

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

Minutes

October 25, 2012

The Metropolitan Nashville-Davidson County Transportation Commission (TLC) met in regular session on this date at the Metropolitan Courthouse. Present were Vice Chair Brian Winfrey, Commissioners Sal Hernandez, Rhonda Marko, Sam Patel and Curt Wallen (5). Also present were Metro Legal Advisers Theresa Costonis, Jon Michael and Rachelle Gallimore-Scruggs along with TLC staff members Lisa Steelman, Debbie Saddler, Milton Bowling, Howard Morris, Walter Lawhorn and Interim Director Billy Fields.

Vice Chair Brian Winfrey called the meeting to order and led the Pledge of Allegiance and then read the Notice of Appeal Statement which outlined the right of appeal for TLC decision.

Minutes

Commissioner Patel with a second from Commissioner Wallen moved approval of the September 27, 2012 TLC minutes with no changes.

HR Letter to TLC

Interim Director Fields asked permission to read a letter from Metro Human Resources relative to a disciplinary review requested by the TLC for inspectors Walter Lawhorn, Milton Bowling and Howard Morris. The letter advised the TLC that no disciplinary action was indicated and recommended that none be taken. Commissioner Marko moved, with a second by Commissioner Patel, to accept the HR recommendation and take no disciplinary action.

Motion approved 4-0

Wrecker and Towing Services

Ferroll G. Olds appeared to request a wrecker driver permit. A representative from Express Towing was present to confirm his employment if approved. After some discussion, Commissioner Hernandez moved to deny the permit, but there was no second. Commissioner Wallen then moved, with a second from Commissioner Patel, to grant a one year restricted permit to Express Towing and requires two random drug tests with this period.

Motion approved 3-1

Taxicab

The request by Frank C. Okonkwo for a permit to drive a taxicab, however, Mr. Okonkwo was not present. Commissioner Wallen, with a second from Commissioner Patel, moved to deny this request.

Motion approved 4-0

Horse and Carriages

The Chair opened the show cause hearing for consideration of disciplinary action against Sugar Creek Carriages/Johnny Smith, owner. Teresa Costonis, Metro Legal, asked to recuse herself she had assisted the TLC staff in preparation of the hearing. Rachelle Gallimore-Scruggs was introduced as the advisor for the Commission and Jon Michael, Metro Legal, presented the staff's case. Gary Blackburn addressed the Commission as the legal representative for Sugar Creek, Johnny Smith, owner expressing his concerns for the legality of the hearing and questioned the charges as well as the proceedings. Transportation Licensing Inspector Howard Morris was called as a witness by Mr. Michael. Mr. Blackburn asked if the witness would be sworn and was advised that he would not be sworn. Mr. Blackburn then objected to the rest of the hearing. Mr. Morris described that on March 3, 2012 while parked on Broadway between Second and First Avenues, he witnessed Johnny Smith do four U-turns in the intersection of Second and Broadway, which meant

the carriage had left the prescribed route. Photographs of these incidents were entered into the record to support this testimony. Mr. Blackburn objected to the photographs being entered into evidence. Mr. Morris verified that Johnny Smith left the route on four occasions without approval from the appropriate officials. Mr. Blackburn was given the opportunity to ask Mr. Morris questions. Mr. Blackburn asked if Mr. Morris had appeared in General Sessions Court to testify relative to four citations issued to Mr. Smith on this date and Mr. Morris said he had appeared. Mr. Morris stated that he had written no citations to anyone on this date other than to Sugar Creek which numbered 10, five U-turns and five leaving the prescribed routes. Mr. Blackburn asked Mr. Morris whether he had a relationship with Hat Creek Carriages and he said he did not. Mr. Blackburn showed Mr. Morris some photographs, as he asked if he had ever had facial hair. Mr. Morris said he is unable to grow a beard. Mr. Blackburn asked if a photograph was of Mr. Morris and Mr. Morris said it was not. Mr. Blackburn asked if Mr. Morris was a Facebook friend of Mr. Morris' and Mr. Morris said not that he was aware of. Mr. Blackburn then showed photographs asking Mr. Morris if this was Hat Creek Carriages on Second Avenue and if this was a violation. Mr. Morris said this would have been a violation, but had not seen this happen on this date. Mr. Blackburn introduced additional photographs to demonstrate other alleged violations by drivers of other companies. The Chair asked how the behavior of individual's conduct not at issue in this hearing was relevant and if this line of defense was appropriate and Mr. Blackburn said it was appropriate. Mr. Michael presented a copy of the prescribed route for the Commission's consideration.

Mr. Blackburn asked Clint LeMoine, owner of Southern Elegance Carriage, to give evidence. Mr. Blackburn asked if Mr. LeMoine had ever performed a U-turn on Broadway. Mr. LeMoine said the U-turn is normal and is done by all of the carriages on a regular basis. Mr. LeMoine confirmed that he had never received a citation for this violation. Mr. Blackburn asked if Mr. LeMoine had ever seen Hat Creek divert from the prescribed route and he answered yes. Mr. LeMoine then described Mr. Smith as a safe operator of carriages.

Mr. Michael pointed out that Sugar Creek Carriages was on probation at the time of this violation and was the second violation during this period and this should be considered as a part of the deliberation.

The Chair advised the Commission of its authority and stated his appreciation for the role of the Inspectors. After some discussion, the Chair asked Interim Director Fields if he had a recommendation in this case. Interim Director Fields recommended that Sugar Creek Carriages be placed on suspension during the month of January, 2013 and be placed on probation for one year beginning in February 1, 2013.

Commissioner Patel moved, with a second from Commissioner Wallen to suspend Sugar Creek carriages for the month of January, 2013 and be placed on one year probation.

Motion failed 2-3.

Commissioner Hernandez, with a second from Commissioner Marko, moved that Sugar Creek be suspended from 10 days (January 10-30, 2013) and placed on probation for a period of six months beginning on January 31, 2013.

Motion approved 3-1.

With no further business, the meeting was adjourned.

ATTEST:

APPROVED:

Billy Fields

Brian Winfrey

Interim Director

Vice Chair