



OHIO BOARD OF MOTOR VEHICLE REPAIR BOARD MEETING AGENDA

MAY 18, 2016 10:00 AM

Vern Riffe Tower
77 South High Street
19th Floor, Rm. 1932
Columbus, Ohio 43215

1. **THE MEETING WAS CALLED TO ORDER AT 10:00 AM**

BOARD MEMBERS IN ATTENDANCE: Don Rife, Jr., Jeff Wagner, Keenan McKee, Earl Dohner, Barry McKew (AAG), Michael Greene, Craig Robinson, Kimberly Sherfield, Jenny Kochensparger, Theresa Peppers,

BOARD MEMBERS NOT IN ATTENDANCE: Matthew Penney, Christopher Sterwerf,

2. **REVIEW OF FEBRUARY 17, 2016 MEETING MINUTES: CORRECT SPELLING OF DON RIFE;**

MOTION TO ACCEPT: WAGNER
SECOND: DOHNER
VOTE: MOTION CARRIED

3. **BOARD REVIEW AND DETERMINATION RE: PENDING REGISTRATION APPLICATIONS:**

A. Vote by Board on regular registrations pending from February 1, 2016 through April 30, 2016.

MOTION TO ACCEPT: DOHNER
SECOND: WAGNER
VOTE: MOTION CARRIED

4. **OTHER BUSINESS:**

A. Investigator's Reports;

2016 ACTIVITY TOTALS
January 01, 2016 through May 18, 2016
Investigator Craig Robinson

Shop Visits	533	
Renewal Reminder	75	
NOV's	159	
New Shop Applications	58	
Complaints Investigated	50	(Involving 50 Shops)
Shops Located "Out of Business"	34	
Total Counties Visited	34	

2016 ACTIVITY TOTALS
March 06, 2016 through May 18, 2016
Investigator Jennifer Kochensparger

Shop Visits	208	
Renewals	31	
NOV's	68	
New Shop Applications	31	
Complaints Investigated	17	(Involving 17 shops)
Shops Located "Out of Business"	5	
Total Counties Visited	23	

GREENE: Jenny comes a background of investigating with other boards and she has been with the State quite a while. She's really hit the ground running with us, we're really glad to have her. Dan Gibson was a tough guy to replace but she's doing a great job. If you saw my e-mail last week, she was off on her honeymoon and that's why she's so tan; there hasn't been any sun around here.

B. Attorney General's Report – Introduction of our new AAG, Barry McKew

MCKEW: I have been with the Attorney General's Office forever. I've represented over 20 different boards and commissions in my time. I've been doing boards and commissions for over 15 years. I have a pretty extensive experience for you requirements. As to the Attorney General's report, we don't need to go into Executive Session, I have nothing that is court related. But there are two items, one I reviewed a lot of your past minutes to become familiar with the flow of the board; and I saw in your last set of minutes you wanted the AG to present a discussion on your authority under your law and rules. The first meeting I

wanted to get a feel but in your August meeting, your next meeting, I would be more than glad to give a lecture on your authority under the law and rules so you can become familiar with what you're really required by law. At the same time what I would like to do is compare you to a licensing board to see what your authority is, and what your extent of coverage is. I think that's very important for you to understand because board members, from my experience, aren't familiar with all of the nuances of government. The devil is in the details and I think that if you compare a registration board to a licensing board then you will understand a lot more when there's court cases that come down that might affect you more than licensing boards or you'll go, "What does that have to do with us?" Well it doesn't, it has to do with a licensing board. I won't take that long; 10 minutes to discuss it but will open it up to questions. I would like to get the discussion going if you guys have any questions then we can continue it however long you want it to go.

