

**TENNESSEE REAL ESTATE COMMISSION MINUTES**  
**May 2 - 3, 2012**

The Tennessee Real Estate Commission convened on May 2, 2012, at 9:25 a.m., in the Davy Crockett Building at 500 James Robertson Parkway, Nashville, TN 37243. The following Commission Members were present: Chairman Isaac Northern, Vice-Chairman William "Bear" Stephenson, Commissioner Austin McMullen, Commissioner Grover Collins, Commissioner Janet DiChiara, Commissioner John Griess and Commissioner Michelle Haynes were present. Commissioner Wendell Alexander and Commissioner David Flitcroft were absent. Others present: Executive Director Eve Maxwell, Education Director Steve McDonald, Assistant General Counsel Julie Cropp, Assistant General Counsel (Litigation) Robyn Ryan and Administrative Secretary Kelly McDermott.

The first order of business was the adoption of the agenda (**Exhibit 1**) for the May 2012 Commission meeting. **Commissioner Collins made a motion to adopt the agenda for the May 2012 agenda; seconded by Commissioner McMullen; unanimous vote; motion carried.**

Chairman Northern advised the Commission that, although not officially on the agenda, there was a possibility of General Counsel Wayne Pugh and a representative from the contract review team appearing on Thursday to discuss the E&O Request for Proposal.

The next order of business was the approval of the April 2012 minutes (**Exhibit 2**). **Commissioner Collins made a motion to approve the April 2012 minutes; seconded by Commissioner Stephenson; unanimous vote; motion carried.**

**EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR**

Ms. Maxwell presented the following information to the Commission for review:

- **Complaint Statistics Report** (Exhibit 3) – Ms. Maxwell presented complaint statistics to the Commission. As of April 30, 2012, TREC had a total of 115 open complaints. There were 27 new complaints in April 2012. There were 103 complaints in the legal department and 12 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2011-2012 is 145. Total Civil Penalties paid in April 2012 were \$23,180.00.
- **Licensing Statistics** (Exhibit 4) – Ms. Maxwell presented licensing statistics for the month of May 2012. As of April 30, 2012, there were 23,555 active licensees, 1,211 inactive licensees and 10,076 retired licensees. There were 4,137 active firms and 319 retired firms. There were 247 new applications approved in April 2012. Further, she presented a comparison of total licensees for individuals (active, retired and inactive) and firms in April of 2008, 2009, 2010 and 2011. She also presented license renewal percentages and the average number of licenses issued per month in 1997 and 2000 – 2012, firms closed or retired from 2008 – 2012 and the applications approved from 2008 – 2012.

## **RECIPROCITY DISCUSSION**

Ms. Maxwell presented the Commission with several reports regarding reciprocity that were originally presented at the previous month's meeting. Among these reports were a Summary of Reciprocity and License Recognition, the names of all states who offer reciprocity with Tennessee, a Reciprocity State Comparison outlining each state's requirements for examination, education, criminal background checks and the number of states with which certain states have reciprocity. She also presented a table outlining each state and how many licensees Tennessee has in each State that are Active & Retired Affiliate Brokers and Brokers in addition to requirements for examination, education, bonds, credit reports and background checks. Ms. Maxwell stated that Tennessee's reciprocity agreements with other states have been terminated because some states are going to a system of License Recognition which involves a more in depth process for analyzing a person's education and exam history. Ms. Maxwell stated that the issue that was discussed at the previous month's meeting was whether or not the Commission would prefer for applicants to take a specific course or exam that would familiarize them with Tennessee state laws. She stated that the Commission had asked if a change such as that would require a rule change. After speaking, along with Ms. Cropp, with General Counsel Wayne Pugh, he stated that he believes the Commission could change those requirements and that the Board could just not have recognized reciprocity agreements and it would not require a rule change.

