

## **Virginia Board for Towing and Recovery Operators**

August 14, 2008 - 9:30 AM

Holiday Inn I-64 West End,  
2000 Staples Mill Road, Richmond, Virginia 23230

### ***Draft Minutes***

#### **Board Members present:**

Ray Drumheller – Chair  
Mark Sawyer – Vice-Chair  
Ray Hodge,  
Charlie Brown  
Cary Coleman  
Woody Herring  
Randy Seibert  
Ron Miner  
Gary Teter  
Scott Wyatt  
Archie Orr  
Brock Cole (Designee of the Commissioner of Department of Motor Vehicles)  
Lt. Curtis Hardison (Designee of the Virginia State Police)  
Andres Alvarez (Designee of the Commissioner of Agriculture and Consumer Services)

#### **Board Members absent:**

Roy Boswell

#### **Staff present:**

J. Marc Copeland, Acting Executive Director  
Daphane Phillips, Administrative Assistant  
Jo Anne Maxwell, Esq., Senior Assistant Attorney General

#### **Called to order**

Chairman Ray Drumheller called the meeting to order at 9:30a.m.

#### **Public Comment:**

**Floyd Mayes:** Had two points of interest that he would like for the Board to consider:

1. He would like to see the licensing and regulatory committee revamped because of the outside influences that are trying to run the small towers out of business
2. He stated that he hoped that Marc Copeland, the Acting Executive Director, would not be influenced by outside interferences.

**Sue Brassell:** “States that there is always a process when it comes to change. She would like to see the Board focus on education for the industry as a hold whether the towers have been in business for 1 year or 40 years.”

Chairman Drumheller closed the public comments session at 9:49 a.m.

### **Acceptance of August 7, 2008 Board Minutes**

Chairman Drumheller asked the members if they had reviewed the minutes from the last meeting. Seeing no questions, Chairman Drumheller called for a motion to approve. A motion was made by Cary Coleman and seconded by Archie Orr. The minutes were adopted unanimously.

### **Comments from Secretary’s Office concerning the pending General Regulations:**

1. Mr. Ralph Davis discussed alternative language for the General Regulation section: 24VAC27-30-130. Expedited process to consider consumer complaints from the proposed regulations made by Andres Alvarez. (Designee of the Commissioner of Agriculture and Consumer Services) section A-E and section 5.
2. Mr. Davis discussed other issues that Nicholas Donohue Assistant Secretary of Transportation raised on General Regulations section 24VAC27-30-110. Standards of Practices (4) a licensed operator must maintain the following proof of insurance.

### **The following motions were voted on by the Board.**

Mr. Ron Miner moved to accept the alternate language changes to 24VAC27-30-130 made by Mr. Alvarez. The motion was seconded by Mr. Scott Wyatt; all were in favor of this motion.

Mr. Miner moved to allow the language changes (a staff person or agent) in 24VAC27-30-100 section 5. The motion was seconded by Mr. Wyatt; all were in favor of this motion.

Mr. Mark Sawyers moved to accept the language changes 24VAC27-30-110 item 5.put forth by Nick Donohue.

Chairman Drumheller called for a motion to accept the revised General Regulations as written. The motion was made by Mark Sawyers, seconded by Charlie Brown, the motion was carried unanimously.

### **The documents are attached at the end of minutes.**

### **Approved By-laws Changes:**

Randy Seibert moved to adopt the by-laws changes as written. The motion was seconded by Mark Sawyers; all were in favor of this motion.

### **Chairman's Report:**

Mr. Drumheller stated that in order for this Board to move forward, it needed to put what happened at the last meeting with the former Director behind us and start fresh. This could be a new day for the Board to accomplish what the General Assembly has put before it. The goal is to set forth minimum regulations for the towing industry. Mr. Drumheller encouraged the Board to stay on this course.

### **Memorandum of Understanding (MOU) with DMV regarding the Interim Director's Appointment:**

Mr. Randy Seibert moved to accept the MOU for the Interim Executive Director. The motion was seconded by Mark Sawyers; all were in favor of this motion.

### **Establishment of Committees:**

Mr. Drumheller called a meeting on the 28<sup>th</sup> of August in order to discuss the committee assignments.

Chairman called for a 20 minute break at 10:41 a.m.

The meeting reconvened at 11:00 am

### **Demo Finger Printing and Licensing Presentation:**

Mr. Richard Johnson from the Daon/ SBCN/Rileen Corporations gave an overview of company services.

Daon is committed to providing outstanding support to its customers. The company's range of tailored support packages ensures that optimum level of assistance is available at the right time to best fit BTRO needs. Mr. Johnson ensured that the implementation Daon provides will remain robust, permanently available and operating in a tightly controlled environment. Doan's engineering team continually works on enhancing their products, and works closely with customers to ensure speedy access to all releases of the Daon product suite.

### **Executive Session:**

Ron Miner moved that BTRO go into executive session and it was seconded by Lt. Curtis Hardison at 12:31 pm, all were in favor of this motion.

Lt. Curtis Hardison moved that BTRO convene a closed session/ meeting to discuss/consider the following matters, for the specified purpose, pursuant to the applicable exemption from open meeting requirements under the Virginia Freedom Information Act:

1. To discuss the salary of the Interim Executive Director, Marc Copeland to determine the appropriate compensation level of Mr. Copeland, pursuant to the exception granted in the Virginia Code § 2.2-3711(A) (1).
2. To discuss the severance pay of former Executive Director, Ben Foster, to determine whether severance pay will be granted to Mr. foster and if so, the amount and term of such pay, pursuant to the exception granted in the Virginia Code §2.2-3711 (A) (1).
3. To discuss award of a contract for fingerprinting services and other services between the Board and one or more providers of fingerprinting services (including an interview with Daon/ SBCN/ Rileen if necessary) pursuant to the exception granted in the Virginia Code § 2.2-3711 (A) (29) as discussion in open session would adversely affect the bargaining position or negotiating strategy of the Board.

