

MINUTES
REGULATORY COUNCIL FOR
COMMUNITY ASSOCIATION MANAGERS
Department of Business and Professional Regulation
Florida Mall Hotel, 1500 Sand Lake Road
Orlando, Florida 32822
Friday, October 8, 2004, 1:30 p.m.

Board Members Present

Reginald Billups, Chair
Chris Brown, Vice Chair
Steve Czonstka
Edith Yates
Debra Glass

Board Member Excuse Absence

Marilyn Battista

Staff Present

Julie Malone Garofalo, Executive Director, DBPR
Barbara Edwards, Assistant Attorney General, Board Counsel
Donna L. Salters, Government Analyst, DBPR

Interested Parties Present

David L. Richards
Cheryl Hoste
Swan Denger
Jim Greer
Greg Todd
Molly Foley-Healy
Dawn Bauman

Jim Stewart
Fred Gray
Michael Richter
Bill Carter
Harry Charles
Dennis DeTunno
Carol Sappington

Chairman Billups called the meeting to order at 1:35 p.m. There was a roll call and a quorum was established.

A motion was offered to accept the minutes from the July 16, 2004 by Mr. Czonstka. The motion was seconded by Debra Glass and passed unanimously.

Chairman's Report

Mr. Billups reported on the projected CAM operating account, expenses and changes in net assets for the years ending June 30, 2001 through 2009. The projections were based on renewals at a 3% increase with new licensees increased at 3% and 2% expense increase. He explained that one of the hurdles to overcome was the deficit of 2002. The previous projection showed that even after the special assessment it would be necessary to raise the renewal fee which was estimated to be about \$5 or \$10. He commented that according to this projected report there will no longer be a need to increase fees in the future.

Ms. Yates asked how did the Council go from on June 2001 of having license fees of \$750,000 to June 2005 to \$1.3 million without having increased fees. Ms. Malone Garofalo responded saying that basically the report is inclusive of increasing licensees at 3% annually, investments at 4%, and bi-annual renewals at 3%. Ms. Yates requested that the department provide the

rationale for their projections and feels they were being over optimistic. Ms. Yates asked for projections without increases

Mr. Billups addressed the vacancy positions on the Council and the expired terms of current members. He also indicated that his term ends in November.

Counsel Report

Ms. Edwards provided a report on the expiry of Rule 61-20.0025, F.A.C. She explained that she did not realize that there was a need to file a notice of withdrawal, which was a technicality. She stated that the new rule has been filed.

Executive Directors Report

Mrs. Malone Garofalo provided a review of the unlicensed activity account statement from June 30, 2004 and 2003; and the operating account closeout June 30, 2004.

She also provided the complaints and investigative statistics from July 2003 through June 2004. The report indicated that number of complaints added was 375; the number of complaints found legally sufficient is 110; the number of unlicensed complaints found legally sufficient is 25; investigations assigned 105 cases; and 92 investigations were completed.

Mr. Czonstka asked a question regarding informal recoveries. Ms. Malone Garofalo explained that these financial recoveries are usually accomplished through mediation.

Mr. Billups referenced the approximately 300 letters submitted as protest to Rule, 61-20.508, F.A.C. concerning the 12-hour classroom requirements for continuing education. and Ms. Malone Garofalo responses to the letters. It was noted that response to additional letters that may come concerning the rule should include a sentence of why the Council had a concern about it.

Mr. Czonstka moved that there be no distinction made between continuing education hours obtained by classroom and those hours obtained by correspondence. The motion was seconded by Mr. Billups.

Mr. Czonstka stated in discussion that it is important that everyone realizes that this matter concerning continuing education was not something the Council went looking for but was presented by concerned providers who recently realize the problem. He stated that the Council began reviewing the continuing education rule to determine what would be best for the profession. He stated that he would not be in favor of twelve hours of continuing education and prefers eight hours, which will be more convenient for the managers. He also referenced using the Rule 61-20.5011(3), F.A.C. for CAMs who may suffer a hardship in attending classroom courses. It was explained that the rule currently applies to prelicensure education courses. Ms. Edwards explained that if there is no statutory authority, then the council is not supposed to do it. She advised the Council that if it is something they want to do, move forward and try it and see if the Joint Administrative Procedures Committee will allow it.

Ms. Edwards asked how are the courses approved? Ms. Malone Garofalo explained that CE approval is listed under Rule 61-20.5081, F.A.C. Continuing Education Provider Approval.

Ms Edwards explained that there is nothing that she is aware of that may inhibit a CE provider from any other state from applying to Florida for the same. She explained that it is up to the providers to make the application.

Mr. Czonstka stated that as representatives for CAMs, they should make things easier for them to practice their professions and make decisions that are in the best interest of the profession.

He feels that in-person continuing education courses adds to motivation, and strongly feels that the hour requirement should not be beyond eight hours.

Ms. Yates stated that it is a good professional break to attend in-person seminars and that as professionals they should accept it. Additionally, she addressed the issue of abuse and fraud whereas one person completes the correspondence and everyone else may copy it.

Mrs. Glass stated the Council should not go with the total 12 as indicated in Mr. Czonstka's motion, but should consider the eight hours for classroom. She also indicated that she is in favor of providing waivers for those who cannot attend classroom sites. Ms. Edwards stated that there are already procedures in Chapter 120 for variances and waivers.

