

February 3 – 6, 2010

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CALIFORNIA ASSOCIATION OF REALTORS® EXECUTIVE COMMITTEE
Hyatt Grand Champions Resort
Indian Wells, California

The meeting was called to order by President Steve Goddard at 1:00 p.m. on February 3, 2010.

CALL TO ORDER

Members Present: President Steve Goddard, President-Elect Beth L. Pearce, Treasurer Don Faught, Darnella Barnes, Sharon Bowler, Eva Garcia, Ed Herold, Patricia Hicks, Mickey Knickerbocker, James Liptak, Vince Malta, Jared Martin, Mark Peterson, Mary Rovarino, Joel Singer (Ex-Officio), Judy Zeigler

ATTENDANCE

Member with Excused Absence: Allen Okamoto

Also Present: 2010 Regional Chairs, 2010 Committee Liaisons

Parliamentarian: Tim Hegstrom

Staff Present: Lindsey Moss, Helen Parrino, Rick Shumacher

It was Moved, Seconded and CARRIED to approve the minutes of the October 7 - 10, 2009 meeting in San Jose, California.

APPROVAL OF MINUTES

President Goddard reported on the 2010 Presidential Appointments of the Executive Committee and the Directors at Large, to be presented for approval by the Board of Directors.

REPORT OF THE PRESIDENT

It was Moved, Seconded and CARRIED that the following 2010 Presidential Appointments be approved:

2010 Executive Committee:

1. Steve Goddard, South Bay, President
2. Beth L. Pearce, Southland Regional, President-Elect
3. Don Faught, Bay East, Treasurer
4. Joel Singer, Los Angeles, Executive Vice President (Ex-Officio)
5. Darnella Barnes, Delta
6. Sharon Bowler, Citrus Valley
7. Eva Garcia, Sacramento
8. Ed Herold, Contra Costa
9. Patricia Hicks, East Valley
10. Mickey Knickerbocker, South Bay
11. Jim Liptak, Paso Robles
12. Vincent Malta, San Francisco

13. Jared Martin, Fresno
14. Allen Okamoto, San Francisco
15. Mark Peterson, Citrus Valley, RC
16. Mary Rovarino, Arcadia, AE
17. Judy Zeigler, California Desert

2010 Directors at Large:

1. Kim Boda, Big Bear
2. Tim Brigham, Big Bear
3. Virginia Butler, Palos Verdes Peninsula
4. Billie Jean Chadwick, Lompoc Valley
5. Geoffrey Craighead, San Mateo County
6. Jackie Crowley, Palos Verdes Peninsula
7. Miguel Garcia, Montebello District
8. Janet Halliburton, Oakland
9. Hannelore Knapp, Victor Valley
10. Larry Knapp, Sacramento
11. Andy Lai, Santa Clara County
12. Carolyn Mettelmann, Bay East
13. Lisa Muetterties, Calaveras County
14. Tim Muetterties, Calaveras County
15. Heather Raphael, Pacific West
16. Shari Setser, Sutter Yuba
17. Gary Sharrow, Rim O' The World
18. Staci Siddhadas, Santa Barbara
19. Scott Swendiman, Shasta County
20. Anita Thede, Berkeley

Action of Directors: Approved

President Goddard made note of the assignments each Executive Committee member has with respect to serving as a Liaison to the C.A.R. Regions.

President Goddard commented on the real estate market and the economy, and reported on several of the significant issues expected to be discussed in committees during the week, including the C.A.R. Budget and Membership, the release of new standard forms scheduled for April, zipForm 6 Upgrades, the REALTOR® Action Fund Opt Over Proposal, the Political Affairs Committee's proposed name change to REALTOR® Action Fund Committee, the concerns over "coming soon" advertising of pre-listed REO properties outside of the MLS, progress being made by CALMLS, a series of legislative issues related to the DRE, the new Public Policy Committee structure being implemented this week, the New Director Orientation held this week, and the selection of California as the Ambassador Association to Australia.

