

# Virginia Board for Towing and Recovery Operators (BTRO)

April 3, 2007 - 9:30 AM

Department of Motor Vehicles, 7<sup>th</sup> Floor Conference Room (702)  
2300 West Broad Street, Richmond, Virginia 23220

## *Final Minutes*

A regular meeting of the Virginia Board for Towing and Recovery Operators was held on April 3, 2007 at the Department of Motor Vehicles Headquarters, 2300 West Broad Street, Richmond, Virginia.

Board Members present:

Andres Alvarez (designee of the Commissioner of Agriculture and Consumer Services)  
Roy Boswell  
Charlie Brown  
Cary Coleman  
Ray Drumheller  
Lt. Curtis Hardison (Designee of the Superintendent of the State Police)  
Woody Herring  
Ray Hodge  
Mark Sawyer  
Randy Seibert  
Gary Teter  
Jo Anne Maxwell (Designee of the Commissioner of the Department of Motor Vehicles)

Board Members absent:

Jeff King  
Ron Minor  
Vinay Patel

Staff present:

Benjamin Foster, Board Executive Director  
Daphane Phillips, Administrative Assistant  
Jeffrey A. Spencer, Esq., Senior Assistant Attorney General

### **Called to order**

**Chairman Ray Hodge** called the meeting to order at 9:38 a.m.

## Public Comment

**Chairman Hodge** asked if there were members of the public wishing to speak. **Sergeant Priscilla Burnett** of the Newport News Police Department began addressing the Board about towing concerns of the City of Newport News. **Executive Director Foster** interrupted her and asked if she would make her comments during the time set out on the agenda for “Correspondence from the City of Newport News.”

There were no further public comments.

## Acceptance of January 23, 2007 Board Minutes

There were no corrections to the draft minutes from the January 23, 2007 meeting. On a motion by **Ray Drumheller**, seconded by **Woody Herring** the Board voted unanimously to accept the minutes as written.

## Action Items

*Correspondence from the City of Newport News:*

**Lynn Sugg**, Senior Assistant City Attorney and **Sergeant Priscilla Burnett**, representing the Newport News Towing Advisory Board discussed concerns set out in a letter sent to the Board dated February 6, 2007. **Attorney Sugg** had concerns regarding recent changes to the Code of Virginia. The area in question, Section 46.2-1217 states that “the owner has access to the vehicle for the purpose of inspecting or towing the vehicle to another location for the purpose of repairs, storage, or disposal. The second area of concern pertained to Section 46.2-1217 which requires at least two commonly used nationally recognized credit cards as payment for towing services.

**Sgt. Burnett** voiced concern regarding the A & B Operator license that will be required by the Board to operate in the State of Virginia. **Sgt. Burnett** was specifically interesting in knowing whether local law enforcement departments will be required to determine these requirements. **Chairman Hodge** stated that the licensing regulations will determine if operators are Class A or B Operators. The towing operators will be licensed by the state.

*Correspondence from Senator Marty Williams*

**Executive Director Foster** handed out a letter from **Senator Marty Williams**, Chair of the Senate Transportation Committee. **Senator Williams** asked that the Board establish a committee of its membership to study an alternative to the state’s current second signature law. The committee would work with local government representatives and forward a possible alternative to Senator Williams for review and consideration prior to the 2008 General Assembly Session. **Chairman Hodge** appointed a Second Signature Ad Hoc Committee to address **Senator William’s** concerns. The Ad Hoc Members are: Board members **Randy Seibert**, **Mark Sawyer**, and **Gary Teter** along with **Fred Schelar** of Henry’s Towing who will represent the

towing industry. A Chair will be selected by the members at the first meeting. **Executive Director Foster** will contact the members and arrange a meeting time and location.

*Correspondence from the Honorable Pierce Homer, Secretary of Transportation*

**Executive Director Foster** handed out a letter received from **Secretary of Transportation Homer Pierce**. The Secretary's Office had responded to a complaint that was received from through the Governor's office. **Executive Director Foster** told the Board that he had been aware of the complaint and had assisted the Secretary's Office in drafting a response. No further action was required of the Board.

