

Meeting Minutes

Minutes of the meeting of the Real Estate Council of British Columbia held at 9:00 am on Tuesday May 22, 2018 in the Pacific Room of the Metropolitan Hotel in Vancouver.

Present: J. Daly, R. Gialloredo, R. Holmes (*Chair*), S. Heath, L. Hrycan, K. Lonsdale, G. Martin, E. Mignosa, S. Sidhu, L. Sterritt, M. Wong

Support Staff: L. Holst, M. Peters, E. Seeley, P. Skinner, G. Thiele, M. Heeren

Regrets: T. Styffe

PROCEEDINGS

The Chair welcomed everyone and called the meeting to order at 9:17 a.m.

IN CAMERA SESSION

UPON MOTION IT WAS RESOLVED TO: move the meeting business to *in camera* and limit it to Council members, the Director, Legal Services, Executive Officer and Corporate Secretary.

PROCEEDINGS

The Chair returned the proceedings to an open meeting at 11:06 am.

The chair introduced 2 observing guests; M. Hager, Globe & Mail and B. Myddleton, Coldwell Banker Marquise Realty.

CONSENT AGENDA

The Chair inquired if any members had questions about the consent agenda item and it was requested that items 5 and 6 be moved from the Consent Agenda for separate discussion.

A question was raised about point on the first page of Item 5, the Trading Services Advisory Group meeting minutes from April 4, 2018. The Executive Officer clarified that the minutes referenced how Council staff would be expanding its licensee communication to include more fundamental principles of agency and disclosure, building on the more specific scenario-based Frequently Asked Questions (FAQ).

With regard to Item 6, the 2017/18 Council Meeting & Committee Remuneration, a request was made to modify the report to include the number of Council meeting days.

UPON MOTION IT WAS RESOLVED TO: approve the Consent Agenda items, as follows:

- 1) The Meeting Agenda for May 22, 2018, as present, be approved;
- 2) Quorum and declaration of conflicts of interest (quorum satisfied; no conflicts declared);
- 3) The Minutes of the April 10, 2018 Council meeting, as presented, be approved;
- 4) Delegated Authorities under *Real Estate Services Act*, be approved;
- 5) Contract with Selected Furniture Supplier, be ratified.

BUSINESS ARISING FROM PREVIOUS MEETING

Judicial Review/Appeals

G. Thiele, Director, Legal Services provided an update from his memo on recent judicial reviews and appeals, indicating that Council 's written argument in the Welder matter had been submitted to the Financial Services Tribunal and that Mr. Schoen's appeal was dismissed on all grounds. The Director, Legal Services also indicated that the judicial review petition between the Superintendent and the Council would be heard on July 11 and 12, 2018. It was queried whether the judicial review petition would be open to the public and the Director, Legal Services confirmed that the public may attend and that staff would forward the times and location information for Council members.

New Consumer Disclosure Forms

E. Seeley, Executive Officer (EO) referred members to the memo and the four updated disclosure forms for Council consideration, confirming that copies of the forms have also now been published on the Council website. The disclosure forms reflect the content reviewed by Council in January, followed by additional formatting and editing to create plain language versions that can be better understood by consumers. The EO also reminded Council members that the forms had been circulated for information in the new format at the April meeting and they reflect input from the Trading Services Advisory Group (TSAG), UBC, BC Real Estate Association (BCREA), as well as public and licensee engagement in terms of look and feel. The EO indicated that if Council members had any suggestions for amendments staff could incorporate input prior to the forms going live on June 15, 2018.

Following a brief description of each of the forms, it was clarified that the form for the new rule 5-18 would only be for information and discussion, and would be referred to the Council's Policy and Legislative Consultation Committee (PLCC) for consideration under its delegated authority to approve that form later in the week.

Council member G. Martin requested the minutes reflect his comments regarding the forms. He noted while he would want to speak against the motion, he was unable to given the amount of time provided by the Superintendent to properly put the forms together. Mr. Martin noted that at beginning of the process, he had specifically asked if the forms would be provided to BCREA's Standard Forms Committee for their review. He noted that this Committee was not given the opportunity to provide direct input into these new forms.