Commissioner DiChiara asked Ms. Maxwell if she sees a downside to requiring applicants by reciprocity to take the state examination. Ms. Maxwell stated that, regarding requiring the state exam, it would further protect the citizens by having those individuals who are coming into the state have some familiarity with Tennessee state laws. She stated that although the laws are similar across the United States in many ways, there are specific differences that could come out in the practice of real estate in Tennessee that everyone should know. Chairman Northern asked Ms. Maxwell about feedback from other states. She explained that most states will just mirror whatever changes the other state makes. She explained various aspects of reciprocity and limited recognition. Chairman Northern asked if TREC were to change the way it handles reciprocity, does she know of any states that will treat their licensees who are already licensed by reciprocity any differently. She said that she did not know of any state that would do so because reciprocity is a process by which you get a license (like any other license) not an actual license type. She explained that new applicants in those states, who are licensed here, would have to follow the new licensing laws of that state.

**Commissioner Dichiara made a motion that TREC require the state law portion of the exam be required for any applicant applying by reciprocity; seconded by Commissioner McMullen; opened to discussion; Commissioner Haynes made a motion to amend to make the change effective from a date certain forward (not retroactive); amendment seconded by Commissioner Griess; amendment passed unanimously; motion as amended passed unanimously.**

Ms. Maxwell will disseminate the information to the other states via a letter which she will also send to each Board member. She stated there would be a brief time to allow for forms to be changed and to educate the licensees.

Ms. Maxwell moved on to the topic of ARELLO. The participants/attendees of the ARELLO Mid-Year meeting, Commissioner Haynes, Commissioner DiChiara, Eve Maxwell and Steve McDonald reported on matters that were of interest to them that were discussed at the conference seminars. They touched on the topics of Fair Housing, fines for Agency violations, Homeowner's Associations, Investigation processes in other states, courses designed specifically for Principal Brokers and Timeshare industry legislation.

Ms. Maxwell discussed with the Commission an item that was deferred at the April meeting. She addressed the Commission regarding the time period (waiting periods) that are required between failed examination attempts. She explained that a change had been made via motion at the October 2008 meeting and read the content of that motion into the record as follows: "Commissioner Joh made a motion that a candidate who fails the examination a third time must take 12 hours of continuing education and wait 30 days before testing for a fourth time instead of the current 90 days waiting period; seconded by Commissioner Tate; unanimous vote; motion carried." She then read into the record how the requirement currently stands and is included in the PSI Examination Handbook: "For affiliate broker and broker examinations candidates who fail the first attempt at the examination may retake it as soon as they want (however you cannot schedule until the day after you took the examination). Those who make a third attempt at the examination must wait thirty (30) days after the second. Those who fail the third attempt must obtain an additional twelve (12) hours of approved education and wait thirty (30) days before making a fourth attempt. After the fourth attempt, any subsequent exams may be scheduled immediately with no waiting period. These rules do not apply to the timeshare salesperson and acquisition agent exams."

There was some discussion about whether these parameters should be changed. Mr. McDonald asked if the Commission believes that the required 12 hours between attempt three and four should be a specific course (or content). There was discussion about which courses would most benefit a candidate who is having trouble passing the examination but it was determined that since the person does not know what questions they actually miss on the exam it would be difficult to point to one specific area that needed improvement. After some discussion regarding the number of test takers who take the exam multiple times, it was determined that Mr. McDonald would compile those statistics and return with that information at a future meeting. **Commissioner DiChiara made a motion to defer the discussion so that Mr. McDonald can compile some statistical data on repeated attempts to pass the examination and return with that info at the June meeting; seconded by Commissioner Stephenson; unanimous vote; motion carried.**

Chairman Northern recessed the meeting at 11:29 for lunch and the meeting was reconvened at 1:23 p.m.

Ms. Robyn Ryan, Assistant General Counsel and TREC's Litigation Attorney, addressed the Commission about her plans for future litigation. Ms. Ryan explained that she had a formal hearing scheduled for the March 2012 meeting but it was continued to the June meeting. She stated that when the Board changed the date of the June meeting, the ALJ that they had arranged could not be present for the new date. She advised that the hearing has now been moved to November, partly because the Respondent has retained counsel and requested

another continuance. She told the Commission that she has formal hearings already scheduled for August, September and November and that she plans on scheduling hearings for October and December. She explained that she has new cases referred to her every month and that by the end of the year she could have 20 or more cases to try. She went on to say that when the Board changes meeting dates, the Attorney Law Judge's office cannot reschedule because they work, not only with the regulatory boards, but with other state entities. She asked that next year, after the Board publishes its schedule, to not make any changes to the schedule without first checking to see if there is a hearing scheduled for the month they are considering changing.

