

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 March 23, 2010, in Hearing Room #1, at the Board's offices.

2. **ROLL CALL**

Robert T. (Tom) Flesh, President of the Board, called the meeting of the Board to order at 9:08 a.m.

Present:	Ramon Alvarez C.	William G. Brennan, Executive Director
	Robert T. (Tom) Flesh	Robin Parker, Senior Staff Counsel
	Peter Hoffman	Jeffrey Schwarzschild, Deputy Attorney General
	Victoria R. Pearson	
	Glenn E. Stevens	
	David W. Wilson	

Absent: Ryan L. Brooks
David C. Lizárraga
Haig Papaian

3. **PLEDGE OF ALLEGIANCE**

Mr. Stevens led the members and staff in the Pledge of Allegiance.

Mr. Brennan introduced Jeffrey Schwarzschild, Deputy Attorney General, who will be serving as the Board's General Counsel for Board meetings and on-call when the Board needs legal assistance.

4. **APPROVAL OF THE MINUTES FROM THE FEBRUARY 4, 2010 GENERAL MEETING**

Mr. Alvarez C. moved to adopt the February 4, 2010, General Meeting minutes. Mr. Wilson seconded the motion. The motion carried unanimously.

5. **BOARD MEMBER EDUCATION CONCERNING THE DEPARTMENT OF MOTOR VEHICLES BY GEORGE VALVERDE, DIRECTOR, DEPARTMENT OF MOTOR VEHICLES - BOARD DEVELOPMENT COMMITTEE**

Mr. Flesh welcomed George Valverde, the Director of the Department of Motor Vehicles (“DMV”) who discussed a number of projects the DMV is working on and the trends they are encountering.

Director Valverde indicated that in 2006, the DMV initiated nine major information technology projects and today DMV has completed six of those projects. One of those projects is a new driver’s license identification contract. Later this year, driver’s licenses will have a new look with added security features and compliance with the Federal Real ID when it takes effect.

Furthermore, Director Valverde stated that DMV has increased its online transactions over the last four years from 500,000 to 8 million. He went on to address the impact of the State-mandated furloughs and the increase on wait times at DMV field offices.

With regards to trends in registrations, DMV has seen a reduction in the number of vehicles registered in California even though the revenue from registrations remains relatively stable. Director Valverde indicated that more used cars are being registered.

Concerning senior staffing, the DMV has lost every member of the executive staff due to retirement since he was appointed. Director Valverde indicated that they are working through this transition and loss of institutional knowledge.

Additionally, Director Valverde mentioned that a new Business Service Center was opening in Bakersfield on March 24 to expedite processing for all DMV business customers, industry, dealers, and commercial. Two additional centers will be opening up in Los Angeles and San Bernardino in the near future.

Director Valverde was available to answer member questions.

6. **BOARD MEMBER EDUCATION CONCERNING THE DEPARTMENT OF MOTOR VEHICLES’ LEGAL AFFAIRS DIVISION, BY CRAIG STEVENSON, DEPUTY DIRECTOR/CHIEF COUNSEL - BOARD DEVELOPMENT COMMITTEE**

Mr. Flesh welcomed Craig Stevenson, Acting Deputy Director/Chief Counsel, Legal Affairs Division, DMV who provided the members with an overview of their legal department. He indicated that they have approximately 25 attorneys with about 35 support staff. They serve as the legal advisor to the DMV and the Director, and function as the Departmental Liaison with the Attorney General’s Office. The Legal Affairs Division is also the DMV representative on administrative law cases that are presented to the Office of Administrative Hearings, respond to Public Records Act requests, handle Occupational License cases, analyze legislative bills, and write formal opinions. Mr. Stevenson was available to answer member questions.

7. **CONSIDERATION OF ROADTREK MOTORHOMES, INC.'S REQUEST FOR EXTENSION OF TIME TO AUDIT MEGA RV CORP. D/B/A MCMAHON'S RV (COLTON, SCOTTS VALLEY AND IRVINE LOCATIONS) PURSUANT TO VEHICLE CODE SECTION 3076(b)**

Prior to consideration of this matter, correspondence from McMahon's counsel was reviewed by the members.

