

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

**Minutes of
November 15, 2011**

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 Vice Chair Brian Winfrey and Commissioners Jennifer Brundige, Sal Hernandez, Sam Patel, Tom Turner and Curt Wallen (6). Also attending were Metro Legal advisor Jenny Howard and Brian McQuiston, Director-Executive Secretary to the Commission.

Vice Chair Brian Winfrey welcomed new Commissioner Curt Wallen and called the meeting to order. He 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 October 25, 2011 meeting were approved.

PUBLIC HEARING: PROPOSED NEW RULE (PASSENGER VEHICLES FOR HIRE): VEHICLE WAIVER REQUESTS

Director McQuiston presented a proposal for a new Rule to establish requirements and a process for non-taxi certificate holders to request waivers for vehicles exceeding the maximum age and mileage limits, as specified in the Other Passenger Vehicles For Hire ordinance. He stated that the age and mileage limits would go into effect in January 2012, and that the staff anticipated receiving a large number of these waiver requests in December. He stated that public notice had been given for the hearing, and read the proposed new Rule:

RULE 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:

- **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 commercial or law enforcement vehicle prior to service as a passenger vehicle for hire;**

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

The director added that there had been confusion about the use of the term “commercial vehicle” in the third bullet point, and he requested that the words “commercial or” be deleted from the proposed Rule. The director noted that there was a similar process in the Taxicabs Rules.

Vice Chair Brian Winfrey opened the hearing for public comment.

Rick Williams requested that the proposed Rule be changed to require the mechanical inspection only every six months.

Aubrey Haley requested that the proposed Rule be changed to require the mechanical inspection only every six months or based on mileage.

Al VanPliet agreed that a mechanical inspection every six months would be appropriate.

Ali Bokhari stated that semiannual inspections would be appropriate, adding that mileage limits would be preferable to age limits. **Commissioner Jennifer Brundige** asked him how many miles his vehicles accumulated in a six-month period. Mr. Bokhari stated that it depended on the business of the company and the type of vehicle used; a limousine might drive 10,000 miles per year, but a livery sedan might drive up to 50,000 miles during the same period.

Adonis Jarmon agreed that semiannual inspections were appropriate. He disagreed with a mileage schedule because his company operated between the airport and Fort Campbell, his vehicles put on up to 80,000 miles per year. **Commissioner Brundige** asked him how often his vehicles were serviced by a mechanic; he responded that this was done on a monthly basis. **Commissioner Sam Patel** asked if the ordinance 350,000 mileage limit was a problem for his business. Mr. Jarmon responded that some diesel engines could run longer.

Tim Cassety stated that one inspection was already required, and that would be sufficient. **Commissioner Brundige** asked him about his maintenance policy. He stated that he had a mechanic who inspected his vehicles every month.

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

Commissioner Brundige asked Director McQuiston if a company’s regular maintenance inspections could qualify as meeting the requirement for mechanical inspections. The director responded that it would depend on the mechanic’s qualifications and the extent of the work done, adding that it would make sense to get the most benefit from these inspections. He agreed that a semiannual inspection requirement could work. He noted that the ordinance already required one annual mechanical inspection for all vehicles, so adding only one more inspection per year for vehicles exceeding the maximum age or mileage limits would be minimal.

Commissioner Tom Turner moved to approve the proposed Rule, with the following changes: deleting the words “commercial or” from the third bullet point, and changing

the requirement for mechanical inspections from “every four months” to “every six months”. **Commissioner Curt Wallen** seconded, and the motion passed (5-0).

ANNUAL TAXICABS PUBLIC HEARING

Director McQuiston stated that the annual public hearing was required by the Metropolitan Code to hear applications from current Certificate holders for additional taxicab permits and new applications for Certificates. He stated that applications for new company certificates had been received from three companies:

- Volunteer Taxi – 80 permits
- Green Cab, Inc. – 50 permits
- Green-lite Taxi Cab Service, Inc. – 20 permits

The director reported that applications from current certificate holders for additional vehicle permits also had been received from four companies:

- Checker Cab - 40 additional permits
- Allied Cab – 26 additional permits
- Nashville Cab – 10 additional permits
- Diamond Cab/1-800-TAXICAB – 4 additional permits

The director stated that in addition to these applications the annual public hearing would include a public hearing on a proposal to amend the Commission’s Taxicab Rules to allow advertising on the hood of the cab.