The Board discussed with Ms. Ryan options for helping to expedite matters that are set to be heard at a formal hearing. Holding informal conferences and adding a day or half day to the meeting schedules was discussed. She discussed some of the standard operating procedures of the Legal Division. Ms. Ryan also updated the Board on two matters formally heard at formal hearings that are now being appealed and heard in Chancery Court.

#### **EDUCATION REPORT, STEVE MCDONALD, EDUCATION DIRECTOR**

Mr. McDonald advised the Commission that the course renewal paperwork will be sent to all providers within the next couple of weeks after the board meeting. He advised that the schools must send in all renewal paperwork by September 1, 2012 to meet the 120 day prior to expiration deadline.

Mr. McDonald presented Courses for Commission Evaluation for May 2012. **Commissioner DiChiara made a motion to approve the Courses for Commission Evaluation; seconded by Commissioner Stephenson; unanimous vote; motion carried.**

Mr. McDonald presented the following Instructor Reviews for the month of April 2012:

- Karen Czarnecki of Williamson County Association of REALTORS® (#1135) requested the approval of Phillip Cantrell to teach the course "Because It's the Right Thing To Do" (#4348) and "Success Begins With a C" (#5461).
- Sally Cummings of TAR (#1110) requested the approval of Monica Neubauer (TN Broker # 285136), a previously approved instructor, to teach Short Sales & Foreclosures (#6281), Green 100 (#6861), and Green 300 (#6862).
- Sally Cummings of TAR (#1110) requested the approval of Tony Macaluso (previously approved instructor) to teach International Real Estate for Local Markets, course (#4792).
- Sally Cummings of TAR (#1110) requested the approval of Brent Maybank (previously approved provider and instructor) to teach REBAC Green 100, 200, 300 courses (#6860, 6861, 6862).
- Kelli Johnson of Clarksville Association of REALTORS® (#1129) requested the approval of Brent Maybank (license # 271241) to teach Transaction Desk Basic (#6553) and Transaction Desk Advanced (#6554).

**Commissioner DiChiara made a motion to approve the above instructors; seconded by Commissioner Stephenson; unanimous vote; motion carried.**

Mr. McDonald advised the Commission that he had spoken with Commissioner Griess regarding the curriculum for a TREC Commercial CORE course and presented the Commissioners with the following proposed outline of the course.

**Commercial CORE Course Proposed Content**

- I. TREC Rules, Laws and Updates
- II. Property Disclosures
  - a. Mold
  - b. Lead Base Paint
  - c. Asbestos
  - d. Storage Tanks
  - e. Flood Plains
  - f. Stigmatized Properties
  - g. Megan's Law as applied to Multi-family
- III. Fair Housing
- IV. Gifts, Prizes and Rebates
- V. Principal Broker Supervision
- VI. Common Problems and Issues with Commercial Contracts and Leases
- VII. Tennessee Agency Law
- VIII. Ethics

The Commission discussed such topics as stigmatized properties and the various types of commercial leasing agreements. Chairman Northern and Commissioner Griess agreed the various types of commercial leasing agreements should be discussed and that it could be included under subheading VI (Common Problems and Issues with Commercial Contracts and Leases). **Commissioner DiChiara made a motion to accept the proposed course content for the TREC Commercial CORE course as amended; seconded by Commissioner Haynes; vote: 6 yes, 0 no, Commissioner Griess abstained; motion carried.**

Mr. McDonald made comments on the recent Education Seminars held in Williamson County and Lewisburg. He advised the Commission that attendance was low at these seminars and that the Commission cannot control how much advertising the local association do to promote the seminars. Chairman Northern stated that TREC represents all licensees, not just association members, so although he welcomes holding the seminars at the local associations, perhaps alternate means of advertising should be explored outside only association promotion efforts. Mr. McDonald advised the Education Seminars are posted on the TREC website and in the TREC News Journal but that other methods could be explored. Chairman Northern suggested, if possible, that TREC further explore getting email addresses for all licensees. Mr. McDonald explained that there is currently not a ListServe (email list for mass email mailings) for all licensees but that perhaps a mailing of some sort could be created to get the information out to all licensees.

