

1507 - 21st Street, Suite 330
Sacramento, California 95811
Telephone: (916) 445-1888
Contact Person: Kathy Tomono
www.nmvb.ca.gov

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board ("Board") held a General meeting on June 6, 2007, at the Hilton Los Angeles Airport, Newport C Room, 5711 West Century Boulevard, Los Angeles, California.

2. **ROLL CALL**

Alan J. Skobin, President of the Board, called the meeting of the Board to order at 9:23 a.m.

Present: Ramon Alvarez C. William G. Brennan, Executive Director
Robert V. Branzuela Howard Weinberg, General Counsel
Ryan L. Brooks Robin Parker, Senior Staff Counsel
Robert T. (Tom) Flesh
Alan J. Skobin
Glenn E. Stevens
David W. Wilson

Absent: David C. Lizárraga
Haig Papaian

3. **APPROVAL OF THE MINUTES FROM THE MARCH 27, 2007, SPECIAL ROUNDTABLE MEETING, MARCH 28, 2007, GENERAL MEETING, AND MARCH 28, 2007, SPECIAL MEETING**

Mr. Flesh moved to adopt the March 27, 2007, Special Roundtable meeting minutes. Mr. Brooks seconded the motion. Messrs. Alvarez and Wilson did not vote. The motion carried unanimously.

With regards to the March 28, 2007, General Meeting minutes, Mr. Brooks requested that the minutes be amended to describe a project that he assigned to the Board's General Counsel, Howard Weinberg. Mr. Brooks requested that Howard Weinberg prepare a memo concerning whether the Bagley-Keene Open Meeting Act prevents the Board from responding to public comment concerning a non-agendized matter during a noticed meeting.

Mr. Stevens moved to adopt the March 28, 2007, Special Board meeting minutes. Mr. Branzuela seconded the motion. The motion carried unanimously.

4. **PRESENTATION OF RESOLUTION TO HAIG PAPAIA, FORMER PUBLIC BOARD MEMBER**

Mr. Papaian was unable to attend the meeting and this resolution will be presented at the September meeting.

5. **PRESENTATION OF RESOLUTION TO ANDY ROBLES, FORMER DEALER BOARD MEMBER**

At the January 31, 2007, General meeting, the members unanimously moved to present Andy Robles with a resolution for his contribution to the New Motor Vehicle Board, to the motor vehicle industry, and to the people of the State of California. Mr. Skobin presented the Resolution to Mr. Robles on behalf of the members and staff.

Mr. Skobin welcomed the Board's newest member, Ramon Alvarez C. Mr. Alvarez C. indicated that he was honored to be on the Board because he loves motorcycles and cars, has been in the car business for 25 years, and looks forward to learning more about the industry.

6. **BOARD MEMBER EDUCATION CONCERNING THE MOTORCYCLE INDUSTRY, BY JOHN PALIWODA, EXECUTIVE DIRECTOR, CALIFORNIA MOTORCYCLE DEALERS - BOARD DEVELOPMENT COMMITTEE**

John Paliwoda, Executive Director of the California Motorcycle Dealers Association (CMDA), provided the Board with an overview of the motorcycle industry, the value of this industry to the economy, and the importance of motorcycle safety to the CMDA. Mr. Paliwoda was also available to answer member questions.

7. **ANNUAL UPDATE CONCERNING THE BOARD'S COMPLIANCE WITH THE 1996 PERFORMANCE AUDIT CONDUCTED BY BUSINESS, TRANSPORTATION & HOUSING AGENCY, AND THE RESULTANT CORRECTIVE ACTION PLAN - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Robin Parker updating the corrective action taken for each audit finding, and a matrix providing the chronology for each. Ms. Parker provided an overview of the Board's compliance with the Audit Findings and Corrective Action Plan. She indicated that the Board was in full compliance and there were no outstanding issues. Mr. Flesh requested that the staff review the 1996 Performance Audit to ensure that areas the Board was in compliance with in 1996 are still in compliance today. This matter will be agendaized for a future meeting. Mr. Brennan suggested that the Board contact the State Auditor concerning a review of the Board's practices. Mr. Skobin suggested that the Executive Committee work with the Executive Director concerning this.

