CALIFORNIA ASSOCIATION OF REALTORS®

Minutes

www.car.org

October 15 – 18, 2008

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CALIFORNIA ASSOCIATION OF REALTORS® EXECUTIVE COMMITTEE
Long Beach Convention Center
Long Beach, California

CALL TO ORDER

The meeting was called to order by President William E. Brown at 2:00 p.m. on June 4, 2008.

ATTENDANCE

Members Present: President William E. Brown, President-Elect James Liptak, Treasurer Beth L. Peerce, Colleen Badagliacco, Jeff Barnett, Dona Crowder, Raymond Karpe, James Link, Ted Loring, Geoff McIntosh, Frank Oti, Edwin Resuello, Heidi Rickerd-Rizzo, Tracey Saizan, Joel Singer (Ex-Officio), Michael Tessaro

Members Excused: Barbara Delgleize

Also Present: 2008 Regional Chairs, 2008 Committee Liaisons

Parliamentarian: Tim Hegstrom

Staff Present: Helen Parrino, Rick Shumacher

APPROVAL OF MINUTES

It was Moved, Seconded and CARRIED to approve the minutes of the June 4 – 7, 2008 meeting in Sacramento, California.

It was Moved, Seconded and CARRIED to approve the minutes of the September 5, 2008 special meeting in Los Angeles, California.

REPORT OF THE PRESIDENT

President Brown reported on several of the significant issues expected to be discussed in committees during the week, including the consideration of the 2009 Budget and Strategic Plan, the Public Policy Reorganization Task Force recommendations, the final reports of the Private Transfer Tax Task Force and the Property Tax Basis Portability Task Force, the elections of the REBS Board of Directors and PAC Trustees, and various legislative issues.

It was Moved, Seconded and CARRIED, that C.A.R. approve the CALMLS, Inc. Bylaws as noticed and as posted on the mlsinput.car.org Web site.

Action of Directors: Approved w*ith a correction to clarify that a reference to "fifty percent" should be changed to "majority".*

REPORT OF THE PRESIDENT-ELECT

President-Elect James Liptak reported that the Regional Chairs expect to be discussing the current market conditions and other issues. He also spoke about the committee selection process for 2009.

It was Moved by President-Elect James Liptak, Seconded and CARRIED, that the Arcadia Association of REALTORS® be reassigned, per their request, from C.A.R. Region 16 to C.A.R. Region 13, beginning with the 2009 elective year.

REPORT OF THE TREASURER

Strategic Planning and Finance

Treasurer Beth L. Peerce, Chair of the Strategic Planning and Finance Committee, reported on the state of the Association's finances. She also noted that the Executive Committee had previously reviewed and adopted motions supporting the passage of the 2009 Budget and Strategic Plan at their September special meeting, and urged attendance at the SPF Forum.

See consent agenda, Attachment A, for additional Strategic Planning and Finance action items.

REPORT OF THE EXECUTIVE VICE PRESIDENT/STATE SECRETARY

Executive Vice President and State Secretary Joel Singer reported on the progress of the Association's subsidiaries.

CONSENT AGENDA

It was Moved, Seconded and CARRIED to approve the Consent Agenda as presented.

See Consent Agenda Action Items – Attachment A

SPECIAL REPORTS

Private Transfer Task Force
Heath Hilgenberg, Chair

Heath Hilgenberg, Chair of the Private Transfer Tax Task Force, presented a final report, including a recommendation that C.A.R. take a "wait and see" attitude with regard to sponsoring legislation to prevent or regulate the imposition of PTTs. Specifically, the sponsorship of any such legislation should occur if the makeup of the legislature changes significantly enough that it is politically feasible that the legislation will win approval.

Property Tax Basis Portability Task Force
Deborah Ritchey, Chair

Deborah Ritchey, Chair of the Property Tax Basis Portability Task Force, presented a final report, including the following recommendations:

1. Develop materials to educate REALTORS® and homeowners about the property tax benefit available due to Propositions 60 and 90. These materials could include but would not be limited to:
    a. A legal Q&A on the C.A.R. website.
    b. A brochure that can be provided to REALTORS®, Seniors Real Estate Specialist (SRES) instructors teaching in California, and homeowners.
2. Support a county establishing a pilot project that would evaluate on a temporary basis expanded property tax basis portability and its fiscal impact on government.
3. Staff prepare an Issue Briefing Paper for consideration by the Taxation Committee discussing whether C.A.R. should support legislation informing homeowners via their property tax bill as to the tax benefit available under Propositions 60 and 90.

It was Moved, Seconded and CARRIED, to accept the report of the Property Tax Basis Portability Task Force.

