

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS AND SALESPERSONS**

TIME: 9:32 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
Board Room B
One Penn Center
2601 North Third Street
Harrisburg, Pennsylvania 17110

April 2, 2019

1 State Board of Vehicle Manufacturers,
2 Dealers and Salespersons
3 April 2, 2019
4
5

6 BOARD MEMBERS:
7

8 Dan G. Murphy III, Chairman
9 Kirk A. Davis, Secretary - Absent
10 Kalonji Johnson, Acting Commissioner, Bureau of
11 Professional and Occupational Affairs
12 Steve T. Fretz, Professional Member
13 Neal L. Hufford Jr., Professional Member
14 Zachery Everidge, Office of Attorney General
15 Representative
16 Robert M. Shaffer, Department of Transportation
17 Representative
18 George F. Mermon, Professional Member
19 William M. Mohler, Professional Member
20 Donald J. Stoy, Public Member
21 Randall Derr, Professional Member
22
23

24 BUREAU PERSONNEL:
25

26 Juan A. Ruiz, Esquire, Board Counsel
27 Shana M. Walter, Esquire, Board Counsel
28 Amanda N. Wojciechowski, Board Prosecution Liaison
29 Angela B. Lucci, Esquire, Board Prosecutor
30 Glenn P. Masser, Esquire, Board Prosecutor
31 Janice Cline, Board Administrator
32
33 Kimberly Adams, Chief of Fiscal Management, Bureau of
34 Finance and Operations
35 Triet Tran, Fiscal Management Specialist, Bureau of
36 Finance and Operations
37
38

39 ALSO PRESENT:
40

41 Stephen Latanishen, Director, Office of
42 Intergovernmental Affairs, Department of State
43 Marc Farrell, Deputy Policy Director, Department of
44 State
45 Nicholas Ermolovich, Esquire
46 Wesley J. Rish, Esquire, Rish Law Office, LLC
47 Cynthia Rish, Operations Manager, Rish Law Office, LLC
48
49
50

1 ***

2 State Board of Vehicle Manufacturers,
3 Dealers, and Salespersons

4 April 2, 2019

5 ***

6 The regularly scheduled meeting of the State
7 Board of Vehicle Manufacturers, Dealers, and
8 Salespersons was held on Tuesday, April 2, 2019. Dan
9 G. Murphy III, Chairman, called the meeting to order
10 at 9:32 a.m.

11 The Pledge of Allegiance was recited. Roll call
12 was taken.

13 ***

14 Approval of Minutes of the February 19, 2019 meeting

15 CHAIRMAN MURPHY:

16 Approval of the minutes from the last
17 meeting?

18 MR. MERMON:

19 So moved.

20 MR. SHAFFER:

21 Second.

22 CHAIRMAN MURPHY:

23 So moved and seconded.

24

25 Roll call.

1

2

Zachery Everidge, abstain; George

3

Mermon, aye; Neal Hufford Jr., aye;

4

Steve Fretz, aye; Randall Derr, abstain;

5

William Mohler, abstain; Donald Stoy,

6

aye; Robert Shaffer, aye; Kalonji

7

Johnson, abstain; and Dan Murphy, aye.

8

[The motion carried. Zachery Everidge, Randall Derr,

9

William Mohler, and Kalonji Johnson abstained from

10

voting on the motion.]

11

12

Appointment - Bureau of Finance and Operations Annual

13

Budget Presentation

14

[Kimberly Adams, Chief of Fiscal Management, Bureau of

15

Finance and Operations, introduced herself and Triet

16

Tran, Fiscal Management Specialist.

17

Ms. Adams addressed licensee population from a

18

revenue standpoint. She reviewed FY 2014-2015,

19

FY 2016-2017, and FY 2018-2019 with a licensee count

20

of 45,750, which is up 1,231 licensees from 2014. She

21

noted a recent addition of 85 licensees, bringing the

22

current licensee count to 45,835.

23

Ms. Adams stated 84.9% of revenue was from

24

renewals and applications. She also noted the current

25

biennial total.

