

MINUTES

Texas Real Estate Commission
Texas Real Estate Inspector Committee
May 13, 2005
Texas Real Estate Commission
Room 235, 1101 Camino La Costa
Austin, Texas

Vice Chairman John Cahill called the scheduled meeting of the Texas Real Estate Inspector Committee to order at 9:04 a.m., Friday, May 13, 2005. Chairman Fred Buck was not present because he resigned the inspector committee on April 25, 2005 in order to prevent a quorum of the Inspector Committee members from being present at the Texas Real Estate Commission meeting. This action by Mr. Buck allowed all interested Inspector Committee members to attend the Commission meeting.

In addition to Vice Chairman Cahill, members present were Curtis Carr, Vernon Davis, Billy Meyerdirk, Shavauna Morgenroth, Brian Murphy; T.J. Rowles, Phillip Stojanik and Russell Strahan.

Staff present were: Sabrina Hassumani, Assistant Administrator; Linda Bayless, Director of Enforcement; Devon V. Bijansky, Staff Attorney.

Chairman Cahill called for agenda item two, the welcoming of new members.

The Chairman moved to agenda item three, minutes of March 18, 2005 Committee meeting. Mr. Meyerdirk motioned to approve minutes as is and Mr. Murphy seconded. The motion was adopted by unanimous vote.

The Chairman moved to agenda item four, election of Chairperson, Vice Chairperson and Secretary. Mr. Davis motioned and Mr. Rowles seconded to nominate John Cahill as Chairman. The Vice Chairman called for the vote. The motion was adopted by unanimous vote.

The Chairman moved to agenda item five, election of Vice Chairperson. Mr. Murphy motioned and Mr. Davis seconded to nominate Ms. Morgenroth as Vice Chairperson. The Chairman called for a vote. The motion was adopted by unanimous vote.

The Chairman then polled the members for those willing to serve as Secretary, Mr. Davis responded to the call. Mr. Strahan motioned and Mr. Rowles seconded to nominate Mr. Davis as Secretary. The Chairman called for a vote. The motion was adopted by unanimous vote.

Chairman Cahill moved to agenda item five, public comments. Chairman Cahill requested public attendees of the meeting to make public comment and none responded.

Chairman Cahill moved to agenda item six, reports from TREC staff. Linda Bayless provided a review of staff reports.

Chairman Cahill moved to agenda item seven; reports, discussion and possible action from sub-committees.

Education and Examinations: no report

Ethics: John Cahill discussed TREC approval to post proposed changes at the April 25, 2005 Commission meeting.

Standards of Practice: Discussion of key Standards of Practice ideas taken from Cahill / Strahan White Paper. Chairman Cahill asked Linda Bayless to investigate Inspector Committee liability in regards to writing Standards of Practice.

Enforcement: no report

Chairman Cahill moved to agenda item eight; review, discussion and possible action to appoint members and a chair for each inspector subcommittee, including Education and Examinations, Ethics, Enforcement and Standards of Practice. Mr. Murphy was offered Ethics Chair position and respectfully declined.

Education Sub-committee:

Chairman: Mr. Meyerdirk

Member: Mr. Stojanik

Member: Mr. Rowles

Enforcement Sub-committee:

Chairman: Mr. Strahan

Member: Mr. Carr

Member: Ms. Morgenroth

Ethics Sub-committee:

Chairman: Mr. Carr

Member: Mr. Murphy

Member: Mr. Meyerdirk

Alternate: Mr. Davis

Standards of Practice Sub-committee

Chairman: Chairman Cahill

Member: Mr. Strahan

Member: Mr. Davis

Alternate: Mr. Stojanik

Chairman Cahill then moved to agenda item nine; review, discussion and possible action regarding “teleconference” and “rubber stamping” of the Inspector Committee actions and how they impact the Inspector Committee. Chairman Cahill indicated there was new information that has just become available and deferred this item to our next meeting agenda.

Chairman Cahill then moved to agenda item ten; review, discussion and possible action to create and recommend use of report notices to be used by inspectors in conjunction with an inspection related to new home construction and related to inspections of relocation homes as described in 22 TAC Sec. 535.223 (f) (g) (3). Chairman Cahill reported the parties that brought these items to the table are not available at this meeting. Chairman Cahill moved this item to our next meeting agenda.

Chairman Cahill moved to agenda item eleven; review, discussion and possible action regarding disclosure form questions and answers. Chairman Cahill turned this item over to the enforcement sub-committee. Discussion is pending ongoing review of possible Ethics changes to the rule.

