



OHIO BOARD OF MOTOR VEHICLE COLLISION REPAIR REGISTRATION BOARD MEETING MINUTES

November 9, 2011 10:00 AM

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

1. MEETING WAS CALLED TO ORDER AT 10:09a.

BOARD MEMBERS IN ATTENDANCE: Jennifer Justice-Haley, Russell Westfall, Virginia Duncan, Brian Seibert Sr., Janyce Katz (AAG)

BOARD MEMBERS NOT IN ATTENDANCE: Richard Finney, Ronald Nagy, William Ogg

GUESTS IN ATTENDANCE: Adam Lemke (ASA Ohio), Dennis Sterwerf (F.A.T.S.)

2. REVIEW OF AUGUST 10, 2011 MEETING MINUTES:

MOTION TO ACCEPT: BRIAN SEIBERT SR.

SECOND: VIRGINIA DUNCAN

VOTE: ACCEPTED

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

A. Vote by Board on regular registrations pending from July 26, 2011 through October 26, 2011.

MOTION TO ACCEPT: BRIAN SEIBERT SR.

SECOND: RUSSELL WESTFALL

VOTE: ACCEPTED

4. OTHER BUSINESS:

A. Investigator's Report (Inv. Dan Gibson) YTD as of 11/03/2011

Shop Visits	669
Renewals	24
NOV	195
New Shop Apps	86
Complaints Investigated	100 (involving 100 shops)
Prosecution Action	391
Shops Located Out of Bus	46



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B. Status Report on Injunctions (AAG Janyce Katz) Sent out letters of warning on October 18, 2011 to a list of shops in Fairfield, Licking and Pickaway counties. I've received a couple of calls from the Clear Creek Hookers, Mr. George Bartram Sr., who swore up and down that he is not someone that should be on this list. He also tried to cite people from the AG's office who can testify to the fact that he does not belong on this list and he insists that he is being intimidated and to please talk to Dan Gibson about this.

There was one other that called it was from Jenkin's Auto Glass. They said that the shop was sold and that was going out of business. We gave him a month to respond and sufficient notice and a chance to respond.

QUESTION (KATZ): Will you have a list of them by the 18th of this month?

ANSWER (GREENE): Yes

QUESTION (KATZ): What is the story on Clear Creek Hookers?

ANSWER (GIBSON): That is George Bartram, Sr. Also, George Bartram, Jr. is on that list, P & J's Automotive in Lancaster. At one time they were operating at the same address in Fairfield County. Junior has already closed his shop in Lancaster. He's probably back at the place on Julian Road in Fairfield County. They're both doing collision repair. George was registered at on time but has not renewed for several years. Junior, we guess, is recently out of the Navy and has been calling us on a regular basis just to tell us how to do our job. We've gotten complaints on both of them. Senior is going to be tough because he has cameras at his garage. It's at his private residence; you have to go up a long driveway. The last two times I've been there, I think he just sits there in the garage, turns off the lights and is quiet. There is no way you can see inside the garage and I leave the paperwork. The time before last he did call Mike, the last time he didn't call. Mike and I talked today about sometime soon, maybe the three of us (Katz, Greene and Gibson) can sit down and decide what would be the best course of action to take with him. He is going to be a tough one to prove. It's not like I can go in there and take photos, I'm not going to get in the garage. By the time I get to the building, it's going to be like nobody's there. It's not like he's going to be there and not let me in, as far as me knowing he's in there. It would be different if it was on public property so to speak or street with regular business hours where I can go in and take photos. I don't know if I will ever be able to get photos. So we're going to have to talk if there is anything we can do as far as a sting or a possibility of getting a subpoena on a parts supplier or something like that to prove. Both of those two are not going to be easy we're either going to have to prove it or punt.



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I think Junior is already out of business in Lancaster, so I think he's probably back at his dad's house, they're doing two businesses out of there again.

QUESTION (SEIBERT): Dan, didn't you say this is from a complaint?

ANSWER (GIBSON): Yes.

QUESTION (SEIBERT): So then all we have to do is get a hold of the people that filed the complaint.....

