

MINUTES
PRIVATE INVESTIGATORS LICENSING BOARD
SPECIAL MEETING
MAY 11, 2010

MEMBERS PRESENT:

DAVID SPENCER: BOARD CHAIRMAN
RICHARD PUTNAM: BOARD MEMBER
ROBERT UITHOVEN: BOARD MEMBER
MARK ZANE: BOARD MEMBER (LAS VEGAS)

OTHERS:

MECHELE RAY: EXECUTIVE DIRECTOR
JEFF MENICUCCI: BOARD COUNSEL
CHRISTINE MUNRO: BOARD COUNSEL
TAMMY WHATLEY: INVESTIGATOR
ELAINE TRENT: ASSISTANT

ABSENT:

JIM NADEAU: BOARD MEMBER

Chairman Spencer opened the meeting. Executive Director Ray proceeded with the roll call.

SWEARING IN:

Chairman Spencer swore in all those present who were to testify during the course of the meeting. The first issue involved the regulation for SB 265 relating to the issuance, suspension, and re-instatement of provisional registration in certain circumstances. Executive Director Ray said a workshop was held March 2, 2010. There wasn't any public comment. The regulation was previously adopted by the Board at a hearing on December 29, 2009. She appeared before the legislative commission, who had concerns with some of the language. She read the suggested language for an amendment that was to be added for the record. There was

no public comment. Board Member Putnam moved to accept the changes to this proposed legislation. Board Member Uithoven seconded the motion, which passed.

Chairman Spencer addressed section R of 109.09 pertaining to a uniform state-mandated firearm curriculum. Executive Director Ray gave a brief history. At the June 2009 Board meeting, the Board approved the formation of a sub-committee to consider changes to the firearm regulation. Investigator Whatley facilitated 5 sub-committee meetings. Language and proposed changes were brought before the September 16, 2009 meeting; the Board approved the language and proposed changes and advised staff to proceed with the regulatory process. On March 2, 2010 a public workshop was held to allow for public comment. There were detailed minutes provided of that meeting. Investigator Whatley said some of the changes were that CFIs would have 12 hours of continuing education every 24 months and the renewal fee would be changed from \$50 to \$100. Other changes included time on the range was changed from 3 hours to 5 hours; there would be a standardized curriculum all CFIs would adhere to at a minimum; adding NAC 648.346(2)(c), which provided for a maximum training day of 9 contact hours (one contact hour = 50 minutes of instruction in a 60 minute period). The course may be taught in modules over several days, but must be completed in a 7-day period. There were some comments made regarding language to change "moral and ethical" to "moral and civil", while others wished to not make the change. Comments were made about the change of range times. The positions for firing were discussed. Instructors who were also licensees or registered employees should have the same qualifications as the industry, meaning they would qualify once per year, rather than twice.

Chairman Spencer asked if there was a list available of the qualifications. There were no Board comments. Steve Baker said he supported the changes and much work had gone into the process. The curriculum was still being developed. He wanted to support the changes. Chairman Spencer asked Mr. Baker about the additional training requirement of 12 hours for the instructors. Mr. Baker said he did not think it was a problem. He said most people completed at least 8 per year. For the guards themselves, Mr. Baker said the 12 hours was necessary. He had been running the proposed format since August 2009. The shortest amount of time was about 5 hours. Chairman Spencer asked if Mr. Baker felt the 6-month requalification was adequate. Mr. Baker said it was standard with most states. He did have issues with instructors who worked as armed security; he felt they should requalify every 6 months. Chairman Spencer asked about pass/fail in terms of shooting. Mr. Baker said there were a couple of components: minimum score, and gun handling and safety issues. He said remediation was built into the training. Chairman Spencer asked about Mr. Baker's feelings of training and re-training. Chairman Spencer said he was concerned that some of the armed security individuals did not carry the weapon daily and did not receive the same amount of training as police officers. Mr. Baker agreed and said that issue was discussed in the sub-committee meetings. He said some individuals become overwhelmed by the whole training experience and much information and material is covered in 2 days. Chairman Spencer said it

seemed almost impossible to spend 12 hours in one day on a range and come away with anything other than fatigue. Mr. Baker said that was the reason the class was held for 2 days. Chairman Spencer asked if Mr. Baker felt the outline was adequate. Mr. Baker said it absolutely was adequate. The individuals taking the class needed to learn state laws as well as proper shooting techniques. Chairman Spencer said some less sophisticated people may find that 12 hours is not enough. Mr. Baker said extra training was offered if needed. More time could be spent the second day of training on those who needed it. He said proper technique needed to be learned with firing the weapons, as well as when it is appropriate to shoot and when not to shoot. Chairman Spencer said there are also people who are not qualified to work armed. Mr. Baker said some people did not pass the test. Some failed the written test, while others failed the range. Some people withdrew because they found they did not want to continue with the course. Chairman Spencer asked if someone needed additional training, he or she would have to pay for the training. Mr. Baker's policy said if he worked with students the day of the class and would allow them to also attend an additional range day. If the student felt more training was needed beyond that, fees would be charged. Mr. Baker said he tried not to "gouge" the students and wanted them to be successful. Chairman Spencer said he wanted to make sure the students truly learned the material and avoid allowing people to work armed who should not. He did not want to "rubber stamp" students for taking the class, with little consideration to whether or not they truly qualified to work armed. He thanked Mr. Baker for his time and comments.

