TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

9:00 a.m.
Thursday,
December 6, 2018

Ric Williamson Hearing Room
Dewitt C. Greer Building
125 East 11th Street
Austin, Texas

BOARD MEMBERS:

Raymond Palacios, Chair
Guillermo "Memo" Treviño, Vice Chair
Robert "Barney" Barnwell, III
Luanne Caraway
Brett Graham
Kate Hardy
Gary Painter
John M. Prewitt
Paul R. Scott
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AGENDA ITEM PAGE

1. Roll Call and Establishment of Quorum 5

2. Pledges of Allegiance - U.S. and Texas 6

3. Chair's Reports none

4. Executive Director's Reports and Announcements none

RULES - ADOPTION

5. Chapter 217, Vehicle Titles and Registration 21 Amendments, §217.56 (Relating to adopting by reference the 1/1/18 and 1/1/19 editions of the International Registration Plan (IRP), addressing the display of an electronic image of a registration credential, and cleaning up rule language) (Proposal Published August 31, 2018 - 43 Tex. Reg. 5663)

6. Chapter 217, Vehicle Titles and Registration 23 Amendments, §217.27 (Relating to personalized license plates) (Proposal Published October 19, 2018 - 43 Tex. Reg. 6945)


ACTION ITEMS

8. Specialty Plate Design 8 Sons of Confederate Veterans, New Design Proposed by Texas Department of Agriculture under Transportation Code, §504.801

9. General Counsel Organizational Structure 28 Transportation Code, §1001.023(b)(6)

EXECUTIVE SESSION

10. The Board may enter into closed session under 28
one or more of the following provisions of the Texas Open Meetings Act, Government Code, Chapter 551:
• Section 551.071
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MR. PALACIOS: Good morning, everyone. So happy to have y'all out here for our Texas DMV meeting. My name is Raymond Palacios, and I'm pleased to open the Board meeting of the Texas Department of Motor Vehicles. It is 9:00 a.m., and I'm now calling the Board meeting for December 6, 2018 to order.

I want to note for the record the public notice of this meeting containing all items on the agenda was filed with the Office of the Secretary of State on November 28, 2018.

Before we begin today's meeting, please place all cell phones and other communication devices in silent mode, and please, as a courtesy to others, do not carry on side conversations or other activities in the room.

If you wish to address the Board or speak on an agenda item during today's meeting, please complete a speaker sheet at the registration table. Please identify on the sheet the specific item you are interested in commenting on, and indicate if you wish to appear before the Board and present your comment, or if you only wish to have your written comment read into the record.

If your comment does not pertain to a specific agenda item, we will take your comment during the general public comment portion of the meeting. In accordance with
the Department administrative rule, comments to the Board will be limited to three minutes.

To assist each speaker, a timer has been provided. The timer light will be green for the first two minutes, yellow for one minute, and then red when your time is over. Individuals cannot accumulate time from other speakers.

Comments should be pertinent to the issue stated on the comment sheet. When addressing the Board, please state your name and affiliation for the record.

Before we begin today, I'd like to remind all presenters of the rules of conduct at our Board meetings.

In the Department rule Section 206.22, the Board Chair is given authority to supervise the conduct of meetings. This includes the authority to determine when a speaker is being disruptive of the meeting or is otherwise violating the timing or presentation of rules that I have discussed.

Now, I'd like to take a roll call of the Board members. Board member Barnwell?

MR. BARNWELL: Present.

MR. PALACIOS: Board member Caraway?

MS. CARAWAY: Present.

MR. PALACIOS: Board member Graham?

MR. GRAHAM: Present.
MR. PALACIOS:  Board member Hardy?

MS. HARDY:  Present.

MR. PALACIOS:  Board member Painter?

MR. PAINTER:  Here.

MR. PALACIOS:  Board member Scott?

MR. SCOTT:  Here.

MR. PALACIOS:  Board member Treviño?

MR. TREVIÑO:  Here.

