

IDAHO REAL ESTATE COMMISSION
MEETING MINUTES
July 22, 2020

Pursuant to notice given, the meeting of the Idaho Real Estate Commission (Commission) was held at 575 E. Parkcenter Blvd., Suite 180, Boise, Idaho on Wednesday, July 22, 2020 at 1:00 p.m.

Commission Members Present:

Jill Stone, Chair, Twin Falls
Mike Gamblin, Vice-Chair, Boise
Kim Cooper, Member, Coeur d'Alene (via Zoom)
Michael James Johnston, Member, Idaho Falls (via Zoom)
Martin Espil, Public Member, Boise (via Zoom)

Comprising a quorum of the Commission

Members Absent:

Staff Present:

Michelle Bird, Executive Director
Melissa Ferguson, Education & Licensing Director (via Zoom)
Craig Boyack, Chief Investigator (via Zoom)
Jessica Valerio, Administrative Assistant 2

Others Present:

David Wynkoop, Commission's Legal Counsel (via Zoom)
David Hensley, Idaho REALTORS®
See attached list

Introductions:

- a. Commissioners
- b. Staff
- c. Guests

Meeting was called to order at 8:30 a.m. MT by Commission Chair Jill Stone.

Approval of Meeting Agenda: Motion was made by Commissioner Mike Gamblin to approve the July 22, 2020 adjusted meeting agenda. Motion carried.

Approval of Meeting Minutes: Motion was made by Commissioner Michael J. Johnston to approve the May 21, 2020 and June 30, 2020 Commission meeting minutes with amendments. Motion carried.

Reorganization of FY20-FY21: Motion was made by Commissioner Kim Cooper to nominate Mike Gamblin for Chair and Michael J. Johnston for Vice-Chair.

A motion was made by Commissioner Mike Gamblin to appoint Commissioner Michael J. Johnston as representative to the Education Council. Motion carried.

Employee Recognition: Ron Bassett and Michell Bird were presented with a recognition for their help and work with the Fiscal Year 2019 Comprehensive Annual Financial Report.

Staff Reports:

The following reports were presented for members' review; copies of which are on file at the Commission office:

- **Financial Report(s) May 2020, FYE2020.**
- **License Base Analysis**
- **Examination Statistics**
- **Complaint Summary Report**
- **Enforcement Telephone Activity Log(s) May, June 2020**
- **Audit Report(s) May, June 2020**
- **Waiver by State Report**
- **Education & Licensing Telephone Log May, June 2020**
- **New Brokers & Company Report**

Idaho REALTORS®: CEO David Hensley reported their total numbers are 11,198. David Hensley also gave a brief update on earnest money, suggesting IR would be working on forms. He also reported that Director Bird and Commissioner Gamblin would be speaking at the July, Wednesday webinar.

Executive Director's Report:

Legislative Service Office Audit update – Director Bird presented the final LSO Management report. Director Bird states the Commission had no findings. The audit can be found on LSO website.

Idaho Division of Occupational Professional Licenses Update – Executive Order 2020-10 consolidated several licensing agencies into an umbrella agency under 3 sections. Real Estate is in the Construction, Building, and Real Estate Section. Director Bird was named Section Chief.

2021 Legislation Update – Director Bird gave an overview of legislative ideas that have been submitted for Governor approval. Discussion ensued.

Motion was made by Commissioner Kim Cooper have IREC staff to proceed with drafting legislation for submission. Motion carried.

Discussion on Handling Earnest Money – Director Bird and Commissioner Michael J. Johnston led discussion on the handling of earnest money. Discussion ensued.

Agency Disclosure Brochure Review – Director Bird led discussion on the updates of brochure.

Motion was made by Commissioner Martin Espil to accept the changes to the Agency Disclosure Brochure. Motion carried.

Enforcement

Probable Cause Memo #20-0128 and 20-0129: A motion was made by Commissioner Jill Stone finding the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Idaho Code 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Commissioner Jill Stone further moved that upon the initiation of any formal proceedings the Executive Director shall appoint a Hearing Officer to preside in the case, as provided by law. The Hearing Officer shall have the standard authority set forth in chapter 2 of the Commission’s administrative rules, IDAPA 33.01.02.452. Further, for any hearing held, with or without a hearing officer, the Notice of Hearing shall be issued in accordance with the Commission’s “Standard Form for Notice of Hearing and Scheduling Order”, a copy of which shall be provided to any hearing officer upon appointment. Motion carried.

