

State of Oregon Real Estate Agency

REAL ESTATE BOARD

Regular Meeting Minutes

August 21, 2006

MEMBERS PRESENT: Michael Graeper, Chair
Victor Kee
Arthur Kegler
Robert LaDu
Maxine Ribera-Card
Vada Salinas
John Zupan

MEMBERS ABSENT: Troy Costales (Excused)
Marianne Wood (Excused)

STAFF PRESENT: Scott Taylor, Commissioner
Katie Cannon, Deputy Commissioner
Louann Rahmig, Board Liaison

GUESTS PRESENT: Marilyn Shields, Your Home Town Realty
Deborah Imse, Metro Multi-Family Housing Association
Jana Jarvis, Oregon Association of Realtors

I. BOARD BUSINESS

- A. Call to Order.** Chair Mike Graeper called the meeting to order at 10 a.m. at the offices of Central Oregon Association of Realtors, 2112 NE 4th Street, Bend, Oregon.
- B. Roll Call.** Troy Costales and Marianne Wood were excused. A quorum was present.
- C. Approval of the Agenda and Order of Business. MOTION by Bob LaDu to approve.** Seconded by John Zupan. No discussion.
MOTION CARRIED UNANIMOUSLY.
- D. Approval of the June 12, 2006, regular meeting and July 7, 2006, special meeting minutes.** Hearing no additions or corrections, Chair Graeper ruled the minutes approved as submitted. The chair thanked Mr. Zupan and Mr. LaDu for conducting those meetings.
- E. Date of the Next Meeting.** October 23, 2006, in Salem.

II. PUBLIC COMMENT. No one wished to speak.

III. REPORTS

- A. Commissioner's report.** Commissioner Taylor announced that permanent rules are in place for HB 2604. He reported that, at Senator Johnson's suggestion, a mediator (Bryan Johnston) was utilized. About one-

half day was spent on the process, which was very positive. Chair Graeper asked if the same process might be used in the future. Mr. Taylor responded that in a similar situation, absolutely.

B. Deputy Commissioner's report

1. Real Estate Agency 2005-07 June Emergency Board results.

Deputy Commissioner Katie Cannon referred to the information sent out in the board packets containing a summary for the June report. She advised that it may vary slightly from what the agency actually received due to Department of Administrative Services (DAS) amendments. She distributed a revised report that changed September based on the Task Force update (**EXHIBIT A**). The agency had limitation through September; however, with the Task Force report being due to the legislature before returning to the Emergency Board (E-Board), it was necessary to get an additional month, otherwise the agency would have been out of limitation and unable to continue to do business. The June E-Board approved funding through September and the month of October, which may change just slightly in the final report from DAS, which has not been received.

Chair Graeper stated that since the board has had an opportunity to review these numbers, he requested the substantive changes from the original documents provided. Deputy Commissioner Cannon indicated that there were no substantial changes in the June E-Board information.

Chair Graeper asked about the four full-time equivalencies (FTEs). He thought that the Task Force was talking about temporaries that were going to be made full-time. Ms. Cannon reminded the board that this was the June E-Board. The agency had to have the FTEs for all 30 current employees for the month of October along with position authority. The only additional positions requested in June were temporary employees.

Mr. LaDu asked if "personal" services means "personnel." Ms. Cannon responded yes. Generally, in state government there are two main categories, (1) personal services and (2) services and supply. June was pretty much as requested. The agency is going to request six limited duration positions in September to end June 30, 2007, and ask the legislature to make those full-time positions. One position is for licensing, one for land development/administration/board support, and four in education; a Program Analyst 4 (which would oversee and organize the educational program); two compliance specialists (who would do educational compliance reviews); and one for the phone room (who would answer questions over the phone for licensees).

Chair Graeper thought the investigators did compliance reviews. Ms. Cannon clarified that the agency is trying to change the “fear factor” of an investigator conducting a review by separating out the pieces of the Regulation Division that are educational in nature. It is a difficult role for the investigators because there are different types of skills needed in those two types of positions. Some people can make that transition and others cannot. There is one person doing only compliance reviews in the Regulation Division, and the other investigators are required to do a certain number per quarter. One person will concentrate on property management as there seems to be work needed in that area. We have found accounts that haven’t been reconciled in years. The other will conduct compliance reviews on real estate offices. The fourth position will be the phone room which is an informational/educational location where people call if they have a question beyond “how do I get a license?” It makes more sense to have that position located in an education/consulting section than it does to have it in regulations. We have a full-time person doing that one-half time with the other one-half time on compliance audits. There will be two people dividing their time in this manner.

