

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

Minutes of

July 22, 2008

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 and Commissioners Jennifer Brundige, Mary Griffin, and Tom Turner (4). Also attending were Commission staff members Walter Lawhorn, Milton Bowling 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.

The minutes of the June 24, 2008 meeting were approved.

Chair Helen Rogers reported to Commissioners on the status of legislation amending the wrecker ordinance.

WRECKER COMPANY DISCIPLINARY HEARING: ABLE TOWING

Director McQuiston reported that there were a number of complaints against Able Towing to be heard.

Police Officer Russell Ward appeared before the Commission. He reported that he had stopped a wrecker on January 19, 2008, and subsequently issued a citation to wrecker driver Robert Flowers, Jr., who was operating the wrecker with an expired wrecker driver permit. Officer Ward added that the tow authorization slip produced by Mr. Flowers had indicated only "truck, white" and a printed name "Bill"; there was no other information filled in. He stated that he had called for Sgt. Beck, a supervisor, to come to the scene.

Director McQuiston reminded Commissioners that Mr. Flowers had appeared before the Commission already concerning the issue of operating without a valid permit. He added that two other wrecker companies had been required to appear before the Commission in recent months for allowing employees to operate without valid permits, and that the Commission had disciplined both companies. He noted that Mr. Flowers was the son of the Able Towing owner, so it could not be argued that the company owner did not know that the driver did not have a permit. The director also pointed out that Mr. Davidson, representing Mr. Flowers at his recent hearing to request a new permit, had stated that Mr. Flowers had been driving the wrecker on this occasion because of a misunderstanding between Mr. Flowers and his father, the company owner.

Police Sergeant Stephen Beck appeared before the Commission. He stated that he had responded to the call from Officer Ward, because there had been a complaint from an individual that the person's vehicle had been stolen from a parking lot behind Kinkos

nearby. He stated that, while he was with Officer Ward and Mr. Flowers at the scene of the stop, another wrecker operator from Able Towing had arrived to take possession of the wrecker. He added that the wrecker driver being questioned also made a phone call to someone, and asked Sergeant Beck to speak with the other party, who identified himself as the owner of Able Towing. Sergeant Beck stated that the individual on the phone was belligerent, cursed at him, and asked the police to arrest the driver. **Chair Helen Rogers** asked for clarification, if the request was that the police should arrest his son; Sergeant Beck answered yes, and added that the caller continued to use profanities. The sergeant stated that he then informed the caller that he would not continue the conversation. He stated that the caller made arrangements to meet with him at the precinct 45 minutes later, but did not show. Sergeant Beck stated that he still was not sure that the vehicle had been properly authorized to be towed. **Chair Rogers** asked where the tow had originated; Sergeant Beck responded that it had been towed from a private lot behind Kinkos. **Chair Rogers** asked if anyone from Kinkos had called for a tow; Sergeant Beck replied that Kinkos was closed. He stated that the paperwork presented by Able Towing had a different name on the top of the page, but had the same address and telephone number as Able Towing. He expressed concern that the towing company was towing a vehicle while also giving itself authorization to do so under a different name. He added that the tow slip was also missing vital vehicle information, in that it included only "white truck". Inspector Bowling asked Sergeant Beck if he remembered the name of the company that had authorized the tow; Sergeant Beck could not remember, but stated that there were some emails referring to it.

Phil Davidson, attorney representing Able Towing, asked Sergeant Beck if the vehicle owner had told him why the vehicle had been towed; the Sergeant responded that the vehicle had only been reported as stolen. Mr. Davidson clarified that the private property owner had the right to have vehicles towed from their property. He asked Sergeant Beck if he had made any determination as to the legitimacy of the authorization documents for the tow; Sergeant Beck responded that he had not followed up on that. Director McQuiston noted that the citation issued was for operating a wrecker without a permit. **Commissioner Tom Turner** asked if the Commission had a copy of the towing authorization. Director McQuiston stated that the only documentation received related to this issue was the citation by Officer Ward. He added that the Commission had not been aware of any issues related to the validity of the tow slip, and had not specifically requested that documentation.