ANSWER (GIBSON): Well yeah, but they are going to say that it's the only job I did this year, I can do four. When we get to this point, they know and Junior called and told me "I haven't done four in twelve months. Get off my butt, I've got friends in the AG's office and I've already contacted my attorney and blah, blah, blah"

GREENE: He has also contacted a couple of local Senators offices, Junior has, and has filed complaints with them. They supposedly have a petition going around to get rid of us (The Collision Repair Board). They own a lot of property, their family owns a lot of property out there. So there's like two or three properties adjoined or farms or a large part of acreage.....

GIBSON: It's on Senior's mother's property.

GREENE: So they've got a lot of buildings to put stuff in and they've got a lot of area. It's like their own little fortress.

GIBSON: Anti-regulation, anti-government, I mean cameras. Not just one camera, they've got the split screen.

It's one of those deals, a good example as to why we were established. But it's tough because it's a time consuming thing. We just have to decide on how much time and money we're going to put in to something like this.

KATZ: Yeah, because it's a mixed bag. On one hand if they really are doing more than four and they get away with something, then it says something to other people. On the other hand if we go into court without evidence that shows that they've done more than four, the court would throw it out. It would be even better because it's public, there would be publicity. An even better signal to other people out there who want to get away with something and not register. They can do it.

GIBSON: Yeah, we would not go to court if we couldn't prove it. I'm still in the phase of "maybe they'll come around". Mike and I talked about this, this morning



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and we can put a lot of time, effort and money in to this and get them compliant and a year from now, be right back in the same boat. Doing it all over again when they don't renew their registrations. So we'll see, I think maybe there are some other options that we can discuss sometime.

JUSTICE-HALEY: Is there anyway we can look into see if they are collecting insurance checks to do work?

GREENE: We're working on that. We're going to send that information to the DOI investigator and find out – he has been working with us, we've finally got a good contact there.

JUSTICE-HALEY: Oh, they're working with us now?

GREENE: Well, the investigator, because he needed our help on a shop down in Fairfield that we had filed an injunctions on before in the past. I think that we've got a good thing opening up here that we're going to be able to use them.

GIBSON: If I could just give an example of the complaint we got on Junior. We got the complaint from a shop that was in compliance that knows about us because the repair ended up at their shop. So Junior cashed a \$10,000 check from State Farm, botched up this repair, the owner took it to the shop that is in compliance. They gave them an estimate of what it cost to repair the repairs of \$7000. They needed \$7000 more to repair the already \$10,000 job. Like I said, here is a good example as to why we were established in the first place, because of people like that. As a result of that, I was able to find another shop that did the painting or tried to repair the painting on this that wasn't in compliance. It was a can of worms, it just continuously grows. These are the ones you really don't want out there because they are ripping people off big time.

QUESTION: (INAUDIBLE)

GREENE: We're hoping we can, we're not positive who supplies the materials and parts yet, because he's got his own, kind of like his own little junk yard out there on that property, too. And I don't know, somebody's got to be taking him those jobs. He's not advertising.....somebody's gotta be, a towing company, an insurance adjuster, somebody's gotta be getting him this work.

KATZ: The other thought that, I'm going off the top of my head, is to talk to the tax department because if they're not registering, they're probably not paying the sales tax.

GREENE: I sent their information on both shops to the Department of Taxation, IRS, EPA, I don't know how many other offices....



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GIBSON: Worker's Comp, County Auditor's office

WESTFALL: Is it a salvage yard?

GREENE: It's not a salvage yard like what you have. It's not a licensed salvage yard, it's just junk.

WESTFALL: Is there any other way to get in there? (INAUDIBLE)

GREENE: Well, I don't know what the zoning is out there.....(INAUDIBLE)

GIBSON: He may still have it, he had a towing business for years, so there have been vehicles (INAUDIBLE) vehicles out there for 30 years.

