

Meeting Minutes

REGULATORY COUNCIL OF COMMUNITY ASSOCIATION MANAGERS

Friday, August 31, 2012 at 9:00 a.m. EST

Conference Call Meeting

Conference: (888) 670-3525 Conference Code: 2966335023

I. CALL TO ORDER

Patricia Rogers called the meeting to order at 9:05 a.m.

II. ROLL CALL

Patricia Rogers – Chair

Kelly Moran – Vice Chair

Dawn Warren

David Beswick

Terence Brennan

Margaret (Maggie) Rogers – called in late

Staff Present

Dr. Anthony Spivey, Executive Director

Mary Alford, Government Analyst

Douglas Dolan, Assistant Attorney General

C. Erica White, Prosecuting Attorney

Elizabeth Henderson, Prosecuting Attorney

Belicha Desgraves, Assistant General Counsel

Kathleen Brown-Blake, Department Rules Attorney

III. APPROVAL OF MINUTES – May 11, 2012

Motion: David Beswick made a motion to approve the meeting minutes for May 11, 2012 meeting.

Second: Kelly Moran seconds the motion. Motion passes unanimously.

IV. CHAIR REPORT – Patricia Rogers

Chair, Patricia Rogers: Kelly and I were in a meeting last month to hear comments on the proposals from the Florida Bar to limit the CAM ability to take actions further than we currently have. They suggested, some attorneys are suggesting that CAM's be limited further in certain areas, that we would be limited in what areas we can take actions, that certain things that we do are legal actions. There were participants who spoke stating they did not agree with the proposals of the Bar. Later in the meeting I know we are having

the presentation of the letter. It is important that you read that and attend that meeting. I don't believe it has been held, I believe it is in September. Am I correct, Mr. Spivey?

C. Erica White: There will be a meeting of the Unlicensed Practice of Law Committee, but I don't know if they will be taking public comments. So I don't know if you need to be present at the meeting.

Patricia Rogers, Chair: We did send our letter, correct?

C. Erica White: That is correct.

Patricia Rogers, Chair: And you are going to discuss it briefly?

C. Erica White: That is correct.

Patricia Rogers, Chair: I know the letter was a very good letter; it summarized our position very well. I thank Kelly for coming. I hope we will have more participation in the future. I know the Department has been very good making sure we can participate by phone if not in person. I hope in the future you will all be able to take a few hours of your schedule to participate. Especially if we are going to convince the legislature in the future of the importance of our being a Board. I think it is important that we show how important it is by participating in our meetings. I would encourage you to take that hour or so from your schedule. If you can't travel to the meeting at least participate by phone.

Terence Brennan: I have a question about the meeting. Exactly who is holding the meeting and where is it physically?

Patricia Rogers, Chair: The Committee of the Bar is holding it. I don't know where it is being held, in Tallahassee I would think.

C. Erica White: It is being handled by the Good Year Meeting of the Florida Bar which I do not believe is in Tallahassee. I am not sure of the actual location of the meeting.

Kelly Moran: Florida Bar Committee hearing on unlicensed practice of law is not open to the public. It is a closed committee meeting.

Patricia Rogers, Chair: I think our letter was very well prepared. Now we will just see what they do with it.

V. COUNSEL REPORT – Doug Dolan

Doug Dolan: I am going to defer to Ms. Brown-Blake on the report for these rules. She has had them in process and handling with putting them through.

Kathleen Brown-Blake: I am the rules attorney for the Department. It was asked of me to take a look at the Council's and the Department's rules with regards to discipline with the

CAM's. I was able to determine that you guys do not have a citation, mediation or notice of non-compliance rule. You are mandated through statute to have one for each. With the help of Ms. White and Ms. Henderson I was able to come up with the language that was submitted to you all in your agenda. That language is draft language. I was hoping that you have reviewed it and whether or not you approve it. If you have any questions with the language we can discuss it and address it as well. We do need to have these three rules, they are mandated by 455. The citation rule is mandated by 455.224, the mediation rule is mandated by 455.2235, and the notice of non-compliance rule is mandated by 120.695 and 455.225(3).

At this point we are just in the draft language level of the rule making process. Once you vote on language that you approve and vote to proceed in the rule making process. I can open the rule for development and proceed to proposed rule making after we receive any comments from the public. I am going to open the floor to the Council members for comments or questions.

Patricia Rogers, Chair: Let's start with the citations. Is there any comment on the citations?

Terence Brennan: We are being asked to comment on the general layout of the language or.

Patricia Rogers, Chair: No, I would ask that you comment on the citation themselves. I would ask that you comment on if you agree or disagree on each of the citations, the violation itself and citation amount.

Terence Brennan: I have a comment on one of the citation amounts. That would be failing to provide access to association records. It was the only one that stood out to me as being an egregious thing. In fact I have had experience of that myself of where records were refused. It can be a very trying experience. I think that the amounts of fines should be considerably higher for that one. I don't know if I should suggest an amount, I would actually make it higher than any of the others. The refusal to provide records can be very disruptive to someone that is trying to look into possible wrong doing. Actually, to have a citation even for a second offense, I suppose that is a reasonable thing to do. My point is that it is a potentially egregious thing to do to refuse to provide access to records. If you have no access to records you don't have a way finding out what is going on.

Kathleen Brown-Blake: According to 455.224, I believe, citations are only issued for very minor violations. The reason that statute was put in a citation rule is because we do have some cases that they are not intentionally failing to provide records. It is that the two people, the people that have the records and the people want access to records can't really come to an agreement on when they are available to provide the records. It could be some minor thing. Citations are only given out for very minor violations. If it was an egregious act it would not go to citations it would be kicked over to OGC for review.

Patricia Rogers, Chair: How do you determine when it is a minor violation and when it goes to legal?

Kathleen Brown-Blake: That is actually done by investigators in Regulation. They are good at this. They give out citations for every other profession in this Department. They are very good at being able to determine if the act was intentional, is it going to cause harm to the complainant, or whether it was an accidental mishap that shouldn't have happened, but did. It is discretionary call on the part of our investigators. And, citations are discipline. So when they are issued a citation and they pay it or it is not disputed it is carrying the same weight as a full administrative complaint that goes to the entire process, on their record it is discipline.

Patricia Rogers, Chair: Where does it say it was an accidental mishap?

C. Erica White: What we are seeing is someone didn't provide access to records in 20 days, they provided it in 25 days. And someone is sending in a complaint and we don't have a mechanism to deal with that. So, we are getting a complaint that is within a 5 day window and by the time we get it, it is resolved. It is for those very minor violations, it would be handled in the field by the investigator before it even got to us. Basically what we are doing is closing those cases anyway, but they remained opened for a year while they go through our process. What we are trying to do is address these issues with out all the down time we are seeing in these cases that are not major violations.

Patricia Rogers, Chair: I think the problem is that it needs to be spelled out better here. This sounds like it could be applied to someone that withheld records purposely and maliciously. That I would have a problem with. I have a problem in general with some of these because they sound open ended. It doesn't say that this is like an accidental or non intentional.