1 Ms. Adams reviewed the categorical breakdown of
2 administrative and legal expenses for FY 2016-2017 and
3 FY 2017-2018, FY 2018-2019 budget, and FY 2018-2019
4 expenses. She commented on the increase in expenses
5 increased. She noted Board expenses are a result of
6 direct charges, timesheet-based charges, and licensee-
7 based charges. She commented that the current budget
8 was adequate.

9 Ms. Adams addressed revenues and expenses from
10 FY 2016-2017, FY 2017-2018, and FY 2018-2019, as well
11 as the current balance. She stated the 30%
12 application fee and renewal fee increase effective May
13 2021 was not used in the calculation due to the
14 significant growth in the licensee count. She
15 suggested reviewing the numbers and discussing the
16 possibility of reducing the 30% increase to a lower
17 amount.

18 Ms. Adams provided a breakdown of Board member
19 expenses for FY 2016-2017 and FY 2017-2018, noting the
20 budget for FY 2018-2019 that will be carried to FY
21 2019-2020 as well. She noted the expenses as of
22 March 21, 2019. She commented that any excess goes
23 back to the restricted account for the Board's use.

24 Ms. Adams reviewed the expenditure sheet
25 reflecting a pictorial overview of the fluctuation in

1 expenses since 2006.

2 Ms. Adams suggested increasing the initial
3 applications and increasing at 10% rather than 20%.
4 She commented that the Board had already approved
5 increasing the application fee and the renewal by 20%
6 and could do the same thing and save another 10%
7 strictly on renewal. She stated the Independent
8 Regulatory Review Commission (IRRC) probably would not
9 pass the 20% increase in the application fee with the
10 current Board numbers.

11 Chairman Murphy noted a diminishing volume of
12 work and scarce hearings. He commented that the
13 Board's had agreed to a 10% increase for initial
14 applications.]

15 MR. RUIZ:

16 Is there a motion to increase the
17 standard renewal fee by 10% and the
18 application fee as stated before?

19 MR. MERMON:

20 Motion.

21 MR. STOY:

22 Second.

23 CHAIRMAN MURPHY:

24 Motion and second.

25

1 Roll call.

2

3 Zachery Everidge, aye; George Mermon,
4 aye; Neal Hufford Jr., aye; Steve Fretz,
5 aye; Randall Derr, aye; William Mohler,
6 aye; Donald Stoy, aye; Robert Shaffer,
7 aye; Kalonji Johnson, aye; and Dan
8 Murphy, aye.

9 [The motion carried unanimously.]

10

11 Report of Prosecutorial Division

12 [Amanda N. Wojciechowski, Esquire, Board Prosecution
13 Liaison, presented the Consent Agreements for File No.
14 17-60-09603, File No. 16-60-01802, File No. 16-60-
15 01680, and File No. 15-60-10724.]

16

17 [Angela B. Lucci, Esquire, Board Prosecutor, presented
18 the Consent Agreements for File No. 15-60-04976, File
19 No. 16-60-14530, and File No. 15-60-05411.]

20

21 [Glenn P. Masser, Esquire, Board Prosecutor, presented
22 the Consent Agreements for File No. 16-60-00679 and
23 File No. 16-60-14475.

24 Mr. Masser also presented File No. 18-60-004758
25 on behalf of Colby B. Widdowson, Esquire, Board

1 Prosecutor.]

2

3 [Ms. Wojciechowski addressed the initiative within the
4 Prosecutorial Division regarding the Office of General
5 Counsel (OGC) Mediation Program. She described the
6 program as two parties looking for an amicable
7 resolution via a consent agreement that could then be
8 presented to the Board. She explained that the
9 initiative is an attempt to resolve cases that might
10 otherwise go to a hearing.

11 Ms. Wojciechowski explained that there are
12 trained mediators who work within the Commonwealth
13 through a service provided by OGC at no cost to the
14 Board. She stated this is a confidential program.
15 Any agreement reached would still be subject to Board
16 approval just like a consent agreement. The program
17 is also designed to save time and costs, as well as to
18 reach an amicable resolution much sooner.

19 Ms. Wojciechowski and other individuals in the
20 program are employed by the Office of General Counsel,
21 who pays for the program. There would be no cost to
22 the prosecutorial division or the Board to use the
23 service.

24 Mr. Ruiz further explained that the Board would
25 still consider the consent agreements, noting that the

1 program was just a tool for the prosecution office to
2 help get to that point.]

