

AUCTIONEERS BOARD MEETING
TENTATIVE Agenda
March 30, 2021, 10:00 a.m.
Department of Professional & Occupational Regulation
804-367-8514

VIRTUAL meeting

MEMBERS OF THE PUBLIC: PLEASE SEE PAGE THREE OF THE AGENDA FOR VIRTUAL MEETING ACCESS INSTRUCTIONS.

1. Call to Order – Roll Call
2. Welcome Back Bonnie Davis
3. Emergency Evacuation and COVID-19 Safety Procedures
4. Virtual Meeting Procedures
5. Approval of Agenda
6. Approval of Minutes: October 6, 2020 Board Meeting
7. Public Comment Period*
8. Resolution for Marian Brooks
9. Review of Files**
 - File Number 2019-02639, John Lewis Brinkley, d/b/a PCA Antiques IFF (Updike) – Disciplinary
 - File Number 2019-02689, John Lewis Brinkley, d/b/a PCA Antiques IFF (Updike) – Disciplinary
 - File Number 2020-01359, Carroll Eugene Daniels, d/b/a/ Gene Daniels Auctions IFF (Updike) – Disciplinary
 - File Number 2020-02444, Carroll Eugene Daniels, d/b/a/ Gene Daniels Auctions IFF (Updike) – Disciplinary
 - File Number 2020-02794, Carroll Eugene Daniels, d/b/a/ Gene Daniels Auctions IFF (Updike) – Disciplinary
10. Review of Financial Statements
11. Licensed Population
12. Financial Disclosure Statements
13. Other Business
 - Contract Extension for Exam Vendor

14. Conflict of Interest Forms / Travel Vouchers

15. Adjourn

NEXT MEETING TENTATIVELY SCHEDULED FOR JULY 27, 2021

* Five minute public comment, per person, with the exception of any open disciplinary or application files.

** Agenda materials made available to the public do not include disciplinary case files or application files pursuant to §54.1-108 of the Code of Virginia.

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8510 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

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Auctioneers Board Meeting

Public Participation in March 30, 2021 Virtual Meeting

AUTHORITY | Virtual Meeting

Access to the Perimeter Center, where DPOR board meetings are normally held, is closed to the public as a result of the COVID-19 pandemic. The meeting will be conducted in accordance with applicable provisions of the Freedom of Information Act (Chapter 37 of Title 2.2 of the Code of Virginia) and Item 4-0.01 of the 2020-2022 Appropriations Act.

ACCESSING THE MEETING | Google Meet

Members of the public may observe the meeting via the Google Meet platform using this link: <https://meet.google.com/bun-mxji-qtn>

The public can also listen to the meeting via audio by calling the number below and entering the access code (PIN):

Phone number: (US) +1 617-675-4444

PIN: 386 105 363 5812#

PUBLIC COMMENT | Registration Required

Members of the public who would like to provide comments to the Board during the public comment period must notify the Board in advance of the meeting in order to be registered. Please email the Board at auctioneers@dpor.virginia.gov by 12:00 noon on March 29, 2021, and provide your name and email address. You will receive an email confirmation once your registration is complete.

Providing Public Comment

- Members of the public who have registered to provide comment can do so after having their names announced during the public comment period.
- Commenters will be limited to 5 minutes.
- Participants are asked to call from a location without background noise.
- The public comment period is an opportunity to provide comments to the Board. If a member of the public has questions of the Board or needs information, please email your inquiry to the Board office at the email address above so that staff can handle it appropriately.
- At the close of the public comment period, all public participants' connections to the meeting will be muted, and they will only be able to view and listen to the meeting.

VIRTUAL BOARD MEETING INSTRUCTIONS

- Feedback on this electronic meeting can be provided to the FOIA Council on the **Electronic Meetings Public Comment Form** available at:
<http://foiacouncil.dls.virginia.gov/sample%20letters/welcome.htm>.

DURING THE MEETING | Broadcast Interruption

Should an interruption of the broadcast occur during the meeting, please email bonnie.davis@DPOR.Virginia.gov or call 804-367-8514.

The Board and staff appreciate your patience as we work through any challenges associated with a virtual meeting.

The safety of all participants is of utmost concern during these unprecedented times and we look forward to resuming in-person meetings once it is safe to do so.

