

MINUTES OF THE STATE AUCTIONEERS COMMISSION
OHIO DEPARTMENT OF AGRICULTURE Seminar Room B
8995 E. MAIN STREET, REYNOLDSBURG, OH 43068
July 25, 2008

PRESENT:

Commissioner James Milleson
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

Members of the Public:

Barry Baker
Maggie Beckmeyer

Meeting called to order 9:30am 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.

Chairman Baker introduced new commissioner James Milleson who will be representing the public. Mr. Milleson stated that he was waiting confirmation of the Senate and would abstain from voting. Chairman Baker then recognized Donna Potter who asked to be permitted to go out of order of the agenda. Ms. Potter explained the Commissioner Zielinski was no longer serving on the commission. She read Chapter 3.17 of the Ohio Revised Code advising the commission that they are required to attend at least three fifths of the regular and special meetings of the commission. If they fall below the 3/5th requirement, their position on the commission is forfeit. She indicated that she had recently been contact by the Governor's Office regarding this matter. Ms. Potter advised that Sub HB 48 would go into effect on September 12, 2008. New laws and rules booklets would be sent to all licensees. They were currently being printed. She indicated that she attended the Summer Educational Seminar on the 17th where she passed out flyers regarding the new bill and was available to answer questions. She indicated that renewal season is wrapping up and that there were currently 3,170 active licensees with about 200 who could still renew with a late fee prior to September 1st. Ms. Potter indicated that the number of licenses was down slightly. She advised that on July 1, 2008, the Director of Agriculture requested a transfer of \$66,181.85 from the auctioneer operating budget to the auction recovery fund in accordance with the provisions of R.C. 4707.05. She stated that the fund balances are as follows: 4D20 \$216,178.81, 5B80 \$508,918.94, and 5U10 \$1,274,786.70. She stated that there was a recovery fund payout in the amount of \$9,355.39 which was not reflected in the fund balance. She indicated that an auctioneer had died insolvent and a claim was made to the fund.

Ms. Potter expressed a concern for the flyers for the July 17th seminar. She indicated that the flyers failed to mention that the seminar was funded through the auction education fund. She indicated that there were 100 people who signed up, but only about 80 actually attended. She expressed concerns for the fall seminar and the proper advertisements. Chairman Baker stated that the flyers were supposed to indicate that the seminar was funded by the commission. Barry Baker indicated that the fall seminar information will include the information. Ms. Potter reminded the commission that they need to complete their ethics training as soon as possible. She indicated that the next seminar was at Bowling Green. She was asked to forward information regarding the seminars to the commissioners. Bill Hopper reminded the commissioners that this was required per the Governor's Directive. Gary Cain indicated that he would not be available for the October meeting. The October Commission meeting was moved to November 14, 2008. Ms. Potter indicated that the final item in her report was that there was no movement regarding the Paranzino appeal and that they were waiting the hearing officers report and recommendation on a case where the department refused to renew a license where the licensee failed to indicate a

pending criminal charge. She indicated that she had been contacted by the Tax Department of pending charges on the auctioneer who had indicated on his renewal that there were no pending charges.

Chairman Baker asked if everyone had an opportunity to review the last meetings minutes. He requested that the meeting minutes be forwarded to the commission prior to the meetings for review. Ms. Potter indicated that she would be able to do that via email. Commissioner Gary Cain made a motion to approve the minutes as submitted. Commissioner Steve Remias seconded. No further discussion. Motion carried by an affirmative vote of all members present with Commissioner Milleson abstaining.

The next item on the agenda is the alternative to the apprenticeship. Chairman Baker stated that some states do not have an apprenticeship and the more he gets involved in other states, he thinks that the system is antiquated. He stated that the apprentices have a hard time finding sponsors. He stated personally he is not worried about the competition that it just takes so much time to train someone. He asked Donna Potter to take a look at it and to draft some language. He felt that it was a good start but was open to discussion. He stated that it was something to look at and that obviously it would take a statutory change. He stated that we approve the schools then half of them can't even find a sponsor. He stated that they were not trying to keep people out of the business. She indicated that the post-licensure topics and credit hours were based upon the recommendations previously made by the Continuing Education Task Force. Ms. Potter read the proposed language into the record as follows:

§ 4707.04. Powers and duties; expenses.