C. Erica White: The language in the rule comes from the statute, we are just citing to the statute. This is what the language is that is currently there. Again, a citation, as attorney Brown-Blake stated, is for a minor violation. Since every other profession normally uses citations, we haven't so automatically it comes to us. If I receive a case that says there is a 5 day difference in providing records, I am going to close it. What happens is that the CAM licensee has a case opened for a year when it could have been addressed in the field before it even got to me. So, ultimately, we are not suggesting that we are not going to discipline these individuals. We're saying, I am getting cases were I am seeing situations that need to have discipline, they just doesn't need to wait until it gets to the General Counsel's Office.

Elizabeth Henderson: The other thing to keep in mind, we will close these cases when they come to us. If a citation is issued they are charged a fine and actually get some discipline. Whereas, if it comes all the way to legal we look at it, see there was just a 5 day delay and close it because the situations has been rectified. They get no fine, no discipline what so ever. If you go with the citation rule they will be fined some amount and will suffer some for those actions in that delay. Where as if it hangs out until we

close it, it might be uncomfortable to have a case hanging out there, but they end up with no penalty. The citation rule will allow there to be a penalty for those smaller, minor violations. It is still a violation, it is more of a minor violation. It actually gives more discipline power than less.

Terence Brennan: I still am concerned with this particular item. Refusal to provide access to records can be done deceptively. It may appear to be minor and the CAM may make a good argument that it was minor. If it was intentional it can be very difficult. What I would suggest, I would like in both cases to see the amounts of the fines increase. I think that will help get the attention of the parties responsible for producing the records. Second, I would suggest the second fine be scaled up considerable. So that the ratio between the two increases faster than for the others. Is the second citation a citation for the same kind of violation or a repeat of the original violation where they have not complied with the production of records that has already been improper?

C. Erica White: I would state that the reason for the second citation would be a repeat of the same type of thing. A lot of our licensees manage more than one association. You could have where they didn't provide it for one association and then got a complaint from another association. Then after that if we are still getting complaints then it would be forward to our office. The fact they have previous citations they don't go away. Then we can charge them with an Administrative Complaint we can utilize the fact that there have been previous citations when we file our complaint and ask for fines. It is really cumulative. It doesn't go away. It allows for these kinds of minor cases to be address quickly. As Attorney Henderson pointed out, if we don't do a citation and close it, there is no discipline there is nothing. At least this way we can address it quicker in the process.

Kathleen Brown-Blake: Additionally, the language in the rule you were provided does not include 61E-14-2.001(6)(a) which is more egregious of withholding records. That was initially left out of the rule because it is a more egregious act. At least I believe it is. It is being addressed. The review of the rule language was created in order to make sure only minor violations were listed.

David Beswick: Truthfully, I am looking at this citation the way a police officer would, because that is what I am. Failing to provide access I can understand easily how in a management company, especially a big one a clerk can make a mistake and not get papers available on time. Does it deserve a citation, yeah. Does it deserve a fine, yeah. I think it comes to a point where we give our regulatory people the ability to operate as they see fit. If they can see and recognize that something is a really minor violation and write a citation the thing is done. If it is something more egregious then there are probably more charges that can be brought, maybe even criminal. I don't have a problem with the statute the way it is written.

Kelly Moran: I agree with David. I am fine with the citations language. On page 2, the language that is in the citation rule properly gives the Department the right to qualify

minor violations or first offenses. However, with that being said, I would like to see the fine amounts increase by 50 % for first violation and second violation.

Terence Brennan: Are you speaking to that particular item or to everything?

Kelly Moran: I am speaking to all of the penalties. All of the penalties amount on both pages.

C. Erica White: When I normally charge an administrative complaint I am going to charge a \$250 fine for a first violation. This is the reason why on a lot of these you will see \$250. That is typically what I have done on our rules. It provides for a graduate fee scale and a lot of our licensees are limited financially. Even if we were to double the citations they would go to collections because they are not paid.

Kathleen Brown-Blake: Additionally, when we move forward in the rule making process, we are going to have to fill out a SERC (Statement of Estimated Regulatory Cost). And fines associated with a citation will be a cost to the licensee. So, when we move forward we may have to explain to OFARR (Office of Fiscal Accountability and Regulatory Reform), to the Ombudsman and possibly depending on how high these things go, to the legislature, why we are charging so much. Whenever we choose the fines we based them off what is currently being charged for administrative complaints that go all the way forward. We think we can get this passed without legislative ratification. I do not believe JAPC (Joint Administrative Procedures Committee) will have a problem with these cost as they sit right now. If we go up much higher we will have to explain why we are coming down so hard on people during this economy.

C. Erica White: Keep in mind these are just violations, the most common ones that I see. Most of the complaints are minor. This is not your financial embezzlement or those types of things. These are minor situations in referring to not providing records, we're talking about 5 – 10 days where records were not provided due to miscommunication. By the time we get the complaint it is resolved. We just want to address the situation. They are very minor violations. I agree with Kathleen. Most times even on \$250 - \$500 the licensees are telling me that cannot pay that and they are asking for a payment plan. I put that out there for your consideration.

Terence Brennan: Is it possible to incorporate in the language for that particular rule that in someway indicate what being a minor violation is. Or is that totally discretionary matter that will always be decided out in the field.

C. Erica White: That is discretionary because it will be based on the facts as they are presented. In some instances 5 days would be egregious depending on what led up to the situation, I am just using that as an example. Our investigators are very experienced in this area and actually this came from them, because they are trying to find a way to address some of these minor violations out in the field. We have gotten a lot of complaints from the licensees asking why this is taking so long for this complaint which has already been resolved to be closed. This will allow us to do that.

Anthony Spivey: The Department does periodic investigator training for these individuals writing citations, so they are very experienced in what they are doing. I would defer to the comments Erica and Kathleen have made and recommend you go with them.

Dawn Warren: I heard you say that sometimes they can't pay and it goes to collections. What happens if they don't pay?

C. Erica White: Typically if there is an outstanding fine that is not paid when it comes time for that CAM to renew that license there will be a hold and they will not be able to renew. Until they pay that fine there is a hold. That is basically what happens.

Terence Brennan: I continue to feel that the fines should be higher for this particular item. It is really the lowest fine practically in the list. And, I think it is a very important item. I realize some of the earlier comments that possibly there may be an association that inadvertently does this. I would suppose in a really borderline case like that the field investigator may choose not to even issue a citation. Do they have that option? I also think that before someone files a complaint, a resident files a complaint, there has to be a problem that really has gotten to them. It is not just a matter of missing by a few days and they are just trying to catch a technicality. It is a difficult thing to file, not that difficult, it is an inconvenience to file a complaint. I would expect most people would not do that unless they felt somehow they were being run over. My comment is that I would like to see those particular items increased. I would suggest increasing those 50% – 100% so the first one is \$200. I would say a \$100 fine, yes that is a lot of money in some ways, but I would think anybody working as a CAM could handle that. Many traffic tickets are more than that.