**Chairman's Report**

**Chairman Hodge** stated that he did not have anything to report. He stated that **Executive Ben Foster** has been working very hard getting all the paper work together and keeping information up to date. He also stated that the chairmen of all the committees had been working very hard and he would like to thank everyone for their hard work.

**Executive Director's Report**

*Office Space Acquisition*

**Executive Director Foster** related to the Board that office staff should be moving into the Book Bindery Building by late May or early June. The Board will be getting 1,400 sq. ft. of space. Once the floor plan is drafted by the Department of General Services it should take about thirty to ninety days to build out the space.

*Virginia Regulatory Town Hall*

**Executive Director Foster** related that the Board is now listed on the Virginia Regulatory Town Hall. It is now possible to obtain regulatory and meeting information on the Town Hall website. He pointed out that everything presented on the Town Hall website will also be listed on the Virginia Commonwealth Calendar website.

*Public Participation Guideline Regulations (24 VAC 27-10-10 et seq.)*

**Executive Director Foster** provided an explanation of the purpose of Public Participation Guideline Regulations for the benefit of the public who were not present at the last meeting. Public Participation Guideline Regulations set out mechanisms by which the general public has an opportunity to participate in the functions of the board.

Executive Director Foster pointed out that until the Board officially established a public participation guidelines list staff will use names from sign in sheets of previous meetings to send out any information that required of Public Participation Guideline Regulations.

*Practice Regulations (24 VAC 27-30-10 et seq.)*

The Notice of Intended Regulatory Action (NOIRA) submitted by the Board had been reviewed by the Attorney General Office. This is one of the early steps of the regulatory process.

*Public Safety Regulations – NOIRA (24 VAC 27-50-10 et seq.)*

**Executive Director Foster** related that the need for Public Safety Regulations had been brought to his attention by **Regulatory Committee Chair Charlie Brown**. After reviewing Section 46.2-2826 of the Code of Virginia and consulting with Board legal counsel it was agreed that these regulations would be necessary. As such a Notice of Intended Regulatory Action was drafted to present to the Board at this meeting. Having explained the requirement Executive Director Foster asked for a motion and vote to put forward a Notice of Intended Regulatory Action.

On a motion by **Ray Drumheller**, properly seconded by **Mark Sawyer** the Board voted unanimously to put forth a Notice of Intended Regulatory Action for Public Safety Regulations.

*Finance*

**Executive Director Foster** stated that the finances of the Board were in very good shape. For the most part expenditures up to this point have been for staff salaries and Board member expenses. Additional relatively minor expenditures have been made for office supplies. Significant savings have occurred because the Department of Motor Vehicles currently does not charge the Board for office space. **Executive Director Foster** said that the Department of General Service Real Estate Services has not provided him with an estimate of the cost for the Book Bindery lease.

*Complaints*

**Executive Director Foster** stated that the Board had begun to receive calls and complaints concerning towing operators around the state. He said that he believed information about the Board had begun to circulate through word of mouth and the existence of Board information on the internet. Additionally, the Department of Agriculture and Consumer Services has begun to forward towing complaints it had received to the Board. **Executive Director Foster** cautioned the Board members to refer and forward all complaints to him as any attempt by an individual member to intercede could result in a conflict of interest.

*Website*

**Sheri Wood**, a programmer with Virginia Interactive (Virginia.gov) informed the board that two prototypes of the Boards' website should be available for review by Board staff in about two weeks. **Ms. Wood** stated that the site will contain Board contact information, announcements,

minutes, and have the ability to link with out websites such as the Virginia Regulatory Town Hall, Minutes.

**Deanna Boehm**, Marketing Manager for Virginia Interactive (Virginia.gov) provided an overview on the cost structure for the proposed website as well as estimates for cost on additional services that could be added to the site in the future.