The second item I would like to mention; there was an Ohio State Supreme Court case that affects all boards, and the Attorney General's Office wants to make sure that all boards are familiar with it. You are subject to the Open Meetings Act and that means any discussion of the board, when there's a majority of the board discussing business, must be done in a public meeting. A lot of boards, especially city councils and county commissioners always try to get around that. They do things; two members will meet with the executive director, the next thing, the executive director meets with another two members and passes it on. The Supreme Court has always said in the past, "Once that passes a majority – the fact that your meetings were two, two and two – once it passes a majority you're in public meeting." Any acts that you take from those discussions are illegal because they weren't publicly noticed or done in public. Those past cases were always dealt with physically doing something. Now, the Ohio State Supreme Court spoke to e-mails. This is first time they modernized it with understanding of technology. The Supreme Court said if board members converse by e-mail, or through somebody, to try and get around the Public Meeting Act, once a majority of e-mails passes among board members, where they are discussing public business, one topic, and those e-mails aren't publicly noticed ahead of time, that is an illegal discussion. If that takes place, that taints any actions that you subsequently do in a public meeting. So be aware when you're writing e-mails; because board members, you are businessmen. You contact people all of the time, and then there's that flow through e-mails. You contact four businesses that are in your area and everybody's writing back and forth. What is normal for business, is not acceptable in government.

RIFE: Did you say that was cumulative? In other words e-mails that talk about the same subject, but I'm talking to one person at a time, then I talk to another person about it so.....

MCKEW: (INAUDIBLE) The Supreme Court calls it "Round Robin;" where to get around things, Board Member #1 talks to Board Member #2; Board Member #2 talks to Board Member #3. The Supreme Court said once that passes a majority, any discussions that are subsequently done in a public meeting, when you vote, it has tainted that vote.

Does that answer it?

RIFE: Yes.

MCKEW: So that was the basics. I wanted to make sure that the board is familiar. Be careful when you write e-mails; if you're discussing it amongst yourselves, you don't want it to pass a majority. (INAUDIBLE) quickly, because you're so used to doing business.

RIFE: So if there was something that we felt needed to be talked about, it would require an additional board meeting?

MCKEW: Or, you could contact Mike and say, "We need to schedule a meeting."

GREENE: Put it on the agenda.

MCKEW: Yes, your rule specifically states that if it is something that you need to talk about immediately, Mike can notify an emergency meeting or a special meeting. Most boards are 48 hours; some boards are 24 hours' notice ahead of time. I forget what yours is.....

RIFE: Okay.

GREENE: I forget, too. It's been a long time since.....

MCKEW: But you can do a special meeting; then you get together and discuss that topic. That's exactly what is needed. You may say, "Why does this concern us?" Well, the law applies to a lot of commissions out there that are very powerful, and the Supreme Court wants to make sure that they are doing things the right way.

GREENE: I just have one question on that, actually two; I didn't realize that it had to be a majority. So in the past I've told them, "If it's between two of you, don't do it if it's board business or public business." I didn't know it had to be a majority.

MCKEW: It's a good example to set; DON'T TALK ABOUT E-MAILS!

GREENE: Yeah, we've kept a pretty good handle on that I think. Unless it's without my knowing. The other question was, does this apply to only the public sector? I mean that rule doesn't apply to private sector does it?

MCKEW: It just applies to public meetings.

GREENE: Ok, I wasn't sure.

MCKEW: I think I answered your question.

GREENE: Yes you did.

MCKEW: I thought you meant private sector.

GREENE: Well, I meant like if the board at General Motors wanted a

MCKEW: Oh, no, no it just applies to State Government.

GREENE: Ok, Ok, right

MCKEW: And other government entities.

GREENE: Federal, county, etc.

RIFE: And one more thing too, what constitutes a board member that wouldn't constitute admin personnel, it would just be?

GREENE: It would be voting members.

MCKEW: Mike could sit down and e-mail the board about some topic. But when you start writing back and forth about Mike's topic, it crosses the board.

Thank you, that's all I have Mr. Chairman

The AG's office just wanted to make sure that everyone is aware of that.

GREENE: I appreciate that.

