports – February to April 2023. Mr. Cymbaluk moved to approve the financial statements as presented. Ms. Sandra Meyer seconded. Discussion: Mr. Rob Yost, CPA/auditor, will investigate the possibility of sweeping the funds in the checking account daily to earn interest. Motion carried by unanimous voice vote.
4. 2023-2024 draft budget, fees, priorities. Mr. Cymbaluk moved that Ms. Prom include information in the next e-newsletter on licensing organizations. Mr. Bitz seconded. Discussion: Salespersons, broker associates and brokers can create a business entity to receive payment of their share of the broker's commission. This organization must be licensed with NDREC to track these entities. The organization license does not require renewal but does require an application and one-time fee. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

Mr. Bitz moved that Ms. Prom request proposals from PSI and Pearson Vue for providing the national and North Dakota licensing exams beginning July 1, 2024. Mr. Cymbaluk seconded. Discussion: NDREC's current agreement for testing with PSI expires June 30, 2024. Pearson Vue is the only other testing company offering real estate license exams. The contract has no effect on the 2023-2024 budget. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

Mr. Scott Breidenbach moved to approve the Participating Addendum with Albertson Consulting, Inc. (Big Picture Software) from October 1, 2023 through September 30, 2027, as presented. Mr. Cymbaluk seconded. Discussion: The Participating Addendum is to the contract between Albertson Consulting and the North Dakota Office of Management and Budget. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

Ms. Meyer moved to approve the cost proposal from Brady Martz for office audit services for fiscal years ending June 30 of 2023, 2024, 2025 and 2026, as presented by Mr. Yost. Mr. Cymbaluk seconded. Discussion: the cost proposal has no effect on the 2023-2024 budget. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

Mr. Cymbaluk moved to renew the errors and omissions insurance program with Rice Insurance Services Center for January 1, 2024 through January 1, 2025, at the same premium rate of \$187 per licensee and the same terms provided in the current agreement. Mr. Bitz seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

Mr. Cymbaluk moved to continue the Participating Addendum with PreSort Plus after the current agreement expires September 30, 2023. Mr. Bitz seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

Mr. Cymbaluk moved to approve an additional 130 hours at \$135/hour, or \$17,550 total, for Albertson Consulting to improve online services. Mr. Breidenbach seconded. Discussion: Planned improvements include renewal upgrades, certificate of licensure and transfer changes, and other changes as funding allows. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

Mr. Cymbaluk moved to change the course review fee for the 60-hour broker and 90-hour salesperson pre-licensure courses from \$50 to \$200 per course application; and to change the course review fee for continuing education courses from \$50 to \$100. Mr. Breidenbach seconded. Mr. Cymbaluk and Mr. Breidenbach amended the motion and second to add changing the continuing education renewal period from ending November 15 to ending the following April 30. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

Mr. Breidenbach moved to change the fees charged when a firm changes their name or address from \$50/license not to exceed \$250 total for all firm licenses, to \$250 minimum and \$1,500 maximum. Mr. Bitz seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

Mr. Cymbaluk moved that the commission compensation rate change from \$193 per day to \$205 per day for fiscal year 2023-2024. Ms. Meyer seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

Mr. Cymbaluk moved that employee compensation increase by 6 percent over the current rate for each employee. Mr. Breidenbach seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

The commission discussed the credit card fees paid by the commission, and potential other options for future budgets including having licensees pay the credit card fees along to licensees. The commission directed Mr. Yost to research the possibility and costs to receive payments that are not credit cards, cash, or check, and staff to add this to the priority list.

Mr. Breidenbach moved to approve the 2023-2024 detailed budget as presented. Mr. Cymbaluk seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

The commission agreed by consensus to adjust the order of the agenda to proceed with 6. Update on complaints and 7. Update from management before returning to 4. 2023-2024 draft budget, fees, priorities.

