

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

Minutes

December 13, 2018

The Metropolitan Nashville-Davidson County Transportation Licensing Commission (TLC) met in regular session on this date in the Jury Assembly Room of the Historic Courthouse. Present were Chair Sal Hernandez, Commissioners Pat McNally, Mona Lisa Warren, Sarah Lingo, Freddy Carr and Jessica Powell. (6) Present were Metro Legal Adviser Theresa Costonis, TLC staff members Lisa Steelman and Billy Fields.

The Chair called the meeting to order then led the Pledge of Allegiance followed by a reading of the Notice of Appeal Statement which outlined the right of appeal of TLC decisions.

Commissioner McNally with a second from Commissioner Powell moved approval of the previous meeting minutes from September meeting as corrected.

ACTION: Approved 4 -0

Director Fields advised the Commission that Vice Chair Tom Turner's term has expired and a new member would be appointed. Commissioner Warren with a second from Commissioner Powell moved to elect Commissioner McNally as vice chair.

ACTION: Approved 3 -0

Complaints/Disciplinary Reviews

Tina Doherty filed a complaint against American Melody Carriages alleging violations of the Metropolitan Code of Law (MCL) section 12.54. Melody Robinson was present and represented by Ed Hiland. After a hearing, Vice Chair McNally with a second from Commissioner Carr moved to find there was no violation and moved to dismiss.

ACTION: Approved 5-0

Samantha Walsh filed a complaint against American Melody Carriages alleging violations of the Metropolitan Code of Law (MCL) section 12.54. After a hearing, Vice Chair McNally with a second from Commissioner Carr moved to find there was no violation and moved to dismiss.

ACTION: Approved 5-0

Nashville Animal Advocacy filed a complaint against American Melody Carriages alleging violations of the Metropolitan Code of Law (MCL) section 12.54. Tricia Lebkuecher, executive co-director of the organization, was present. After a hearing, Commissioner Carr with a second from Vice Chair McNally moved to find no violation of the horse-drawn carriage ordinance.

ACTION: Approved 5-0

Vice Chair McNally with a second from Commissioner Powell moved to find American Melody Carriages had violated MCL 12.54.070 A2 and 12.54.200 A 11.

ACTION: Approved 5-0

Kama Warren Zuniga filed a complaint against American Melody Carriages. After a hearing, Vice Chair McNally with a second from Commissioner Lingo moved to find American Melody Carriages had violated MCL 12.54.240 B 1.

ACTION: Approved 5-0

Vice Chair McNally with a second from Commissioner Warren moved to find American Melody Carriages had violated sections of the MCL including 12.54.240. B1, 12.54.070 A A2 and 12.54.200 A 1 and moved to suspend the company for 30 days with a six month probationary period to commence immediately.

ACTION: Approved 5-0.

Public Hearing

The Chair opened a public hearing regarding the operational boundaries and Rush Hour Operations for Low Speed Vehicles. Chris Sizemore and Eddie Garcia spoke. The Chair closed the public hearing. After some discussion, Vice

Chair McNally with a second from Commissioner Carr moved to expand the LSV operational borders to include the area of Cowan Street with Dickerson Pike as the operational border.

ACTION: Approved 5-0.

Vice Chair McNally with a second from Commissioner Powell moved to allow Joyride LSVs to have access to their new operational headquarters for direct transportation to and from their facility.

ACTION: Approved 5-0.

Vice Chair McNally with a second from Commissioner Lingo moved to lift the rush hour operational restrictions on LSVs.

ACTION: Approved 5-0.

The Chair opened a public hearing to consider rules related to Shared Urban Mobility Devices (SUMDs). Commissioner Powell asked to be recused due to a potential conflict with her employment. Sam Reed, representing Bird, was present to speak. The chair closed the public hearing. Vice Chair McNally with a second from Commissioner Carr moved that the violation definition and explanation for 12.62.080 4.b is established as follows:

Violation Definition/Explanation for 12.62.0804.b.

