

MINUTES

South Carolina Auctioneers' Commission Meeting

10:00 a.m., August 11, 2020
Virtual/Teleconference Commission Meeting

Tuesday, August 11, 2020

1. Meeting Called to Order

Victor J. Avendano, Chairperson, of Mount Pleasant, called the regular meeting of the South Carolina Auctioneers' Commission to order at 10:05 a.m. Other commissioners present for the meeting included: Matthew Holiday, Vice Chairperson, of Spartanburg; Joseph B. Burns, of Swansea; and Julian R. Dixon, Jr. of Sumter.

Staff members participating in the meeting included: Georgia Lewis, Advice Counsel, Office of Advice Counsel; Mary League, Advice Counsel, Office of Advice Counsel; Shayla Hayes, Disciplinary Counsel, Office of Disciplinary Counsel; Donnell Jennings, Disciplinary Counsel, Office of Disciplinary Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Jeanie Rose, Administrative Assistant; and Rodney Pigford, Chief Investigator, Office of Investigations and Enforcement.

Members of the public attending the meeting: Lola Whitworth of Southeastern School of Auctioneers; and David Thompson

A. Public Notice

Mr. Avendano announced that public notice of this meeting was properly posted at the SC Auctioneers' Commission office, Synergy Business Park, Kingstree Building, and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. In accordance with the Governor's directives regarding social distancing, the meeting will be held via video and teleconference. Members of the public who wish to attend may do so by telephone. For telephone logon information, please email contact.auctioneer@llr.sc.gov.

2. Introduction of Commission Members

The Commission members introduced themselves.

3. Approval of Excused Absences

All members of the Commission were present.

4. Approval of Minutes from the May 19, 2020 meeting

The Commission members reviewed the minutes. Mr. Avendano called for a motion.

MOTION

Mr. Dixon made a motion to approve the May 19, 2020 minutes as presented. Mr. Holiday seconded the motion, which carried unanimously.

5. Chairperson's Remarks – Victor Avendano

Mr. Avendano thanked everyone for attending.

6. Administrator's Remarks – Amy Holleman

A. Financial Report

Ms. Holleman informed the Commission that the cash balance at the end of June 2020, was \$849,626.55 and that the Recovery Fund balance at the end of June 2020 was \$125,000.00.

Ms. Holleman updated the Commission regarding PSI stating that one applicant has passed the exam through PSI and that the start-up went with limited issues and no complaints.

Ms. Holleman informed the Commission that NALLOA, where she serves as the current president, had a virtual annual meeting with various topics. One topic of concern was online auctions and the challenges posed in regulating this form of auction.

Ms. Holleman reminded the Commission and attendees that it is time to complete the U.S. Census which can be completed and submitted electronically.

7. Reports

A. Investigative Review Committee (IRC)

Mr. Pigford asked that the Commission review and approve the Investigative Review Committee Report recommending the dismissal of cases 2020-5 and 2020-6; and reconsideration for dismissal for case 2019-18.

Mr. Avendano called for a motion in this matter.

MOTION

Mr. Holiday made a motion to approve the Investigative Review Committee's recommendations. Mr. Dixon seconded the motion, which carried unanimously.

B. Office of Investigation and Enforcement (OIE)

Mr. Pigford presented the OIE report as information only, that there are seven active investigations, three do not open; three pending review by the IRC and one closed.

C. Office of Disciplinary Counsel Report (ODC) – Shayla Hayes

Ms. Hayes presented the ODC Report as information only: one case pending Consent Agreement and one pending a hearing.

New Business

8. Application Hearings

This proceeding was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

A. Auctioneers' Application

1. David Thompson

Mr. David Thompson appeared before the Commission on his own behalf.

Ms. Holleman informed the Commission that the application is complete; however, staff was unable to approve the application due to Mr. Thompson's credit report listing over \$1,000.00 (one-thousand dollars) in collections.

Mr. Thompson stated that the collection resulted from medical bills, with no other collections on his credit. Mr. Thompson stated that due to the source of the bills he is not required to make payment arrangements.

The Commission questioned Mr. Thompson regarding this matter.

