

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

Minutes of
May 24, 2012

The Metropolitan Nashville-Davidson County Transportation Licensing Commission (the "Commission") met in regular session on this date at the Metropolitan Courthouse. The Commissioners present were Chair Helen Rogers, Vice Chair Brian Winfrey, and Commissioners Sal Hernandez, Rhonda Marko, Sam Patel, and Curt Wallen (6). Also attending were Metro Legal advisor Theresa Costonis, and Brian McQuistion, Director-Executive Secretary to the Commission.

Chair Helen Rogers called the meeting to order. She welcomed Rhonda Marko to the Commission, then 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 April 26, 2012 meeting were approved.

REPORTS FROM LEGAL ADVISOR

Legal advisor Costonis stated that at the April meeting she had been asked to provide the Commission with information, primarily concerning enforcement authority. She stated that this information had been provided in the form of attorney-client communication, and was therefore confidential.

Chair Helen Rogers stated that the Commission had just received a report from Human Resources Director Rita Roberts-Turner, and would consider that report at a later meeting. She stated that this report would be made public. Commissioner Sal Hernandez moved to set a special meeting to consider how to respond to both reports. Commissioner Curt Wallen seconded, and the motion passed (4-1).

PUBLIC HEARING: PROPOSED AMENDMENTS TO OTHER PASSENGER VEHICLES FOR HIRE ORDINANCE AND RULES

Director McQuistion stated that the staff was presenting one staff proposal to amend the Metro Code Chapter 6.74, and two proposals to amend the Commission Rules on Other Passenger Vehicles for Hire.

Amendment of Metro Code Section 6.74.205: The director reported that Section 6.74.205 of the ordinance currently required that vehicles be titled and registered to the certificate holder. He noted that some companies operated vehicles which they leased, but did not own, and that the practice of the staff was to allow such leased vehicles, as long as they were registered to the company. He stated that this

continued to ensure that certificate holders would be completely responsible for all vehicles permitted under their certificate. He recommended that the wording be changed as below, to clarify that leased vehicles could be permitted, as long as they were registered to the certificate holder.

6.74.205 – Ownership of Vehicles

All vehicles permitted under this chapter must be titled ~~and~~ or registered to a certificate holder, except as authorized for special temporary service. For any other purpose, the use of rental vehicles as passenger vehicles for hire is prohibited.

Amendment to Commission Rule 2 (Other Passenger Vehicles For Hire): The director stated that current Rule 2 established procedures and requirements by which a certificate holder could request a waiver for a vehicle exceeding the maximum retirement age and mileage limits. He noted that the rule had not included a procedure and requirements for requesting a waiver for introducing a vehicle to the company's fleet for the first time. He stated that Section 6.74.230.D of the ordinance charged the Commission with establishing a rule for requesting waivers related to the whole Code section, as follows:

Section 6.74.230 - Vehicle age and mileage limit.

A. Effective January 1, 2012, except for a classic or vintage limousine or sedan, or as otherwise provided below, no vehicle to be operated as a passenger vehicle for hire shall be more than five years old at the time it begins service.

B. Effective January 1, 2012, except for a classic or vintage limousine or sedan, no vehicle to be operated as a passenger vehicle for hire may exceed the following maximum allowable age or mileage limits:

1. No limousine may be more than ten model years old, or have more than three hundred fifty thousand (350,000) miles on the odometer;
2. No sedan or SUV may be more than seven model years old, or have more than three hundred fifty thousand (350,000) miles on the odometer.
3. No passenger van or other passenger vehicle may be older than seven model years old, or have more than three hundred fifty thousand (350,000) miles on the odometer.

C. The MTLC is authorized to make a determination based on vehicle mileage and condition as to the acceptability of any vehicle to be rated as a classic or vintage limousine, and to make a determination as to the required replacement of those limousines.

D. The commission shall establish by its rules a procedure by which an affected holder may seek a waiver under this section.

The director proposed that Rule 2 be amended as below:

2. VEHICLE WAIVER

The following requirements apply to a certificate holder seeking a one-year waiver from the vehicle age and mileage limits contained in Metropolitan Code of Law 6.74.230:

- a. For waivers of limits in subsection 6.74.230.A:
 - the vehicle must not have been used as a law enforcement vehicle or taxicab prior to service as a passenger vehicle for hire
- b. For waivers of limits in subsection 6.74.230.B:
 - the vehicle must be in service as a passenger vehicle for hire at the time of the application;
 - the vehicle owner must file a waiver request annually no later than December 1;
 - the vehicle must not have been used as a law enforcement vehicle prior to service as a passenger vehicle for hire

Any vehicle granted a one-year waiver for either subsection will be required to have a mechanical inspection every six months, and the inspection report must be filed with the Commission.