(H) The commission shall approve post-licensure education course providers. The commission shall adopt rules regarding the course provider requirements.

§ 4707.07. Auctioneer's license.

(A) The department of agriculture may grant auctioneers' licenses to those individuals who are determined to be qualified by the department. Each individual who applies for an auctioneer's license shall furnish to the department, on forms provided by the department, satisfactory proof that the applicant:

- (1) Has a good reputation;
- (2) Is of trustworthy character;
- (3) Has attained the age of at least eighteen years;
- (4) Has done one of the following:
 - (a) Met the apprenticeship requirements set forth in section 4707.09 of the Revised Code;
 - (b) Met the requirements of section 4707.12 of the Revised Code.

(c) Met the requirements found in section 4707.091 of the Revised Code

§ 4707.091. Auctioneer License via Post-Licensure Education

An applicant for an auctioneer license may meet the requirement found in R.C. 4707.07(A)(4)(c) if all of the following are met:

- A. The applicant has completed an approved auction school within one year prior to the date of application;
- B. The applicant shall take and pass the written auctioneer exam with a score of 75% or higher and receive a passing score on the verbal examination administered by the auction commission;

- C. Within two (2) years of the issuance of the auctioneer license, the applicant must successfully complete twelve hours of post-licensure education. The first six hours must be completed within one (1) year of the issuance of the license.
1. The post-licensure education shall consist of ten (10) hours of the following core courses:

a. <u>Agency Law</u>	<u>1 hour</u>
b. <u>Contract Law</u>	<u>3 hours</u>
c. <u>Uniform Commercial Code</u>	<u>2 hours</u>
d. <u>Auction Ethics</u>	<u>1 hour</u>
e. <u>Ohio Auction Law</u>	<u>2 hours</u>
f. <u>Trust/Escrow Accounts</u>	<u>1 hour</u>
 2. The post-licensure education shall consist of the licensee's choice of two (2) hours of the following elective courses:

a. <u>Advertising & Marketing</u>	<u>1 hour</u>
b. <u>Business Math/Accounting</u>	<u>1 hour</u>
c. <u>Insurance & Liability</u>	<u>1 hour</u>
d. <u>Federal Firearms Law</u>	<u>1 hour</u>
e. <u>Business Management</u>	<u>1 hour</u>
f. <u>Automobile Auctions</u>	<u>1 hour</u>
g. <u>Real Estate Auctions</u>	<u>1 hour</u>
h. <u>Property appraisals</u>	<u>1 hour</u>
 3. Courses must be taken from an approved course provider.
- D. Failure to complete post-licensure education requirements shall result in an automatic license suspension.
1. Licensees will have six months from the date of suspension to provide proof of completion.
 2. Failure to provide proof of completion shall result in an automatic revocation of the license.
 3. If a license is revoked due to the failure to meet post-licensure requirements, the licensee may reapply within one (1) year of revocation. The licensee shall meet all requirements for licensure as if they had never been licensed which includes attendance at an approved auction school.

§ ~~4707.091~~. 4707.092 License on deposit.