RIFE: One more question on that, was there any reason for that other than making us aware?

MCKEW: Just making it aware this is the first time the Ohio Supreme Court spoke to e-mails.

RIFE: Okay.

MCKEW: Is e-mail contact between two parties considered part of the public meeting process? The Supreme Court says, "Yes."

C. Legislation Updates;

GREENE: ASA Ohio Rep. Matt Dougher / Andrew Huffman not present. Both have a hearing at the Statehouse. I am not aware of any legislation pending that affects us right now. I'm not sure what the bill is that Matt is testifying on.

WAGNER: It's about funds for training.

GREENE: Oh, okay.

RIFE: For next year?

WAGNER: Yes, which you will have to apply for September of this year; if I read the e-mail right.

GREENE: Okay.

WAGNER: So that's why they are trying to rush it through here so we can start getting in line for that money to help pay for training.

D. Director's Report – Mike Greene (SEE ATTACHED)

SUNSET REVIEW COMMITTEE

We have not seen a report come out from them yet. But to my understanding, if it's correct on HB 64, they need to have a report out by June 1st. They met yesterday, but they haven't put a report out from yesterday's meeting. As soon as I hear anything I'll let you know.

CONTROLLING BOARD REQUEST/HEARING – MAY 16TH

Our Control Board Request was approved. Along with that request was money for the window decals that the board asked about; and money for a mandatory IT upgrade that we have to do because of security systems in our computers.

CRB POWERPOINT

We updated our old PowerPoint presentation. It's a pretty good PowerPoint, but I'd still like to put voice to it, and I'm not a techie so I'm not sure how to do that. It's not a bad looking presentation for the industry. I don't know that it would do the public a whole lot of good. But for the industry, they would understand it a lot better. I'm still looking at it, and I haven't forgot about it. We do have an up to date one that we can use if we need to, and once I figure out the voice thing, I'll bring it to a meeting. We'll take a look at it and you guys can see what you think.

NEW BOARD MEMBER PACKETS

I've tried to encourage doing it all online, because I knew it would end up too big. I just put the things in there that were necessary so this test packet I'm going to give to Keenan. The Ohio Revised Code and The Administrative Code is online. On Law Writer you can read it online; I hated to print all of that out. There are some other things in there that are of interests like the requirements about attending board meetings, the list of board meetings for 2016, some of the policies and procedures of the board. I'll give this to you today and maybe at the next meeting you can tell us what you think of that and we'll go from there.

MEETING WITH BMV-DEALER SECTION

I had a really good meeting with the Bureau of Motor Vehicle's Dealer's Section on April 21st. This was a meeting that they requested. If you remember, several years ago we met with them, and we took a list of used dealers from our e-Licensing system that either made the statement at one time or another they got a dealer's license to avoid registration or something to that nature. What the BMV did back then was they went through that list and any of them that hadn't sold a car within a year had only transferred a couple of titles in 3 or 4 years, they brought them in for an administrative hearing. At that time there were only 160, some of them the BMV jerked their used dealer's license. But out of that 160, we only got one registered shop. This time the BMV took it upon themselves to start looking at the ones not selling cars, and they called me and said, "Hey, we've got a lot of repair shops that had used dealer's license and they're not selling any cars; they should probably be registered through you." So I sat down and met with them and they gave me their list. Theresa sent out about 60 letters, I think so far. So we're kind of waiting, so far we've gotten about 6 or 8 back and they've all been closed. I don't look for us to net a lot of registrations out of this, but at least we can go in and update our files and not have to worry about checking them again; following up on them and that kind of thing. We're getting a lot of files updated. The BMV Dealer's Section actually volunteered to send me a weekly report on ones that expire or are revoked, so we should be able to keep up on them a lot better and we've cleaned up a lot of files over that. That was really beneficial and a really good contact. We've got a good set up there now with them.

RIFE: Now is that purely administrative or would it constitute a visit?

