

**METROPOLITAN NASHVILLE-DAVIDSON COUNTY
TRANSPORTATION LICENSING COMMISSION**

**Minutes of
March 22, 2011**

The Metropolitan Nashville-Davidson County Transportation Licensing Commission (the "Commission") met in regular session on this date at the Justice A. A. Birch Building. The Commissioners present were Chair Helen Rogers, Vice Chair Mary Griffin, and Commissioners Jennifer Brundige, Sam Patel, Ed Whitmore and Brian Winfrey (6). Also attending were Metro Legal advisor Corey Harkey and Brian McQuiston, Director-Executive Secretary to the Commission.

Vice Chair Mary Griffin called the meeting to order. She led the Pledge of Allegiance and read the Notice of Appeal statement, advising of the right to appeal decisions of the Transportation Licensing Commission.

The minutes of the January 25, 2011 and February 22, 2011 meetings were approved.

APPLICATIONS FOR WRECKER DRIVER PERMITS

Roger Cole: Director McQuiston reported that Mr. Cole had applied for a wrecker driver permit on February 15 to drive for A-1 Used Cars, a licensed general wrecker company. Referring to the results of Mr. Cole's background check, he noted that there had been two recent misdemeanor convictions. Mr. Cole appeared, but the company owner was not present. **Vice Chair Mary Griffin** stated that the Commission would allow more time for the owner to arrive, and would continue the hearing at that time. **Chair Helen Rogers** arrived.

Christopher King: Mr. King appeared. Director McQuiston reported that Mr. King had applied for a permit on February 22 to drive for West Nashville Wrecker Service. He stated that the TBI criminal court records check provided to the Commissioners had listed charges for Christopher Brandon King and for Christopher Raymond King, with different birthdates and different social security numbers; he stated that only the charges listed for Christopher Brandon King should be considered. The director noted that Mr. King's application indicated that he had 8 years of experience as a wrecker driver. Commissioners questioned Mr. King about his arrest history, which included domestic assault charges. He stated that he had driven a wrecker in Williamson County. Larry Boggs, manager of West Nashville Wrecker Service, appeared. He stated that he had performed a drug screen and had also checked with Mr. King's former employers. Mr. Boggs stated that the company did not have a position at the time, but would hire Mr. King when one came open in approximately two weeks, provided that his permit was approved. **Vice Chair Mary Griffin** moved to approve a permit for one year, restricted to West Nashville Wrecker Service. **Commissioner Jennifer Brundige** seconded, and the motion passed (5-0).

Alfred Carnahan Jr.: Mr. Carnahan appeared. Director McQuiston noted that the next three applications were for ALCAR drivers, and that these applications had been deferred by the Commission at the December 2010 meeting. He stated that Mr. Carnahan had applied to renew his wrecker driver permit on November 17, 2010. He provided Commissioners with the background check report. **Commissioner Jennifer Brundige** moved to approve the application. **Commissioner Brian Winfrey** seconded, and the motion passed (5-0).

Jonathan Fuqua: Director McQuiston provided copies of Mr. Fuqua's November 18, 2010 application and background check, and noted that since submitting the application Mr. Fuqua had also been convicted of assault in January 2011. He added that Mr. Fuqua had appeared before the Commission in the past, and he provided copies of the minutes of those meetings. The director stated that Mr. Fuqua had been employed at ALCAR for many years; when he lost his TN driver's license in 2007/2008, he was no longer allowed to operate a wrecker. The director noted that Mr. Fuqua operated a wrecker without a permit for Fuqua's Towing, which ultimately resulted in the revocation of that company's license in September 2010. Mr. Fuqua appeared. He stated that he had not driven without a permit for the past nine months. **Chair Helen Rogers** asked about the January assault charge; Mr. Fuqua responded that in August he had been driving through an apartment complex, looking for a car, and had been stopped by the security guard. He stated that he had pled guilty in January. Director McQuiston stated that the Davidson County Criminal Court record indicated that the arrest had been made on October 28. Mr. Fuqua stated that the incident had occurred earlier, but that they had actually arrested him in October. **Commissioner Ed Whitmore** asked Mr. Fuqua if he had attended anger management classes; Mr. Fuqua responded that he had done so in 2009. **Commissioner Whitmore** noted that he had continued to have problems even after attending the classes. **Commissioner Jennifer Brundige** noted that he had been cited for operating a wrecker without a permit. Mr. Fuqua stated that these were not tickets issued to him while he was working for ALCAR, but that they were received when he was driving for Fuqua's Towing. **Commissioner Brundige** asked him to clarify what had happened at the apartment complex. Mr. Fuqua corrected himself, and stated that he had been driving the Fuqua's Towing wrecker at the time, as a subcontractor. Director McQuiston asked if he was subcontracting for ALCAR at the time, performing a vehicle repossession; Mr. Fuqua responded that this was true. **Vice Chair Mary Griffin** asked Mr. Fuqua when his probation on the assault charge was to end; he responded that it would end in January 2012. **Commissioner Brundige** asked him what had changed since September. He stated that he would attend anger management classes and accept restriction to ALCAR. He stated that the assault was the first time that he had had an anger problem in a while.

