

**MEETING OF
THE FLORIDA BOARD OF AUCTIONEERS**
The Department of Business and Professional Regulation
InterContinental Tampa
4860 West Kennedy Blvd
Tampa, Florida 33609-2524
Thursday, September 23, 2010 @ 9:00am est.

CALL TO ORDER

Mr. Moecker, Chair, called the meeting to order at 9:02a.m. Mr. Moecker asked everyone to stand and recite the Pledge of Allegiance and Mr. Dietrich gave the invocation. There was a roll call and a quorum was established.

BOARD MEMBERS PRESENT

Michael Moecker, Chair
Billy Wayne Collins
Pat Thomas D'Angelo
H. Fred Dietrich, III

STAFF PRESENT

Anthony Spivey, Executive Director
Renese Jones, Government Analyst
LeChea Parson, Prosecuting Attorney
Charlyne "Khai" Patterson, Assistant Attorney General

OTHERS PRESENT

Gayle Dietrich, Dietrich and Association
Michael Monaghan, Rose's Auction
Kim Satz, Kim Satz Auction Corp
Patty JoFerraro, PJS Hometown Auctions
William M Norris, Auctioneer

COURT REPORTER

Argus Team
Patti Williams
4010 West State Street
Tampa, Florida 33609

Opening Remarks: Each individual should state their first and last name before speaking.

APPROVAL OF MINUTES

The March 12, 2010 minutes were approved with no changes or corrections.

Motion: Mr. Dietrich moved to approve the minutes.

Second: Mr. D'Angelo seconded the motion and it passed unanimously.

The June 14, 2010 minutes were approved with no changes or corrections.

Motion: Mr. Dietrich moved to approve the minutes.

Second: Mr. D'Angelo seconded the motion and it passed unanimously.

The September 1, 2010 minutes were approved with no changes and corrections.

Motion: Mr. Dietrich moved to approve the minutes.

Second: Mr. D'Angelo seconded the motion and it passed unanimously

APPLICATIONS

Mr. Spivey presented the application list for ratification as follows:

AUCTIONEER RATIFICATION LIST FOR SEPTEMBER 23, 2010 BOARD MEETING

Client	Lic_Nbr	Applicant's Name	ADDR_CTY	ST_CDE
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Licensure by Auctioneer Apprentice

4801	411	CRAZE, KEVIN EUGENE	TALLAHASSEE	FL
4801	410	GARTH, ROBERT SEXSON	PENSACOLA	FL
4801	412	HALL, FELTON LEE	HOSFORD	FL
4801	413	KENNEDY, BRETT WAGES	ST. PETERSBURG	FL

Licensure by Auctioneer

4802	4141	BARKUS, ROBERT ARTHUR III	CLERMONT	FL
4802	4137	CAMPBELL, SEAN FIELD	MERRITT ISLAND	FL
4802	4144	DENTON, ROBERT A	TEMPLE TERRACE	FL
4802	4134	GINIGER, SAMUEL H	PANAMA CITY	FL
4802	4145	GRAIL, CHAD A	CAPE CORAL	FL
4802	4131	GRIMME, MICHAEL JOSEPH	FORT LAUDERDALE	FL
4802	4142	MIULLI, MIKE A	ODESSA	FL
4802	4132	SLAVINSKY, DAVID J	CLEARWATER	FL
4802	4152	WEISS, DAVID M	BOYNTON BEACH	FL
4802	4136	WHIDDEN, BENJAMIN	ORLANDO	FL
4802	4147	ESHLEMAN, WILLIAM C	WINSTON SALEM	NC
4802	4151	JOHNSON, JOE C	KINGSPORT	TN
4802	4143	KURDZIOLEK, BRIAN KEITH	CHESTERFIELD	VA

