

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

BIG GAME COMMERCIAL SERVICES BOARD

MINUTES OF MEETING

July 10, 2014

By the authority of AS 08.01.070(2) and AS 08.86.030, and in compliance with the provisions of AS 44.62, Article 6, a teleconference of the Big Game Commercial Services Board was held July 10, 2014.

The staff of the Division of Corporations, Business and Professional Licensing prepared these minutes which were approved by the board at the Annual Board meeting on December 9, 2014.

AGENDA ITEM 1 CALL TO ORDER/ROLL CALL

The meeting was called to order by Kelly Vrem, Chair, at 1:00p.m.

Board members present: Kelly Vrem, Master Guide-Outfitter, Chair
Karen Polley, Public Member
Michele Metz, Large Private Landowner
Bob Mumford, Board of Game Representative
Brenda Rebne, Large Private Landowner
Henry D. Tiffany IV, Master Guide-Outfitter

Board members absent:
Tom Atkins, Transporter
Gene Peltola, Public Member
David Jones, Transporter

Board staff present:
Michelle Johnston, Licensing Supervisor
Cindy Hansen, Licensing Examiner
Harriet Milks, Dept. of Law

Participating Public:
Dick Rohrer
Sam Rohrer
Thor Stacey
Tim Booch

Chairman Vrem stated that he wants to be sure that guided hunts are in the lottery with a contract with the client and their permission to enter the drawing number. The only agency that needs to see it is the Department of Fish and Game (ADF&G). Mr. Tiffany IV stated that as many are aware, the subcommittee had met several times since December and were comfortable with their work on crafting a proposal, the board had reviewed and voted on the subcommittee's proposal and the Department of Law's change was clearly not following the intent of the subcommittee proposed regulation. Tony Kavalok, the Assistant Director of the Division of Fish and Wildlife Conservation believes that the Department of Law used the "drawing hunt confirmation number" language from the language his department uses for drawing and hunts; however, the responsibility should fall under the Department of Commerce, Community and Economic Development (DCCED). In a later meeting the Department of Law suggested that this could be a policy change instead of a regulation. The identifier is not for public record, advertised or shared but is unique and what is important is that the intention has always been that the identifier be associated with a particular guide, is confidential, and has been validated by DCCED for ADF&G. as being registered for the year of the drawing and the year of the hunt. Mr. Tiffany IV noticed that is written "the department has been assigned" should be "the department has been assigned a unique identifier" one of the keys is that it's confidential and private and the ADF&G and Board of Game wants to have it validated that a guide is authorized to be legally licensed, conduct hunts in GUA and in some cases a drawing hunt encompasses one or multiple areas and is registered for the year the application is made and the year the hunt is to occur. It's always been the intent to have the unique identifier assigned to the individual instead of a particular hunt contract. Chairman Vrem stated the number probably has to be unique to that drawing hunt to that area.

Ms. Milks from the Department of Law thanked the board and subcommittee for their patience and stated that she had a couple of ideas. She understood that the requirements for the contracts are couched in terms of what is in a contract. The difference between a regulation and a policy is that a policy is something that a board follows but it doesn't necessarily affect the rights of the licensee. Whenever a board wants to change the rights and obligations of a licensee then it must be with a regulation. The assignment of an identifier isn't going to change the rights of a licensee. ADF&G and the Board of Game are not entities that the Big Game Commercial Services Board (BGCSB) has any control. She is unsure the board can certify whether or not a hunter is tied to a hunt. That has to come from ADF&G in a second phase after BGCSB would certify that hunters are authorized to hunt in a GUA. That is

all this board can do. If this board adopts a policy to give unique identifiers to the guides who request one, that number will be unique to that licensee. ADF&G can contact the BGCSB licensing examiner and verify, if they have questions.

Mr. Tiffany IV stated that it is the responsibility of the DCCED to keep records and establish if a guide can hunt in a guide use area. It would be relatively painless for the licensing examiner to verify this. Ms. Milks stated that for example, a guide would contact the examiner and register to guide in guide use areas 14-1 and 14-2 and the examiner would provide a unique identifier. The guide would take that number to the Department of Fish and Game (ADF&G) who would enter it into the hunt drawing. Mr. Tiffany IV agreed.