David Beswick: The problem I have with increasing the fines, other than my end of the state, a lot of the management is done by management companies. I think we know that if a clerk in a management company makes a mistake that results in a fine, the clerk is the one who ends up paying the fine. I have a problem with increasing the fines on them.

Patricia Rogers, Chair: These fines are against CAM's.

David Beswick: I know they are against CAM's, I know CAM's that run management companies, I know the fines will be passed along.

Patricia Rogers, Chair: My problem with it is, while I agree with what staff is saying about the economy right now. I know a lot of CAM's that may have been getting salaries of \$50 or \$60 thousand, who are now making \$30 and \$40 thousand. The economy is very bad, while I agree on one hand the fines are too low, I understand the principle of the economy on the other hand. We do have the advantage of being able to revisit if and when the economy improves. I would note that. I would like to see higher fines.

Dawn Warren: Tony, did you get my email about the violations.

Anthony Spivey: Which one are you referring to?

Dawn Warren: This is something that I think should be brought up on this. We don't understand this. My husband put in a complaint against a CAM about election issues. We received an email back that even though it is a violation of 718 that the Department does not enforce violations of those statutes against licensed CAM's unless they are also in violation of 468, 61-20 or 61E-14. My question to the attorney sitting there: When a licensed CAM violates the statute in 718, an election issue, it doesn't fall under 468 and 61-20?

C. Erica White: If a CAM violates Chapter 718 that is handled by the Division of Condominiums, Timeshares and Mobile Homes. For example, you mentioned elections. That would not be something that I as the prosecuting attorney would handle. In those types of cases it would be referred to that division.

Dawn Warren: So when you have a complaint on a CAM for an election issue. I don't think everyone understands this. You go to which division to make the complaint that they violated 718 with election issues; say let people vote when they are not suppose to, stuffing ballots, pretty major things.

C. Erica White: There are two responses to your questions. First, if there is a CAM who is engaging in unprofessional conduct, some kind of way violated a version of 468, we would evaluate that. Now, whether or not the election was conducted properly or people not being allowed to vote that is not under our purview, which would be under Division of Condominiums, Timeshares and Mobile Homes and that issue would be addressed under that Division.

Dawn Warren: I am really confused, I don't know if you saw the complaint that was put in about the election issues. We are told it is not under 718 and then they didn't enforce other statutes. Basically the CAM got away with it.

Patricia Rogers: If I may interject. This does seem to be an area of slippage where CAM's are getting away with things. I have run into the same thing. I have been told by staff in DBPR on the condo side they can't cover it because the CAM does not fall under their purview. I have been told by the Division of Professions it is a condo issue and condos needs to cover it. They are getting away with it. That may be an issue where that needs to be looked at. It is a problem.

C. Erica White: As a prosecuting attorney I am looking at legal sufficiency and whether or not I can win the case in the Division of Administrative Hearings. If I don't have enough evidence to prove in court, that the allegations in the case are true, that case will be closed. Obviously, I understand I am not in the middle of the situation, but I evaluate a lot of complaints. From a legal perspective proving the complaint in court is what I am looking at. If we can not do that we will not file an administrative complaint in the case.

Anthony Spivey: I did meet with Accounting with the financial statements. The process the attorneys are putting in place right now, it does actually take a lot of the cases away

from legal were they don't have to spend time dealing with some of the minor issues. What has occurred is your accounting statements are in a deficit mainly because of legal time that has been provided. Removing a lot of these cases from the legal realm and letting them be handled by the citation route will actually reduce some of the deficit in your account.

Patricia Rogers, Chair: Dawn, I think we need to bring up your issue at a future meeting because I do think there are some areas. I do understand Erica the problem that you can't cover for legal sufficiency. That it is not a legally sufficient issue, but it's kind of a no man's land of problems. It may be something that can't be addressed, where managers aren't liable for these kinds of violations. Perhaps there are some things we can do.

Dawn, maybe this is something we need to address at a future meeting.

Dawn Warren: Absolutely, I think its very important.

(Maggie Rogers connected to the meeting)

Maggie Rogers: I had a lot of trouble getting onto the call.

Terence Brennan: I have a question and also a comment on a different part of this.

(Update provided to Maggie to catch her up on the agenda topics)

Maggie Rogers: What I hear you saying is because we are in a bad economy we are going to let it slide that people are doing things wrong.

Patricia Rogers, Chair: No, No, they suggest not increasing the fines. People can't pay fines as it is.

Maggie Rogers: Maybe that will keep people from doing what is wrong.

C. Erica White: A lot of times, there is some lack of understanding with providing records. Do they have to provide the records in a certain time frame? They may not know, I keep saying 20 – 25 days and I do see a lot of complaints for something minor. This issue is resolved, but the complaint is still open in the Department. I am suggesting for minor violations it would be \$100 first time or \$250 the second time. If this person continues to do that and it gets to our office we will take that into consideration and the fine will be even higher if we have to continue to prosecute. This is not saying they are not going to pay a fine, we are just starting the fines lower. If they continue to violate it will escalate.

Terence Brennan: Are we setting the fines in spelling today if we take a vote on this. Or are we just approving and this will come back to us later?

Patricia Rogers, Chair: Don't we have to have a public hearing on this?

Kathleen Brown-Blake: We do not have to. I was going to publish for rule development with the opportunity with someone to request a workshop. Additionally when you go to proposed rule making someone can request a hearing. Typically I don't hold hearings unless it is requested because they are costly. We do receive open comment on the rule language once it is published as well. I do not know if the licensees will request a hearing, it is always a possibility. The Statement of Estimated Regulatory Cost will come up on your next agenda so you will be able to review what is estimated for the regulatory cost. This language, if you approve it today, will be what I will push forward unless there is comment from the public requesting a workshop.

Patricia Rogers, Chair: I do think that one of the most egregious issues is holding oneself out to be a manager or management company. I do think that fine is too low. I do understand there are times when one might not understand that one should be licensed. I think that is extraordinarily rare. That is the only one of these where I would say, that I have an exception with even having it on there as a citation.

C. Erica White: I typically process complaints on that and if I file an Administrative Complaint the first violation is \$250. That would go against either the management company or licensed CAM. That is what I do right now. What we are doing is moving this to the citation level so they can go ahead and get that in the field.

Patricia Rogers, Chair: That is not what we have, we have holding oneself out to be a manager is \$125.

C. Erica White: That is with an inactive or delinquent license for a person who failed to renew at the correct time. It is not that they are not licensed, it is that their license is not active.

Patricia Rogers, Chair: Okay, still it's low. I am not happy about it, but I will defer.

Terence Brennan: On parentheses 6, it reads once the citation becomes a final order the citation and complaint will become a public record. That may apply to the citation, but the complaint is public record from the moment it is filed. I don't feel that should necessarily be there.

C. Erica White: A complaint against a CAM Firm is not public record. It is protected, it is confidential, unless probable cause is found. That language is necessary if such a citation becomes a final order the citation with the CAM Firm complaint is public.