MR. PALACIOS:  Let the record reflect that I am Raymond Palacios.  I am here too.  We have a quorum.  And also let the record reflect that Board member Pruitt is absent today.  So with that, I would ask that everyone rise so that we can honor our country with the Pledge of Allegiance.

(Whereupon, the pledges were recited.)

MR. PALACIOS:  All right.  Okay.  Thank you.  I want to begin this meeting by thanking our colleagues at the Texas Department of Transportation for allowing us the use of this facility.  They were very gracious in providing these accommodations.

And I'd like to acknowledge the executive director, Mr. James Bass, and Rich McGonigle for going out of their way to assist us here, and just wonderful facilities that we have here.

I would also at this point like to acknowledge
the passing of one our great ones, our 41st President of the United States, George Herbert Walker Bush. As you all know, he passed away last week at the age of 94, and will be laid to rest today at College Station.

He was a World War II veteran. He was an aviator in the U.S. Navy, an American statesman whose political career spanned 26 years. After leaving office, President Bush was active in numerous humanitarian efforts, most recently the recovery following Hurricanes Harvey and Irma.

He was a true leader and a great servant to our country. He was the embodiment of devotion to others, and he personified the tremendous impact that a public servant can have on our community, state and country.

So if you would, please stand and join me for a moment of silence to honor President George H.W. Bush.

(Pause.)

MR. PALACIOS: Thank you very much. May God bless us all.

All right. With that, I will turn it over to our executive director to give the executive director's report.

MS. BREWSTER: Mr. Chairman, I do not have a report today.

MR. PALACIOS: Okay. Thank you. All right.
Let's move on now. I'm going to go a little bit out of order today and move Agenda Item No. 8, the Specialty Plate Design, up front now.

So, Mr. Kuntz, if you could please present?

MR. KUNTZ: Good morning, members. For the record, Jeremiah Kuntz, director of the Vehicle Titles and Registration Division. I'm presenting on Agenda Item No. 8. Staff is seeking your consideration of a license plate for the Sons of Confederate Veterans.

I would like to provide the Board and the public today a brief overview of how new license plates are created. I know sometimes we put this in your Board packets, in the memo, but I just wanted to go ahead and cover it.

The Department brings plate designs to the Board for your consideration not as the sponsor of the plate design, but just brings them for you to consider. There are currently three ways that a new license plate can become available to the public.

The Legislature can pass a bill creating a license plate. A state agency can sponsor a bill creating a license plate, or our vendor, My Plates, can bring forward new license plate designs.

The license plate on today's agenda is sponsored by a state agency. That would be the Department
of Agriculture. Sid Miller actually submitted the application for the license plate. The application indicates that the proceeds from the sale of the plate would be provided to the Sons of Confederate Veterans for nonprofit -- a nonprofit corporation.

The plate sponsor, TDA, indicated their application -- in their application that they would distribute the revenue from the license plate sale through grants to the Sons of Confederate Veterans to support charitable causes and related activities.

My understanding of the process is that these funds would have to go through the appropriations process with the Legislature to be appropriated. The Department of Agriculture would then be able to provide the grants to the Sons of Confederate Veterans.

The sponsor of the plate must obtain the Board's approval for the license plate design. The Board's decision, when we bring these to you, is based on compliance with applicable laws and administrative rules, the proposed license plate itself, and the public comments on the proposed design.

According to the Department's Administrative Code 217.45(i)(5), the Board's decision will be based on two primary factors: compliance with Transportation Code 504.801 and the license plate design itself. I'll go into
the specifics laid out in those two tenets.

Compliance with Transportation Code 504.801 states: "The Department may refuse to create a license plate if the design might be offensive to any member of the public, if the nominated state agency does not consent to receipt of funds derived from issuance of the license plate, if the uses identified of those funds might violate statute or constitutional provisions, or for any other reason established by rule."

The other tenet is the proposed license plate design, including whether the design appears to meet legibility and reflectivity standards, whether the design meets Department standards for uniqueness, other information provided during the application process, the criteria designated in 217.27 as it applies to the design, and whether a design is similar enough to an existing plate design that it may compete with existing plate sales.