It was Moved, Seconded and CARRIED to approve a special resolution recognizing James Liptak's outstanding year as President of the California Association of REALTORS® in 2009. (See Attachment B)

Resolution of
Appreciation
James Liptak

Action of Directors: Approved

It was Moved, Seconded and CARRIED to approve a special resolution of grateful appreciation in honor of the selection of Jeannette Way as the recipient of the California Distinguished REALTOR® Award for the year 2009. (See Attachment C)

Jeannette Way,
California Distinguished
REALTOR® Award

Action of Directors: Approved

President-Elect Beth L. Peerce spoke about the timing of the committee selection process for 2011, and reported that the Regional Chairs discussed a number of issues. She also introduced the Committee Liaisons, and reminded all of their role in supporting the committee leadership and assisting the Officers with communications.

REPORT OF THE PRESIDENT-ELECT

Treasurer Don Faught, Chair of the Strategic Planning and Finance Committee, reported on the state of the Association's finances and the anticipated decline in membership. He also reported on the December Brainstorming Session held by the Committee, commented on the work done by the Investment Subcommittee, and urged attendance at the SPF Forum.

REPORT OF THE TREASURER

Strategic Planning and
Finance

See consent agenda, Attachment A, for additional Strategic Planning and Finance action items approved by the Directors.

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

REPORT OF THE EXECUTIVE VICE PRESIDENT/STATE SECRETARY

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

CONSENT AGENDA

See Consent Agenda Action Items – Attachment A

COMMITTEE REPORTS

It was reported for information only that the CREPAC Trustees transferred the 2010 Fair Share contribution of \$760,000 from CREPAC/Federal to the National RPAC.

CREPAC
Irma Vargas, Chair

It was reported for information only that the CREPAC Trustees recommended to the REALTORS® Political Action Committee (RPAC) Trustees of NAR that they contribute \$94,000 to 43 federal candidates for the 2010 June Primary.

It was Moved, Seconded and CARRIED, that C.A.R., in conjunction with NAR, "OPPOSE" discrimination based on sexual orientation for equal housing opportunity.

Housing
LeFrancis Arnold,
Chair

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that C.A.R., in conjunction with NAR, "SUPPORT" the reinstatement of the "spot approval" process for FHA loans.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that C.A.R. revise its current position of sponsoring SB 206 (Dutton), REO Homebuyer Tax Credit, to also include sponsoring or supporting the Governor's proposed tax credit for the purchase of new or existing homes as the purchaser's principal residence, if a reliable source of funding is identified and a bill to create such a tax credit is introduced.

Action of Directors: Approved

It was reported for information only that the IMPAC Trustees authorized the following contributions:

IMPAC
Don Scordino, Chair

Geyer Associates/Resource Landowners Coalition: \$15,000, as requested, to fund technical assistance for developing options for financing the state's Williamson Act subvention program

Beverly Hills/Greater Los Angeles, Pasadena-Foothills, Glendale and South Bay Association of REALTORS®: \$41,500, as requested, for a Point-of-Sale analysis and the development of a matrix of alternative solutions, with the condition that the requesting associations submit interboard solicitations to all Southern California local associations within 30 days of this IMPAC approval. Interboard Solicitations were also authorized for all southern California local associations at any amount.

Big Bear Association of REALTORS: \$25,000, as requested to the group Citizens Protecting the Rights of Property Owners (CPRPRO) towards previous and current legal fees incurred in a fight to preserve property owner's the rights to both Private Home Rentals (PHRs) and 1031 exchanges associated with vacation rentals in the City of Big Bear Lake. Interboard Solicitations were also authorized for any local association at any amount.

Oroville Association of REALTORS: Approve Oroville AOR's Interboard Solicitation request to solicit \$4,000 from the Chico and Paradise AORs to offset the cost of professional advocacy services to defeat a point of sale sewer lateral inspection and repair campaign.

Civil Justice Association of California: \$20,000 for annual membership, which includes a seat on the CJAC Board of Directors.

