



OHIO BOARD OF MOTOR VEHICLE COLLISION REPAIR REGISTRATION BOARD MEETING MINUTES

May 13, 2009 10:00 AM
Ohio State Highway Patrol Academy
740 East 17th Ave.
Columbus, Ohio 43215

1. **MEETING CALLED TO ORDER AT 10A BY CHAIRMAN PAUL DUNCAN.**
2. **MEMBERS & GUESTS PRESENT:** *Rick Finney, Jennifer Haley, Paul Duncan, Ron Nagy, Brian Seibert, Eric Poklar, Michael Greene, Daniel Gibson, Kimberly Sherfield, Ted Klecker (OAG), Melody Krotchen (All Makes Collision)*
3. **REVIEW OF FEBRUARY 11, 2009 MEETING MINUTES:**
MOTION TO ACCEPT: Ronald Nagy
SECOND: Jennifer Haley
VOTE: Accepted
4. **BOARD REVIEW AND DETERMINATION RE PENDING REGISTRATION APPLICATIONS:**
 - A. Vote by Board on regular registrations pending from January 26, 2009 through April 24, 2009.

MOTION TO ACCEPT: Rick Finney
SECOND: Brian Seibert
VOTE: Accepted

Because Duncan's Collision was on the list, Chairman Duncan recused himself from the vote.
5. **OTHER BUSINESS:**
 - A. Investigator's Report (Inv. Dan Gibson) YTD Totals as of May 7, 2009

Shop Visits	274	
Renewals	16	
NOV	76	
New Shop Apps	21	
Complaints Investigated	47	(Involving 51 Shops)
Shops located out of business	22	



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QUESTION: What was the number of shops padlocked?

ANSWER: 1 in Franklin County and 3 in Hamilton County. The 3 in Hamilton were from the 30 we had from 2 years ago. It came down to where we had a half dozen were we hearings in Common Pleas Court. They got just what we promised, lock down ordered by the Common Please Judge.

B. Status Report on Injunctions (AAG Ted Klecker)

No injunctions pending right now. Received an order in Cincinnati last month on 3 shops to shut them down, they are now paid up. The next place we're proceeding in is Franklin County in June.

I'm trying to stream line the process – making things work a little quicker. In the future we're going to ask the court to close the shops down right after the injunction instead of giving them time to register and then filing a contempt of court. We don't know how receptive the judges will be to that.

FINNEY: Can you break down what the fines or penalties were for each shop?

KLECKER: We don't know right of the top of our heads. We don't have the actual figures here with us. There weren't any "fines", it was just the amount of fees they owed.

FINNEY: How long had they not been registered?

KLECKER: Some of them paid 13 to 16 hundred dollars plus they pay the locksmith fees, two of them did. They all had to pay the back fees, the cost to lock it up and they have to pay the court costs, too.

FINNEY: Can't we fine them \$5000 a piece?

KLECKER: Well, that is through the Administrative Process. The problem with that is we have to have 119 Hearings and we had decided to avoid that because of the cost, years ago. Right now, we can go straight to the Common Pleas Court with the injunction. It actually saved us a lot of money.

FINNEY: Don't you think that, if we fine the shops \$5000 it would make the shops that are "bucking" the system get in compliance? Or would the shops not be in business because there are still a ton of shops that not getting registered and there are a lot of shops that have been registered from day one and are now going out of business.



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KLECKER: That's a good point and the way the 4775 is set up with the 119 process they are entitled to a hearing if the Collision Board is going to deny an application. If someone sent in application and you're going to deny it. That's not really the big problem that the CRB has. Usually if someone is sending in an application, almost all the time Director Greene will talk to them and they will get the application right. The problem that CRB is having is shops just not registering. Ohio Revised Code 4775 with the 119 Process and those \$1000 first occurrence and \$5000 for each additional occurrence deals with the registration being denied and not them just failing to register. The only remedy, really, that the Collision Board has right now for that is to go straight to court with these injunctions. Quite frankly, it seems to be – kind of as a matter of fact, these shops are not even registering and let's assume that we're going to try and stretch it say "we can't take a 119 – Administrative Hearing and have them put on the record and then fine them" they're probably not going to pay that fine, either. So the big problem is the shops that are not registering.