The Department posted the plate design for E-view on November 6, and it closed on November 16. That is our standard process to put plate designs out for public comment and review. The Department received 557 comments from the public.

There were 380 people who liked the design, that offered additional comments. There were 177 of them
providing positive comments. There were also 88 people who did not like the design, with 17 providing actual comments.

The comments from people who liked the plate design primarily mentioned the history of the soldiers that fought in the Civil War. The remaining comments from the people who liked the plate primarily commented on the artwork of the plate.

The negative comments primarily objected to the subject matter as a reference to slavery and generally referred to the divisive nature of the plate. The comments from the people who did not like the plate also included one negative comment from the Texas Bicycle Coalition Education Fund.

This nonprofit corporation benefits from the proceeds of the sale of the God Bless Texas license plate, and I've brought this to show y'all as well. So the Bicycle Coalition is the sponsoring organization of the plate that you see before you here today.

The complaint is pursuant to Administrative Code 217.45, Subsection 5(b)(5), noting that the Sons of Confederate Veteran design is similar enough that it may compete with the sales of the God Bless Texas plate. The God Bless Texas is authorized by Transportation Code 504.648 and is administered by the Texas Department of
Education.

So this -- they have a state agency sponsor that uses the proceeds of this plate to fund the Safe Routes to School Program. The Board in the past has taken action on three other occasions to deny a plate that the design may compete with another plate that's already in existence.

I'll go ahead and go over those, just for reference. The first was a different Texas flag plate brought forward by My Plates. It was objected to by the Commission on the Arts that had a similar flag plate design.

The second was the monarch butterfly that many of you probably remember that was brought forward by My Plates and was objected to by the Texas Parks and Wildlife Department. The most recent one was a beach plate brought forward by My Plates that was objected to by the General Land Office, who administers a separate beach license plate.

So with that, that will conclude my comments. I'll be more than happy to answer any questions, if you have any. And you can see, we do have the board. I've got both of the plates in case you wanted to see those real quick, and I can bring these up if anybody wants to see them closer.
MR. PALACIOS: Are there any questions for Mr. Kuntz?

(No response.)

MR. PALACIOS: Okay. Hearing no questions, I will entertain a motion to accept the proposed plates. Oh, I'm sorry. Thank you. We have three commenters before we vote or entertain a motion.

Mr. Bill Boyd, are you present?

Please come forward.

MR. BOYD: Bill Boyd, chief of staff, Texas division, Sons of Confederate Veterans. Thank you very much for this opportunity to speak to you, ladies and gentlemen.

My thoughts are about the image that you see on our plate. It's a very historic flag in the Texas Confederate Army. It was -- the Texas Army, the Texas Confederate forces, consisted of Hispanic, Native American, Black, Chinese and Anglos. We were not a racist army. We were an army of the Confederacy, and that flag represents all the Texas troops.

On the day of the battle of Sharpsburg Antietam, 17 September 1862, there were 22,717 dead, wounded or missing Confederate soldiers lost on the field that day. Pardon me. Of that number, there were 226 Texas Confederates that went on the field, and we lost 186
that day.

That is an 82.3 percent casualty rate, the highest of anybody that day on that field. We represent their ancestors, and we think we do it well, and we would like the public to recognize that we do it well, and it's important to us, and I think it should be important to the public to know that their ancestors who fought for Texas, no matter what your opinion of what the war was about, are honored and respected, and we want to do that with this plate.

I appreciate your time and courtesy.

Questions?

MR. PALACIOS: Are there any questions for Mr. Boyd?

(No response.)

MR. PALACIOS: Thank you, sir, for coming forward.

MR. BOYD: Thank you.

MR. PALACIOS: Okay. We have two more people that have registered to speak.

Mr. John McCammon?

MR. McCAMMON: Good morning.

MR. PALACIOS: Good morning.