3 ***

4 Report of Board Counsel

5 [Juan A. Ruiz, Esquire, Board Counsel, noted a protest
6 case in which two motions were filed for discussion
7 during executive session. He also noted a final
8 Adjudication and Order, two proposed Adjudications and
9 Orders, and three Motions to Deem Facts Admitted for
10 discussion during executive session.]

11 ***

12 Report of Board Chairman - No Report

13 ***

14 Report of Acting Commissioner

15 [Kalonji Johnson, Acting Commissioner, Bureau of
16 Professional and Occupational Affairs, noted email
17 blasts will soon be sent to active licensees regarding
18 renewals.

19 Acting Commissioner Johnson brought an issue to
20 the Board concerning dealerships linking licenses for
21 employees. He stated the proper procedure would be
22 for the individual licensee, who is also the
23 establishment owner, to link their license. He
24 commented that the email blast will also describe that
25 issue in detail. He also noted working with the

1 association to make sure the message is sent to
2 dealers and individual licensees.

3 Acting Commissioner Johnson introduced his
4 replacement, Marc Farrell, who will be working with
5 the Board in terms of policy and legislative
6 initiatives. He stated Marc comes from the Governor's
7 Office, where he was the gatekeeper for all of the
8 Board's regulatory submissions, and is hopeful to move
9 the legislation faster based on his relationship with
10 the Governor's Office.

11 Acting Commissioner Johnson also introduced
12 Stephen Latanishen as the new Director of the Office
13 of Intergovernmental Affairs. He will be working in
14 the capacity to liaise with the Governor's Office
15 concerning appointments across all 29 Boards and
16 Commissions.

17 Acting Commissioner Johnson expressed his
18 eagerness to help move along the regulations and
19 becoming a part of the process.]

20 ***

21 [Janice Cline, Board Administrator, noted security and
22 sexual harassment forms to be signed and returned.]

23 ***

24 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
25 10:44 a.m. the Board entered into Executive Session

1 with Juan A. Ruiz, Esquire, Board Counsel, and Shana
2 M. Walter, Esquire, Board Counsel, for the purpose of
3 conducting quasi-judicial deliberations and to receive
4 advice of Counsel. The Board returned to open session
5 at 11:59 a.m.]

6

7 MOTIONS

8 MR. RUIZ:

9 The Board was just in executive session
10 conducting quasi-judicial deliberations
11 on a number of matters currently pending
12 before the Board.

13 Is there a motion to approve the
14 Consent Agreements with the following
15 file numbers: File No. 17-60-09603,
16 File No. 16-60-01802, File No. 16-60-
17 01680, File No. 16-60-00679, File No.
18 16-60-14475, File No. 18-60-004758?

19 MR. STOY:

20 So moved.

21 MR. MOHLER:

22 Second.

23 CHAIRMAN MURPHY:

24 So moved and seconded.

25

1 Roll call.

2

3 Zachery Everidge, aye; George Mermon,
4 aye; Neal Hufford Jr., aye; Steve Fretz,
5 aye; Randall Derr, aye; William Mohler,
6 aye; Donald Stoy, no on Selinsgrove Ford
7 and aye on the others; Robert Shaffer,
8 aye; Kalonji Johnson, aye; and Dan
9 Murphy, aye.

10 [The motion carried. Donald Stoy opposed the motion
11 regarding File No. 18-60-004758, Selinsgrove Ford.
12 The Respondent's name for File No. 17-60-09603 is
13 David Domaracki. The Respondent's name for File No.
14 16-60-01802 is Scott C. Sharp. The Respondent's name
15 for File No. 16-60-01680 is Andre L. Adams. The
16 Respondent's name for File No. 16-60-00679 is David J.
17 Quashnock. The Respondent's name for File No. 16-60-
18 14475 is Johnson Motors, Inc. The Respondent's name
19 for File No. 18-60-004758 is Selinsgrove Ford.]

20

21 MR. RUIZ:

22 Is there a motion to approve the Consent
23 Agreement at File No. 15-60-10724,
24 noting that Board Members Derr and
25 Shaffer are both recused from

1 deliberations on that matter?