INAUDIBLE DISCUSSION

GIBSON: It's private property. I would say there's no zoning. That's the problem, I can take pictures of everything out there and still not be able to prove that it's a collision repair job. For all I know it could be a salvage vehicle, its his own, a vehicle he towed and the owner didn't pay the payments and he kept it, things like that. I'm telling you, when you deal with people like this you've got to prove it because they're not going to admit anything and then they're going to try and side track you and it's going to take a tremendous amount of time to disprove what they're telling you before they end up telling you another lie.

WESTFALL: Vehicle wise, they have to get license plates on them even if they (INAUDIBLE) He can't sell even part one without either a junk yard license or a salvage yard license.

GIBSON: Well, we've referred them to the people that can enforce that stuff, we can't.

GREENE: The BMV investigator is going to have the same problem Dan has, going back down that lane and being on camera and trying to deal with this kind of anti-government person.

WESTFALL: The BMV Investigator told me once that if they don't have a license and they won't investigate them. They only investigate people with licenses.

STERWERF: (INAUDIBLE – REFERENCE WAS MADE TO SALVAGE VEHICLES ON PRIVATE PROPERTY).



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GREENE: That's the BMV

STERWERF: The salvage people would be the BMV?

WESTFALL: You can have a junk yard license in the State of Ohio which is different from a salvage yard license (INAUDIBLE)

GREENE: Well that is one of the things to talk about this morning. We're not sure who all is in his pocket. If he's got friends in the AG's office and they've got contacts with the Senator's office, they may have contacts with local law enforcement. We're just going to kind of take some little steps at a time to try and get resources of where he's getting the vehicles and where he's getting his parts and where he's getting his supplies. We're going to see if we can get something going in that direction. We're not going to get any cooperation from him or the land owner.

DUNCAN: Would it be possible to go back to State Farm (INAUDIBLE) obviously that was a bad situation and maybe State Farm would be willing to help and say that "We know this has happened and can you go back in your records and see if you have paid this guy before."

GREENE: Yeah, I'm hoping that the DOI investigator can do that. At least that's the angle I'm going to take to start with because he already has a rapport with the insurance people. I'm hoping they have a data base to pull up this guys name or his shop's name or something like that and probably see. I don't know if they have two part checks still or have they do the one where they write it to the owner and they sign it over....

JUSTICE-HALEY: You never know.

GREENE: Hopefully they can get us some information, especially on Junior's place, P & J, but – well for both of them. We know that one job was done at P & J and Clear Creek, we don't know what all has been done there. We're hoping to find out.

KATZ: The biggest problem is (INAUDIBLE) statues which don't give you very much power.

GREENE: Right.

JUSTICE-HALEY: We're working on that, right Adam?



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LEMKE: Yes.

GREENE: Out of that list of letters I will say this, the ones that Janyce sent out, we have gotten several places paid up in full, we've gotten several that have paid partially, we've got three confirmed closed. We started out with 22 shops and by the time we get the court's action we're probably going to be less than half. There has been a pretty good response to her letters, a lot better than our letters.

HALEY-JUSTICE: Thank you!

KATZ: You're welcome!

GREENE: I would like to give her about 400 to mail.

C. Status Report on Legislation – (ASA Adam Lemke)

LEMKE: I believe Mike sent out the declaration on SB 114 back in August when it passed out of the Senate. That is the bill that refers to specialized vehicles – low speed vehicles and golf carts. Within that, it refers to window tint and those businesses having to register with the State which includes going through the Collision Repair Board. Within that bill, it also changes the name from The Motor Vehicle Collision Repair Board to The Ohio Motor Vehicle Repair Board and giving the Board centralized jurisdiction in Franklin County. Currently, that has been passed out of the Senate. It passed with 31 Yeas and nobody opposed it, so, there's pretty good support there. I just checked with the PPG's office and once they get back into session here and after the election, they'll tell me more about it and schedule it to go through the House. Obviously, the House can still tweak things and adjust stuff, we'll continue to look at that. But I think that with the support it got in the Senate that should be beneficial.