The director asked the Commission to make a decision on whether any more taxicabs were needed prior to considering individual company applications. He stated that the staff would make a presentation. **Vice Chair Brian Winfrey** noted that the Convention and Visitors Bureau also had information to be presented to the Commission in this regard. Director McQuiston noted that the Commissioners’ packets also included information provided by the Airport, which indicated that although the number of taxi departures from the ground transportation area had recovered and was above the peak level achieved in 2007, there was no shortage of taxicabs at any time, and the only significant impact had been that the wait for taxi drivers in the holding area had been reduced.

Director McQuiston reported that there were currently 585 taxicab permits, and that during the last nine years the number of permits had increased by almost 40% - from 419 in December 2002. He referred to data provided by the Airport and noted that although the number of departure trips by taxicabs had increased to its highest level ever in FY2011, the impact of the greater percentage increase in the number of taxicabs was that the average number of airport departures per taxicab had declined, and was still lower than any year prior to 2007. The director summarized that despite last year’s recovery of tourism implied by the airport’s trips data, there was still less airport-related business for the average taxicab driver than there had been for many years prior to the recession.

Terry Clements of the Nashville Convention and Visitors Bureau appeared. He reported that the effects of the recession beginning in 2008 and the 2009 flood had seriously hurt the hospitality and tourism industry, but that it had recovered and 2011 was proving to be one of its best years. He provided information showing that hotel occupancy tax collections and hotel room demand levels had increased dramatically.

He noted that the new Music City Center was due to open in March 2013, and provided the list of the definite bookings already scheduled for the new Convention center. He emphasized that the impact of its opening would be to double the number of hotel rooms that could be booked in Nashville. He expressed appreciation for the recent key role played by of a Nashville taxi driver in convincing a visiting planner to switch a multi-year meeting contract from New Orleans to Nashville. Mr. Clements noted that in addition to the new convention center, hotel construction and renovation projects were underway which would increase the number of hotel rooms by 5%. He stated that the combined effect of these efforts would be to increase the demand for transportation services. He expressed concern that delaying an increase in the number of taxicab permits until the next annual taxicabs public hearing in November 2012 would be too late to ensure that additional taxicabs could be placed into service and additional drivers could be trained before the March 2013 opening of the Music City Center. Mr. Clements added that the CVB supported advertising on taxicabs.

Director McQuiston stated that his primary concern was that the number of permits could not be increased without increasing the resources of his staff; otherwise it could impact adversely on public safety. He pointed to the fact that there was still only one taxicab inspector position – and that this had not changed in over 70 years, while the number of taxicabs requiring inspections and monitoring had increased by hundreds. He noted that the Commission staff had been able to add one inspector and one office staff position in FY2011 to support regulation of non-taxi passenger vehicles for hire; but he added that the staff was still involved in trying to bring those companies, vehicles and drivers under regulation. The director stated that the decision by the Commission in September not to lower the ten-year-old maximum age limit for taxicabs meant that there would have to be a greater emphasis on inspection and monitoring of old vehicles. He also stated that it would take more than an additional taxicab inspector to handle the many other aspects of supporting more taxicabs; he noted that there were additional workloads associated with licensing/permitting, revenue processing, insurance monitoring, reporting, complaints/disciplinary issues, court hearings, and other requirements that must be done by the rest of the staff. He cited the record of achievements by the staff while it had absorbed greater workloads over the past seven years, and stated that it was no longer possible to increase requirements without jeopardizing the staff's effectiveness to meet its public safety responsibilities. The director concluded that any increase in the number of taxi permits must be preceded by appropriate increases in staff resources.

Commissioner Jennifer Brundige asked about the process to request more resources. The director responded that the budget process for the next fiscal year would begin next month. He stated that this was a timely issue, because – as the Convention and Visitors Bureau had pointed out – the Music City Center would be opening during the next fiscal year, FY2013. **Commissioner Brundige** clarified that FY2013 would start on July 1, 2012. Referring to the CVB concerns about waiting for a decision about more taxicab permits until the November 2012 annual taxicabs public hearing, the director noted that the Commission could move the date of the 2012 annual taxicabs public hearing; but he expressed concern that any decision about budget needs for FY2013 could not be delayed until then.