California Building Industry Association: \$25,000, as requested, to fund the Coalition effort to challenge the adoption of the General Permit for Discharges of Storm Water Associated with Construction Activities.

It was Moved, Seconded and CARRIED, that C.A.R. take the following position on an upcoming ballot proposition:

**Land Use and
Environmental**
Phyllis Carmichael,
Chair

Proposition 16 -- New Two-Thirds Requirement for Public Electricity Providers. Initiative Constitutional Amendment -- "AGAINST" (June 2010 ballot)

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that C.A.R. take the following position on an upcoming ballot proposition:

Safe, Clean, and Reliable Drinking Water Supply Act of 2010 Bond Initiative – “NEUTRAL” (Proposition Number Pending for November 2010 ballot)

Action of Directors: Approved

It was reported for information only that the Legal Action Fund Trustees considered three cases and approved one amicus brief.

Legal Action Fund
Clay Sigg, Chair

Miller vs. London Properties. The listing broker represented the seller in a business opportunity. A buyer made an offer on the property but had no real estate agent. The listing broker elected to represent the seller exclusively and provided a separate custome writing to that effect, which was signed by the buyer, in addition to the agency disclosures and elections required by law. The writing explicitly stated the broker was not the agent of the buyer in the transaction and was the exclusive agent of the seller. At the seller’s request, the listing agent removed a portion of the noncompete clause and the buyer accepted the contract. After the business failed due to a variety of reasons, the buyer sued the broker due to the change in the clause alleging that the broker had an agency duty to the buyer and had breached it. The trial court found there was no agency relationship and therefore no breach of an agency duty. The trustees approved an amicus brief supporting London Properties on the issue of a broker’s right to select single agency and to define the relationship between the parties by contract.

It was Moved, Seconded and CARRIED, that C.A.R. take the following position on an upcoming ballot proposition:

Legislative
Pat “Ziggy” Zicarelli,
Chair

Proposition 14 – Elections: Open Primaries. Legislative Constitutional Amendment – "NOT REAL ESTATE RELATED" (Proposition 14 would adopt an open primary system for state elected offices.) (June 2010 ballot)

Action of Directors: Amended to take a “NEUTRAL” position on Proposition 14

It was Moved, Seconded and CARRIED, that C.A.R. take the following position on an upcoming ballot proposition:

Proposition 17 -- "Continuous Coverage Auto Insurance Discount Act. Initiative Statute – "NOT REAL ESTATE RELATED" (June 2010 ballot)

Action of Directors: Approved

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

Membership
John Torres, Chair

It was Moved, Seconded and CARRIED, that a work group be formed drawing

MLS/Computer and

from MLS/CBT, Professional Standards and REO Advisory Committee members to address the issue of pre-listing marketing.

**Business Technology
Committee**
Bill Podley, Chair

Action of Directors: Approved

It was Moved, Seconded and CARRIED, to make changes to the C.A.R. Model MLS Rules which reflect the following policy decisions, such rules to be effective upon NAR approval:

- a. That the Model Rules be revised to adopt an Article 11 competency standard;
- b. That the Model Rules be revised to adopt an interim training requirement;
- c. That the Model Rules be revised to conform to NAR's revised COE so that where disclosure of the existence of offers on the property is authorized, that the listing broker's duty to disclose the source of the offers (i.e. whether offers are obtained by that licensee or their office or a cooperating broker) arises only if asked;
- d. That additional clerical user requirements which enhance accountability be added to the California Model MLS Rules;
- e. That the rules require a person with dual licenses to declare which one (or both) they are using to operate under the MLS;
- f. That the Model Rules provide a process for denying participation rights by using the California Code of Ethics and Arbitration Manual (which would have some minor provisions added for this) so that specifics of a hearing would be in place;
- g. That there be a rule prohibiting duplicate listings by the same Participant within the same property class;
- h. That the Model Rules setting forth the timing for submission of listings be amended to provide that the listing should be submitted within 2 days after all necessary signatures of the sellers have been obtained on the listing or at the start date of the listing, whichever is later;
- i. That the rules governing timing for status changes when cooperating agents deal directly with seller "model" the current 2 day requirement, i.e. that the cooperating agent has 2 days to notify the listing agent of pending and sold statuses, and then the listing agent has 2 days after notice to input the changes;
- j. That the rules regarding use and misuse of remarks be expanded to include examples to allow for greater clarity for the Participants and Subscribers;
- k. That a rule be added that allows the MLS to immediately remove an active listing remaining on the system after suspension or expulsion if Participant fails to comply with the rules;
- l. That auction provisions be added to the Model MLS Rules which include the following specifications:
 1. it must be clearly identified as an auction listing;
 2. whether the auction is with or without the seller's right of reservation;
 3. date, time and place of the auction;
 4. all the required procedures for Participants/Subscribers to register their representation of a potential bidder;
 5. compensation to be paid to the Participant representing the successful bidder;
 6. time or manner in which potential bidders may inspect the listed property;