8. **DISCUSSION AND CONSIDERATION OF THE FEASIBILITY OF PROVIDING THE BOARD MEETING MATERIALS TO THE BOARD MEMBERS IN AN ELECTRONIC FORM - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan, Howard Weinberg, and Polly Riggerbach concerning the feasibility of providing the Board meeting materials to the Board Members in an electronic form. Mr. Weinberg reported that there was no general consensus concerning how the members wanted to receive the meeting materials. After a brief discussion, it was determined that each member would continue to receive a hard copy of the Board meeting materials; those members that wanted electronic versions could request them; and any member not wanting a hard copy and/or an electronic version could specify so. Mr. Weinberg reported that the staff would keep the members apprised of the feasibility of putting the meeting materials on the Board's website.

9. **STATUS REPORT CONCERNING MANUFACTURER AND DISTRIBUTOR COMPLIANCE WITH THE BOARD'S REQUEST THAT STATUTORILY MANDATED SCHEDULES OR FORMULAS BE FILED WITH THE BOARD (VEHICLE CODE SECTIONS 3064/3074, AND 3065/3075) - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Polly Riggerbach concerning manufacturer and distributor compliance with the Board's request that statutorily mandated schedules or formulas be filed with the Board. Mr. Brennan reported that at the time the memo was drafted 69 manufacturers/distributors failed to comply. Mr. Brennan reported that since the memo was drafted an additional 10 manufacturers/distributors filed schedules or formulas. Mr. Flesh proposed that the staff provide the members with an update of those manufacturers and distributors that have complied and also how the Board should handle non-compliance.

Mr. Flesh requested that the staff determine who is marketing "smart cars" and ascertain whether there is a separate franchise relationship that is going to be required with whoever the marketer or the dealer is going to be. Mr. Brennan indicated that he would report back to the Board concerning this request.

Mr. Wilson requested an update concerning the number of manufacturers that are filing notices in compliance with Vehicle Code section 11713.3(o) at the next meeting. Mr. Skobin suggested that this topic be agendized for Board Member education.

10. **CONSIDERATION OF NOMINEE FOR THE SOLON C. SOTERAS EMPLOYEE RECOGNITION AWARD RECIPIENT AS RECOMMENDED BY THE BOARD DEVELOPMENT COMMITTEE**

At the July 18, 2000, meeting, the members adopted an Employee Recognition Award Program to recognize staff for their accomplishments. The program was renamed the Solon C. Soteris Employee Recognition Award. The staff submitted employee nominations to the Board Development Committee, Robert Branzuela and Ryan Brooks, who ultimately recommended Jackie Grassinger as the Employee Recognition Award recipient. Ms. Grassinger is an Office Technician in the Consumer Mediation Services

Program. Mr. Branzuela moved to adopt the Committee's recommendation. Mr. Brooks seconded the motion. The motion carried unanimously.

11. **STATUS REPORT CONCERNING THE BOARD'S FINANCIAL CONDITION FOR THE 3RD QUARTER OF FISCAL YEAR 2006-2007 - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan, Dawn Kindel, and Linda Lighter concerning the Board financial condition report for the 3rd quarter of fiscal year 2006-2007. Mr. Brennan reported that the Board has expended 63% of its appropriated budget for fiscal year 2006-2007. Mr. Brennan indicated that the savings have come from operations not payroll. Mr. Flesh requested annually the staff report to the Board concerning the date the state requires the Board's budget and allow time for the Board to discuss the proposed budget. Mr. Brooks requested that a memorandum be prepared outlining how the Board fees are calculated every year to ensure the fees are not a tax; that the fees are cost-justified.

