

Board of Towing and Recovery Operators

Final Minutes

May 8, 2007

Members Present:

Ray Hodge
Woody Herring
Ray Drumheller
Mark Sawyer
Roy Boswell
Randy Seibert
Charlie Brown
Gary Teter
Gary Coleman
Ron Miner
D.B. Smit (Commissioner of the Department of Motor Vehicle)
Andres Alvarez (Designee of the Commissioner of Agriculture and Consumer Services)
Captain Steve Chumley (Designee of the Superintendent of the State Police)

Members absent:

Vinay Patel

Staff Present:

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

Call to order:

Meeting was called to order at 9:12 a.m.

Comments from the Public:

Chairman Hodge provided members of the public an opportunity to speak to the Board. No comments received from the public.

Acceptance of April Meeting Minutes:

Chairman Hodge asked members if they had reviewed the minutes of the April 3, 2007 meeting of the Board and inquired if there were any questions. Hearing no questions, the Chairman called for a motion to approve. A motion was made by **Mr. Drumheller** and seconded by **Mr. Coleman**. The minutes were adopted unanimously.

Chairman Report:

Chairman Hodge reported that the tow operators have been working very hard for a number of years to get this Board formed. Three years with the Study Commissions and then the General Assembly for Legislations. Now that the Board has been formed, the task that been assigned

needs to be correct. The towing industry is keeping up with the progress because this will affect things for years to come. He stated that **Mr. Foster** has been working hard with the Boards' Committees and everything is moving forward in terms of getting the regulations completed.

Executive Director's Report:

General Overview

Mr. Foster reported that this has been an interesting month and that much has transpired. In addition to normal office duties he had the opportunity to tour the towing operations of **Chairman Hodge** and that of **Mr. Herring**. Additionally, he also had the opportunity to sit on an interview panel at the request of **Mr. Bruce Gould**, Executive Director of the Motor Vehicle Dealers Board.

Office Space Acquisition

Mr. Foster informed the Board that the anticipated office space at The Book Bindery had been leased by the landlord. The Board had followed and gone beyond procedures required by the Department of General Services, Real Estate Services Division. **Mr. Foster** stated that he had all the correspondence from December 11, 2006 through April of 2007 showing when he had started working on the space and what had transpired during that period. He pointed out that he had learned of the loss of the office space after contacting **Mr. Richard Zorn**, Deputy Commissioner of Administration near the end of April. **Mr. Foster** said that he invited **Mr. Ernie Forrest**, Director of Real Estate Services and **Mr. Zach Roski** of C.B. Richard Ellis to attend today's Board meeting and explain the events leading up to the loss of the space but never he did not receive a response to the request. **Mr. Foster** stated that he had physically walked the area surrounding the Department of Motor Vehicles in search of prospective office sites.

Newsletter & Mailing

A request was made at the last Board meeting that **Mr. Foster** put together a mailing list and newsletter to hand out to the towing operators to make them aware of the Boards' existence. **Mr. Foster** provided the Board with a draft of an informational newsletter and a contact card to help obtain information regarding the towing population in Virginia.

The Towing & Recovery Operator Contact Cards will be included with the newsletters which will go out to all towing operators in Virginia. Both the newsletter and the contact cards will also be made available on the website. **Mr. Foster** informed the Board that a list containing approximately 1,500 names of towing operators has been compiled and will be for this purpose. Additionally, police and the sheriff's departments will be mailed packages of these materials for distribution in the local jurisdictions.

Concerns: Chapter 12 and 28 of the Title 46.2 of the Code of Virginia

Chapter 12 of Title 46.2 of the Code of Virginia addresses abandoned, immobile, unattended and trespass parked vehicles. This Chapter provides the Department of Motor Vehicles with certain powers and authority in regard to the towing of motor vehicles. Chapter 28 of Title 46.2 of the Code of Virginia is the authorizing statute for the Board of Towing and Recovery Operators. **Mr. Foster** stated that he had concerns whether the Board would have the authority to address situations arising from violations of Chapter 12. He said that he had talked with **Ms. Maxwell** regarding this issue. **Ms. Maxwell** had related that there is language in Chapter 28 that would allow the Board to address the issue of abandoned vehicles. It was requested that **Mr. Spencer**, Board Counsel report on this issue at the next meeting.