MOTION

Mr. Holiday made a motion that the Commission approves Mr. David Thompson to take the auctioneer's exam. Mr. Dixon seconded the motion, which carried unanimously.

9. Consideration of Online Distance Learning

1. Southeastern School of Auctioneering

Ms. Holleman informed the Commission that Southern School of Auctioneering is asking that the Commission accept the school's online course curriculum. Ms. Whitworth presented the online distance learning curriculum, which will be offered in the upcoming fall and spring sessions. Ms. Whitworth stated that it is the school's preference to offer online distance learning on a continuous basis. Ms. Whitworth then asked that the Commission approve the curriculum.

MOTION

Mr. Dixon made a motion to approve the online distance curriculum for Southeastern School of Auctioneering for the 2020 August, September, November sessions and the May 2021 session. Mr. Holiday seconded the motion, which carried unanimously.

10. Online Distance Learning for Initial Licensure

Ms. Holleman reminded the Commission that the next scheduled exam is June 19, 2020. In consideration of the Governor's social distancing guidelines, pertaining to the COVID-19 medical emergency, she asked if the Commission would consider rescheduling or postponing the exam. Also, as an exam update and consideration, Ms. Holleman informed the Commission that the new testing provider, PSI, will be able to offer exams beginning July 1, 2020. In providing additional information, Ms. Holleman and Ms. Lewis read the current exam statute Sections 40-6-230(3)(b); 40-6-235(3)(b) and regulation 14-1(A). Ms. Lewis expounded those exceptional circumstances, as referenced in regulations 14-1(A) could include the exam being offered by the third party PSI and/or due to the current pandemic.

The Commission, discussing the matter concluded that due to the pandemic and based upon the third party, PSI, administrating the exam beginning July 1, 2020, that the June 19, 2020 exam should be postponed.

Mr. Avendano called for a motion in this matter.

MOTION

Mr. Burns made the motion that the testing be available year round including the months of March, June, September and December as provided in Regulations 14-1(A) beginning on July 1, 2020 with PSI. Mr. Dixon seconded the motion, which carried unanimously.

11. Code of Ethics

Ms. Holleman informed the Commission that the agency has required that every Board/Commission examines its statutes and regulations to ensure that the Code of Ethics is adequately covered. Ms. Holleman read statute 40-6-110 which addresses grounds for disciplinary actions. Ms. Lewis and the Commission agreed that the statute adequately

covers the Code of Ethics.

Mr. Avendano called for a motion on the matter.

MOTION

Mr. Dixon made a motion that the Commission determined that the current statutes and regulations adequately address the Code of Ethics. Mr. Holiday seconded the motion, which carried unanimously.

12. 2017 Regulatory Review

Ms. Lewis presented the 2020 amended regulations and asked the Commission to review the regulations. During the review at 11:41 a.m., the Court reporter lost connection and the Commission took a break until 11:51 a.m. The Court reporter re-established the connection. The Commission discussed the following changes presented by Ms. Lewis:

2017 Regulatory Review Report

In furtherance of the directives stated in Governor Henry D. McMaster's Executive Order 2017-09, the South Carolina Auctioneers' Commission ("Commission") met on August 15, 2017 to discuss the necessity of promulgating additional regulations and to review its existing regulations. Throughout this process, the Board heeded Governor McMaster's call to scrutinize all proposed new regulations in accordance with the well-known Rotarian four-point test and to identify existing regulations the Board intends to repeal, regulations the Board intends to amend, and regulations that appropriately protect the public's interest as currently written. The Board is mindful of its mission to promote the health, safety, and economic well-being of the public through regulation, licensing, enforcement, training, and education. The Board's mission goes hand-in-hand with the Governor's effort to foster a competitive business climate and positive regulatory culture by eliminating overly burdensome regulations.

Proposed New Regulations

The Board anticipates and recommends the promulgation of additional regulations to promote the health, safety, and economic well-being of the public, as follows:

None at this time.