GREENE: We'll start out with a letter; and back then we developed a letter for dealerships that either lost their dealer license or it expired or whatever. And we've cleaned that letter up and we're using it. It's in our e-Licensing system. It's very easy; Theresa goes in, prints the letter and it comes out with the shops name and address, and the owner, and we send them out. If we don't get a response, and we don't get the letter back from the postal service, then it's going to constitute a visit. The investigators are up to date on that. The 310 that are not registered is a little off because we took all of the exempt dealers that the BMV gave us back and put them in "Not Registered" incase an insurance company or a customer or another shop goes into our system and look. They'll know that we haven't forgotten about them.

RIFE: Has there ever been any talk with insurers about tracking people that do repairs out of their quasi home shops? Because they know when they cut checks, they know who they cut the checks to, and they know the frequency of the checks.

GREENE: Well, there has been and I think I've talked about it before, getting a good rapport with someone from the Department of Insurance has been very difficult. I'm not getting the cooperation from them on that. What I did, we've set up a rapport with another entity. They can track collision work through insurance claims. But that system is only as good as the information put into it. And so far, it's been ineffective.

RIFE: That seems really odd. The insurance companies are sticklers on record keeping.

GREENE: Even the guy in Cincinnati that owned five different places, that system had nothing.

MCKEE: Why are dealers exempt?

GREENE: Back when the board was first created, in 1997, they exempted dealerships because they were already paying for licensing through the state; and that's why the new dealerships, used dealerships, salvage and lease dealerships are all exempt.

MCKEE: So they're still under the same regulations, they're just sort of handled through a different agency?

GREENE: That's what I thought until I met with the BMV. They're not under the same regulations. The BMV is actually looking at changing some of their rules and application to mirror ours a little more. They do not require liability insurance which is staggering for a dealership. They do not require any of their permit numbers, such as BWC, EPA, etc. They do not require any of that. They are starting to look at that saying, "Maybe we need to change that." I'm hoping that happens, but it would take a change in legislation, would it not, Barry?

MCKEE: Yes. And as you know they would have to go through and justify that it is not an extra cost to business.

GREENE: Anybody doing rules right now knows that is a major headache. We just went through and did our rules and I don't want to do that anymore. Back when we met with the BMV 5 or 6 years ago, they told me then they were going to try to change the rule where they put a minimum number of sales in their rules; that never happened either. To come up with new legislation and justify it is difficult right now with a small business.

MCKEE: I was just wondering because we always fight the public perception that the dealership is the place that you always want to take your vehicle and I didn't even know that personally.

GREENE: That is why I find it encouraging that we have 46 dealerships, and 19 mechanical shops registered voluntarily. They just came along in the past year.

4. OLD BUSINESS:

- A. CRB Seal – Price estimates were for 5000; 6 inch (\$3200), 8 inch (\$4625) & 12 inch (\$8000) seals were presented to The Board. Director Greene encouraged the 8 inch seal would be the best of all. Director Greene advised the vendor The Board wanted window cling decals for the ability to relocate the decal if need be. It clings on the inside of the windows to prevent stealing and is visible from the outside.

GREENE: Monday, the Controlling Board approved the money for the \$4625, but I was just kind of waiting to see what you (The Board) wanted to do. I didn't order anything until you all made the decision.

RIFE: I agree with your thoughts on that, size wise.

GREENE: And it will be our seal, the one that's usually on my e-mail; it's in color.

MCKEE: Are they going to have the year on them?

GREENE: No, and here's the reason why; it would cost us a lot of money to replace them every year.

RIFE: So the next question would be if someone hasn't paid, does the investigator go and peel it off the door?

GREENE: Yes. The decal would remain the property of the Board.

DISCUSSION

**MOTION TO PROCEED WITH THE 8 INCH WINDOW CLING WITH THE ADDITION OF "REGISTERED" ADDED TO THE SEAL: WAGNER
SECOND: DOHNER
VOTE: MOTION CARRIED**

5. NEW BUSINESS:

- A. Rule requiring registration numbers on invoices and estimates.