MR. McCAMMON: My name is John McCammon. I'm the lieutenant commander for the Sons of Confederate
Veterans. I have 42 ancestors that fought for the Confederacy. I also have 37 Union ancestors. I honor them all.

It was a very disturbing part of history, but it should not be erased. Our history is for all of us to learn from. I'm a veteran. My father was a veteran. My great-grandfather was a veteran, and my great-great-grandfather was a veteran in the Confederate Army.

This flag is a Texas flag. It has Seven Pines, Gaines Farm, Eltham's Landing, and Malvern Hill on that flag. As stated previously, these individuals formed up here in Texas, San Antonio, the Austin Rifles, the San Antonio Rifles, the Alamo Guards, all across the state, and those individuals are honored with our Texas flag.

The Texas flag was carried as a battle flag, as it was in World War II. This is a historic flag that we're talking about on this. Mr. Strain is a well-known artist. He put this together. And we use the money that we gather to provide scholarships for everyone.

As an example of the diversity of our organization and those individuals that we are representing with this flag, I'd like to read to you Hood's Texas Brigade, which is the designation of that Texas flag, which is in the museum over here that we have in honor.
Listen to some of the names: Captain Joseph De La Garza, Captain Manuel Yturri, Captain Refugio Benavides, John Z. Leyendecker, Cristobal Benavides, Atanacio Vidaurre, Horacio Benavides and Colonel Santos Benavides. A very diverse organization.

Texas has always been diverse. We represent everyone. We love our state. We love everyone. We hope that you will consider this historic flag and this historical license plate to be presented and produced so that we may continue to provide our scholarships to schools, high schools and junior high schools.

Thank you very much for your time.

MR. PAINTER: Could I ask you a question?

MR. McCAMMON: Yes, sir.

MR. PAINTER: How many scholarships or much money --

MR. McCAMMON: These are --

MR. PAINTER: -- do you y'all --

MR. McCAMMON: Yes, sir. These are provided on an individual basis. We have 94 camps in the state of Texas. We have 3,300 members. So we anticipate a considerable amount of money to come in, and these scholarships are based on the individual camps and the -- you know, the size of the school.

Some of them are as little as $200, but some of
them are up to $1,000. So this would be a great benefit for us to provide scholarships for these individuals.

MR. PAINTER: So this would be the creation of the scholarship program? You don't have it in place now?

MR. McCAMMON: It's -- as it is now, the individual camps gather the money. They have fundraisers, you know, sell cookies, that sort of thing, and we raise money that -- and most of the time, they'll have an opportunity for the child to write on a topic concerning the War Between the States.

MR. PAINTER: Thank you.

MR. McCAMMON: Okay. Any other questions?

MS. CARAWAY: I have a question.

MR. McCAMMON: Yes, ma'am?

MS. CARAWAY: So would 100 percent of the funds from this particular item go to those scholarships?

MR. McCAMMON: No, ma'am. It will be used for that. Let me say something else that we also do, and I want y'all to listen to this real carefully. We also put the 12-by-18 grave flags that you see in the cemeteries all across the state.

And again, with 94 camps and 3,300 members, we have a program to where each person that is assigned a cemetery is responsible for keeping the flags on there. And we not only honor the Confederate soldiers, but we
also honor the Union soldiers.

And again, the majority of the people in our organization -- I'll use this word very carefully -- they're referred to as SOBs, but are sons of both. They're members of both the Sons of Confederate Veterans and the Union, the GAR, the Grand Army of the Republic.

So we also use this money to put flags out on those graves, and that is the purpose of our organization, is to honor the history of our ancestors.

Any other questions?

(No response.)

MR. McCAMMON: Thank you for your time.

MR. PALACIOS: Thank you, Mr. McCammon.

MR. McCAMMON: Yes, sir.

MR. PALACIOS: Okay. I'd like to call Robin Stallings.

MR. STALLINGS: Mr. Chairman, members of the Commission, thank you very much for giving me a chance to speak today. My name is Robin Stallings. I'm the executive director of the Texas Bicycle Coalition Education Fund.

