

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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| 3. Chair's Reports | none |
| 4. Executive Director's Reports and Announcements | none |
| RULES - ADOPTION | |
| 5. Chapter 217, Vehicle Titles and Registration 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) | 21 |
| 6. Chapter 217, Vehicle Titles and Registration Amendments, §217.27 (Relating to personalized license plates) (Proposal Published October 19, 2018 - 43 Tex. Reg. 6945) | 23 |
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| ACTION ITEMS | |
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| 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
- Section 551.074
- Section 551.089

| | | |
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| 16. | Adjournment | 35 |

P R O C E E D I N G S

1
2 MR. PALACIOS: Good morning, everyone. So
3 happy to have y'all out here for our Texas DMV meeting.
4 My name is Raymond Palacios, and I'm pleased to open the
5 Board meeting of the Texas Department of Motor Vehicles.
6 It is 9:00 a.m., and I'm now calling the Board meeting for
7 December 6, 2018 to order.

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

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

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

23 If your comment does not pertain to a specific
24 agenda item, we will take your comment during the general
25 public comment portion of the meeting. In accordance with

1 the Department administrative rule, comments to the Board
2 will be limited to three minutes.

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

8 Comments should be pertinent to the issue
9 stated on the comment sheet. When addressing the Board,
10 please state your name and affiliation for the record.
11 Before we begin today, I'd like to remind all presenters
12 of the rules of conduct at our Board meetings.

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

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

21 MR. BARNWELL: Present.

22 MR. PALACIOS: Board member Caraway?

23 MS. CARAWAY: Present.

24 MR. PALACIOS: Board member Graham?

25 MR. GRAHAM: Present.

1 MR. PALACIOS: Board member Hardy?

2 MS. HARDY: Present.

3 MR. PALACIOS: Board member Painter?

4 MR. PAINTER: Here.

5 MR. PALACIOS: Board member Scott?

6 MR. SCOTT: Here.

7 MR. PALACIOS: Board member Treviño?

8 MR. TREVIÑO: Here.

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

15 (Whereupon, the pledges were recited.)

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

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

25 I would also at this point like to acknowledge

1 the passing of one our great ones, our 41st President of
2 the United States, George Herbert Walker Bush. As you all
3 know, he passed away last week at the age of 94, and will
4 be laid to rest today at College Station.

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

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

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

17 (Pause.)

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

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

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

25 MR. PALACIOS: Okay. Thank you. All right.

1 Let's move on now. I'm going to go a little bit out of
2 order today and move Agenda Item No. 8, the Specialty
3 Plate Design, up front now.

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

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

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

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

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

24 The license plate on today's agenda is
25 sponsored by a state agency. That would be the Department

1 of Agriculture. Sid Miller actually submitted the
2 application for the license plate. The application
3 indicates that the proceeds from the sale of the plate
4 would be provided to the Sons of Confederate Veterans for
5 nonprofit -- a nonprofit corporation.

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

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

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

22 According to the Department's Administrative
23 Code 217.45(i)(5), the Board's decision will be based on
24 two primary factors: compliance with Transportation Code
25 504.801 and the license plate design itself. I'll go into

1 the specifics laid out in those two tenets.

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

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

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

24 There were 380 people who liked the design,
25 that offered additional comments. There were 177 of them

1 providing positive comments. There were also 88 people
2 who did not like the design, with 17 providing actual
3 comments.

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

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

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

20 The complaint is pursuant to Administrative
21 Code 217.45, Subsection 5(b)(5), noting that the Sons of
22 Confederate Veteran design is similar enough that it may
23 compete with the sales of the God Bless Texas plate. The
24 God Bless Texas is authorized by Transportation Code
25 504.648 and is administered by the Texas Department of

1 Education.

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

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

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

20 So with that, that will conclude my comments.
21 I'll be more than happy to answer any questions, if you
22 have any. And you can see, we do have the board. I've
23 got both of the plates in case you wanted to see those
24 real quick, and I can bring these up if anybody wants to
25 see them closer.

1 MR. PALACIOS: Are there any questions for Mr.
2 Kuntz?

3 (No response.)

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

8 Mr. Bill Boyd, are you present?

9 Please come forward.

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

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

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

1 that day.

