

**Commonwealth of Virginia
Board of Towing and Recovery Operators**

Meeting Location
Department of Game and Inland Fisheries
4000 W. Broad Street
Richmond, VA 23230

June 19, 2012 10:00 am

MEETING MINUTES

Members Present

Captain Steve Chumley- Chairman
Roy Boswell
Tony Troilo
Dale Bennett
John Beall, Jr.
Randy Seibert
Richard Metz

Lynwood Butner – Designee for the Commissioner
of the Department of Motor Vehicles
Andres Alvarez - Designee for the Commissioner of
the Virginia Department of Agriculture and
Consumer Services
Scott Wyatt
Gary Teter

Members Absent:

Lt. Raymond Gill
Kenneth Mitchell
Adan Rangel, Jr.

Woody Herring
Mark Sawyers

Staff Present:

Barbara Drudge
Daphane Phillips

Board Counsel:

Janet Westbrook

Call to Order:

The meeting was called to order at 10:00 am.

Public Comments:

There were no public comments.

Acceptance of Meeting Minutes:

Richard Metz made a motion to accept the draft minutes from the January 4, 2012 meeting with the necessary corrections. Dale Bennett seconded the motion, and it passed unanimously.

Committee Reports

Administrative Affairs Committee – Roy Boswell, Vice Chairman

There were no meeting held.

Application Work Group – Scott Wyatt, Chairman

Mr. Wyatt reported that the Application Work Group met six times since the last Board meeting.

During this period, 58 driver authorization applications were reviewed, 51 approved, one denied, and six applicants were asked to submit additional information for review purposes. He added the next meeting was scheduled for June 26, 2012.

By Laws Committee – Randy Seibert, Chairman

There were no meetings held.

Compliance and Consumer Affairs Committee – Charlie Brown Chairman

There were no meetings held.

Licensing and Regulatory Affairs Committee – Gary Teter, Chairman

There were no meetings were held.

Chairman's Report:

Captain Chumley reported that as of January 1, 2013, the Board would no longer exist based upon actions taken during the 2012 Session of the Virginia General Assembly. He noted that there was a lot of tireless work and hours that went in to creating a successful Board. He further stated that originally, the General Assembly suggested that the Board activities go under the State Police, and that they were inclined to run the board like inspection stations currently in place. He thought that was what most of the towers wanted until the General Assembly convened, and that the towers thought the language was not enough to support the towing industry.

Captain Chumley added that certain board responsibilities will transfer to the Department of Criminal Justice Services, and this is a fine agency to take what we have created and move forward with providing oversight of the towing industry.

Discussions/Other Board Actions:

Scott Wyatt reported that out of the 58 applications that were reviewed, all had criminal histories. He noted that the hopes that the drivers will be given the same consideration at the Department of Criminal Justice Services because the applicants have paid their debt to society and should be able to drive. He also added that he is hopeful that the Department of Criminal Justice Services will not operate in black and white, and provide flexibility to the driver applicants who are trying to earn a living.

Mr. Beal added that it appears that those 58 reviewed may not be licensed, as there are no grey areas in the new statute.

Charlie Brown asked what percentage of drivers that were reviewed by the application work group would not receive a license under the new law. Mr. Wyatt stated a large percentage would not qualify under new laws.

Barbara Drudge stated that according to a report she prepared for the Department of Criminal Justice Services, it could be up to approximately 30% of drivers that would not qualify under the new laws. She added that the report does not take into consideration the operators who have a single driver whose business may be impacted by the new background check requirements.

Lynwood Butner asked if the drivers would be able to continue operating under their renewals, and Mr. Beall indicated that they would. Mr. Beall added that the laws from the 2012 Session of the General Assembly state that everything stays in place, and Ms. Westbrook added that the drivers are on the only segment that will be going to the Department of Criminal Justice Services. She added that the operator's license would be useless on January 1, 2013.

Mr. Andres Alvarez stated that it seems that the Licensing and Regulatory Affairs Committee could draft language to present to the Department of Criminal Justice Services to fix the statutes.

Mr. Beall made a motion for the Licensing and Regulatory Affairs Committee to prepare a report to and make recommendations to the Department of Criminal Justice Services to amend the statutes. Mr. Bennett seconded the motion, and all were in favor.

Captain Chumley added that Ms. Drudge and he met with the Department of Criminal Justice Services and they are aware of our concerns regarding the new background check requirements and are concerned as well.