We were founded in 1991 to advance bicycle and pedestrian access, safety, and education in Texas. The Legislature saw fit to give the God Bless Texas plate to Texas Bicycle Coalition, which we refer to as Bike Texas,
if you don't mind, and so we have used that money very thoughtfully.

But I want to address that, but quickly I'll mention that my father was a founder of the Texas Military Forces Museum, that I've had an ancestor in every major war, World War II, World War I, on and on, to the Revolutionary War.

We've been in Texas since 1840, and so this has -- my problem with this plate has nothing to do with recognizing military veterans. That specifically we have trained about 2 million children with five hours of bike safety education, by training public schoolteachers in partnership with Texas Department of Transportation and Texas Education Agency, our sponsor of the plate.

Also, with support from U.S. Department of Education. That at one point a few years ago TXDOT had said that we had the only large-scale program that could account for the reduction in child injuries and fatalities.

There are -- 3,500 people are killed every year in Texas in some type of traffic incident, but about 500 are bicyclists or pedestrians, 50 bicyclists, about 450 pedestrians, give or take. And so these kind of programs are extremely important.

We're able to take this money, leverage it with
federal money, and so we're able to take the, you know, 15-, 20,000 a year that we generate from this, purchased by our supporters across the state, and leverage that 10-fold with federal money.

And so it concerns me that, while I respect the concerns of the previous speakers and their desire to get a plate, but these rules were put in place for a reason so that we don't cannibalize one another and that we don't risk the children that we have today in front of us for the memories of my ancestors and theirs.

And thank you very much. If you have any questions, I'm happy to help you. But the plates are very similar. It could cause a lot of confusion, no doubt, controversy, but not the kind that really serves our program, and so --

MR. PALACIOS: Any questions? Thank you very much for your time.

MR. STALLINGS: Thank you so much.

MR. PALACIOS: Okay. Do we have any more public comments?

(No response.)

MR. PALACIOS: All right. Okay. Given that there are no more questions or comments, I will entertain a motion to accept the plate design.

MR. BARNWELL: So moved.
MR. PALACIOS: Do I hear a second?

MS. CARAWAY: Second.

MR. PALACIOS: Okay. All in favor of accepting the plate design, please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Board member Caraway, Board member Barnwell, Board member Painter.

All opposed, please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Board member Graham, Board member Scott, Board member Hardy, Board member Treviño, and myself.

The plate design does not pass. Thank you.

Okay. At this time, I'd like to move on to the next item on our agenda, Item No. 5, Chapter 217, Vehicle Titles and Registrations. Mr. Jimmy Archer?

MR. ARCHER: Good morning, Mr. Chairman and members of the Board. For the record, my name is Jimmy Archer, and I'm the director of the Motor Carrier Division. This item may be found at page 6 of your Board books.

For the Board's consideration, I am presenting amendments to 43 Texas Administrative Code, Chapter 217,
for adoption today relating to registration and
reciprocity agreements. The proposal was published in the
Texas Register on August 31, 2018.

The comment period closed on October 1, 2018, and no comments were received. The proposed amendments to
Section 217.56 incorporate by reference any amendments to
the International Registration Plan that became effective
on January 1, 2018, and incorporate by reference any
amendments to the International Registration Plan that
become effective on January 1, 2019.

This includes the adoption of International
Registration Ballot 412, electronic image of a Cab Card,
and gives the registrant the option to present an
electronic image of the Cab Card or present a paper
original, a legible paper copy or a legible electronic
image of its Cab Card to a peace officer upon request.

This amendment in no way overrides a
registrant's authority to either consent to the officer's
request or decline the officer's request to search all or
part of the registrant's mobile device. Motor Carrier
Division has tested the electronic Cab Card, and it is
ready for implementation.

The proposed amendments present no significant
fiscal implications. I ask that the Board adopt these
proposed amendments to Chapter 217, and I would happy to
entertain any questions you may have.

MR. PALACIOS: Are there any questions for Mr. Archer?

(No response.)

MR. PALACIOS: Hearing none, I will entertain a motion to accept the rule.