Concerns: Complaints

Mr. Foster stated that the Board is receiving complaints and that the public is aware of its existence. At this time the Board is only mediating disagreements between tow operators and users of those services. However, **Mr. Foster** said that he still had reservations about the legality of the Board playing any roll in that it has no jurisdiction over tow operators until July 1, 2008. He said that in this a very litigious society he had real concerns about his and the Boards' liabilities. **Mr. Spencer** stated that as long as the conversation is kept to a reasonable amount of time and the parties are not asking for Legal assistance, there should not be any repercussion for being a mediator.

Website

An overview of the website was presented to the Board by **Mr. Foster**. Using an overhead electronic screen a demo of the layout of the website was shown.

Committee Reports:

A. Licensing & Regulatory Affairs Committee

Charlie Brown, Committee Chairman reported that he would like to have the draft Practice Regulations ready for the upcoming meeting. There was discussion on who would fall under these regulations. Should it be "just for hire companies" or any driver that operates a tow truck? Should it include the guy that just tows his own dealership vehicles or the driver that tows his personal vehicle? **Mr. Gary Teter** stated that a lot of companies are abusing dealer tags. **Lt. Hardison** wanted to know if other states required a test for licensure. **Executive Director Foster** stated that only Louisiana required licensure and as far as he knew that did not require any type of examination. **Mr. Foster** also pointed out that the Code of Virginia specifies that the Board will require an examination for licensure. However, the Code doesn't specify what type of examination must be given or what skills, knowledge, or ability said examination must test.

The **Chairman Hodge** asked for comments from the Board regarding **Chairman Brown's** report. There being none, he asked for the next report.

B. Administrative Affairs Committee

Chairman Woody Herring wanted to know if anything had been done to create a listing of all the tow companies in Virginia. **Executive Director Foster** said that Board staff had compiled a list using the Verizon Yellow Pages search engine as well as lists supplied by insurance companies, and associations. The list consists of about 1,500 names after all the duplicate entries have been deleted. **Chairman Herring** inquired who or what committee would be responsible for setting the fees and if the Administrative Affairs Committee has that duty. He said that someone will need to start looking at some numbers. **Chairman Hodge** asked that this is put on the agenda for the next meeting. **Chairman Herring** asked about the software that the Board will be utilizing for managing licensure information. **Executive Director Foster** said that he would like to use the software currently being used by the Department of Health Profession. This software referred to as License 2000 (L2K) will capture everything that is needed for this board and because it is already in existence will alleviate our need to have something created.

Chairman Hodge asked for comments from the Board regarding **Chairman Herring's** report. There being none, he asked for the next report.

C. Bylaws and Policy Affairs Committee

Mr. Randy Seibert was introduced as the new Chairman of the Bylaws and Policy Affairs Committee. The Board reviewed an email sent to Bylaws and Policy Affairs Committee members from former Committee **Chairman Jeff King**. **Mr. King** had suggested revisions to the draft By-Laws adopted by the Committee at a previous meeting on January 23, 2007. **Chairman Seibert** handed out copies of the draft By-Laws with **Mr. King's** revisions to the members of the Board and the public in attendance for review. The Committee reviewed **Mr. King's** suggested revisions article by article. The Committee chose to accept the bulk of the suggested revisions and not to accept certain suggested revisions in three sections: Article VIII, Section Five, Article VIII, Section Ten, and Article X. All votes for adopting and rejecting revisions were unanimous.

Chairman Seibert stated **Mr. Ron Miner** had an amendment to the By-laws and it would be taken up in New Business on the agenda.