4802	4133	MURPHY, JOELLA S	LA GRANGE PARK	IL
4802	4149	PERKINS, MATTHEW GENE	CHARLOTTE	NC
4802	4150	ROWAN, BRIAN R	HUNTERSVILLE	NC
4802	4140	SMITH, JAMES ALLEN	CLARKSVILLE	GA
4802	4130	SMITH, LARRY GENE	DOTHAN	AL
4802	4153	STEPTOE, TERRY MCQUAIG	DOUGLAS	GA
4802	4148	SUTTLES, MARTIN ROBERT	MOOREVILLE	NC
4802	4135	TAYLOR, DAVID WAYNE	INMAN	SC
4802	4146	VAN SICKLE, TODD MICHAEL	ATLANTA	GA
4802	4138	KOOL, RONALD RAY JR	COCOA	FL

Licensure by Null and Void

4802	4139	YOUNG, ROGER LEE	WELLINGTON	FL
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Licensure by Auctioneer Business

4803	2972	A BURANEK-GRAIL AUCTION COMPANY LLC	CAPE CORAL	FL
4803	2967	AGG OF AMERICA LLC	FORT LAUDERDALE	FL
4803	2955	AUCOR INC	MELBOURNE	FL
4803	2958	AUCTION DOGS, LLC	MERRITT ISLAND	FL
4803	2973	CASHMART, LLC	MIAMI	FL
4803	2957	DEALER AUCTIONS INC	DENVER	NC
4803	2965	ESTATES & THINGS AUCTION SERVICES	ORLANDO	FL
4803	2969	F & L AUCTION	HOSFORD	FL
4803	2970	FLIGHT LEVEL AIRCRAFT AUCTIONS	LAKELAND	FL
4803	2975	FORAM INC.	SEMINOLE	FL
4803	2964	GALLIVAN, LLC	INDIANAPOLIS	IN
4803	2961	GAMELAND U.S.A., INC.	BROOKSVILLE	FL
4803	2963	I-10 AUCTION LLC	PENSACOLA	FL
4803	2952	JACKSON AUCTIONS	WILDWOOD	FL
4803	2954	LOUIS J. DIANNI, LLC	SUNRISE	FL
4803	2953	MANHEIM PENSACOLA	PENSACOLA	FL
4803	2960	MIDWAY MACHINERY & AUCTION LLC	MIDWAY	FL
4803	2956	PLATINUM LUXURY AUCTIONS LLC	MIAMI	FL
4803	2974	PORTER AUCTIONS, INC.	CRESTVIEW	FL
4803	2959	PRESSINGER & COMPANY INC	CORAL SPRINGS	FL
4803	2962	SPENCER'S AUCTION HOUSE LLC	SPRING HILL	FL
4803	2966	T AND A AUCTION COMPANY	PALATKA	FL
4803	2968	TREASURE COAST AUCTION BARN	VERO BEACH	FL
4803	2971	WEISS AUCTION	BOCA RATON	FL

Motion: Mr. Dietrich moved to approve the auctioneer ratification list as presented.

Second: Mr. D'Angelo seconded the motion and it passed unanimously.

BOARD COUNSEL REPORT

Ms. Patterson placed the definitions of rules 61G2-8.010 auction and 61G2-8.030 mediation on the agenda for discussion. The discussion determined that the definition needs to include the term "*shilling*" added to this section. By adding this information the prosecuting attorney could prosecute those types of cases.

Motion: Mr. Dietrich moved to approve the necessary changes to rules 61G2-8.010 auction to add shilling, cap and false bidder.

Second: Mr. D'Angelo seconded the motion and it passed unanimously.

Motion: Mr. Mocker moved to approve that Section 468.388(6), F.A.C. would not have an impact on small businesses.

Second: Mr. Dietrich seconded the motion and it passed unanimously.

Mr. Spivey read Mr. Steven Goldstein Recovery Fund letter into the record. Mr. Goldstein thanked staff for their help with his recovery application process.

BOARD CHAIR REPORT

Mr. Moecker thanked the board staff for doing an outstanding job.

