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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board (“Board”) held a General meeting on November 4, 2020, via Zoom and Teleconference. Kathryn Doi, President and Public Member, called the meeting of the Board to order at 9:36 a.m.

Ms. Doi welcomed everyone to the meeting and stated that the meeting materials are available on the Board’s website and hard copies of the materials can be requested by contacting the Board’s legal staff. The Board’s Executive Director, Timothy Corcoran, set forth the parameters for the meeting.

2. **ROLL CALL**

Board Members Present: Kathryn Ellen Doi
Ramon Alvarez C.
Anne Smith Boland
Ardashes “Ardy” Kassakhian
Daniel P. Kuhnert
Nanxi Liu
Bismarck Obando

Board Members Not Present: Inder Dosanjh

Board Staff Present: Timothy M. Corcoran, Executive Director
Dawn Kindel, Assistant Executive Officer
Robin P. Parker, Senior Staff Counsel
Danielle R. Phomsopha, Staff Counsel
Suzanne Luke, Administrative Services Analyst
Eugene Ohta, IT Tech

Anthony M. Skrocki, Administrative Law Judge

Invited Guests: Anthony A. Batarse, Jr.
Glenn E. Stevens

3. **APPROVAL OF THE MINUTES FROM THE SEPTEMBER 16, 2020, GENERAL MEETING**

Mr. Alvarez moved to adopt the September 16, 2020, General Meeting minutes as amended to correct the spelling of Ms. Liu's name in Agenda Item 15. Ms. Liu seconded the motion. The motion carried unanimously.

4. **PRESENTATION OF RESOLUTION TO ANTHONY A. BATARSE, JR., FORMER DEALER MEMBER**

At the September 16, 2020, General Meeting, the members unanimously moved to present Anthony A. Batarse, Jr., former Dealer Member, with a Resolution in appreciation for his dedication and service to the State. Ms. Doi read the Resolution into the record.

Whereas, Mr. Anthony A. Batarse, Jr., was appointed to the Board in September 2013, by Governor Edmund G. Brown Jr., and was reappointed in March 2015, to serve as a dealer member of the New Motor Vehicle Board; and,

Whereas, Mr. Batarse served on the Fiscal Committee as a Chair and member, and distinguished himself thereby; and

Whereas, Mr. Batarse actively engaged in the Board's business by providing sound advice and leadership, was thoughtful, friendly and outgoing to staff and fellow members; and

Whereas, the foremost concern of Mr. Batarse is public service to the people of the State of California, being active in political and community affairs, with exemplary service and dedication in the best interest of his fellow citizens, which merits the highest praise and recognition, and

Whereas, Mr. Batarse has given with great unselfishness and dedication of his time and expertise to matters concerning the motor vehicle industry and helped direct and protect the welfare of the automotive industry in this State, which is vital to California's economy and public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

Therefore, be it resolved that each and every member of the New Motor Vehicle Board joins in expressing their profound appreciation to Mr. Anthony A. Batarse, Jr. for his contribution to the Board, to the motor vehicle industry and to the people of the State of California.

The members and Mr. Corcoran expressed their thanks and appreciation to Mr. Batarse and noted his kindness, knowledge, and helpfulness. Mr. Batarse indicated that it was an honor to serve the Board and that he treasured the moments working with everyone.

5. **PRESENTATION OF RESOLUTION TO VICTORIA RUSNAK, FORMER DEALER MEMBER**

At the September 16, 2020, General Meeting, the members unanimously moved to present Victoria Rusnak, former Dealer Member, with a Resolution in appreciation for her dedication and service to the State. Ms. Rusnak was not able to attend the meeting today. Ms. Doi read the Resolution into the record.

Whereas, Ms. Victoria Rusnak was appointed to the Board in March 2009, by Governor Arnold Schwarzenegger to serve as a dealer member of the New Motor Vehicle Board. She was reappointed by Governor Edmund G. Brown Jr. in October 2013 and March 2015; and,

Whereas, Ms. Rusnak served on several committees including Chair and member of the Fiscal Committee, served two terms as the Board's Vice President in 2014 and 2015, and distinguished herself thereby; and

Whereas, Ms. Rusnak actively engaged in the Board's business by providing sound advice and leadership, was thoughtful, friendly and outgoing to staff and fellow members; and

Whereas, the foremost concern of Ms. Rusnak is public service to the people of the State of California, being active in political and community affairs, with exemplary service and dedication in the best interest of her fellow citizens, which merits the highest praise and recognition, and

Whereas, Ms. Rusnak has given with great unselfishness and dedication of her time and expertise to matters concerning the motor vehicle industry and helped direct and protect the welfare of the automotive industry in this State, which is vital to California's economy and public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

Therefore, be it resolved that each and every member of the New Motor Vehicle Board joins in expressing their profound appreciation to Ms. Rusnak for her contribution to the Board, to the motor vehicle industry and to the people of the State of California.