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- **Call to Order – Roll Call**
- **Welcome Back Bonnie Davis**
- **Emergency Evacuation Instructions**
- **Virtual Meeting Procedures**

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**AUCTIONEERS BOARD MEETING
MINUTES**

The Virginia Auctioneers Board met on October 6, 2020, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Betty Bennett (Auctioneer)
Douglas Sinclair (Auctioneer)
Andrew Smith (Citizen Member)
Linda Terry (Auctioneer)

Staff present for all or part of the meeting were:

Mary Broz-Vaughan, Director
Kate Nosbisch, Executive Director
Amy Goobic, Executive Assistant

Elizabeth Peay, Assistant Attorney General was present from the Office of the Attorney General.

Mr. Sinclair, Chair, called the meeting to order at 10:01 a.m.

Call to Order

Mr. Sinclair advised the Board of the emergency evacuation and COVID-19 safety procedures.

**Emergency Evacuation
and COVID-19 Safety
Procedures**

Ms. Goobic provided a brief tutorial on the new tablets for board meetings, replacing the laptops.

Ms. Nosbisch thanked the Board members for attending, and expressed regrets from new Board member, Angela Smith-Mackey, as she was unable to attend.

Mr. Smith moved to approve the agenda. Ms. Terry seconded the motion which was unanimously approved by members: Bennett, Sinclair, Smith, and Terry.

Approval of Agenda

Ms. Bennett moved to approve the October 18, 2019 Board meeting minutes. Mr. Smith seconded the motion which was unanimously approved by members: Bennett, Sinclair, Smith, and Terry.

Approval of Minutes

Ms. Nobsch read correspondence from the Virginia Auctioneers Association (VAA):

Public Comment Period



October 6, 2020

Virginia Auctioneer License Board/DPOR
9960 Mayland Drive
Richmond, VA 23233

Members of the Virginia Auctioneer License Board and Members of DPOR:

The Virginia Auctioneers Association (VAA) would like for the following to be addressed by the Virginia Auctioneer License Board:

1. The VAA would strongly encourage the Auctioneer Board, the Attorney General and Counsel for the Board and DPOR to consider an auction as an auction regardless of the method used to obtain bids; whether it be live, in person, online, virtual, etc.
 - a. The public (consumer) at this current time has no recourse against online auctions because the current interpretation of the Virginia Auction Law.
 - b. Jurisdiction of the actual auction. If the merchandise is in that state of Virginia, the license board should have jurisdiction. The jurisdiction should not be based on where the auctioneer is from or where the online platform is housed.
 - c. There is a higher number of online auctions being conducted than live auctions in the state. That has been accelerated with COVID19.
 - i. There are online auctions for real estate, personal property, titled vehicles, and benefit auctions. Real Estate and titled vehicles in particular are subject to regulations from other agencies requiring auctioneers license if being sold at auction and those other agencies do not distinguish between a live outcry auction and an online auction.
 - d. There are four basic types of auctions. Live outcry auctions with in person bidding and a bid calling auctioneer, simulcast auctions with in person and online bidding and a bid calling auctioneer, virtual auctions with online only bidding and a bid calling auctioneer, and online only auctions with online bidding and no bid calling. If the current law is interpreted as not applying to online auctions, then where is the line drawn for virtual auctions?
 - e. "Members of the audience"- in this day and age an audience can be anywhere and certainly applies in other jurisdictions to online audiences. This needs to be revisited!

48 N. Emerson Avenue, Ste. 300 ~ Greenwood, IN 46143 ~ vauctioneers@vaa.org ~ 888-878-0601

2. The VAA feels strongly that the Rules and Regulations for auctions in the state of Virginia should be equal for all and regulated as such!

- a. Personal statement from Josh Puffenbarger, Vice President Virginia Auctioneers Association
As a licensed auctioneer in multiple states, I would like all individuals that are conducting an auction to be treated equally with the exceptions set aside in VA code 54.1-601. From a regulatory standpoint, there should be no differences in regulations depending upon how the auction is being conducted. Online auctioneers and live auctioneers are both selling for the public, to the public, and should be regulated equally in all aspects of the law.

Josh Puffenbarger #2907003893

- b. There are neighboring states (North Carolina and West Virginia) that regulate online auctions the same way they regulate live auctions.

