

Spotsylvania County Tow Board

Meeting Minutes

April 26, 2012

I. Call to order

Arrend Hoopes called to order the special meeting of the **Spotsylvania County Tow Board** at **2:13** on **April 26, 2012** in **Spotsylvania County Sheriff's Office Public Meeting Room**.

II. Roll call:

The following board members were present: Lt. Arrend Hoopes (SSO, Chairperson), Bill Marrs (Bill's Service Center, Vice Chair), Paul Stephens (Coleman Towing), Deputy C. L. Tudor (SSO), Keith Campbell (Campbells Towing), Kevin Maxwell (Citizen Member), **Trooper Keith Hairston - Absent**

The following members were in attendance on behalf of Spotsylvania Co: Brandy Law (Spotsylvania Co. Atty. Office), Deputy B. Blackington (SSO), Dep. S. Noakes (SSO)

The following members were in attendance on behalf of Ashby's Garage Inc.: Ashby Powell (Ashby's Garage Inc.), James Sites (Frog and Towed/Ashby's Garage Inc.)

The minutes of the meeting were recorded by: Jenni L. Mastin (SSO)

III. Approval of minutes from last meeting

No minutes from the last meeting were read since this meeting was a special meeting. This meeting did not require reading of minutes from the previous meeting.

IV. Open Issues

- a) Are Ashby Powell and James Sites representatives of Ashby's Garage Inc. in violation of Spotsylvania County's Towing Service Agreement?

MEETING MINUTES:

Meeting called to order at 2:13 by Hoopes asking if anyone had any public comments- at that point no one made any indication to ask any questions.

Hoopes announces the topic: Issues with Ashby's Garage and Sale of the business. Dep. Noakes will discuss first issue at hand.

Hoopes announces the meeting with Ashby's Garage is closed at this point and terms explained by Hoopes and that attendees that are not witnesses or involved in the case will be asked to leave the room.

Attendees clear the room at 2:15 – Meeting began back at 2:17 – Noakes asks Powel and Sites to come forward so they can be presented information

Noakes states at last meeting Powell and Sites were asked to provide information about the status of their company, there had been a lot of title changes, and announcements made in the City as to the sale of the company. At the end of the meeting on March 15, 2012 the board required Ashby's Garage to provide information to the Co. Attorney so the situation could be accessed.

A week later a meeting was scheduled between Powell, Sites, Brandy Law, Noakes and Hoopes, to accept information about the incorporation and status of the company. Nothing tangible was provided as requested by the board or SSO. Instead they sought legal advice which could not be provided. Sites and Powell were advised to contact their attorney and contact the Co. Attorney on a later date and provide the information as to if the business had been sold or not.

On April 5, 2012 after the documentation was not received, Noakes issued a notification of suspension for the company (the letter is then presented to the board). It indicated Ashby's would remain suspended until they became compliant or until today's meeting.

A day or so after the suspension, the Co. Attorney's Office received minutes for the board of directors meeting for Ashby's Corporation. (Board was provided copy of minutes) The minutes show a meeting was called to order to address the owner of the corporation Ashby's Garage Inc. In the minutes it show's Ashby Powell as the President with Sites showing a willingness to serve as President of the Corporation. Noakes advises there are only 3 board members present according to the copy of minutes provided by Sites and Powell.

Noakes refers the board to the back of the packet provided, Code of VA Article 13.1, and explains, this is controlled by State Corp. Commission, and it shows guidelines when issuing orders and setting up Corporation meetings and it discusses having not less than 5 members managing the Corporation. The minutes from Ashby's only show 3 members at the meeting.

Noakes goes on to state; James Sites was never added to Corp. as he was required by county ordinance. The ordinance states the Sheriff must be notified when people are added, it changes the application provided to the Sheriff. Information on this can be found in section 12-228 par. II. When you add someone you have to notify the Sheriff. James Sites suddenly appeared in the operation of Ashby's, this puts them in violation of that section.

Noakes then directs the board to paragraph 3a - The name of a tow business and name in which it does its business. He explains, this is how vehicles are to be labeled. If they are going to run an interstate commerce the name has to be on the DOT number matching the person or company who owns Ashby's Garage. He further states, they can label trucks with Ashby's name but not the DOT number. Having this information per Noakes makes this a new company. He states that there is a new Corp. President in Ashby's Garage but we (Spotsylvania County) have no notification indicating a new president running that company. Corporations can change members around but there is a difference between a quick sale and a merger.