- 7. whether or not the seller will accept a purchase offer prior to the scheduled auction including compensation;
- 8. any other pre-auction details and material rules or procedures for the auction;
- m. That the Model Rules prohibit placing a non-MLS Participant's name as a co-listing broker;
- n. That the Model Rules adopt a DOM/CDOM clause where CDOM is based on APN numbers and DOMs are tied to the brokerage firm and MLS listing and the CDOM reset clock be set at 90 days after the property has been off the market without a listing agreement or change of ownership.

Action of Directors: Approved

It was reported for information only that a work group be assembled to work with staff to consider a Model Citation Policy to present to the C.A.R. MLS/CBT Committee for further discussion and consideration at the next C.A.R. meeting.

It was Moved, Seconded and CARRIED, that the name of the Political Affairs Committee be changed to REALTOR® Action Fund Committee and the following mission statement be approved.

Political Affairs
Wendy Furth, Chair

REALTOR® Action Fund Committee Mission Statement

The mission of the committee is to provide education and training for politically involved REALTORS® to develop appropriate structures for effective communication with elected officials at each level of government; and to provide support for REALTORS® in the areas of fundraising, education and the Member Mobilization Program. The committee's primary function is to raise funds through the REALTOR® Action Fund, train local associations and to provide political education to local members, as needed. (February 2010)

Action of Directors: Approved (Consent Agenda)

It was Moved, Seconded and CARRIED, that notice be given to the directors for vote at the next regularly scheduled C.A.R. directors' meeting that each member, consistent with the structure of the variable dues formula*, be assessed for political purposes for 2011 and beyond the amount of \$49 by making a contribution to CREPAC or CREIEC for the assessed amount; or paying the assessment to C.A.R.'s Political Activities Fund (PAF).

*NOTE: The variable dues formula structure is in the CAR and NAR bylaws and virtually every local Association bylaws. It provides that dues are in an amount plus the same amount times the number of REALTORS® licensed directly or indirectly to the REALTOR® unless those licensees have joined as REALTORS® or REALTOR-Associates® directly. For example, if a REALTOR® has 100 agents and 80 of them join directly and the dues are \$50, then the REALTORS®' dues are 1 (the R) + 20 (the nonmembers) =21. The total dues for that member is \$50 x 21=\$1,050. Therefore, the Political Assessment in this same office would be \$49 x 21=\$1,029

Action of Directors: Approved

It was Moved, Seconded and CARRIED, seven in favor and five opposed, that C.A.R. advocate a position to NAR that NAR expand its policy so that a suspension or expulsion that is imposed by one AOR for violation of the Code of Ethics may be permissively upheld by all other AORs where the REALTOR® concurrently holds membership.