**LEGAL REPORT, JULIE CROPP, ASSISTANT GENERAL COUNSEL**

At the beginning of the text of each legal report the following text is inserted:

Any consent order approved by the Commission *must* be signed by Respondent and returned within thirty (30) days. If said consent order is not signed and returned within the allotted time, the matter *will* proceed to a formal hearing. Ms. Cropp advised the Commission that she wished to clarify the statement a bit. She asked that the wording be revised to read from “must” to “should” and “will” to “may” because although a Respondent should make every effort to comply there are, at times, extenuating circumstances that may offer a brief delay or that the Respondent may be willing after the 30 day deadline to settle by Consent Order in a matter being sent into the litigation process by the legal division. **Commissioner McMullen made a motion to accept the new language “should” and “may”; seconded by Commissioner Collins; unanimous vote; motion carried.**

- 1) **2011031711 &**
- 2) **2011031712 – Commissioner DiChiara made a motion to accept legal counsel’s recommendation to close and flag as to Respondent 2 (firm). As to Respondent 1, issue a consent order for failure to respond to a complaint filed with the Commission under T.C.A. § 62-13-104(b)(8)(A)(ii) with a civil penalty of \$500.00 and additionally, require Respondent 1 to attend a two-day meeting of the Commission within one hundred eighty (180) days of Respondent 1’s execution of Consent Order; seconded by Commissioner McMullen; unanimous vote; motion carried.**
- 3) **2011031771 &**
- 4) **2011031772 – Commissioner McMullen made a motion to accept legal counsel’s recommendation to close and flag as to Respondent 2 (firm) and as to Respondent 1, issue a consent order for failure to respond to a complaint filed with the Commission under T.C.A. § 62-13-104(b)(8)(A)(ii) with a civil penalty of \$500.00 and additionally, require Respondent 1 to attend a two-day meeting of the Commission within one hundred eighty (180) days of Respondent 1’s execution of Consent Order; seconded by Commissioner DiChiara; unanimous vote; motion carried.**  
Commissioner McMullen left the meeting at 2:46 p.m. and did not return for the remainder of the day’s business.
- 5) **2011027691 – Commissioner Haynes had previously reviewed the complaint and recommended that legal counsel’s previous recommendation be accepted. Commissioner Stephenson made a motion to accept legal counsel’s recommendation to issue a consent order for violation of the following statutes at the specified amounts: T.C.A. § 62-13-312(b)(1) [willful misrepresentation] for \$1,000.00, T.C.A. § 62-13-312(b)(2) [making a promise to induce a person to enter into a contract] for \$900.00; T.C.A. § 62-13-312(b)(3) [pursuing a course of flagrant misrepresentation] for \$1,000.00; T.C.A. § 62-13-312(b)(5) [failure to account for money belonging to another for \$1,000.00]; T.C.A. § 62-13-312(b)(20) [engaging in conduct that is improper, fraudulent and dishonest dealings] for \$1,000.00; for a total civil penalty of \$4,900.00 plus attendance by Respondent at a two day meeting of the Commission in addition to completion of an additional thirty (30) hours of continuing education, both within one hundred eighty (180) days of Respondent’s execution of Consent Order; seconded by Commissioner Collins; vote: 5 yes, 0 no; Commissioner Haynes abstained; motion carried.**

