

**Towing Board of Review**  
**SPECIAL MEETING**  
**Minutes**  
**April 18, 2012**

1. **Call to Order:** The meeting was called to order at 1:34 PM by Chairwoman, Kathleen Butler.

2. **Roll Call:**

Butler	P	Fullilove	P	La Fong	P
Child	P	Gaylord	P	Tenney	P
Copeland	P	Griffin	P	Wallis	P
Farres	P	Haugen	P		
Ferrero	P	Hunter	P		

3. **Recognition of Towers/Others in Audience**

<u>Name</u>	<u>Company</u>
Don Beatty	Gerlock Towing
Daryl Marsh	Retriever Towing
Dave Reichert	Speed's Towing
Tom Steigleder	ODOT

4. **Approval of the Agenda** - Debbie Haugen moved and Dick Griffin seconded approval of the agenda. **Motion passed, unanimously.**

5. **Appointment of the Presiding Officer** - Despite the absence of a request for a contested hearing, Ms. Butler said she wanted to follow procedure and asked if a Board member would like to volunteer as the presiding officer. Board members agreed to have Ms. Butler facilitate the hearing.

Ms. Butler turned the meeting over to Ms. Gaylord to introduce the allegations and evidence of contract violations involving Northwestern Towing, hereafter referred to as Northwestern.

6. **Report from the Towing Coordinator**

Ms. Gaylord said Northwestern entered the current contract as of October 1, 2008. At the March 21, 2012 meeting, information was presented to the Board regarding allegations made by James "Monte" Baker, a former employee at Northwestern. According to Mr. Baker, as of January 4, 2012, he was informed by Timothy Hilsinger, a Northwestern employee, that Baker's City-assigned employee number, 2170, was still being used by Northwestern, although Baker left the company the first week of June 2011. Ms. Gaylord explained that reporting to Tow Desk all pertinent information at the completion of the tow is a vitally important responsibility of the driver. The driver's identity is required information.

Ms. Gaylord said she informed Northwestern that the allegation would be presented to the Board at the March meeting and that they would be given the opportunity to refute the allegation. There were no representatives from Northwestern at that meeting.

Ms. Gaylord reported that she had received a request from Roscoe C. Nelson, Jr., an attorney representing the company, an opportunity to address the Board at a later date. Also at the March meeting, the Board unanimously voted to summarily suspend Northwestern for 30 days, pending a hearing. At such hearing any additional information and available remedies would be considered. Notice was sent to Northwestern and Mr. Nelson, informing them of the date and time of this special meeting of the Tow Board. Again, no representative from Northwestern attended the special meeting.

The Board was reminded that the 30-day suspension would end Friday, April 27, 2012.

Ms. Gaylord presented the following allegations:

- a. Northwestern continued to use James Baker's employee number, 2170, for tows performed several months after he resigned, in the first week of June 2011. Supporting information for this allegation included a written complaint from Mr. Baker via e-mail to Ms. Gaylord, and a letter from his current employer confirming his full-time status as of April 2011. Mr. Baker recollected performing a handful of tows but said he ceased completely in June. Additional information included a Tow Desk report that showed tows attributed to Mr. Baker before and after June, as well as randomly selected invoices dated before and after June that Ms. Gaylord requested from Northwestern. Mr. Baker confirmed via e-mail that two of the invoices were in his handwriting and two were not.

Ms. Butler asked if Mr. Baker was present. Ms. Gaylord said Mr. Baker couldn't attend the meeting because he was out of town for work.

- b. Northwestern failed to report that Mr. Baker was no longer an employee until they were notified by the Towing Coordinator on February 1, 2012 that she had received a complaint. Supporting information included monthly employee update reports dated January 2011 - January 2012. According to the company, Mr. Baker was hired in January. His name appeared on the February report and continued to do so for the following 13 months, until a "Notice of Termination" form was submitted on February 2, 2012, listing his last day as February 3, 2012.

Ms. Gaylord explained there are two ways to document employment changes: by making notations on the monthly report or, for more immediate action, by submitting a "Notice of New Hire/Termination" form.

- c. Northwestern misrepresented tows that were attributed to 2170 and alleged they were performed instead by Craig Tichrob (2202) and Brandon Johnson (2219). According to office manager Brandy Raquinio, drivers who couldn't remember their City numbers would call in and were mistakenly given number 2170.

Supporting information included a list of tows reported to Tow Desk that were performed by either Mr. Tichrob or Mr. Johnson. Ms. Gaylord found that in some cases, drivers used different numbers in the same day.