Terence Brennan: Okay, I had forgotten the distinction between the two. It is kind of a minor point to discuss. Perhaps, somehow that should be incorporated there to remind folks if it is against the CAM the complaint is public in the first place.

Patricia Rogers, Chair: I don't think we should split hairs, it can be very confusing to people.

Motion: Terrance Brennan made a motion to increase fines for failing to provide access to records by 50% so it would be \$150 and something over \$300. I don't think it should be that low.

Second: Maggie Rogers seconded the motion.

Discussion:

Maggie Rogers: I actually would like to amend that to make it more because for a person in a condominium to try and access the records and not be able to, it could cost them \$1000 to get an attorney to do that. It seems like to me that it is a lot more punitive to the person living in the condominium versus the condominium manager. I believe it should be more like \$300.

Anthony Spivey: Maggie, you were not on the phone earlier when I spoke to the Council about this. The reasons the citation amounts are at the rate they are now is to allow these people to pay these amounts. If they get too high and they can't pay them then the case goes to legal. Once the case is in legal, what is happening now, you are in a deficit now, mainly because of all the cases in legal. Their time has been billed and if it continues on this course the Council will be in a deficit for a while. This is actually an avenue to reduce the amount of cases in legal to help alleviate the financial burden on the Council.

Maggie Rogers: I did hear that. That doesn't cut any ice with me. The reason it doesn't is we don't want to create another problem solving this one problem. When this complaint is made against a person can their license be temporarily set aside until they pay it, if they don't pay it after a certain amount of time and leave it at that? If that gives legal some lee way of having to address something, if they don't have a license that is functioning then they will pay. This is one of the worst abuses that go on, the emails I get about this are just heart breaking. And what I see personally in my own condo is heart breaking.

Patricia Rogers, Chair: One of the things Erica pointed out is that this is not for egregious ones. This is for where someone asked for a record they didn't get it within 5 days, they got it in 15 days. So that the issue was resolved but because they were 5 days late they get fined. The issue was resolved. It is not for the person who just delays and delays. It is for those cases that were actually resolved. It is not for the egregious cases.

Maggie Rogers: What happens to the people where it wasn't resolved? Don't we have to address that?

Patricia Rogers, Chair: They go to legal.

C. Erica White: I want to make sure the Council understands that you have the rule making authority. However, they are asking you to assist us with prosecuting of the cases. Therefore, if the fines are too high when we go to prosecute these cases, I am telling you from experience, we will not get the fines paid. What happens is, they don't pay the fine then another complaint is opened and another fine ensues. I am respectfully

suggesting to the Council that if we employ the citation process this may actually correct the problem in the field and get corrective action to the licensee now, as opposed to building up and building for up additional complaints for failure to pay. That is what I am seeing now from some of your licenses. Yes, they are telling me \$100 is too much or \$250 is too much and they are not paying them. This is the problem we are seeing right now, over something they are telling us they did not know they were suppose to give the records in 20 days, they thought it was 30 days.

Maggie Rogers: I know if I went to court over something and I tell the judge I did not know it was the law, he would laugh in my face. That is what is happening all over this State, the CAM's are laughing in our faces. They don't have to abide with anything. All I am saying, at this time the fine is put in, if they don't pay it within a certain period of time then put their license on hold so they can't work until they can pay it.

Patricia Rogers, Chair: That does happen.

Dawn Warren: I do agree with her that CAM's are getting away with a lot of things. I think that it should be more severe that if they don't pay the fine within 30 days or 60 days or 90 days that their license will be suspended and they won't be able to work. They will find that money somewhere.

C. Erica White: Their license will not be suspended if they don't pay the fine that will not happen until the renewal period. We would open another complaint, most likely, for their failure to pay.

Maggie Rogers: So what. We are trying to do something right. I realize the practicality of what you are talking about, I understand, but to not do something correct because it is going to cause an overload to staff, is not a good reason.

C. Erica White: Keep in mind Council Members your rules have to be approved by other entities within the Governor's Office. We do have to explain the fiscal impact. We are simply trying to give you information because if these rules cause a negative fiscal impact to businesses they will not be allowed to be adopted. We are giving you the information to make an educational decision to see how you would like to proceed.

Terence Brennan: I guess Maggie and I see it this way because we come from the consumer side of the world here. One of the things I heard said was that the CAM didn't know they had to do this within this period of time. Yet, the person who files the complaint has probably been telling them this. They knew enough to file a complaint and knew the CAM had violated the time limit. I think the CAM has more responsibly to know what the time limits are over the citizen actually. I also don't think that to say a clerk didn't know what the rules were and made a mistake, it is the firm's responsibility to properly train those people and to let them know it is a vital part of their job. They have to be provided these records during a certain time limit and it is important part of their job.

Patricia Rogers, Chair: I think the point you are making are very good one, but we need to address the reality of the current situation. If we can't get the rule through the State if the Governor's Office is going to say this rule is not acceptable. Then we have accomplished nothing and will not be able to discipline CAM's at all. So all of our hard work to get something in place to at least start the process of disciplining CAM's who do things wrong will have been wasted. The question I have for the Council is are we better off taking a minor baby step, because I agree with you I would like to see much stiffer fines, but are we better off taking a step that we know we can get passed now and waiting a year or two to wait until things get better financially,

Maggie Rogers: You have no idea how I don't like hearing you say that. I can tell you feel the same way. I think there is a difference in putting a license in inactive verses suspension. Is that true, Erica?

C. Erica White: Yes, there is a difference between inactive versus suspended.

Maggie Rogers: Can we have a forced inaction until they straighten their problems out?

C. Erica White: No, that is not how it works. The license becomes inactive based on the failure to either renew. You can choose to become inactive if you leave the state or something like that, it is not discipline. If a license is on probation or suspended that is something the Department does.

Kathleen Brown-Blake: We can only draft rules within in the bounds of the legislative authority we were delegated. The statute only allows us to come up with penalties. It only allows us to determine what violations could be good for citations and the penalties associated. Whenever they say penalties they are talking about fines. They are not talking about revocation or suspension. If we go beyond our legislative authority this rule will not make it past JAPC, it has to go through the Joint Administrative Procedures Committee at the legislature. They are the ones that gave you guys the authority to let you do this, they can pull it back just as easily.

Maggie Rogers: How do you know they are not including other things other than financial fines? How do you know what authority? How have you interpret it? Where has that information come from?

Kathleen Brown-Blake: 455.224, Florida Statutes; It does not say you guys can come up with penalties. It says you guys can come up with the violations for a citation.

Maggie Rogers: I have one more question. How do you know the Governor is not going to do it? How many times have you been talking to the Governor and heard he is or isn't going to do this. I believe he will do this.

Kathleen Brown-Blake: With all due respect, I am the rules attorney for the Department. I am the attorney responsible for ensuring all eighteen hundred and eleven (1,811) rules in

the Department make it through the adoption process. This is what I do for a living is the rules. If we cross a certain monetary threshold in our SERC, we will get it kicked back. Not just from the Governor's Office, it has to go the rules ombudsman, it has to go to the OFARR and then it has to go to JAPC. All three of them will tell us what to do with this rule if they like it or not. If we don't do what they want us to do and it gets kicked back, then it will go to the legislature for ratification, which will takes the power completely out of your hand.

