

**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 2, 2012**

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 scheduled teleconference meeting of the Big Game Commercial Services Board was held July 2, 2012.

Monday July 2, 2012

Item 1. Call to Order/Roll Call

The meeting of the Big Game Commercial Services Board was called to order by Kelly Vrem, Chair at 9:03 a.m. Members present constituting a quorum were:

Kelly Vrem, Master Guide-Outfitter
Karen Polley, Public Member
Ted Spraker, Board of Game
Michele Metz, Private Land Holder
Brenda Rebne, Private Landholder
Paul Johnson, Registered Guide-Outfitter, Chair

Dirk Nickisch, transporter was absent.

Present from the Division of Corporations, Business and Professional Licensing were:

Karl Marx, Licensing Examiner
Michelle Johnston, Supervisor
Lee Strout, Investigations
Sara Chambers, Program Coordinator
Don Habeger, Director

Present from State and Federal Agencies were:

Lt. Bernard Chastain, Public Safety
Andrew Peterson, Assistant Attorney General

Present from the public were:

Joe Want
Bobby Fithian
Dick Rohrer
Roy Blackwell

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Henry Tiffany
Sara Russell
Drew Haag

Item 2. Review/Amend Agenda

Mr. Vrem asked if there were any amendments to the agenda, seeing none.

Item 3. Ethics Disclosure

The Board had no ethics violations to report.

Item 4. Correspondence

Correspondence was received from Joe Want, Paul Johnson with Dick Rohrer, and Above Alaska Aviation.

Mr. Spraker moved to table Joe Want's correspondence until the December Board meeting, Ms. Metz seconded. Mr. Johnson suggested drafting a proposed regulation to public notice for possible adoption at the December Board meeting. Mr. Spraker agreed to withdraw his motion. Mr. Johnson moved to public notice a broadly written regulation drawn up from his, Mr. Rohrer's, and Mr. Want's suggestions for the December meeting. Mr. Spraker seconded.

Mr. Johnson added "conducting" which would mean that the contracting guide must be in the same "district" or third of the state. Mr. Marx asked for an exact wording of the proposed regulation to be public noticed. Mr. Johnson outlined three aspects a) To break the state into three districts of similar terrain, b) To delete and add new assistant guide standards including using a logbook and signing off six sets of guide tasks, c) To clearly define "conducting" as the contracting guide being present in the same "district" used by the new class-A definition in statute. He suggested that Jun Maiquis could help draft this. Mr. Marx pointed out that there are additional steps and requirements in the regulation process and asked for two Board members to be designated to help write and accept the final wording for public notice. Mr. Johnson and Mr. Vrem were selected.

On a motion duly made by Mr. Johnson, seconded by Mr. Spraker, and approved unanimously, it was

RESOLVED to public notice a proposed regulation which a) breaks the state into three districts, b) to delete and add new assistant guide experience requirements including creating a logbook, and c) to require guides conducting hunts to be present in the same district.

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Roll Call Vote

NAME	YES	NO
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	
Brenda Rebne	X	
Paul Johnson	X	

THE MOTION PASSED BY A MAJORITY VOTE.

Sara Russel and Drew Haag from Above Alaska Aviation were called on to discuss their written correspondence. Mr. Haag explained that they were new to transporting and had had clients inquire about hiring their aircraft to “scout” for game prior to the actual hunt. They wanted to know if this was acceptable. Mr. Vrem stated that he feels that this runs into guiding and that guides cannot look for a specific animal with an aircraft. Mr. Spraker agreed that this seems to be bumping up against guiding. He asked what legal counsel would have to say. The Board called on Lt. Chastain for an enforcement opinion. He agreed with Mr. Spraker’s suggestion to seek legal counsel. Mr. Marx reminded the Board that since funds are tight they would need to put on the record if they wish to ask for legal counsel. Lt. Chastain pointed out that if someone is compensated for what could be construed as guiding then it is guiding. Mr. Vrem stated that he personally would like to tackle unclear definitions of transporting and guiding next.

On a motion duly made by Mr. Spraker, seconded by Mr. Johnson, and approved unanimously, it was

RESOLVED to defer this correspondence until the December Board meeting pending legal counsel.