Professional Standards
West De Young, Chair

Action of Directors: Approved

It was reported for information only that the Standard Forms Advisory Committee (SFAC) received reports from 14 Regional Representatives. The reports were generally supportive of the proposed RPA with suggestions by some regions regarding the loan contingency period and other items. The SFAC had two meetings (one in conjunction with the RPA Study Group) earlier this week to review the latest draft of the RPA. They reviewed an additional 32 comments that were submitted via the Forum on Forms. The Committee agreed to approximately a dozen minor changes and corrections to the RPA. With the approved changes, the SFAC voted to release the following forms in April 2010:

Standard Forms Advisory
Lannie Mott, Chair

--California Residential Purchase Agreement & Joint Escrow Instructions (RPA-CA)

--FHA or VA Notice and Addendum (FVA)

--Table of Contents- Residential Purchase Agreement (TOC-RPA)

--Wood Destroying Pest Inspection & Allocation of Cost Addendum (WPA)

The Committee also agreed to update any forms as needed that will need to be changed as a result of the forthcoming RPA revisions. The SFAC also received an update that the Property Management Study group has had one meeting and will have subsequent meetings to review C.A.R. property management forms. An update from this study group will be provided to the SFAC in June 2010. Finally, the SFAC reviewed 64 of the approximately 87 comments received.

See Consent Agenda (Attachment A) for an action item from the Strategic Planning and Finance Committee.

Strategic Planning and Finance
Beth L. Peerce, Chair

It was Moved, Seconded and CARRIED, that C.A.R. modify its sponsored legislation regarding local government vacant property maintenance ordinances to:

Transaction and Regulatory
Liz Fitzgerald, Chair

a. Allow actual and reasonable local government nuisance abatement assessments to survive foreclosure.

b. Require local government to publish a schedule of fees that may be recovered for services rendered to the property.

Action of Directors: Approved

It was reported for information only that C.A.R. consider Pre-Listing signage issues in the MLS Committee.

It was reported for information only that staff has been directed to provide

detailed background information regarding increased collection of DRE fines penalties and costs of enforcement for consideration in October as possible legislation in 2011, and to provide detailed background information regarding changing the 4-year license to a 2-year license term, for consideration in October as possible legislation in 2011.

There being no further business, the meeting was adjourned at 7:50 a.m. on January 24, 2009.

ADJOURNMENT

ATTACHMENT A – CONSENT AGENDA

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

CONSENT AGENDA

Amador County AOR
Marlene Brandt
Marie Scofield

Membership

Arcadia AOR
Lanny Aplanalp
Ella Ranger

Berkeley AOR
Caroline Slotemaker-de-Bru

California Desert AOR
Barbara Peters

Citrus Valley AOR
Bill Scane

Delta AOR
Frank Aiello
William Craig
Bob Gunson
Betty Inzerillo

East Valley AOR
Ellowise Livingston

Glendale AOR
Seb Sterpa

Greater Antelope Valley AOR
Walt Troth

Humboldt AOR
Dick Lindstrom

Inland Valleys AOR
Wally Waldron

Laguna BOR
Joni Baker
Patricia Truman

Madera AOR
Lea Martinelli

Malibu AOR
Vera Hofer
Madeline Wright

Monterey County AOR
Dale Le Clerc
Annis Lembo
Dominic Mineo
Clarence Saunders
Clair Wright

Newport Beach AOR
Marcia Bents
John Jacobs
David Myhre
John Stonis
Goly Van Orden

North San Diego County AOR
Dianne Buran

Pacific West AOR
Joseph Berger
John Chakos
Ralph Dunham
Richard Gerry
Lois Givens
Priscilla Jachel
William Kuni
Louise Lynch
Josephine Moore
Joan Mueller
Norma Radosevich
Pat Reece
Palm Springs Regional AOR
Joan Baker

Pasadena-Foothills AOR
Nancy Gibbs
Veronica Terry

San Luis Obispo AOR
William Broadbent
Sheila Greenwood

Santa Clara County AOR
Lawrence Fargher
Mary FitzGerald
Gaylord Lemke
Richard Martinez

Jeannette Mihalak
Helen Ross

South Bay AOR
Mary Kay Birmingham

Southland Regional AOR
Norma De Haas

Tulare County AOR
Glen Burrough

Ventura County Coastal AOR
Joan Owen
Barbara Wouters

Yolo County BOR
Dick Partain

2. That the statement of operating income and expenses by program for the eleven months ending November 30, 2009 be approved.