Ms. Gaylord also presented an e-mail she received from Tim Hilsinger, a former employee at Northwestern. Mr. Hilsinger claimed that the company often used eligible driver numbers in order for ineligible drivers to perform tows. Furthermore, eligible employees' names were kept on the employee list so that their numbers could be used. Mr. Hilsinger was not available to testify in person.

Discussion followed regarding the investigation and exhibits presented. The Board also discussed the sections of the contract that were violated: 3.41.4, 3.40.1, and 3.40.2 as well as the remedies provided by the Contract.

Ms. Butler entertained a motion to accept the report regarding Ms. Gaylord's investigation, including the exhibits. Ed Ferrero moved and Dick Griffin accepted the motion. **Motion passed, unanimously.**

Ed Ferrero moved that based on the evidence presented at the hearing on this date that the Board find that Northwestern Towing and Recovery submitted false statements of material fact and also omitted disclosures of material fact in their performance of the tow contract. Rebecca Child seconded.

Discussion followed the motion. It was pointed out that the motion should identify findings that relate to the contract citations mentioned above. **Motion was withdrawn.**

Ms. Butler entertained a motion regarding the first allegation that Northwestern continued to use the employee identification number of Mr. Baker, number 2170, for tows that were not performed by him. Ed Ferrero moved and Debbie Haugen seconded. **Motion passed, unanimously.**

Ms. Butler entertained a motion regarding the second allegation that Northwestern failed to properly report that Mr. Baker was no longer an employee.

Mr. Ferrero moved that the Board find that Northwestern failed to properly and timely report to the Towing

Coordinator when Mr. Baker was no longer working for them. Donald Hunter seconded. **Motion passed, unanimously.**

Ms. Butler entertained a motion regarding the third allegation that there were tows that were misrepresented as having been done by Mr. Baker, number 2170, that were later reported as having been done by Mr. Tichrob and Mr. Johnson.

Mr. Ferrero moved that the Board find that in response to the inquiry of the Towing Coordinator, Northwestern Towing and Recovery misrepresented information relating to the tows attributed to driver number 2170. Debbie Haugen seconded. **Motion passed, unanimously.**

Discussion followed regarding actions that should be taken.

Ed Ferrero moved that, with regard to section 3.41.4 in the contract, based on the evidence presented and the findings of fact made by the Board on this date that the Board determines that Northwestern Towing and Recovery made false statements of material fact in performance of the tow contract. Debbie Haugen seconded. **Motion passed, unanimously.**

Ed Ferrero made a motion that based on the evidence presented on this date and based on the findings of fact made by the Board that the Board determine that the tow contractor failed to immediately and adequately notify the Towing Coordinator when an employee was terminated. Debbie seconded. **Motion passed, unanimously.**

Ed Ferrero moved, based on the evidence presented on this date and the findings of fact made by the Board on this date, that the Board make a determination pursuant to Contract section 3.40.2 that the tow contractor repeatedly failed to provide a list of all staff persons registered with the Towing Coordinator for work on the towing contract. Debbie Haugen seconded. **Motion passed, unanimously.**

Ms. Butler asked if the Board wished to take further action based on findings of contract violations.

Ed Ferrero moved based on the evidence presented and the findings of fact and the determination of contract violations that the Board seek remedies under section 7 of the contract. Such remedies include unilateral termination of the contract between the Tow Board and the tow contractor, Northwestern Towing. Furthermore, the Board should determine under section 7.3.1.3 that it is appropriate, based on the findings on this date, that the tow contract with Northwestern Towing be suspended for a period of 60 days, in addition to the current suspension. Dick Griffin seconded. **Motion passed, unanimously.**

Ms. Butler said that Ms. Gaylord would prepare all appropriate notifications. Ms. Gaylord added that the termination notice reminds the tow contractor that they are obliged to follow the contract rules regarding the release of vehicles and reporting the release. Also, the tow contractor is reminded in the notice that the City has authority to remove vehicles should any problems arise. Ms. Gaylord referred to section 7.4.5 in the contract which states the tow contractor's obligations despite suspension or termination of the contract.

Ms. Gaylord also said that it has been her practice to prepare the notification of the Board's actions and circulate it with the Board before it's finalized.

The Board was reminded that Northwestern will have 10 days from the notice, to appeal the decision with the Code Hearings Office.

Tow Desk manager, Don Beatty, informed the Board that Northwestern had possession of four vehicles as of this date. The disposition of these vehicles may be discussed at the next meeting.

**7. Adjourn**

Ms. Butler entertained a motion to adjourn. Debbie Haugen moved that the meeting be adjourned, and Dick Griffin seconded. The **motion passed, unanimously**. Meeting adjourned at 3:06 PM.

**Minutes submitted by Jenny Farres: Regulatory Program Specialist**