There is also a new movement which they are sharing with us, as we all know, Ohio has a biennial budget. We are one of 19 states in the United States that has that, most states have an annual budget. So, with that in mind, the state is going to start doing the annual review on the off years of the budget years. This past year, if you all remember, we went through the budget process and Mike had to testify and have all of that fun. In the off years of this coming winter, starting February or March there will be a group that will be reviewing the budget. Now it just might be a review process of the budget; a kind of like a half way check point to see where everyone is at, to see if everyone is falling in line. It should not have any impact on the Board but anytime you have people in a room talking about money and talking about numbers, it's something that we have to monitor for the sake of protecting the Board. We will have representation at any of those meetings that involve the boards and commissions and all of that. I think the



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intent is probably a good thing but at the same time you just never know, once they start talking, what ideas can come up.

Those are the two big things as far as the Board is concerned.

There are a couple of other bills out there. One of them was just introduced last week SB 245. It deals with used motor vehicle dealers. The used car dealer association is actually backing that, it is actually going to try and establish mandatory training for used motor vehicle dealers. Right now it only has one sponsor, it doesn't look like it'll hold a heck of a lot of traction. (INAUDIBLE) They had an interest in kind of, well basically they are trying to weed out just like what we're here trying to do. Raising the bar, either step up to the bar or get out of the industry. That's kind of what they are looking at. I think that this is an opportunity for us to work with them and try and clean up the folks that are trying to hide behind the used car dealer's license to avoid the Collision Repair Board. So, we're going to have some future conversations with them, hopefully seeing what we can do to work out because ultimately, I think they are realizing that they need to kind of clean some things up there too. (INAUDIBLE)

There's also the financial responsibility bill that is getting some hearings. There has only been one hearing currently. 25,000 to 40,000 to 50,000 it would increase in two year increments, basically doubling each time. SafeAuto is actually the one pushing this, the one involved in it. We are monitoring it, looking at it and seeing kind of where their angle is because we were kind of surprised because SafeAuto, of all people, they are the ones that push minimum insurance that they would be the ones who want to raise it. We had that talk and we continue to work with them. To just look at the bill and see who is else is jumping on because anytime you have insurance (INAUDIBLE) As we all know, the bill that was introduced and the bill that was finally voted on and passed are entirely two different things. So you don't want to jump in too early.

HB 275 involving the rights to cure. This is being pushed by the Attorney General. Basically it's an avenue for consumers and business to avoid going to court when an issue arise. The chambers are also backing it, (INAUDIBLE) it seems like it's a relatively pro-business approach to giving the business an opportunity to make things right with the consumer and avoid going to court. There are details in there (INAUDIBLE) it makes it advantageous to the consumer to go with the settlement out of court as opposed to trying get more through court, because if they lose their case in court, they are actually losing a whole lot more. There hasn't been a whole lot of movement there yet. I do think that there are a lot of organizations supporting it, so it could potentially be one that could develop a lot of traction.



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In my report in August, we were discussing E Check. That was looking like it was going to expand. The Federal EPA has decided to leave the clean air limits where they are. So that means, currently E Check (INAUDIBLE)

It is still going to move from a centralized testing to a decentralized testing. So we're going to monitor how that rolls out up there, if it does expand that can be the model that they take else where. So in a sense it might just be what they are doing up there and try to shape it up here before it expands anymore so we'll continue to watch that from all parties involved.

D. Director's Report (Dir. Greene) –

Our first quarter of FY 12 First Quarter Revenue amounted to \$87,475. This is down from the same period last year by about just over \$15,000. I'm not really sure if there is an explanation for that other than the fact that even though we've collected a lot of fees that were in the arrears we haven't collected much overall that we have collected last year. We're still remaining at 1457 current registrations, 1290 of those are collision shops, 98 glass shops, and we're up to 38 dealerships, 30 mobile units and 1 airbag unit. As you can see in Dan's report the amount of new shop applications remains almost 50% higher than the shops going out of business. That's a good sign if you remember a couple of years ago it was the opposite, twice as many going out as we had starting up.

E. SeniorChecked follow-up (Tabled from Aug. 10 mtg.)

JUSTICE-HALEY: Did we talk to you Janyce, about us being able to endorse that program as a board or an entity; are we allowed to do that?