12. **STATUS REPORT CONCERNING THE BOARD'S COLLECTION OF THE ARBITRATION CERTIFICATION PROGRAMS' ANNUAL FEE - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Dawn Kindel concerning the Board's collection of the Arbitration Certification Programs' Annual Fee. Mr. Brennan reported that \$947,000 was collected (\$.436 per vehicle).

13. **STATUS REPORT ON PARTICIPANT AND AUDIENCE RESPONSES TO THE QUESTIONNAIRE CONCERNING THE BOARD'S 6TH ANNUAL INDUSTRY ROUNDTABLE - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Robin Parker concerning participant and audience responses to the Board's 6th Annual Industry Roundtable. Ms. Parker reported that the feedback received from attendees and participants was favorable, and a number of good topics were suggested for next year. Ms. Parker also noted that the tentative date for the 7th Annual Industry Roundtable was April 30, 2008, in Indian Wells.

14. **ANNUAL STATUS ON THE BOARD'S USE OF LITIGANT'S OFFICE SPACE FOR SETTLEMENT CONFERENCES AND COMPLIANCE WITH SECTION 18944.2 OF TITLE 2 OF THE CALIFORNIA CODE OF REGULATIONS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Robin Parker concerning the Board's use of litigant's office space for settlement conferences and compliance with Section 18944.2 of Title 2 of the California Code of Regulations. Ms. Parker reported that since the adoption of the policy in June 2006, there had been one instance in which the parties provided the room for a Mandatory Settlement Conference. Ms. Parker reported that even though the policy had only been utilized on one occasion, it has been offered on several occasions in an effort to accommodate the parties' in selecting convenient settlement dates and locations. Since this process is running smoothly, Ms.

Parker requested that this report be made an exception report in lieu of an annual report. The Board authorized this change.

15. **REPORT THAT JUDGE NORMAN (GREG) TAYLOR'S CONTRACT HAS EXPIRED AND THAT JUDGE TAYLOR WAS TAKEN OFF THE MERITS AND MANDATORY SETTLEMENT CONFERENCE ASSIGNMENT LOGS EFFECTIVE MAY 1, 2007 - POLICY AND PROCEDURE COMMITTEE**

Ms. Parker reported that Judge Taylor has been taken off the Merits and Mandatory Settlement Conference Assignment Logs effective May 1, 2007, due to the expiration of his 6-month contract. The Board legal staff was unable to renew Judge Taylor's personal services contract through the Department of Motor Vehicles.

16. **DISCUSSION CONCERNING PENDING LEGISLATION - POLICY AND PROCEDURE COMMITTEE**

- a. Pending Legislation that impacts the Board.
- b. Pending Legislation of general interest.
 - (1) Assembly Bill 217 (Assembly Member Beall)
 - (2) Assembly Bill 254 (Assembly Member Gaines)
 - (3) Assembly Bill 305 (Assembly Member Ma)
 - (4) Assembly Bill 474 (Assembly Member DeVore)
 - (5) Assembly Bill 493 (Assembly Member Ruskin)
 - (6) Assembly Bill 1092 (Assembly Member Emmerson)
 - (7) Assembly Bill 1135 (Assembly Member Strickland)
 - (8) Senate Bill 60 (Senator Cedillo)
 - (9) Senate Bill 234 (Senator Corbett)
 - (10) Senate Bill 308 (Senator Margett)
 - (11) Senate Bill 498 (Senator Oropeza)
 - (12) Senate Bill 729 (Senator Padilla)
 - (13) A.C.R. 37 (Assembly Member Mendoza, Chaptered May 9, 2007)
 - (14) U.S. House of Representatives Bill 1015 (U.S. Representative Capuano)
 - (15) U.S. House of Representatives Bill 1029 (U.S. Representative Stearns) – "Damaged Vehicle Information Act"
 - (16) U.S. House of Representatives Bill 1920 (U.S. Representative Inslee) – "Health Care for Hybrids Act"
 - (17) U.S. Senate Bill 545 (U.S. Senator Lott) – "Passenger Vehicle Loss Disclosure Act"
 - (18) U.S. Senate Bill 767 (U.S. Senator Obama) – "Fuel Economy Reform Act"
 - (19) U.S. Senate Bill 1055 (U.S. Senator Biden) – "American Automobile Industry Promotion Act of 2007"
 - (20) U.S. Senate Bill 1151 (U.S. Senator Obama) – "Health Care for Hybrids Act"