Maggie Rogers: Unfortunately you are probably right and I hate to think that. When you look at the fact that we've been trying to become a board and have voted unanimously many times to become a board and we can't even get it passed or get it to legislature through all the red tape of staff and stuff. So you are probably right we will never get through the levels of staff.

Amended Motion: To raise the fines on records by 50%. First violation \$250, Second violation \$500.

Matt: I would just express general agreement with Mr. Brennan. By the time the citizen makes the effort come to DBPR and file a complaint. That citizen within that community has usually been put through the wringer through the board or the CAM. There are a lot of little games that boards and CAM's can play. Access to records is about the only way the resident can find out what is going on with their board, were their money is being spent. What shenanigans might be going on. I have personally had a battle with my board. The gentleman employed by the Board is not a licensed CAM and should be. I agree, the fines need to be more on the stiff side. A \$100 fine is nothing. And someone coming to you saying that can not pay a \$100 fine is bogus. The comment about a standard traffic ticket is at least \$100 is correct. I certainly encourage you guys to be a little on the stiffer side, try and see how it goes. If the Governor kicks it back then bring the fines down to were they will accept it.

Robert: I certainly support Matt's comments and what Maggie as well as Terence provided. I greatly appreciate your thoughts. Even for unlicensed activity, the only thing that will happen is this board goes ahead and sends a Cease & Desist. That is all that will happen for the first offense.

C. Erica White: I want to be clear the Council does not have any disciplinary authority. The Cease & Desist come from the Department. We are currently sending Cease & Desist orders for first offenders of unlicensed activity right now.

Maggie Rogers: Thank you to you gentleman for standing up for yourselves and other people that live in condominiums. You are absolutely right. My hope would be that we would just try and get it through. It is very frustrating to get anything through.

Terence Brennan: I would echo that. What they are saying is what has been said to me from other people in condominiums and part of the reason I bring it up here. I think that

records are, it is the only thing I focused on the in this list of items because it really is a critical point.

Motion to reconsider the vote of the fines allotted for failure to provide access to records.

Motion: Terence Brennan made a motion to reconsider the vote for increased fines for failure to provide access to records.

Second: Maggie Rogers seconds the motion. Motion passes unanimously.

Motion: Patricia Rogers made a motion to increase fines to \$200 for first violation, \$ 500 for the second violation.

Second: Terence Brennan seconds the motion.

Roll Call Vote: Kelly Moran, Yes; David Beswick, in favor; Terrence Brennan, in favor; Maggie Rogers, Yes; Dawn Warren, Yes; Patricia Rogers, Yes.

Motion passes unanimously.

Motion: Vote on amended Citation Rule; 61E14-5.001.

Roll Call Vote: Dawn Warren, Yes; Kelly Moran, Yes; David Beswick, Yes; Maggie Rogers, Yes; Patricia Rogers, Yes.

Motion passes unanimously.

Kathleen Brown-Blake: Mediation is mandated by Section 455.223, Florida Statute. The Council is obligated to set forth violations that would be appropriate for mediation. Mediation is handled in the Division of Regulation. It comes right after we get a complaint before it goes to legal. It allows for the complainant to be able to mediate with the respondent in these cases. It is a form of alternative dispute resolution. The language that is provided is a list of minor violations. Mediation is only allowed to be used for minor violations.

Motion: Kelly Moran made a motion to accept the draft rule language for Mediation Rule 61E14-5.002.

Second: David Beswick seconds the motion. Motion carries.

Terrance Brennan: How does the mediation process work?

Kathleen Brown-Blake: I don't work in the Regulation Division so I am not privy to everything in the mediation process. When we receive a complaint from a complainant it is evaluated based on how minor the violation is and other factors, which I am not 100% aware. It is sent to our mediators, in house, and they set up a time for mediation with the

complaint and the respondent. They try to work through the problem. It is not considered discipline. It is a faster process than the disciplinary process. It can also provide resolution and an answer for a complainant significantly faster than waiting for it to go through the disciplinary process. Since complainants usually have to live with and are neighbors with the respondent it can often bring a more peaceful coexistence with these people. Mediation is very successful in the Department. We use it for almost every profession. We have some good mediators.

Terence Brennan: It sounds like a process that, never been through it myself, is to resolve a misunderstanding between the two parties. Some of the items here are really very serious like committing acts of gross misconduct or mismanagement.

Patricia Rogers: I have been through mediation and for a time I was a certified mediator. You can go through mediation and resolve any number of issues. Sometimes issues on the face of them look extremely serious are not, sometimes they are extremely serious. In my experience a mediator will not take those cases they will very quickly identify they are cases that are not going to be resolved through mediation. They will walk away from the case and send them back. One of the benefits of mediation is if it is not resolved in mediation it is sent back. Neither side nor the mediator is allowed to discuss what occurred in mediation. It goes forward basically as a blind slate. It is a very positive way to try and resolve things that may have been a misunderstanding. If it is not a misunderstanding, mediation does not work.

Terence Brennan: I will take your description from your experience for what I expected mediation to be. As I looked at the list, these 8 items are potentially bad things. I will accept what you are saying.

Patricia Rogers, Chair: In my experience if they are truly gross negligence mediation is not going to work. There is no way you will resolve that in mediation. That would be my experience.

Kathleen Brown-Blake: Additionally, both parties have to agree to mediation. And if it doesn't work it does get kicked back down to legal for prosecution.

Terence Brennan: Is the result of mediation non-binding?

Patricia Rogers, Chair: Mediation is binding. If either party violates it then either party can move forward with the complaint. That is usually how mediation works, that is my experience at least.

C. Erica White: It is my understanding that if the parties agree to mediate an open case the case would be closed. If there is an additional issue the Department could re-open a case and proceed forward if either side violated that or if there is an additional issue.

Anthony Spivey: These are good questions that you may want to send via email or in writing before the November meeting. That way they can go to our regulatory staff to give you a better briefing of what goes on in the mediation process.

Motion: Kelly Moran made a motion to accept draft language for Mediation Rule 61E14-5.002.

Second: David Beswick seconds the motion.

Roll Call Vote: Dawn Warren, Yes; Kelly Moran, Yes; David Beswick, Yes; Terence Brennan, Yes; Maggie Rogers, reluctantly Yes; Patricia Rogers, Yes.

Kathleen Brown-Blake: (Read Section 120.695, Florida Statute; Notice of Non-Compliance.) The rule that was provided to you is a very short list of potential violations that would fall under what we believe would be a very minor violation of your rule where it would be reasonable to assume the violators is unclear of the rule or how to abide by it. We are obligated by the legislature to create this rule.

Motion: David Beswick made a motion to accept draft language for Notice of Non-Compliance Rule 61E14-5.003.

Second: Kelly Moran seconds the motion.

Terence Brennan: Yes, I see we're talking about withholding books and records once again. That kind of gives me pause on this.