Chair Graeper indicated that may solve the problem raised in the HMM report, which was “perceptions kill great ideas.” Ms. Cannon clarified that came from the focus groups. Mr. Graeper continued that one of the problems was inconsistency in answers, so having the same personnel in the phone room as opposed to having investigators rotating through should solve that. Ms. Cannon indicated that the whole goal of the education/consulting section is not only for external education but for internal education so whether someone calls the licensing desk, phone room, education section, or an investigator, they get the same answer. However, there needs to be a comprehensive program to make sure the training is ongoing, is well organized and is communicated. Compliance specialists are expected to do compliance reviews, but if the Association has a meeting in that locale and they want a speaker, the compliance specialist would do that, or could come to your office to address a certain issue. One of the two people answering the phones is Danette Rozell who is currently on staff and has been receiving extensive training.

Chair Graeper asked about Ms. Rozell’s real estate background. Ms. Cannon responded that she has none, but there were no applicants for that position with real estate experience. When the agency recruits, not many people with real estate background apply. In the investigative area, four pieces are needed: (1) good customer service; (2) auditing experience; (3) an investigative background; and (4) real estate experience. Quite often we can get the first three but it is

difficult to get the fourth. Therefore, when we hire, we would like to determine where the skills are and where the individual needs training. It would be helpful to have a new employee spend 30 days or so in a real estate office to get some exposure and a level of understanding for the business.

Chair Graeper asked if the agency advertised vacancies in the *OREN-J*. Ms. Cannon responded no but thought it was a good idea.

Commissioner Taylor offered that part of the motivation behind this was the interim committee. Prior to the 1980s we used to visit each office every three years and the visits were separate from the investigations (Regulation Division) so one didn't get that investigator mentality looking at the records. During the recession in the early 1980s when the agency lost many people, those things were combined, and they have been that way ever since. That has probably caused some of the problems.

Ms. Ribera-Card asked if there is a manner in which offices are chosen to be investigated, or if it is just complaint driven. Deputy Commissioner Cannon responded that investigations are usually complaint driven, unless something comes in on a mail-in audit. If there is something inappropriate in a mail-in audit, a case will be opened. Mail-in audits are also on a random basis. During compliance reviews, we are checking to see when the last review was done. We do two or three offices in an area so the investigator is not spending excessive time on the road. Lance Johnson does eastern Oregon; Gae Lynn Cooper tends to do the coast (especially the south coast); Judi Parker does the valley and the coast and southern areas. These are compliance reviews. Judi has a checklist and looks at samples of various aspects of record keeping and accounting and checks for compliance. If there is a problem, she will point it out, advise on the appropriate statute and rule, and show what is needed.

Ms. Cannon referred to the compliance review survey which shows part of June and all of July (**Agenda Item III.B.3.**). The agency has just started taking those surveys. 80% of the offices that had compliance reviews felt they were excellent. One client that was in the focus groups said that it would be beneficial to have someone visit a new office during the first 60 days.

Mr. Kegler asked if mail-ins are compliance. Ms. Cannon answered that they are not educational but regulatory and are reviewed for items that don't "match." We don't go out on those unless we see something major.

Ms. Ribera-Card referred to her mail-in audit. It was pointed out to her that the checking account did not read correctly. She has noted that other property managers in the Bend area are incorrect as well and it is good to advise people.

Chair Graeper asked if the agency is keeping track of the issues, for consistency in errors. He suggested it might be worthwhile to dedicate something in the *OREN-J* on common errors in the field as discovered in compliance reviews. Ms. Cannon will check, as this may be done. This is another goal for a comprehensive educational program so that we can find out what the investigators and the compliance specialists are finding and focus on common issues.

Mr. Kegler commented on the Oregon Association of Realtors (OAR) "hot line." Each time a call is received, the topic is recorded. He asked if this is being done. Ms. Cannon believed so. Mr. Kegler thought this was important information to feed back through the *OREN-J* so everyone knows the common questions and the answers. Ms. Cannon stated that once the license migration is done she hopes to put together an Access data base so that information can be input and usefully categorized. That is the next step.

