

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

**Minutes of
October 25, 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 Acting Chair Tom Turner and Commissioners Jennifer Brundige, Sal Hernandez, Sam Patel and Ed Whitmore (5). Also attending were Metro Legal advisor Jenny Howard and Brian McQuiston, Director-Executive Secretary to the Commission.

Acting Chair Tom Turner 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 September 27, 2011 meeting were approved.

**APPLICATION FOR PASSENGER VEHICLE FOR HIRE COMPANY
CERTIFICATE: ACE NASHVILLE LIMO**

Director McQuiston noted that owner Olusegun Ojo-Daniel was not present. With the consent of the other Commissioners **Acting Chair Tom Turner** directed that the application hearing be moved to the end of the agenda, in order to allow the owner more time to arrive.

PUBLIC HEARING: PROPOSED NEW WRECKER RULE

Director McQuiston presented a staff proposal to amend the Wrecker Rules. He stated that this would be an initial step to address inspection standards for wrecker vehicles. He noted that all other vehicles regulated by the Commission had inspection standards incorporated into ordinances or Rules. He stated that the wrecker ordinance provided for the Commission to establish rules to set such standards for safety and regulatory devices, but to date there had been no standard inspection form or program developed for this purpose. He stated that some wreckers observed in operation had been old or damaged; and that some had even been non-wrecker vehicles "modified" to perform towing. He stated that a safety inspection of such vehicles and their lifting equipment, winches, cables, tiedowns and other towing/recovery-related equipment was appropriate to ensure that they could safely transport vehicles. The director stated that training of inspectors and the development of inspection criteria would be necessary to make this a viable program, and that the proposed Rule would reserve a section for that purpose. He stated that in the meantime, the Commission could begin to establish inspection standards for "regulatory devices" associated with vehicles, and that the proposed Rule addressed a problem associated with identifying wreckers with their licensed companies.

Director McQuiston stated that since the transfer of the Cotton's zone to Douglas and David Williams, who also owned Tow Pro, wrecker vehicles had been observed with both companies' names lettered on the vehicles' doors. He noted that in the past company owners whose licenses had been – or were in imminent danger of being – suspended or revoked also had listed other company names on their wreckers in an attempt to disguise the vehicles. The director read the proposed new Rule:

RULE 26. WRECKER VEHICLE INSPECTION STANDARDS

- a. Wrecker vehicles will be lettered with the name of the entity operating the wrecker. No name or distinctive logo of another licensed company may appear on the vehicle.
- b. Reserved.

Acting Chair Tom Turner invited public comment.

Doug Williams, co-owner of Tow Pro and RoadMaster d/b/a Cotton's Towing opposed the inclusion of the logo in the Rule. He stated that the company desired to retain the Tow Pro logo on both companies' vehicles. He provided examples of logos used by subsidiaries of other nation-wide companies, and provided copies of photographs showing Tow Pro trucks and Cotton's Towing trucks.

There were no other requests by the public to speak, and the hearing was closed for public comment.

Commissioner Sal Hernandez asked Director McQuiston if there was a process for wrecker companies to register their logos with the staff. The director responded that there was none. He stated that the ordinance required the wrecker to have the name of the licensee lettered on its doors. He stated that when the names of both Tow Pro and Cotton's had first appeared on individual wreckers, he had advised the companies' owners that the vehicles should only show one company name, not two. He stated that the companies' attorney had responded in a letter which argued that the ordinance did not specifically require that a wrecker could not also have a second company's name lettered on it. The director noted that the ordinance did specifically allow the Commission to establish regulatory devices, and that the proposed Rule would enable the Commission's inspectors to discern which company owned a wrecker without having to stop it to inspect its registration or decal number. He noted that this would also assist inspectors in investigations and enforcement against revoked or suspended operators using another company's name.

During discussion, **Acting Chair Turner** stated that the Commission could amend the proposal to include an effective date, because it might take some time for a company to come into compliance. Inspector Bowling showed a photo of a wrecker vehicle lettered with both "Tow Pro" and "Cotton's", and stated that it was not reasonable to require inspectors to stop every wrecker to determine for which company it was operating. He noted that doing so at night would pose a safety risk for inspectors.