Complainant Justin Wyatt appeared before the Commission. He stated that he had driven downtown to a club on March 1, 2008. He stated that while he was parking he noticed a couple driving around, not towing anyone. He stated that he parked in a lot; when he came out, his car was gone. **Chair Rogers** asked if he had paid to park; Mr. Wyatt answered no. He stated that when he found out where his car was, he called the company. He stated that he asked if he could use a credit or debit card, he was told that his payment would have to be in cash only, and that the bill would be about \$80. He noted that when he paid the actual bill was not that high. He stated that the tow slip showed that his car had been towed about five minutes after he had left it. **Chair Rogers** asked Mr. Wyatt to clarify his complaint. He answered that he thought the company was just looking for people to tow. He added that there were two driving up and down the street. **Commissioner Jennifer Brundige** noted that he had not been allowed to use his credit card; Mr. Wyatt restated that he had been told that he would have to pay with cash only. He stated that he did receive a receipt. **Commissioner Tom Turner** asked if the Commission had a copy of a

properly signed tow slip; Director McQuiston stated that the staff had requested the tow authorization documents, but had not received them. **Commissioner Turner** asked if there was not a requirement that these documents be provided, and the company had failed to do so; the director responded that this was correct. Mr. Davidson provided copies of receipts. He stated that his understanding was that the credit card issue was the only charge against his client.

Director McQuiston asked if the Commission would complete testimony on the issue involving Officer Ward and Sergeant Beck, to enable them to return to duty. **Chair Rogers** asked Mark Wayman, owner of Able Towing, if he wanted to respond to that issue; and Mr. Wayman appeared. Mr. Wayman denied talking to either officer on the telephone. He stated that Bo Allen was signing tickets for Big Brothers United. He stated that there was no paper anywhere that links Big Brothers United to Able Towing, and that they do not correspond to one another. Mr. Wayman stated that Kinkos does not control who gets towed from that property after hours; but that someone named Amber, who was in the Middle East or China, did. Mr. Davidson asked Mr. Wayman if he had known that Mr. Flowers' permit had expired before the night of the tow; Mr. Wayman responded that he did not. He stated that he thought Mr. Flowers had already picked up his new permit. **Chair Rogers** asked Sergeant Beck if he recognized Mr. Wayman's voice as the one with whom he had talked on January 19; Sergeant Beck responded that there was a resemblance, but that he could not swear that it was Mr. Wayman. **Commissioner Jennifer Brundige** expressed concern that in testimony before the Commission a couple of months earlier, Mr. Davidson had argued on behalf of Mr. Flowers, who was applying for a new permit, that the reason Mr. Flowers had been driving a wrecker without a permit was due to a misunderstanding between Mr. Flowers and his father, Mr. Wayman. She stated that the argument presented at that meeting was that Mr. Flowers had not understood the need for a current permit, but had been given permission from Mr. Wayman to drive. Mr. Wayman stated that he would answer: what he does outside this county has nothing to do with this county. He stated that he has a wrecker company in another county, where he does not have to have a permit. Mr. Davidson stated that, when he had represented Mr. Flowers before the Commission in April, he had not been addressing this incident in January, but one that had occurred before then. Director McQuiston read from the minutes of the April 29, 2008 meeting:

“Referring to a citation Mr. Flowers had received in January 2008, Commissioner Tom Turner asked why Mr. Flowers had been operating a wrecker without a permit. Mr. Davidson stated that this had been a misunderstanding by his client, but that he had stopped driving since Mr. Davidson had been representing him. Commissioner Turner asked for clarification; Mr. Davidson stated that the misunderstanding had been between Mr. Flowers and his father Mark Wayman, the owner of Able Towing.”

Mr. Davidson stated that he stood behind that statement.

Mr. Wayman argued that Robert Flowers did have a valid wrecker driver permit, but had just not come to pick it up. **Chair Rogers** asked Director McQuiston if that was true. The director answered no; that this had been discussed at Commission meetings already. He stated that Mr. Flowers had not provided his driver's license, which was required to prove that he had a valid driver's license; he could not obtain a permit without doing so. He also stated that this was not simply an issue of picking up a permit; payment of the required fee was also necessary. He pointed out that

there were a number of permits at the commission office which were never paid for; these were not valid permits.