Roll Call Vote

NAME	YES	NO
Paul Johnson	X	
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	
Brenda Rebne	X	

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THE MOTION PASSED BY A MAJORITY VOTE.

Ms. Polley agreed that these services need clarification. Mr. Johnson pointed out that 12 AAC 75.340(c)(9) already prohibits transporters from using an aircraft to spot a specific big game animal the same as guides. Mr. Vrem suggested that Mr. Haag attend the December Board meeting.

Mr. Vrem asked if Mr. Want was comfortable with his correspondence being lumped in with Mr. Johnson's and Mr. Rohrer's. Mr. Want stated that without seeing their correspondence he was not comfortable. Mr. Spraker stated that his intent was that both letters would go forward. Mr. Johnson asked Mr. Rohrer if he was familiar with Mr. Want's letter and if it could be incorporated. Mr. Rohrer stated that he hoped that his suggestions were broad enough to allow Mr. Want's four levels of guiding to be included in the discussion. Mr. Want was comfortable with what was said.

Item 5. Board Discussion

Estimated Travel Budget

Mr. Marx presented the Board with the previous year's travel estimates as a guideline.

Budget Report

Mr. Marx stated that the budget report had just been e-mailed to all Board members last week and that the BGCSB was in the red about \$610,000.00.

Regulation Change Status from March Meeting.

Mr. Marx informed the Board that the four GUA boundary changes adopted in March had been signed by the Lt. Governor and would go into effect 7/13/12. He went on to state that this is important because the DNR cartographers still have not been paid to make the last GUA map boundary updates partially due to staff having nothing from the Board specifically approving the additional fund to update land ownership at the same time. The estimate from DNR was surprisingly high at about \$6,000.00 so combining all of these projects might save some money. Mr. Marx explained that whatever the Board decides should be put in the form of a motion and vote.

Mr. Habeger arrived so the discussion backtracked to the Budget Report at this time.

Budget Report (Continued)

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Mr. Habeger began by relaying the Governor's regrets that he could not sign HB 229 into effect with the Board but that he did sign it this morning so it would become law in 90 days.

Mr. Habeger informed the Board that the State of Alaska is being sued by master guide David Haeg. This is possibly a class action lawsuit which has been delivered to the Division in the past couple weeks. Mr. Johnson asked through the Chair if there was anyone else named in the class action lawsuit besides Mr. Haeg. Mr. Habeger stated that there is only a filing and the court has not necessarily recognized this yet.

Mr. Habeger estimates a travel budget for the Board of \$27,000.00 which should cover the meeting travel and some investigation travel in the Wood River area.

Mr. Habeger explained how the ten year budget look back presented to the Board was arrived at and what measures are planned to prevent these mistakes in the future. Quarterly reports will be provided to the Boards 30 days after the quarter ends but annual reports will take a couple months to reconcile. In the Capital Budget SB 160 it was discovered that business licensing and corporations were drawing funds from professional licensing which were reimbursed.

The part time investigator will now be fee supported rather than general fund supported like the previous two years.

Mr. Johnson, through Chair, asked if the Board was close to being in balance at the current fee schedule. Mr. Habeger answered that even with staff cuts, no. Ms. Polley asked what the actual expenditures were for FY 2011. Mr. Habeger answered with a breakdown of expenses and with Mr. Johnson's input arrived at a \$124,000.00 deficit for a biennial license cycle. Ms. Polley asked if the Division had had any success asking for a database access fee. Mr. Habeger stated that the concern was accounting for a breakdown of the actual cost to show the Troopers what their share should be. Mr. Vrem suggested figuring out what the absolute bare bones services to the licenses holders cost then charge the difference to outside agencies. Mr. Habeger stated that the Division had cut services such as reducing staff to just Mr. Marx so that the Board and licensees have a single point of contact. He went on to suggest that the Board look at a new balance between investigative services and costs. Mr. Vrem suggested not raising all license fees as much as to contracting guides and transporters who are more of a burden on the staff. Mr. Johnson asked if there is statutory authority to charge a GUA registration fee. Mr. Habeger answered yes. Mr. Johnson suggested charging back fees for the database access and to just close down the system until users are willing to pay. He went on to comment that the Division should look strongly into not using the Department of Administrative Hearings but rather bid it out since these fees seem to not be accounted for. He went on to verify that any investigative fees would go to

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the general fund. Mr. Habeger stated that another option would be to charge everyone up front to cover investigations. Mr. Vrem asked if old debts could be forgiven since the Board did not have accurate reports to react to for years. Mr. Habeger stated that he believes that it would take a statute change.