MR. SCOTT: I move the Board approve the adoption of amendments to Section 217.56 as recommended by staff.

MR. PAINTER: Second.

MR. PALACIOS: Okay. All in favor of adopting the rule, please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Okay. Thank you --

MR. ARCHER: Thank you.

MR. PALACIOS: -- Mr. Archer. Okay. Let's move on to Agenda Item No. 6, Chapter 217, Chapter 217, Vehicle Titles and Registrations. Mr. Jeremiah Kuntz?

MR. KUNTZ: Good morning, members, again. For the record, Jeremiah Kuntz, director of the Vehicle Titles and Registration Division. Before you for your consideration are amendments to 217.27. These are relating to -- these rules -- as you will remember, we recently passed rules relating to the personalization of
license plates and the restrictions that we would place on the personalization of those license plates.

These rules were brought before the Board and published for public comment on October 19th. We received no comments on those. The comment period closed on November 19th. The amendments to this rule relate to allowing for universities of higher education to be able to actually put personalizations relating to those universities.

So if somebody has gone to University of Texas, they would be able to put, UT, or A&M, or any of those kinds of acronyms that relate to a university of higher education on their license plate as a personalization. The previous rules were more restrictive. We had a reference that said any reference to a governmental entity is not allowed to be on the personalization of a license plate.

We found, after we -- after y'all had final adoption of that rule, we discovered that we may have gone a little bit too far with that, in that it would have restricted institutions of higher education references. So we're backing off of that a little bit by allowing those references on the license plates.

This rule will also allow for references to military academies, like the Naval Academy, West Point,
those kinds of things as well. So with that, that concludes my presentation.

MR. PALACIOS: Thank you, Mr. Kuntz.

Are there any questions for Mr. Kuntz?

(No response.)

MR. PALACIOS: Hearing none, I will entertain a motion to accept the amendment.

MR. TREVIÑO: Mr. Chairman, I move that the Board approve the adoption of amendments to Section 217.27 as recommended by staff.

MS. HARDY: Second.

MR. PALACIOS: I have a motion by Board member Treviño, second by Board member Hardy. All those in favor, please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: The motion passes unanimously. Thank you, Mr. Kuntz. And I see you are staying up here for the next item.

MR. KUNTZ: Yes. So I'll be presenting on Agenda Item No. 7, which is final adoption of amendments to Chapter 217. This is the creation of new Subchapter K relating to the acceptance of electronic signatures on non-secure and secure documents.

This rule, as you may remember, was proposed at the last Board meeting. It was published for public
comment on August 31. Comment period closed on October 1.

We did receive comments from the Insurance Auto Auction, otherwise known as IAA, as well as the Texas Automobile Dealers Association.

We reviewed their comments and found that the rule had sufficiently covered any of the issues that were raised by the two comments. We also saw that there was a comment by IAA that they wanted the WebDEALER application to be able to allow for them to process clean titles.

Currently, they use WebSALVAGE. The system is not in place yet to do that, but that is on our future plans for that application to be able to facilitate that. So these rules would facilitate them being able to submit those titles in that application once it's developed.

It's on our long-range plan for development of that application. Therefore, there were no changes necessary to the rule to address those issues. There was also a comment from the TADA, which is the Texas Automobile Dealers Association, relating to the definition of secure document.

We've covered that in the preamble. We believe the definition that was laid in the rule was clear about what a secure document is. We have very few secure documents. Those would be the title, also the dealer reassignment, and the secure power of attorney forms which
we currently use.

If there's ever any new secure documents that have security features on them, this rule would be sufficient to cover those as well, but we have very few of those. We know exactly which documents those are. The rule allows for processing of secure and non-secure documents.

So we believe we were covered in the rule on that. Okay. That concludes my presentation.

MR. PALACIOS: Thank you. Are there any questions for Mr. Kuntz regarding this item?

(No response.)

MR. PALACIOS: Hearing none, I will entertain a motion to accept the recommendations from Mr. Kuntz.