Al Kozlowski, manager at ALCAR, appeared. **Commissioner Whitmore** asked if he would take responsibility for Mr. Fuqua. Mr. Kozlowski stated that he would not tolerate problems; he added that Mr. Fuqua had changed. Mr. Kozlowski argued that repossessions were unlike regular tows, and required a different type of driver. He stated that it was a dangerous business, and that it was normal for the industry to attract people who had a violent past, because they could protect themselves. Mr. Kozlowski stated that he had made it clear to Mr. Fuqua that he would not risk ALCAR's insurance. **Vice Chair Griffin** stated that having an additional arrest as recently as September did not indicate that he had changed. Mr. Kozlowski restated that this had not been under

his supervision. **Commissioner Brundige** asked Mr. Kozlowski what his position was at ALCAR; he responded that he was the manager, and had been there since August 2010. **Chair Rogers** stated that from 2001 until this time Mr. Fuqua had had very serious charges on his record almost every one-two years. She stated that Mr. Kozlowski would not be able to guarantee what Mr. Fuqua would do on the road. Director McQuiston stated that the Commission was very familiar with the dangers wrecker drivers faced when they perform nonconsent tows from private property, and that it was not so very different from repossessions; in both cases drivers were dealing with people who did not want their vehicles towed. The director stated that Mr. Fuqua had committed many of the offenses shown on his record while he was working for ALCAR in the past. Mr. Kozlowski responded that he had not been the manager at that time. The director stated that Mr. Kozlowski was not the owner, and could be fired; so he could not guarantee the Commission of Mr. Fuqua's future conduct. Mr. Carnahan, ALCAR owner, appeared. He argued that the dangers to which repossessors were exposed were unique. He stated that he trusted Mr. Kozlowski, who had the authority to fire any driver.

Commissioner Whitmore moved to approve a permit for one year, restricted to ALCAR, and holding the company responsible for him. There was no second, and the motion failed. **Vice Chair Griffin** moved to approve a permit for six months, restricted to ALCAR; to place Mr. Fuqua under probation for six months; with the additional condition that he also submit to random drug and alcohol testing, as directed by Director McQuiston. **Commissioner Brian Winfrey** seconded, and the motion passed (5-0).

Jason Swafford: Director McQuiston reported that Mr. Swafford had also applied for a permit on November 18, to drive for ALCAR. He provided copies of Mr. Swafford's application and background check, and noted that Mr. Swafford had also been cited by Inspector Deckard for operating an ALCAR wrecker without a permit in early December. The director stated that according to ALCAR company records Mr. Swafford had been employed by the company since at least 2005. Inspector Deckard reported that he had observed Mr. Swafford driving an ACAR wrecker in Davidson County, and had issued him a citation by mail. Mr. Swafford appeared. Referring to the citation issued for operating a wrecker without a permit, he complained at length about Inspector Deckard. He stated that the inspector had approached him while he was stopped with his wrecker at a gas station in Robertson County, and that the inspector had used profanity. Referring to his criminal background, he stated that he had made some mistakes in the past, but had paid the penalties for them. He complained that the staff had not acknowledged that he had held a wrecker permit in the past until the Wrecker Board was disbanded. Director McQuiston reported that files were not maintained on driver permits that had expired in the 1990s. Mr. Swafford argued that repossession business was dangerous, and cited examples of violence by people whose cars were being repossessed. Mr. Carnahan agreed.