Commissioner Taylor stated that in the past the investigators have been handling the phone room which provides consistency challenges. Even though the information is written down, each is handling 45-50 phone calls plus their case load, so the information is there but not getting entered anywhere. Hopefully with people becoming more specialized and a data base, we will do much better. Mr. Kegler felt that if the common questions are listed and checked off, a trend will be found. Ms. Cannon stated that with two people in the phone room, there is more time for that kind of input.

2. Legislative proposals for the September Emergency Board. Ms. Cannon advised that the total request for the September E-Board for November through June operations, which is the end of the biennium, is \$2,066,483. This includes the additional limitation for the four FTEs, for services and supplies and Web development so more educational pieces can be put on the Web (everything that is in the action plan that was provided previously, minus two positions). The management position and the phone room position are the two we won't receive. The expected ending balance is a little over \$4 million. We are expecting that if we get everything we have requested, we will have about 10 months of reserve, which may sound like a lot but really isn't if the industry takes a down-turn.

Mr. Kegler asked for elaboration on what the task force approved. Ms. Cannon reported that the legislative task force recommendation is for the four positions (two compliance specialists, one licensing position and one land development/administration/board support position). They don't approve positions and we need limitation for the positions so they will assist with that.

Chair Graeper referred to an item from the interim committee that showed the number of vacant investigator positions. Deputy Commissioner Cannon responded that the agency is in the process of filling those. There have been several retirements and it has been difficult to find qualified people. Many applicants don't meet the minimum qualifications and they lack the three years experience in auditing. Out of the four key areas of skills needed, the agency is trying to pick individuals with the best qualifications. They may be weak in one area but we won't compromise on the customer service aspect. We need to figure out internally how to get people up to speed. If they have never done an investigation, then we need to train them. We have had real estate licensees apply who don't meet the minimum qualifications.

2.a. Alternative plan to adding personnel. Not discussed.

3. Compliance Review Survey. Ms. Cannon referred to the copy included in the packet. There were 24 respondents in June and July who answered the survey. Judi Parker was rated high. The other investigators are being trained in how to do the explanation for the review. The overall rating for usefulness of the review was 80 percent excellent. The agency is pleased with the feedback.

Mr. Kegler commented that when people respond to a question with four answers to choose from (excellent, good, fair and poor) there will be some tendency to not check excellent, because most don't go to the extremes. Ms. Cannon added that "average" should never be used on a survey either and "good" fits into that same category.

C. Other reports. Interim Task Force report. Mr. Kegler reported that generally speaking the Task Force followed the same template as this board used for discussion at the July 7 special board meeting. The commissioner would be accountable to the board with the board setting the basic meeting agenda, hearing final appeals and setting agency policy.

Recess at 10:40 a.m. for five minutes.

Copies of the task force draft final recommendations were distributed (**EXHIBIT B**). Ms. Cannon reported that the task force administrator has not written the final report. She read from the “summary” of recommendations.

Item 1, OREA Commissioner. The board is to put forward at least two candidates. The commissioner serves at the pleasure of the governor. The board is to perform at least an annual performance review of the commissioner. DAS to be used for the recruitment process, with board involvement.

Item 2, Board Agenda. Mr. LaDu asked about the reference to a “qualified minority.” Mr. Taylor says it takes more than one. Ms. Cannon interjected that they made a mistake at one point and said “majority” which was corrected to “minority.” She needs to review her notes but believes it means the chair is not to be the only one putting items on an agenda. Other board members can as well and the public must also have time for their items.

Item 3, Administrative Action Appeals. The board has final authority on all contested cases. If a case goes to a hearings panel and there are issues with the decision or recommendation from the administrative law judge, the board can overturn. It was strongly suggested that the board develop rules for their review process. Chair Graeper added that the ARELLO report has some good suggestions also. Commissioner Taylor added that that particular part is also governed by the Administrative Procedures Act. There are some things to watch out for if planning to modify or reverse the hearings officer’s proposed order. If the findings of fact are changed, for example, the case would be heard *de novo* by the Court of Appeals. If the hearings officer misinterprets the law, one has to spell out what that is, why there is disagreement, and then it goes through an “exceptions” process. Assuming this passes, the board needs to be well educated because there is a very careful process that has to be followed.

Item 4, Setting Agency Policy. Board to set broad agency policy. Operations of the agency would be under the commissioner with the commissioner answerable to the board.

Item 5, Board Meeting Schedule. Will be done by rule. There was discussion that the board will probably need to meet monthly, at least at first, due to a large learning curve.

Item 6, Board Mileage and Per Diem. To receive mileage and per diem.