- 6) 2012001361 – Commissioner Haynes had previously reviewed the complaint and recommended that legal counsel’s previous recommendation be accepted. Commissioner DiChiara made a motion to accept legal counsel’s recommendation to issue a consent order for violation of T.C.A. § 62-13-312(b)(1) [willful misrepresentation] \$1,000.00, T.C.A. § 62-13-312(b)(2) [making a promise to induce a person to enter into a contract] for \$900.00; T.C.A. § 62-13-312(b)(3) [pursuing a course of flagrant misrepresentation] for \$1,000.00; T.C.A. § 62-13-312(b)(5) [failure to account for money belonging to another] for \$1,000.00; T.C.A. § 62-13-312(b)(20) [engaging in conduct that is improper, fraudulent and dishonest dealings] for \$1,000.00; for a total civil penalty of \$4,900.00 plus attendance by Respondent at a two day meeting of the Commission within one hundred eighty (180) days of Respondent’s execution of Consent Order; seconded by Commissioner Stephenson; vote: 5 yes, 0 no; Commissioner Haynes abstained; motion carried.
- 7) 2011010741 – Commissioner Collins made a motion to dismiss and send for audit to determine whether Respondent has obtained a new principal broker and did so timely; seconded by Commissioner Stephenson; unanimous vote; motion carried.
- 8) 2011007671 &
- 9) 2011007672 – Commissioner Stephenson made a motion to accept legal counsel’s recommendation to issue a Consent Order with a civil penalty of \$500.00 for unlicensed activity in violation of T.C.A. § 62-13-301 to Respondent 1 and close and flag as to Respondent 2; seconded by Commissioner DiChiara; unanimous vote; motion carried.
- 10) 2011021711 &
- 11) 2011021712 – Commissioner DiChiara made a motion to accept legal counsel’s recommendation to close and flag as to Respondent 1 and send Letter of Instruction regarding unlicensed activity to Respondent 2; seconded by Commissioner Collins; unanimous vote; motion carried.
- 12) 2011030691 – Commissioner Stephenson made a motion to accept legal counsel’s recommendation to send a Letter of Warning for failure to supervise; seconded by Commissioner Collins; unanimous vote; motion carried.
- 13) 2011030411 – Commissioner Stephenson made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner DiChiara; unanimous vote; motion carried.
- 14) 2011015721 – Commissioner Collins made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Stephenson; unanimous vote; motion carried.
- 15) 2011032091 – Commissioner DiChiara made a motion to accept legal counsel’s recommendation to issue a consent order for engaging in the conduct of a real estate broker without a license in violation of T.C.A. § 62-13-301 with a civil penalty of \$1,000.00; seconded Commissioner Collins; unanimous vote; motion carried.
- 16) 2011031661 – Commissioner Collins made a motion to accept legal counsel’s recommendation to close and flag the Respondent’s file; seconded by Commissioner DiChiara; unanimous vote; motion carried.
- 17) 2012000331 &

- 18) 2012000332 – Commissioner Griess made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.
- 19) 2012000451 &
- 20) 2012000452 – Commissioner Collins made a motion to accept legal counsel’s recommendation that as to Respondent 1, issue a consent order for making any substantial and willful misrepresentation in violation of T.C.A. § 62-13-312(b)(1), failing, within a reasonable time, to account for or to remit any moneys coming into the licensee’s possession that belong to others in violation of T.C.A. § 62-13-312(b)(5), and failing to be loyal to the interests of the client in violation of T.C.A. § 62-13-404(2) with a civil penalty of \$1,500.00 plus attendance by Respondent 1 at a two day meeting of the Commission within one hundred eighty (180) days of Respondent 1’s execution of Consent Order and as to Respondent 2, issue a consent order for violation of T.C.A. § 62-13-312(b)(15) failure to supervise licensed affiliate with a civil penalty of \$500.00 plus attendance by Respondent 2 at a two day meeting of the Commission within one hundred eighty (180) days of Respondent 2’s execution of Consent Order; seconded by Commissioner Haynes; unanimous vote; motion carried.
- 21) 2012000591 &
- 22) 2012000592 &
- 23) 2012000611 – Commissioner Stephenson made a motion to send a Letter of Instruction to all three Respondents regarding current advertising rules; seconded by Commissioner DiChiara; unanimous vote; motion carried.
- 24) 2012001461 – Commissioner DiChiara made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.
- 25) 2012001731 &
- 26) 2012001732 – Commissioner DiChiara made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.
- 27) 2012001821 &
- 28) 2012001822 &
- 29) 2012001911 – Commissioner Collins made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Griess; unanimous vote; motion carried.
- 30) 2012002081 &
- 31) 2012002082 – Commissioner Collins made a motion to dismiss; motion failed for lack for lack of a second. After further review, Commissioner Stephenson made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.
- 32) 2012002261 &
- 33) 2012002351 – Commissioner Stephenson made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner DiChiara; unanimous vote; motion carried.
- 34) 2012003211 &
- 35) 2012003212 &
- 36) 2012003213 &