EXECUTIVE DIRECTOR'S REPORT

The board reviewed the pass/fail grade report and asked Mr. Spivey to investigate why the pass rate was elevated.

Mr. Spivey reviewed the financial reports ending June 30, 2010. He indicated that the *"operating account shows a balance of \$92,301. The operating account for the recovery fund shows a balance of \$505,714 and the unlicensed activity account shows a balance of \$39,169."*

Mr. Spivey informed the members that there would be a cash sweep in the near future.

Mr. Spivey informed the board members that Ms. Penny Landberg-Crosson has re-paid the recovery fund in full.

The Regulation report was for information only.

PROSECUTING ATTORNEY REPORT

CASE LOAD STATUS

Ms. Parson presented the prosecuting attorney report in a format that consisted of more details on each case.

#2010-000460, Gavin Adabi, AU3400

Ms. Parson presented case #2010-000460, Gavin Adabi, AU 3400. The respondent was not present. The department filed an administrative complaint against the respondent on July 6, 2010. The respondent has been charged with violating Section 468.389 (1)(k), having a license to practice a comparable profession revoked, suspended, or otherwise acted against by another state, territory, or country. The respondent failed to file an Election of Rights form disputing issues of material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a hearing within 21 days of receipt of agency pleading, the respondent waived the right to request a hearing where there is a disputed issue of material facts. The department believes that it is appropriate at this time for the chair to entertain a motion finding that the respondent waived the right to a hearing.

Motion: Mr. Dietrich made a motion that Mr. Adabi waived his rights to a hearing.

Second: Mr. Collin seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department believes that it is appropriate for the chair to entertain a motion adopting the allegations and facts and conclusions of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines."*

Motion: Mr. Dietrich moved to adopt the findings of facts and conclusions of law.

Second: Mr. Collins seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department's recommendation in this case is that Gavin H Adabi, pay a \$218.03 costs and reprimand his license."*

Motion: Mr. Moecker made a motion to approve the department's recommendation.

Second: Mr. Collins seconded the motion and it passed unanimously.

#2009-062290 and 2009-062381, Kim Satz and Kim Satz Auction Company, AU 3232

Ms. Parson presented case **#2009-062290 and 2009-062381, Kim Satz and Kim Satz Auction Company, AU 3232**. The respondent and her attorney Mr. David Russell were present. The department filed an administrative complaint against respondent on June 15, 2010. The respondent was charged with violating Sections 468.389 (1) (c), failure to account for or to pay or return, within a reasonable time not to exceed 30 days, money or property belonging to another which has come into the control of an auctioneer or auction business through an auction, 468.389 (1)(j) violating a statute or administrative rule regulating practice under this part or a lawful disciplinary order of the board or the department and 468.388 (1) prior to conducting an auction in this state, an

auctioneer or auction business shall execute a written agreement with the owner, or the agent of the owner, of any property to be offered for sale. The department believes that it is appropriate for the chair to entertain a motion to accept the settlement stipulation.

Motion: Mr. Dietrich made a motion to adopt the settlement stipulation agreement to include a \$1,000 fine and \$320.09 costs.

Second: Mr. Collins seconded the motion and it passed unanimously.

#2008-038432, Right Now Auction Svc, AB2156

Ms. Parson presented case #2008-038432, Right Now Auction Svc, AB2156. The respondent was present and sworn in by the court reporter. The department filed an administrative complaint against the respondent on December 10, 2010. The respondent was charged with violating Section 468.389 (1) (j), violating a statute or administrative rule regulating practice under this part or a lawful disciplinary order of the board or the department. The respondent failed to submit an Election of Rights form disputing issues of material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a hearing within 21 days of receipt of agency pleading, the respondent has waived the right to request a hearing where there is a disputed issue of material facts. The department believed that it was appropriate at this time for the chair to entertain a motion finding that the respondent waived the right to a hearing.

Motion: Mr. D'Angelo made a motion that Right Now Auction Svc waived its rights to a hearing.