Item 7, Board Composition. There was an actual vote for seven from the industry and two from the public sector. (Rep. Esquivel recommended six and three with a super majority.) Three individuals (two legislators and one board member) voted in opposition. The commissioner had to abstain on all votes because of his position, and the governor’s office. The Task Force was supposed to revisit the super majority issue but they did not.

Item 8, Voting Requirements. No action taken.

Item 9, Agency Legislation. Board to develop and/or review concepts and legislation and vote on whether to move forward.

Item 10, Ancillary Regulatory Tasks. Wants the agency to look at these to determine if they should continue to be done, either by the Real Estate Agency or another agency or entity. Chair Graeper asked if these were defined. Ms. Cannon responded that these issues are the “non-pure” real estate items such as escrow, campground registration, time share registration, and condominium development. Sen. Johnson suggested moving property management to the Department of Consumer and Business Services (DCBS) which would present a challenge to property managers. A broker also doing property management would be regulated by two agencies. She continued that there needs to be an understanding of what those registrations and condo developments are. Sen. Johnson’s suggestion was to send condo developments to the Building Codes Division, but they don’t have anything to do with construction. They have to do with ownership and making sure that when a condo is purchased, people know what they are getting for their money. It would be helpful if board members spent time in various areas to know the business that the agency does. Even time shares, campgrounds and out-of-state subdivisions have to do with ownership. They want us to take a look at these items, and that is valid. Escrow especially is a very valid point.

Commissioner Taylor indicated that the ARELLO Digest tells what other agencies like us regulate. Some states don’t regulate escrow; some don’t even have escrow. It is done by a lawyer’s office. States that have escrow are generally regulated by the real estate licensing authority. The same is true with property management.

Item 11, Provide Settlement Opportunity Before the Charging Document. We are already doing this. There is no charging document until we move past settlement.

Item 12, Agency Action Plan/Request for Additional Limited Duration Positions. We provided this to the board and the Task Force. The Task Force will write a letter recommending the additional four limited duration positions at the September E-Board (two for compliance reviews, one for licensing and one for land development).

Mr. Kegler offered that where a broker has both property management and real estate brokerage, that situation should remain in tact. The majority in his area have both operations. We should look at the other ancillary services to see if they should go to other agencies for regulation.

Ms. Cannon suggested that staff put together a presentation on what those entail for the next board meeting. Then if they want to take the time, board members can sit down with us in those areas to understand the laws that are involved and why we do what we do.

Chair Graeper commented that he has not had a tour of the agency so an explanation of those ancillary services and maybe a brief tour of the agency might be helpful to the board members.

Ms. Cannon suggested that each board member select an area and spend more time in that area to become an “expert” and report back to the board.

Mr. Kegler asked if it was ever determined if there would be movement from the type of board we now have, if this board will resign in total and if there would be appointment of a whole new board. Ms. Cannon responded that will be determined in legislation. She reminded the board that they work for the governor and the governor decides who stays and who goes. All board members going on and off at the same time is not a good thing. There needs to be some carryover for history.

Chair Graeper agreed. Some board members may not choose to sign on for the additional workload. None of this is likely to go into effect until 2008. The legislature meets in 2007 and he doesn’t see an “emergency” action. He is already looking for more participation by all board members.

Commissioner Taylor reiterated that he abstained from all votes. The governor will take a look at the Task Force report and then take a position.

Mr. Graeper reminded everyone that this was an interim legislative committee. If the governor is totally against the recommendations, he has the right to veto.

Mr. Taylor offered that doesn’t mean the legislation won’t get proposed, however. At this point we do not know where the governor is on the issue. He may agree, or he may have some concerns. Until that is articulated it puts us all in a short-term awkward position. He urged the board members to keep that in mind.

IV. COMMUNICATIONS

A. Waiver request log for January through June. Chair Graeper referred to the prior log format which didn’t contain the reason for the decision, so this format is more useful. He read from the June 12 minutes the discussion and the motion that candidates must show that they have fulfilled all requirements prior to requesting a waiver of experience. The vote was unanimous in favor. There was no discussion on the waiver request log.

B. Thomas E. Bahrman completed his education and exam requirements and was issued a sole practitioner broker license. (*Note: The board requested this information at the June board meeting.*)

V. REQUEST FOR WAIVERS

A. Phillip Earl Anderson Jr. requested a waiver of nine months experience for a principal broker license. Mr. Anderson did not appear.