Mr. Johnson moved to create a committee of three to investigate costs and revenue generation, Ms. Polley seconded. Mr. Vrem asked Ms. Polley to volunteer. Mr. Habeger suggested Richard Rohrer as one of the working group. Mr. Johnson accepted the friendly amendment to change to a working group with one Board member and up to four volunteers determined by the Chair. Ms. Rebne stated that she was not in favor of raising license fees when there might be other options to generate funds.

On a motion duly made by Mr. Johnson, seconded by Ms. Polley, and approved unanimously, it was

RESOLVED to form a working group of one Board member and up to four public members, assigned by the Chair, to give a report on budget options at the December Board meeting,

Roll Call Vote

NAME	YES	NO
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	
Brenda Rebne	X	
Paul Johnson	X	

THE MOTION PASSED BY A MAJORITY VOTE.

Regulations Change Status from the March Meeting.

Mr. Marx reminder the Board that the Division still needs clearance to pay for map updates and that the March meeting minutes are still unclear on Board intent.

On a motion duly made by Mr. Johnson, seconded by Ms. Rebne, and approved unanimously, it was

RESOLVED to approve pay the DNR cartographers to update all GUA boundary changes and update land ownership on guide maps,

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Seeing no objections this motion was approved unanimously.

On a motion duly made by Mr. Johnson, seconded by Ms. Rebne, and approved unanimously, it was

RESOLVED to re-public notice 12 AAC 75.340(d)(7) for the December Board meeting,

Seeing no objections this motion was approved unanimously.

Mr. Vrem seemed to recall that this had been approved along with all of the other regulation changes but deferred to others memory but agreed with going forward with the corrected regulations provided in the Board packet. Mr. Johnson stated that there was no reason to re-public notice 12 AAC 75.920 since that had already been taken care of in the Johnson/Rohrer/Want proposed assistant guide regulation that the Board had approved earlier.

BGCSB Statute Changes and Corresponding Regulation Changes.

Mr. Marx reminder the Board that HB 229 had just been signed by the Governor this morning but he did not have a final copy to provide the Board. He plans to e-mail this to Board members when it is made available.

End of Fiscal Year 2012 Report

Mr. Marx stated that he was working on the end of year statistics but that one or two Board members need to be available to write the Board portion. Mr. Vrem and Ms. Polley volunteered to write this.

Approve Minutes March 13-15, 2012 Meeting

On a motion duly made by Mr. Johnson, seconded by Ms. Metz, and approved unanimously, it was

RESOLVED to approve the amended March 2012 Board meeting minutes,

Seeing no objections this motion was approved unanimously.

Ms. Metz pointed out a missed abstention she made in one vote. Mr. Johnson clarified two answers that he gave.

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DNR GCP Update.

Mr. Cox from DNR was not online at this time.

AS 08.54.790 Definitions of “incidental”

Mr. Rohrer asked the Chair for permission to address Lt. Chastain about a similar concern. Apparently some wildlife troopers in the King Salmon area are requiring “packers” to have an assistant guide license. Lt. Chastain stated that he would look into this. He went on to suggest that the Board consider a regulation that clarifies that these unlicensed packers must be accompanied by a licensee at all times. Mr. Vrem failed to see any reason to exclude these packers from accompanying a client so long as they are with a responsible licensee. Lt. Chastain stated that some unlicensed people have been successfully prosecuted for accompanying clients for species that do not require a guide. The Board agreed that this was clearly guiding without a license.

Mr. Spraker and Mr. Johnson proposed adding a subcommittee to the December agenda to look into drafting a regulation to clarify this.

Since no transporters or the original proposer of removing part of “incidental” from AS 08.54.790 were present this topic will be moved to the December agenda.

Adding a space to list guide for non-resident assistant guide applicants who claim to have harvested a guide required species under 12 AAC 75.920.

Mr. Johnson stated that since this was tied to other major changes already being discussed in December that this item be added to the proposed regulations being discussed at that time.