**Reconvened:**

The board reconvened at 2:25 pm.

**Motion**

The motion was made by Lt. Curtis Hardison to go back into open session, the motion was seconded by Mark Sawyers, and all were in favor.

**Roll call by the Board to accept the above statement:**

Ray Drumheller - Yes  
Ray Hodge – Yes  
Cary Coleman - Yes  
Mark Sawyers -Yes  
Woody Herring- Yes  
Randy Seibert- Yes  
Lt. Curtis Hardison- Yes  
Charlie Brown - Yes  
Archie Orr - Yes  
Scott Wyatt- Yes  
Gary Teter - Yes  
Ron Miner- yes  
Andy Alveraz –Yes  
Brock Cole – Yes

**The following motions were made and voted on by the Board.**

Mr. Alveraz moved that the Board approve a temporary (10%) increase to Mr. Copeland's current base salary which shall remain in effect for the duration of his assignment as Acting Executive Director of BTRO. This action will make Mr. Copeland's compensation consistent with compensation levels provided in the Appropriations Act for comparable department head positions.

Mr. Alveraz moved that the Board, through the Acting Executive Director, request Mr. Ben Foster to provide the chair with a notarized affidavit stating the amount of unused leave that Mr. Foster has to his credit at the effective date and time of his resignation, and that upon receipt and approval of the affidavit by the chair, the Board instructed the Acting Executive Director to authorize payment to Mr. Foster for the amount of unused leave specified in the affidavit.

Both motions were seconded; and unanimously approved by the Board.

**New Business:**

None

**Old Business:**

None

**Next Meeting:**

The next meeting will be on August 28, 2008. The locations will be at DMV.

**Adjourned:**

Chairman Drumheller called for a motion to adjourn. Mr. Coleman made the motion which was seconded by Mr. Herring; the adjournment passed unanimously. The meeting was adjourned at 3:13 p.m.

**The documents**

Mr. Brown,

I hope you are well. At the last meeting of the Board, a gentleman raised several concerns regarding the proposed insurance requirements in the General Towing Regulation. In particular he stated that (i) the requirement for both garagekeepers liability and on-hook coverage was duplicative and (ii) the requirements for commercial general liability should be flexibility to allow for either commercial general liability or garage liability.

Our office asked several insurance providers to review the matter. We were informed by all asked that the requirement for both garagekeepers and on-hook coverage was duplicative and that commercial general and garage liability provide the same coverage.

We would ask that when the Board adopts the previous changes we have discussed that they also adopt changes to the insurance requirements spelled out below. I would also ask that you distribute these changes to members of the Board.

"A licensed operator must maintain the following proof of insurance: (i) a minimum of \$750,000 for automobile liability; (ii) a minimum of \$750,000 for commercial general **or garage** liability; (iii) a minimum of \$50,000 for garagekeepers liability; **and** (iv) ~~a minimum of \$50,000 for on-hook coverage; and (v)~~ worker's compensation as required by state and federal entities."

Please call myself or Ralph Davis if you have any questions at (804) 786-8032.

Thanks.

- Nick

Nicholas Donohue  
Assistant Secretary of Transportation  
Office of Governor Kaine

## ALTERNATE LANGUAGE

### 24VAC27-30-130. Expedited process to consider consumer complaints.

#### **CURRENT LANGUAGE**

A. The board's executive director or designated staff shall have the authority to initiate an expedited process to mediate and resolve complaints filed against those licensed or otherwise regulated by the board according to guidelines developed by the board.

B. Anonymous complaints received by the board shall be handled in accordance with board's policy and guidance documents.

#### **ALTERNATE LANGUAGE**

A. The board's executive director or designated staff shall have the authority to receive and investigate complaints of illegal, fraudulent, deceptive or dangerous practices filed against those licensed or otherwise regulated by the board.

B. Complaints that do not fall within the specific jurisdiction of the board shall be referred to the appropriate federal, state or local departments or agencies charged with enforcement of the laws that are applicable to the allegations in the complaint.

C. In the case of complaints filed against those licensed or otherwise regulated by the board but which do not allege a specific violation of Chapter 28 of Title 46.2 of the Code of Virginia, the board's executive director or designated staff shall offer mediation to facilitate a negotiated resolution of the complaint. The mediators shall observe the Standards of Ethics and Professional Responsibility for Certified Mediators adopted by the Judicial Council of Virginia.

D. In the case of complaints filed against those licensed or otherwise regulated by the board that allege a specific violation of Chapter 28 of Title 46.2 of the Code of Virginia, the board's executive director or designated staff shall conduct all pertinent investigations and, if appropriate, seek compliance with the statute and the regulations according to the provisions of the Administrative Process Act, et seq., Code of Virginia. , the board's executive director or designated staff shall

E. The board shall maintain records of consumer complaints and their eventual disposition, which records shall be open for public inspection, provided that information disclosing business records of licensees, business interests of any person, trade secrets, or the names of customers shall be held confidential to the extent permitted or required by laws of the Commonwealth of Virginia, and except to the extent that disclosure of such matters may be necessary for the enforcement of laws.

“5. Allow an authorized staff person of the board to review or inspect, during regular business hours, the operator’s records of services rendered and fees charged or collected, facilities and equipment. Such inspections shall be limited to that which is related to compliance with laws or regulations governing towing and recovery operators and towing and recovery services. All information obtained through any such inspection, to the extent permitted or required by the laws of the Commonwealth of Virginia, shall be considered confidential and shall not be disclosed except as necessary for investigations conducted by the board.”