Chair Helen Rogers stated that she agreed that profanity was not acceptable practice; she noted that from Mr. Swafford's description the conversation between him and the inspector likely had been overheated on both sides. Mr. Swafford stated that he had been as nice as he could be. **Chair Rogers** stated that his demeanor and statements at this hearing were not very persuasive. Mr. Swafford stated that his inability to get a permit was affecting his ability to make a living, and that he had never had to appear before the Wrecker Board before. Inspector Deckard referred to a map provided in the

Commissioner's packets, and explained that he had sighted Mr. Swafford within Davidson County. He admitted that he had used profanity following a very heated exchange, and he apologized to Mr. Swafford. **Commissioner Jennifer Brundige** asked Mr. Swafford when he had attended anger management classes; he responded that he had done so in 1996, following a domestic assault. Director McQuiston asked Mr. Swafford if he had been driving for ALCAR over the years when he had been arrested for the charges on his background check. Mr. Swafford responded that he had been working for ALCAR for 14 of the 17 years he had been driving a wrecker. He stated that he had been driving for ALCAR since 2005. He stated that he did have a permit until the Wrecker Board was disbanded. He added that he had continued to work for ALCAR, but that without a permit he had to repossess vehicles outside of Davidson County, and then have someone else transport them to ALCAR's Davidson County location. He clarified for **Commissioner Brundige** that he was an employee of the company, and not a subcontractor. **Chair Rogers** asked Director McQuiston if Mr. Swafford had been an employee at ALCAR since 2005, but did not have a wrecker driver permit during that period. The director responded that this was true. He stated that the company had been licensed the entire time, but Mr. Swafford had not been permitted. He noted that Mr. Swafford would not have been required to appear before the Commission during that time because he had not applied for a permit; and that until Inspector Bowling was hired and began issuing citations at the beginning of 2007, the staff did not have the means to compel unlicensed operators to become permitted. The director stated that beginning in 2001 the Metropolitan government had not enforced the wrecker ordinance because of a federal court decision, but had renewed enforcement after a Supreme Court ruling in 2003. **Chair Rogers** noted that news about the renewal of enforcement may not have reached everyone. Mr. Swafford stated that this had been the case for him.

Vice Chair Mary Griffin stated that she did not accept the argument that one had to be a violent criminal in order to work in the repossession business. She noted that there were many other dangerous professions, and she was very concerned that both the company management and its drivers had expressed that this attitude was acceptable.

Commissioner Ed Whitmore moved to defer the matter until the May meeting. There was no second, and the motion failed. **Commissioner Brundige** moved to approve a permit for six months, restricted to ALCAR; to place Mr. Swafford under probation for six months; with the additional condition that he also submit to random drug and alcohol testing, as directed by Director McQuiston. **Commissioner Whitmore** seconded, and the motion passed (3-1, with one abstention).

Roger Cole (continued): Director McQuiston noted that Jason Slate, owner of A-1 Used Cars, had arrived. Mr. Cole reappeared, with Mr. Slate. The director stated that there were concerns about Mr. Cole's background check, including two recent theft charges. Mr. Slate stated that he was aware of the two incidents, and was willing to hire Mr. Cole. Following discussion about the charges, **Commissioner Jennifer Brundige** moved to approve a permit until December 1, 2011, restricted to A-1 Used Cars, and to place Mr. Cole on probation until December 1, 2011. **Vice Chair Mary Griffin** seconded, and the motion passed (5-0).

APPLICATIONS FOR WRECKER DRIVER PERMITS AND GENERAL WRECKER COMPANY LICENSES

Kenneth Currie / All Around the Clock Towing: Mr. Currie appeared. Director McQuiston reported that Mr. Currie had submitted applications on February 1 for a new general wrecker service license to operate All Around the Clock Towing, and for a wrecker driver permit. He noted that Mr. Currie had twice been disapproved for a wrecker driver permit, in August and September 2009. Inspector Bowling reported that in the past two years he had issued Mr. Currie nine citations for operating without licenses and permits. He stated that Mr. Currie was always courteous, appeared in court, and had paid all of his citations. The inspector recommended approval of his applications, noting that he was limited to consensual tows. **Commissioner Jennifer Brundige** asked Mr. Currie if he was still required to attend NA meetings; Mr. Currie responded that he still attended approximately three meetings per week, but was not required to attend. Following discussion, **Vice Chair Mary Griffin** moved to approve the wrecker driver permit and the company license, to limit the company to one wrecker vehicle, and to place both the company and Mr. Currie on probation for one year. **Commissioner Brian Winfrey** seconded, and the motion passed (5-0).