5. Review of applicants. Mr. Link stated there were no applicants to review.
6. Update on complaints.
 - A. 2022-12 – Natasha Lafrenz v. Jesse Clooten and Lee Gierszewski. Mr. Cymbaluk moved to dismiss the complaint against Lee Gierszewski and set 2022-12 – Natasha Lafrenz v. Jesse Clooten for hearing. Mr. Breidenbach seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.
 - B. 2023-01 – Nancy Rodriguez v. Kathryn Kihle. Mr. Cymbaluk moved to dismiss 2023-01 – Nancy Rodriguez v. Kathryn Kihle. Ms. Meyer seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.
 - C. 2023-02 – Nancy Rodriguez v. Debra Brumfield. Mr. Cymbaluk moved to dismiss 2023-02 – Nancy Rodriguez v. Debra Brumfield. Ms. Meyer seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.
 - D. 2021-13 – NDREC v. Flint Forsberg. Chair Link explained the procedure for convening an executive session, which, if held, would be attended by the commissioners, Mr. David Phillips – special assistant attorney general, and staff, but would be closed to the public. Mr. Phillips explained the rationale for convening an executive session to discuss attorney-client privileged information. Mr. Cymbaluk moved to convene in executive session to discuss 2021-13 – NDREC v. Flint Forsberg. Mr. Breidenbach seconded. Motion carried by unanimous voice vote. The commission convened in Executive Session on 6.D. 2021-13 -- NDREC v. Mr. Flint Forsberg, beginning at 11:45 a.m. and ending at 11:57 a.m.

Mr. Link reconvened the public meeting at 12:00 p.m.

7. Update from management.
 - A. Legislation. Ms. Prom provided a final written report on two bills that will become law August 1, 2023: HB 1190 – wholesaling, and HB 1188 – 40-year contracts. Ms. Prom and Mr. Phillips provided information on U.S.C.A. § 4025a., a new federal law on occupational licensing for military members and spouses. The commission discussed that criminal history and credit checks are part of the NDREC pre-licensing process but it could be argued that these checks are not standards of practice for license renewal. Mr.

Cymbaluk moved that the N.D. Real Estate Commission process military and spouse license applications under U.S.C.A. § 4025a., to include a license application but not require a criminal history background or credit check. Mr. Bitz seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously.

B. Trust account waivers. The commission received a list of recent trust account waivers.

C. Trust account audits. Mr. Rob Yost reviewed recent trust account audits.

4. 2023-2024 draft budget, fees, priorities – continued.

Mr. Link directed the commission to resume discussion on 4. 2023-2024 draft budget, fees, priorities. Mr. Link reported that he and Mr. Cymbaluk conducted the review of the executive director, and that everything was adequate or above adequate, and recognized all that is being done by Ms. Prom and the staff. Ms. Prom thanked the commission for their support of her and all staff.

By consensus, the commission took no action on uses of the Real Estate Education Fund but decided to continue to discuss at future meetings.

Mr. Cymbaluk moved to approve the 2023-2024 priorities. Ms. Meyer seconded. Discussion: Priorities, which can be adjusted throughout the year, are: online services updates, internal office policy and procedure documentation, staff cross-training, updates to pre-licensing and continuing education, PSI and testing company updates and proposals, discussion of rising costs of office audits, discussion of Education Fund, and research into online payment objects that are not credit cards, cash or checks. Motion carried by unanimous voice vote. Mr. Link expressed his appreciation for setting annual priorities.

7. Update from management – continued.

The commission resumed discussion on 7. Update from management.

D. Next meetings. Mr. Cymbaluk moved to schedule the next meetings at 10 a.m. on the following Thursdays in 2023: August 24 and October 26; and in 2024: January 25, March 21, and June 6. Mr. Bitz seconded. Discussion: The meeting schedule is subject to change. Motion carried by unanimous voice vote. Ms. Prom stated that at the Aug. 24 meeting, the commission will discuss mandatory continuing education for the Nov. 16, 2023 through Nov. 15, 2024 cycle. Motion carried by unanimous voice vote.

8. Minutes – March 16, 2023. Mr. Cymbaluk moved to approve the March 16, 2023 minutes as presented. Mr. Bitz seconded. Motion carried by unanimous voice vote.

9. Other – election of chair, vice chair. Mr. Bitz moved to nominate Mr. Cymbaluk as chair and Mr. Breidenbach as vice chair for 2023-2024. Ms. Meyer seconded. Roll call vote: ayes – Mr. Bitz, Ms. Meyer, Mr. Breidenbach, Mr. Cymbaluk, Mr. Link; nays – none. Motion carried unanimously. Ms. Meyer and Mr. Cymbaluk and the commissioners thanked Mr. Link for his leadership, transparency, inclusivity, and his meeting management skills this past year as chair. Mr. Link thanked previous chairs for their good example.

Adjourn. Chair Mr. Cymbaluk adjourned the meeting at 12:39 p.m.