MOTION by John Zupan to approve. Seconded by Maxine Ribera-Card. Discussion: Mr. Kegler asked if Mr. Anderson had completed all the educational requirements. Chair Graeper advised that he passed the broker's state and national exams in 2004 but still needs the Broker's Administration and Sales Supervision (BASS) course.

Mr. Kegler referred to the June 12 board agreement that all requirements must be met and asked where the board stands on the item that Mr. Anderson has not finished. Mr. Zupan did not think that BASS falls under that. He thought the motion referred to a request for waiver when the exam hadn't even been taken. That was the point being discussed at the June meeting.

Mr. LaDu stated that the board set a standard, but it is always up for discussion in any application.

Commissioner Taylor advised that there are two ways someone can work once a waiver is granted, one is as a sole practitioner (BASS not needed) and the other is as a principal broker (BASS needed). The waiver can be granted without BASS but before a license is issued for a principal broker, the applicant must show evidence of BASS.

Mr. Zupan observed that Mr. Anderson has quite a bit of previous real estate experience and felt the waiver would be all right.

Mr. Taylor recommended that in reviewing waiver applications, if the applicant has everything to go out on their own (passing the broker's exam and 150 hours pre-licensing course), not to worry about the BASS course. If an individual wanted to be a principal broker, statute and rule require that they have BASS so the agency wouldn't give them the license until completed.

MOTION CARRIED UNANIMOUSLY.

B. Anna Marie Casey requested a waiver of six months experience for a principal broker license. Ms. Casey did not appear.

MOTION by Bob LaDu to approve. Seconded by Victor Kee. Discussion: Mr. LaDu commented that the company for which she works has a very good reputation in Portland.

Mr. Kegler referred to two unsigned letters of recommendation, one of which is from Coldwell Banker. He was curious if she was licensed in Bend by

Coldwell Banker or by Renaissance. Chair Graeper pointed out that her resumé indicates she is presently with Renaissance.

MOTION CARRIED UNANIMOUSLY.

C. Michael Grant Damiano requested a waiver of experience for a sole practitioner broker license. Mr. Damiano did not appear. John Zupan pointed out that Mr. Damiano has neither met the pre-licensing education requirement nor taken the broker examination.

MOTION by John Zupan to deny the request based on lack of education. Seconded by Mr. LaDu. No discussion.

MOTION CARRIED UNANIMOUSLY.

D. Edward Blake Hillison requested a waiver of experience for a sole practitioner broker license.

MOTION by Art Kegler to deny the request based on lack of education. Seconded by Mr. LaDu. No discussion.

MOTION CARRIED UNANIMOUSLY.

Mr. Zupan requested that the letters of denial explain why the requests were denied and to feel free to request another waiver once they have passed the exam.

Commissioner Taylor asked if the board would like to have internet access at future board meetings held outside the Salem office. The board agreed.

VI. BOARD ADVICE

A. Discuss education requirements/review of core or required hours.

Review of Continuing Education Certificate of Attendance. Chair Graeper referred to information previously provided by Assistant Attorney General Ramirez. Although the education requirements (core hours) fall under the commissioner's authority, suggestions might be made by the board. He asked when the core hours were last reviewed.

Mr. Taylor responded that it was last done in 1996 by a task force, shortly after his appointment and the effective date of that law. It is a good time to do, and the board could do it. The law says the review should be done by the industry and the public and both are represented on the board.

Mr. Zupan served on that task force and thought that another look was to be taken in a year or two to possibly make some changes. He suggested

everyone get the outline and spend some time at the next meeting discussing possible changes to core hours.

Mr. Taylor can obtain information on the problem areas and direct the mandatory part of continuing education to those problem areas. When first done, because we had brokers who hadn't had continuing education for 10-12 years, the intent was to keep broad and inclusive. We may want to look at all that.

Mr. Graeper requested recommendations on how to proceed. Mr. Kegler suggested bringing back to the board data on the major inquiries and opinions where no data exists.

Mr. Ladu thought the practitioners should be surveyed with key questions. He felt that more required hours are needed and electives should be "tightened up." He felt that the discussion would be more effective if against background of opinions from practitioners.

Mr. Taylor advised that most of the input received was not specifically directed to a topic but to get rid of "junk" courses. This is based on communications with various brokers. OAR sometimes refers questions that come in on their hot line. A lot of them are rule and statute issues.

Mr. Zupan felt that both pre-license and post-license courses need to be reviewed.