Second: Mr. Collins seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department believes that it is appropriate for the chair to entertain a motion adopting the allegations and facts and conclusions of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines."*

Motion: Mr. Dietrich moved to adopt the findings of fact and conclusions of law.

Second: Mr. Moecker seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department's recommendation in this case is that Right Now Auction Svc, pay a fine in the amount of \$1,000 and costs of \$206.14 and revoke the license."*

Motion: Mr. Dietrich made a motion to adopt the department's recommendation.

Second: Mr. Collins seconded the motion and it passed unanimously.

#2009-01377 & 2009-01517, Earl Ernest Barnette and E Barnette & Associates, AU 1595

Ms. Parson presented case #2009-01377 & 2009-01517, Earl Ernest Barnette and E Barnette & Associates, AU 1595. The respondent was present and sworn in by the court reporter. The department filed an administrative complaint against respondent on October 29, 2009. The respondent was charged with violating Section 468.389 (1) (c), the following acts shall be grounds for the disciplinary activities provided in subsections (2) and (3). The respondent failed to submit an Election of Rights form disputing issues of material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a hearing within 21 days of receipt of agency pleading, the respondent waived the right to request a hearing where there is a disputed issue of material facts. The department believed that it was appropriate at this time for the chair to entertain a motion finding that the respondent waived the right to a hearing.

Motion: Mr. D'Angelo made a motion that Earl Ernest Barnette and E Barnette & Associates waived its rights to a hearing.

Second: Mr. Moecker seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department believes that it is appropriate for the chair to entertain a motion adopting the allegations and facts and conclusions of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines."*

Motion: Mr. D'Angelo moved to adopt the findings of fact and conclusions of law.

Second: Mr. Moecker seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department's recommendation in this case is that Earl Ernest Barnette and E Barnette & Associates, pay a fine in the amount of \$500, costs of \$480.51, 6 months probation to allow the Respondent to submit proof of the returned checks from patrons identified at the hearing, and proof of the dollar amounts in restitution \$2,335.06,*

Motion: Mr. D'Angelo made a motion to approve the department's recommendation.

Second: Mr. Moecker seconded the motion and it passed unanimously.

5 Minute Recess

#2009-027131 and 2009-027135, Dean V, Kruse and Kruse International, AB202

Ms. Parson presented case #2009-027131 and 2009-027135, Dean V. Kruse and Kruse International, AB 202. The respondent was not present. The department filed an administrative complaint against respondent on April 12, 2010. The respondent was charged with violating Section 468.389 (1) (c), the following acts shall be grounds for

the disciplinary activities provided in subsections (2) and (3). The respondent failed to submit an Election of Rights form disputing issues of material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a hearing within 21 days of receipt of agency pleading, the respondent waived the right to request a hearing where there is a disputed issue of material facts. The department believed that it was appropriate at this time for the chair to entertain a motion finding that the respondent waived the right to a hearing.

Motion: Mr. D'Angelo made a motion that Dean V. Kruse and Kruse International waived its rights to a hearing.

Second: Mr. Collins seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department believes that it is appropriate for the chair to entertain a motion adopting the allegations and facts and conclusions of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines."*

Motion: Mr. D'Angelo moved to adopt the findings of facts and conclusions of law.

Second: Mr. Collins seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department's recommendation in this case is Dean V, Kruse and Kruse International, pay a fine in the amount of \$1,000, costs of \$288.40 and revoke his license."*

Motion: Mr. D'Angelo made a motion to approve the department's recommendation.

Second: Mr. Collins seconded the motion and it passed unanimously.