Maggie Rogers: I don't have any pages after page 22. I just want you all to know if I sound confused it is because I am.

Terence Brennan: This is fairly short; it would be plausible to read it.

Kathleen Brown-Blake read the Notice of Non-Compliance rule draft language.

Terence Brennan: This indicates that the agency may provide a notice of non-compliance and that would be the initial response instead of a citation, it would just be a letter basically.

Kathleen Brown-Blake: Notice of Non-Compliance's are provided on a form. It is not so much a letter, it looks like a citation. It specifically states what the violation was, what statute(s) was violated and set's forth the requirements outlined in statute.

Terence Brennan: I don't believe I favor this.

Maggie Rogers: Erica, is it possible at our next meeting that you bring forms like this for us to see? We don't have access to what they look like and it is hard to make a recommendation when we don't have what it looks like.

C. Erica White: Yes, we can include that in the agenda materials for your next meeting.

Maggie Rogers: Is it possible to table this until then?

C. Erica White: Again, I want to point out that this is something that is done by all of our professions. This is just something that we are putting in place now. The issue with us is to help people comply with the law. If it can be resolved by a notice from the Department, you need to provide access to these records or else we will institute disciplinary proceedings. It does not mean that they will not be discipline. We are just giving them notice that if they do not comply we will move forward with disciplinary proceedings.

Kathleen Brown-Blake: The rule says it has to be corrected in 15 days upon service of the notice. Additionally, we are only authorized by statute to hand these things out if is reasonable that the violator was not ware of the rule or unclear on how it is applied. These are not given out to everybody they are only given in very specific circumstances by our investigators who do this for every other profession.

Maggie Rogers: Patricia, since this really an area of experience for you. What do you think about that?

Patricia Rogers, Chair: My question is why did you choose these two particular rules?

C. Erica White: Subsection A: What I have seen, for example an association will change a CAM or CAM firm they will request the old CAM Firm to give the records. There is a dispute over am I suppose to deliver to the new CAM Firm or are they required to pick them up. You spend two or three months haggling back and forth. The rules say the old CAM Firm is suppose to deliver them. The reason for notice of non-compliance, this would be given to the old CAM Firm to say if you do not deliver these records to the new CAM Firm within 15 days we will discipline you. It is just a way to start the process to address it immediately again, as oppose to waiting three or four months for it to get to legal for me to basically indicate this could have been resolved many months ago. Again for Section B, what we are seeing is that a CAM is saying we are going to charge you .50 a page to print, the complainant is saying you can't do that. Again, maybe the CAM needs to be educated as to what they can charge to give access to records. You can have an investigator go in, address it immediate opposed to waiting three or four months. These are areas I am seeing complaints in and by the time it gets to me it has been five or six months. Again, as Kathleen said it is just a way for certain situations to address the issue. It will not be issued all the time.

Patricia Rogers, Chair: In B you are saying it is only in condominiums, not co-ops or HOA's.

C. Erica White: We don't deal with HOA's. If there is a violation of 468 and a CAM is managng an HOA and not providing access to records we would discipline for that.

Again, it is only disciplined under Section 468 where the CAM is licensed to manage that HOA.

Kathleen Brown-Blake: This is their warning. They do not get a second bite of the apple. They do not get more than one notice of complaint for anything. This is essentially us saying you are on our radar, fix it now or we will be back.

C. Erica White: It helps our investigators when they go out to look at a complaint. They can issue it on the spot or in the field as opposed to waiting for it to come back to us in Tallahassee. In these areas this could be addressed by the investigator in the field when they go out.

Terence Brennan: I would think that somebody who did not understand the copying rate or what the rules are. It doesn't take 15 days to find out. Just a call to Tallahassee they can get set straight on that. Also, I feel there should be a tighter time limit on this. I know 15 days may be a regular business cycle, it just kind of drags things out. What I would like to see at some point, is an average of records complaint. To see what comes into the Department to see what people are saying is happened. I think that would be very educational. Is there a way to do that?

C. Erica White: Certainly as a member of the public you are entitled to have public records request to look at certain cases. Since the Council does not do discipline, therefore, you can see what complaints you would like. As it relates to the rule, I don't know how I would be able to give you that.

Terence Brennan: The complaints are public record obviously. Just like with the public it is impossible to know what the issues are, those are hard to see Does the Department have the ability to pull up the complaint?

Patricia Rogers, Chair: I think that is off the subject of this particular rule.

Maggie Rogers: I would like that answer because it does reflect on my question, about copying records on anything. Who pays for that, the old CAM or new CAM? Or do they just turn over the existing records and if they want a copy they make their own copy? Because, my experience and it was a costly one because it cost me thirty-thousand dollars, which took me an attorney to get the records it was a whole room of records.

Kelly Moran: Can we take some of the questions that do not relate to the rule off line?

Roll Call Vote: Dawn Warren, Yes; David Beswick, Yes, Terence Brennan, No; Maggie Rogers, Yes, Kelly Moran, Yes; Patricia Rogers, Yes.

Anthony Spivey: We have asked in the past for questions to be brought forward to staff before the meeting. That allows us to do research on your in depth question so when we get in the meeting we have the answers for you. To present them at the meeting leaves you a little frustrated because we do not have those detailed answers for you. For the

November meeting, if you have any questions on the issues we have discussed or will have for the November meeting please send you questions in to either me or Mary. This will allow for a more fruitful meeting for you.

Patricia Rogers, Chair: One of the things that happen is then we also go around and around because we can not answer the questions. It is very frustrating to both us and staff. It does help when we get your package to go through and send your questions.

Maggie Rogers: The reason I asked that question is because Erica mentioned it and I was trying to understand what she was saying. I was just asking for a clarification for something that she said. I wanted to not vote at all on this last amendment because I did not understand something that I needed to understand.

Motion: David Beswick made a motion to proceed to rule making and to permit the staff to make any typographical or technical corrections to the language as brought forth during the rule making process.

Second: Dawn Warren seconds the motion. Motion passes unanimously.

Terence Brennan: Is that on this item or that rule making in general.

Kathleen Brown-Blake: That is on the three rules that you approved the language on. The three rules we discuss previously.

Matt: It is very difficult for members of the public to follow the discussion, I just double checked DBPR's website where the CAM page where the meeting agenda and notice has been posted. There are no additional materials, so I have nothing I can read, none of these proposed rules. It would be extremely helpful and I respectfully request for future meetings whatever agenda packet that the board members receive for their review be posted on the webpage so members of the public can be equally prepare for the meeting.

Patricia Rogers, Chair: Tony, can you handle that?

Mary Alford: The reason the entire agenda packet is not on the website is through the posting of the Notice of meetings which link on the agenda to that it can be requested at any time by contacting our office so we can provide. It is not uploaded.

Terence Brennan: Is there any difficulty in doing it. It is the same packet that you send electronically to us out in the world here.

Mary Alford: I will be happy to look into and see what options we have about posting the materials on the website.

VI. PROSECUTING ATTORNEY REPORT – C. Erica White

C. Erica White: (Directed Council Members to the report pages.) This shows all the open cases and the status of those cases by attorney.