This concluded the Executive Directors Report.

### **Committee Report**

#### *Licensing and Regulatory Affairs Committee Report*

**Chairman Charlie Brown** reported that the Committee met on January 23, 2007. Members of the public had been present but there had no public comment nor was there any no old business. **Mr. Brown** provided a recap of the discussions from the January meeting. The Committee had discussed agreements from other states regarding the transfer of towing and recovery operator licenses. The Committee had stated that the Board should enter into reciprocity agreements with other states for the transfers of licenses. **Executive Director Foster** had strongly suggested that the Board not enter any reciprocity agreement with any other state. He had stated that by doing so the Board would be guaranteeing a Virginia license to a person licensed in another state. As such there would be not right of denial for such person if there were questions regarding that persons' suitability for licensure. **Ron Minor** will draft sample language for the regulations based on regulations used by Prince George County.

#### *Administrative Affairs Committee*

**Chairman Woody Herring** reported that the Committee had met on January 23, 2007. Members of the public had been present but there had been no public comment. Using the minutes from that meeting **Mr. Herring** provided a recap of the discussions. The Administrative Affairs Committee had discussed which Board Committee would handle the setting of fees for the tow truck operators. **Charlie Brown** stated that he would like the Administrative Affairs to handle the structuring of fees for the Board. **Executive Director Foster** reminded the Committee of the Callahan Act which required that the Board maintain revenue within 10 percent of expenditures.

#### *By- Laws and Policy Committee Report*

In the absence of **Chairman Jeff King**, **Randy Seibert** made the By- Laws Committee report. **Mr. Seibert** reported that the Committee had met on January 23, 2007. Members of the public had been present but there had been no public comment. Using the minutes from the last meeting **Mr. Seibert** provided a recap of the discussions. A handout had been distributed containing the proposed new By-Laws. There had been two questions in the handout which would be addressed

at the next meeting. First, could the Chair of the Board attend any Committee meeting? And second, how the Committee Vice chair would be selected.

**Board Chairman Hodge** stated that since By-Laws committee was short 3 members on this day they did not have a quorum and would not meet. He stated that the Committee needed to meet before the next Board meeting. On a motion by **Randy Seibert**, seconded by **Charlie Brown** the Board voted unanimously for the By-Laws Committee to meet prior to the next meeting. **Executive Director Foster** stated that he would work with the members to pick a date that would allow for a two week lead in order to satisfy meeting posting requirements.

#### *Communications and Consumer Affairs*

**Chairman Cary Coleman** reported that the Committee met on January 23, 2007. Members of the public were present but there was no public comment. Using the minutes from the last meeting **Mr. Coleman** provided a recap of discussions from the January meeting. Under old business **Andres Alvarez** had checked with the Virginia Employment Commission on the availability of identification on Tow Truck drivers and the availability of a list of tow truck companies. Under new business the Committee had voted to proceed with the creation of the Board website. The site will be created utilizing the services of Virginia Interactive. **Mr. Alvarez** was responsible for inviting Virginia Interactive to come to the next Board meeting. **Vice Chairman Seibert** would be responsible for providing the Committee with an outline and information structure for the website. The committee will discuss the content at the next meeting.

This concluded Committee Reports

**Executive Director Foster** asked the chairman of each committee to make sure that they provide any changes to the draft minutes made during committee meetings.

#### **New Business**

Chairman Hodge asked if there was new business. There was none.

#### **Next Meeting**

**Executive Director Foster** suggested possible date for the next meeting based on the availability of Department of Motor Vehicle conference rooms. It was decided that the next meeting would occur on May 8, 2007 at 9:30 a.m.

There being no further business the meeting was adjourned at 10:48

#### **Recording of Meeting Minutes**

Board **Executive Director Benjamin Foster** and Board **Administrative Assistant Daphane Phillips** took minutes of the meeting.

**Minutes approved:**

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**Date**

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**Ray Hodge, Chair**

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**Benjamin Foster, Executive Director**