Acting Chair Turner invited David Williams to appear. Mr. Williams stated that Director McQuiston had recommended that the Tow Pro owners use the RoadMasters d/b/a Cotton's Towing as the licensee name. He stated that police officers had no problem identifying Tow Pro. **Acting Chair Turner** asked if the

owners desired to have both companies operating as Tow Pro. Mr. Williams responded that they did. Director McQuiston stated that the issue was that Tow Pro operated a zone on one side of the County, and Cotton's operated a zone on the other side. He stated that he had recommended two names so that it would clarify that the company would own two separate operations, each with its own zone. He noted that the Commission had had prior experience with a company trying to operate more than one zone, and for that reason had specifically required a clear separation to ensure that the same wreckers were not running everywhere in the County, responding to calls for different companies. **Commissioner Jennifer Brundige** stated that the Commission had considered this when deciding on the Williams' application for transfer of the Cotton's zone, and that it was important that there were two separate companies with separate wreckers operating in the two zones.

Commissioner Sal Hernandez moved to adopt the Rule 26 as proposed. **Commissioner Brundige** seconded. During discussion, **Commissioner Sam Patel** asked whether it would be appropriate to set an effective date. **Commissioner Hernandez** withdrew his motion.

Commissioner Patel then moved to adopt the Rule 26 as proposed, and to allow the staff to set an effective date. **Commissioner Brundige** seconded, and the motion passed (4-0).

WRECKER COMPANY DISCIPLINARY HEARING: BROWN'S AUTOMOTIVE

Ronnie Brown, owner of Brown's Automotive, appeared.

Director McQuiston reported that the company was licensed as a general wrecker service. He stated that he had received a fax from Mr. Brown's insurance company on August 23, 2011 which indicated that the liability insurance policy covering the wrecker service had been terminated on August 5, 2011. He stated that he had called company owner Ronnie Brown on August 24, and informed him that his required insurance policy had been canceled. He noted that Mr. Brown had responded that this was a mistake by the insurance company, and that he would get it fixed. The director reported that on August 25 he was driving to a meeting downtown, and observed a Brown's Automotive wrecker carrying a vehicle driving westbound on I-24/I-40. He stated that on September 2 he had called the insurance company and spoke to the person who manages Mr. Brown's account; and was informed that Mr. Brown had not paid his premium, and the policy had not been reinstated. The director stated that on September 7, Mr. Brown had delivered a certificate of insurance to the commission office, with an effective date of September 6, evidencing that he was back in compliance with the insurance requirements.

Acting Chair Tom Turner asked how long Brown's had held a license; Mr. Brown responded 28 years. **Acting Chair Turner** asked the director if there had been other problems with compliance during that time. The director responded that it was generally only with getting the license renewed on time.

Mr. Brown admitted to the facts as presented. He explained the problems he had had with the new insurance company, because his check for the premium payment had been returned. He provided documents to evidence his efforts to make the payment, and stated that he had since found another insurer.

Commissioner Jennifer Brundige moved to place Brown's Automotive on probation for one year, and that any lapse of insurance during that period result in a disciplinary hearing. **Commissioner Sam Patel** seconded, and the motion passed (4-0).

**PASSENGER VEHICLE FOR HIRE DRIVER DISCIPLINARY HEARING:
DONOVAN VALENTINE**

Director McQuiston reported that this hearing was based on a complaint from Airport staff. He stated that in December 2010 Mr. Valentine had applied for a certificate of public convenience and necessity to operate Monarch Transportation as a livery service; and at the same time he had applied for his livery driver permit. The director stated that on January 13, Mr. Valentine had received his driver's permit, but did not complete the process to obtain a certificate for his company and permits for his vehicles. The director stated that the complaint indicated that Mr. Valentine continued to operate as an unlicensed passenger vehicle for hire service. He stated that in September 2011 Airport staff had reported that Monarch Transportation was operating between the Airport and a hotel.

Al McDill and Jennifer Swallows appeared from the Airport staff. Ms. Swallows stated that the Airport's ground transportation policy required all operators of ground transportation companies to be permitted by the Airport. Mr. McDill added that one of the requirements in that policy was that all operators were required to be licensed by the Transportation Licensing Commission. Ms. Swallows stated that on September 7 she had learned that a passenger had been told to obtain transportation to the Wyndham Hotel from an unmarked vehicle on the baggage claim level. She stated that subsequent follow-up with staff at the Wyndham Hotel had verified that Monarch Transportation had been carrying passengers for hire to and from the hotel. Copies of email communications with Kristen Creson, Administrative Manager at the Wyndham Resort, revealed that Mr. Valentine was portraying to the Wyndham that he was operating Monarch Transportation as a licensed service. She added that on September 19 she had notified Monarch Transportation that they were required to obtain a permit in order to pick up passengers at the airport; and after that time the Airport staff had observed Monarch Transportation conducting drop-offs only at the airport.