In closing we would like to thank the Virginia Auctioneer license board and the DPOR for their consideration into this matter.

Sincerely,

Virginia Auctioneer Association Board of Directors

Discussion was held on the regulation of online auctions. Ms. Nosbisch reminded the members that the Board has discussed the topic many times over the last decade. Ms. Broz-Vaughan stated that the any increased regulation would be a policy issue, addressed through the legislature. Ms. Broz-Vaughan added that the threshold for approving such legislation would be high, as it would increase regulation. Ms. Peay commented that under code, the licensee must be a resident of Virginia, and added that unlicensed activity cannot be regulated.

Regarding File Number 2019-01018, Phoebus Antiques & Auction Gallery, Inc., the Board members reviewed the Consent Order as seen and agreed to by Phoebus Antiques & Auction Gallery, Inc. Mr. Smith moved to accept the Consent Order which cites the following violations of the Board's regulations: 18VAC25-21-180.4 (Count 1); 18VAC25-21-150.I (Count 2); and 18VAC25-21-150.A (Count 3). For these violations, Phoebus Antiques & Auction Gallery, Inc. agrees to pay the following monetary penalties: \$250 for the violation contained in Count 1; \$250 for the violation contained in Count 2; \$500 for the violation contained in Count 3; and \$150 in board costs, for a total monetary penalty of \$1,150. Ms. Bennett seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Smith. As the presiding Board member, Ms. Terry was not present for the discussion or vote.

File Number 2019-01018, Phoebus Antiques & Auction Gallery, Inc.

Regarding File Number 2019-00644, Carroll Eugene Daniels, the Board members reviewed the Consent Order as seen and agreed to by Mr. Daniels. Mr. Smith moved to accept the Consent Order which cites the following violations of the Board's regulations: 18VAC25-21-150.J (Count 1), and 18VAC25-21-150.C (Count 2). For these violations, Mr. Daniels agrees to pay the following monetary penalties: \$250 for the violation contained in Count 1; \$250 for the violation contained in Count 2; and \$150 in board costs, for a total monetary penalty of \$650. Ms. Bennett seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Smith. As the presiding Board member, Ms. Terry was not present for the discussion or vote.

File Number 2019-00644, Carroll Eugene Daniels

Ms. Nosbisch expressed regrets from Jeff Waite, Financial Services Director, and LaTonya Washington, Budget Analyst, as they were unable to attend the meeting in person to discuss the fee increase.

Fee Increases

Board members were provided information on proposed fee increases, allocation of expenses and adjustments for sufficient revenue. Ms. Nosbisch explained that no fee increase was to be made at this time, but that approval was needed for when the increase needed to be implemented. Board members reviewed three proposals for consideration: A) New application fees lower than renewal; B) New application fee and renewal fee are equal; C) New application fees higher than renewal fee.

Discussion was held on the three proposals. Ms. Terry moved to accept Proposal A, the proposal of lower fees for new application to allow the cost of entry into profession be lower. Ms. Bennett seconded the motion which was unanimously approved by members: Bennett, Sinclair, Smith and Terry.

Board members were provided financial statements for informational purposes.

**Review of Board
Financial Statements**

Mr. Sinclair provided the licensee counts as of October 1, 2020: Auctioneers 1,125 and Firms 243. Board members requested a year to year comparison of the number of licensees at the next meeting.

Licensed Population

Board members considered the following meeting dates for 2021:

- January 12
- April 26
- July 27
- October 20

**Consideration of 2021
Meeting Dates**

Mr. Sinclair requested meetings be held on Tuesdays if possible. Ms. Nosbisch stated that if board rooms are available, staff will make changes accordingly. Board members agreed by consensus.

Ms. Nosbisch suggested having the current chair and vice-chair remain in position as this was the first meeting the Board held since the election. Board members agreed by consensus.

Other Business

Board members reviewed information from the North Carolina Department of Revenue regarding animal auctioneers. Ms. Terry provided the article as a point of interest.

Conflict of Interest forms and travel vouchers were completed by all members present.

**Conflict of Interest
Forms / Travel
Vouchers**

There being no further business, the meeting adjourned at 10:42 a.m.