Executive Director Ray clarified that today's agenda item involved the approval of proposed regulatory changes and the outline will be presented at the June meeting to be approved. Chairman Spencer said Executive Director Ray would outline the changes that would be ruled on today. Executive Director Ray read through the proposed changes that had been provided to the Board members. Chairman Spencer asked if the card issued indicated the type of weapon that person could carry as armed. Executive Director Ray said the card currently indicated up to 3 types of weapons. Chairman Spencer asked about the 7 days of training. He asked what would happen if a trainer became unavailable during those days or if a student could not attend all training during 7 days.

Chairman Spencer recommended changing the requirement to 14 days. He asked for Mr. Baker's input. Mr. Baker said the 7 days was initially meant for retention. For remediation, additional days may be needed. He felt 7 days was good for the initial course, and remediation could be added as needed. Board Member Zane commented on the 7 day issue. He was concerned about the availability of the instructor and participants during that amount of time. He felt that 7 days may not be enough time to allow for illness or other unforeseen circumstances. Mr. Baker said that 7 days was agreed upon for the matter of retention on the part of the students. Board Member Zane said 14 days may be better and 7 days may cause a timeframe that is too tight. Chairman Spencer felt 14 days would be adequate. If a person could not retain information from the first day to the fourteenth day posed a problem for working armed. Board Member Putnam moved that the proposed

changes to regulations concerning firearms as presented in LCB File #R009-10 with the changes discussed today be approved by the Board. Board Member Uithoven seconded the motion, which carried.

Chairman Spencer advised that closed sessions may be forthcoming during the next portion of the meeting. Kurt Strakaluse appeared with his attorney and asked to be taken out of order on the agenda. Chairman Spencer said his appeal would be heard next on the agenda.

Chairman Spencer made a statement about the registration denial appeals process. He said the issue was relatively new for the Board because of the new work card/registration application process. The Board needed to establish norms for dealing with individual citations and arrests and whether or not a work card should be denied as a result. He advised that the audience in both meeting rooms must vacate during the closed hearings.

REGISTRATION APPEAL HEARINGS:

Kurt Strakaluse appeared before the Board. His appeal was taken out of order on the agenda. The meeting was closed and re-opened. His appeal was granted and the denial was overturned. Mr. Strakaluse would be issued a provisional registration/work card and no vote was necessary.

Anthony Giuffrida appealed his denial. The meeting was closed. After it re-opened, Board Member Putnam moved that staff's denial of a registration/work card for **Anthony Giuffrida** be upheld based upon the falsification of the application. Board Member Zane seconded the motion, which carried. Chairman Spencer advised Mr. Giuffrida that he could re-apply after one year.

Travis Louder appealed his denial. The meeting was closed. Upon re-opening the meeting, Board Member Zane moved to overturn staff's denial for Travis Louder and authorized staff to proceed with his application. Board Member Uithoven seconded the motion, which passed.

Amos McClendon appealed his denial. Chairman Spencer moved to close the meeting; Board Member Putnam seconded the motion, which carried. Upon re-opening the meeting, Board Member Putnam thanked Mr. McClendon for his apology for his falsified application, but moved to uphold staff's denial of a registration/work card for Mr. McClendon. Board Member Uithoven seconded the motion, which carried. Mr. McClendon asked the Board if he must wait one year before he could reapply. Chairman Spencer said that was correct and a statutory requirement. Board Member Zane advised Mr. McClendon that he could work for a company that did not offer public service. Chairman Spencer explained that he could seek a job in a proprietary force, such as working for

Sears; such companies maintained their own security forces and were not licensed by the PILB. He also recommended working for a casino. Board Member Zane said, due to the incompleteness of the application, Mr. McClendon must be denied, since others had been denied for the same reason.

Tommie Lee appealed his denial. Chairman Spencer moved to close the meeting; Board Member Putnam seconded the motion, which carried. Upon re-opening the meeting, Board Member Putnam thanked Mr. Lee for his apology, but moved to uphold staff's denial of a registration/work card for **Tommie Lee**. Board Member Uithoven seconded the motion, which passed. Chairman Spencer advised him that he could reapply after one year.

Sampson Cabasag appealed his denial. Chairman Spencer moved to close the meeting; Board Member Putnam seconded the motion, which carried. Upon reopening, Board Member Putnam moved to uphold the denial by staff of a registration/work card for **Sampson Cabasag**. Board Member Uithoven seconded the motion, which carried. Chairman Spencer encouraged Mr. Cabasag to list all arrest records on employment applications and could re-apply in one year.