Probable Cause Memo #20-0119 and 20-0120: A motion was made by Commissioner Jill Stone finding the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Idaho Code 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Commissioner Jill Stone further moved that upon the initiation of any formal proceedings the Executive Director shall appoint a Hearing Officer to preside in the case, as provided by law. The Hearing Officer shall have the standard authority set forth in chapter 2 of the Commission’s administrative rules, IDAPA 33.01.02.452. Further, for any hearing held, with or without a hearing officer, the Notice of Hearing shall be issued in accordance with the Commission’s “Standard Form for Notice of Hearing and Scheduling Order”, a copy of which shall be provided to any hearing officer upon appointment. Motion carried.

Probable Cause Memo #20-0081: A motion was made by Commissioner Jill Stone finding the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Idaho Code 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Commissioner Jill Stone further moved that upon the initiation of any formal

proceedings the Executive Director shall appoint a Hearing Officer to preside in the case, as provided by law. The Hearing Officer shall have the standard authority set forth in chapter 2 of the Commission's administrative rules, IDAPA 33.01.02.452. Further, for any hearing held, with or without a hearing officer, the Notice of Hearing shall be issued in accordance with the Commission's "Standard Form for Notice of Hearing and Scheduling Order", a copy of which shall be provided to any hearing officer upon appointment. Motion carried.

Notice of Default

IREC Staff vs. Xena Benedetto:

In the matter of Xena Benedetto on the record showing that the Administrative Complaint was filed and personally served on the Respondent more than 21 days ago, and the Respondent has failed to file any answer or other motion; a motion was made by Commissioner Jill Stone that a Notice of Proposed Default Order be issued in this case, advising the Respondent he has 7 days to file a petition showing why the proposed order should not be entered and, further, that Mike Gamblin, as the local member of the Commission, be appointed as presiding officer who, upon the expiration of the 7-day period, will either sign the Final Order or issue an order setting aside the proposed default order. Motion carried.

Executive Session: In accordance with provisions of Idaho Core (74-206(1)(b), a motion was made by Commissioner Jill Stone to adjourn to executive session. Roll was called, Michael J. Johnston, Mike Gamblin, Jill Stone, Kim Cooper, and Martin Espil voted in favor. Motion carried.

Regular Session: There being no further purpose for an executive session, a motion was made by Commissioner Kim Cooper to adjourn the executive session and return to open meeting. Motion carried.

Exemption Review #20-005: Request seeking an exemption from felony disqualification pursuant to Idaho Code 54-2012(1)(e); following discussion, review of the documents submitted, and having reviewed and considered the six factors set forth in Idaho Code Section 54-2012(1)(e)(ii), motion was made by Commissioner Jill Stone to revise the final order. Commissioner Michael J. Johnston recused himself.

Exemption Review #20-010: Request seeking an exemption from felony disqualification pursuant to Idaho Code 54-2012(1)(g); following discussion, review of the documents submitted, and having reviewed and considered the six factors set forth in Idaho Code Section 54-2012(1)(e)(ii), motion was made by Commissioner Jill Stone to approve request for exemption. Motion carried.

Exemption Review #20-012: Request seeking an exemption from felony disqualification

pursuant to Idaho Code 54-2012(1)(g); following discussion, review of the documents submitted, and having reviewed and considered the six factors set forth in Idaho Code Section 54-2012(1)(e)(ii), motion was made by Commissioner Jill Stone to approve request for exemption. Motion carried.

Education Council Position Applications:

Motion was made by Commissioner Michael J. Johnston to appoint Heidi Casdorph to the Southwest district Education Council as the Southwest District member effective immediately. Motion Carried.

There being no further business, Chair Gamblin adjourned the meeting at 12:20 p.m. MT.

Respectfully submitted,

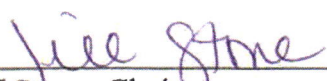


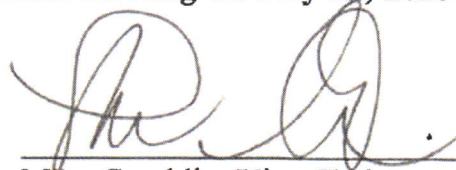
MiChell Bird
Executive Director

MB:jv

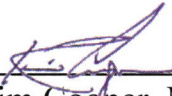
Attachments: Financial Report(s) May 2020, FYE2020
 License Base Analysis
 Examination Statistics
 Education & Licensing Telephone Log(s) May, June 2020
 Complaint Summary Report
 Enforcement Telephone Activity Log(s) May, June 2020
 Audit Report(s) May, June 2020
 Waiver by State Report
 New Brokers & Company Report
 Final Orders

Minutes of the Idaho Real Estate Commission meeting on July 22, 2020 are hereby approved.

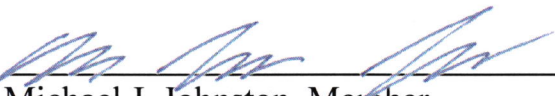


Jill Stone, Chair

Mike Gamblin, Vice Chair



Kim Cooper, Member



Michael J. Johnston, Member



Martin Espil, Member