#2007-046156, Douglas Tanius, Sr., AU 3135

Ms. Parson presented case #2007-046156, Douglas Tanius, Sr., AU 3135. The respondent was not present. The department filed an administrative complaint against respondent on June 9, 2009. The respondent was charged with violating Section 468.389 (1) (c), the following acts shall be grounds for the disciplinary activities provided in subsections (2) and (3). The respondent failed to submit an Election of Rights form disputing issues of material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a hearing within 21 days of receipt of agency pleading, the respondent waived the right to request a hearing where there is a disputed issue of material facts. The department believed that it was appropriate at this time for the chair to entertain a motion finding that the respondent waived the right to a hearing.

Motion: Mr. D'Angelo made a motion that Douglas Tanius waived its rights to a hearing.

Second: Mr. Collins seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department believes that it is appropriate for the chair to entertain a motion adopting the allegations and facts and conclusions of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines."*

Motion: Mr. D'Angelo moved to adopt the findings of facts and conclusions of law.

Second: Mr. Collins seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department's recommendation in this case is Douglas Tanius, pay a fine in the amount of \$1,000 and costs of \$794.53 and revoke his license."*

Motion: Mr. D'Angelo made a motion to approve the department's recommendation.

Second: Mr. Collins seconded the motion and it passed unanimously.

#2009-061998, Dion Abadi, AU 2762

Ms. Parson presented case #2009-061998, Dion Abadi, AU 2762. The respondent was not present. The department filed an administrative complaint against the respondent on May 11, 2010. The respondent was charged with violating Section 468.389 (1)(f), refusal or neglect of any auctioneer or other receiver of public moneys to pay the moneys so received into the State Treasury at the times and under the regulations prescribed by law and 468.389 (1)(k) having a license to practice a comparable profession revoked, suspended, or otherwise acted against by another state, territory, or country. The respondent failed to file an Election of Rights form disputing issues of material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a within 21 days of receipt of agency pleading, the respondent waived the right to request a hearing where there is a disputed issue of material facts. The department believes that it is appropriate at this time for the chair to entertain a motion finding that the respondent waived the right to a hearing.

Motion: Mr. Moecker made a motion that Mr. Dion Abadi waived his rights to a hearing.

Second: Mr. Collin seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department believes that it is appropriate for the chair to entertain a motion adopting the allegations and facts and conclusions of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines."*

Motion: Mr. Moecker moved to adopt the findings of facts and conclusions of law.

Second: Mr. Collins seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department's recommendation in this case is that Dion Adabi, pay a \$182.35 costs.*

Motion: Mr. Moecker made a motion to approve the department's recommendation.

Second: Mr. Collins seconded the motion and it passed unanimously.

#2009-042032 and 2009-042040, Patty Jo Ferraro and PJ Company , Inc. d/b/a Something More, AB 2791

Ms. Parson presented case #2009-042032 and 2009-042040, Patty Jo Ferraro and PJ Company, Inc. d/b/a Something More, AB 2791. The respondent was present and sworn in. The department filed an administrative complaint against the respondent on April 29, 2010. The respondent was charged with violating Sections 468.389 (1)(c), failure to account for or to pay or return, within a reasonable time not to exceed 30 days, money or property belonging to another which has come into the control of an auctioneer or auction business through an auction and 468.389 (1)(j) violating a statute or administrative rule regulating practice under this part or a lawful disciplinary order of the board or the department and 468.388 (4) each auction must be conducted by an auctioneer who has an active license or by an apprentice who has an active apprentice auctioneer license and who has received prior written sponsor consent. Each auction must be conducted under the auspices of a licensed auction business. Any auctioneer or apprentice auctioneer conducting an auction, and any auction business under whose auspices such auction is held, shall be responsible for determining that any auctioneer, apprentice, or auction business with whom they are associated in conducting such auction has an active Florida auctioneer, apprentice, or auction business license. The respondent failed to file an Election of Rights form disputing issues of material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a hearing within 21 days of receipt of agency pleading, the respondent waived the right to request a hearing where there is a disputed issue of material facts. The department believes that it is appropriate at this time for the chair to entertain a motion finding that the respondent waived the right to a hearing.