The Administrative Hearings do not apply to the shops that are not registered, it applies to the shops that are registered and their registration was denied. What you are talking about are shops that have never been registered, the only thing that we have at our disposal is the injunction. In the past what we've done is selected certain counties and you have to file in the county where the shop is located. That's why we targeted certain counties like Lorain, Franklin, Hamilton, Butler and Clermont where we've gotten injunctions against problem shops. It doesn't make a whole lot of sense to go to Darke County and file an injunction for one shop there or in Henry County for one shop there. The decision was to go to the counties where you have multiple shops like in Hamilton where you've got 40-60 shops, initially when you start to look at injunctions. Then these shops that go through the process of being notified before you file the injunctions will either register or be closed and then we're looking at maybe a dozen, 20 – 24 shops that we'll have to file the actual injunction and go through process of filing with the court and it gets carried down. The only thing about that situation with the illegal shops, keep in mind that there might be other legal means to go after these shops i.e. city code violations or some type of other means to go after these rather than through the Collision Board. It could be EPA violations, things that other legal entities could be notified, I know that in the past that there has been a taskforce that has gone in to look at shops in joint efforts with the Collision Board, the Fire Marshall and local police have gone to do inspections. There may not be something necessarily that Collision Board could do, but there might be other violations involving jurisdictions of other local legal entities.

FINNEY: So you are saying that the \$1000 and the \$5000 in subsequent offenses are not penalties that apply to shops that have not been registered, they only apply to shops that have registered?



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KLECKER: They apply to shops whose registrations have been denied, if the Collision Board has denied your registration, that is when those penalties are applied.

FINNEY: That doesn't apply to shops that have registered once but are no longer registered?

KLECKER: I think it could, I would have to take a look at the statute because I think it could apply to shops that have registered once and are no longer registered. But one of the things that we have discussed in the past and I think we could do that with shops that have registered, because you then have to set up a 119 hearing, a court reporter and a hearing officer. We're going to have to look at that again. But in the past we looked at that issue a couple years ago and I think the board made a determination that it wasn't cost effective because we would have to pay a hearing officer to hear the case, we would have to pay a court reporter and also for Certified Mail and processors time. By the time you finish all of this you're spending more money then you are making money. If you, the Board, want me to, I can revisit the issue.

CHAIRMAN DUNCAN: I would think so.

DIRECTOR GREENE: We got "more bang for our bucks" by going through the court system. If we have 300-400 unregistered shops either from expiration or not registering at all. That means 300-400 separate hearings, with court reporters and hearing officers, the Board would be broke by the time we get a dime collected.

FINNEY: Here's the alternative to what's going to happen, we're going to get shops that have been registered say "I'm just not going to register anymore, what's going to happen?"

DIRECTOR GREENE: Well, they're seeing shops get locked down.

FINNEY: Well, they're just paying their back fees then, right?

DIRECTOR GREENE: Yes, but you're missing the point. Like Dan said, we started out with 30 in Cincinnati, we ended up locking down 3 that means 27 got registered or closed. That's the goal, get them registered. So we go to the county where there are a lot of shops that are illegal and get the publicity, we get the court case and if we get 25 or 30 registered and we only spend \$300 locking down 3 shops, we're getting a lot more money for what we're getting there then going through 400 119 Hearings.



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HALEY: Obviously they're being supported by the insurance companies, too or they wouldn't be in business. Now who the holds insurance company's feet to the fire to abide by the registration laws to only deal with shops that are registered and not these backyard operators. That's how they are being fed.

(10 MIN. DISCUSSION RE: INSURANCE WORK AND DEPT OF INSURANCE)

Discussion regarding the possibility of changing the rules in regards to expired registrations and non-registered shops.

Discussion on the costs of 119 Hearings.

Chairman Duncan recommended the board move forward with the 119 Hearings. Director Green reiterates that it would not be cost effective, considering all of the proposed 30% operating budget cuts handed down by the Governor. He goes on to advise the board that there are other boards pulling their investigators off of the road to save money.

C. Status Report on Legislation (ASA)

6. NEW BUSINESS:

A. CRB Budget cuts (Director Greene): 30% - Plan must be sent to the Office of Budget and Management by May 31st. We should not see any change in the way we're operating right now. Submitted on budget on temporary help, not using that is a big percentage. We actually, cut out out-of-state travel and overnight travel. We've gone to cost per copy and sold all of our office equipment. We had already made our cuts/changes. The 30% (not counting payroll expense 80 hours of unpaid leave comes out to five percent) will be staggered throughout the year. Budget cuts will not hurt us. If later on down the road, there are always other ways to save money. We aren't sure if this is going to affect our move. Still trying to contact the people regarding this. We're saving 9% per square feet on our new office space. We are making up the money in other areas. Last year our revenue was up.

7. PUBLIC COMMENT: NONE

8. ADJOURNMENT: NEXT BOARD MTG. – AUGUST 12, 2009
MOTION TO ADJOURN: Ron Nagy
SECOND: Jennifer Haley