The members were provided with a memorandum from Bill Brennan and Robin Parker concerning Roadtrek Motorhomes, Inc.'s request for an extension of time to audit Mega RV Corporation doing business as McMahon's RV in Colton, Scotts Valley and Irvine locations pursuant to Vehicle Code section 3076(b).

Given this involves recreational vehicles both Public and Dealer Members participated. Michael T. McKeeman, Esq. of Seyfarth Shaw LLP represented Roadtrek. Also present was Jim Hammill, president of Roadtrek. Michael M. Sieving, Esq. of the Law Offices of Michael M. Sieving represented McMahon's RV. After a lengthy discussion, Mr. Stevens moved that this matter be tabled until the May 5 meeting with the understanding that McMahon's is going to cooperate and provide the 26 deal jackets requested by Roadtrek within two weeks. Roadtrek is to provide a list of the deal jackets within a week. Counsel can notify staff that Protestant provided all of the information within 30 days. If it has been provided then the matter comes off the Board's calendar for May 5. If it has not been provided, then we would appoint an administrative law judge to make specific findings as to fraud. Ms. Pearson seconded the motion. The motion carried unanimously.

8. **ANNUAL REVIEW OF THE BOARD'S MISSION AND VISION STATEMENTS - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Bill Brennan concerning the Board's annual review of the Mission and Vision Statements. Mr. Brennan recommended that the Board continue with the current statements. No Board action was taken as this matter was for informational purposes only.

9. **CONSIDERATION OF THE BOARD ADOPTED POLICY CONCERNING GIFTS AND HONORARIA THAT WAS ADOPTED ON APRIL 27, 2001 - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Bill Brennan regarding the Board adopted policy concerning gifts and honoraria that was adopted on April 27, 2001. Mr. Brennan reported that at the February 4, 2010, meeting, Board Member Hoffman requested that the Board adopted policy concerning gifts and honoraria be reviewed. The staff recommendation is that the policy be changed to include language that specifically directs the Board Members and anyone receiving honoraria or gifts that it only impacts those people or entities appearing on Appendix B of the Board's Conflict of Interest Code. Mr. Hoffman moved to adopt the amended policy. Mr. Stevens seconded the motion. The motion carried unanimously.

The policy was amended as follows:

- State board members and designated staff may not accept gifts aggregating more than \$420 from any other single source if that gift would have to be reported on the recipient's Statement of Economic Interest (Form 700). Gifts received from a single source, totaling \$50 or more in a calendar year generally must be reported. The definition of "single source" is set forth in the NMVB Conflict-of-Interest, Appendix B – Disclosure Category which was approved by the Fair Political Practices Commission June 26, 2009 and the Secretary of State on July 29, 2009.

10. **CONSIDERATION OF WHETHER TO ORDER THE DEPARTMENT OF MOTOR VEHICLES TO WITHHOLD THE RENEWAL AND/OR SUSPEND THE EXISTING OCCUPATIONAL LICENSE FOR VICOO INDUSTRY INC. FOR FAILURE TO FILE THE STATUTORILY REQUIRED SCHEDULES AND FORMULAS (VEH. CODE § 3064/3065 & § 3074/3075) - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Polly Riggerbach concerning whether to request the Department of Motor Vehicles to withhold renewal and/or suspend the occupational license of Vicoo Industry, Inc. ("Vicoo") for failure to file the statutorily required schedules and formulas pursuant to Vehicle Code sections 3064 and 3065. Mr. Brennan indicated that this matter was pulled from the February 4 agenda because Vicoo was not properly noticed. Ms. Parker indicated that the Certified Mail, Return Receipt card was returned to the Board unsigned.

The staff recommended that the Board exercise its authority under Vehicle Code section 3050(c)(3), to order DMV to withhold the renewal of, and/or suspend the existing Occupational License for Vicoo until the required information has been filed with the Board. Mr. Wilson moved to adopt the staff recommendation. Ms. Pearson seconded the motion. The motion carried unanimously.