Vice Chair Winfrey invited public comment:

Councilwoman Karen Johnson supported the application of Volunteer Taxi for a new Certificate.

Maurice Harris, driver, opposed additional companies or permits.

Klaus Donnert, driver, opposed additional companies or permits.

Zemi Mallah supported the Volunteer Taxi application.

Doug Trimble, taxi company manager, opposed the issuance of more permits.

Nur Ali, driver, opposed additional companies or permits.

Hassan Tofari, driver, opposed additional companies or permits.

Zaima Abebe spoke about requirements that resulted in expenses for drivers, but not companies.

Mike Kaiser, driver, opposed more permits unless companies would not increase the amount of the charges to drivers.

Robbie Mann, company representative, opposed additional permits until after 2013.

Delalegn Ambaw, driver, supported the Volunteer Taxi application.

Jerry Lee, representing the Metro Nashville Taxi Driver Alliance, opposed any more permits or new certificates.

Mohamed Youssuf, driver, opposed additional companies or permits.

Godwin Poima, driver, opposed new certificates, but supported additional permits for Checker Cab.

Kisset Kamas supported the Volunteer Taxi application.

Wondimu Borena, driver, supported the Volunteer Taxi application.

Suleiman Yusuf, stated that he was opposed to more taxicabs; but if more were to be approved, he would prefer that they go to new companies.

Michael Delalegn supported the Volunteer Taxi application.

Igra Alem Balacho supported the Volunteer Taxi application.

Jessie Harris, driver, opposed additional companies or permits.

Adugna Denbel, driver, supported additional permits and the application of Volunteer Taxi.

Sileshi Dejene supported the Volunteer Taxi application.

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

Vice Chair Winfrey invited the applicants to appear.

Paul Soper, attorney, appeared on behalf of Volunteer Taxi's application for a new certificate. He stated that the director's concerns about staffing should not be a consideration in determining the answer to the specific question of whether more taxicabs were necessary. He also stated that opposition from other companies and their drivers who were not requesting more permits was the traditional response from non-applicants, and it should not sway the Commission's decision-making. He stated that the CVB had provided evidence that the need was increasing, and he added that there had been a 10% increase in the population of residents since 2007, when the Commission had last approved an increase in the number of permits. He stated that Volunteer Taxi, if approved, could be operational – with taxis on the streets – in 30 days. He addressed the concern about older vehicles, stating that with more income in their pockets Volunteer owners would have more to spend on upgrading and replacing their cabs. He asked that the Commission consider taking permits from the existing companies to enable the approval of permits for Volunteer Taxi. Concluding, he expressed concern about retaliation against drivers who had joined the company.

Melinda Grant appeared on behalf of Green Cab, Inc. and its application for a new certificate. She explained that the company intended to start the first all-green taxi company, fielding hybrid vehicles and vehicles converted to compressed natural gas, propane, biofuels and fuelflex fuels. She stated that the company had its finances already arranged, had a lease on a building, and if approved the company could be operational in six months. She provided a letter of support from Green Cities.

Greg Mazza appeared on behalf of Green-lite Cab's application for a new certificate. He stated that the company would provide an all-hybrid fleet. He stated that the company's profits would be used to support New Transitions, a nonprofit organization assisting young homeless people to obtain education. He stated that the application did not include a financial report; but he stated that the enterprise, if approved, would attract investment.

Checker Cab owner Mulugeta Abebe and company manager Brandy Dismang appeared to present an application for additional permits. Ms. Dismang recited the qualitative improvements the company had made in recent years, to include an advanced digital dispatch/vehicle management system, and GPS monitoring. She stated that the company was currently installing a credit card swipe capability in the back of its cabs. She stated that Checker had been recognized as the best cab service in Nashville. Mr. Abebe stated that additional permits would enable the company to continue to invest in improving its service. He stated that the company provided service to its drivers, who were also involved in providing input to company operations through its board.