- 37) 2012003271 – Commissioner Stephenson made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner DiChiara; unanimous vote; motion carried.
- 38) 2012002661 – Commissioner Collins made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner DiChiara; unanimous vote; motion carried.
- 39) 2012005531 – Commissioner DiChiara made a motion to accept legal counsel’s recommendation to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.
- 40) 2012002391 – Commissioner made a motion to accept legal counsel’s recommendation to authorize counsel to have the Respondent voluntarily surrender his/her license and flag the file; seconded by Commissioner Collins; Commissioner Griess offered a friendly amendment that if the Respondent were to not follow through on surrendering the license then the proposed civil penalty that follows be enforced: a consent order for making a substantial and willful misrepresentation in violation of T.C.A. § 62-13-312(b)(1) with a civil penalty of \$500.00 and engaging in conduct that constitutes improper, fraudulent, or dishonest dealing in violation of T.C.A. § 62-13-312(b)(20) with a civil penalty of \$500.00 for a total civil penalty of \$1,000.00, plus attendance at a two day meeting of the Commission within one hundred eighty (180) days of Respondent’s execution of Consent Order; friendly amendment was seconded by Commissioner Collins; motion as amended carried.
- 41) 2011026531 – (added item #1) – Commissioner Stephenson made a motion to accept legal counsel’s recommendation to close and flag the file; seconded by Commissioner DiChiara; unanimous vote; motion carried.

The remainder of Ms. Cropp’s report was deferred until the next business day.

Chairman Northern recessed the meeting on Wednesday, May 2, 2012 at 4:30 p.m.

### **May 3, 2012**

The Tennessee Real Estate Commission reconvened on May 3, 2012, at 9:16 a.m., in the Davy Crockett Building at 500 James Robertson Parkway, Nashville, TN 37243. The following Commission Members were present: Chairman Isaac Northern, Vice-Chairman William “Bear” Stephenson, Commissioner Austin McMullen, Commissioner Grover Collins, Commissioner Janet DiChiara, Commissioner John Griess and Commissioner Michelle Haynes were present. Commissioner Wendell Alexander and Commissioner David Flitcroft were absent. Others present: Executive Director Eve Maxwell, Education Director Steve McDonald, Assistant General Counsel Julie Cropp, Assistant General Counsel (Litigation) Robyn Ryan and Administrative Secretary Kelly McDermott.

The Commission welcomed General Counsel Wayne Pugh, Assistant General Counsel and RFP Coordinator for the Department of Commerce & Insurance Dan Birdwell and Deputy Commissioner Steve Majchrzak to discuss the E&O Request for Proposal (RFP). Mr. Pugh advised that he had followed up with Mr. Birdwell about how the Commission had wanted to go about setting up the RFP where a quote would be received for providing insurance under a

master policy as well as a quote for providing insurance under an individual policy. Mr. Birdwell advised the Commission that an RFP could be bid in this manner but it could cause problems in the evaluation process. He said that he had some questions regarding the proposal. He asked the Commission if there are two options or are they mutually exclusive (are both types of coverage going to be available at the same time?). Ms. Maxwell explained that she believes that, according to Mr. Flitcroft's motion, that the intention was not to have them run together but to have a phase in time from when the current policy expires (12/31/2012) and when a staggered policy would begin at which point a new two year policy would start. Mr. Birdwell confirmed that there would be an overlap and that one day TREC wants to go to a staggered renewal system. Mr. Birdwell explained the process for selecting bids for a specific insurance product. He explained that he can put two scenarios in the bid and can capture two costs but when he receives bids and completes the analysis, then he will have to select one of those bids as being the best evaluated. He advised that he had to give each proposer a single score. He advised that even though he would be getting two dollar quotes for the annual renewal and one for the staggered renewal, he is going to have to come out with one score for that proposer and that he cannot mix and match but has to select one from among the proposers. Chairman Northern clarified that the provider would be offering gap coverage from 12/31/2012 until the licensee's expiry date and then at that point offer a new two year policy for the license term of two years. He explained that they provider would be prorating going forward which is the reverse of the current proration process. He stated that the master policy would phase out after 24 months. Mr. Birdwell confirmed that the Board wished to have one insurance solution but that offers two types of coverage with one that has a run out that will cycle out when the stagger begins. Mr. Pugh stated that the Board wishes to go to an individual policy on a staggered renewal period but during the transition time from the expiration of the current E&O policy of 12/31/2012 and their personal license expiration date, they want to make sure the licensee is insured. Chairman Northern offered that the proposer could give a set prorated premium for each month (license expires in November, December, January, etc...).