- 1) A “violation,” as used in MCL 12.62.080.4.b., is not the same as a complaint, which is just an allegation. In order to amount to a violation, a complaint reported to the TLC by a third party needs to be accompanied by some evidence upon which a conclusion that a violation of Chapter 12.62 occurred can be based. This conclusion can be drawn by MTLC staff, but staff should document the evidentiary basis for their finding, and TLC staff should give the certificate holder an opportunity to respond to the complaint before the conclusion is drawn. Staff can also conclude in response to a complaint that there is no evidence of a violation. A violation directly witnessed by TLC staff, by other Public Works staff, or MNPD officers, however, need not be supported in this manner or with any evidence other than a signed statement by the employee or officer of what they observed, although, where possible or available, additional documentation of supporting evidence is desirable.
- 2) A violation (as described above) will only count against the certificate holder for the purposes of application of the criterion in MCL 12.62.080.4.b., under the following circumstances:
 - a. Where it can be attributed to the certificate holder itself, rather than to one of its users. Some non-exclusive examples of this would include (but not be limited to):
 - i. An instance of improper parking where a time stamp on the picture shows that the scooters were parked in a clump that way first thing in the morning – in other words, by the certificate holder’s agent setting them out in the morning.
 - ii. Evidence that a SUMD certificate holder was notified of an improperly parked scooter, and a time stamped picture showing that the scooter was still there more than 2 hours later.
 - b. Alternatively, the TLC staff becoming aware of a critical mass of violations by a certificate holder’s users 25 per month would lead to a rebuttable presumption that the certificate holder is failing in its responsibility to inform, regularly educate and instruct its users to comply with applicable laws and regulations, as described in MCL 12.62.030.7. The information supporting this rebuttable presumption should be provided to the certificate holder, and the certificate holder should be given an opportunity to present evidence rebutting the presumption. If the certificate holder does not take this opportunity, or if they do, but their response is insufficient to rebut the presumption, this shall constitute a basis for a finding of a violation by the certificate holder. Again, some non-exclusive examples of this would include but not be limited to:
 - i. Photos of users riding scooters that are visibly identifiable as the certificate holder’s on sidewalks in areas that meet the definition of a business district (so it would have to be clear from the photos where they were taken), or
 - ii. Photos of scooters parked in prohibited areas, such as greenways or sidewalks that do not have a frontage or furnishing zone, or where that frontage or furnishing zone is less than 3 feet wide, or otherwise blocking the accessible path of pedestrian travel on a sidewalk.

ACTION: Approved 5-0

Vice Chair McNally with as second from Commissioner Warren moved that the following inclement weather policy for SUMDs be approved:

Whenever any ice, snow or other freezing precipitation is present on the streets or sidewalks, SUMD’s shall not be made available for operation. In addition, the MTLC Director may halt operations if it is determined that inclement weather will present a safety hazard.

ACTION: Approved 5-0

Wrecker and Towing Services

Waylon Tharpe applied to be a wrecker driver, but was referred to the TLC for review. Vice Chair McNally with a second from Commissioner Lingo moved to approve the application

ACTION: Approved 5-0

Other Passenger Vehicles For Hire

April K. Bonds applied to be a LSV driver, but failed to fully disclose. After some discussion, Commissioner Carr with a second from Vice Chair McNally moved to approve the application.

ACTION: Approved 5-0

Yellow Limo requested permission to add Ali AlSorify as a partner. Commissioner Carr with a second from Commissioner Warren moved to approve the request.

ACTION: Approved 5-0

Renaissance Limo requested permission to add Esayas Tefera as a partner. Commissioner Carr with a second from Commissioner Warren moved to approve the request.

ACTION: Approved 5-0

Exclusive Transportation requested permission to change its address to 3145 Hidden Creek Drive, Antioch, 37013. Commissioner Lingo with a second from Commissioner Carr moved to approve the request.

ACTION: Approved 5-0

The following companies applied to operate an OPVH company:

Achilles Transportation Inc.

Courtesy Limousine

Avand Limo Service

L & C Nashville

Commissioner Warren with a second from Vice Chair McNally moved to approve.

ACTION: Approved 5-0

Director Fields asked the TLC to move its January meeting to Wednesday, January 23, 2019 at 1:30 in the Jury Assembly Room of the Davidson County Courthouse due to a problem with accommodation. Commissioner Warren moved with a second from Commissioner Carr to change the meeting date as requested.

ACTION: Approved 5-0

The Chair recognized the many years of service provided through the leadership of Vice Chair Turner. Commissioner Warren with second from Commissioner Carr moved to formally thank and recognize Tom Turner for his service to the TLC and the community.

With no further business, the meeting was adjourned.

ATTEST:

APPROVED:

Billy Fields
Director/Executive Secretary

Sal Hernandez
Chair

Date