Michael Solomon and Jim Church appeared on behalf of Taxi USA of Tennessee's applications for additional permits for Allied Cab, Nashville Cab, and 1-800-TAXICAB. They provided supporting documents to Commissioners. Mr. Solomon explained that through its contracts with MTA, Vanderbilt University and others, the company was providing increased business for its affiliated drivers. He noted that the combined total of 18 wheelchair accessible taxicabs in the three companies were key to its success in providing service to MTA and VA. He explained the benefits of the companies' GPS dispatch system. He provided documents showing regular dispatch calls received, noting that the number of calls received had increased from 14,000 calls in 2007 to 39,000 calls in 2011. He noted that non-dispatch airport runs had also increased, from 53,000 trips in 2009 to 70,000 trips in 2011. He concluded that the companies' drivers had greatly increased in recent years, showing an increase in demand for service. Mr. Coleman explained that the introduction of technology made this possible. He cited on-line reservations, pre-recorded information for repeat customers, credit card swipe machines with receipt printouts. Mr. Church summarized that Taxi USA spent money on technology improvements and marketing to increase business for its drivers; but that none of this revenue came to the companies. He stated that the companies' revenues came from the franchise fees paid by the drivers, and the companies' permits were filled; therefore, it was necessary to increase the number of permits if the company was going to continue investments like these and meet the increasing demand for service. **Commissioner Brundige** noted that part of the increase in demand shown in the documents provided was attributable to Taxi USA of Tennessee's acquisition of Diamond Cab in early 2009. Mr. Church added that the companies had also added wheelchair-accessible cabs under the Commission's incentive program.

Vice Chair Winfrey noted that this concluded presentations by the applicants. He stated that before the Commission decided on the applications it would consider the proposal to amend the Rules on taxicab advertising.

Director McQuiston reported that the Commission had received an information-only presentation at its September 27 meeting by John Griffin, who had requested that Taxicabs Rule 27 be amended to allow advertising on the hood of the taxicab vehicle. The director stated that the current rule did permit advertising on taxicabs, but not on the hood:

27. ADVERTISEMENT ON TAXICABS

Advertising is permissible on Taxicabs. Pursuant to Metropolitan Code of Law 6.72.420, the Commission limits advertisement to the inside of the vehicle (while not obstructing the driver's view); to the roof (not to obstruct the top light, but the top light may be incorporated into the advertisement); and on the trunk (while not obstructing the driver's view). All local, state and federal restrictions and guidelines apply. Advertisement determined to be non-compliant must be removed, pending a hearing before the Commission.

The director stated that, following Mr. Griffin's presentation, **Chair Helen Rogers** had directed that the proposal be considered at this public hearing.

Mr. Griffin appeared. He provided packets of information to the Commissioners, and described the product used by his company to advertise on the hood of vehicles. He stated that the product was being used in many other cities. He requested that Rule 27 be amended to specifically include the hood. **Commissioner Sam Patel** asked if there had been any safety issues identified in any of the other cities where the signage product was being used; Mr. Griffin responded that there had been no problems anywhere. He noted that over 10,000 signs had been installed. **Commissioner Patel** asked how long the signs were used. Mr. Griffin stated that they were replaced every month because the color faded; but that the material was not degraded, even after many months. **Commissioner Tom Turner** asked where the product was being used on taxicabs. Mr. Griffin cited Memphis, Dallas and Houston; and stated that they were also approved for use in Las Vegas, San Antonio, Austin, and Boston. Inspector Lawhorn asked if the signage produced wear on the paint of the vehicle. Mr. Griffin stated that the product had not damaged the paint on any vehicle. **Commissioner Turner** moved to amend Taxicabs Rule 27 to include adding the words "on the hood". **Commissioner Curt Wallen** seconded, and the motion passed (3-0, with 2 abstentions).

Vice Chair Winfrey stated that the Commission would take up the matter of determining whether additional taxicab permits were necessary. **Commissioner Turner** stated that he had another required meeting to attend, but did not want to miss the opportunity to participate in the important discussions and deliberations on this question and the applications.

Commissioner Turner moved to defer decisions on adding companies or permits until the January meeting. **Commissioner Brundige** seconded. During discussion, Director McQuiston noted that if any decision to add more permits were to be delayed until the end of January it could be too late to respond to the FY2013 budget adjustments to ensure the staff could support them. The motion failed (1-4).

Commissioner Turner moved to defer decisions on adding companies or permits until the December 2011 meeting. **Commissioner Patel** seconded, and the motion passed (5-0).

Commissioner Tom Turner departed.