Complainant Kiomarz Barghi, owner of Charlotte Imports, appeared before the Commission, with his attorney, Bob Travis. Mr. Barghi stated that in 2007 he had sold a 2000 F150 pickup, which he subsequently tried to locate because the buyer had failed to make payments. He added that he had eventually learned from the Police Impound Lot that the vehicle was at Able Towing. He stated that he had called the company on March 18, 2008, and was told that they had the vehicle, and that he could get it back by paying the bill. Mr. Barghi stated that he had gone to Able Towing after work on the same day to gain release of the vehicle; but when he got there he was told by the company's representative that the vehicle had already been sold. He stated that the representative called his boss on the phone, and then told Mr. Barghi that the vehicle had been sold to someone from Mexico at public auction. Mr. Barghi stated that he then offered to pay more than the bill to get his truck back, and was told that he could come back the next morning to get the vehicle. He stated that he came back on the morning of March 19, and the truck was not there. He stated that the company representative told him that the vehicle had been sold, and the customer had picked it up. He stated that he asked for copies of the paperwork related to the lien and the auction, and when he checked them he noted that the auction was supposed to occur on March 19, 2008; he pointed out that he had come in to obtain release of the vehicle on March 18, the day before the auction date. He stated that he asked for the name of the person who had bought the vehicle, but the employee told him they did not have that information. Mr. Barghi stated that he called Able Towing later, and told them that he would call the police if his vehicle was not returned. He stated that he was told to come back the next day, and that his vehicle would be returned on March 20. He stated that when he came to the Able Towing lot the next day, the vehicle was there; but it was wrecked, because they had towed it to another county, and then had an accident on the way back to their lot.

Chair Rogers asked Mr. Travis if a suit had been filed; Mr. Travis stated that he had been dealing with another attorney, Bill Porter. He stated that Able Towing had not complied with the requirements of the law for asserting a garage keeper's lien, related to the auctioning of vehicles; he noted that the statute required the advertisement to be published at least fifteen days prior to the date of the auction, but that the ad ran for the first time on March 14 for auction on March 19. He reiterated that his client had tried to get the vehicle on the 18th, prior to the advertised date of the auction, but was told that it had already been sold. He stated that Able Towing had also taken the vehicle to another county; and, when they were coming back into Davidson County, they wrecked the vehicle. He added that his client was also never provided notice, despite the fact that the vehicle had drive-out tags with the client's identification on them; that the only way his client had been able to locate the vehicle was by his own efforts. He concluded that only by catching Able Towing in a lie was his client afforded an opportunity to get his vehicle back, but then it had been totaled by the company. **Chair Rogers** asked about the estimated value of the vehicle; Mr. Travis replied that it was worth between \$5500 and \$6000; that Able Towing had told Mr. Barghi that they had sold it for that amount.

Mr. Davidson noted that Mr. Barghi had purchased the vehicle on May 12, 2007 at

auction, and sold it on May 24, 2007. He noted that it was towed on February 1, 2008; and it sat on the Able Towing lot until March 18. **Chair Rogers** asked Mr. Davidson if he was trying to claim negligence on the part of Mr. Barghi; Mr. Davidson responded that he was only trying to give a history of the vehicle. Mr. Davidson stated that Mr. Porter had sent a letter to Mr. Barghi's attorney on April 22, 2008. Mr. Travis stated that this was an offer of settlement. **Chair Rogers** said that she would allow it to be an exhibit. Mr. Davidson asked Mr. Barghi if part of his complaint was that the vehicle had been towed illegally; Mr. Barghi responded that he was not making such a claim. Mr. Davidson asked Mr. Barghi why he had not come in to claim the vehicle earlier; Mr. Barghi replied that he had not known where the vehicle was. Mr. Davidson asked how he had found it; Mr. Barghi stated that he had called the Impound Lot. Mr. Davidson asked why he had not called the Impound Lot earlier; Mr. Barghi stated that he had called several times. Mr. Davidson pointed out that he had learned from the Impound Lot that Able Towing had the vehicle, and asked Mr. Barghi why he had waited so long to come in to claim the vehicle. Mr. Barghi stated that this was not the only vehicle he had on his lot, and that he had a lot of customers. **Chair Rogers** told Mr. Davidson to move on; that she was not impressed that Mr. Barghi was negligent.

Mr. Davidson stated that he was not sure why his client was being charged. **Chair Rogers** noted that he had not met the requirements for auctioning the vehicle. Mr. Davidson stated that he thought his client was being charged because the vehicle was damaged. Director McQuiston stated that the charge was that Able Towing failed to release the vehicle to the owner on March 18, when it should have been released. The director pointed out that the vehicle should not have become wrecked, because it should not have been taken from the lot in the first place. Mr. Davidson questioned if the vehicle owner should not have to pay the storage fees in order to gain release of the vehicle. Director McQuiston said that this could be required, but that in this case the complainant had stated that he was denied that opportunity; instead, he was told that the vehicle had been sold at auction, even before the advertised date of the auction. The director added that the complainant was then told that he could get it back the next day; but when he came back the vehicle was gone; and then the vehicle was wrecked as a result of Able Towing taking the vehicle somewhere that it should not have been stored. Mr. Travis asked Mr. Barghi if Able Towing had accepted his company check when he had tried to get it released on March 18. Mr. Barghi stated that they would not accept payment, except in cash. He stated that he had offered to get the cash, but that the person then made a phone call and told him that the truck already had been sold.

Chair Rogers called for Pamela Lassiter to appear. Inspector Bowling reported that he had spoken with Ms. Lassiter earlier in the day, and she had just been released from the hospital. He stated that the issue concerning the towing of Ms. Lassiter's car had come to the commission from the police department as a result of their investigation into her report that the vehicle had been stolen. The inspector stated that, because the investigation had been conducted by the police and by him, he could present the facts of the case. He reported that Ms. Lassiter's car had parked in the lot at Centennial Medical Center, where she works; when she got off work, her car was gone, and she reported it to the police as a stolen vehicle. He stated that the police had checked, and informed Ms. Lassiter that her vehicle had been towed by Able Towing. He stated that the police also conducted an investigation,

contacting “Joe” at Able Towing, who reported that Metro Police had ordered the tow. He stated that the officer called again, when it was clear that the Police had not directed the tow; this time “Joe” told the officer that a doctor at the hospital had directed the tow. Inspector Bowling reported that the officer then contacted hospital security, and the security officer stated that the only persons who would have authorization to have vehicles towed were the security staff. The inspector stated that the investigating officer called Able Towing again, and this time was told that Metro Codes has authorized the tow. He stated that at that point, the police had sent the investigation to him. Inspector Bowling stated that he contacted Jim Cantrell at Metro Codes, who told him that this was not a Codes-directed tow. He provided a copy of an email message from Kimberly Rottero at the medical center, which stated that no one had been able to identify who had authorized the tow.

Complainant Eric Wilson appeared before the Commission. He stated that he had been working late at his place of employment at Kinkos on Third Avenue and Broadway, and his car had been towed from the Kinkos parking lot. He stated that he called Able Towing, because he knew that they had towed vehicles from the lot before, and asked that his car be returned. He stated that he was initially told that they would do so; but later a driver came to his door and told him that the owner had sent him to bring Mr. Wilson to Able Towing’s lot to pick up the car. Mr. Wilson stated that it was late at night; he refused to get into a tow truck with a stranger and to go to an unknown location to get his car, which should not have been towed in the first place. He stated that he telephoned Able Towing and talked to the owner, insisting that his car be returned to Kinkos. He stated that on two previous occasions, Able Towing had towed his car; but both times the tows had occurred during the day, and Able Towing had brought his car back to Kinkos. He stated that this time Able refused to return it. He stated that he called the Police, and an officer went with him to reclaim his car. He stated that he told the company owner that the reason he was upset was that his car had been taken without permission. **Commissioner Mary Griffin** asked about the authorization for the tow. Mr. Wilson stated that Able Towing had informed him that there was a lady who walked around the lot and signed for unauthorized vehicles to be towed. Mr. Wilson stated that this was not an unusual occurrence, and that Able Towing had towed vehicles of customers during regular business hours in the past, without notifying or requesting permission from the store. Mr. Davidson provided a copy of the tow slip, signed by Debbie Knight, and also a signed statement from Ms. Knight. Inspector Bowling asked who Debbie Knight was; Mr. Davidson said he did not know. Inspector Bowling asked if she was Mr. Wayman’s step-daughter; Mr. Wayman said that she was no relation to him. Mr. Wilson stated that he did not know who Debbie Knight was, but that he was in the store, and no one knocked on the door to ask for permission to tow.

Chair Rogers invited Mr. Davidson to respond to the complaints.

Mr. Davidson introduced a copy of a tow slip authorizing the tow of Pamela Lassiter’s vehicle. He stated that Aaron Fitzsimmons, who worked at the surgical clinic, had signed the tow slip. He also provided a copy of a statement signed by Mr. Fitzsimmons.

Mark Wayman, owner of Able Towing, appeared. He stated that he would be going to court in the case involving Mr. Barghi's vehicle. He stated that, if Mr. Barghi was upset about the damage to his vehicle, he could file a claim against Mr. Wayman's insurance. He added that, since Mr. Barghi had claimed that it was his fault that it was damaged, he would call his insurance and tell them not to pay the claim, because the vehicle belonged to Mr. Wayman. He stated that he had filed correctly with the State to identify the owner, and Mr. Barghi's name had not come back on the paperwork. He stated that temporary tags on a vehicle were only good for twenty-one days, so they could not be considered valid for the purpose of identifying the owner. Mr. Davidson showed Mr. Wayman a copy of the vehicle registration, and noted that the vehicle was not registered to Mr. Barghi.

There was a brief discussion concerning documents.

Referring to items introduced by Mr. Davidson (concerning the towing of Mr. Wilson's car), **Commissioner Griffin** asked where the letter from Debbie Knight had come from; Mr. Wayman stated that he had received it from Debbie Knight. **Commissioner Griffin** stated that it did not indicate what company she worked for, and that the signature on the statement clearly did not match the signature on the tow slip.

Director McQuiston clarified that the staff did not dispute that procedures required by the State for notification were followed in the case of Mr. Barghi's vehicle.

Mr. Wayman stated that Mr. Barghi did not want to pay the fees. He stated that he told Mr. Barghi on the phone the next day that the vehicle had been sold for \$5500. He added that he later talked to the buyer, who was a friend, and the buyer told him to go ahead and return the vehicle to Mr. Barghi; he conceded that the vehicle had been wrecked while bringing it back, but he had insurance. He stated that the vehicle had not left Able Towing's lot until March 19. **Chair Rogers** asked why the vehicle was not released to Mr. Barghi on March 18; Mr. Wayman stated that Mr. Barghi had refused to pay.

Mr. Davidson referred back to the tow slip and statement signed by Debbie Knight. **Chair Rogers** said that it was not credible, because the signatures of Ms. Knight on the two documents obviously did not match. Mr. Davidson asked, if the Commission was going to discipline his client, that the matter be put off for an additional meeting to allow Ms. Knight to come in and testify. **Chair Rogers** told him that this hearing was that opportunity, and his witnesses should be present. Mr. Davidson argued that the woman who had made this complaint was not present, and the complainant should be held to the same standard. **Commissioner Jennifer Brundige** pointed out that the documents concerning Debbie Knight had to do with Eric Wilson's complaint, and he was present. **Chair Rogers** stated that she did not think Ms. Lassiter's complaint was especially significant. **Commissioner Tom Turner** noted that the statement of Mr. Fitzsimmons was undated, and referred to City Towing, a company which no longer exists. He expressed concern that the Commission had requested documents from Able Towing in April, but was not provided them until July. He added that introducing documents on the date of the hearing – with signatures that did not match, were undated, and had names that don't exist – was inappropriate. Director McQuiston noted that the statement provided with Mr.

Fitzsimmons' signature did not refer to Ms. Lassiter's car, nor to Able Towing; it only stated that Mr. Fitzsimmons had had cars towed by City Towing before.

Mr. Davidson stated that an April 11 letter from the Commission director to his client had referred to complaints involving other tows; and that no additional requests for documents had been made. **Commissioner Turner** read from that letter, and noted that the Commission had requested documents related to the towing of vehicles from the vicinity of the Play Dance Bar no later than April 28, 2008. Mr. Davidson responded that the tows referred to in the letter were not being considered at this hearing. **Commissioner Turner** pointed out that it was relevant, because the April 11 letter referred to Mr. Wyatt's complaint. Mr. Davidson stated that Director McQuiston had told him earlier in the day that the issue concerning Play Dance Bar would not be heard at this hearing. Director McQuiston responded that Mr. Davidson had only inquired about one of the complaints - a complaint by Mr. Todd Roman; but that there had been six complaints identified in the letter.

Mr. Wayman stated that he had given copies of the receipts related to the Play Dance Bar complaints to Director McQuiston. Director McQuiston stated that a concern in the towing of vehicles from the Play Dance Bar had been a question about whether they had been properly authorized, and that was why the staff had requested copies of the tow slips; these were not provided. He added that the staff had received a letter from Mr. Davidson, stating that the complaint by Mr. Roman was not considered valid, and an explanation that the credit card machine at Able Towing had been temporarily out of order; but reiterated that the tow slips requested had not been provided.

John Nixon, employee at Able Towing, appeared. He stated that he had provided copies of records related to various tows to Inspector Bowling over a period of several months. He stated that he was not sure that the surgical clinic parking lot from which Ms. Lassiter's car had been towed was part of Centennial Medical Center, but that he had been the driver who towed her car. He stated that Aaron, the doctor who called him, had told him that he had used City Towing in the past; but that he had learned that City Towing couldn't tow anymore. Mr. Nixon stated that he had gone to the parking lot, where the doctor had met him and signed to authorize the tow. Mr. Davidson asked Mr. Nixon about Mr. Barghi. Mr. Nixon stated that he did not see Mr. Barghi on March 18, because he had already gone for the day. He stated that he had talked to Mr. Barghi on March 19 about the paperwork on the vehicle; he added that, if there had been any mistakes on the paperwork, they were his fault, because he had filed those papers.

Director McQuiston stated that the staff had a concern about the possible existence of a connection between Able Towing and Big Brother, and asked if the Commission would consider hearing that at this meeting. Mr. Davidson objected, stating that he had not received any charges related to Big Brother. The director asked if Big Brother had not been brought up in this hearing. **Chair Rogers** stated that the company had changed their testimony concerning that issue. Director McQuiston withdrew his request.

Mr. Davidson stated that he had one more issue to address. He asked Mr. Wayman

about his credit card machine; Mr. Wayman stated that it had been there from 2005 until 2008, although it had been down for some periods through no fault of the company.

Chair Rogers stated that the Commission would address each complaint separately, and asked if there were motions.

In the matter of the complaint concerning Officer Ward and Sergeant Beck, **Commissioner Brundige** moved that the Commission find a violation of Section 6.80.320.B of the Metropolitan Code of Laws. **Commission Griffin** seconded; and the motion passed (3-0).

In the matter of the complaint concerning Justin Wyatt, **Commissioner Turner** moved that the Commission find violations of Metropolitan Code of Laws Sections 6.80.185 and 6.80.450, and Tennessee Code Annotated 55-16-112. **Commissioner Brundige** seconded; and the motion passed (3-0).

In the matter of the complaint concerning Kiomarz Barghi, **Commissioner Turner** moved that the Commission find violation of Metropolitan Code of Laws Sections 6.80.575. **Commissioner Brundige** seconded; and the motion passed (3-0).

In the matter of the complaint concerning Pamela Lassiter, there was no motion for a finding.

In the matter of the complaint concerning Eric Wilson, **Commissioner Turner** moved that the Commission find violation of Tennessee Code Annotated 55-16-112. **Commissioner Brundige** seconded; and the motion passed (3-0).

Chair Rogers asked if there were motions concerning disciplinary action.

Commissioner Brundige moved to restrict the license of Able Towing for a period of four months, as follows: the company would not be authorized to perform nonconsent towing. There was no second.

Commissioner Turner offered an amendment to the motion: to extend the period of restriction to twelve months. **Commissioner Griffin** seconded the amendment, and the motion was amended.

Commissioner Brundige seconded the amended motion, and the amended motion passed (3-0).

Chair Rogers asked Mr. Wayman to consider changing some of his business practices. Mr. Wayman insulted the Commissioners and left.

TAXICAB DRIVER DISCIPLINARY HEARING: FEYSAL HASSAN

Complainant Patrick Osborne appeared before the Commission. He stated that he had arrived at the airport, and had taken a taxicab to his home near Opryland. He added that in the past he had been charged both the flat rate and the meter rate. He stated that, during

the ride to his house on the night in question, the driver had changed the rate. He stated that it was about 4:00 in the morning, the ride was very stressful because the driver was rude and using profanities. He stated that there was no driver identification present, and he had not been able to identify the cab. Mr. Osborne stated that, when the cab stopped at his house, the driver locked the doors and demanded his fare. **Chair Helen Rogers** asked how much he had to pay; Mr. Osborne responded that he thought it was about \$25. He stated that he got out, and walked to his door. He stated that he stopped and took a picture of the cab, so that he could later make a complaint to someone. **Chair Rogers** asked what the driver had told him concerning the charge; Mr. Osborne responded that he could not remember, but whatever the higher rate was – between the meter rate and the flat rate – is what he paid. He gave his address as 4016 Longfellow Drive. Director McQuiston asked how he had learned the identity of the driver. Mr. Osborne stated that, after this had happened, the driver had come back to his house. Director McQuiston asked if he had been able to identify the cab number; Mr. Osborne stated that he had: it was Diamond #78.

Driver Feysal Hassan appeared. He stated that when he had picked up the passenger at the airport, he was told “Opryland”. He stated that, as a result, he did not turn on the meter, because this was a flat fare destination. He stated that, on the way to Opryland, the passenger had asked him why the meter was not turned on, so he had explained that the passenger had told him to take him to Opryland. He stated that the passenger then told him that he was a police officer, and tried to intimidate him. He stated that he told the passenger that he was almost to the destination, and it would not be correct to turn on the meter at that point. Mr. Hassan stated that the passenger insulted him, making derogatory remarks about his nationality and color. He stated that, when they arrived at the house, the passenger threw \$40 at him, for which he returned \$15 in change. He stated that the passenger took his picture. He added that, because the passenger had told him that he was a police officer and was now taking his picture, he was afraid, and called the police. He stated that, while he was still on the phone with the police, the passenger appeared at the door of his house with a gun; the police told him to drive away and wait until they arrived. Mr. Hassan stated that the police arrived and arrested Mr. Osborne. **Chair Rogers** asked why he was afraid. Mr. Hassan explained that it was the middle of the night; if he was killed, no one would know. **Chair Rogers** asked about his permit; Mr. Hassan stated that it was on the passenger side in the cab. He added that the passenger had not asked to see his permit, but it was visible.

Mr. Osborne appeared for rebuttal. He stated that this was not the first cab he had been in. He reiterated that he had looked at the visor and everywhere else in the cab, but the driver’s permit was not displayed. He denied telling the driver that he was a police officer, or anything else Mr. Hassan had told the Commission.

Chair Rogers declared a five minute recess.

The Commission was called back into session. **Commissioner Tom Turner** moved to find a violation of Section 6.72.170 of the Metropolitan Code of Laws for failure to display a permit, and to place Mr. Hassan on probation for six months. **Commissioner Mary Griffin** seconded, and the motion passed (3-0).

APPLICATION FOR WRECKER DRIVER PERMIT: CRAIG ALLEN MANN

Director McQuiston reported that Mr. Mann had applied for a permit and had disclosed fourteen arrests, which were confirmed by his background check. He added that a temporary permit had been approved in 2003, which was not renewed. The director pointed out that typically the Commission might approve a temporary permit for a driver with a past criminal history, restricted to one company, with the assurance that the owner of that company would assume responsibility for closely monitoring the driver's behavior. He expressed concern with Mr. Mann's application, because the company – Express Towing – performed nonconsent towing, and because the owner was Mr. Mann's wife; this might place undue pressure on the owner.

Mr. Mann appeared. He explained that the reason he had not applied to renew his temporary permit in 2003 was because he did not drive very much. He stated that his sister had died, and that he and his mother had gone to New Mexico for awhile. He stated that he had been cited by Inspector Bowling when he had been driving a tow truck to get new tires. He stated that he now needed a permit; because if he had to take a tow truck to get it repaired he would need a permit to drive it, or even to ride in it. Mr. Mann stated that the company had towed over 1200 cars in the previous year, and there had been no complaints brought to the Commission. Inspector Bowling stated that the only concern with Mr. Mann's application had been his past history. Mr. Mann stated that he had been in trouble when he was young, but that he had straightened out his life.

Commissioner Tom Turner moved to approve a temporary permit, until December 1, 2008, restricted to Express Towing. **Commissioner Jennifer Brundige** seconded, and the motion passed (3-0).

SHOW-CAUSE HEARING: DIAMOND TAXI

Roy Gillespie, owner of Diamond Taxi, did not appear. **Chair Helen Rogers** asked Director McQuiston to report.

The director reported that in May 2008 he had been informed by a Diamond Taxi driver that the company's radios were not operating. He stated that Inspector Bowling confirmed this on June 2.

Inspector Bowling reported that he had stopped a Diamond taxicab and performed a compliance check on the radio. He stated that the radio itself was working and connecting to the repeater, but there was no answer on the other end. He stated that he had the driver attempt to call other taxicab drivers, but there was no response from them, either.

Director McQuiston stated that he sent Mr. Gillespie a letter on June 3, informing him that he was required to make arrangements to have his dispatch office reinspected no later than June 6. He added that he also faxed a copy of this letter to Diamond Taxi. He stated that Mr. Gillespie did not respond to that letter until July 16, less than a week before this hearing, when he called the staff to inform the commission that he was moving his office and to request an inspection. The director expressed concern because Mr. Gillespie was not responsive to the Commission. He cited the months it had taken for him to come into compliance for the radios during 2007 and early 2008, despite the number of deadlines and extensions granted by the Commission; and then failing again to meet the requirement only two months after verification.

Director McQuiston stated that he had contacted a Diamond Taxi driver on July 18, and the driver had reported that the radios were again back in service. He stated that a chief concern was Mr. Gillespie's continued failure to comply. He provided documentation and cited Mr. Gillespie's consistent failures over the previous two years to pay quarterly decal

fees and annual certificate fees on time. He explained that it had been necessary for the staff to call the airport and have his cabs barred from the ground transportation area until he came in to pay the required fees; when his drivers got upset because they could not make a living, then he would come in and pay. The director added that a couple of months earlier, Mr. Gillespie's check for decals had bounced.

Commissioner Tom Turner stated that it was reported in mid-May that Diamond Taxi's radio system was no longer operational, and that on July 16 it was confirmed that it was operating again: a period of approximately sixty days. He moved to suspend Diamond Taxi's certificate of public convenience and necessity for a period of sixty days.

Commissioner Mary Griffin had a question about adding a probationary period to the suspension. **Chair Rogers** stated that there was already a motion under consideration.

Commissioner Turner withdrew his motion.

Commissioner Griffin asked if a motion to suspend could also include a follow-on probation period. Director McQuiston answered that this was possible.

Commissioner Griffin moved to suspend Diamond Taxi's certificate of public convenience and necessity for a period of sixty days, to be followed by a probationary period for the remainder of one year. **Chair Rogers** asked if there was any discussion on the motion. Inspector Lawhorn expressed concern about the Diamond Taxi drivers who would be affected, and asked the management representatives of other taxi companies, who were present, if they had positions available for more drivers. They responded that there were available positions. **Commissioner Turner** seconded the motion, and it passed (3-0).

OTHER BUSINESS

Johnny White, co-owner of American Music City Taxi, requested that the Commission consider granting a temporary taxi driver permit to Tilahun Eshete, whose permit had been revoked by the Commission several months ago. **Commissioner Tom Turner** stated that the circumstances involved in the revocation had been serious. Director McQuiston stated that Mr. Eshete was allowed to reapply for a permit ninety days after revocation; but he added that any new permit application would be forwarded for Commission decision. **Chair Rogers** informed Mr. White and Mr. Eshete that the Commission would be able to consider a new application at the next meeting.

At the request of **Commissioner Mary Griffin**, the Commission went on record in expressing concern for taxi driver safety, and particularly in expressing sympathy to driver Jamal Ahmed Farah, who was shot in the arm during what appeared to be an attempted robbery; and also to the family of driver Hassan Mohamed Osman, who was shot and killed near his home.

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

ATTEST:

APPROVED:

Brian E. McQuiston
Director-Executive Secretary

Helen S. Rogers
Chair