Action of Directors: To accept the report

Annette Graw, Chair of the Public Policy Reorganization Task Force, presented a progress report.

Public Policy Reorganization Task Force

COMMITTEE REPORTS

CREPAC Trustees
Marian Norris, Chair

It was reported for information only that the following slate of CREPAC Trustees and Alternates has been nominated.

NOMINEES FOR CREPAC TRUSTEE
(November 2008- November 2011)

Marian Norris, Region 7
Mike Teer, Region 14
Jimmy La Peter, Region 23
Susan Marshall, Region 24
Judy Zeigler, Region 28

NOMINEES FOR CREPAC ALTERNATE
(November 2008 - November 2009)

Cheryl McFall, Region 7
Linda Harrison, Region 8
Gene Lentz, Region 9
Jared Martin, Region 12
Carol Facciponti, Region 16
Mary Funk, Region 18
Greg Berkemer, Region 28
Anthony Agurs, Region 30
Cas Pinkowski, Region 32

Action of Directors: Slate of Trustees and Alternates Elected

It was reported for information only that CREPAC contributed $54,000 to bi-partisan candidates for the Assembly and Senate.

Federal Issues
J. Michael Roberts, Chair

It was Moved, Seconded and CARRIED, that C.A.R. “SUPPORT” the reforming of the rules for owner occupancy ratios of Common Interest Developments (CID) under the current FHA, GSE, CalVet, and VA programs.

Action of Directors: Approved (See Real Estate Finance Motions)

It was Moved, Seconded and CARRIED, that C.A.R. adopt the NAR transportation principles:

1. Federal spending for transportation infrastructure should be sufficient to maintain the current physical condition and level of performance of highways and transit systems and to make improvements to reduce congestion and to foster economic development. To finance increased transportation spending, C.A.R. and NAR support both a modest increase in the federal transportation user charge tax rate and indexing the tax rate to account for inflation. In addition, the federal government should explore a variety of means to ensure a reliable stream of revenue for transportation funding so that revenues grow in step with increasing travel demand.

2. High occupancy toll lanes should be permitted on roads financed wit federal assistance. All tolls collected on such lanes should be dedicated to transportation purposes in the same community in which they are collected.

3. Taxes levied on transportation users should be deposited in a trust account for spending exclusively on transportation purposes.

4. Interest on balances in the Highway Trust Fund should accrue to the Fund and be spent exclusively for transportation purposes.

5. States should have a large measure of flexibility in determining how Highway Trust Fund monies are spent within their borders.

6. Highway Trust Fund revenues should continue to be used for projects designed to mitigate air pollution by reducing vehicle travel.

7. The federal share of funding for new transit capital projects should remain on a par with the federal share of funding for highway projects.

8. Transportation planning and implementation should be fully integrated into a comprehensive community planning effort, coordinated with state and metropolitan planning processes, using substantial citizen involvement and civic leadership to achieve the consensus vision of the community.

9. The federal transportation funding bill should provide a predictable level of funding that avoids large changes from one year to the next.

10. All federal taxes levied on any fuel or alternative energy source used for surface transportation should be applied equally and deposited in the Highway Trust Fund.

11. The time required for environmental review of transportation projects should be significantly reduced without compromising environmental protections.

12. Federal surface transportation assistance programs for states should be structured so that:

- State and local transportation planning is not biased in favor or one mode or another because of differences in federal program requirements.
- Proportionally more funds are available in parts of a state with greater

transportation needs.
- Emphasis is placed on providing seamless connections between transportation modes.
- Priority in spending should be given to maintaining the integrity and performance of existing investments in national transportation infrastructure.

13. Transportation improvement planning should consider the needs of all transportation users along a transportation corridor and provisions should be made to accommodate a variety of users in every transportation project, where possible.

Action of Directors: Approved

It was reported for information only that the Federal Issues Committee will create a healthcare working group that would be charged with:

- Developing policy guidelines on healthcare issues that can be used to evaluate legislation as it is introduced.

- Analyzing legislation as it is introduced and reporting their recommendations to the committee.

IMPAC Trustees
Heather Brown, Chair

IMPAC Contributions

It was reported for information only that the following slate of IMPAC Trustees and Alternates has been nominated.