APPLICATION FOR LIVERY COMPANY CERTIFICATE: ULTIMATE LIMOUSINE

Director McQuiston reported that in Sylvester Tudeme had applied for a certificate of public convenience and necessity for Ultimate Limousine in January 2011. He stated that Mr. Tudeme obtained a livery driver permit, but his company application was incomplete – lacking the required insurance and some information concerning the company's vehicles. The director stated that a letter had been sent to Mr. Tudeme on January 31, explaining what needed to be done to license the company and its vehicles; but the application was not completed and fee paid until August 2011. The director reported that Mr. Tudeme was cited for operating an unlicensed company in April and July, and was scheduled for a disciplinary hearing in August; but prior to the

meeting he informed staff that he was going out of the country. The director added that on October 24 Mr. Tudeme had called the commission office to report that he had moved to the United Kingdom, and would not be returning.

Director McQuiston stated that in addition to Mr. Tudeme, the company's application listed two partners: his sister Juliet Ejorh, and Dennis Ejorh. The director stated that Mrs. Ejorh and Mr. Ejorh had also been cited for operating vehicles for hire without the certificate. He referred to the minutes of the August 23 Commission meeting, related to the citing of Ms. Ejorh by the Highway Patrol for operating an illegal passenger vehicle for hire.

Inspector Bowling reported that he and Inspector Deckard had cited Mr. Ejorh many times. He provided photographs showing Mr. Ejorh's vehicle operating illegally at LP Field during the CMA Music Festival, and stated that Mr. Ejorh had attempted to run over him to avoid being cited. He stated that the environmental court judge had issued a mandatory injunction against Mr. Ejorh's operating a passenger vehicle for hire in Davidson County.

Mr. and Mrs. Ejorh appeared. Mrs. Ejorh appealed for the certificate. She stated that the reason that Mr. Tudeme had not obtained the certificate earlier because at the time he was unable to qualify for a driver's permit. She stated that Mr. Ejorh had been sick, so she had to drive. She concluded that she had obtained the necessary insurance, and wanted to operate the company herself.

Commissioner Sal Hernandez asked if the application was in the name of Mrs. Ejorh. Director McQuiston responded that it was in the names of Mr. Tudeme, Mr. Ejorh, and Mrs. Ejorh; but that he had obtained a letter from Mr. Tudeme, removing him from any interest in the company. Director McQuiston noted that the application had been initiated in January, but had not been finalized until August; and during that interval the owners had repeatedly been caught operating illegally. He referred to the Highway Patrol citation issued to Mrs. Ejorh for operating a van lettered "ten dollar flat rate", and recommended disapproval. **Commissioner Jennifer Brundige** noted that when Mrs. Ejorh had been cited she was also using vehicle tags that had been switched from another vehicle.

Commissioner Brundige moved to disapprove the application. **Commissioner Sam Patel** seconded, and the motion passed (4-0).

APPLICATION FOR LIVERY DRIVER PERMIT: DERRICK BERRY

Director McQuiston reported that Mr. Berry had applied for an initial livery driver permit on August 18, but the application was disqualified because he failed to disclose. He stated that Mr. Berry had reapplied on August 31, and fully disclosed. The director provided a copy of the application and background check report, and noted that it revealed a long record of criminal convictions. The director stated that Mr. Berry had not listed a company on his application, and had been advised that he should appear before the Commission with the owner or manager of the company for which he intended to work.

Mr. Berry appeared. He stated that he would drive for Yellow Cab. Doug Trimble, manager of Yellow Cab, noted that he had not applied for a taxi driver permit.

Director McQuiston explained that the requirements to obtain a taxi driver permit were more restrictive than for a livery driver permit.

Commissioner Brundige moved to defer Mr. Berry's application until he completed the requirements for a taxi driver permit. **Commissioner Sal Hernandez** seconded, and the motion passed (4-0).

APPLICATION FOR WRECKER DRIVER PERMIT: RONNIE CALDWELL

Mr. Caldwell failed to appear. **Commissioner Jennifer Brundige** move to disapprove his application. **Commissioner Sal Hernandez** seconded, and the motion passed (4-0).

OTHER BUSINESS:

Director McQuiston stated that Cotton's Towing had provided the Commission with a new logo to differentiate it from Tow Pro and enable compliance with the recently-passed Wreckers Rule 26.

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

ATTEST:

Brian E. McQuiston
Director-Executive Secretary

APPROVED:

Helen S. Rogers
Chair