The members were provided with a memorandum from Bill Brennan and Robin Parker updating them on pending legislation. Ms. Parker indicated that there are no bills that directly impact the Board but a number of bills of general interest are being tracked. Mr. Wilson requested additional information on the bills concerning biennial vehicle registration. [Subsequent to the meeting, a memorandum concerning the biennial vehicle registration bills, Assembly Bills 217 and 474 was provided to the members.]

17. **EXECUTIVE DIRECTOR'S REPORT**

- A. Administrative Matters.
- B. Case Management.
 - (1) Status of Protests.
 - (2) Status of Petitions.
 - (3) Status of Appeals.
 - (4) Matters Resolved.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

Mr. Brennan provided the members with a Report on Administrative Matters that identified all pending projects, the Board staff and committee assigned, estimated completion dates, and status. Mr. Brennan reported that several employees are actively seeking employment in other departments because the Board does not have the opportunity to promote anyone. Mr. Brennan proposed hiring a private contractor to review the Board's positions to ensure that employees are working within class and to see if there are any opportunities for advancement. Mr. Skobin requested that Mr. Brennan bring his recommendation to the Executive Committee for its concurrence.

The members were also provided with a summary of case management. Ms. Parker reported that since the case management summary was prepared 16 new protests had been filed. Additionally, Ms. Parker responded to member questions concerning the status of Board cases.

Mr. Weinberg reported on the status of the pending court cases. Mr. Weinberg reported that in *Bosch Kia*, Protestant's counsel sought a stay of the Board's proceedings so the parties could engage in mediation. The tentative ruling was in the Board's favor. Mr. Weinberg reported that no dates had been set in *Frontier Infiniti*, *Serpa Automotive Group*, and the *Ray Fladeboe Lincoln Mercury* writ petitions. With regards to *Forty-Niner Sierra Resources*, the Third District Court of Appeal granted three continuances to Appellant to file its opening brief. The court gave Appellant until June 8, 2007, to file its opening brief or the matter would be dismissed.

18. **SELECTION OF BOARD MEETING DATES FOR 2007**

The members went off the record to discuss Board Meeting dates. The members selected the following dates:

- September 7, 2007, San Francisco.
- November 15, 2007, Southern California.
- December 13, 2007, Sacramento.

19. **APPOINTMENT OF COMMITTEE MEMBERS TO THE ADMINISTRATION COMMITTEE AND FISCAL COMMITTEE, BY THE BOARD PRESIDENT**

Mr. Skobin appointed Mr. Alvarez C. to the Fiscal Committee and Mr. Papaian to the Administration Committee.

20. **BOARD MEMBER COMMENTS OR SUGGESTIONS FOR PLACING MATTERS ON AGENDAS FOR FUTURE BOARD MEETINGS**

Mr. Skobin reminded the members that they could request an item be placed on the agenda at any time and that this agenda item was not really necessary.

21. **PUBLIC COMMENT (Gov. Code§11125.7)**

There was no public comment.

22. **ADJOURNMENT**

Mr. Flesh moved to adjourn the meeting. Mr. Stevens seconded the motion. With no further business to discuss, the meeting was adjourned at approximately 11:55 a.m.

Submitted by

WILLIAM G. BRENNAN
Executive Director

APPROVED: _____

Alan J. Skobin
President
New Motor Vehicle Board