The members noted that they were thankful for Ms. Rusnak's service to the Board and appreciated that she was fiscally savvy, thoughtful, and provided a legal perspective.

6. **PRESENTATION OF RESOLUTION TO GLENN STEVENS, FORMER PUBLIC MEMBER**

At the September 16, 2020, General Meeting, the members unanimously moved to present Glenn Stevens, former Public Member, with a Resolution in appreciation for his

dedication and service to the State. Ms. Doi read the Resolution into the record.

Whereas, Mr. Glenn E. Stevens was duly appointed by Governor Gray Davis in March 2000, and reappointed in May 2003, to serve as a public member of the New Motor Vehicle Board. He was reappointed by Governor Arnold Schwarzenegger in January 2008, and again by Governor Edmund G. Brown Jr. in September 2013 and March 2015; and,

Whereas, Mr. Stevens served on numerous committees, most recently as Chair of the Policy and Procedure Committee and Ad Hoc Committee to Review the Mission and Vision Statements, and member of the Government and Industry Affairs Committee; served five terms as the Board's President in 2003, 2004, 2014, 2015, and 2016 and two terms as Vice President in 2002 and 2011; assisted the Board in many other capacities; and distinguished himself thereby; and

Whereas, Mr. Stevens actively engaged in the Board's business by providing sound advice and leadership, was thoughtful, friendly and outgoing to staff and fellow members; and

Whereas, the foremost concern of Mr. Stevens is public service to the people of the State of California, being active in political and community affairs, with exemplary service and dedication in the best interest of his fellow citizens, which merits the highest praise and recognition, and

Whereas, Mr. Stevens has given with great unselfishness and dedication of his time and expertise to matters concerning the motor vehicle industry and helped direct and protect the welfare of the automotive industry in this State, which is vital to California's economy and public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

Therefore, be it resolved that each and every member of the New Motor Vehicle Board joins in expressing their profound appreciation to Mr. Glenn E. Stevens for his contribution to the Board, to the motor vehicle industry and to the people of the State of California.

The members and Mr. Corcoran thanked Mr. Stevens for his 20 years of service to the Board; they appreciated his guidance, historical knowledge, support, advice, and for setting the tone and culture of the Board. Mr. Stevens was lots of fun and will be missed by the members and staff. Mr. Stevens remarked that he "absolutely loved being on the Board." The friendships he made are invaluable, he learned a lot about the vehicle industry, and met many fine dealers and attorneys. Mr. Stevens remarked that he thinks the Board is going to continue to be very valuable to the industry.

7. **ANNUAL REPORT ON THE BOARD DEVELOPMENT PROGRAM - BOARD DEVELOPMENT COMMITTEE**

Ms. Phomsopha reported that there would be no in-person education for the members in 2021 but the staff will look for virtual educational opportunities. She noted that NADA will be virtual February 9-11, 2021. The Board will register any members that would like to attend. Ms. Doi indicated that she thought some of the staff should participate so there is a Board presence.

There was no Board action as this matter was for information only.

8. **STATUS REPORT CONCERNING THE BOARD FINANCIAL CONDITION REPORT FOR THE PREVIOUS FISCAL YEAR, THE ANNUAL BOARD FEE COLLECTION, AND WHETHER ANY FEE ADJUSTMENTS ARE NECESSARY - FISCAL COMMITTEE**

The members were provided with a memorandum from Tim Corcoran, Dawn Kindel and Suzanne Luke concerning the Board's financial condition for fiscal year 2019-2020, the Annual Board Fee collection, and whether any fee adjustments are necessary. Ms. Luke reported that the Board's appropriated budget was \$1.78 million, the reserve balance was \$2.6 million, and the Board expended 85% of its appropriated budget.

Given the current reserve balance, the staff does not see a need for an adjustment to the Board's fee structure at this time.

With regards to the fee collection, \$876,162 has been collected with 36 payments outstanding out of 138 manufacturers and distributors invoiced. Mr. Corcoran noted that the Board does anticipate a 5% spending reduction from the Administration.