Adjourn

Douglas Sinclair, Chair

Mary Broz-Vaughan, Secretary

➤ **Public Comment**

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Commonwealth of Virginia



DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

RESOLUTION TO

Marian Brooks

WHEREAS, **Marian Brooks** did faithfully and diligently serve the Department of Professional and Occupational Regulation from 1972 to 2020;

WHEREAS, **Marian Brooks** did devote generously of her time, talent and leadership to the Department;

WHEREAS, **Marian Brooks** did endeavor at all times to serve the citizens of the Commonwealth, the Department, her co-workers, and her Board members in an exemplary manner; and

WHEREAS, the Department of Professional and Occupational Regulation wishes to acknowledge its gratitude for the valued and devoted service of a person who is held in high esteem by her fellow employees of the Department and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Department of Professional and Occupational Regulation this thirtieth day of March 2021, that **Marian Brooks** be given all honors and respect due her for her outstanding service to the Department, the Commonwealth, and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official records of the Department so that all may know of the high regard in which she is held by this Department and how much she will be missed upon her retirement.

Mary Broz-Vaughan, Director

Kathleen "Kate" R. Nosbisch, Executive Director

➤ **Review of Files**

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**Department of Professional and Occupational Regulation
Statement of Financial Activity**

**Auctioneers Board
954170**

2020-2022 Biennium

February 2021

	February 2021 Activity	Biennium-to-Date Comparison	
		July 2018 - February 2019	July 2020 - February 2021
Cash/Revenue Balance Brought Forward			0
Revenues	2,615	41,030	34,255
Cumulative Revenues			34,255
Cost Categories:			
Board Expenditures	184	4,636	3,319
Board Administration	1,421	15,025	12,851
Administration of Exams	95	4,519	797
Enforcement	63	618	514
Legal Services	0	78	69
Information Systems	596	11,194	8,211
Facilities and Support Services	624	4,109	3,766
Agency Administration	751	6,830	5,961
Other / Transfers	0	0	0
Total Expenses	3,734	47,009	35,487
Transfer To/(From) Cash Reserves	0	0	(2,533)
Ending Cash/Revenue Balance			1,301

Cash Reserve Beginning Balance	128,063	0	130,596
Change in Cash Reserve	0	0	(2,533)
Ending Cash Reserve Balance	128,063	0	128,063

Department of Professional and Occupational Regulation
Supporting Statement of Year-to-Date Activity
Auctioneers Board - 954170
Fiscal Year 2021

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Fiscal YTD Charges	Planned Annual Charges	Current Balance	Projected Charges at 6/30	Projected Variance Favorable (Unfavorable)	
																	Amount	%
Board Expenditures	199	450	806	811	130	475	265	184	0	0	0	0	3,319	11,268	7,949	4,802	6,466	57.4%
Board Administration	2,416	1,609	1,604	1,509	1,482	1,349	1,460	1,421	0	0	0	0	12,851	26,132	13,281	17,698	8,434	32.3%
Administration of Exams	142	95	94	96	96	84	94	95	0	0	0	0	797	1,348	551	1,114	234	17.4%
Enforcement	90	61	62	63	59	54	62	63	0	0	0	0	514	973	459	714	259	26.6%
Legal Services	0	23	0	23	0	0	23	0	0	0	0	0	69	392	323	104	289	73.6%
Information Systems	692	1,843	1,117	495	951	1,491	1,026	596	0	0	0	0	8,211	15,082	6,871	11,946	3,137	20.8%
Facilities / Support Svcs	447	464	818	492	434	361	126	624	0	0	0	0	3,766	6,030	2,264	5,547	483	8.0%
Agency Administration	1,034	699	700	832	664	635	646	751	0	0	0	0	5,961	13,038	7,077	8,269	4,768	36.6%
Other / Transfers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Charges	5,019	5,244	5,202	4,322	3,816	4,449	3,701	3,734	0	0	0	0	35,487	74,262	38,774	50,193	24,069	32.4%

Licensed Population

As of March 1, 2021

Auctioneers 1,047

Auctioneer Firms 232

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- **Financial Disclosure Statements**
- **Other Business**
 - **Contract Extension for Exam Vendor**
- **Conflict of Interest Forms / Travel Vouchers**
- **Adjourn**

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