

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

**Minutes of  
May 25, 2010**

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 and Commissioners Jennifer Brundige, Mary Griffin, Ed Whitmore, and Brian Winfrey (5). Also attending were Metro Legal advisor Corey Harkey; Commission staff members Milton Bowling, Walter Lawhorn and Lisa Steelman; and Brian McQuiston, Director-Executive Secretary to the Commission.

**Chair Helen Rogers** 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.

**ELECTION OF VICE CHAIR**

The election of a new Vice Chair to fill the vacancy created by the departure of Duane McGray was required. **Chair Helen Rogers** opened the meeting for nominations by Commissioners. **Commissioner Ed Whitmore** nominated **Commissioner Mary Griffin**. **Commissioner Brian Winfrey** seconded. There were no other nominations; and the Commission elected Ms. Griffin as Vice Chair (3-0).

**TAXICAB DRIVER DISCIPLINARY HEARING: YOUSUF O. AWAD**

Director McQuiston reported that this was a disciplinary hearing based on a complaint received from Yellow Cab management. The director stated that Mr. Awad had received his initial permit in February 2007; and that his previous record with the Commission included no moving violations, accidents, customer complaints, or disciplinary issues. The director stated that on June 8, 2009 Mr. Awad had moved his permit to United Cab, and that he had renewed his permit with United Cab in September 2009. He stated that on March 9, 2010 the Commission had received a complaint from Doug Trimble, manager at Yellow Cab, alleging that the company had caught Mr. Awad driving Yellow Cab #35 with a United Cab permit.

Mr. Trimble appeared. He stated that on March 7, 2010 he had received a complaint about an overcharge by the driver of Yellow Cab #35. Mr. Trimble stated that after the dispatcher was unsuccessful in trying to contact the driver he had contacted the vehicle owner, who informed him that the cab was being driven by Mr. Awad. Mr. Trimble stated that he checked the company's records and called the Commission office to check on Mr. Awad's permit, and learned that he was permitted to drive for United Cab. **Chair Helen Rogers** asked why the taxicab owner had allowed Mr. Awad to drive his vehicle

for three days without a Yellow Cab permit. Mr. Trimble stated that the owner had been unaware that Mr. Awad had not transferred his permit to Yellow Cab; he added that he had dealt with the vehicle owner himself about that problem.

**Commissioner Ed Whitmore** asked if there was a specific penalty applicable to a driver operating a cab without a proper permit; Director McQuiston responded that it was a violation of the ordinance, but that there was no specific penalty cited for the offense. He provided information to the Commissioners listing sections of the Taxicabs ordinance and the Commission Rules applicable to the complaint. The director returned to the issue of vehicle owner responsibility. He stated that the Commission placed a burden on taxicab companies, not vehicle owners, to ensure that drivers followed the rules; and he cautioned the Commission from approving a driver's permit for any future applicant who appeared with only a vehicle owner, and not with the company owner. The director clarified that the complaint before the Commission had to do with driving without the proper company affiliation on his permit, and not about whether Mr. Awad might have overcharged a customer.

Mr. Awad appeared. He stated that when he went to Yellow Cab to try to change his permit he was told by the manager that he would have to pay \$50. He denied overcharging a customer. **Chair Rogers** asked him if he had driven a Yellow taxicab. Mr. Awad stated that he had received the keys on Sunday and had driven on Monday. He stated that he did not understand why the company stated that they could not get in touch with him, because he had driven at the airport. **Chair Rogers** asked him who he was permitted to drive for; he responded that he had been permitted with United, but had recently switched his permit to Allied. Director McQuiston clarified that at the time of the alleged offense Mr. Awad had been permitted with United Cab; he had since transferred his permit to Taxi USA (Allied/Nashville/Diamond Cab), on March 29.

**Chair Rogers** asked Mr. Trimble to comment on the \$50 charge. Mr. Trimble responded that the company had reimbursed the customer \$25, not \$50, for the reported overcharge; this was not a fee for obtaining a Yellow permit. **Commissioner Whitmore** asked if the overcharging complaint had been a verbal complaint; Mr. Trimble responded that it was.