The EO confirmed that the forms were shared with the Council's Trading Services Advisory Group (TSAG) who are industry members. It was noted the BCREA Standard Forms Committee serves the industry as-

sociation and does not serve the Council. The EO also advised that there were many lessons learned from the process of drafting new forms in such a short period of time and that engaging industry in the development of the forms and tools to educate licensees is always preferable.

The EO noted that Council had launched the forms a month prior to the new rules coming into effect and would be providing registration access to licensees for the new online course in advance of June 15, 2018, and advised that forms and education would need to be dynamic to respond to industry and consumer feedback.

UPON MOTION IT WAS RESOLVED TO: approve the four mandatory disclosure forms required under the Superintendent's Rules effective June 15, 2018, as follows:

- Disclosure of Representation in Trading Services;
- Disclosure of Risks to Unrepresented Parties;
- Disclosure to Sellers of Expected Remuneration; and
- Disclosure of Risks Associated with Dual Agency.

NEW BUSINESS

Brokerage Audits & Information Gathering

The Director, Legal Services confirmed per the memo that the only form required for submission to the Council was the Limited Dual Agency Form under Rule 5-17. He advised there would be a considerable number of disclosure forms used by licensees however some of the forms used would not necessarily be tied to any transactions. A plan has been developed for the Council auditors to review the process with brokerages for storing these new forms and ensure they were retained in accordance with the rules for books and records. It was estimated that approximately 50 – 60 audits are conducted per quarter so Council staff will be able to provide some information to OSRE after the first 90 days under the new rules.

There was discussion regarding brokerages not required to keep copies of unaccepted offers and that there would be no way for the Council to keep track of how many offers are made on a particular transaction. Item 9 of the Independent Advisory Group (IAG) report if implemented would eliminate this issue by requiring brokerages to retain copies of all offers. A request was made to have staff include this as part of the list of audit requirements

Staff was directed by Council to draft a memo for the July 2018 meeting proposing how it might create an obligation on behalf of the brokerage to retain all offers in a trade, potentially by updating the brokerage activity report bylaw or through the creation of a new rule.

Rule 5-18

The Director, Legal Services confirmed the intention to have this form be reviewed by the Policy and Legislative Consultation Committee (PLCC) to finalize.

UPON MOTION IT WAS RESOLVED THAT: Council delegates to the Policy and Legislative Consultation Committee the authority to approve the form required under rule 5-18.

Executive Officer's Report

The EO reviewed activities currently underway by the Council. It was noted Dan Perrin was the contractor selected to provide a review of the regulatory structure and the Council expects to receive a draft report prior to submission. It was advised his final report was due to the Ministry on June 15, 2018.

It was advised all Council members would receive an email from the EO requesting confirmation of whether members wished to be considered for re-appointment. It was advised each Council member would also have an appraisal completed by the Chair for submission to the Ministry by June 4, 2018. The EO reported that the Ministry was still considering appointees for the 4 vacancies.

It was noted there were a number of questions in the recent budget estimates debate for the Minister of Finance (a link to the transcript was emailed to the Council). There were many questions specifically around dual agency, the impact of dual agency on rural communities and a lot of questions about the process for the new rules.

Staff continues to meet with the OSRE staff semi-monthly and is pressing to make the Code of Ethics more of a priority.

OSRE announced the newest rules on April 27, 2018 and did not proceed with a new rule on mandatory education.

Numerous emails have been received by the Minister of Finance with copy to the Council from licensees with concerns about the impact of the dual agency ban on rural/small communities. Correspondence has also been received from the B.C. Real Estate Association requesting that the Council define the terms "under-served" and "remote" in Rule 5-17. The Council is responding by providing more information to explain the intent of Rule 5-17 - Exemption from Dual Agency.

The EO advised a letter had been sent to all boards emphasizing they use the regulatory information provided by the Council when providing information to their members regarding the new rules and reminding all boards to send consumer complaints to the Council for investigation.