In response to Ms. Doi's question, Mr. Corcoran indicated that due to the pandemic, the Board's expenditures for travel were down but training expenses were higher. The DMV provided the staff with new laptops and docking stations without any cost to the Board.

Mr. Kuhnert inquired about the Board's lease for its offices and whether the lease was expired. Mr. Corcoran indicated that due to an emergency extension, the lease was extended two years. Miss Kindel was unsure of the increase in the rent but will report back to the Board to confirm.

Ms. Doi inquired on the status of Holly Victor, who is a contact tracer for the Administration. Mr. Corcoran and Miss Kindel noted that this was initially a 6-month period but there has been no word on any extensions.

There was no Board action as this matter was for information only.

9. **UPDATE FROM THE AD HOC COMMITTEE ON EQUITY, JUSTICE AND INCLUSION REGARDING ITS OCTOBER 27, 2020 MEETING AND FUTURE EVENTS - AD HOC COMMITTEE**

Mr. Obando provided an update on the Ad Hoc Committee's October 27, 2020, meeting and noted the committee members: Ramon Alvarez; Kathryn Ellen Doi; Anne Smith Boland and Inder Dosanjh. Mr. Obando summarized the topics as: (1) manufacturer representation; (2) internal Board hiring practices; (3) discriminatory practices or programs; and (4) consumers. Mr. Obando indicated that he would work with staff to draft a workplan and Mission Statement that could be reviewed by the Board at its next meeting. The Ad Hoc Committee will meet again in January 2021. Several members and Mr. Corcoran thanked Mr. Obando for his leadership.

There was no Board action as this matter was for information only.

10. **DISCUSSION REGARDING THE 2021 NEW MOTOR VEHICLE BOARD INDUSTRY ROUNDTABLE - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

There was a lengthy discussion on the Board's 2021 Industry Roundtable. Mr. Corcoran suggested electric vehicles as the topic especially considering Governor's Newsom's Executive Order N-79-20, which was issued on September 23, 2020. Ms. Phomsopha provided an overview of the Executive Order's goals as follows:

It shall be a goal of the State that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035. It shall be a further goal of the State that 100 percent of medium- and heavy-duty vehicles in the State be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. It shall be further a goal of the State to transition to 100 percent zero-emission off-road vehicles and equipment by 2035 where feasible.

Additionally, Ms. Phomsopha noted that "the Governor's Office of Business and Economic Development, in consultation with the State Air Resources Board, Energy Commission, Public Utilities Commission, State Transportation Agency, the Department of Finance and other State agencies, local agencies and the private sector, shall develop a Zero-Emissions Vehicle Market Development Strategy by January 31, 2021, and update every three years thereafter, that: a) Ensures coordinated and expeditious implementation of the system of policies, programs and regulations necessary to achieve the goals and orders established by this Order. b) Outlines State agencies' actions to support new and used zero-emission vehicle markets for broad accessibility for all Californians."

Lastly, Ms. Phomsopha indicated that the upcoming Industry Roundtable will be a virtual event and is typically held in the Spring.

Ms. Doi remarked that if California State Transportation Agency (CalSTA) is supportive

of this event, it would be an important opportunity for the Board to take in comments and relay that information to CalSTA.

Mr. Obando noted the following policy considerations: (1) financing for state and local roads and privacy; and (2) implementation of charging stations and where you install them. Mr. Kuhnert indicated that Dealer Agreements were changing due to electric vehicles and that some dealers may be excluded all together from selling electric vehicles. Mr. Alvarez suggested that Mr. Corcoran reach out to the Governor regarding the plan and inquired about used vehicles. Mr. Corcoran noted one challenge is affordability. Mr. Obando echoed that underrepresented people are not able to buy electric vehicles. Ms. Smith Boland commented on Mr. Kuhnert's point that she can see electric vehicles being sold outside of dealers like the Tesla model.

The members were supportive of pursuing electric vehicles as the focus of its 2021 Industry Roundtable.

11. **DISCUSSION AND CONSIDERATION OF AMENDING THE BOARD'S PARLIAMENTARY PROCEDURES TO REFLECT THE REPEAL OF ARTICLE 3 (COMMENCING WITH SECTION 3052) OF CHAPTER 6 OF DIVISION 2 OF THE VEHICLE CODE - POLICY AND PROCEDURE COMMITTEE**

Due to a technical problem, Ms. Smith Boland was not present for the Agenda Item 11.