NOMINEES FOR IMPAC TRUSTEE
(November 2008- November 2011)

Carol Banner, Region 15
Pat Fredericks, Region 28
Michael Godfrey, Region 6
Don Scordino, Region 12
Terry Wunderlich, Region 4

NOMINEES FOR IMPAC ALTERNATE
(November 2008 - November 2009)

Les Fishman, Region 21
Dolores Golden, Region 22
Rebekah Owen, Region 19
Erik Weichelt, Region 24
Cynthia Wood, Region 4

Action of Directors: Slate of Trustees and Alternates Elected

Land Use and Environmental Committee
Liz Fitzgerald, Chair

It was Moved, Seconded and CARRIED, that C.A.R. adopt the following positions on November 2008 ballot propositions:

Proposition 7: “Renewable Energy. Statute.” – “NOT REAL ESTATE RELATED”

Proposition 10: Bonds. Alternative Fuel Vehicles and Renewable Energy. Statute." – "NOT REAL ESTATE RELATED"

Action of Directors: Approved (See Legislative Committee Report)

Legal Action Fund Trustees
Kathy Mehringer, Chair

It was reported for information only that, since the June meeting, the trustees reviewed nine cases and approved the following four cases:

Witt Home Ranch v. Sonoma County.
This case involves whether a subdivision that was created in 1915 that was government approved and complied with then existing law, can be used to subdivide property in 2005 even through the 1915 subdivivsion does not comply with current subdivision requirements. While this is an 80 year old subdivision, the concern is that the state appellate case may call into question the grandfather clause in the current act. The plaintiff states it could impact 70,000 lots in Sonoma County alone. The Trustees approved an amicus brief supporting the petitioner to get a hearing before the California Supreme Court.

Muhoberac v. Boyle.
This involved a creative attempt to avoid arbitration under the RPA. After entering into a purchase agreement and initialing the RPA, the buyer discovered flooding problems. After a failed mediation, the plaintiff buyer filed a lawsuit and the seller tried to compel arbitration. The buyer claimed the "misinformation" about the flooding translated into a fraudulent inducement to initial the arbitration clause. The court denied the motion to compel arbitration and the seller is appealing. The Trustees approved a brief supporting the enforceability of the arbitration clause.

County of Humboldt v. McKee et al.
This issue relates to the renewal of a Williamson Act parcel and whether new changes to the County requirements enacted after the Williamson Act contract was signed automatically are incorporated into that contract which automatically renewed per its terms. The trustees supported an amicus letter on behalf of the property owner who is seeking review before the California Supreme Court.

Steiner v. Thexton
Buyer entered into a contract for 12 acres and proceeded to investigate whether the property could be subdivided and incurred many costs. The contract allowed the buyer to cancel during this period. The seller terminated the contract and the appellate court ruled that due to the buyer's unilateral right to cancel, the contract was a disguised option that was not supported by consideration. The Trustees approved an amicus letter supporting the petition to obtain a hearing before the California Supreme Court which was granted. The Trustees also approved a brief on issues relating to the potential effects on the C.A.R. RPA.

Updates on cases in which C.A.R. participated as amicus:

Schaffter v. Creative Capital Leasing Group. This case involves the rights of a

broker to commissions under a buyer broker agreement after a seller and buyer cancelled their agreements once the buyer failed to close escrow. After a series of delays due to changes in counsel, the defendant buyer filed bankruptcy. The matter has now been released from the stay. The Court of Appeal ruled in favor of the buyers broker which enforced commission rights under C.A.R.'s buyer broker agreement.

Lange v. Sergerstrom Real Estate et al. A plaintiff filed a lawsuit without first demanding mediation. At issue was whether there was "substantial" compliance of the mediation provision by requesting it soon after the suit was filed. The appellate court upheld a strict reading of the C.A.R. clause and denied attorneys fees to the party that did not request mediation. Since the last meeting, C.A.R. sought publication of the favorable decision and the Court of Appeal granted C.A.R.'s request.

Legislative
Bill Jansen, Chair

It was Moved, Seconded and CARRIED, that C.A.R. adopt the following positions on November 2008 ballot propositions:

Proposition 1A: Safe, Reliable High-Speed Passenger Train Bond Act – "NOT REAL ESTATE RELATED"
[Note: Proposition 1A replaces Proposition 1 on which C.A.R. took a "NOT REAL ESTATE RELATED" position in September 2005.]

Proposition 2: California Prevention of Farm Animal Cruelty Act – "NOT REAL ESTATE RELATED" [adopted at the June 2007 meetings].