Patricia Rogers, Chair: It doesn't look like the case load is getting any smaller.

C. Erica White: Actually, we do have a new attorney, Belicha Desgraves, she has been brought on full time to address the CAM's case load. It has gone down after this report was printed and as of yesterday we only have 300 open cases and that is down from almost 500 from reports in previous meetings. We have been working very hard to get the CAM's case load down. I think by the November meeting the case list should be even smaller.

Patricia Rogers, Chair: What kind of cases are you finding? Are they basically the same thing?

C. Erica White: The main thing we are seeing is what we had a previous discussion on, duplicative cases against the CAM and CAM Firm, failure to provide access to records, those typically things and also withholding records when CAM Firms are changed. There are a couple of cases with financial embezzlement, very serious cases which we look at very closely. Usually the kinds of cases we are seeing is pretty much what I described. A lot of times we do get a lot of documentation from homeowners. So a lot of what we do is talking on the phone to complainants to try and explain what it is we can and can not discipline for. We do see a lot of cases were civil litigation is more appropriate and we have to explain to complainants that we do not get involve in that, we are only an administrative. They may want to look at a civil remedy that we can not advise them on. A lot of it is hands on talking to the public about their concerns.

Patricia Rogers, Chair: Are there any other comments from the Council? Thank you very much Erica.

VII. EXECUTIVE DIRECTOR – Dr. Anthony Spivey

1. Financial Statements ending June 30, 2012

Anthony Spivey read the information from the Financial Statements.

Unlicensed Account balance = \$84,483

Operating Account balance = (\$842,812) negative balance

Anthony Spivey: Talking with accounting and this will go back to the rules process we are trying to put into place now. The case load in legal is what is putting the account into a deficit. Right now you have \$429,763 charge to the Council for legal alone. The reason being is because of all the cases they are reviewing. By effectively moving these issues to the investigators and let them handle them through the citation process, minor issues that is, and not have these cases go through the legal process within the Department will

actually reduce the money amount that is being charged for case work. I had accounting run some figures for me. If you continue to go on the trend of having legal handling all of these cases you will be in a deficit indefinitely. I asked them to look at a possible fee increase, we are not introducing a fee increase just discussion purposes only, by going to a \$25 fee increase to the licensee you start to come out of the deficit period by 2017. By removing some of the case work from this group you will actually come out better without all those cases going to legal.

Patricia Rogers, Chair: How much money is being swept?

Anthony Spivey: There are no cash sweeps right now that have been brought to my attention.

Maggie Rogers: When was the last cash sweep and how much was it.

Kelly Moran: It looks like 2009.

Patricia Rogers, Chair: It looks like about a million dollars.

Maggie Rogers: If we had our million dollars we would be okay, right?

Anthony Spivey: Well, if you continue on the process with legal handling all of your cases then no. They spend a lot of time dealing with minor cases that really shouldn't be in legal and can be handled effectively by regulators in the Department. That will actually help reduce the charge to your account and you would be in a more positive balance. That is why we are having the discussion earlier to move these cases away from legal and put out in the field. The charges are removed from the Council's process by having the attorney's work fewer cases.

Maggie Rogers: I think what we are having here is a conversation where we fundamentally disagree on how things should be; whether you fine people to lessen the load or have more governmental field people to lessen the load. As you have heard, I am a person who would like to minimize Government work and fine people so they are responsible for getting their lives and actions straighten.

Anthony Spivey: I understand what you are saying, but I don't want you to go away with the impression that we are not doing anything. The minor cases can be handled in the field and if we get to a point where the individual still has not complied then they come to legal so it is not like they are getting away with anything.

Maggie Rogers: I understand. I think an additional and better solution is to fine the heck out of them so they won't do it. Then they have to take responsibility for their own actions. Or lose their license.

2. Division of Regulation Quarterly Complaint Report

Handout was reviewed by Council.

Terence Brennan: The footnotes are helpful.

Robert: The only comment I have in regards to the Division of Regulation is that they could take some best practices from the Bureau of Compliance. That legal does a great job with accountability and next steps for actionable items in regards to case loads. But, when it goes back to the Division of Regulation there is no accountability. There is no email signature, it just says things are coming from the Division of Regulation. There is no ownership of the case and there is no complaint closing letters. When you do something on that side of the house (Division of Condominiums, Timeshares and Mobile Homes) there is ownership from the time a complaint is turned in to the time it is finalized. When it goes through for my CAM issue once it goes from the field, the field will notify and say this has been looked at and now it is being turned over to legal. Legal does a great job accepting ownership, here is what is going on, and here is who you can talk to and why we have it. Once legal goes to close it out on their side then it goes back over to the Division of Regulation, the Division says here is what we are going to do, but there is no signature at the bottom of who is taking responsibility. If the Division of Regulation changes their mind and does some other things, again, it just says the division. There is no accountability, there is no complaint closing letter, it is ridiculous. I think they need to look at what the Bureau of Compliance does as far as their final process.

C. Erica White: Thank you for your comment. After legal gets the case it does not go back to the Division of Regulation. We either proceed with an administrative complaint or we close it. Regulation would have no further dealings on a case after it has been turned over to legal. Regulation does close cases out in the sense that they may get a complaint, they may determine if is not sufficient after conducting their investigation and close it before it even comes to us. Once it gets to legal we are the ones that finalize the closure of a case.

Robert: Yes, and in your letter you told the Division of Regulation here is the actionable item to be done. They accepted that actionable item and when they closed out on the actionable item, they were to provide me a copy of that and they never did.

C. Erica White: We do have a process by which we asked the Division of Regulation to issue a Cease & Desist order. In that particular situation legal did send it back ask the Division to assist with an order. In a general instance, not to you, we do ask the Division of Regulation to issue a Cease & Desist order. In that particular case, the case is closed, but the Division of Regulation does need to take action of a Cease & Desist in order to close. That is only in cases of unlicensed activity.

Robert: I never received, like the Bureau of Compliance will finalize a case complaint by always having a signature of the person at the bottom. It will usually have a case closing letter. Here is the process, here are the findings, now it is closed. They usually email and send through regular mail the closing document. In this particular case the next item was a Cease & Desist was supposed to be issued, Regulation took that and said yes we are in

the process of doing that, provided in the field and we will send you a copy. There is no one taking accountability of that item. Of course it states at the bottom it the Division of Regulation and no one taking accountability on that item.

Patricia Rogers, Chair: Robert, perhaps what you can do is get in contact with Tony so he can research it for you. I agree with you that a name should be attached, so if there was an issue you can deal with that directly. I agree with you there should be a name to it. I am sure the Division will address that.

3. Department's response to the Florida Bar

Anthony Spivey: This is the letter we prepared in response to the Florida Bar indicating some items or acts that are considered in their opinion the unlicensed practice of law. There is a response to the Bar from us, Erica put most of that information together. This is there for your review and summary of what occurred.