**Vice Chair Mary Griffin** noted that Mr. Awad had admitted to driving without a Yellow Cab permit. She stated that reports of crimes allegedly committed by taxicab drivers stressed the importance of companies knowing who would be driving their vehicles. She moved to find Mr. Awad in violation of the requirement to have a permit with the proper company affiliation, and to suspend his permit for 45 days. **Commissioner Brian Winfrey** seconded, and the motion passed (3-0).

## **PUBLIC HEARING: PROPOSAL FOR NEW TAXI FLAT FARE TO AIRPORT AREA HOTELS**

Director McQuiston reported that a proposal had been received from the Nashville Metro Taxi Drivers Alliance, for a new flat fare to be established to address the unpopular issue of "short runs" from the Airport to nearby hotels, which were then charged by the taximeter. He stated that the Alliance proposal was for a flat rate of \$20

for trips from the Airport to hotels located on Donelson Pike/Elm Hill Pike/Royal Parkway, and between the Airport and Briley Parkway. The director noted that the distances involved were three miles or less: if charged by the meter, the fare probably would be about \$14. He added that drivers completing these runs were required to go back to the end of the waiting line at the airport. He director stated that some cities had flat fares for airport trips; others specified minimum fares for departures from the airport; and a few others had both flat fares and minimum rates.

**Chair Helen Rogers** invited public comment.

- Emmanuel Akre, driver, spoke in favor of the proposal. He stated that 90% of people who took short runs on the weekends were taking taxicabs to parking lots near the airport, and not only to hotels. He stated that the average time waiting in line for an airport fare would be 3-7 hours, depending on the season.
- Lynn Agee, special counsel to the United Steel Workers, stated that he was representing a group of taxi drivers, and provided a letter recommending consideration of an alternative to the proposal: a minimum rate of \$20 for departures from the airport. He stated that another alternative could be to allow drivers who were taking "short run" fares from the airport to return to the end of the airport starter line, instead of going to the end of the "corral" line.
- David Watts, driver, spoke in favor of the proposal. He pointed out that taxes and credit card fees were deducted from fares received by drivers on airport departures.
- Sharif Abdullahi, driver, spoke in favor of the flat fare proposal.
- Abdulkadir Gure, President of the Nashville Metro Taxi Drivers Alliance, stated that he would also support the minimum departure rate proposed by Mr. Agee. He stated that the long waits at the airport resulted in very low hourly income for drivers.
- Johnny White, co-owner of American Music City Taxi, stated that any proposal should clearly define the areas for flat fares. He added that consideration should also be given to the impact a \$20 fare would have on the shuttles and other competitors. **Chair Rogers** asked Director McQuiston about the status of the bill to regulate other passenger vehicles for hire. The director responded that the bill had been introduced, and would be considered by four Metro Council committees before second reading. He stated that the second reading would not be a public hearing with opportunities for the public to speak.
- Jim Burrow, operations manager of Taxi USA of TN, clarified that his company did not charge drivers for credit card fees.

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

Discussion followed on the potential impact of the alternative proposals presented. Director McQuiston stated that if any rates were changed, new rate cards would have to be printed and placed in cabs before they could become effective. In response to a question from **Commissioner Jennifer Brundige**, Legal Advisor Harkey stated that the Commission could establish flat fares, but that a minimum rate would require an amendment to the ordinance. Inspector Lawhorn recommended that the Commission defer any decision on increasing taxi-related rates until the new ordinance to regulate the other vehicles was approved. In response to questions from **Commissioner Ed Whitmore**, Director McQuiston stated that the submitted proposal had specified hotel destinations which could be addressed by a flat fare Rule, but the discussion about including parking lots or about establishing a minimum departure rate had made that problematic. **Chair Rogers** directed a short recess to enable proponents an opportunity

to reach a consensus on their request.

Following the recess, **Chair Rogers** invited spokespersons to reappear.

Mr. Agee recommended that the Commission consider establishing a new flat fare zone which would encompass an area in the vicinity of the airport – as a short-term measure until a minimum departure rate could be approved by the Metro Council as an ordinance amendment. He also restated his recommendation that the airport modify its return policy for drivers who take short runs; Director McQuiston responded that the Airport Authority would have to make that determination.

Mr. Gure expressed agreement with the recommendations presented by Mr. Agee.

**Vice Chair Griffin** noted that the proposals were not clear. She moved to defer a decision until the new ordinance was approved. **Commissioner Brundige** seconded, and the motion passed (4-0).