Mr. Graeper requested input from the Regulation Division and asked staff to send copies of OAR 863-015-0055 (**EXHIBIT C**) for board members to review for the next meeting. Financing needs to be included, and there may be some other areas for additional core hours. Continuing education may be discussed by the board and recommendations made to the commissioner. It looks like there will be some legislative changes next year and those should be incorporated.

Mr. Kegler thought it would be advisable for any post-licensing education programs that the presenter provide (1) credentials in writing and (2) an outline of the topic and program, to be attached to the education certificate retained in the broker's office and available for review during compliance audits. Regardless of the topic, a presenter may not be capable to teach.

Chair Graeper commented that the rules stipulate a number of things. That is one of the additions that could be made.

Mr. Kegler believed that if instructors have to attach an outline, one has an idea of the substance of the course. Some type of credentials should prove their capability to teach a good educational course.

Commissioner Taylor reminded the board that they need to consider statutory authority. We can write rules to provide guidelines to certifying brokers for certification but we don't have the authority to require certain things to be met. We do have the authority to specify what has to be on the certificate so that might be the area where we can approach some of these issues. Oregon is the only state that doesn't have the authority to approve continuing education. At one time, some suggestions were made that only items relating to ORS chapter 696 could be taught, and it was difficult to get courses approved. He reviewed the statute and found it didn't prohibit many of the things that got prohibited.

Chair Graeper believed the certificate of attendance we provide as an example should also be reviewed. He requested putting on the next agenda and asked members to bring suggestions for future action.

B. Discuss changing the license renewal period from two to three years.

Chair Graeper indicated that Task Force Co-chair Johnson brought up the idea of changing the license renewal period from two years to three years. Apparently the bar renews their licenses every three years. Increasing the cost from \$230 to \$345 could be a financial detriment to some, but it seems like it would save the agency money. He requested placing the item on a future agenda for further discussion. He asked that the agency review for merit for consideration from a cost-savings standpoint.

Ms. Cannon reported that the agency is moving to online licensing so future workload there will be less. She needs to look at the cash flow when going from a two-year renewal to a three-year renewal as the agency is on a biennial budgeting period and she needs to do some modeling to determine the impacts.

Mr. Graeper felt that since the Task Force co-chair mentioned it, he thought it was worth consideration. He is curious about the financial impacts. It could be an incentive for people to stay in the industry.

Ms. Cannon advised that if agencies end up with too much money in their reserve, the legislature may look at making changes in the future that would be detrimental long-term. One year's worth of money would have to remain untouched. She needs to look at both the cash flow standpoint and the political standpoint.

Mr. Taylor advised that California renews every four years. During the period of California's real estate recession, the legislature took the carryover even though they were dedicated funds, like ours. There is a risk to be considered. We have an issue now with people not remembering when to renew their license. Extending another year may increase the problem.

Mr. Graeper thought that maintaining 15 hours continuing education per year should trigger renewal. Many now try to obtain all their hours just prior to the renewal deadline, any way they can. He was not sure that is the best. The medical profession recommends a certain number of hours each year even though they don't have to renew their license every year. He thought it would be good to discuss, so if the question were ever asked of the agency again, they could say yes, we have looked at that.

Mr. Kegler offered that yearly requirements would be very germane to getting better education.

Mr. Taylor asked the board not to request all renewals occur on December 31.

Mr. Graeper asked the board to think about how we could incorporate annual education. Maybe with online renewal there would be a way of implementing 15 hours of required education every year. He referred to a provider who offers 30 hours of education in four hours of online work. It is ridiculous that some go into the classroom for 30 hours but someone else can supposedly get the same amount of credit for four hours online.

Commissioner Taylor reminded everyone that principal brokers need to look at those situations and not certify.

C. Future topics for discussion. (*Note: Various items were requested throughout the meeting and are included in other discussions.*)

Recessed at 11:40 a.m. for lunch. Reconvened at noon.

VII. UNFINISHED BUSINESS

A. Board authority regarding pre-license, post-license and continuing education. Commissioner Taylor referred to the Assistant Attorney General's report distributed in June. The commissioner can make this group the one to review the core area topics. If the board is interested in doing it, they can. Other areas the board can look at and advise on are the pre-licensing outlines that are required and the post-license course. The agency has the authority to determine what is in both of those courses.

Chair Graeper asked that those be distributed for discussion at the next board meeting.