Human resources and staffing continues to be a key focus with some key leadership positions still to be filled, including the Director of Legal Services, Manager Legal, Manager Information Technology, and Director of Operations. Renovations continue to move along and staff are expecting to move back to the 9th floor in the first week of July.

Staff is still finalizing the report with the contractor who completed the first phase of the education review. A lot of work is underway to explain the new forms including new videos that will be used not just to educate licensees but also for consumers.

It was noted that as of March 31st there were 639 open complaints which is down from the same period last year but still a high volume of complaints in the investigation stage. There are also almost 280 open files in the legal department. Many licensees are retaining their own legal counsel and more files are moving to hearings rather than resolution through the Consent Order Review Committee (CORC).

Staff will send the IAG report update to Council via email for information. The update is due to the Minister of Finance by June 30, 2018.

The Superintendent has been invited to attend the July meeting and Darlene Hyde from BCREA will also attend as a guest speaker.

COMMUNICATIONS UPDATE

M. Peters, Manager of Communications, advised the new licensee knowledge base “microsite” was operational. The information on this site is searchable and all FAQ information collected to date is located within this site. It was noted the new forms had been posted on the website for education purposes and were watermarked not for use. It was noted guides were provided for use along with the forms for reference to assist licensees on when to use the form and how to use them with the consumer. Videos will be used to augment the forms.

Traffic to the website as a whole is up almost 30% year over year. Data currently indicates users generally stay on the website for approximate 3.5 minutes. The e-blast open rate is currently 26% and is considered a healthy rate, although staff is always looking for ways to increase this number.

It was noted since launching the anonymous tip line on March 15, 2018, 137 tips had been received and 60 files (44%) were forwarded to the Compliance department for further review.

REPORT FROM EDUCATION AND LICENSING COMMITTEE

G. Martin, Committee Chair noted there were no motions for approval for this meeting.

It was noted the licensing education review report that had been received from Reichert Associates had been disappointing and fell short of the expectations. Staff is currently awaiting the final version of this report to be submitted by the contractor and will develop next steps for implementation.

REPORT FROM FINANCE AND AUDIT COMMITTEE

K. Lonsdale, Committee Chair confirmed that the committee had reviewed the audited financial statements reviewed by the Council’s auditor Grant Thornton for the 9 months ending March 31, 2018. L. Holst, Director Accounting and Audit advised these draft statements had been provided to the provincial government with the caveat that final statements would be provided once approved by the Council.

Draft Audited Financial Statements for 2017/18

UPON MOTION IT WAS RESOLVED TO: approve the 2017/18 consolidated financial statements for the 9 months ending March 31, 2018.

Human Resources Update and Leadership Recruitment

The Committee is recommending that Council provide approval to contract Leadership Source for four key leadership positions. The amount exceeds internal financial approvals and only a portion of the amount was budgeted, so it is being brought forward for consideration as an additional expense. It was

noted that the additional cost of the contract could be covered by savings in the current budget due to unfilled staff vacancies.

UPON MOTION IT WAS RESOLVED TO: approve to proceed to contract Leadership Source for up to \$152,825.00 to undertake recruitment of all four leadership positions.

Consumer Awareness Campaign

The Executive Officer (EO) noted partial funding of up to \$80,000 was available from the Real Estate Foundation grant for advertising and outreach activities by the Council. A roll out of the consumer campaign in phase one is proposed to run from July through October, 2018, with phase two to follow from November 2018 to March 2020.

UPON MOTION IT WAS RESOLVED TO: approve the budget for Phase 1: \$75,000 and Phase 2: \$100,000 of the RECBC Consumer campaign to be drawn from the Council's Education Fund.

L. Sterritt departed the meeting at 12:40 pm

REPORT FROM GOVERNANCE COMMITTEE

R. Gialloreto, Committee Chair noted agenda items had already been discussed during the course of the Council meeting. There were no motions for approval.

Next Meeting: July 10, 2018

ADJOURNMENT

There being no further business to transact, the meeting was adjourned at 12:45 pm.