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

11 I appreciate your time and courtesy.

12 Questions?

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

15 (No response.)

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

18 MR. BOYD: Thank you.

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

21 Mr. John McCammon?

22 MR. McCAMMON: Good morning.

23 MR. PALACIOS: Good morning.

24 MR. McCAMMON: My name is John McCammon. I'm
25 the lieutenant commander for the Sons of Confederate

1 Veterans. I have 42 ancestors that fought for the
2 Confederacy. I also have 37 Union ancestors. I honor
3 them all.

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

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

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

20 As an example of the diversity of our
21 organization and those individuals that we are
22 representing with this flag, I'd like to read to you
23 Hood's Texas Brigade, which is the designation of that
24 Texas flag, which is in the museum over here that we have
25 in honor.

1 Listen to some of the names: Captain Joseph De
2 La Garza, Captain Manuel Yturri, Captain Refugio
3 Benavides, John Z. Leyendecker, Cristobal Benavides,
4 Atanacio Vidaurri, Horacio Benavides and Colonel Santos
5 Benavides. A very diverse organization.

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

12 Thank you very much for your time.

13 MR. PAINTER: Could I ask you a question?

14 MR. McCAMMON: Yes, sir.

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

17 MR. McCAMMON: These are --

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

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

25 Some of them are as little as \$200, but some of

1 them are up to \$1,000. So this would be a great benefit
2 for us to provide scholarships for these individuals.

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

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

11 MR. PAINTER: Thank you.

12 MR. McCAMMON: Okay. Any other questions?

13 MS. CARAWAY: I have a question.

14 MR. McCAMMON: Yes, ma'am?

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

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

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

1 also honor the Union soldiers.

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

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

10 Any other questions?

11 (No response.)

12 MR. McCAMMON: Thank you for your time.

13 MR. PALACIOS: Thank you, Mr. McCammon.

14 MR. McCAMMON: Yes, sir.

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

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

22 We were founded in 1991 to advance bicycle and
23 pedestrian access, safety, and education in Texas. The
24 Legislature saw fit to give the God Bless Texas plate to
25 Texas Bicycle Coalition, which we refer to as Bike Texas,

1 if you don't mind, and so we have used that money very
2 thoughtfully.

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

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

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

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

25 We're able to take this money, leverage it with

1 federal money, and so we're able to take the, you know,
2 15-, 20,000 a year that we generate from this, purchased
3 by our supporters across the state, and leverage that
4 10-fold with federal money.

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

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

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

18 MR. STALLINGS: Thank you so much.

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

21 (No response.)

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

25 MR. BARNWELL: So moved.

1 MR. PALACIOS: Do I hear a second?

2 MS. CARAWAY: Second.

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

6 (A show of hands.)

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

9 All opposed, please signify by raising your
10 right hand.

11 (A show of hands.)

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

15 The plate design does not pass. Thank you.

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

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

24 For the Board's consideration, I am presenting
25 amendments to 43 Texas Administrative Code, Chapter 217,

1 for adoption today relating to registration and
2 reciprocity agreements. The proposal was published in the
3 Texas Register on August 31, 2018.

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

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

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

23 The proposed amendments present no significant
24 fiscal implications. I ask that the Board adopt these
25 proposed amendments to Chapter 217, and I would happy to

1 entertain any questions you may have.

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

4 (No response.)

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

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

10 MR. PAINTER: Second.

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

13 (A show of hands.)

14 MR. PALACIOS: Motion passes unanimously.
15 Okay. Thank you --

16 MR. ARCHER: Thank you.

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

20 MR. KUNTZ: Good morning, members, again. For
21 the record, Jeremiah Kuntz, director of the Vehicle Titles
22 and Registration Division. Before you for your
23 consideration are amendments to 217.27. These are
24 relating to -- these rules -- as you will remember, we
25 recently passed rules relating to the personalization of

1 license plates and the restrictions that we would place on
2 the personalization of those license plates.

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

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

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

24 This rule will also allow for references to
25 military academies, like the Naval Academy, West Point,

1 those kinds of things as well. So with that, that
2 concludes my presentation.

3 MR. PALACIOS: Thank you, Mr. Kuntz.

4 Are there any questions for Mr. Kuntz?

5 (No response.)