CONSENT AGENDA

**Strategic Planning
and Finance**

Total C.A.R.
Revenue of \$26,322,800
Expenses of \$21,976,200
An excess of income over expenses of \$4,346,600

Political Activities Fund
An excess of income over expenses of \$1,827,800

Issues Action Fund
An excess of income over expenses of \$939,800

The C.A.R. Balance Sheet as of November 30, 2009
Total assets of \$61,643,500 (of which \$44,368,000 are current assets)
Total liabilities of \$3,236,400 (of which \$3,055,500 are current liabilities)
C.A.R. Fund Balance of \$58,407,100

3. That the projected statement of operating Income and expenses by program for the year ending December 31, 2009 be approved.

CONSENT AGENDA

**Strategic Planning
and Finance**

Total C.A.R.
Revenue of \$27,098,600
Expenses of \$25,188,100
An excess of income over expenses of \$1,910,500

Political Activities Fund
An excess of income over expenses of \$1,756,400

Issues Action Fund
An excess of income over expenses of \$783,500. This amount will be allocated

to IMPAC as approved by the Directors.

ATTACHMENT B

**CALIFORNIA ASSOCIATION OF REALTORS®
A RESOLUTION OF GRATEFUL APPRECIATION
TO JAMES LIPTAK
February 5, 2010**

BE IT KNOWN: The Board of Directors of the CALIFORNIA ASSOCIATION OF REALTORS® does hereby adopt this Resolution as a means of recording for posterity its appreciation for your outstanding leadership as the 102nd President of this great Association.

WHEREAS, James Liptak has established a lengthy and exceptional record of personal commitment and volunteer service to the real estate industry at the local, state and national levels; and

WHEREAS, Your leadership was a guiding force for the implementation of programs, services and educational opportunities that benefit members as they conduct their daily business; and

WHEREAS, Under your direction, the Association made important strides to reach out to a broad diversity of members and prospective members; and

WHEREAS, During your term, the Association was well represented in its efforts to implement sound public policy at both the state and national levels; and

WHEREAS, By virtue of your friendship, loyalty, dedication and commitment to the real estate community and the public, you leave this Association a legacy of leadership and progress that will endure; therefore, be it

RESOLVED, That your fellow officers, directors and members of the CALIFORNIA ASSOCIATION OF REALTORS® do hereby convey to you, James Liptak, our gratitude for your outstanding leadership, and look forward to your continued contributions in the future.

ATTACHMENT C

**CALIFORNIA ASSOCIATION OF REALTORS®
A RESOLUTION OF GRATEFUL APPRECIATION
TO JEANNETTE WAY
February 5, 2010**

RECIPIENT OF THE 2009 CALIFORNIA DISTINGUISHED REALTOR® AWARD

- BE IT KNOWN:** The Board of Directors of the California Association of REALTORS® does hereby adopt this resolution as a means of recording for posterity its appreciation for your outstanding contributions to organized real estate which led to your selection as recipient of the 2009 California Distinguished REALTOR® Award -- the highest honor the Association can bestow upon any member; and
- WHEREAS,** You have established a continued exceptional record of personal commitment and service to the cause of REALTORS® as an active member of the Northern Solano County Association of REALTORS®, the California Association of REALTORS®, and the National Association of REALTORS®; and
- WHEREAS,** You have met or exceeded all of the criteria necessary to be considered for this award, including at least 20 years as a California REALTOR®, demonstration of outstanding service to the Association for at least 20 years, in particular serving as a C.A.R. Director-for-Life; and
- WHEREAS,** Your vision and many contributions have helped the Association and its members through many challenging years marked by a host of major housing issues and an ever-changing real estate environment; therefore, be it
- RESOLVED,** That the officers, directors and members of the California Association of REALTORS® do hereby convey to you, Jeannette Way, 2009 recipient of the California Distinguished REALTOR® Award, our gratitude for your many years of outstanding service and leadership, and look forward to your continued contributions in the future.