Deputy Commissioner of the Department of Commerce Steve Majchrzak stated that he understands the request is for a service from a provider who will responds to the Board's request for a pro-rated policy in addition to a two year policy for a staggered renewal. After some discussion regarding for what length of time the bills from the provider would be issued to the licensee (prorated time + new two year term vs. smaller bill for prorated time and then a bill for the two year period), Commissioner Stephenson said it was his understanding that at the end of the year (E&O expiration date of 12/31/2012), the licensee would get a bill for the remainder of license period prior to expiration of their license and then at the expiration of their license get another bill for the full two year term going forward. Commissioner DiChiara asked how this process would affect alternate carriers. Ms. Maxwell stated that all alternate policies renew at a different time and that it would not affect blanket policies because licensees are added and dropped from the policy as they join or leave the company.

Mr. Birdwell stated that part of his job is to write out what the Board wants bid. He stated that it is his understanding that this is to be bid as one package and advised the Board that the bid is still subject to the state procurement process. He advised that he would put together a draft for the Commission. Chairman Northern asked that he include in the draft why the Board is asking for the change in procedure. He stated that the changes would help Staff administer the

renewal of E&O policies more efficiently and effectively and help licensees streamline their dual renewal obligations. Deputy Commissioner Majchrzak stated that the current Administration is customer focused and therefore if this method would accomplish better service to the licensees and better protection to the citizens of Tennessee then it could be supported. Commissioner Stephenson stated that the process would streamline the process by setting up a system of no insurance equals no license.

Ms. Maxwell stated that in addition to discussing the staggered and prorated term, the Board had, in the past meetings, discussed a policy with a straight four year term. She asked if that is part and parcel of this proposal. Mr. Pugh advised that when discussing the policy term and the contract term, you are discussing two different things. He suggested that he and Mr. Birdwell draft a proposal and bring it back to the Commission at the June 2012 meeting (to be sent ahead of time to the Board for review and so they are familiar with the proposal). He stated that a time (June meeting), it would need to be forwarded on to the Office of Contract Review (OCR) because the approval process can take between two to three months. This concluded the E&O RFP discussion.

Deputy Commissioner Majchrzak welcomed the newly appointed Commissioners and introduced himself officially. Chairman Northern addressed Mr. Majchrzak about the Board recommended raise for Executive Director Eve Maxwell. He stated that the Board has, for a number of months, been trying to get a pay increase for Ms. Maxwell. He stated that the Board has directed the requested correspondence to everyone in the chain of command in the Department and have received no response yet. Mr. Majchrzak advised that the Administration had received the correspondence and passed it along to the Commissioner of the Department of Finance & Administration. He stated that there have been several conversations with that department regarding the pay increase request. He stated that it is his understanding that the evaluation is being done but has not been approved and he would be happy to follow up again. He stated that he understand the Board not being happy with not receiving a formal response. Mr. Majchrzak stated that it is his understanding that the Department of F&A is trying to create an across the board policy because there have been similar request from other boards. Chairman Northern stated that the steps were outlined to request a raise for Ms. Maxwell and that the Board had followed them. He stated that she is worth more than what the board requested for an increase in salary and that she does so much work and outstanding work and they feel, per the statute T.C.A. §62-13-207, that they have been granted the authority to set the salary for the Executive Director of TREC. Mr. Majchrzak stated that much like travel requests, all requests such as these must go to the Commissioner of F&A. He stated that F&A is trying to look at an even-handed, full spectrum and an across the board policy regarding pay increases at the Board's request. Commissioner Stephenson read part of T.C.A. §62-13-207 that states "The Commission shall fix the compensation to be paid to the executive director, administrator and staff of the commission, subject to applicable rules, regulations and law. Mr. Majchrzak advised that the portion that reads "subject to applicable rules, regulations and law" is referring to the review by the Commissioner of the Department of Finance & Administration. Chairman Northern stated that if the statute gives the Board the authority, then the Board needs to be given the exact process and should be able to anticipate a timely response. Commissioner Haynes stated that Ms. Maxwell is a phenomenal employee and the Board wants

to keep her because they run efficiently because Ms. Maxwell functions efficiently. Mr. Majchrzak assured the Board he would follow up on the matter.