Mr. Valentine appeared. He stated that he had not completed the process to obtain a certificate because his insurance agent did not understand why he had to have general liability insurance for his company, as required by the ordinance, and that Director McQuiston had not returned his phone calls. Director McQuiston confirmed that Mr. Valentine had not completed the process, and noted that the information included in the Commissioners' packets included a letter dated January 31, 2011 which listed in detail the items which were missing, and what the ordinance required for insurance. **Acting Chair Tom Turner** asked Mr. Valentine how long he had been operating Monarch Transportation without the licenses. Mr. Valentine responded that he had been operating the business since January 2010, but the license was not required until 2011. He stated that all of his drivers operated out of Robertson and Sumner Counties. He repeated that he had not received return calls from the director, and that the insurance question was never answered. **Acting Chair Turner** asked Mr. Valentine if he knew that he was operating without the license. Mr. Valentine

stated that he thought he was not allowed to operate in Davidson County. He stated that any trips he made to the airport were not originated in Davidson County. **Acting Chair Turner** noted that the Wyndham Resort was located within the county. Mr. Valentine denied that Monarch had taken passengers from the airport to the Wyndham. He stated that he dropped off at the airport, but did not pick up passengers in Davidson County. **Commissioner Ed Whitmore** asked Mr. Valentine if he was able to acquire the necessary insurance now; Mr. Valentine stated that he was. **Commissioner Whitmore** asked the director what would be required for Mr. Valentine to obtain the certificate; the director responded that because it had been many months since the application had been submitted, it would be appropriate for the company owner to reapply. He noted that because the company had been operating without a certificate, any such application would be forwarded to the Commission for decision. The director added that the company had been missing more than just the insurance from its application, as shown in his January 31 letter. **Commissioner Jennifer Brundige** referred to the insurance certificate included in the company's application. She noted that, in addition to lacking the required general liability insurance coverage, the amount of vehicle liability insurance coverage shown was also lower than the \$1.5 Million required by the ordinance. **Commissioner Brundige** moved to find that Mr. Valentine had operated passenger vehicles for hire in Davidson County without a certificate of public convenience and necessity and without required insurance; and to revoke his passenger vehicle for hire driver's permit. **Commissioner Whitmore** seconded, and the motion passed (4-0).

APPLICATIONS FOR TAXICAB DRIVER PERMITS:

Marcellus Walker: Director McQuiston reported that in September the staff had obtained copies of Traffic School records of taxi drivers, and that these revealed moving violations that were not listed on the applicants' official Department of Safety driving records. The director stated that when Mr. Walker applied to renew his permit in September his Traffic School records revealed that he had attended Traffic School after receiving a Metro citation for Reckless Driving in September 2009. He stated that Mr. Walker had provided a copy of the ticket, which showed that he had been cited for violation of Metro Code Section 12.68.180 – Reckless Driving. The director stated that a subsequent legal interpretation of the reckless/careless driving standard had determined that only a citation for violation of the State code for reckless driving should be considered as anything more than a simple moving violation. He stated that as a result, Mr. Walker was eligible to renew his permit; but because the reckless driving citation indicated that he had been driving 98 mph in a 55 mph zone this application had been referred to the Commission.

Acting Chair Tom Turner noted that Mr. Walker was technically eligible for a permit, but that he needed to answer for the reckless driving incident. He asked how long Mr. Walker had been driving a taxicab; the director responded that he had held a permit for 25 years.

Mr. Walker appeared. **Commissioner Jennifer Brundige** asked him why he had driven 98 in a 55 zone. Mr. Walker responded that he regretted it as a poor decision on his part, adding that he would not do so ever again. He admitted that he had been

driving a cab at the time, but stated that he was not carrying passengers. Inspector Lawhorn stated that he knew that Mr. Walker had been a good driver for many years, but that he had also chewed out Mr. Walker for this incident. Director McQuiston noted that because he had been unable to renew his permit, Mr. Walker had been out of work since September 30.

Commissioner Sal Hernandez asked if the staff was able to receive Traffic School records on a continuing basis. The director responded that this was not the case at the time. **Commissioner Hernandez** asked if the ordinance could be changed to prohibit drivers from attending Traffic School; the director responded that this would require a change to State law. He added that at one time the staff had been able to obtain records on a driver's traffic violations, including any Traffic School attendance, on a case-by-case basis; but the computer data base that had allowed that was no longer available to the staff as a non-law enforcement agency. He stated that it might be possible to gain access in the future, with appropriate coordination.

Commissioner Brundige moved to approve Mr. Walker's application, and to place him on probation for two years. **Commissioner Sam Patel** seconded, and the motion passed (4-0).

Ronald Jones: Director McQuiston reported that Mr. Jones had applied for an initial taxicab permit on August 31, to drive for United Cab; and he noted that United Cab management was present to support the application. The director provided a copy of Mr. Jones' fingerprint-based background check, and noted that his last offense was in 1995.

Mr. Jones appeared. **Commissioner Sam Patel** noted that Mr. Jones' arrest record had been in New York, and that it appeared he had made a big change when he moved to Tennessee. Mr. Jones stated that he had been a substance abuser, but had turned his life around. He provided records showing his volunteer work, and stated that he would soon celebrate eight years of abstaining from drugs.

Commissioner Patel moved to approve Mr. Jones' application, to place him on probation for one year, and to restrict his permit to United Cab. **Commissioner Sal Hernandez** seconded, and the motion passed (4-0).

Abdi Farah: Director McQuiston reported that Mr. Farah had held a taxi driver permit since December 2005. He stated that when Mr. Farah had applied to renew his permit in September, he was required to undergo a five-year update on his fingerprint-based background check. The director provided a copy of the background report, as well as Mr. Farah's Davidson County Criminal Court record; and he noted that the record included a number of alcohol-related offenses. He noted that a November 2010 DUI arrest also included a vehicle accident.

Mr. Farah appeared. **Acting Chair Tom Turner** asked him about the November 2010 accident and arrest. Mr. Farah explained that he was charged and that his license was suspended for one year. He stated that he had his license now, but was on probation. He stated that his attorney had told him that he could continue to operate a cab. Director McQuiston asked if the charge had been appealed, noting that the disposition listed on the charge was "motion/petition". Mr. Farah stated that the DUI was still an open charge. Director McQuiston asked him what his plea had been to the charge; Mr. Farah responded that he had pled guilty. Director McQuiston stated that he would therefore be ineligible for a permit. Legal Advisor Howard

confirmed this and read section 6.72.110(E)(1) of the Code, which applied to permit eligibility requirements.

Commissioner Sal Hernandez moved to disapprove Mr. Farah's application. **Commissioner Sam Patel** seconded, and the motion passed (4-0).

APPLICATIONS FOR WRECKER DRIVER PERMITS AND GENERAL WRECKER COMPANY LICENSES:

Taylor Ewin/Iron Man Tow: Mr. Ewin appeared. Director McQuiston reported that Mr. Ewin had a criminal conviction record, the most recent in 2004 for possession of marijuana. **Acting Chair Tom Turner** asked Mr. Ewin about his convictions in 2000 and 2004. Mr. Ewin stated that the 2004 conviction was correct, but that in 2000 he had been convicted of weapons possession. He stated that he had not had anything to do with drugs since the 2004 conviction. **Commissioner Jennifer Brundige** asked about his experience in the towing business. Mr. Ewin stated that he had towed while he was at the Technology Center, and that he had towed for about three years before he learned that a license was required. **Commissioner Brundige** asked if he had any other business experience; he responded that his wife ran a beauty shop, and he had handled the payroll, taxes, and other licensing requirements for that business. He stated that he had read the wrecker ordinance, and understood the requirements for general wrecker services. He stated that he had done the mechanical work on his vehicles, so he could also handle that part of the business. **Acting Chair Turner** noted that Mr. Ewin's applications were completed in an extraordinarily thorough manner, which indicated exceptional attention to detail. He asked again about the 2004 conviction. Mr. Ewin stated that he had been driving his cousin, and had been unaware of the drugs his cousin had on his person at the time. Inspector Bowling supported Mr. Ewin's applications.

Commissioner Brundige moved to approve Mr. Ewin's applications for a wrecker driver permit and a general wrecker company license, and to place him on probation for two years. **Commissioner Sam Patel** seconded, and the motion passed (4-0).

Lawrence Cammon/Buy & Tow Wrecker Service: Mr. Cammon appeared. Director McQuiston reported that Mr. Cammon had made his applications on September 6, and provided a copy of the background check results. Following discussion, the director noted that Mr. Cammon's most recent conviction had been in 1997. Mr. Cammon stated that he had been convicted and sent to prison for drug-related crimes; he stated that after being released, he had successfully completed his probation.

Acting Chair Tom Turner asked him if he had experience as a wrecker operator. Mr. Cammon stated that he had three years of experience operating a wrecker in Louisiana. **Commissioner Jennifer Brundige** asked if he had any other business experience; he responded that he had run a paint and body shop in Nashville, and had operated as a self-employed truck driver.

Commissioner Sal Hernandez moved to approve Mr. Cammon's applications, and to place him on probation for two years. **Commissioner Brundige** seconded, and the motion passed (4-0).

APPLICATION FOR WRECKER DRIVER PERMIT: KENNETH BLAIR

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

RECEIPT OF APPLICATIONS FOR TAXICAB CERTIFICATES AND ADDITIONAL TAXICAB VEHICLE PERMITS

Director McQuiston reported that applications had been received from three companies for new taxicab certificates of public convenience and necessity, and that four applications had been received from current certificate holders for additional vehicle permits. He noted that these applications would be presented at the November 15 annual taxicab public hearing. There was no decision required, and the Commission received this for information only.

APPLICATION FOR LIVERY COMPANY CERTIFICATE: ACE NASHVILLE LIMO

Director McQuiston stated that Olusegun Ojo-Daniel was reapplying for a certificate of public convenience and necessity to operate Ace Nashville Limo. He noted that a previous application had been disapproved by the Commission in July because the company had operated as a livery service without a certificate. The director noted that in September the Commission had deferred this re-application hearing until this meeting. He stated that the staff had concerns about this application as well, because Airport Authority records indicated that Ace Nashville Limo had continued to operate as a passenger vehicle for hire service since being disapproved by the Commission. The director provided copies of monthly reports produced by the Airport's transponder system from June 1 through September 30, and noted that these showed that the company continued to operate at the Airport.

Mr. Ojo-Daniel stated that livery company owners often used one of their vehicles for personal use. He stated that he had three vehicles, and that he used one of them – a Crown Vic, for personal use. He stated that he did counseling through his church for youth, and in connection with this he was in charge of transporting incoming ministers from the airport. He stated that he had a witness who would be able to vouch for him, but the witness could not make it to this hearing. He stated that his trips to the airport were for personal use.

Mr. Ojo-Daniel added that since his application had been disapproved Inspector Bowling had stopped him while he was driving his personal car; he stated that he was not driving for hire. Inspector Bowling stated that Mr. Ojo-Daniel was downtown and cruising at the time in a vehicle that did have an airport permit for a vehicle for hire. Mr. Ojo-Daniel denied that he was operating as a vehicle for hire. **Acting Chair Tom Turner** clarified that the citations were in environmental court.

Commissioner Jennifer Brundige asked about the Airport permits and transponders. Director McQuiston responded that although Airport policy required that companies get a certificate from the Commission prior to being permitted by the Airport, this had not been followed; and in many cases operators obtained airport

permits without obtaining a certificate beforehand. He noted that this was being rectified, but that it had been a problem in the initial implementation.

Commissioner Sal Hernandez asked about Airport trip reports provided by the director that showed trips taken by Ace Nashville Limo between June and September. Director McQuiston responded that these reports were produced by the transponder system, which tracked vehicles as they entered and departed various points on airport property. **Commissioner Hernandez** asked Inspector Bowling if the citations he had issued were part of the discussion when the company's first application was disapproved. Inspector Bowling clarified that the earlier hearing considered other citations issued by Inspector Deckard. **Commissioner Hernandez** asked when the citations would be presented in environmental court. Inspector Bowling stated that it would not be before the November hearing.

Commissioner Hernandez moved to defer the application until after the environmental court hearing. **Commissioner Ed Whitmore** seconded. **Commissioner Sam Patel** noted that this would necessitate a deferral until the December meeting. Following discussion, the motion passed (3-1).

Commissioner Sam Patel noted that in the previous hearing Mr. Ojo-Daniel had indicated that he had another witness who would appear on his behalf, but that witness did not appear. He suggested that Mr. Ojo-Daniel make sure that his witness appeared at the December hearing.

OTHER BUSINESS:

Director McQuiston stated that the Commission would be required to hold a "Special Hearing" in addition to the scheduled meetings; and that he soon would be contacting Commissioners to determine their availability dates for such a hearing, preferably before the end of 2011. Legal Advisor Howard explained that it was to be a disciplinary hearing. Director McQuiston stated that in connection with the Special Hearing, he was requesting that the Commission authorize Chair Helen Rogers to sign subpoenas on behalf of the Commission. **Commissioner Jennifer Brundige** moved to authorize Chair Rogers to sign subpoenas on behalf of the Commission. **Commissioner Sal Hernandez** seconded, and the motion passed (4-0).

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

ATTEST:

APPROVED:

Brian E. McQuiston
Director-Executive Secretary

Helen S. Rogers
Chair