The members were provided with a memorandum from Tim Corcoran and Robin Parker concerning amending the Board's Parliamentary Procedures to automatically fill vacant committee chair positions with the member. Ms. Parker reported that the change reflects the repeal of appeals, which was effective January 1, 2020.

The proposed change is as follows:

ARTICLE 5. DEBATE AND VOTING

...

2. Once the debate has concluded, a vote shall be taken on the motion, which requires the majority of the Members present to pass. Once a motion regarding a Protest, or Petition, and Appeal has been passed by majority vote, there shall be no further debate on the matter and no reconsideration of the vote. On all other matters, the Members of the Board have the right to reconsider the matter and take any action which they deem appropriate. The Members of the Board may, however, discuss the effect of the Board action or any matter ancillary to implementing the Board action taken by the vote.

...

Mr. Kassakhian moved to adopt the revised Parliamentary Procedures. Mr. Alvarez seconded the motion. The motion carried unanimously.

12. EXECUTIVE DIRECTOR'S REPORT

- A. Administrative Matters.
- B. Case Management.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

Mr. Corcoran provided the members with a report on Administrative Matters that identified all pending projects, the Board staff and committee assigned, estimated completion dates, and status.

Mr. Corcoran indicated that procurement of the plaque for the Team Award, which was approved at the September 16, 2020, General Meeting, will wait until the staff are able to come to the office so a picture can be taken. Additionally, Mr. Corcoran noted his industry outreach with IADAC (Independent Automobile Dealers Association California) by attending their annual conference. The Board received an award and plaque for its work on accelerating online sales of motor vehicles during the pandemic. Mr. Corcoran indicated that he would keep the Board apprised of his outreach to other industry organizations and would work to increase this.

Ms. Parker reported that the Public Members were currently reviewing a Proposed Stipulated Decision and Order pertaining to the 12 Fiat Chrysler Automobile modification protests. If there are no objections, then the protests will be dismissed. In response to Ms. Doi's question, Ms. Parker indicated that ALJ Wong presided over two in-person Mandatory Settlement Conferences and one telephonic conference in working to resolve these FCA protests. There was additional staff work with follow-up and ensuring procedural compliance with all the pleadings involved.

Ms. Parker indicated that only 21 termination notices had been filed this year, which was lower than previous years. Most recently, the Board received 12 establishment notices from FCA for Chrysler, Dodge, Jeep and RAM that resulted in eight new protests. To date, 64 new protests have been filed. Ms. Phomsopha indicated that there were currently 64 open protests with some protests from 2017.

Ms. Parker summarized the recent hearing on the writ pertaining to the Board's Decision in *Folsom Chevrolet*. In Phase I of the hearing, the Judge in her tentative ruling found that the Board did not incorrectly apply the legal standard set forth in Section 11713.13(g), which pertains to performance metrics. In Phase II, the tentative ruling denied the writ. Ms. Parker will keep the members apprised and will provide Ms. Doi with the tentative rulings.

Ms. Phomsopha indicated that 10 new protests had been filed since the members received their report and several matters set schedules for discovery and hearing.

Ms. Doi noted that ALJ Skrocki was attending the meeting and thanked him.

There was no Board action as this matter was for information only.

13. **SELECTION OF BOARD MEETING DATES FOR 2021**

The members were provided with a memorandum from Tim Corcoran concerning Board meeting dates for 2021. The members went off the record for this discussion and decided to select dates using Doodle Poll.

14. **PUBLIC COMMENT (Gov. Code § 11125.7)**

No additional public comment was presented.

15. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(a)(1), all members of the Board shall convene in a closed Executive Session.

CONSIDERATION OF ANNUAL PERFORMANCE REVIEW FOR EXECUTIVE DIRECTOR - EXECUTIVE COMMITTEE

The members convened in Closed Executive Session to discuss Agenda Item No. 20.

16. **OPEN SESSION**

The Public Members returned to Open Session. Ms. Doi announced that Mr. Corcoran's performance review was unanimously adopted. Mr. Obando made the motion and Mr. Kassakhian seconded the motion. Ms. Doi thanked Mr. Kuhnert and Mr. Kassakhian for their work on this matter.

17. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 12:13 p.m.

Submitted by 

TIMOTHY M. CORCORAN
Executive Director

APPROVED: 
Kathryn Ellen Doi
President
New Motor Vehicle Board