James E. Rollins, Jr. was not present at the meeting.

Yohannes Farah contacted Executive Director Ray and said he may be unable to attend due to a class. Executive Director Ray informed him that the Board may take action on his request whether he was present or not. She offered a continuance. He told her his schedule was very full and wasn't certain he could attend at a future date. Chairman Spencer moved to continue the appeal of **Yohannes Farah** until the next meeting only. Board Member Zane seconded the motion, which carried.

Kevin Barton appealed his denial. Chairman Spencer moved to close the meeting; Board Member Putnam seconded the motion, which carried. Upon re-opening, Chairman Spencer reiterated that Mr. Barton should list all criminal history on applications in the future. Mr. Barton said he couldn't pay the amount of money, so that resulted in all the FTA issues. Chairman Spencer asked if Mr. Barton understood that the company did not represent Mr. Barton well and had not advised him in proper procedures. Board Member Putnam moved to uphold the denial of a work card registration application by **Kevin Barton**. Board Member Uithoven seconded the motion. Chairman Spencer voted to oppose the motion. The motion carried. Chairman Spencer told Mr. Barton he could re-apply in one year.

Chairman Spencer moved to continue Item #7, which was an appeal request from **James E. Rollins, Jr.** Board Member Putnam seconded the motion, which carried.

Administrative Business:

Item #11 was Board review, discussion, and possible suggestions for amending the Verification of Employment for Armed Security form. Executive Director Ray said Board staff approved registrations for unarmed employees. There may be a period of time that passes in which some employees moved to the armed status. There was no disclaimer for those individuals to sign to show they had not been convicted of a felony, a crime of moral turpitude, domestic violence, or illegal use or possession of firearms or any other dangerous weapons offense. Any of those would prevent any employee from working in an armed position. She also wanted to discuss to have something in GL Suite that, should a provisional registration be granted to work unarmed, but could not work armed, would alert staff and potential employers of that inability to work armed. Chairman Spencer asked if terrorism should be included. Executive Director Ray said that was incorporated into the licensing application. She could explore that possibility. Chairman Spencer asked if signatures needed to be witnessed. Executive Director Ray said in this case, the licensee must sign the form to refer the person to the firearms course. The form would not be accepted unless all 3 signature fields were completed. The need for a notarized signature was discussed. Executive Director Ray said the only problem was that some licensees did not have a notary on staff. Board Member Zane said a declaration may be best. Executive Director Ray asked if that need would apply for the licensee and the employee. Chairman Spencer said it should apply for the employee. Executive Director Ray explained that often a designee signed the form for the licensee, such as an HR person.

Board Comment:

Chairman Spencer applauded the staff on its good work.

Future Agenda Items:

None.

Public Comment:

None.

Investigator Whatley asked if the Board could further discuss the matter of the last individual's appeal. There was a long list of items (FTA) not reported on the application. The matter of character was not addressed. She asked for guidance on character issues, namely temperate habits. Board Member Putnam said his experience in the Army would treat the failure to list the arrests as blatant disrespect for the law. Chairman Spencer said the Board

should stay contemporary in its language. Investigator Whatley said, at the last meeting, a person who had FTA issues had taken care of them, but the appeal was denied by the Board because of time and distance. Today's issue had even less time and distance, but that issue wasn't even addressed by the Board. Chairman Spencer said the individual was told by the potential employer that the information did not need to be included. Investigator Whatley said that pertained to disclosure and not character. Board Member Zane said the time and distance issue in the last meeting was more applicable. He did not think there was an answer to the question. Chairman Spencer agreed with Board Member Zane; there were adequate legitimate reasons for denials. Executive Director Ray said falsification of application was a reason for denial. Chairman Spencer said that most of the people applying for these jobs need extra assistance in the application process. Executive Director Ray said the newsletter could be used to educate licensees. She said most employers had their own application process in place, separate from the Board's work card registration application. She said the employers could decide not to hire a potential employee, even if the Board had granted them a registration work card. Investigator Murphy said background checks typically do not supply the disposition. If the applicant does not disclose the criminal history on the application, the investigators do not know the disposition. If the applicant discloses the arrests, the investigators contact them. He said the investigators often do not know that a case was dismissed until the applicant attends the denial hearing and informs the Board at that point. The practice of disclosing the arrests works in favor of the applicant. Chairman Spencer said if other applicants receive bad instructions from potential employers in the completion of the application, the Board would likely face many more denials for mistakes that should occur in the first place. Executive Director Ray said Board staff provides training to the licensees about the new registration work card application process. Another point would be that perhaps the Board could have more discretion with the statutory year-long waiting period to re-apply.

Board Member Putnam moved to adjourn. Chairman Spencer seconded the motion, which carried.