New Rule 3 (Other Passenger Vehicles For Hire): Director McQuiston stated that Section 6.74.080.A of the ordinance addressed changes of ownership and transfers of certificates, and allowed for the collection of a fee to make such application:

6.74.080 - Transfers—Fee.

A. No certificate may be sold, assigned, mortgaged or otherwise transferred, nor may there be any modification of ownership as to stock transfer, new or additional partners, etc., by a holder of a certificate without the consent of the MTLC. An application for a transfer shall be filed with the commission upon the payment of a nonrefundable fee in an amount to be established by the commission based upon the cost of processing the application and of the administration and enforcement of this part.

The director proposed that new Rule 3 (*Other Passenger Vehicles For Hire*) be established as follows:

3. FEE FOR TRANSFER OF CERTIFICATE

The amount of the nonrefundable fee to accompany an application to transfer or to modify ownership/partnership of a certificate of public convenience and necessity to operate a non-taxi motorized passenger vehicle for hire service shall be \$100. This will include the cost to conduct a background check on new owners/partners.

Director McQuiston added that all proposed changes had been posted on the Commission's web site, and that public notice had been given for the hearing.

Chair Helen Rogers opened the hearing for public comment:

Doug Ollis stated that he would hold his comments for a later hearing.

Abdirahman Shaba stated that he favored the proposals. He stated that he was concerned about livery vehicles operating at hotels like taxis. Chair Rogers stated that this was one reason that the Commission had produced the ordinance to regulate non-taxis, and that it was now a matter of enforcement.

There were no other comments, and the public hearing was closed.

Commissioner Sal Hernandez moved to approve the amendment to Rule 2 and the new Rule 3, as proposed. Commissioner Sam Patel seconded, and the motion passed (5-0).

Commissioner Sam Patel moved to approve the proposed change to Metro Code of Laws Section 6.74.205. Vice Chair Brian Winfrey seconded, and the motion passed (5-0). Chair Rogers noted that the amendment of Metro Code would be recommended to the Metro Council.

PUBLIC HEARING: PROPOSED AMENDMENT TO HORSE-DRAWN CARRIAGE RULE

Director McQuiston reported that current Horse-Drawn Carriage Rule 4 – Cessation of Operations for Adverse Weather Conditions prohibited normal carriage operations when temperatures are above 95 degrees Fahrenheit, and required that operators check the TDOT 511 telephone service for the official temperature. He stated that the 511 number did not provide temperature information on a regular basis. He added that temperature alone was less generally used as an indicator to determine whether operations should be curtailed during hot weather, but that heat index would be preferable a measure of stress on people and animals during summer months. He added that current heat index information is widely available during the summer months. The director proposed that Carriage Rule 4 be amended as follows:

4. CESSATION OF OPERATIONS FOR ADVERSE TEMPERATURE CONDITIONS

Carriage operations may not be conducted when temperatures are below 25 degrees Fahrenheit or there is ice on the road. Operations may not be conducted when the heat index as reported by the National Weather Service is ~~temperatures are~~ above 95 degrees Fahrenheit. ~~Official temperature will be as reported by TDOT 511.~~ Exceptions to this Rule may be granted by the Director, on a case-by-case basis, for special events only.

Chair Helen Rogers opened the hearing for public comment:

Johnny Smith stated that he was confused as to why the temperature was necessary for public safety. He stated that he thought animal control should be regulating this. Chair Rogers asked if he thought animal control staff should be patrolling downtown Nashville; Mr. Smith responded that they should. Vice Chair Brian Winfrey asked Mr. Smith if he thought a horse could operate above a heat index level of 95 degrees; Mr. Smith responded that it could for a period of time. He stated that he took the temperature of the horse and provided it with water, and explained how he could check the horse for dehydration. He added that humidity also mattered. Chair Rogers asked if he was in support of the proposal for changing Rule 4. Mr. Smith stated that it was important to allow an exception for weddings. Chair Rogers stated that the Rule already provided for such an exception. Commissioner Sam Patel asked if he had equipment to check for the heat index; Mr. Smith stated that he could do so with his cell phone.