Proposition 3: Children's Hospital Bond Act - "NOT REAL ESTATE RELATED"

Proposition 4: Waiting Period and Parental Notification Before Termination of Minor's Pregnancy – "NOT REAL ESTATE RELATED"

Proposition 5: Nonviolent Offenders; Sentencing, Parole and Rehabilitation – "NOT REAL ESTATE RELATED"

Proposition 6: Criminal Penalties and Laws; Public Safety Funding – "NOT REAL ESTATE RELATED"

Proposition 8: Limit on Marriage – "NOT REAL ESTATE RELATED"

Proposition 9: Criminal Justice System; Victims Rights; Parole – "NOT REAL ESTATE RELATED"

Proposition 11: Legislative Redistricting – "NOT REAL ESTATE RELATED"

Proposition 12: Veterans' Bond Act of 2008 – "FOR"

Action of Directors: Approved (including positions on Propositions 7 and 10 as recommended by the Land Use and Environmental Committee and reported to the Directors by the Legislative Committee)

Membership
Cheryl McFall, Chair

See Consent Agenda (Attachment A) for an action item from the Membership Committee.

Professional Standards
Alicia Nuzzo, Chair

It was Moved, Seconded and CARRIED, that CAR adopt a procedure, to be drafted by staff, to allow local associations to appoint an Ethics Advocate Subcommittee, whose members would assist parties to a disciplinary complaint through the process, by helping with paperwork and representing the party at hearing, at the option of the party, subject to final approval from NAR.

Action of Directors: Approved

Real Estate Finance
Patricia Bouie Hinds, Chair

It was Moved, Seconded and CARRIED, that C.A.R., in conjunction with NAR, "SUPPORT" reform of seller-funded downpayment assistance programs that provide benefits to consumers, including housing counseling, and insures the safety and soundness of FHA.

Action of Directors: Approved

It was Moved by Patricia Bouie Hinds, Seconded and CARRIED, that C.A.R. "SUPPORT" removing the GSE's cap on the number of loans for non-owner occupied borrowers of 1-4 units.

Action of Directors: Approved

It was Moved and Seconded that C.A.R. "SUPPORT" the reforming of the 51% rule for owner occupancy ratios of Common Interest Developments (CID) under the current FHA, GSE, and VA programs.

An amendment to the motion recommended by the Federal Issues Committee was Moved, Seconded and CARRIED, that C.A.R. "SUPPORT" the reforming of the rules for owner occupancy ratios of Common Interest Developments (CID) under the current FHA, GSE, CalVet, and VA programs.

A vote on the main motion as amended CARRIED, that C.A.R. "SUPPORT" the reforming of the rules for owner occupancy ratios of Common Interest Developments (CID) under the current FHA, GSE, CalVet, and VA programs.

Action of Directors: Approved the Amended Motion as recommended by the Federal Issues Committee and the Executive Committee

Standard Forms Advisory
Anita Thede, Chair

It was reported for information only that the Standard Forms Advisory Committee (SFAC) received reports from approximately 12 Regional Representatives. The SFAC approved slight modification to the Buyer's Inspection Election (BIE) form. These changes include grouping various types of inspections by commonality. Additionally, the SFAC reviewed the Declaration Regarding Real Estate License and Tax Reporting (DLT) form and agreed to add a field for listing the taxpayer ID number. Additionally, minor changes were made to the Septic Inspection, Well Inspection, Property Monument and Allocation of Cost Addendum (SWPI) form. All of these forms are scheduled for release in November 2008. The SFAC had considerable discussion regarding the Residential Listing Agreement (RLA) form. The

Committee reached consensus on the content of a proposed revision of the protection clause and will review a draft on an upcoming conference call. The SFAC reviewed the forms proposed by the Commercial Forms Study Group and approved these forms for release in April 2009. The SFAC was apprised of the printed form configuration change from triplicate copies to duplicate copies. This configuration change will occur as forms come up for order by REBS. The RPA Study Group held their first meeting this week. This study group will submit their final report to the Standard Forms Advisory Committee by November 2010. Finally, the SFAC reviewed 32 of the 70 comments received. The balance of the comments will be reviewed on an upcoming conference call.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:50 a.m. on October 18, 2008.

ATTACHMENT A – CONSENT AGENDA

CONSENT AGENDA

Membership

1. That the following applicants be granted C.A.R. Honorary Member-for-Life status:

Alameda AOR
Raye Thieman-Pereira

Arcadia AOR
Andrew Demopulos

Bay East AOR
Al Boeder
Willie M. Campbell
Herb Coffman
Louise Dixon
Richard Farrer
Hillary Garcia
Joby Gosney
Beth Matthews
John O'Donnell
Dorothy Sacks
Howard Scruggs
James Seaver
Lorraine Texeira
Mary Tieman

Berkeley AOR
Edna Olmstead

Conejo Valley AOR
Marguerite Savage

Contra Costa AOR
Shirley Barnum
Louisa Camezon
Urcil Commons
Joan Pedron
W. Richards
Majed Sartipi
Gene Worthington
Dennis Young