MR. TREVIÑO: Mr. Chairman, I move that the Board approve the adoption of new Subchapter K to Chapter 217 as recommended by staff.

MR. PAINTER: Second.

MR. PALACIOS: I have a motion by Board member Treviño, a second by Board member Painter. All those in favor, please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: The motion passes unanimously.

Thank you very much, Mr. Kuntz.

Okay. At this time, we're going to go a little
bit out of order. We're going to closed session. It is
now 9:32 a.m. on December 6, 2018. We'll go under closed
session under Texas Government Code Sections 551.071,
551.074, and 551.089.

For those of you in the audience, I anticipate
being in executive session for approximately 45 minutes.
I can never get this totally right. Then we'll convene in
open session after that. With that, we are recessed from
public meeting and will go into executive session.

(Whereupon, at 9:32 a.m., the Board of the
Texas Department of Motor Vehicles went into executive
session.)

MR. PALACIOS: Okay. We are all present and
accounted for. It is 11:12 a.m., and the Board of the
Texas DMV is now back in open session. There are no
actions arising from executive session that the Board must
act on in open session pursuant to Section 551.102 of the
Texas Government Code.

Okay. Moving right along to Agenda Item No. 9,
general counsel organizational structure. We move to this
item. Chapter 1001 of the Texas Transportation Code is
entitled, "Organization of the Department." Within that
chapter, there sections that speak to the various powers
and duties of the Board, the Chair, the Vice-Chair, the
executive director, and the staff of the Department.
I'll turn it over to our interim general counsel, Sarah Swanson, so she can brief the Board on these sections and the general counsel's current organizational structure and responsibilities.

MS. SWANSON: Thank you, and good morning, Chairman, members. Sarah Swanson, interim general counsel for the Department. As you stated, I'm just going to point your attention to several sections in the Transportation Code that I think are relevant to this discussion.

Section 1001.003 is entitled, "Composition of the Department," and it states that "the Department is composed of an executive director appointed by the Board and other employees required to efficiently implement this Subtitle" -- that being Subtitle M of the Transportation Code -- "other applicable vehicle laws of this state and other laws that grant jurisdiction to or are applicable to the Department."

Section 1001.0221 is entitled, "Board and Duties," and it says that "the Board shall oversee and coordinate the development of the Department and shall ensure that all components of the motor vehicle industry function as a system."

Subsection (b) requires the Board to carry out its policymaking functions in a manner that protect the
interest of the public and industry, maintains a safe and sound motor vehicle industry, and increases the economic prosperity of the state.

Specifically, Section 1001.023, Subsection (b)(6), this is a duty of the Chair of the Board. It requires the Chair to periodically review the Department's organizational structure and submit recommendations for structural changes to the Governor, the Board and the Legislative Budget Board.

Section 1001.0411 requires the Board to appoint an executive director to serve at the pleasure of the Board and perform all duties assigned by the Board.

Section 1001.042 is entitled, "Division of Responsibilities," and it says that "the Board shall develop and implement policies that clearly define the respective responsibilities of the executive director and the staff of the Department."

And the sections that speak to the executive director's duties are Section 1001.004, "Division." It requires "the executive director to organize the Department into divisions to accomplish the Department's functions and the duties assigned to the Department."

And Section 1001.041, Subsection A, says that "the executive director shall appoint deputies, assistants and other personnel as necessary to carry out the powers
and duties of the Department under this Code, the laws of
the state, and the laws within the jurisdiction of the
Department."

Now, just a brief word about our current
structure. The general counsel is the chief legal counsel
for the Department and in that role serves as an advisor
to the Board, the executive director and the Department's
divisions, including directors and staff.

Early in the Department's history, in August
2010, the Board voted to have the Department's
organizational chart show a dotted line from the general
counsel to the Board and a solid line from the general
counsel to the executive director.

So the Board considered it, and that was what
they voted on at that time. Just very basically for your
information, a solid line on an org chart means that the
employee is a direct report, and a dotted line typically
means that that supervisor provides guidance to the
employee in the execution of the work.