Motion: Mr. D'Angelo made a motion that Mr. Patty Jo Ferraro and PJ Company, Inc. waived their rights to a hearing.

Second: Mr. Collin seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department believes that it is appropriate for the chair to entertain a motion adopting the allegations and facts and conclusions of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines."*

Motion: Mr. Dietrich moved to adopt the findings of facts and conclusions of law.

Second: Mr. Collins seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department's recommendation in this case is that Patty Jo Ferraro, pay a \$100 fine, \$391.78 cost and reprimand."*

Motion: Mr. Moecker made a motion to approve the department's recommendation.

Second: Mr. Dietrich seconded the motion and it passed unanimously.

#2009-053033, 1 Liquidators, AB 1855

Ms. Parson presented case #2009-053033, 1 Liquidators, AB 1855. The respondent was not present. The department filed an administrative complaint against the respondent on April 12, 2010. The respondent was charged with violating Section 468.389 (1)(c), failure to account for or to pay or return, within a reasonable time not to exceed 30 days, money or property belonging to another which has come into the control of an auctioneer or auction business through an auction.. The respondent failed to file an Election of Rights form disputing issues of material facts of the administrative complaint pursuant to Rule 28-106.111, F.A.C. By failing to request a within 21 days of receipt of agency pleading, the respondent waived the right to request a hearing where there is a disputed issue of material facts. The department believes that it is appropriate at this time for the chair to entertain a motion finding that the respondent waived the right to a hearing.

Motion: Mr. Moecker made a motion that #1 Liquidators waived its rights to a hearing.

Second: Mr. Collin seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department believes that it is appropriate for the chair to entertain a motion adopting the allegations and facts and conclusions of law contained in the administrative complaint of those of the board after which the department will request that the board impose penalties within their guidelines."*

Motion: Mr. Moecker moved to adopt the findings of facts and conclusions of law.

Second: Mr. Collins seconded the motion and it passed unanimously.

Ms. Parson stated that *"the department's recommendation in this case is that #1 Liquidators, pay a \$1,000 fine, \$314.47 costs, revoke license and restitution in the amount of \$12,488.20."*

Motion: Mr. Moecker made a motion to approve the department's recommendation.

Second: Mr. Collins seconded the motion and it passed unanimously.

Discussion on Disciplinary Fines

Ms. Parson brought to the meeting an outline of the maximum disciplinary fines by profession for the board members to review. After reviewing the fees the board decided to form a committee to work with staff to increase the fees.

Motion: Mr. Dietrich made a motion for staff to increase the fees.

Second: Mr. Collins seconded the motion and it passed unanimously.

APPLICATION REVIEW

Michael P. Monaghan – Mr. Monaghan was present. Examination application approved.

Motion: Mr. Dietrich made a motion to approve the application as presented.

Second: Mr. Collins seconded the motion and it passed unanimously.

William Michael Norris – Mr. Norris was present. Null and void application approved.

Motion: Mr. Dietrich made a motion to approve the application as presented.

Second: Mr. D'Angelo seconded the motion and it passed unanimously.

Matthew P. Green – Mr. Green was not present. Null and void application approved.

Motion: Mr. Dietrich made a motion to approve the application as presented.

Second: Mr. D'Angelo seconded the motion and it passed unanimously.

Business Application

Abingdon Auction LLC – Business application approved.

Motion: Mr. Dietrich made a motion to approve the application as presented.

Second: Mr. D'Angelo seconded the motion and it passed unanimously.

PUBLIC COMMENTS

None

OLD BUSINESS

The National meeting next year will be held in Orlando, Florida.

NEW BUSINESS

Forthcoming Dates for 2009-2010

December 10, 2010 -Tallahassee

March 11, 2011 – Tampa, Florida

June 10, 2011 – South Florida

ADJOURNMENT

Motion: Mr. Dietrich moved to adjourn the meeting.

Second: Mr. Collins seconded the motion and it passed unanimously.

The meeting was adjourned at 12:25 pm.