Ms. Milks asked what would happen if the guide wanted to change the number? Chairman Vrem stated that for example, a guide has license number 582 and is already physically located in guide use area 14-1 and that's where the verification number comes in. He believes that this is a new program because the Board of Game recognizes that the drawing hunts will increase so we want to get ahead of this. Right now hunters can apply for drawings and this has caused problems because often they don't have a guide and often don't hunt. Ms. Milks stated that the board should be careful and not go too far into ADF&G's territory. This board does not have the statutory authority to go into another department's authority. The board could provide a search and a number but cannot tie it to a hunt. Chairman Vrem and Mr. Tiffany IV stated that they did not want to tie it to a hunt. Ms. Milks asked if the unique identifier could be created by using the license number and the guide use area numbers; for example: license # 1234 and guide use area 14-2 in 2015 and 14-2 in 2014 would have the identifier number 1234142142. Would a number like that work with a transmittal letter from the DCCED?

Tim Booch stated that he believes what Mr. Tiffany IV stated is obvious in that the licensing examiner's job is to register guides with expiration dates and current dates, and the hunter has a relationship with the guide and knows it is in the appropriate guide use area and the hunter is responsible to put it in that application. The hunter could check a box or write a name in order to enter the drawing. Mr. Tiffany IV stated that yes that is correct.

AGENDA ITEM 2 REVIEW/AMEND AGENDA

Upon a motion duly made by Ms. Polley, seconded by Mr. Tiffany IV and approved by roll call vote, it was:

RESOLVED to approve the agenda as presented.

Roll Call Vote:

	APPROVE	DENY	ABSTAIN
Kelly Vrem	X		
Karen Polley	X		
Michele Metz	X		
Brenda Rebne	X		
Henry D. Tiffany IV	X		
Bob Mumford	X		

Absent:

Tom Atkins
David Jones
Gene Peltola

AGENDA ITEM 3 PUBLIC COMMENTS REGARDING THE PROPOSED REGULATION TO 12 AAC 75.260 REGISTERED GUIDE-OUTFITTER CONTRACT REQUIREMENTS

Richard Rohrer stated the board may also have his written testimony. He has found this process to be frustrating. He was involved in the subcommittee discussions and doesn't understand how the Department of Law's proposal could end up so far off base. He recommends the board reject the current proposal since he doesn't want it on a contract for the public to see. He is also a little bit concerned about a policy implementation; he would like to see the proposed wording for a policy as it appears that Ms. Milks does not fully understand that they have to make the process work between their board and the Board of Game.

Tim Booch stated he has a couple of questions and asked if it is wrong to ignore a policy that isn't binding and is just an administrative purpose. He sees that as a problem. Mr. Tiffany IV asked if a unique identifier became a policy would there be recourse or would no penalty involved for violations and Ms. Milks stated that there are disciplinary rules for when a guide is not registered or acts contrary to the disciplinary sanction, but that is not true with policy. It's the assignment of an identifier that is already consistent with regulations and statutes. If a number is assigned and that falls into the wrong hands, the board cannot do anything but the board is trying to create a bridge between the two boards. Ms. Milks stated that the policy would presume that the guide is licensed and registered and if the guide ignores the policy to get a unique identifier then the disciplinary would occur when he's not registered. Mr. Booch stated that he supports this and it is up to the board about whether or not this is policy or regulation.

Thor Stacey from the Alaska Professional Hunters Association (APHA) stated the issue is to prevent drawing hunts from being wasted. A client draws a tag and then cannot afford the hunt or the operators representing themselves are actually unlicensed or committed to a guide use area. On one hand we have the consumer protection and the tags are used for determination. APHA is opposed to the current regulation proposal because it does not accomplish the intent of the subcommittee. APHA has not had enough time to formulate a position to support or oppose a policy but the important thing from our perspective is that whatever the requirement, a guide must be committed to a guide use area determined by the board and that it be enshrined in regulation, in order for security. What is essential is that when Board of Game determines that should be a pre-existing condition between the guide and client, the definition of what a guide has to have to represent is enshrined in regulation.