### **APPLICATION FOR BOOTING LICENSE: PARKING NETWORK STRATEGIES**

Director McQuiston stated that this was only the second application received from a company desiring to boot vehicles. He noted that unlike the company that was previously approved to boot at commercial parking lots and garages which it also operated, Parking Network Strategies intended to boot cars at apartment complexes. The director noted that the issue of authorizations to deal with illegally parked vehicles at apartment complexes had been a concern of the Commission in the past, resulting in the development of Rule 24 and subsequent amendments to the Wrecker Rules. He stated that the Booting ordinance had not been written by the Commission; as a result, it did not specifically address the issue. He recommended that the company explain how they would operate, and that the Commission carefully consider whether the process would provide for the protection of vehicle owners. He added that, as with the previous booting license application, there would necessarily be follow-up inspection requirements related to the specific lots and signage. He concluded by stating that the application appeared to be in order.

Joe Harris, owner of the company, appeared. He stated that the company managed properties. He added that Parking Network Strategies was based in Florida, and had operated over 800 properties in its eight-year history. He stated that only three complaints had been registered against the company in that period, and he described each one. He stated that his company managed the parking areas, using the existing rules established within the lease; registered every vehicle; issued warnings; and booted vehicles as necessary. He stated that the warnings:bootings ratio was 5:1. He stated that his company registered the residents' vehicles, as well as vehicles belonging to their guests. He stated that the company issued citations, if the lease agreement authorized it, in lieu of having the vehicles towed.

**Vice Chair Mary Griffin** asked who authorized the booting. Mr. Harris responded that in Florida this was done by employees of his company after warning. He added that the company recorded each step, including photo/video. Inspector Bowling asked him about citations; Mr. Harris responded that this was done in accordance with the residents' contractual agreements.

**Chair Helen Rogers** asked if the company had any contracts in Davidson County; Mr. Harris responded that there were contracts pending, but awaiting Commission approval of the license.

**Commissioner Jennifer Brundige** asked if the apartment complex manager would be responsible for determining who should be booted. Mr. Harris stated that the management had the last word in the process. **Commissioner Brundige** asked if the company would have an office in Davidson County; Mr. Harris stated that it would, but that he managed it from the corporate office. **Commissioner Brundige** asked what the booting charge would be; Mr. Harris responded that this depended on the property; but that it would not exceed the allowable rate.

Director McQuiston asked how the company was paid, noting that the answer could be important in determining whether the lot could meet the ordinance definition of a commercial parking lot. Mr. Harris responded that the residents paid the company when they registered their vehicles. He stated that the company charged an annual registration fee for new residents, in accordance with the lease agreements; because of high resident turnover, it usually took months before all residents might be registered. Legal Advisor Harkey noted that the ordinance had specific requirements for attended and unattended commercial parking lots. Mr. Harris stated that, because the company would not have someone present at all times, it might be considered as operating an unattended parking lot.

**Commissioner Brundige** moved to defer a decision on the application, in order to allow time to implement rules to deal with the specifics of booting. **Commissioner Ed Whitmore** seconded, and the motion passed (4-0).

### **APPLICATIONS FOR WRECKER DRIVER PERMITS:**

**Jerry Anderson:** Mr. Anderson appeared. Director McQuiston stated that Mr. Anderson was applying for a permit with ALCAR. He stated that Buddy Carnahan, the company manager, had been present to support Mr. Anderson and Mr. Fuqua, but had to leave. The director provided a letter written by Mr. Carnahan in support for the applicants. **Chair Helen Rogers** read the letter of support. The director noted that Mr. Anderson's application had been deferred at the April meeting. **Chair Rogers** asked Mr. Anderson why he had not disclosed a 1990 arrest on two charges; Mr. Anderson responded that he did not know that a 20-year old arrest would be considered to be significant, and he had overlooked it. Inspector Bowling asked if Mr. Anderson had been driving a wrecker without a permit while working for ALCAR for the past 3 years; Mr. Anderson responded that he had. **Commissioner Brundige** moved to disapprove the application. **Commissioner Ed Whitmore** seconded, and the motion passed (4-0).