Noakes then goes on to state, there is a new corporate president in Ashby's and Spotsylvania County was not notified, and there is no statement of document of this. He (Sites) was not signed as a president of Ashby's. The owner of vehicles is Sovereign Bank. (The board is asked to pull their packets out and find the section on Sovereign Bank). They (Sovereign Bank) own all the trucks. Noakes then explains that when you go to DMV to apply for titles, they provide letters and information needed to title vehicles with DMV. Noakes directs the board to again look through their packets and bills of sales between Sites with Frog and Towed and Powell.

Noakes advised that the county had asked Sites and Powell, how many trucks were sold and they were never given an answer. He goes on to state, when you sell the trucks it creates new insurance policies under section 12-229 you have to provide insurance to us (Spotsylvania County) on your company, and if that changes or the policy changes, you have to notify the Sheriff's office, this was not done. Noakes explains, when you sell the trucks it creates new insurance policies and that it's not Ashby's anymore, it's James Sites. In order to have a contract w/ SSO you have to provide info for insurance to the SSO and they failed to notify us of this change, which occurred on or about Feb. 12, 2012.

Noakes contacted Betro for copy of insurance on all trucks. Betro sent Noakes, paperwork for Frog and Towed, at which point Noakes called and spoke with Mr. King at Betro who advised they (Sites and Powell) got new stickers issued. Noakes states that the SSO was never notified of this.

Noakes advised he passed an Ashby truck and it was displaying a sticker for Ashby's. So Noakes followed up with another call to Betro and spoke with Barbara Drudge. He requested insurance info for the trucks, when he received the insurance info and it was for Frog and Towed. The information received by Noakes shows Sites as the owner of all of the vehicles.

Sites asks to speak and is advised after Mr. Noakes presents his information Sites will have a chance to speak after all information is given.

We resume the meeting, Noakes presenting information as to the insurance and documents with insurance verification of different policy numbers between Ashby's and Frog and Towed. All the information is presented and Noakes states the conflicting information he has been receiving from Betro. Mr. King is saying one thing and Ms. Drudge is saying another. Deputy Noakes states Powell won't cooperate and say who owns the business.

Noakes states, Mr. Sites opened in Jan. 2012 to do buyout on the vehicles and the corporation. Noakes states, he believes, the sale of the Co transpired on Feb. 21 before Mar 15 meeting. In order for Powell to use vehicles a copy of master lease has to be in every vehicle he has and SSO has not been provided this information as requested.

Noakes then provides information where he spoke with a former employee who provided pay stubs. (The stubs are presented in the packets the board has been given). Noakes states that Ashby's Garage paid this employee on Feb 3, 2012. On the following pay day the check was paid out by Frog and Towed account, which clearly shows that Sites has taken over the business back in February not later as papers indicate on the minutes that Sites and Powell provided. This company is a new company taking Co calls without a contract with the Sheriff.

Noakes then addresses the board with 12-231 which states, Retro stickers are not transferrable. You cannot transfer them from one owner to the next. Noakes explains, that on several occasions an SCC permit was asked for by the Co Atty. and this was not provided at any time by either Sites or Powell.

He further addresses the board and states that everything before them, with the exception of their board minutes, we had to go and find because this company would not cooperate, with us. He further states, this new company and they had ample time to provide any documentation to prove that Sites was on the board before then but didn't notify the SSO.

One other item to Noakes brings forward is that as a tow enforcement officer and if he finds that a company is not in compliance with these ordinances, he can suspend towing immediately and does not have to give a 10 day notice, its immediate. He then states this can be found under section 12-234. He explains it gives him that authority and companies have 10 days to comply or they can be off the list. In closing he adds, this is a new company and is operating as a new company James Sites owns this company and I ask that you remove them from the tow list

Paul Coleman poses the question if this is every vehicle they own and is it possible there may not be 2 trucks out there as Ashby's?

Noakes responds that there may be, but states because of the sale of the company is it not their responsibility to prove what is left in their fleet, James Sites took over this company, it was a buy- out it was not a merger, it was a buy- out.