Mr. Tiffany IV stated he understands what Mr. Stacey is saying and it's an important aspect for the longevity of this program. ...and the hunt process could expand in the future, he wonder what his thought would be on an agreement for the policy so that it could be utilized and eventually moving that into a regulation. Mr. Stacey stated that it would be a logical progression; however, the work that this board is doing on this issue is because ADF&G and the Board of Game does not have regulatory authority

to act on this. It makes sense to begin with a policy; however, we urge the board to understand that this is not going to go away and to work in cooperation with the department of law. APHA will continue to ask the Board of Game to make this requirement because it will bring stability for the industry and provide the maximum use of resource. The short answer is yes it makes sense to start with policy and the regulatory process can follow through where required.

Chairman Vrem asked if there were any other public members who wish to testify and there were none.

Mr. Tiffany IV motioned and Ms. Metz seconded to approve the proposed regulation as public noticed.

Discussion: Mr. Tiffany IV stated as written he will not vote to adopt the regulation because it does not satisfy the intent of what the subcommittee wanted, the industry needs and the board voted. He will not vote for it.

Ms. Rebne stated she will also vote against the motion for the same reasons as Mr. Tiffany IV.

Chairman Vrem stated he agrees and earlier, when he learned that the board might be able to accomplish this with a policy he anticipated the possibilities. Now he is inclined to think a regulation is the way to go through Title 16 and drawing hunts, and to furnish information to another agency even if that means a delay. It could be public noticed and discussed at the December meeting.

Ms. Polley stated there seems to be quite a bit of confusion with contracts but the permit drawing requires cooperation between the two departments and she believes it would be healthy for two agencies to work together through policy instead of two boards through regulation. For that reason she will be voting in support of a policy.

Mr. Mumford stated he agrees with Chairman Vrem and doesn't believe the board is there yet with a solution as the proposal seems to have taken a life of its own. He thinks right now he is a bit leery of going with policy but he dislikes creating more regulations. At this point he's uncomfortable with it and will vote against the current proposal today.

Ms. Metz stated she will also be voting against the proposal from the Department of Law as it is different from what the board intended. This shows that we need a Department of Law representative at our meetings to hear our discussions and understand what happens. She will be voting against this.

Mr. Mumford stated he would like a little more time to look at the policy and then have another teleconference but he doesn't know if he would be willing to vote on a policy. There were a few written comments and he wants to make sure the guides know the board has read the comments. Quite a lot of what was in the comments does not pertain to this meeting but he wants the guides to realize that their concerns were read but that is not what this meeting is about.

Chairman Vrem stated he thought the subcommittee's proposal was easy to understand and he is frustrated and disappointed and thinks they need to start over.

Mr. Tiffany IV stated that they need more time to look at the proposed policy language and tweak it to the intent. He believes Ms. Milks gave the board and subcommittee a good start and they could work on it, have Ms. Milks review it and perhaps discuss it at the July 17 meeting.

Upon a motion duly made by Mr. Tiffany IV, seconded by Ms. Metz and denied by roll call vote, it was:

RESOLVED to deny the proposed regulation as public noticed.

Roll Call Vote:

	APPROVE	DENY	ABSTAIN
Kelly Vrem		X	
Karen Polley		X	
Michele Metz		X	
Brenda Rebne		X	
Henry D. Tiffany IV		X	
Bob Mumford		X	

Absent:

**Tom Atkins
David Jones
Gene Peltola**

Chairman Vrem stated that he would like ADF&G to require only a guide enter non-resident names in the drawing hunts. Mr. Mumford stated that their intent was to have the guides do it but he would need to talk with Mr. Kavalok. He recalled there was discussion about non-resident hunters allowed to apply if they have Alaskan relatives.

Chairman Vrem stated that the board can send this back to the subcommittee. He has no objection to having Tim Booch join the subcommittee. Mr. Tiffany IV is still the subcommittee chair and may have something to share at the July 17th meeting.


Mr. Tiffany IV asked if the board needed take action in order to close the case for the proposed regulation with Department of Law and Ms. Milks stated that they did not as it had already been denied in the roll call vote.

Mr. Tiffany IV stated that he wants to acknowledge the fact that we are aware of the spatial distribution issues in unit 9 and the board will be reviewing further and discussing in length. It's not something the board will ignore.

AGENDA ITEM 4 ADJOURN

The Chair adjourned the meeting of the Alaska Big Game Guides and Commercial Services Board at 2:31p.m.

Respectfully submitted:



Cindy Hansen, Licensing Examiner



Kelly Vrem, Chairperson
Big Game Commercial Services
Board

Date 12/30/14

Approved Date: 12/30/14