Review of Existing Regulations

I. Regulations the Board Intends to Repeal or Withdraw

The Board has reviewed its existing regulations for the purpose of identifying any regulations that unnecessarily burden the pursuit of professional and occupational practice in our state or no longer serve the purpose of promoting the health, safety, and economic well-being of the public. The Board proposes to repeal or withdraw the following regulations:

14-7- Duplicative of 40-60-1 10 and 40-1-110

14-8- Duplicative of 40-60-110 and 40-1-110

14-9-No authority and anyone can appear before the Commission.

14-10-Excessive requirement-Anyone can appear before the Commission.

14-14- Duplicative because it is Regulation 10-5

14-17-Duplicative because it is in Regulation I 0-5

10-5 (A)(l)(e), (A) (2)(d) and (B)(d) remove all prorated fees-policy-not in statute or regulation

II. Regulations the Board Intends to Amend

The Board has reviewed its existing regulations to identify opportunities for amendment to better promote the health, safety, and economic well-being of the public. The Board proposes to amend the following regulations:

14-1-Examinations to include Firm license examination process

14-1 (G) Keep the first sentence but delete the remainder since it is redundant to the statute.

14-2-Reporting of Continuing Education-(A). Change "Four hours" to "Eight hours" in first sentence because renewals are now 2 years. Change "licensing year" to "licensing period." "Review language for completing auctioneer's school and getting CE credit.

14-3- Change of Address-strike the fee language.

14-5- Advertising-Add language to reflect that an auctioneer employed by a license real estate broker must include his name and auctioneer license number in all advertisements.

14-6-Change title to reflect "No Unlicensed Bid Callers"

14-13 and 14-15-Combine into one regulation. Both provide guidance to Apprentice and Supervisors of Apprentice.

14-13-Change 40-6-230 to 40-6-220-Consider changes in the wording of this to provide staff with guidance on the supervised training and reporting of supervised training.

10-5-Amend any exam fee from \$25.00 to the fee being "as set by the provider"

10-5 Amend to reflect the late fees for renewals as provided in 14-12(A) and (B).

III. Regulations that Appropriately Protect the Public's Interest as Currently Written

The Board has reviewed its existing regulations to identify those that do not require either repeal or amendment. The Board is confident the following regulations continue to promote the health, safety, and economic well-being of the public in the least restrictive manner:

14-4-Display of License

14-11-Written Agreements Relating to Auctions

14-12-Late fees

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14-16-Auctioneer, Apprentice Prohibited from Working for Unlicensed Firm; Exception; Penalty

13. Approval of Meeting Dates/Calendar for 2021

Tuesday, March 23, 2021

Tuesday, May 18, 2021

Tuesday, August 10, 2021

Tuesday, November 16, 2021

MOTION

Mr. Burns made a motion to approve the 2021 Commission meeting dates. Mr. Dixon

seconded the motion, which carried unanimously.

14. Public Comments (no votes taken)

There were no comments from the public.

15. Executive Session

Mr. Avendano asked for a motion to go into executive session to seek legal advice.

Executive Session

MOTION

Mr. Dixon made a motion to go into executive session to receive legal advice. Mr. Holiday seconded the motion, which carried unanimously.

16. Return to Public Session

Mr. Avendano asked for a motion to go into executive session to seek legal advice.

MOTION

Mr. Burns made a motion to come out of Executive Session. Mr. Dixon seconded the motion, which carried unanimously.

Mr. Avendano noted, for the record, there were no votes taken during Executive Session.

Mr. Avendano called for a disposition in this matter. Mr. Burns stated that the Commission does not have a motion; however, recommends that an Online Distance Learning Committee, consisting of Ivan Broadwell, (if he agrees to serve), the Commission Administrator, and Advice Attorney draft a curriculum to present at Commission's spring meeting. The Commission asked that Ms. Holleman contact Mr. Broadwell regarding serving on the Online Distance Learning Committee.

17. Adjournment

Mr. Avendano called for a motion to adjourn the meeting.

MOTION

Mr. Burns made a motion to adjourn the Commission meeting. Mr. Dixon seconded the motion, which carried unanimously.

Mr. Avendano, after ensuring there being no further business to discuss, adjourned the August 11, 2020 meeting of the South Carolina Auctioneers' Commission at 12:57 p.m.

The next scheduled Commission meeting for the South Carolina Auctioneers' Commission is November 17, 2020.