They have a level of influence and leadership
over the employee and will provide input regarding that
employee's performance to the solid line supervisor. And
those were all the comments I had. Unless you had further
questions, I'll turn it back over to the Chair.

MR. PALACIOS: Are there any questions for Ms.
Swanson?

(No response.)

MR. PALACIOS: If not, I'd also like to add that a subchapter of the Texas Occupations Code also describes the powers of the Board. Section 2031.153(a)(11) states that "notwithstanding any other provisions of law, the Board has all powers necessary incidental or convenient to perform a power or duty expressly granted under this Chapter, including the power to retain counsel."

Because the Board is responsible for policy direction of the Department and the Board is charged with overseeing and coordinating the development of the Department, I believe the Board is in the best position to bear ultimate responsibility for the general counsel including evaluating performance, personnel decisions, and ensuring the general counsel performs his or her duties in line with the policies established by this body.

I would also like to add that this change will in no way impede or diminish or change the GC's duties and obligations to this Agency. The general counsel will continue to perform their duties as outlined in their job description.

The job description of the general counsel will in no way be changed. What this does do -- it serves to
enhance a relationship between the general counsel and the Board as it relates to the fulfillment of the services that the GC provides the Board.

It provides a framework for greater accountability from the general counsel to the Board and it clarifies the Board's responsibility for assessing the performance of the general counsel. The general counsel will continue to work closely with the executive director on all legal matters pertaining to the Agency.

The executive director will continue to be actively involved in the hiring process and performance evaluation of the general counsel. With that, I would like to entertain a motion to change the Department's organizational chart to reflect a solid line from the general counsel to the Board, and a dotted line from the general counsel to the executive director.

MR. TREVIÑO: My Chairman, I've got a question.

MR. PALACIOS: Yes.

MR. TREVIÑO: Ms. Swanson, I just wanted to make clear. This in no way changes the day-to-day? This Board will not be responsible for the day-to-day activities of the general counsel? That's -- this is not what that necessarily means? Correct?

MS. SWANSON: It doesn't necessarily mean that, and the level of reporting can be established in
discussions about what information the Board wishes to hear, and what they don't need to hear. I would imagine the day-to-day would still be reported directly to the executive director, and those matters of a policy nature, bigger issues, would be brought to the Board's attention.

MR. TREVIÑO: Okay. Thank you.

MR. PALACIOS: Any other questions?

(No response.)

MR. PALACIOS: Hearing none, I will entertain a motion.

MS. HARDY: I move that the Board change the Department's organizational chart to reflect a solid line from the general counsel to the Board and a dotted line from the general counsel to the executive director.

MR. GRAHAM: Second.

MR. PALACIOS: We have a motion by Board member Hardy, a second by Board member Graham. All those in favor, please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Board member Graham, Board member Caraway, Board member Barnwell, Board member Hardy, Scott, and Board member Painter, Board member Treviño and myself. The motion passes unanimously.

Okay. Moving right along now, are we at the -- have we covered everything?
FEMALE VOICE: [inaudible].

MR. PALACIOS: Okay. All right. Does that mean we're at the end?

MS. HARDY: Motion to adjourn?

MR. PALACIOS: We're all, like, what? What? Yeah, this is -- all right. Let me get -- wow. What is the -- just one second here. Okay. Unless there's any further business, I'd like to entertain a motion to adjourn.

MR. BARNWELL: So moved.

MS. HARDY: Second.

MR. PALACIOS: Not so fast. Okay. Motion by Board member Barnwell, second by Board member Hardy. All in favor?

(A chorus of ayes.)

MR. PALACIOS: Unanimous. It's now 11:20 a.m., and we are adjourned.

(Whereupon, at 11:20 a.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF:       TxDMV Board
LOCATION:         Austin, Texas
DATE:             December 6, 2018

I do hereby certify that the foregoing pages, numbers 1 through 36, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Motor Vehicles.

DATE:  December 12, 2018

(Transcriber)

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