Board standard for applicants who may have lost firearms rights for felony convictions or domestic violence.

Mr. Marx stated that due to a history of domestic violence, felony convictions, dishonorable discharges, etc... some license applicants have uncertain rights to possess firearms. The Board has expressed a concern over this on some past applicants but has only set a standard for a single license applicant which was simply to have the applicant submit a letter to the Board explaining how they would deal with this limitation as a guide. Lt. Chastain was asked what the troopers’ policy was. Mr. Spraker felt that the Board is wasting a lot of time with these applicants when there are a lot of very qualified license applicants. Brenda supported what Mr. Spraker said. Mr. Vrem asked to put this on the December agenda.

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Mr. Vrem suggested that in cases where an assistant guide license applicant might be delayed in investigations but appears to be eligible for licensure that they be issued a provisional license to only work for the guide who recommended them for a limited time so as not to put their employer in a bind. Lt. Chastain suggested that the Board put together a list of disqualifying felonies to give enforcement more guidance. Mr. Johnson reminded the Board that HB 229, that was just signed, includes provisions for denying licenses for "moral turpitude."

Item 6. Subcommittee Updates

On a motion duly made by Mr. Johnson, seconded by Ms. Polley, and approved unanimously, it was

RESOLVED to give Sara Chambers the go ahead to draft and public notice proposed regulations changes for hunt records and transporter activity reports for the December Board meeting,

Seeing no objections this motion was approved unanimously.

Mr. Vrem stated that he is encouraged and very happy with the direction that these subcommittees and proposed regulations have been going. He appreciates that by making these forms more available and intuitive that this will have real world benefits to licensees.

Item 7. Investigative Report

Investigator Strout asked to go directly to executive session for this report.

Item 8. Executive Session

On a motion duly made by Paul Johnson, seconded by Ted Spraker, and approved unanimously, it was

RESOLVED to adjourn into Executive Session under the authority of AS 44.62.310 to discuss the investigative report with staff, Andrew Peterson AAG, and Lt. Chastain in attendance,

Seeing no objections this motion was approved unanimously.

Item 9. Application Review

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On a motion duly made by Mr. Johnson, seconded by Ms. Polley, and approved by majority vote, it was

RESOLVED to approve cases 1704-08-004 and 2010-000733,

Roll Call Vote

NAME	YES	NO
Brenda Rebne	X	
Paul Johnson	X	
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	

THE MOTION PASSED BY A MAJORITY VOTE.

On a motion duly made by Mr. Johnson, seconded by Ms. Polley, and approved by majority vote, it was

RESOLVED to approve cases 2011-000970 and 2011-001131,

Roll Call Vote

NAME	YES	NO
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	
Brenda Rebne	X	
Paul Johnson	X	

THE MOTION PASSED BY A MAJORITY VOTE.

On a motion duly made by Mr. Johnson, seconded by Ms. Polley, and approved by majority vote, it was

RESOLVED to approve case 2012-000467,

Roll Call Vote

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NAME	YES	NO
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	
Brenda Rebne	X	
Paul Johnson	X	

THE MOTION PASSED BY A MAJORITY VOTE.

On a motion duly made by Mr. Johnson, seconded by Mr. Spraker, and approved by majority vote, it was

RESOLVED to approve case 2011-000909,

Roll Call Vote

NAME	YES	NO
Paul Johnson	X	
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	
Brenda Rebne	X	

THE MOTION PASSED BY A MAJORITY VOTE.

On a motion duly made by Mr. Johnson, seconded by Mr. Spraker, and approved by majority vote, it was

RESOLVED to approve case C1700-10-002,

Roll Call Vote

NAME	YES	NO
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	

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Michele Metz	X
Brenda Rebne	X
Paul Johnson	X

THE MOTION PASSED BY A MAJORITY VOTE.

On a motion duly made by Mr. Johnson, seconded by Mr. Spraker, and approved by majority vote, it was

RESOLVED to approve return case 2011-001244 to investigations to verify that the cumulative fines do not make ineligible under AS 08.54.605,

Seeing no objections this motion was approved unanimously.