It was noted that there are existing provisions for those who have hardships or disabilities for taking pre-license education by correspondence. Mr. Billups recommended that this same provision be extended to those who cannot attend classroom locations for continuing education.

Mr. Billups stated that the only real question is whether or not there should be a rule that allows the entire requirement of continuing education be handled outside of the classroom if that is the choice of the licensee.

Ms. Malone Garofalo informed the Council if continuation education request goes through Chapter 120 for a request of variance or waiver from the rule there is a time factor.

Mr. Czonstka stated that the Council should not punish the majority of the CAMs for the few that abuse the systems. He stated that if the correspondence courses have been

approved, the Council should accept their judgement of the providers and leave it up to CAMs to make the decisions on their own. He feels that it is over-regulation and the Council should not force them to attend seminars.

Mr. Billups commented that 21st century education has placed the Council in a position to consider the various routes to obtaining an education. He feels that the correspondence courses are good, but feels that the Council should not be in the business of directing the CAMs of how to get their education and alternatives should be provided. He supports the motion to make no distinction between in-class and out-of-class continuing education as long as it is approved by the state.

Ms. Glass asked what is considered distant education? A discussion ensued and Ms. Edwards explained that course on audio tapes and video tapes are considered distant learning. She stated that anything that is non-classroom that is approved would be included in distant education.

Ms. Yates also agreed that the Council should not be legislating how the CAMs obtained their continuing education.

The motion that there be no distinction made between continuing education hours made by classroom and those obtained by correspondence. The motion passed 3 to 2.

Ms. Edwards will draft continuing education language according to the approved vote for the next Council meeting.

Old Business

There was a previous discussion on sponsoring legislation concerning increase of fees and the need for licensing of management companies to possibly diminish the problems of CAM businesses requiring CAM licensees to perform unethical task that may place their license at risk. Mr. Billups stated that some of the advocacy organizations would need to know where the Council stands concerning changing legislation so that they may prepare to build support for it.

Mr. Czonstka offered the motion to move forward on legislation that will require management companies to be licensed. It was seconded by Mrs. Glass and the motion passed unanimously. Ms. Edwards will have a draft prepared by the next meeting.

Ms. Malone Garofalo commented that the legislation is something specific to an industry, then an association needs to carry it. The department is focused on issues that are effective department-wide. If language was approved already by the Council then it should go to the associations for sponsorship. Ms. Malone Garofalo stated that this legislation will require fees to cover costs of processing the application, investigations, and renewal of licenses.

New Business

Molley Foley Healey, Vice President of Government in Public Affairs and General Council for Community Association's Institute (CAI) and Travis Moore, Advocate for CAI representatives for the National Board of Certification of CAM (aka) as NBCCAM.

They addressed the Council concerning the Management Privatization Act which creates the ability for Councils, Boards, and Commissions to take a look at privatizing. She indicating that the license and regulatory power stays with the Council or Board. They suggested that it is time for the CAM Council to look at taking the preliminary step in developing a business case beginning first with a needs assessment. Secondly, completing a feasibility study. Once the business case is finished it gives the Council an opportunity to look at performance standards of the Council, the outcome and the financial health. She stated that taking the preliminary does not obligate the Council or any other private entity to take any additional steps. They suggested that the Council pass a motion to begin the business case study that is required.

Mr. Czonstka asked that how after privatization would this affect the Council's relationship with the department . Ms. Foley-Healy responded saying that there still will be a CAM Council, but the privatized entity becomes the administrator and it is one way to protect the funds of the Council.

Mr. Czonstka also asked who would perform the analysis, and how much would it cost. Ms. Foley Healey explained that it is the Council's discretion and the statute does permit the Council to hire an independent entity to do the study. After the study is completed, it is also up to the Council to make the recommendations to the Governor as to what they want.

Mr. Brown was concerned that pursuing the study might send a message to legislators concerning de-regulation. Ms. Foley Healey explained that the perception would be quite the

opposite. It would be more of a statement of the Council taking control of it's destiny by studying the privatization.

Mr. Czonstka moved that the Council be allowed to continue this analysis with no costs. Ms. Glass asked how could it be accomplished with no costs? The motion was withdrawn.

Mr. Mike Martinez, Special Council to Secretary Carr, addressed the Council stating that the concept of de-regulation would be dispelled from the position of the department. He explained the Privatization Act was created to provide a uniform system of evaluation to allow Councils and Boards to make decisions about whether privatization is the best for their profession. He explained that there would be no retribution against a board for researching privatizing. He explained that it is a common assumption that when a board is privatized it automatically is less costly; however, in some cases costs increase. He stated that the department would be cooperative with the Council.

It was shared concern among the Council regarding costs. Mr. Martinez would provide information on what the process is and what the costs would be from the department's stand point and that it would not have any affect on the Councils' financial situation.

Public Comments

Dennis DeTinno addressed the Council asking that if the Council is to move forward with the study for privatization, the Coalition of Community Association Mangers Organization is asking to be a part of that study so that they can support or offer opposition for it.

Mr. David Richards commented that there is a business entity registration form that should be completed by individuals and businesses offering CAM management services. Also, he stated that all persons taking correspondence courses submit attest statements to prevent perjury and fraud.

Next Meeting

The next meeting is scheduled for January 21, 2005, 10:30 a.m. in Tallahassee.

The motion was offered for meeting to be adjourned by Mr. Brown, it was seconded by Mrs. Yates and passed unanimously. The meeting adjourned at 3:15 p.m.