

**Board of Towing and Recovery Operators
Compliance and Consumer Affairs Committee Meeting
September 9, 2009 – 10:00 a.m.**

Members Present

Charlie Brown, Chairman
Roy Boswell
Ken Mitchell

Andres Alvarez
Brock Cole

Board Staff Present

Marc Copeland, Executive Director
Barbara Drudge, Compliance Officer

Discussions:

The meeting was called to order at 10:10 am.

Chairman Brown opened the meeting to address the creation of a process in order handle complaints, and Andres Alvarez provided documents utilized by the Department of Agriculture and Consumer Services – Office of Consumer Protection in their process as an outline of potential procedures and for discussion purposes.

Mr. Alvarez stated that within his agency as to the handling of anonymous complaints, they are handled by having the consumer not sign the complaint form, and making the consumer aware those complaints are subject to the Virginia Freedom of Information Act. Barbara Drudge suggested providing a disclaimer on the complaint form stating that anonymous complaints may be challenging to process if additional information is needed to process the complaint. Mr. Alvarez stated that there should be a standard process for receiving complaints, both anonymous and not, and added that complaints should be screened as they come in to determine the relation to the towing and recovery statute and regulations.

Mr. Mitchell inquired about the receipt of complaints pointing out the different ways that complaints may be received and his concerns for having complaints notarized, mailed in by certified letter, and received by e-mail with return receipt requested.

Mr. Alvarez addressed the issue of submitting complaints to local towing authorities, and if local towing boards are present in a jurisdiction. He further stated that if the localities do not have a towing authority, the complaint should be processed by Board. If it is found that there is a violation, an investigation will take place.

Marc Copeland proposed making a draft complaint process based on the format of the administrative process for the Agriculture and Consumer Affairs Committee.

Ms. Drudge stated her concerns with submitting complaints to the appropriate local towing authorities, and that they may not be handled as the Board would prefer, or in a consistent manner depending upon who the tow operator may be.

Ken Mitchell requested a definitive list of local towing authorities around the state. Ms. Drudge expressed her concerns about meeting the statutory requirement as to whether the locality has established a policy board versus an advisory board, and added that there is as well a need to create a uniform point system when dealing with complaints so that they are all handled in the same manner. Chairman Brown stated that there is a need for complaints to be handled the same throughout the jurisdictions.

Dave Reidenbach suggested changing the word “policy” to “regulatory” because policies do not hold the same power as regulations do, and noted that an advisory board provides advice to a local board of supervisors, and that they no authority to handle problems with towers. He went on to explain that local boards can then develop a regulation to oversee certain things, and suggested that the Board be responsible for reprimands, revocation, and suspension of licenses, since they are the ones that issue the licenses, and not local towing advisory boards. He said that by doing so, there is a guarantee that each complaint will be handled fairly.

Mr. Copeland suggested a survey be issued throughout the state to inquire about local towing advisory boards and their procedures by contacting the Virginia Municipal League. Mr. Mitchell suggested contacting the Virginia Association of Counties in order to obtain this information. Mr. Copeland pointed out that there needs to be an identification of the actual individual who handles the complaints in certain jurisdictions as well. Mr. Alvarez added that the Board statute was not put in place to override the local governments, and suggested using the handout he presented on the complaint process for the Department of Agriculture and Consumer Affairs be used as a blue-print for the Board complaint process. Ms. Drudge stated that she is waiting on the Attorney General’s Office to approve the complaint form and its process.

Chairman Brown noted that some complaints are people just wanting to vent their frustrations, and there is often not a need to file a formal written complaint. Ms. Drudge noted her preference of having complaints closed and or resolved as soon as possible. Mr. Copeland added that Board is working with Virginia Interactive to develop a web-based complaint process.

Mr. Alvarez suggested that the tow companies be notified formally if there is a complaint lodged against them, and then inquired about a complaint database. Ms. Drudge suggested Microsoft Access as a database to hold the complaints. Chairman Brown inquired about a public database, of which Mr. Alvarez stated that the information of a regulatory nature is public, and Mr. Copeland stated that the regulations do allow the information to be public. Mr. Alvarez discussed disclosure language in reference to false complaints.

Woody Herring asked why the local police would not be notified if the local towing authority was not present. Chairman Brown noted that not all towing complaints are going to be police related and would be handled differently, and added that police departments do not have the authority to impose civil penalties. Chairman Brown asserted that direct violations of the regulations should be handled by the Board.

Mr. Mitchell stated that a license suspension should be determined by the Board, and Mr. Copeland stated that the statute requires a formal hearing in order to suspend or revoke a license, and that a fine or a reprimand could be issued by the Board absent a formal hearing. Mr. Boswell inquired about that process and Mr. Copeland clarified that the next draft for the administrative process will outline this. Mr. Mitchell added that Chapter 806 states that the Board does have the power to revoke licenses. Mr. Copeland stated that the committee does not have the authority to revoke or suspend, but the Board does have the authority, and that the fact finding from the formal hearing would have to come before

the Board to ultimately determine the suspension or revocation of a license. Ms. Drudge stated that the goal of the process is to bring towers into compliance with the law and not to be punitive.

Mr. Reidenbach questioned if a local authority issues a civil penalty, then does the Board need to issue a civil penalty. Mr. Alvarez stated if a locality has adjudicated the issue, the case would then be closed and should not come back to the Board.

Chairman Brown proposed a motion for the staff to work with the flow chart and the guidance documents, Mr. Mitchell moved, and Mr. Boswell seconded. All were in favor unanimously.

Ms. Drudge stated that she would like the complaint process to be fair to all towers regardless of the jurisdiction they reside in, and stated that localities should be able to work with the Board on these issues.

Additional Public Comment:

Ray Hodge stated that more phone lines be installed at the Board's office since towers are having a hard time getting in touch with anyone there, and added that there needs to be enforcement of licensing. Mr. Copeland responded that the Board put in a request several months ago to upgrade the phone system, and that the phones are capable of holding approximately 19 messages at one time. Mr. Copeland then addressed the issue of licensing enforcement and stated that when Ms. Drudge receives notification of an unlicensed tower, she responds promptly.

Mr. Boswell asked about how many towers have been ticketed in Virginia so far. Ms. Drudge stated that she does not have an exact number, but that some localities are issuing more tickets than others. She went on to say that some law enforcement officers are allowing towers to come into compliance before they issue tickets.

Mr. Reidenbach commended Mr. Alvarez and Ms. Drudge on their complaint process ideas including the point system. He went on to request that documents pertaining to upcoming meetings be e-mailed to the necessary Board or committee members prior to the meetings, so that there is no confusion. Mr. Copeland responded by saying that the Board is making improvements to the administrative procedure process.

Mr. Herring asked if public safety pricing complaints would be handled by the Board, and Mr. Alvarez stated that that if a locality has a towing advisory board, then he would defer to the findings of that locality.

Mr. Copeland stated that the requirements for handling complaints were specific, and that the General Assembly has been emphasizing this for the past several years.

Mr. Mitchell inquired about the date of the next meeting of which Chairman Brown stated that the next meeting will be decided at a later date.

Chairman Brown made a motion to adjourn, Mr. Boswell moved, and Mr. Mitchell seconded. All were in favor.

The meeting was adjourned at 11:24 a.m.