Paul Morrison stated that he opposed the change. He stated that there had been no problems reported with the current Rule. He stated that he was also concerned about the heat index, and recommended keeping a maximum temperature.

There were no other public comments, and the public hearing was closed.

Chair Rogers asked the director why the change was necessary. Director McQuiston stated that having a reliable source for official temperature made it necessary to replace the 511 number. He stated that the National Weather Service used the heat index, which included the effects of humidity, as a means to provide information related to the stress of hot weather on people and animals. Commissioner Patel asked if consideration could be given to using a higher number than 95 degrees for the heat index. Director McQuiston responded that this could be appropriate; he had no recommendation for a different number. He noted that this had been done with the Rule in the past, when the minimum temperature had been reduced from 32 degrees. Vice Chair Winfrey stated that it was yet unclear whether a 95 degree heat index would be a danger to horses. Director McQuiston suggested that the matter could be deferred to allow time to determine what heat index level would be considered a dangerous level.

Vice Chair Winfrey moved to defer the decision for one month, to allow the staff to consult with animal control and report back to the Commission on an appropriate maximum heat index level. Commissioner Patel seconded, and the motion passed (5-0).

APPLICATION FOR GENERAL WRECKER SERVICE LICENSE: A & L AFFORDABLE TOWING

Director McQuiston reported that Lawrence Jones had appeared before the Commission with applications for a general wrecker company license and a wrecker driver permit in August 2011. The director stated that the Commission had approved the driver permit, with several restrictions; but had deferred the application for the company license for six months. He noted that six months had passed, and Mr.

Jones had requested a hearing on his company application. The director stated that although Mr. Jones' wrecker driver permit was approved at the August hearing, he had not paid for or picked up the permit and had not been able to find work as a driver for any other wrecker company. He provided a copy of Mr. Jones' company license application and the results of the background check from his August 2011 driver permit application.

Mr. Jones appeared. Chair Helen Rogers asked about his efforts to find employment with other wrecker companies; Mr. Jones responded that he had a full-time job, and that he had not been able to find appropriate part-time work as a wrecker driver. Chair Rogers asked how he would be able to operate a company; he stated that he would be able to cut his part-time hours to focus on his own business. Chair Rogers asked if he owned a wrecker; Mr. Jones responded that he did, but that the man he had bought it from was still using it pick up vehicles from auto auctions. Director McQuiston asked him if the man using his wrecker was operating his business in Davidson County; Mr. Jones stated that he was. The director advised Mr. Jones that the man should not be operating a wrecker unless he had a license, insurance and appropriate permits. Chair Rogers told Mr. Jones that there was concern about his criminal record and the fact that he did not have experience operating a wrecker, and that was why the Commission had provided him an opportunity to get that experience and prove himself before going into business on his own. She asked him where he was going to operate his business; Mr. Jones stated that he planned to work from home. Director McQuiston advised Mr. Jones to check with the Codes Department before assuming that he could operate a wrecker from his home.

Commissioner Sal Hernandez moved to disapprove the application without prejudice. Commissioner Curt Wallen seconded, and the motion passed (3-2).

APPLICATION FOR BOOTING SERVICE LICENSE: NASHVILLE BOOTING, LLC d/b/a RE-BOOTIT

Director McQuiston reported that this was a hearing on an application for a new booting service license from a company operating businesses in Atlanta. He noted that the Booting ordinance – Metro Code of Laws Chapter 6.81 – required that all company applications come before the Commission for a hearing. The director stated that on April 4, 2012 the application was received from Nashville Booting, LLC d/b/a Re-Bootit. He stated that the application was in order; but there were some items that needed clarification by the company's representative. Chair Helen Rogers invited him to proceed.

Mike Davenport appeared on behalf of Re-Bootit. Director McQuiston asked Mr. Davenport if he understood the restrictions on towing of booted vehicles; Mr. Davenport responded that he did. Director McQuiston asked if the company would use a vehicle in its booting operations; Mr. Davenport responded that it would use a 2006 GMC Sierra. Director McQuiston reminded him that it would have to be inspected for lettering. The director noted that the company had provided the Commission with a copy of its receipt form, which included spaces to identify the booted vehicle (Make/Model and VIN or tag number). He stated that these would assist in complaints and protect against false damage claims. The director reminded

Mr. Davenport that, if the application were to be approved, the address and telephone number on the notice and the receipt would have to be changed, and the signage on all lots would have to be inspected prior to issuance of the license.