11. **ANNUAL UPDATE ON TRAINING PROGRAMS ATTENDED BY STAFF - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Dawn Kindel concerning the annual update on training attended by staff. Miss Kindel reported that the Board is providing monthly training for the administrative law judges through the National Judicial College webcasts

12. **BOARD FINANCIAL CONDITION REPORT FOR THE 2ND QUARTER OF FISCAL YEAR 2009-2010 - 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 2nd quarter of fiscal year 2009-2010. Mr. Brennan reported that the Board has expended 53% of its appropriated budget. Mr. Brennan explained that funds encumbered but not yet expended are treated as expenditures. Encumbrance balances are held in abeyance for two years after the fiscal year's end, and any balance remaining after two years is released and returned to the Board's fund. Mr. Brennan further indicated that the Board is monitoring its expenditures closely and payroll expenses are on target at 48%. With

regards to the operating budget, the Board has only spent 28% of its allocated budget.

13. **SEMI-ANNUAL DISCUSSION AND CONSIDERATION OF THE METHODS FOR DETERMINING BOARD FEES - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan concerning the semi-annual discussion and consideration of the methods of determining Board fees. Mr. Flesh requested that this matter be put off until the next meeting.

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

- a. Pending Legislation of Special Interest - none.
- b. Pending Legislation of General Interest.
 - (1) Assembly Bill 2597 (Assembly Member Berryhill).
- c. Pending Federal Legislation of General Interest.
 - (1) United States House of Representatives Bill 2743 (U.S. Representative Maffei) - Automobile Dealer Economic Rights Restoration Act of 2009.
 - (2) United States House of Representatives Bill 2796 (U.S. Representative LaTourette) - Automobile Dealer Economic Rights Restoration Act of 2009.
 - (3) United States House of Representatives Bill 3311 (U.S. Representative Blumenauer).
 - (4) United States House of Representatives Bill 3450 (U.S. Representative Jackson-Lee) - Automobile Dealers Fair Competition Act of 2009.
 - (5) United States Senate Bill 209 (U.S. Senator Boxer).
 - (6) United States Senate Bill 247 (U.S. Senator Feinstein) - Accelerated Retirement of Inefficient Vehicles Act of 2009.
 - (7) United States Senate Bill 271 (U.S. Senator Cantwell) - Fuel Reduction using Electrons to End Dependence on the Mid-East (FREEDOM) Act of 2009.
 - (8) United States Senate Bill 1200 (U.S. Senator Feinstein) - Short Term Accelerated Retirement of Inefficient Vehicles Act of 2009.

The members were provided with a memorandum from Bill Brennan and Robin Parker concerning pending legislation. Ms. Parker indicated that there was not much to report with regards to State legislation and there has been no activity on the federal bills.

15. **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. Ms. Parker reported that case management has been very busy this year. Since the members received their written report, there have been seven new protests filed and three protests dismissed. There have been 27 protests filed this year in comparison to 11 in 2009 during the same time period.

With regards to judicial matters, Mr. Brennan reported that in the *Calabasas Euro Auto Group LLC* writ, the case was referred to the Attorney General's Office to represent the Board. A motion to quash the writ was filed by the Deputy Attorney General representing the Board. Counsel for Lamborghini filed an intervention as well. Lastly, in *Carlson Subaru, Inc.*, counsel for Protestant did not file its opening brief and was given until March 26 to file it. If the brief is not timely filed, the matter will be dismissed.

Prior to going into closed Executive Session, the members discussed both on and off the record moving the June 3 meeting date. Ultimately, the meeting was moved to 10:00 a.m. on June 15 at the Hilton Los Angeles Hotel.

16. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(a)(1), all members of the Board shall convene in a closed Executive Session.

CONSIDERATION OF A PERSONNEL MATTER - EXECUTIVE COMMITTEE

The members of the Board convened in closed Executive Session to discuss this agenda item.

17. **OPEN SESSION**

The members returned to open session and no action was taken as a result of the closed Executive Session.

18. **PUBLIC COMMENT. (GOV. CODE § 11125.7)**

No additional public comment was presented.

19. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 11:20 a.m.

Submitted by

WILLIAM G. BRENNAN
Executive Director

APPROVED: _____
Robert T. (Tom) Flesh
President
New Motor Vehicle Board