On a motion duly made by Mr. Johnson, seconded by Mr. Spraker, and approved by majority vote, it was

RESOLVED to approve case 2012-000748,

Roll Call Vote

NAME	YES	NO
Brenda Rebne	X	
Paul Johnson	X	
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	

THE MOTION PASSED BY A MAJORITY VOTE.

On a motion duly made by Ms. Polley, seconded by Mr. Johnson, and approved by a majority vote, it was

RESOLVED to approve the application for assistant guide for Blair R. Ellsworth,

Roll Call Vote

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NAME	YES	NO
Brenda Rebne	X	
Paul Johnson	X	
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	

THE MOTION PASSED BY A MAJORITY VOTE.

On a motion duly made by Mr. Johnson, seconded by Ms. Polley, and approved by a majority vote, it was

RESOLVED to table the application for assistant guide for Robert J. Dorn,

Roll Call Vote

NAME	YES	NO
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	
Brenda Rebne	X	
Paul Johnson	X	

THE MOTION PASSED BY A MAJORITY VOTE.

Mr. Johnson stated that this application was tabled for investigations to gather more information on his not answering "yes" on his application and to find out when he claimed Alaska residency.

On a motion duly made by Ms. Polley, seconded by Mr. Spraker, and approved by a majority vote, it was

RESOLVED to approve the amended application for assistant guide for Michael T. Johnson,

Roll Call Vote

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NAME	YES	NO
Paul Johnson	X	
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	
Brenda Rebne	X	

THE MOTION PASSED BY A MAJORITY VOTE.

Mr. Johnson asked for a friendly amendment to request that he attend a moose seminar without holding up his license. Ms. Polley and second concurred. Mr. Marx asked if a Board member would write a short letter that he could include with the license and was volunteered.

On a motion duly made by Ms. Polley, seconded by Mr. Spraker, and approved by majority vote, it was

RESOLVED to table the application for assistant guide for John K. Hoegberg,

Roll Call Vote

NAME	YES	NO
Kelly Vrem	X	
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	
Brenda Rebne	X	
Paul Johnson	X	

THE MOTION PASSED BY A MAJORITY VOTE.

Mr. Spraker stated that in order to be consistent with the earlier tabled applicant that this needs tabled for firearms rights investigation. Mr. Vrem asked for any objections to reconsidering this applicant by a mail vote if he seeks his own counsel and can answer his firearms rights questions. There was a unanimous concurrence.

Mr. Johnson stated for the record that due to two abstentions there was not a required quorum available to approve the application for Clarence (Keith) Skaflestad so it will need to be tabled until the December meeting. Investigator Strout asked if this application would

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be tabled for a mail vote or held until the December meeting. Ms. Polley answered that as a matter of consistency on firearms rights that this needed to be held until December.

Item 5. Board Discussion (Continued)

On a motion duly made by Ms. Polley, seconded by Mr. Spraker, and approved by a 5:1 majority, it was

RESOLVED to recognize the Pioneer Outfitters Ethics Course.

Roll Call Vote

NAME	YES	NO
Kelly Vrem		X
Karen Polley	X	
Ted Spraker	X	
Michele Metz	X	
Brenda Rebne	X	
Paul Johnson	X	

THE MOTION PASSED BY A MAJORITY VOTE.

Ms. Polley briefed the Board on her work with Pioneer Outfitters staff on this ethics course. Mr. Vrem expressed some concerns over the fees charged to students. Ms. Polley offered to stay in contact with the author and relay Board concerns and continue to make suggestions.

Lt. Chastain asked about guides outfitting hunts for non-guide required species that they have not been certified to conduct guided hunts for. Mr. Spraker stated that due to the lateness in the meeting that this issue would be better served if it could be tabled until December. Ms. Metz agreed.

On a motion duly made by Mr. Spraker, seconded by Ms. Metz, and approved unanimously, it was

RESOLVED to table the discussion about outfitting hunts until the December Board meeting,

Seeing no objections this motion was approved unanimously.

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On a motion duly made by Ms. Polley, seconded by Mr. Spraker, and approved unanimously, it was

RESOLVED to adjourn this teleconference,

Seeing no objections this motion was approved unanimously.

The Board adjourned at 1:20 p.m.

Respectfully submitted:

Karl Marx, Licensing Examiner

Approved:

Kelly Vrem, Chairperson
Big Game Commercial Services Board

Date: _____