He also added that he has spoken to representatives from the Governor's Office regarding renewing operator's licenses when the Board is going away effective January 1, 2013, and that staff had been working with the Board's Counsel to draft language for an emergency regulation that would allow us to issue prorated refunds for operator's since they will not be receiving a 12 month license as provided by statute.

Captain Chumley added that the towers are inquiring about the renewals process, and they want to know if the fees will be prorated or refunded if paid when the Board goes away, and added that the proration of fees would be challenging due to software issues, and any proration would require refunds in a timely manner as the Board is no longer funded as of January 1, 2013.

He added that we were not able to get the software changes made in a timely manner, so the only way to move forward was to provide a refund utilizing emergency regulations. Ms. Westbrook added that the only way to perfect a refund was through emergency regulations as the licensing fees are set out in the regulations.

Mr. Bennett asked if the board had the authority to issues refund, and Janet Westbrook indicated the statute does not currently allow the Board to do so. Roy Boswell asked if we could offer licenses at no cost, and Ms. Westbrook added that if we do so, it would still require an emergency regulation. Ms. Westbrook read the proposed emergency regulation that would amend 24 VAC 27-30-20.B. by adding the following language after "All fees shall be nonrefundable."

, except as specifically authorized by the Board as to operator licensing fees only, whose fees may be prorated for a partial year on a months-remaining basis through December 31, 2012. Upon completion of the operator application requirements, the

Board shall issue a refund for any prorated operator licensing fee. Any renewal operator license received after the expiration date of the license shall be subject to the late renewal fees based upon a 12 month license fee calculation. Upon completion of the initial and renewal operator license application requirements, the Board shall issue a license for a period less than 12 months.

Mr. Bennett asked if it was feasible to adjust the fee amount upfront, and Captain Chumley stated no. Ms. Drudge added that there were insufficient staff resources to work with operators in securing the appropriate fee amount since the licensing system is not set up to calculate this, and refunds will have to manually be calculated and issued. She further stated that the current licensing system would prohibit the issuance of license if the calculated fees are not entered, and it would create auditing issues if a false license fee amount were entered to perfect the issuance of a license.

Mr. Beall made a motion to accept the Emergency Regulations, Linwood Butner seconded the motion, and all were in favor except Mr. Seibert.

Captain Chumley asked if there were any other Board actions, and there were none.

Executive Session:

Captain Chumley made a motion to go into executive session for discussion, consideration, appointment, promotion, performance, demotion, salaries, discipline, or registration of specific public officers, appointees, or employees of any public body, etc., pursuant to the exemption granted under Section 2.2-3711.A.1. of the Code of Virginia.

Mr. Alvarez seconded the motion and it passed unanimously. The Board entered into executive session at 10:53 am.

The meeting reconvened in open session at 11:40 am. Mr. Beall made a motion stating that only matters exempt under Virginia Code Section 2.2-3711.A.1. relating to the discussion, consideration, appointment, promotion, performance, demotion, salaries, discipline, or registration of specific public officers, appointees, or employees of any public body, etc., Roll call by the Board to accept the above statement was unanimous.

Other Business:

Mr. Brown discussed the expiration of his and Mr. Seibert's Board membership term. Mr. Alvarez stated that they could serve the Board until otherwise notified.

Mr. Bennett asked that the Department of Criminal Justice Services brief the Board at the next Board meeting, and to ensure that we do everything possible for the Board to look competent until the end.

Mr. Alvarez stated that the Department of Agriculture and Consumer Services - Office of Consumer Affairs will be transferred to the Office of Consumer Counsel at the Attorney General's Office, and that towing related complaints will be handled by that agency on January 1, 2013. Mr. Bennett added that he desires the Office of Consumer Counsel to come before the Board to explain the process of handling consumer complaints effective January 1, 2013.

Next Meeting:

Captain Chumley indicated he would like to schedule the final Board meetings within the next couple of weeks.

He also stated that he appreciates the friendships and wisdom he has received from the towing industry and the Board members, that he was disappointed that it did not work out, but that it would not change the respect that he has for the members and industry, and he thanked everyone for the hard work and many hours invested in the Board.

Adjournment:

Chairman Chumley made a motion for adjournment. Mr. Boswell seconded the motion and it passed unanimously. The meeting adjourned at 11:47 am.