**James Ferrell:** Director McQuiston reported that Mr. Ferrell had applied for an initial wrecker driver permit on April 28, 2010 to drive for Anchor Towing & Recovery; and that the applicant had disclosed all arrests. The director stated that Mr. Ferrell had also indicated two years of experience as a wrecker driver or helper – both of which require a permit.

Mr. Ferrell appeared. He stated that he would not be working for Anchor; he had contacted Tow Pro, and they were willing to hire him if he could obtain a permit. **Chair Helen Rogers** asked him about his experience as a driver. Mr. Ferrell stated that he had worked for American Towing, which had been out of business for about five years.

Director McQuiston noted that this coincided with the period when the city was not enforcing the wrecker ordinance because of a federal court case. **Vice Chair Mary Griffin** moved to approve the application, restricted to Tow Pro. **Commissioner Jennifer Brundige** seconded, and the motion passed (4-0).

**Jonathan Fuqua:** Director McQuiston reported that Mr. Fuqua had applied for an initial wrecker driver permit on April 29, 2010 to drive for Fuqua's Towing – owned by his wife. The director provided a copy of the background check results, and noted that the applicant had not disclosed all of the charges. The director stated that Mr. and Mrs. Fuqua were both formerly employed at ALCAR. He reminded Commissioners that during a previous hearing on an application by Fuqua's Towing, it had been revealed that when Mr. Fuqua lost his TN driver's license and was no longer allowed to operate a wrecker at ALCAR, Mr. Carnahan had allowed Mrs. Fuqua to drive the wrecker for two years without a permit. The director stated that Mr. Carnahan's letter of support, therefore, should not be considered as helpful to Mr. Fuqua's application. The director added that at the Fuqua's Towing hearing it had also been revealed that Mr. Fuqua worked as a wrecker helper without a permit.

**Chair Helen Rogers** noted that the background check showed an arrest in March 2010 for driving with a revoked/suspended drivers license. She asked about the status of his license; Mr. Fuqua responded that he had a current and valid drivers license, as of April 29.

Following discussion, **Vice Chair Mary Griffin** moved to disapprove the application. **Commissioner Jennifer Brundige** seconded, and the motion passed (4-0).

### **APPLICATION TO PERFORM NONCONSENT TOWING: WILLIEBUD'S TOWING & RECOVERY**

Director McQuiston reported that this was an application for a new general wrecker company to perform nonconsent towing. He stated that owner William Craig had a Final Use & Occupancy permit required for a wrecker storage lot; and noted that Mr. Craig had held a wrecker driver permit since 1997. The director stated that there were no problems indicated on Mr. Craig's wrecker driver background check, and that the applicant had indicated that he would provide character references at this meeting. The director stated that the staff was concerned about approving a nonconsent license for any company without a track record.

Mr. Craig appeared. He stated that David Dunn at A.B. Collier Wrecker Service was unable to be there, but could attest to his character and experience, and that Gary Brown at Brown's Wrecker Service could also vouch for him.

Inspector Bowling expressed concern about approving additional nonconsent towing applications. He stated that the Commission had worked very hard over three years to eliminate problems in this area. He noted that there were already 23 companies in the County who were authorized to perform nonconsent towing, and recommended that the Commission require a waiting/proving period of a year before considering approval.

**Commissioner Jennifer Brundige** asked Mr. Craig if he had owned or managed a business before; he responded that he had not, but had processed impound paperwork while at A.B. Collier.

**Vice Chair Mary Griffin** moved to defer a decision on the application until November. **Commissioner Jennifer Brundige** seconded, and the motion passed (4-0).

**OTHER BUSINESS:**

**Chair Helen Rogers** noted that Dr. Paul Cleckner, who had served on the Taxicab and Wrecker Licensing Board for over twenty years, had passed away. Inspector Lawhorn stated that Dr. Cleckner had served as Chairman for over 17 of those years, and had been universally respected. Several company owners present also praised Dr. Cleckner for his fairness and for his influence on the community and their industries. Jim Burrow, manager at Taxi USA of TN, recounted how Dr. Cleckner had provided for him after bankruptcy and helped him to get back on his feet. The Commission went on record to express appreciation for the impact and inspiration provided by the life of Dr. Paul Cleckner (May 8, 1934 – May 13, 2010).

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

ATTEST:

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Brian E. McQuiston  
Director-Executive Secretary

APPROVED:

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Helen S. Rogers  
Chair