KATZ: We should have talked about it, your statue doesn't have it in it, endorsing. But you also have to remember when you do that you need to....there could be consequences, presenting problems with the program. Your name is clearly on that and if there is a similar program to that and that other program doesn't like the fact that one has been endorsed, that could generate a lawsuit. You can have a link on your web page saying "This is something that you might find interesting." And a disclaimer on it and then that's the safest way to approach any of these programs.

GREENE: And we added the disclaimer, Janyce gave the disclaimer and we've added it to the website since the last meeting after talking about that, to cover those helpful links that we have, because we've got a lot on there that shops or consumers can visit and look at them. The disclaimer covers the fact that we're not giving them thumbs up or a thumbs down, you make your on determination and that we're just providing information.



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WESTFALL: I did a little research on that in our area and there are three (INAUDIBLE) one is a transmission shop and the other two are glass shops. The two glass shops are not registered.

GREENE: Really?

WESTFALL: That can give a bad impression if you go to a link to a shop that is not signed up or registered.

(SHORT INAUDIBLE DISCUSSION)

JUSTICE-HALEY: What about the glass shops, are they being investigated?

WESTFALL: I can't remember, I think one was King's Glass in (INAUDIBLE) and the other one was Don Bolero down along the river – it was a name I never heard of.....

GREENE: Did you run them by zip code or how did you search?

WESTFALL: I think we did them by zip. It was the next day, after the meeting.

GREENE: Ok, I can search and find them. King's we've had before, I don't know I have to look it up.

JUSTICE-HALEY: What are some examples of the links; I haven't looked lately, the helpful links that we have on our site?

GREENE: We've got probably 75 links that industry related things like the link to ASA, a link to the Attorney General's Office Consumer Complaints, Small Business Complaints, EPA. We also have the Ohio Body Shop Owners Association, C.A.R.A. All of the different organizations that shops can belong to. We've got links for the VIN makers, the people that supply VIN plates.

JUSTICE-HALEY: Auto Data VIN Labels

GREENE: Yes, stuff like that. It's not all non-profit, it's just different resources they can look at and go to, that kind of thing. I'm fairly certain we have Erica Eversman's Vehicle Information.com. (INAUDIBLE) The Department of Insurance

WESTFALL: I think that those are all good links when you start putting some of these.....(INAUDIBLE)



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GREENE: It's ok with me either way, I'm not arguing the fact, and I'm just bringing the information to you. Most of you remember Bill Sefcek from State Farm? He was at one of our meetings we conducted, he's retired from State Farm and is starting his own consulting agency to help collision repair shops and bring them together with the insurance industry. Try and help them to work together, he wants to come and talk at one the meetings, when he gets time. I'm not saying that it's a good thing or a bad thing, I'm just putting the information out there. What ever people want to do with it, it's fine with me.

(INAUDIBLE DISCUSSION)

GREENE: Some of them were on there prior to me being here with the board. When we redid the website we went back and verified that all those links were still good and if they weren't we took them out and we've added some, too. It probably needs to be done again because it's pretty often that they change.

KATZ: When you redo it, just separate, very clearly, government agencies that may be a help to you and then other agencies that are business. To separate the commercial.

GREENE: Sure! And we have two separate places, a place for consumers and a place for shops.

JUSTICE-HALEY: Do we want to take any action on that item or not?

MOTION TO NOT GET INVOLVED (SENIORCHECKED): RUSSELL WESTFALL

SECOND: BRIAN SEIBERT, SR

VOTE: ACCEPTED

5. **NEW BUSINESS:**

A. 2012 Board Meeting Dates

MOTION TO ACCEPT MEETING DATES: BRIAN SEIBERT SR.

SECOND: RUSSELL WESTFALL

VOTE: ACCEPTED

6. **PUBLIC COMMENT:**

STERWERF: Is there a link on our website for anyone in the industry who wants to become a board member?



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GREENE: Yes. There is a link already there on how to apply and it goes straight to the responsibilities of being a board member and then an application. You can click on the application and submit it and everything right there.