Chairman Cahill moved to agenda item twelve; review, discussion and possible action regarding pending legislation pertaining to real estate inspectors. Chairman Cahill acknowledged TREC's communication of Strategic Plan initiatives on several occasions. Although such is not required by TREC, Chairman Cahill invited TREC staff to request the inspector committee to review any rule change language in the future. Chairman Cahill suggested that individual communications by inspector committee members be described as independent or representing the committee.

Chairman Cahill moved to agenda item thirteen; review, discussion and possible action regarding inspection warranty opinion request to the Texas Department of Insurance. Linda Bayless indicated we await reply from the Texas Department of Insurance.

Chairman Cahill moved to agenda item fourteen; review, discussion and possible action concerning ARELLO conference report regarding Ethics and Errors and Omissions Insurance from Brian Murphy. Mr. Murphy provided a good review of the meeting indicating that no general trend towards regulation was recognized.

Chairman Cahill moved to agenda item fifteen; review, discussion and possible action regarding inspector committee selection process. Chairman Cahill complimented TREC on managing an unprecedented number of applicants. Scott Emerson made public comment that he had asked to be nominated and that his request was not recognized due to timing reasons. Richard Whitsitt was recommended by the Commission nominating committee. Richard expressed concern over write-in nominees receiving more than one voting opportunity compared to recommended nominees who only received one voting opportunity. Chairman Cahill suggested TREC might consider an official application form in addition to reviewing the recent process for improvements at future appointment cycles.

Chairman Cahill moved to agenda item sixteen; review, discussion and possible action regarding performance opinion requirement in Standards of Practice foundation section, duty to verify report delivery and TREC's capability of disregarding any contractual agreement between buyer and inspector. Chairman Cahill discussed the difficulty of defining foundation performance when comparing inspectors to engineers. Mr. Strahan concurred and clarified engineering concerns. Chairman Cahill recommended the Standards of Practice committee address foundation, report delivery and contracts matters in sub committee.

Chairman Cahill moved to agenda item seventeen; review, discussion and possible action to correspondence, telephone or email questions received from the public or licensees requesting written opinions from the Committee members or from TREC Enforcement staff, for information or clarification of the Standards of Practice or other statutes or rules governing the activities of inspectors; and selection of questions and answers to be placed on the TREC web site. Chairman Cahill informed the inspector committee that the current process caused excessive paperwork and delay for TREC staff. It was decided to try a new method consisting of sending inquiries to the Enforcement Committee for review and comment. If necessary, unusual or noteworthy questions could be forwarded to full committee by the recommendation of the Enforcement Chairman or Linda Bayless. Official TREC opinions on letterhead would continue to be forwarded directly to full committee although the enforcement chairman may receive advanced copy from TREC staff for preparation reasons. Scott Emerson indicated he had yet to receive an opinion on water heater placement. Enforcement Chairperson Mr. Strahan indicated that the delayed item would receive expedited attention. It is hoped that this new procedure will reduce staff paperwork and expedite answers.

Chairman Cahill moved to agenda item eighteen; review, discussion and possible action to hold meetings concurrent with Commission meeting in order for more than four (4) Inspector Committee members to attend a Commission meeting without an illegal quorum. This was approved without a motion and a meeting was set to run concurrent with the next TREC commission meeting. Linda Bayless indicated she would investigate proper protocol for calling such meeting to order and adjournment in the event a quorum is present.

Chairman Cahill moved to agenda item nineteen; request for new business agenda items for next meeting. Items such as but not limited to the next agenda are:

- 1 – Requirement to place license number on internet site
- 2 – Liability of Inspector Committee regarding Standards and Ethics

Chairman Cahill moved to agenda item twenty, scheduling future meetings.

- 1 – Full Committee meeting 8 am June 13, 2005 Austin Texas TREC building. If quorum exists, Inspector Committee will convene to attend full Commission meeting. This action allows a possible inspector committee quorum to exist at a TREC Commission meeting. Unless posted, no other committee business is expected.

- 2 – Full Committee meeting 8 am June 16, 2005 Austin Texas TREC building. Committee will proceed to Standards Subcommittee as Committee of the Whole with Chairperson of the Standards subcommittee presiding. Committee of the Whole allows interested committee members be present during subcommittee work.

- 3 - 8.30 am July 22, 2005 Austin Texas TREC building. Full Committee meeting will convene to attend Enforcement Subcommittee meeting from 8:30 to 9:00 as Committee of the Whole. At 9.00 am full committee will meet to discuss agenda items to be announced.

Item 21. Meeting adjourned.