Chairman Baker stated that many auctioneers do not want the liability of an apprentice. Commissioner Cain indicated that he personally has been very selective and has only had 4 apprentices over the years. He expressed concerns that many apprentices pick up bad habits during their apprenticeship. Chairman Baker indicated that he felt that it was the only profession where you trained your employee to leave. He stated that the bigger issue is that people cannot get licensed. He stated that the recommendations from Ms. Potter were not etched in stone, but he liked it. Commissioner Cain stated that he liked it as well. Bill Hopper stated that the idea is a good one and he felt that it really helped a person determine what the requirements are. He stated that when an apprenticeship is done right it is great, but he was not sure how often it really happens. Chairman Baker stated that when the apprenticeship was originally implemented, things were a lot different; that auctions have changed. Bill Hopper asked how the commission wanted to proceed. Did they want to review and vote at the next meeting? Ms. Potter stated that it was entirely up to the commission. Commissioner Remias stated that he would like to review it. It was agreed that they would review and be ready for the next meeting. It was expressed that this may be a way to help out of state auctioneers who are not in states with a licensing law. Bill

Hopper stated that everyone needed to look at the language and vote at the next meeting. Maggie Beckmeyer stated that she teaches at an auction school and the students have a hard time finding sponsors.

The next item on the agenda was Other Business. The application for approval for the Central Ohio Auction School was discussed. Donna Potter stated that the application had been tabled at the last meeting and she had gone through the materials and they demonstrated that they meet the required minimum curriculum. She read through the resumes of the instructors. Commissioner Cain moved that if they meet the minimum requirements, he moved to approve the school. Commissioner Remias seconded. No further discussion. Motion carried by an affirmative vote of all members with Jim Milleson abstaining.

The next topic for discussion is the verbal exam criteria. Commissioner Cain expressed that he had not been impressed with the quality going through. He stated that he would like to see different criteria for testing. He asked the OAA to forward the criteria for the bid calling contest. Donna Potter indicated that the administrative code mentions the verbal exam and read the criteria found in OAC 901:8-2-03. She indicated that she was not sure if there would need to be a change to the administrative code or not. Bill Hopper indicated that it would need to be adopted in the administrative code. Barry Baker expressed that bid calling is a part of the business that it is selective. He did not think that they should stop someone because they did not like their chant. Commissioner Cain indicated that he agreed 100%. Which is why he would like to see the criteria based on something other than just the bid calling. He felt that they needed to grade their manner/salesmanship. He felt that it would be a help and it would provide them with some guidance. Commissioner Remias stated that he liked Commissioner Cain's idea. Commissioner Cain indicated that they could give the score sheets to the licensees and they could see what they needed to work on. Bill Hopper stated that if going to grade them by % that they will need to reflect that in the administrative code to be fair to the candidates. Commissioner Cain asked his fellow commissioners if they would like to change the format for the verbal. Chairman Baker stated that he thought it would be good to spice it up. Donna Potter stated that she would put something together and send it out to be reviewed at the next meeting.

Chairman Baker recognized Barry Baker. He stated that the industry is trying to get our auction education fund increased. He believes that they are right around \$24,000 per year that they can receive as an industry. He stated that he thinks that he went along appropriate lines to try and get an increase in that amount to up to \$40,000. His question was for Donna Potter as to whether or not they are doing the right thing. He wanted to know if they need to have an approval from the commission if that is what the commission agrees with. The way he understood that it is now up to the Governor and the budget committee to either approve or not approve that. He wanted to know if that as correct and what they as an industry should be doing to make that happen. Donna Potter stated that this was not her bailiwick and that she would give her basic understanding and that the commission would probably have to clarify with Adam Ward. The appropriate person to ask for the increase, if the commission wants to have more spending authority or monies available to them, is the commission. They are the body that oversees that fund and they are responsible for the expenditures from that fund. It is her understanding that the commission would be the appropriate person. Chairman Baker asked for clarification as to where the \$40,000 came from. Barry Baker stated that basically that is a figure the finance committee came up with that it is not exact. He stated that this year in '08, we have blown the \$24,000 already. He said they had another \$9,000 as an industry that they normally ask for the winter convention. He said they are already short \$9,000 plus no one else has asked to use the monies from that fund. If someone else steps up and asks for funds, you guys as a commission could not approve anything because they are completely out of money. We have completely shot the '08