Sites request to know if there is there a fax he can have some documents faxed to. He states the trucks are registered to Ashby's Garage now. He then states he will not lie he wants to lay everything on the table. He states he feels as if this has been a witch hunt and this ordeal has gotten way out of hand. He states that at one point the trucks were registered to him while they were trying to figure out how to handle the situation. Mr. Sites goes on to state that Ashby approached him in November about purchasing the company, and he states he has been running the Company since February. Sites goes on to state after the purchase of trucks and they figured out this is not the way it was to be done. So they decided to become partners,

everything is 50/50. He then states, it took us longer than it should have. The trucks have been registered back to Ashby's Garage, and we need to understand what we need to do to be 100 percent legit.

Ashby Powell then states to the board that he still has insurance on Ashby's Garage Inc. that has been there since the beginning.

Sites, then goes on to state that all 7 of the Ashby's Inc. trucks are registered in the Ashby's Inc. name it was done last week. He states they are not trying to "pull the wool over anyone's eyes" he just wants to be 100% legit. He states he has been to the office (Spotsylvania County) and tried to do what is right and get guidance and help and now things are finalized. He and Powell are 50/50 partners. He then states he is willing to provide any information we want. He states, he can't undo what has been done, but wishes to move forward.

Ashby Powell then states that the board gave until 26th, and that he and Sites, came out and met with the county. He states he had approached Noakes and Blackington in November and told them he was thinking of selling and asked what did he need to do. He states he was advised by Noakes to wait until new Sheriff took over. He states he came out 2 or 3 times in Jan. and 2 or 3 times in Feb. and asked for a meeting with Sheriff and Co Atty. He then advised it was 1 hour prior to the last meeting he was advised Noakes was filing a complaint. Ashby Powell states they kept notes and kept the SSO in the loop of what they were doing. He states they had an agreement in each truck until they found out it wasn't the proper way and we fixed it.

Sites then begins to address the issue of the paychecks. He states that the individual whom the stubs were received from was an employee of Frog and Towed the only people who have run any police calls is Ashby Powell, himself (James Sites) and Desiree. He then explains now that everything is registered back it is a nightmare but Frog and Towed employees are paid by Frog and Towed and Ashby's employees are paid by Ashby's Garage Inc.

Sites advised that he and Powell had talked with two separate Attorneys, and one says there was no problem. He further states, it's a learning curve, and it was never his intent to lie.

Deputy Tudor asks what happened with the info they were supposed to provide after the last meeting.

Powell states that they did not have the information back from their Attorney. Sites adds that the Attorney Powell was using has been having health problems, and his (Sites Attorney) is now handling it.

Powell and Sites ask if they can have some documents faxed, Hoopes advises we will grant them that and take a break while they get their information together.

Powell and Sites return @3:16 with a fax it is given to Law to look over. Law reviews the document and advised it is the minutes which have already been presented and discussed

earlier in the meeting. Hoopes reviews the document and offers the rest of the board an opportunity to view it as well.

Noakes is called forward and asked by Hoopes for a suggestion. Noakes states, he sees them as a new company and Sheriff does not have a contract and he request removal from the list until they are eligible.

Powell states that he does not feel it is a new company, and that he and Sites went back and corrected everything. He further states that he has served the County for 40 years and he has done this to the best of my knowledge, and he feels like he is a scapegoat in the learning experience.

Hoopes calls for private litigation between board.

Paul Coleman asks, basically what they sent you is they filed and they are a partnership/corp. and they are 50/50 now? So technically they are trying to come into compliance

Hoopes responds, under civil law would this be a new business even though the name has not changed.

Law states, you can sell shares of your corp. and it's still the same corp.

Campbell poses the question, does it make a difference they are LLC?

Law responds that she does not believe they are LLC.

Campbell responds, Frog and Towed is a LLC and Ashby's is incorporated.

Law explains that Ashby's is incorporated so he has shares, and it is her belief that Frog and Towed is incorporated now too.

Bill Marrs states, "I can put Inc. in my name it don't mean I am."

LAW states that they are incorporated; it's on file with the SCC

Paul poses the questions as to if it is a new company or just in violation?

Law states that she believes it is up to the board to determine and that they can suspend them for a year or terminate them.

Campbell asks, can you suspend them for 30/60/90 days

Hoopes states, it depends on if we are going to determine it's a new company. If it's a new company they have to re-apply after a year

Law states, that it's a legal corporation

Mars states, it's like trying to get a permit after building a house and all this stuff is manufactured (referring to the evidence presented by Noakes)

Tudor states that they were short on their meeting, and that they are not operating under the guidelines unless there were people there who were not listed on the documents provided.