2 CHAIRMAN MURPHY:

3 Motion?

4 MR. STOY:

5 So moved.

6 MR. MERMON:

7 Second.

8 CHAIRMAN MURPHY:

9 So moved and seconded.

10

11 Roll call.

12

13 Zachery Everidge, aye; George Mermon,
14 aye; Neal Hufford Jr., aye; Steve Fretz,
15 aye; Donald Stoy, aye; William Mohler,
16 aye; and Dan Murphy, aye.

17 [The motion carried. Randall Derr and Robert Shaffer
18 recused themselves from deliberations and voting on
19 the motion. The Respondent's name is David E.
20 Layton.]

21

22 MR. RUIZ:

23 Is there a motion to deny the following
24 consent agreements as being too lenient:
25 File No. 15-60-04976, File No. 16-60-

1 14530, File No. 15-60-05411?

2 MR. SHAFFER:

3 So moved.

4 MR. MERMON:

5 Second.

6 CHAIRMAN MURPHY:

7 So moved and seconded.

8

9 Roll call.

10

11 Zachery Everidge, aye; George Mermon,
12 aye; Neal Hufford Jr., aye; Steve Fretz,
13 aye; Randall Derr, aye; William Mohler,
14 aye; Donald Stoy, aye; Robert Shaffer,
15 aye; Kalonji Johnson, aye; and Dan
16 Murphy, aye.

17 [The motion carried unanimously.]

18

19 MR. RUIZ:

20 Is there a motion to approve the final
21 Adjudication and Order in the case of
22 Thomas A. Baily at File No. 13-60-11569?

23 MR. MOHLER:

24 So moved.

25 MR. MERMON:

1 Second.

2 CHAIRMAN MURPHY:

3 So moved and seconded.

4

5 Roll call.

6

7 Zachery Everidge, aye; George Mermon,
8 aye; Neal Hufford Jr., aye; Steve Fretz,
9 aye; Randall Derr, aye; William Mohler,
10 abstain; Donald Stoy, aye; Robert
11 Shaffer, aye; Kalonji Johnson, aye; and
12 Dan Murphy, aye.

13 [The motion carried. William Mohler abstained from
14 voting on the motion.]

15

16 MR. RUIZ:

17 Is there a motion to approve the
18 proposed Adjudications and Orders as
19 final orders in the cases of Brandon L.
20 Dillon at File No. 16-60-00372 and
21 Daniel Rossetti at File No. 17-60-13245?

22 MR. HUFFORD:

23 So moved.

24 MR. SHAFFER:

25 Second.

1 CHAIRMAN MURPHY:

2 So moved and seconded.

3

4 Roll call.

5

6 Zachery Everidge, aye; George Mermon,
7 aye; Neal Hufford Jr., aye; Steve Fretz,
8 aye; Randall Derr, aye; William Mohler,
9 aye; Donald Stoy, aye; Robert Shaffer,
10 aye; Kalonji Johnson, aye; and Dan
11 Murphy, aye.

12 [The motion carried unanimously.]

13

14 MR. RUIZ:

15 Is there a motion to grant the Motion to
16 Deem Facts Admitted in the cases of Hugh
17 C. Daley at File No. 17-60-12135, Mitch
18 Graber at File No. 17-60-04735, and
19 Justin W. Shanley at File No. 16-60-
20 04371?

21 MR. MERMON:

22 So moved.

23 MR. SHAFFER:

24 Second.

25 CHAIRMAN MURPHY:

1 So moved and seconded.

2

3 Roll call.

4

5 Zachery Everidge, aye; George Mermon,
6 aye; Neal Hufford Jr., aye; Steve Fretz,
7 aye; Randall Derr, aye; William Mohler,
8 opposed on Daley and the rest, yes;
9 Donald Stoy, aye; Robert Shaffer, aye;
10 Kalonji Johnson, abstain; and Dan
11 Murphy, aye.

12 [The motion carried. William Mohler opposed the
13 motion regarding File No. 17-60-12135, Hugh C. Daley.
14 Kalonji Johnson abstained from voting on all of the
15 motions.]

16

17 MR. RUIZ:

18

19

20

21

22

In the matter of the protest case of
Transteck, Inc., dba Freightliner
Western Star of Altoona vs. Daimler
Trucks North America, there are two
pending motions.