budget and we have another six months to go. Chairman Baker stated that in all do respect, the commission approved what was asked. They did not blow any money. They approved what was asked. They approved what the OAA brought to the table 100%. Barry Baker is right that there is no more money left; but it was because there were no other requests and had there been other requests, they might not have gotten approved. Barry Baker stated that he agreed. He stated that he was able to talk with Commissioner Remias and Commissioner Cain at the last seminar. He stated that they were impressed with the money spent on the seminar that it was the type of education that they wanted to bring to Ohio to make it a leader in CE. Barry Baker stated that the commission approved \$13,000 for a three day seminar in the fall. But that it would cost more to bring these types of seminars to Ohio. He stated that the \$24,000 was not adequate that they needed more money. He indicated that the budget was being done now. Barry Baker stated that he would like to bring in the AARE next year and that there was no way that they would do that for \$10,000. He said a program like this would be unprecedented. It would be more like a 20,000 budget for such a program. He has dreams for the association and the industry over the next couple of years. He said they need to get used to using the funds. It is goal to use what they have to stretch it even further. He is asking to spend less than 10% of the fund. In his opinion, 24,000 dollars was not adequate for the next couple of years which is why they picked \$40,000. Based on Donna Potter's recommendation, they sent a letter to the Governor and to the budget office and management. Donna Potter wanted to clarify for the record that she never advised Barry Baker to send a letter to the Governor or OBM. Barry Baker clarified that Adam Ward advised them to send the letter. He stated that he was not aware that they needed approval from the commission because the budget is being worked on for 2010/2011 and if they do not get action from the commission then they will be even further behind two years from now. He felt that \$40,000 was a doable figure. Mike Baker stated that he understands, but he took issue with the characterization that they blew the money. He felt it was made very clear that they were spending all of the money and that there was no money left. He agrees that they need to work to get the money. If they can, he is in favor of increasing the monies.

Donna Potter asked to be recognized. She stated that she wants to clarify some of the things that have been stated. She asked that no one to take what she is about to say wrong; she is a supporter of the programs that the OAA has been giving and that she knows there are people who believe that she is anti-OAA and she stated that she is not. She stated that she believes that it is her responsibility to point all facets out to the commission. First item, the money is not the profession's money. That money belongs to the auction commission to use to fund the programs. It is not the profession's, it is not the OAA's. The OAA should not be forming their budget around funding that they may or may not receive from the commission. If the commission wants to increase their spending authority then the commission needs to work with Adam Ward to get the increase. Just because there is an increase in the budget, it does not mean that the OAA will get the money to use. Over the years there seems to have been a misconception develop as to whose that money is and she just wanted to clarify. The monies are set aside for the education and promotion of the profession for both the profession and the public. Chairman Baker stated that anyone can apply for the monies. Generally no one else applies. Bill Hopper stated that Barry's public comment is saying that commission ought to consider increasing the spending authority in respect to education and Donna Potter is saying that it is up to the commission. It is the commission's control to decide. What he knows of the budget process that there is no guarantee that just because you ask for an increase, it does not mean you are going to get it. Barry Baker stated that Adam Ward said the commission would have to authorize the recommendation for the increase in the 2010/2011 budget. Commissioner Cain stated that they would have to send their recommendation. Chairman Baker stated that his question is that if they do and it gets approved and they do not spend it all—does it go back down. Bill Hopper indicated that he did not know. Commissioner Baker stated that he took away from the last