C. Erica White: For the benefit of the Council because we did not have a quorum at the last meeting. What we did is asked Tony as the Executive Director of the Council to provide his position on this issue on behalf of the Department as opposed to it coming from the Council since you did not have a quorum present. You can see the letter in case you have any questions. We did go through explaining what the issue was from that meeting.

Anthony Spivey: I want to reiterate that this letter is not the position the Council took because there was not a quorum at that meeting. I offered a letter for a response from the Department.

Patricia Rogers, Chair: At this time I would like the Council to provide support to the Department on that letter.

Motion: David Beswick made a motion in support of the Department's response to the Florida Bar on the Practice of Unlicensed Law by a CAM. The Council is taking the position of the letter and ratifying the letter.

Seconds: Maggie Rogers seconded the motion.

Terence Brennan: I read the letter. I have to say I don't fully understand some of the issues. There is such a stand between CAM's who have their education process is very short and attorneys who education is very long. It is very difficult to say what is right and wrong here. I will vote in support of the letter, but some of these items look more in the legal arena. I will trust the Department's judgment on this.

C. Erica White: To be clear. The Department's position is that there will be some delineation to what a CAM does that should be in the statute and not that the Florida Bar should be making some things the unlicensed practice of law when the statute outlines four separate things that are very broad. That is what the letters says. I can appreciate

what Mr. Brennan is saying. Our position is right now unless the statute limits what CAM's can do, we don't want certain things CAM's are doing to be criminal if they make it the unlicensed practice of law. That is basically what this letter is going to report.

Roll Call Vote: Dawn Warren, Yes; David Beswick, Yes; Terence Brennan, Yes; Maggie Rogers, Yes, Kelly Moran, Yes; Patricia Rogers, Yes.

VIII. COUNCIL DISCUSSION TOPICS

1. Professional Standards of Conduct

This topic was deferred to the November meeting.

2. Legislative Proposals: Background / Drug Testing

This topic was deferred to the November meeting.

IX. PROPOSED FUTURE MEETING DATES

1. November 16, 2012 – Tallahassee (later changed to November 30th)
2. February 8, 2013 – Telephone Conference
3. May 17, 2013 – Telephone Conference

Kelly Moran: I think it is extremely important that everyone can be in person at this meeting.

All Council Members approved the dates.

X. OLD BUSINESS

1. Discussion of Rule 61E14-4.001(3)(a), F.A.C.

Patricia Rogers, Chair: This is the rule we have been discussing and not completed. That is the one with the legal one into the second year. The issue was the rule says it should be taken in the year that the legislation passed the laws.

In some cases, what happens in some cases is that they take 2010 in 2012 and 2011 in 2012. What staff has told us is that they do not have a way to siphon out when those individuals who have not taken the CLU-1 in the second year. I thought, we had agreed to let it be for the moment. We would just leave it the way it is. At the moment they would accept it if it was completed, in either year. Please Council comment.

Kelly Moran: That is absolutely correct. The rule would stay as is until we had the ability to make changes to it. That would fit the Department's process.

Patricia Rogers, Chair: Do we need any further discussion at this time, Council?

C. Erica White: I don't think you need anything. Right now your analysis of the issue is correct.

Doug Dolan: I agree with Ms. White.

2. Public Information Brochure

Kelly Moran tabled this agenda item to the November item.

XI. SUGGESTED TOPICS FOR THE NEXT MEETING

1. Professional Standards of Conduct
2. Drug Testing
3. Public Information Brochure - draft
4. Complaint Categories / Process
5. Access to Public Records Policy / website
6. Discussion of Mediation

Kelly Moran: I would like a report maybe from the Governor's appointment office as to the status of the appointment of the open position on the Council as well as some terms that have come up. As if they are going to re-appoint or appoint into the open position. I think it is extremely important since we have not had a full 7 member Council in I don't know how long.

Dr. Anthony Spivey: The Department is working with the Governor's Appointments Office on this issue. I know for one of my other Boards their appointment number is extremely low and they are really looking at the critical Boards right now that virtually have no members on them at all. I know they are working on it and looking at vacancies on this Council as well.

Kelly Moran: Okay, that is great. Thank you, Tony. If we do not have enough candidates for the Governor's Office to fully vet out and appoint to our Council. I think it is important that Patricia and I know about it so we can do what we can to assist the Governor's Appointments Office so we do have enough potential candidates.

Patricia Rogers, Chair: I agree with Kelly.

Dr. Anthony Spivey: I do tell my groups as well, is that if you know of individuals that are willing to volunteer for the position, put the word out for them especially for the consumer member position because it seems to be harder to fill sometimes. Always put the word out to your colleagues and let them know there are vacancies and give them the process of where to go to get the information to be appointed. They can also call our office and we can direct them to the Governor's website.

Maggie Rogers: Is there a breakdown whether we need consumers or professionals on our Council.

Patricia Rogers, Chair: There are 3 (three) seats up for reappointment and there is 1 (one) CAM vacancy. We need 2 (two) CAM's, I am up for reappointment and I have re-applied. You and Terrance, your seats are up for re-appointment. I don't know if you have re-applied. And there is a CAM vacancy. We do need another CAM and it would be good to have all 7 (seven) seats filled. I think we do also need to look at the fact we have no one from the Panhandle on the Council. The Panhandle is very different then the rest of the State. It would be nice to have someone represent the Panhandle. That is something I have kept in mind when talking to different managers. I don't think we have anyone anymore from the Jacksonville area. That is something I have kept in mind as I have talked to managers and people out there.

PUBLIC COMMENTS:

Lisa Whitson: With Florida Community Association Professionals. The information packet that Matt referred too, can you tell me how to do that?

Mary Alford: I will be happy to provide that to you and anyone else who would like to request it. You can email me directly or contact our office. (Information provided)

Maggie Rogers: I would like to make a comment and a compliment about Mary Alford. She is so efficient and kind and we couldn't be more fortunate to have her. So I compliment you, Mary.

Dr. Anthony Spivey: Thank you.

Mary Alford: Thank you, Maggie. I appreciate that very much.

Terrance Brennan: I would agree with that.

Kelly Moran: I second that. Thanks Mary for all that you do.

Patricia Rogers: Thank you, Mary.

Mary Alford: Thank you very much Council members I appreciate that a lot. Thank you.

Dawn Warren: For the agenda I know you were talking about that, we are going to have on there complaint categories. I want to make sure that covers also CAM complaints and violations of 718 and 468.

Mary Alford: I can address that. I am actually putting together the training and power point. I have taken everything since I have been with the Council that you guys have expressed and your concerns about the process and what the Department does. I will include every step, including helpful information that CTMH does for actual community association managers with their outreach training. I will include everything we discussed with the citation, mediation, notice of non-compliance, you will be able see that first hand

too. And the differences of what fall under CTMH and what falls under CAM's with 468 with the Division of Regulation and our General Counsel.

Dawn Warren: Wonderful. Thank you.

XII. ADJOURNMENT

Motion: Maggie Rogers made a motion to adjourn the meeting.

Second: David Beswick seconds the motion.

Meeting was adjourned at 11:17 a.m.