Chairman Hodge wanted to proceed with adopting the amendment while the By-Laws Committee had the floor.

Mr. Miner made a motion to adopt an amendment to Article VIII, Section Ten, which was rejected by the Committee. The original suggestion was for the Board chair to serve as a voting member to any Committee whether he is a member. **Mr. Miner** has a revised amendment before the Board that the Board Chairman would be a regular member of the four standing committees and as such he would be counted, because he is a working member.

Chairman Hodge called for a Motion to approve the Amendment. **Mr. Miner** made a motion to approve the amendment and it was seconded by **Mr. Brown**. The vote was five (5) in favor, seven (7) opposed, and one (1) abstention. The Amendment failed.

Chairman Hodge called for a vote to approve the Proposed By-Laws. A motion to approve the By-Laws was made by **Mr. Sawyers** and seconded by **Mr. Brown**. The By-laws were approved unanimously.

Chairman Seibert asked **Chairman Hodge** on direction the Committee needed to proceed in the future. **Chairman Seibert** stated that the Bylaws Committee members were willing to work with other Committees to assist as needed.

D. Communications & Consumer Affairs Committee

Chairman Coleman provided a recap of the April 3, 2007 Committee meeting. He reported that during that meeting it was confirmed that a request had been sent to other Board Committee Chairs requesting content they may wish to include on the website. During that meeting **Mr. Alvarez** introduced Virginia Interactive representatives **Ms. Boehm** and **Ms. Wood**.

Chairman Hodge asked for comments from the Board regarding **Chairman Coleman's** report. Seeing none, he asked for the next report.

E. Second Signature Ad Hoc Committee

Mr. Mark Sawyers reported that the Second Signature Ad Hoc Committee had meet on April 24, 2007 and that he had been elected Chair of said committee. **Chairman Sawyers** stated that the meeting had been well attended with over 20 members of the public and concerned stakeholders in attendance. He said that the meeting began with Executive Director Benjamin Foster explaining that Senator Marty Williams, Chairman of the Senate Transportation Committee had asked that the Board establish this committee to study alternatives to the state's current second signature law. Additionally, **Mr. Dana Fenton**, a representative of Prince William County gave an explanation as to how second signature works. **Mr. Fenton** stated that when a towing company signs a contract with another entity to provide service in a parking lot, that contract is considered

the first signature. When a vehicle is reported for tow by the property owner, at the time the tower comes out to the property, than he/she needs to get the second signature.

Chairman Sawyers said that this first meeting of the Committee was used primary to gather information from and to allow interested individuals and groups a change to present views on the issue. As such most of the time was spent in open dialog. He said that a request had been made that those persons and groups in attendance provide Executive Director Foster with copies of reference materials mentioned during the discussion. A follow up meeting will be scheduled after these materials are received and compiled. It is anticipated that this meeting will occur sometime in late June.

Chairman Hodge asked for comments from the Board regarding **Chairman Sawyers** report. Seeing none, he asked for the next report.

Old Business:

A. Finger Printing – **Captain Steve Chumley**

Captain Steve Chumley introduced **Ms. Shannon Ponders** of the Criminal Justice Services Department of the Virginia State Police. **Ms. Ponders** has stated that the Federal Bureau of Investigation (FBI) had issued the Board with an ORI number. This will enable the Board to process criminal records checks through the Virginia State Police of FBI data bases. The next step will be to establish an account number with the Virginia State Police which will allow the Board to be billed monthly for the finger printing services. The background check will cost the Board 37 dollars. **Ms. Ponders** suggested that the Board consider using a service called Live Scans which is an electronic image of an individual finger print. **Mr. Charlie Brown** suggested that the By-Laws committee be selected as a Subcommittee to handle the finger printing process for the Board.

Next Meeting:

The meeting will be held on June 5, 2007 at 9:30 a.m. at DMV room 702.

Adjournment:

Meeting was adjourned at 12:32 p.m.

Minutes approved:

Date

Ray Hodge, Chair