Downey AOR
Lupe Rocha

El Dorado County AOR
Barbara Cook
Charles Pool
Marshall Stone
Russell Toliver

Betty Westerhout

Fresno AOR
Agnes Hagopian
Bart Hagopian
Albert Hovnanian
Joe Jones

Greater Antelope Valley AOR
Douglas Anderson
Lou Bozigian
Marvin Himlin
Carlene Lampela

Inland Valleys AOR
Steve Katko

Laguna BOR
June Place

Madera AOR
Donald Floyd

Montebello District BOR
William Nighswonger

Newport Beach AOR
Ginny Anderson
Robert Berg
David Bourke
C.F. Colesworthy
Ruth Flowers
Don Glantz
Shirley Harris
Inge Linhardt
Marjorie Nielsen
Ann Peters
Tom Rousselot
Sally Shipley
Lynne Valentine
Coby Ward
Beverly White

North Bay AOR
Edward Horsman
Robert Koenitzer

Northern Solano County AOR
Wilda Brakenridge
Jean Kunkel
Betty Rawlinson

Madonna Spurlock

Orange County AOR
Don Beaver
Shirley Bruce
Shirley Glick
Jan Herkelrath
Geofrey Layng
Madi Layng
Barbara Reily
David Romero

Pacific West AOR
Patricia Blinn

Pasadena-Foothills AOR
Norma Ellis
Betty Scannell

Plumas AOR®
Faith Swanson

Rancho Southeast AOR
Evelyn Arnold
Vester Holmes

Rim O' The World AOR
William Erambert
Sacramento AOR
May Chan
Casimir David
Charles Geise
Ginger Lambert
Marie Nelson
Virginia Raskin

San Diego AOR
Florence Conrad
William Gore
Yoko Sakaguchi
Jeanne Taylor
George Thomas

San Mateo County AOR
Janet Castellino
Charles Crotty
George Davenport
Lois De Felice
Louise Guzzo
Connie Huebner
Viola Martinez

Helen Moore
Shirley O'Connor
Pierrette O'Connor
Kaye O'Halloran
Hermann Schmid
Lamont Shadowens
Susan Woo

Santa Barbara AOR
Raymond Eller

Santa Clara County AOR
Richard Abbott
Henry Andrade
Ross Applegate
John Barbour
Buryl Barton
Edward Bray
Al Cook
Frank Crane
Virginia Cullen
Edith Davenport
Diane DeFaria
James DiGiorgio
William Eatmon
Larry Fordyce
Manuel Franco
W. Robert Gadsby
Antoinette Gillmeister
William Ted Glenn
Gregory Gray
Joseph Guerra
Mary Hazelrigg
Sylvester Heinberg
Armand Herrera
Oretha Houghton
V. June Kolb-Hayes
Eugene Kuhns
Kenneth Lehr
Raymond Levine
Foster Lopes
Therezita Masuet
Ronald Matusich
Jacqueline Moore
John O'Boy
James Phillips
Warren Racine
G Robertson
Frans Roosen
Sal Ruiz
Tony Sanchez

Louis Sereda
Jerome Silveira
Mary Jane Souza
William Starritt
Virginia Tamblyn
Rose Togami
Mary Jo Van Valey
Robert Weyhe

Shasta AOR
Edna Brown
Richard Weyenberg

Silicon Valley AOR
Mary Brown
John Lazar
Southland Regional AOR
Barbara Kantro

Tehama County AOR
Velma Galbraith

Ventura County Coastal AOR
Joan Bedal
David Bedal
Mike Losey

2. That the Statement of Income and Expenses by program for the eight months ending August 31, 2008 be approved.

CONSENT AGENDA

Strategic Planning and Finance

Total C.A.R.
Revenue of $23,824,400
Expenses of $ 16,474,700
An excess of income over expenses of $7,349,700

Political Activities Fund
An excess of income over expenses of $2,074,400

Issues Action Fund
An excess of income over expenses of $1,184,000

The C.A.R. Balance Sheet as of August 31, 2008
Total assets of $63,163,300 (of which $44,580,000 are current assets)
Total liabilities of $4,611,700 (of which $4,019,000 are current liabilities)
C.A.R. Fund Balance of $58,551,600

3. That the Projected Statement of Income and Expenses by program for the year ending December 31, 2008 be approved.

CONSENT AGENDA

Strategic Planning and Finance

Total C.A.R.
Revenue of $28,159,800

Expenses of $26,590,000
An excess of income over expenses of $1,569,800

Political Activities Fund
An excess of income over expenses of $1,830,900

Issues Action Fund
An excess of income over expenses of $824,600. This amount will be allocated to IMPAC as approved by the Directors.