GREENE: In looking at the rules we have now in the Ohio Administrative Code 4775-2-04 we can add a paragraph "C". This is where I felt that it fell in line the best. I worded the rule as follows; "A facility or operator subject to registration shall record their registration number in a conspicuous location on each estimate and invoice." Just a simple flat rule. To do that I've got to have the Legislative Service Commission pull that rule, update it and go through the system like we did with the rules recently, but it's only for one rule. We need a motion and a vote on whether that's how you want it worded. We talked about the wording at the last meeting a little, and that's what I took from it; it should be in a conspicuous place on the estimate and invoice. That will become a requirement.

WAGNER: So that's all we would have to do at this point, to get it into rule? And then at what point would we refine it as far as when it goes into effect?

GREENE: Well, there are time lines at each stage. We will have to have a public hearing and you know how that goes with the rules. When that rule goes into effect, we would put that information out there. Of course, we would put the information out there ahead of time in case someone wants to oppose the rule.

WAGNER: At that point are we going to give a grace period for those who buy several thousand invoices in advance, so they don't have to throw them away and start all over?

GREENE: They can write the number on the forms if they like, or get a stamp. I'm not sure how we would police that unless it came to a complaint situation; that's the only thing I can see.

WAGNER: That is something, at some point later in the future, where the investigators if they do a shop visit they would have to see if the number on the forms, or do you have the capabilities, or a stamp; whatever it is that you are doing.

KOCHENSPARGER: Or if someone brings you an estimate that someone else did and you notice that it doesn't have the number, then ask, "Can I make a copy of this?" That would help me.

RIFE: Are there any other states that we could model that after or not?

GREENE: You know I looked at Florida, California and Texas; I'm not sure how to look at their administrative codes but I couldn't find it in their law. That's not saying that it's not in there. I mean this isn't going to be in our law either; it's going to be in our administrative code. They may require it but I just don't know.

RIFE: Yeah, I know in California it's a bar number, and the bar doesn't mess around with that.

DISCUSSION

MOTION TO HAVE MIKE BEGIN THE PROCESS FOR FILING THE RULE REQUIRING REGISTRATION NUMBERS ON INVOICES AND ESTIMATES: MCKEE

SECOND: WAGNER

VOTE: MOTION CARRIED

6. ADJOURNMENT:

MOTION TO ADJOURN: DOHNER

SECOND: WAGNER

VOTE: MOTION CARRIED

NEXT BOARD MTG. – AUGUST 17, 2016 at 10 AM LOCATION:

Vern Riffe Tower, 77 South High Street, 19th Floor, Room 1932, Columbus, 43215.

DIRECTOR'S REPORT
May 18, 2016

I. FY16 YTD Revenue = \$342,312 (Arrears = \$24,530)

- A. FY15 Revenue = \$328,796 (Arrears = \$34,031)
- B. YTD Increase = \$13,516

II. 1829 Current Registrations

- A. 1417 Collision Shops
 - B. 190 Glass Shops
 - C. 46 Dealers
 - D. 41 Mobile Businesses
 - E. 1 Airbag Business
 - F. 19 Mechanical
 - G. 115 Tint Installers
- (Total Businesses in E-Licensing System = 4373)

III. Non-Compliance

- A. 310 "Not Registered" under investigations

IV. Complaints Forwarded

<u>AGENCY</u>	<u>2016</u>
OAG	2
EPA	2
TAX	1
BWC	0
NICB	1
DOI	1
IRS	0
BMV	1
OSHP	1
BBB	1

V. Other News

- A. No word yet from the Sunset Review Committee.
- B. Controlling Board Request/Hearing May 16th
- C. Required IT Upgrades
- D. Window Decals
- E. CRB Power Point
- F. New B.M. Packet
- G. Mtg. w/BMV-Dealer Section 04/21