meeting that to ask for a controlling board increase for one time was difficult. Barry Baker stated that as an industry the more education to get there is and the more improved quality education the better. He stated that they are already leading edge in Ohio. Chairman Baker stated that it was his understanding from the past that the \$24,000 represents the amount of money they take in each year. If they are asking for \$40,000 need to be prepared with concrete information. Donna Potter stated that she needed to ask Bill Hopper a couple of questions. She asked if he knew the thresholds for contracts and monies to vendors. It was her understanding that once you meet a certain threshold; you needed to open it up for bids etc. Bill Hopper stated that he understood what she was referring to and that there are rules that apply to contracts. If you cross those thresholds, there are additional requirements you have to meet. You have to go to the controlling board and DAS, Department of Administrative Services. Those are the limits that Donna Potter is referring to and exact requirements in terms of the funds, he will need to research. Donna Potter stated that she is not trying to tell the commission how to spend their money that she is just trying to point out things that they need to consider. She stated that the next question that she had was a result of the recent ethics training. She expressed a concern as to whether or not there is a conflict of interest with members of the OAC who are members of the OAA seeking an increase in the spending authority when most likely the money will go to the OAA. Commissioner Remias stated that he could answer that. He stated that he asked the same question at the ethics seminar he attended. He said they said that they are allowed to be members of the OAA, but cannot be an officer of the OAA. However, his personal feelings are that it may not be an ethic violation, but not something that he'd want to do at this time. Barry Baker stated that they needed to keep in mind that the money is not going to the OAA, that they are just a funnel, a conduit to get the money to the speakers. He stated that they are the only ones who are asking for the monies. Bill Hopper stated that it might raise ethical issues /contract issues and that we are raising the questions that need to be looked into. He felt that it was appropriate to explore these issues.

Chairman Baker asked if they decide to go ahead with this request, how the process worked. Bill Hopper explained that there is an authorization in the budget for a specific spending authority. If you exceed that spending authority then you would need to go to the controlling board. The two are mixed together. Basically, if you want more money this fiscal year, then you will go to the controlling board; if you want to increase your spending authority in the next biennium, it goes before a budget hearing. Barry Baker stated that they could have used \$40,000 this year and that it was doable for the 2010/2011 budget. Commissioner Remias asked if the \$40,000 was the lower end or the higher end of what they could spend. Barry Baker stated that it was on the lower end. Chairman Baker clarified that they are asking for a \$40,000 increase per year in the two year biennium. Commissioner Cain stated hypothetically asking for an increase in budget to be earmarked for the profession; just because it is there does not mean they will spend it. Bill Hopper stated that \$24,000 was set as to maintain spending the incoming revenue. If you increase your spending authority and are replenishing at a rate of \$25,000 and spending \$40,000, you will have that issue to contend with. Chairman Baker asked what the annual replenishment rate was. Donna Potter stated that she did not know what the annual replenishment rate was but that it varied slightly per year due to the renewal schedule. Chairman Baker asked what Barry Baker was asking the commission-- what is the bottom line question. Barry Baker stated that he would like a motion. Bill Hopper advised that he cannot make a motion, but he was making public comment. Barry Baker stated that he would like to see the commission make the recommendation to the director to increase the spending authority to \$40,000 annually in the 2010/2011 budget. Commissioner Milleson stated that in the last meetings minutes, they approved \$30,000 and that they only have \$24,601 to spend each year. Donna Potter explained that \$5,000 of that was paid out of the last fiscal year. Commissioner Milleson asked if historically 93-95% of the requests are from the OAA. Donna Potter stated that by and large the

requests come from the OAA but there have been requests from other groups as well. Chairman Baker stated the requests that were approved were for new programs. Commissioner Milleson stated that \$24,600 is about 10% of what is in the fund. If you are growing every year what you are spending and bringing in less than what you spend. Is there a way to increase the amount that you are bringing in each year? Donna Potter stated that it would take a statutory change. That \$7.50 of each \$100 license fee goes into the education fund. She advised with the state economic situation that she highly doubted that the legislature would approve an increase in license fees. Commissioner Milleson stated that if the OAA is asking for more money to spend for education, wouldn't they agree to an increase in their fees. Donna Potter asked Barry Baker how many members were in the OAA. He stated that there were about 400. Donna Potter stated that there are about 3,170 licensees in the state. Barry Baker stated that down the road they could ask for an increase in license fees. They only pay \$100.00 per year now. They pay \$500.00 in Illinois that maybe the license fee should be increased to \$150.00 per year and have 12.00 go into the education fund. Chairman Baker stated that takes legislation that there is a breakdown somewhere on where the monies are spent. Donna Potter stated that it is in the statute. Barry Baker stated that there was just over \$200,000 in the education fund just rotting and why don't they use it? Chairman Baker stated that they need to go about it in the correct manner. Bill Hopper stated that the public comment was made. Chairman Baker stated that it is a big process and what did the commission want to do.