**LEGAL REPORT, JULIE CROPP, ASSISTANT GENERAL COUNSEL (continued)**

Ms. Cropp advised that the proposed rules had been filed with the Secretary of State and the hearings for the following rules are set for the June 14, 2012 meeting. The hearing for the following rules will be held at 9:00 a.m.: Rule 1260-01-.12, Rule 1260-020.32 and Rule 1260-02-.38 and the hearing for the following VLS rules will be held at 1:00 p.m.: Rule 1260-07-.01, Rule 1260-07-.02, Rule 1260-07-.03, Rule 1260-07-.04, Rule 1260-07-.05, Rule 1260-07-.06, Rule 1260-07-.07.

**EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR (continued)**

Ms. Maxwell returned to her Executive Director Report and the discussion of the upcoming ARELLO District meeting in South Dakota. Ms. Maxwell advised the Commission that she had submitted the justification to the Administration and that the initial response from the Assistant Commissioner's office is that TREC is over their travel budget and it seems like an expensive trip. She advised the Commission that she had the opportunity to speak with Deputy Commissioner Majchrzak that morning about possibly moving funds from a different line item in which funds are unused and available for reallocation. She advised the Board of the cost of the ARELLO trip and stated that she would like to reaffirm that those Commissioners who wished to attend still wish to attend. She said that if they were still interested she would meet with Commissioner Giannini again regarding the justification for the trip being passed along to the Commissioner for review. She also advised the Board that Deputy Commissioner Majchrzak stated that since the Board will be unable to attend the ARELLO Annual meeting (being held outside of the U.S.), they could look into other conferences they might be interested in attending. Commissioner Stephenson and Commissioner DiChiara reaffirmed their interest in attending the meeting and Commissioner Haynes stated that she would like to be listed as an alternate.

Ms. Maxwell gave the commission members a copy of a spreadsheet outlining all travel expenses for the board travel as well as a copy of the budget for the TREC Education and Recovery Fund and General Budget.

The board briefly discussed the need to begin planning the 40 year Longevity Breakfast for East Tennessee. It was decided that a report would be pulled of the names and counties of all licensees eligible for the award. It could then be determined if Chattanooga would be a good fit for the most honorees to be able to attend the breakfast.

Ms. Maxwell presented a report to the Board on the number of Affiliate Brokers, Brokers and Principal Brokers who are grandfathered regarding continuing education. Ms. Maxwell reported the following data:

Type of license	Total
Broker Grandfather (exclude PB grandfather)	3,207
Grandfather Brokers Licensed Prior to 7/1/1980	1,089
Grandfather Brokers Licensed b/w 7/2/80-12/312004	2,415
Principal Broker Grandfathers (All PB's Active)	2,297

Grandfather PB Licensed Prior to 7/1/1980	650
Grandfather PB Licensed b/w 7/2/1980-12/31/2004	1,646
Total All Grandfather Brokers & PB's	5,504
Affiliate Grandfather	1,170

As of 2/28/2008, the Grandfather numbers were:

Affiliates	1,665	Total Licensees = 35,919
Brokers	3,391	Total Licensees = 5,199
Principal Brokers	3,091	Total Licensees = 4,426
2/28/2012 Total	8,087	
4/30/2012 Total	5,504	

Commissioner DiChiara reasserted that she believes that any Principal Broker who was licensed between 1980 to 2004 should be required to complete the required 16 hours of CE and not be grandfathered. Chairman Northern reminded the Commission members that a statutory change would be required to make that a new requirement for those Principal Brokers. The discussion was deferred until the July meeting.

The discussion item regarding the audit inspection form was deferred until the June meeting because of a clerical error with the copying of the documents.

Ms. McDermott, Administrative Secretary, outlined for the Board members the accommodations and the meeting room details for the July 2012 meeting in Jackson.

Commissioners reported on matters of concern or interest to them or the Commission as whole.

Chairman Northern advised the Board that the yearly election of the Chairman and Vice-Chairman will be on the agenda for the June meeting.

Chairman Northern adjourned the meeting on Thursday, May 3 at 11:18 a.m.