Commissioner Sal Hernandez asked how many parking lots were going to be patrolled by Re-Bootit. Mr. Davenport responded that the company would be starting with five lots.

Commissioner Rhonda Marko moved to approve the application. Vice Chair Brian Winfrey seconded, and the motion passed (5-0).

APPLICATION FOR WRECKER DRIVER PERMIT: MICHAEL COPELAND

Director McQuiston reported that Mr. Copeland had applied for a wrecker driver permit on April 20. He provided Commissioners with a copy of Mr. Copeland's application and background check, as well as copies of Commission meeting minutes related to Mr. Copeland's history of previous disciplinary hearings. The director stated that Mr. Copeland was applying to drive a wrecker for Express Towing. He noted that the company was approved to do nonconsent towing, and was owned by Craig Allen Mann, who had identified Mr. Copeland as his uncle.

Mr. Copeland appeared with Mr. Mann. He stated that he had been out of the wrecker business for a long time, and wanted a second chance. Chair Helen Rogers expressed concern that he had been arrested over 20 times between 1980 and 2000. Vice Chair Brian Winfrey added that he was concerned that so many of the arrests had been for assaults, especially in consideration of the interactions with the public that could be expected if he were to be involved in nonconsent towing. Chair Rogers asked if he had attended anger management classes. Mr. Copeland responded that he had, three or four years earlier. He stated that these had been domestic issues, and he had learned to call the police or walk away. Mr. Mann stated that Mr. Copeland had been working at the company's lot and going on service calls for the past two years. He showed a photograph of the van used when performing the service calls. He stated that there had been no customer complaints about Mr. Copeland, and that the company had even received some good reports. He stated that he had known Mr. Copeland all of his life, and was willing to give him a chance. Vice Chair Winfrey asked if Mr. Copeland would do nonconsent tows. Mr. Copeland stated that he did not want to do any nonconsent tows. Mr. Mann stated that the company's other drivers could do those, but Mr. Copeland could still do lock-outs and service calls. He then added that Mr. Copeland might be called upon to do nonconsent tows, but that he believed Mr. Copeland would do the right thing. Chair Rogers stated that it appeared Mr. Copeland was doing well now, and asked why it was necessary to do something different. Mr. Mann responded that Mr. Copeland's value to the company was limited if he did not have a permit, because he was not able to test drive a wrecker or to help out if business calls demanded another driver. Mr. Mann stated that his own criminal record was bad, but that he had been given a second chance. Commissioner Sam Patel noted that according to the Commission's October 2007 meeting minutes, Mr. Copeland had stated that he had

attended anger management classes in the 1990s. He asked Mr. Copeland how many times he had gone to anger management. Mr. Copeland responded that he had only attended one 52-week course – he stated that he could not remember exactly when. Commissioner Rhonda Marko asked about a 2006 violation of an order of protection. Mr. Copeland stated that he had been living with someone, and had sent some people to pick up some of his belongings. He denied that there had previously been an order of protection filed, but added that he had acted on his attorney's advice to plead guilty in order to avoid a jail sentence in Murfreesboro. Chair Rogers asked about a 2005 simple assault charge. Mr. Copeland responded that he could not remember it. He stated that he was trying to forget the past. Vice Chair Winfrey stated that he would like to see Mr. Copeland reapply in another 18 months, if he could avoid any more arrests, and moved to disapprove the application without prejudice. Commissioner Patel seconded, and the motion passed (4-1).

REPORT ON MAYOR'S BUDGET IMPACT

Director McQuiston reported that the Mayor's budget had been submitted to the Metro Council. He stated that it did not include additional resources for the Commission in FY2013. The director added that the Finance Department had conducted a review of all Commission fees, including taxi-related fees.

OTHER BUSINESS

Director McQuiston reported that the annual taxicab inspection program had recently been completed, and that inspectors would be working downtown and at LP Field throughout the CMA Music Festival in early June. He stated that this was the most stressful period of the year for the inspectors, but added that the week of the CMA festival was also the most profitable period of the year for taxi and other passenger vehicle-for-hire business.

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

ATTEST:

APPROVED:

Brian E. McQuiston
Director-Executive Secretary

Helen S. Rogers
Chair