23

24

25

Is there a motion to deny the
Motion for Summary Judgement, noting
that Board Members Derr and Hufford are

1 both recused on the matters?

2 MR. SHAFFER:

3 So moved.

4 MR. STOY:

5 Second.

6 CHAIRMAN MURPHY:

7 Roll call.

8

9 Zachery Everidge, aye; George Mermon,
10 aye; Steve Fretz, abstain; William
11 Mohler, aye; Donald Stoy, aye; Robert
12 Shaffer, aye; Kalonji Johnson, aye; and
13 Dan Murphy, aye.

14 [The motion carried. Randall Derr and Neal Hufford
15 Jr. recused themselves from deliberations and voting
16 on the motion. Steve Fretz abstained from voting on
17 the motion.]

18 ***

19 MR. RUIZ:

20 Is there a motion to grant the Motion to
21 Compel in the same case of Transteck,
22 Inc., dba Freightliner Western Star of
23 Altoona vs. Daimler Trucks North
24 America, again noting the recusals of
25 Board Members Derr and Hufford?

1 MR. SHAFFER:

2 So moved.

3 MR. MERMON:

4 Second.

5 CHAIRMAN MURPHY:

6 Roll call.

7

8 Zachery Everidge, aye; George Mermon,
9 aye; Steve Fretz, abstain; William
10 Mohler, aye; Donald Stoy, aye; Robert
11 Shaffer, aye; Kalonji Johnson, aye; and
12 Dan Murphy, aye.

13 [The motion carried. Randall Derr and Neal Hufford
14 Jr. recused themselves from deliberations and voting
15 on the motion. Steve Fretz abstained from voting on
16 the motion.]

17

18 Application Review - Informal Conferences

19 [The Applicant Review Committee made the following
20 recommendations regarding the following Criminal
21 Conviction Applications: Stephen R. Przybylowski, no
22 show; David Harrison Gray III, approved with no
23 restrictions; John Delius, no show; Joseph Paul Canady
24 Sr., approved with no restrictions; Miso Mijocevic,
25 approved; Michael Cirner, approved with two-year

1 probation; Joel Varela, approved probation concurrent
2 with criminal probation; and Donald J. Newell, no
3 show.]

4 ***

5 MR. RUIZ:

6 Is there a motion to approve those
7 recommendations from the informal
8 conferences?

9 MR. JOHNSON:

10 So moved.

11 MR. SHAFFER:

12 Second.

13 CHAIRMAN MURPHY:

14 So moved and seconded.

15

16 Roll call.

17

18 Zachery Everidge, abstain from Miso
19 Mijocevic; George Mermon, aye; Neal
20 Hufford, aye; Steve Fretz, aye; Randall
21 Derr, aye; William Mohler, aye; Donald
22 Stoy, aye; Robert Shaffer, aye; Kalonji
23 Johnson, aye; and Dan Murphy, aye.

24 [The motion carried. Zachery Everidge abstained from
25 voting on the motion regarding Miso Mijocevic.]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Adjournment

CHAIRMAN MURPHY:

Motion to adjourn.

MR. STOY:

So moved.

MR. SHAFFER:

Second.

CHAIRMAN MURPHY:

So moved and seconded. Adjourned.

Thank you.

[The motion carried unanimously.]

[The State Board of Vehicle Manufacturers, Dealers,
and Salespersons Meeting adjourned at 12:06 p.m.]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Vehicle Manufacturers, Dealers and Salespersons meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Vehicle Manufacturers, Dealers and Salespersons meeting.



Amber Garbinski,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS AND SALESPERSONS
REFERENCE INDEX

April 2, 2019

TIME	AGENDA
9:32	Official Call to Order
9:32	Pledge of Allegiance
9:32	Roll Call
9:33	Approval of Minutes
9:33	Appointment - Bureau of Finance and
10:10	Operations Annual Budget Presentation
10:10	Report of Prosecutorial Division
10:36	Report of Board Counsel
10:37	Report of Acting Commissioner
10:43	Report of Board Administrator
10:44	Executive Session
11:59	Return to Open Session
11:59	Motions
12:06	Adjournment