STERWERF: My other issue is, going back to the EPA regulations that we've got to conform to and of all of these new shops that have signed up, how many do you think are compliant? How many have paint booths and following the 6H rule. I see legal shops closing and (INAUDIBLE) shops opening up, especially down in my neighborhood. I've seen that all over, we had a discussion this morning.....

GIBSON: You know I don't know. There are different parts of the state that don't even require a paint booth. It's like, hey if you have an enclosed area that has filters and ventilation, EPA will say that's ok. Whereas down in your area, there apparently is specific paint booth requirements and things like that. I can just tell you that obviously if they are painting and no paint booth, we'll refer them to the EPA. So, I guess I don't have an answer because I used to think that if they didn't have a paint booth, it was illegal. Apparently that's not the case every where.

STERWERF: I was informed that the new federal rule that is, since January of 2011 you have to have a paint booth. (INAUDIBLE) Proof that it takes up 98% of the (INAUDIBLE) So, I would think that if you don't have a UL listed or tested on your paint booth or room (INAUDIBLE) So with that being said, counselor, what do we need to change our rule or change our law.....

KATZ: You need to go into the statute and change your statute. If you want to have (INAUDIBLE) and enforce things, you'll need to have a statute that would allow him to do what you want him to that will give you some teeth to enforce it; there's no teeth to enforce anything. The only thing you can do at this point is file an injunction. And it's not clear that he has the power to go and (INAUDIBLE) All he can do is report it to someone and I don't know if that's the best usage of time right now.

STERWERF: See, I see it different, because I'm trying to survive out there....That's probably why we wrote the rules so broad when it comes to EPA regulations because EPA is constantly changing its rules all of the time. So, I ask the board here, to come up with some verbiage to submit and we'll see if we can get the stuff in a bill.

KATZ: The problem is, you need a statute that says that you can and the rule amplifies it. You can't have a rule do something unless that statute gives you a general overview The way it's suppose to work is, the constitution is (INAUDIBLE) In that it gives the General Assembly the powers that are certain agencies and their powers. So, you have certain powers that are set up in 4775 of that Chapter of the Ohio Revised Code. If it wanted you to go after the EPA regulations, they could put that in there. If they wanted you to have hearings on whether these shops were



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adhering to all of the rules, they would have put that in there. Then you would have to write the rules to say how you're going to make those powers operative.

STERWERF: (INAUDIBLE) Leveling the playing field and competition with these EPA regulations, because quite obviously after (INAUDIBLE) we were going to have to go back and change the law some how. I'm asking, what kind of verbiage should we put in there that would allow me, that would allow this board to do what it has to do to level the playing field?

KATZ: You're going to have to put something in your purposed statute that includes more than just registering and complying with certain provisions set forth in rules and regulations. Then you're going to have to put them in the powers and duties of the board and then you're going to have to give yourself a mechanism of enforcement. You know, adhere to the Ohio Revised Code 119 (INAUDIBLE) which allows you to bring somebody that has a license in and they do a hearing and you have proof to show that they weren't following the requirements that this statute say they should follow, and then they would try and prove that they were, but you don't have that in there. All you have is, if the shop doesn't comply with the registration requirements, you'll file an injunction. And if you have changing that you might as well add, not only an injunction but make them pay something for being out of compliance. The real estate commission has the power to go after unlicensed real estate people who are acting like real estate brokers or sales people renting property or acting like a property manager, selling property for each violation it could be up to a \$1000. And they have it in there that one day of advertisement is a violation, being in operation or an option contract for 9 days on property when you don't have a license it's 9 violations.

DISCUSSION CONTINUES

MOTION TO ADJOURN: BRIAN SEIBERT, SR
SECOND: RUSSELL WESTFALL
VOTE: ACCEPTED

8. **ADJOURNMENT: NEXT BOARD MTG. – FEBRUARY 15, 2012, LOCATION:**
Vern Riffe Tower, 77 South High Street, 19th Floor, Room 1932, Columbus.