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

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

11 MS. HARDY: Second.

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

15 (A show of hands.)

16 MR. PALACIOS: The motion passes unanimously.

17 Thank you, Mr. Kuntz. And I see you are
18 staying up here for the next item.

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

24 This rule, as you may remember, was proposed at
25 the last Board meeting. It was published for public

1 comment on August 31. Comment period closed on October 1.

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

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

10 Currently, they use WebSALVAGE. The system is
11 not in place yet to do that, but that is on our future
12 plans for that application to be able to facilitate that.

13 So these rules would facilitate them being able to submit
14 those titles in that application once it's developed.

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

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

1 we currently use.

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

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

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

12 (No response.)

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

15 MR. TREVIÑO: Mr. Chairman, I move that the
16 Board approve the adoption of new Subchapter K to Chapter
17 217 as recommended by staff.

18 MR. PAINTER: Second.

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

22 (A show of hands.)

23 MR. PALACIOS: The motion passes unanimously.
24 Thank you very much, Mr. Kuntz.

25 Okay. At this time, we're going to go a little

1 bit out of order. We're going to closed session. It is
2 now 9:32 a.m. on December 6, 2018. We'll go under closed
3 session under Texas Government Code Sections 551.071,
4 551.074, and 551.089.

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

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

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

19 Okay. Moving right along to Agenda Item No. 9,
20 general counsel organizational structure. We move to this
21 item. Chapter 1001 of the Texas Transportation Code is
22 entitled, "Organization of the Department." Within that
23 chapter, there sections that speak to the various powers
24 and duties of the Board, the Chair, the Vice-Chair, the
25 executive director, and the staff of the Department.

1 I'll turn it over to our interim general
2 counsel, Sarah Swanson, so she can brief the Board on
3 these sections and the general counsel's current
4 organizational structure and responsibilities.

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

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

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

24 Subsection (b) requires the Board to carry out
25 its policymaking functions in a manner that protect the

1 interest of the public and industry, maintains a safe and
2 sound motor vehicle industry, and increases the economic
3 prosperity of the state.

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

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

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

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

23 And Section 1001.041, Subsection A, says that
24 "the executive director shall appoint deputies, assistants
25 and other personnel as necessary to carry out the powers

1 and duties of the Department under this Code, the laws of
2 the state, and the laws within the jurisdiction of the
3 Department."

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

9 Early in the Department's history, in August
10 2010, the Board voted to have the Department's
11 organizational chart show a dotted line from the general
12 counsel to the Board and a solid line from the general
13 counsel to the executive director.

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

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

25 MR. PALACIOS: Are there any questions for Ms.

1 Swanson?

2 (No response.)

3 MR. PALACIOS: If not, I'd also like to add
4 that a subchapter of the Texas Occupations Code also
5 describes the powers of the Board. Section
6 2031.153(a)(11) states that "notwithstanding any other
7 provisions of law, the Board has all powers necessary
8 incidental or convenient to perform a power or duty
9 expressly granted under this Chapter, including the power
10 to retain counsel."

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

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

24 The job description of the general counsel will
25 in no way be changed. What this does do -- it serves to

1 enhance a relationship between the general counsel and the
2 Board as it relates to the fulfillment of the services
3 that the GC provides the Board.

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

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

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

18 MR. PALACIOS: Yes.

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

24 MS. SWANSON: It doesn't necessarily mean that,
25 and the level of reporting can be established in

1 discussions about what information the Board wishes to
2 hear, and what they don't need to hear. I would imagine
3 the day-to-day would still be reported directly to the
4 executive director, and those matters of a policy nature,
5 bigger issues, would be brought to the Board's attention.

6 MR. TREVIÑO: Okay. Thank you.

7 MR. PALACIOS: Any other questions?

8 (No response.)

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

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

15 MR. GRAHAM: Second.

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

19 (A show of hands.)

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

24 Okay. Moving right along now, are we at the --
25 have we covered everything?

1 FEMALE VOICE: [inaudible].

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

4 MS. HARDY: Motion to adjourn?

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

10 MR. BARNWELL: So moved.

11 MS. HARDY: Second.

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

15 (A chorus of ayes.)

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

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

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C E R T I F I C A T E

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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