Paul states that he believes Ashby was getting in trouble financially and James, saved the jobs of 16 by bailing him out, I understand they should have met with someone but this didn't happen.

Keith Campbell states that Ashby has been in business 40 years; he has volunteered and given his time. He then addresses the ordinance and that Ashby along with himself, helped write it. He states that we (towers who wrote ordinance) didn't think of this then when we were younger. He states they didn't think about getting old, or think about our kids taking over or this. He states, we didn't expect to get this we wrote this ordinance to help, but it's going to backfire unless it's changed. He states we messed up but it need to be changed you couldn't find a better person than Ashby Powell and states that Ashby is the one who cut people out of cars and helped ...the fire department when they didn't know how to do it, Ashby did it.

Paul discusses Ashby supporting him during a class even though Ashby was not in the class; he came out to support Paul. Paul states he agrees that Powell is in violation, and it needs to be addressed, but how should it be addressed? He asks, do we suspend or terminate...give them 30 days to comply but ultimately we are going to have to review this several times over the years. He states he is not for or against but, he thinks we need to take into consideration he has been towing 40 years lets deliberate what the penalty phase is.

Law: well someone should make a motion and advises, they can make a motion on what he is in violation of.

Marrs request to know what Noakes wanted and then states "him terminated?"

Hoopes asks who is running the business Ashby's or Frog and Towed?

Paul makes the suggestion that we call Powell and Sites in separately and ask them.

James Sites is called back into the room at 3:35 by Paul the question is asked by Hoopes, " are you the owner" and he (Sites) states he is the president and runs things generally on the day to day, that is what Ashby he states. He goes on to say Ashby wants to be able to walk away and do things when he feels the need. Sites states that he clears decisions with Powell and they talk. He then states, when he (Powell) is not there I run day to day operations.

Sites is escorted out and Powell is called in-

Powell is brought back in at 3:36. Hoopes poses question, "Mr. Powell are you the owner, and he states "yes sir 50 percent." Hoopes then asks, so day to day you run the business? Powell replies and states "no, I stepped down he (Sites) runs it day to day.

Powell exits the room at 3:38 and the board begins to discuss the question just posed to both Sites and Powell.

Hoopes then states that as chairman he feels this is a new business for Spotsylvania Co.

Law then asks if Hoopes would like to make a motion that they are in violation because they changed the towing agreement.

Billy Marrs then comments that Ashby's Garage does not have insurance according to documents provided by Noakes and he states, "They are not even insured."

Group discussion about insurance

Campbell addresses the board in reference to the insurance and states, "if he didn't pay his insurance a notification would be sent to the SSO and there is no way around that so there is insurance somewhere"

Hoopes: makes a motion that it's a new business based on his statement and they (Sites and Powell) changed agreement with Sheriffs Policy and violation of County's ordinance.

Tudor seconds the motion

All board agrees in favor of the motion with the exception of Keith Campbell who abstains from voting.

A brief discussion is brought up by Paul Coleman who also decides to abstain from voting on the first motion and suggests that a new motion be made.

All members withdraw first motion.

Hoopes makes an amended motion. He states, they are a business that is in violation of the towing service agreement. No notification of insurance, name change, multiple tows without towing service agreement, lack of notification to the sheriff's office, addition of partner and, failure to provide paperwork to the County Attorney.

All members are in favor of Hoopes motion.

Punishment discussions begin. Marrs poses one year. Campbell poses 60/90 days. Tudor poses from date of paperwork.

The board begins the penalty phase -

Addition of partner: Lack of notification - 60 days posed by Mars

Multiple Tows with no agreement: 90 days

Insurance Change: 90 days

After discussion, it is decided that Powell will be suspended from the tow rotation for 6 months.

In addition, Ashby Powell has to have had insurance as of 11/25/11 to 4/26/12 full inspection, and meet all criteria as outlined in the Sheriff's Towing contract and no alterations of the agreement which they have now. Final decision of board is 90 day suspension for insurance change in which all members are in favor of. An additional 6 months for violation of Towing Service Agreements in which all parties were in favor of.

Hoopes allows all towers back into the room for the regular meeting at 4:37 pm

V. Adjournment

Arrend Hoopes adjourned the special meeting at **4:37 pm**.

Minutes submitted by: Jenni L. Mastin

Minutes approved by: