

**MINUTES OF THE STATE AUCTIONEERS COMMISSION**  
**OHIO DEPARTMENT OF AGRICULTURE Room 308**  
**8995 E. MAIN STREET, REYNOLDSBURG, OH 43068**  
**April 25, 2008**

**PRESENT:**

Commissioner Joseph Zielinski  
Commissioner Gary Cain  
Commissioner Mike Baker  
Commissioner Steve Remias

William Hopper, Chief, Legal Counsel  
Donna Brinker Potter, Administrative Assistant III  
Adam Ward, ODA Legislative Liaison  
Jim Patterson, Assistant Attorney General  
Gary Hill, Chief, Enforcement

**Members of the Public:**

David Jones  
Barry Baker  
Maggie Beckmeyer

Meeting called to order 9:45am with the Pledge of Allegiance. Donna Potter called roll. There is a quorum of members of the commission present. There is one vacancy on the commission.

Commissioner Cain nominated Mike Baker as Chairman of the Commission. Commissioner Remias seconded the motion. No discussion noted. Motion carried by an affirmative vote of all members present.

Adam Ward, ODA Legislative Liaison, was next on the agenda with a legislative update. Chairman Baker asked that everyone listen to what Adam Ward had to say before commenting. He stated that the department has been 100% behind the profession and have been supportive. Adam Ward stated that HB 48 had moved through the House and is in the Senate. The bill as currently written provides an exemption for schools/charities where 100% of the proceeds go to charity. During the process, the department has been approached by many who wish to seek to exempt charities and the licensed auctioneer requirement and there are on-going discussions in the Senate. It is a regulatory obstacle for the department in regard to enforcement. The department routinely faces charity auction issues where local organizations are seeking to support local foundations. Frequently the agency sends letters to these organizations that they are required by law to use licensed auctioneers rather than local celebrities. Often, this letter is ignored. Over the past year, the department has had to assist 3 different auctions at the request of legislators to help them jump through the hoops. The legislators want reform on the Charity Bill.

Discussions on changing HB 48 have been ongoing. One amendment has already been introduced and is being considered in the Senate. This amendment is from Rep. Batchelder which will allow an apprentice to auction at a charity event without the direct supervision of the sponsor. Senator Gibbs and Amstutz would like to exempt 100% charities from the auctioneer requirement. Governor asking for Common Sense Business approach to conform with the surrounding states. The department is inclined to support the bill because of the enforcement issues. Adam Ward stated that there has been a lot of movement in the last few years. The department asks that the commission discuss and once the amendment is introduced that they work with the department to look at the bright lines to make sure that 100% charities are the only exemption. Chairman Baker asked how do you define that? Adam Ward said that the department was looking to the commission for assistance in creating that definition. He said that we need to discuss and make sure not crossing the 100% line, if all proceeds go to the charity. Commissioner Zielinski asked how to determine, do they file a form? Adam Ward said that it may be appropriate but would have to defer to the auctioneer program/enforcement division to see how that would work. Bill Hopper asked if we had the resources to audit the charity

auctions? Chairman Baker stated that they just pop up. That it would be difficult to audit these type auctions. He stated that the department and Adam Ward are in a bad spot. The department has to do what they have to do. The issue is that no one has a problem when it is just about a \$10.00 item, but when you start adding zeros, people get concerned. If the law is changed to no auctioneers at large auctions; everything is fine until there is a complaint. School not licensed, no licensed auctioneers, and until someone gets wronged it is not an enforcement concern. Commissioner Remias stated that a lot of Amish hold auctions for schools. Adam Ward stated that this bill would exempt schools, looking at exempting other auctions. There needs to be a determination of where it is beneficial to be involved, that there is a need to find a common sense line. Chairman Baker asked how fast is this bill moving. Adam Ward stated that it is still on its second hearing in committee. He stated that the changes to the bill would need to happen in committee not on the Senate floor. This process allows everyone to weigh in when in committee. David Jones asked what is the issue? All they need is a licensed auctioneer and that they have spent two years on this issue. Adam Ward stated that the biggest issue is that it is almost impossible for the agency to enforce this portion of the law. That the resources can be better utilized and it puts the auctioneers and agency in a bad light. He said we need to determine common sense regulation by a state agency; where the line is.

Barry Baker stated that if no one is getting paid then no one should be in trouble. Chairman Baker clarified that if they are hired and receive compensation, they have to be licensed auctioneers. Donna Brinker Potter stated that the complaints the department receives on charity auctions with the exception of one firm (who would still need to be licensed under the new provisions) are from licensed auctioneers not from the buyers or sellers. Chairman Baker asked what Adam Ward wanted the commission to do. Mr. Ward asked if they could come together to help determine what is 100% charitable. Chairman Baker stated that they needed to be prepared because something was going to be proposed. Mr. Ward stated that if they are able to bring something to the table, then they are going to look at that much better. There are some Senators who want to change the entire chapter. This issue will establish where they stand and it will take a lot of heat off. Chairman Baker asked if the department gets a lot of complaints on apprentices. Adam Ward said that they get a lot of complaints/comments from those who cannot find a sponsor. David Jones asked if a celebrity is flown in if that would count as compensation. Adam Ward said that it seems like an outside expense; where are we, in so far as, what is common sense. Frankly, he would like to leave it open for discussion. He felt it went towards intent. Gary Cain said that the bigger auctions, even if you change the law, most have celebrity and a professional auctioneer; but, he can see where they are coming from. Adam Ward stated that it goes back to the threshold of common sense. Chairman Baker asked if they could set up a meeting with legislators and go over all of the information and form an opinion so that everyone is on the same page. Adam Ward stated that it was a good idea to set up a meeting.

Chairman Baker stated that he needed to set up a task force/subcommittee. He stated that the bottom line was that something is going to be proposed and they need to decide if they are going to opponents or proponents. Adam Ward stated that the idea is to come to the table and if the legislators are not willing to work then fine, but if they are willing to be open and to listen, let's sit down at the table for all parties. Commissioner Cain said he did not like it, but he understood it. Adam Ward said that if they do it right; it could garner a lot of good press. Chairman Baker appointed Gary Cain as chair of the subcommittee with Commissioner Zielinski, Barry Baker, and David Jones to meet with Adam Ward to get on same page and then to meet with Representatives Gibbs, Amstutz, and Batchelder. Adam Ward felt that it was important to have discussions before meeting with the legislators. He asked that the subcommittee members stop by his office to set a meeting. Chairman Baker asked for a motion to form a HB 48

subcommittee. Commissioner Remias so moved. Commissioner Zielinski seconded. No further discussion noted. Motion carried by an affirmative vote of all members present.

The next item on the agenda is the auction education fund. Donna Brinker Potter stated that the remaining spending authority for this fiscal year is \$5,647.20. The spending authority for next fiscal year is the same as this at \$24,601. The new fiscal year starts 7/1/08. She stated that there are four requests from the OAA totaling over \$30,000. Bill Hopper recommended separating the requests by fiscal year. The only request falling in FY'08 is the \$5,000 requested from the OAA for the National Auction Foundation to do research into the auction profession trends nationally and in Ohio. She stated that she was told that the OAA would receive the results and that they would not be shared with the commission. Commissioner Zielinski asked why would just the OAA get the info and not the commission. Chairman Baker stated that the results are public information. Barry Baker stated that it benefits auctioneers across Ohio. NAF is the sole source and it spot lights the industry. Chairman Baker stated that he suggested this years ago and that the results are available to anyone on the website. Commissioner Zielinski stated that it answered his question. Adam Ward stated that if they decided to pay for all items in FY'08 they would need to go to the controlling board which is made up of Senate and House members and are presided over by a chair and OBM. The controlling board looks at the merits of the request; he said it is different from the rules committee. He stated that any spending authority increases results in holds and questions from the representatives. He stated that this is a politically charged process. He stated that if the commission seeks a controlling board request, that he requests that a commissioner goes with him to answer any questions from the controlling board. Chairman Baker stated that if they approve the requests that will leave them with no money for other programs. He expressed concerns over approving all of the monies. He asked what other request are received. Donna Brinker Potter stated that it could affect the OAA winter convention, spring seminar, and OAA summer seminars. Chairman Baker asked how far in advance they needed to submit. Adam Ward stated that the controlling board meets bi-weekly and that they need to submit their request two weeks in advance of the meeting.

Chairman Baker asked if there was an interest in the NAF request. Bill Hopper stated that this request seemed to be more tailored to Ohio. Barry Baker stated that the NAF stated that they can get better statistics for Ohio. Bill Hopper reminded the commission of the provisions of R.C. 4707.071. Commissioner Zielinski asked if there was anything else pending for FY'08. Commissioner Cain said that if it is approved this year, that most likely they would get another for next year. Chairman Baker agreed, he stated that it is an on-going study. Commissioner Zielinski stated that it fell within this year's budget. Chairman Baker asked the commission what is their pleasure. Commissioner Cain moved to approve the \$5,000 for the NAF. Commissioner Remias seconded. No further discussion noted. Motion carried by an affirmative vote of all commissioners present.

Chairman Baker asked Barry Baker to go over the Fall Designation Course. Barry Baker stated that it is a lot of money. He was not sure of the increase of \$3,000 but he felt it fell within the purpose of R.C. 4707.071. He stated that it is a top notch seminar. And it is unprecedented it normally costs \$700.00 per person. He felt that it was big time education for auctioneers and he has been working hard on it. Chairman Baker stated that it was brought up in last fiscal period but it did not work out. Bill Hopper asked if it is the same seminar for all three days or is it different material each day. He stated that the request was unclear. Barry Baker stated that the material is new each day. Chairman Baker stated that if they approve this, they are done for the year. Bill Hopper asked if they are giving all of the submittals equal priority. Barry Baker stated that he felt that he bid calling contest was a fun day and that it was not educational. He said that you are taking a leap of faith by approving all of the requests. Chairman Baker stated that he was

in favor of the program, if they did not approve the bid calling contest, he felt that it would not happen. David Jones stated that he liked the bid calling contest that they need to look at the big picture. Chairman Baker agreed that it is good PR.

Commissioner Zielinski noted that by moving the Fall Designation Course off of ODA's campus they amount increased by \$3,000. He expressed concerns with cash flow and whether this was wise or not. Barry Baker asked that if the commission could approve it as is and then he will work with Holiday Inn to bring down the expenses. Commissioner Zielinski also questioned the auction items to be sold at the bid calling contest. Barry Baker stated that the monies buy signs and stuff to sell at the auction and that the proceeds are donated to charity. Chairman Baker asked if they could modify any of the requests or did they have to approve as submitted. Donna Brinker Potter stated that in the past the commission has modified the requests. Chairman Baker asked for discussion. Commissioner Remias stated that he is pro-education and he felt that the three day seminar was viable. He felt it was critical to have seminars. Chairman Baker indicated that he was interested because they had never done anything like it. Commissioner Remias stated that the seminars are enlightening and useful; however, he was not certain of the amount of the fall seminar. Chairman Baker asked for a motion regarding the fall designation course. Commissioner Remias moved to accept course request in its entirety. Commissioner Cain seconded. No further discussion noted. Motion carried by all present.

Donna Potter reminded the commission that one of the biggest complaints that she receives is that the seminars are real estate in focus and that there seems to be better attendance at programs that are sponsored just by the commission. She stated that there seems to be a misunderstanding by non-OAA members that they can attend the programs sponsored by the commission through the OAA. She recommended that this be considered when advertising the Fall Designation Course. Chairman Baker stated that if they approved the remaining two, they would be out of spending authority. Bill Hopper stated that they needed to decide if the bid calling contest fell within the parameters of 4707.071. Commissioner Cain moved to approve \$6,000 for the OAA summer seminar. Commissioner Zielinski seconded. Chairman Baker asked for further discussion. Motion carried by an affirmative vote of all members present.

Chairman Baker stated that the State Fair Bid Calling Contest is a request for \$5,075.00; he reiterated that if they did not approve it that he doubted that it would happen. He also stated that they could approve a different amount. He reiterated his concerns with being able to get more money down the road. He felt that it might be problematic due to the controlling board issues. Bill Hopper stated that what he was hearing from the OAA is that they were willing to push the envelope on spending authority. Barry Baker stated they are willing to take the gamble. He felt that they had a good case for seeking additional monies. Chairman Baker stated that they could approve this request in its entirety because they trimmed the other. Commissioner Cain moved to approve as submitted. Commissioner Zielinski seconded. No further discussion. Motion carried.

Next item was the enforcement update. Jim Patterson advised that since the last meeting the director of agriculture adopted the hearing officers finding the in the Paranzino matter and signed an order revoking the licenses. The matter is on appeal and should have an idea by the fall. Donna Brinker Potter stated that the order was stayed pending the appeal. Donna Brinker Potter stated that all renewals had been mailed and she reminded the commission that this year a certificate of good standing was required for all corporations and LLC due to the fact that many had failed to maintain their status with the SOS. She asked the commission how they felt about providing an alternative to the apprenticeship as a method of licensure. She cited a requirement for post-licensure education. She stated that KY had decided to do away with the apprenticeship. Commissioner Cain said that he has taken few apprentices and when he has he had been very

careful in his selection. He questioned whether or not someone's willingness to sponsor someone should prevent them from getting licensed. Chairman Baker stated that he has been thinking about his for quite a while. He felt that the apprenticeship was antiquated. He stated that they can pick up good and bad things. He stated the other thing to consider is what are the sponsors actually teaching them—customer service, how to handle issues on the block? He said basically all they are doing is making good friends. Donna Brinker Potter asked if they commission wanted her to look into possible language for an alternative. The commission stated that they were in favor. She also asked the commission if they were prepared to vote on the auction school subcommittee recommendations. Commissioner Cain moved to accept the subcommittee recommendations as submitted. Commissioner Zielinski seconded. Bill Hopper stated they will now have to follow the 119 process to get the rules adopted. Commissioner Remias abstained. Motion carried by a quorum of the members. Donna Potter noted that Central Ohio Auction School came to the meeting that morning hoping to seek approval. She noted that they were not on the agenda and that she had not had time to review the application to see if it met the requirements. Commissioner Remias motioned to table the discussion of the Central Ohio Auction School until the July meeting. Commissioner Zielinski seconded. Motion carried after no further discussion. Chairman Baker told Gary Hill that in the past there had been some issues with investigators. He felt that it had changed. Gary Hill stated that all of the investigators but one were retired law enforcement and the other person had been with the agency for 20 years and that they handle everything from Vet Medical Board complaints to auctioneers. He stated that if there is a problem with an investigator, to contact him directly.

Chairman Baker asked for any other business. Commissioner Zielinski moved to accept the minutes as written. Commissioner Cain seconded. No further discussion. Commissioner Remias abstained. Motion carried by a quorum of all members present.

Chairman Baker asked if there was any news regarding the remaining position. Adam Ward stated that person should be in place at the next meeting.

With no other business before the commission, Commissioner Cain moved to adjourn. Commissioner Remias seconded. No further discussion. Motion carried. Meeting adjourned at 12:00pm.

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Approved Chairman