Anthony Morton / A to Z Towing: Mr. Morton appeared. Director McQuiston reported that Mr. Morton had submitted applications for a new general wrecker service license to operate A to Z Towing, and for a wrecker driver permit. He stated that Mr. Morton had been cited for operating without the license and permits since submitting these applications, and that he had not provided evidence of the required liability insurance. The director provided copies of Mr. Morton's applications and background check. Inspector Bowling stated that Mr. Morton had been courteous when he issued the citations, and that the court date for the citations was April 27. Mr. Morton provided copies of recommendation letters. **Commissioner Jennifer Brundige** asked Mr. Morton to explain the four years of experience indicated on his driver permit application; Mr. Morton stated that he had driven for other companies, but had no permit during that time. **Chair Helen Rogers** asked him if he was free from drugs; he responded that he was. **Commissioner Brundige** moved to approve the wrecker driver permit and the company license, conditional upon provision of evidence showing required insurance coverage; to limit the company to one wrecker vehicle; and to place both the company and Mr. Morton on probation for one year. **Commissioner Brian Winfrey** seconded, and the motion passed (5-0).

TAXICAB DRIVER DISCIPLINARY HEARING: KHALID KHADER

Director McQuiston stated that this was a disciplinary hearing continued from the February meeting, based on an incident at the airport. He noted that Mr. Khader had held a taxi driver permit since August 2009. The director reported that in October a complaint was received from Marvin Sutton, Yellow Cab assistant manager, that Mr. Khader had been barred from the airport, and had then become verbally abusive to dispatchers and Mr. Sutton. He added that the Airport Ground Transportation office report on the incident was received in November, indicating that Mr. Khader had refused a ride to a customer on October 21, and that following an argument with the starter he

had been suspended from the Airport for thirty days. The director noted that refusing a ride to an orderly customer was a violation of Section 6.72.360 of the Metro Code.

Mr. Sutton appeared. He stated that he had been talking on the radio to drivers on October 21 when Mr. Khader interrupted and became verbally abusive on the radio. He stated that twenty minutes later, Mr. Khader arrived outside at Yellow Cab, where he continued the verbal abuse. He concluded that he had directed Mr. Khader to park the cab, and that Yellow Cab was terminating its association with him. Mr. Sutton stated that soon thereafter the airport starter contacted him and reported what had happened at the Airport.

Mr. Khader appeared. He stated that the problems had started at the airport, when a female passenger briefly got into his cab, but then asked where she could get a shuttle. He stated that he had asked an airport baggage employee to come and witness that she wanted to take a shuttle instead of his taxi. He stated that she then left his cab to make a telephone call, and he picked up another passenger and departed the airport. He stated that later he had heard that she had not been able to get a shuttle, and that the starter had charged him with refusing the ride. He stated that he heard this from Mr. Sutton, who was accusing him on the radio. Mr. Khader stated that Yellow Cab should provide tapes of the conversations. He stated that Mr. Sutton had also verbally abused him at Yellow Cab. He stated that he knew that short runs from the airport were just part of doing business, and that he expected one or two of them every day. He stated that the baggage employee at the airport had later confirmed to the starter that the passenger had left his cab to call for a shuttle, and at that point the starter had told him that he would receive only a 3-day suspension.

Vice Chair Mary Griffin asked Mr. Khader where he was currently working; he responded that he was starting at Checker Cab. Director McQuiston stated that he had not transferred his permit to Checker. Inspector Lawhorn stated that altercations at a taxicab company were not uncommon, but that the Airport Authority had a zero tolerance policy for them. He stated that thirty days' suspension from operating at the airport was typical for refusing a passenger. **Commissioner Brian Winfrey** questioned the severity of the incident at the airport, especially as the starter had been willing to reduce the suspension to only three days.

Following discussion, **Commissioner Winfrey** moved to restrict Mr. Khader's permit as follows: to prohibit him from driving a taxicab until he properly transferred his permit to another company. **Commissioner Sam Patel** seconded, and the motion passed (5-0).

OTHER BUSINESS:

Director McQuiston reported that the Traffic and Parking Commission had approved and installed four new taxicab stands.

There was no further business, and the meeting was adjourned.

ATTEST:

APPROVED:

Brian E. McQuiston
Director-Executive Secretary

Helen S. Rogers
Chair