B. Continue discussion on placing the Real Estate Manual online.

Deputy Commissioner Cannon reported that the agency is looking at putting the Real Estate Manual online and requesting in the upcoming biennium a search engine to make topics easier to look up. Now, it is very labor-intensive to print and mail the books, and each update is also printed and mailed. We are questioning whether we should just put the manual on the Web site, because this is an industry that seems to use the internet quite a bit. It may make sense not to print since it is so expensive. We need to have a system for ease in finding items especially in a book of that size. She asked the board if that is a reasonable way to move forward. The agency has done one additional reprinting of the manual and the updates, but there will be a point when the updates will go onto the Web site and people will be advised so they can print them off, if they want hard copies.

Ms. Salinas asked if people would still be able to purchase hard copies. Ms. Cannon responded that they would cost considerably more as printing 1,000 copies is cost-effective but printing 10 is very expensive. There are more things we can do on the Web.

Chair Graeper commented on a buyer advisory with a search engine with a table of contents so one could click on a topic and be taken right to that section. He felt it is worth looking at and would like to see the manual on the internet as opposed to a hard copy. Now, one doesn't know if they have the most current revisions. It would seem to be a better resource. Usually the manual is in the possession of the principal brokers and others go to them for instructions. If on the agency Web site, more practitioners may check it.

Ms. Cannon offered that notification can go onto the Web site what section(s) have been updated. The current process to update is major. Many of the things in the manual must be obtained from other agencies. We are trying to clarify what things are our authority and what things are under another agency's authority. If the manual was on the Web, we could update more quickly. We are working on an update now. She has advised staff that she didn't want the manual put on the Web until updated.

Mr. Graeper added that if someone didn't have access to the internet, they could have a copy printed or have it downloaded to a CD.

Mr. Kee asked if it is cost-effective to have the manual on a CD. Ms. Cannon answered that is really inexpensive. The drawback is if that is relied on (like a hard copy), the user doesn't know what is updated. A copy could be printed, however.

VIII. NEW BUSINESS

A. Discuss posting the newsletter (*OREN-J*) online. Ms. Cannon reported that the agency is also considering not mailing the newsletter and having it strictly on the Web site. She requested board input. It is very expensive to mail.

Mr. Kegler felt that needed to be phased in over time. Many folks practicing real estate do not have access to the Web. He asked if the agency is recording the number of hits to find out how many people are using that service. Ms. Cannon can check to see what our ability is. Mr. Kegler indicated that would tell the agency the efficiency of being on the internet.

Chair Graeper said that many thought newspapers would go away when the internet came out but many don't want to access them that way. Everyone reads the reprimands in the *OREN-J*. It is probably one of the best educational tools the agency has. He's not sure if the *OREN-J* is ready for just internet publication.

Mr. Kee suggested printing on lesser quality paper to reduce cost. Ms. Cannon responded that she is sure the paper is not cheap but the big issue is the mailing cost.

Commissioner Taylor added that several states have done this. He can check with them on how the transition was done and how it is working. Hard copies can be printed from the internet.

B. Discuss property management exam question(s). Commissioner Taylor expressed that this has been an issue for some time. We need to get landlord-tenant issues and more property management into the exam. Ms. Cannon advised this is in response to the question of areas in compliance that are repeated. We have noted that some property managers can't reconcile. The manager of the Regulation Division is adamant that there needs to be something in the exam that is basic to reconciling. These people are handling a tremendous amount of money, and we have found with some there hasn't been a reconciliation in five years. We need to "shore up" the testing area so people have a good understanding that property management is not just collecting money or doing repairs, but also understanding how the business aspect works.

Ms. Ribera-Card asked if these are mostly sole proprietors. She found that when first entering into property management that accounting wasn't her forte so hired someone to do the books. One of the things happening is that managers don't have time to do the reconciliations timely and maybe can't afford to hire a bookkeeper, so they fall behind.

Ms. Cannon advised that there are two things the agency can do: (1) make sure there are things in the exam that people have to be prepared for so they get a solid understanding of the business practices that are required; and (2) have the compliance review specialist focus strictly on property management. When someone is new, a compliance specialist could help them get started properly.

Mr. Taylor added that those taking the broker exam have to do an escrow closing statement. He asked if it would be helpful to have something in the property manager's exam that requires a reconciliation, with enough questions so that if they don't pass that part, they will have to retake the exam until they do.

Ms. Ribera-Card offered that most bookkeepers are not trained in property management. Years ago the agency had a class for all property managers and their bookkeepers in Sun River that was excellent and well attended.

Mr. Kegler added that all brokers have to take the property management portion of the exam and become licensed to do it, rather than taking it as a specialty. He suggested setting aside property management, making it a special testing area and taking it out of the broker's exam so they have to opt in rather than becoming automatically included.

Commissioner Taylor stated that would take statutory change but it is probably not a bad idea. However, we need to be careful about how far to go. Property management is a different specialty. Commercial brokers want something like that as well. There has been a nation-wide movement so if the board decides to do this, it could open the door for other things. An entry level license could become very restrictive.

Mr. Graeper added that in smaller communities it might be difficult to specialize.

Mr. Kegler suggested that a regular broker could opt in to become a property manager and take the special programs and test rather than it being mandatory.

Ms. Cannon indicated that in order to move forward to develop questions, the agency needs help on the process. A motion is needed to direct the agency to develop and return questions for board review.

MOTION by Art Kegler to direct the agency to develop property management exam questions for review by the board. Seconded by Bob LaDu. No discussion.

MOTION CARRIED UNANIMOUSLY.

C. Discuss proposed property management administrative rules and review process. Commissioner Taylor distributed draft property management administrative rules (**EXHIBIT D**). He advised that a group of property managers, working with the agency, identified 17 areas where there was consensus to change. The property management rules need to be completely reviewed. Our system as set up today is still basically designed for “pencil and paper.” Most property managers aren’t doing things that way but are using computers. This group addressed 10 or 12 of the major areas. The agency plans to file temporary rules and a notice for permanent rule making and continue to work on these rules. The proposed rules encourage compliance and try to deal with the issue of education vs. sanctioning. Much of what was in HB 2604 is embodied here also. Many property managers do individual client trust accounts for each of their clients, for each property. Some clients want reconciliations to happen on different dates than others, so we have modified the rules to allow that. The new rules allow for a system of computerized balancing, but there must be a positive balance at the end of the day. That is a change. The biggest area has to do with electronic records and electronic banking. These rules would allow them to have a server anywhere as long as it is accessible within their Oregon location. These also allow for internet and telephone banking as long as proper trails are maintained. We are continuing with the process toward a good set of rules.

D. Lead-based paint question review. (*Note: For confidentiality, the questions were mailed to the board members in a plain envelope and are not included with these minutes.*) Chair Graeper recommended all members take the test. He plans to administer it to his managers. This is a direct result of this board’s recommendation.

MOTION by John Zupan to approve the questions as submitted.

Seconded by Victor Kee. Discussion: There was some problem with question 1. Mr. LaDu felt clarification was needed on question 4 whether the house was built before 1978 or permitted before 1978. Mr. Zupan had a question about number 5. Mr. Graeper responded that statute puts the responsibility on the seller and the listing agent. Mr. Kegler added that the seller is the only one who can disclose.

MOTION CARRIED UNANIMOUSLY.

Commissioner Taylor explained that the exam provider will send these to a group of people to see if anything needs to be reworded.

E. License expiration dates in Web lookup. Ms. Cannon advised that a new feature in the Web lookup on licensees now includes all expiration dates.

Ms. Cannon distributed the 2007-09 Budget Narrative (**EXHIBIT E**) and advised that this was submitted to DAS for review and/or changes. It will then go to the Legislative Fiscal Office and the governor's office. The three packages correspond to the action plan. The agency was directed in the audit report to put together an "administrative actions summary" (**EXHIBIT F**). This covers the last six months of administrative actions and summarizes by category. Mr. Taylor requested that if board members had particular questions, to let him know in advance of the next meeting so he is able to respond.

Deputy Commissioner Cannon distributed order forms for board member business cards, which the agency will have printed.

IX. ANNOUNCEMENTS

The next regular board meeting is October 23, 2006, in Salem.

X. ADJOURNMENT

Chair Graeper adjourned the meeting at 12:45 p.m.

Respectfully submitted,

/s/ Scott W. Taylor

SCOTT W. TAYLOR
COMMISSIONER

Approved,

/s/ Michael R. Graeper

MICHAEL R. GRAEPER
BOARD CHAIR

Exhibits distributed

- A. Revised September E-Board request, **Agenda Item III.B.1**
- B. Task Force Final Recommendations, **Agenda Item III.C**
- C. OAR 863-015-0055, **Agenda Item VI.A**
- D. Draft proposed property management administrative rules, **Agenda Item VIII.B**
- E. 2007-09 Budget Narrative
- F. Administrative Actions Summary