Commissioner Cain moved to request to increase the spending authority to \$40,000 per year for the next biennium. Commissioner Remias seconded. Commissioner Baker asked for discussion. Commissioner Cain stated that he was satisfied with the decision. Chairman Baker stated that he wanted to make a comment. He wants to be clear that this commission has done everything asked. He takes offense when it is characterized that the commission has blown the money or that they are out of money. They could turn it down, and then they are the bad guys for turning it down. He wants to go on the record. He is in support of an increased spending authority. He stated that he does not want to be the bad guy if this does not go through. That there is a process to do this and that he does not want to get the commission behind the eight ball. Commissioner Cain stated that they can do this with good conscience. He stated that the education has not what it should be and it is important for the profession. Bill Hopper asked if the seminars are open to anyone. Chairman Baker stated that they are open to the public, anyone who wants to attend. He also reminded that in the past they have lost monies from the account. That fund used to be a higher balance. Donna Potter stated that if she remembered correctly they took \$100,000 back when the funds were raided. Chairman Baker stated that he was all for using the money for the profession rather than losing it to the legislature. Donna Potter stated that she was supportive of them gaining more money to spend on the education; but she stated that they need to figure out a way to get more "cheeks in the seats". For example, the seminar last Thursday which was a great seminar, but they only had about 80 people show up. The controlling board and the legislature will look at costs per person and whether or not they are spending their money wisely. The commission needs to figure out how to get more people into the seminars. Chairman Baker stated that the content that we are attempting will get more people in the door. Part of the problem is that we need to be careful that we are talking over people's heads. Chairman Baker thought maybe you could do simultaneous seminars to cover the needs of all licensees. He asked for any other discussion. Called for a vote. Motion carried by an affirmative vote of all members present with Commissioner Jim Milleson abstaining.

Barry Baker asked what happens at this point. Donna Potter asked Chairman Baker to touch base with Adam Ward and if needed, she would draft a letter for Chairman Baker. Chairman Baker asked if there was anything else Barry Baker had. Barry Baker stated that in the next meeting that most likely will come and ask for more funds at the next meeting. He wanted to know what

would happen. Donna Potter stated that there would be no money in the fund. They could seek to gain controlling board approval. If they received approval, then they could approve the funds. You have a meeting in November, the commission would have to prepare the controlling board request and go to the controlling board with Adam Ward. The controlling board meets every two weeks—which is dependant on the December legislative break. The next commission meeting is January. She did not think that there would be a way to get it done before the OAA Winter Convention. Bill Hopper stated that he felt that there would be time crunch that they would run into. Barry Baker stated that they are going to spend the money no matter what. What if they approved it can they spend in arrears? Chairman Baker stated that you cannot do that. Barry Baker asked if they could do an approval over the phone. Chairman Baker stated that you cannot do that; it had to be a publicized public meeting. Donna Potter stated that the controlling board is a process and there is no guarantee. Donna Potter asked Barry Baker if they were able to get the price dropped for the fall seminar. He had stated in the last meeting that he was going to try to get the amount reduced. Barry Baker stated that he was not able to do that. She stated that in the past they have come in under budget. Chairman Baker stated that he just does not want to go to a controlling board and it look like they do not know what they are doing.

Chairman Baker asked for any other business. With no other business before the commission, Commissioner Cain moved to adjourn. Commissioner Remias seconded. No further discussion. Motion carried. Meeting adjourned at 11:53am.

Approved Chairman