METROPOLITAN NASHVILLE-DAVIDSON COUNTY TRANSPORTATION LICENSING COMMISSION

Minutes of

September 27, 2005

The Metropolitan Nashville-Davidson County Transportation Licensing Commission (the "Commission") met in regular session on this date at the Metropolitan Nashville General Sessions Judicial Complex in Metro Center. The Commissioners present were Chair Cynthia Odle, Vice Chair Sammye Woods, and Commissioners A. Roger Abramson, Gladys Lozada, and James Utley (5). Also attending were Metro Legal advisor Jason Bergeron; Commission staff members Walter Lawhorn and Lisa Steelman; and Brian McQuistion, Director-Executive Secretary to the Commission.

Chair Cynthia Odle called the meeting to order and led the Pledge of Allegiance.

The minutes of the August 23, 2005 meeting were unanimously approved.

WRECKER COMPANY DISCIPLINARY HEARING - AREA TOWING:

Director McQuistion notified Commissioners that Area Towing, owned by Mr. Timmy Dee Garrett, had been under investigation by staff since June 2005 for multiple offenses related to nonconsent towing from private property. **Chair Cynthia Odle** asked if Mr. Garrett or his counsel was present. Director McQuistion stated that Mr. Garrett had been properly notified of the hearing; but that Mr. Garrett had called and said that he had sold Area Towing and would not be responding to the Commission.

Director McQuistion noted that the investigation into Area Towing had been initiated as a result of numerous complaints received from visitors whose vehicles were towed during the Southern Baptist Convention June19-21, 2005. Ms. Marilyn Edwards, Special Events Coordinator from the Mayor's office, appeared before the Commission. Ms. Edwards explained that she had responded to initial complaints from convention attendees that their vehicles had been towed from a lot in the vicinity of 5th and Franklin, and that they may have been overcharged. She said that she learned that the company involved was Area Towing and went to the company's lot. She stated that she had asked if the company had the proper authorization documents to tow the vehicles; some vehicles had been towed without the necessary authorizations, and these were released. Director McQuistion stated that the Commission had received four complaints from convention visitors towed by Area Towing. He added that Mr. Garrett had failed to cooperate with the Commission's investigation of these and six subsequent complaints by refusing to make towing records available.

Mr. Joshua Puckett appeared before the Commission. He stated that his car had been towed on July 29, 2005 from a gas station parking lot. There were no signs posted, and neither gas station personnel nor the Police Impound Lot had been informed of the tow; so he had to call a number of towing companies before he learned that Area Towing had his car. When the manager of the gas station called Area Towing to report that they had not authorized the tow, a person named Lee at Area Towing said that Mr. Puckett would have to pay \$80 in cash to get his vehicle, but that he could get the money refunded by the manager of Area Towing on the following day. Mr. Puckett stated that he paid the money, and later that day called Area Towing and spoke with Tim, the owner. He explained that his vehicle had been towed without authorization, that Area Towing had not called the Impound Lot, and that he had been promised a refund. He said that Tim told him he did not intend to pay back any money, and hung up the phone.

Mr. Jerry Jones appeared before the Commission. He stated that he was attending a meeting on June 28, 2005 when both his vehicle and the vehicle belonging to the property owner were towed by Area Towing without authorization. When they went to Area Towing, they were told by Lee and Tim that the bill would be \$80 cash. Mr. Jones stated that he had questioned the amount, as they had not had the vehicles for over one hour, and asked Tim, the owner, to show him the signed tow ticket. He said that Tim told him that he had a contract, and he did not have to have a signature. Legal Advisor Jason Bergeron informed the Commission that T.C.A. 55-5-122 and T.C.A. 55-16-112 are very specific, and that towing companies must have a signature of the property owner to authorize

nonconsent towing from private property.

Ms. Theresa Elliott appeared before the Commission. She stated that she and a friend were attending a meeting on July 8, 2005; they were given permission to park in the business parking lot; but were towed by Area Towing. She stated that, when she went to pick up her vehicle, Area Towing employees Shawn and Bobby told her that she owed \$90; but that Tim, the owner, would refund it to her if she could prove that she had received permission to park at the business lot. Subsequently, the property owner called Area Towing twice to confirm that she should not have been towed. Ms. Elliott stated that, after three weeks of persistently calling Tim almost every day, he refunded her money; but when she called to assist her friend to get a refund, Tim had cussed her out and he had not refunded the friend's money. Director McQuistion noted that Ms. Elliott had been overcharged.

Vice-Chair Sammye Woods moved to revoke Area Towing's license. Commissioner Roger Abramson seconded, and the motion was approved unanimously (4-0). Vice-Chair Sammye Woods then moved to revoke Mr. Garrett's wrecker driver license, and to require any future permit applications from Mr. Garrett to come before the Commission. Commissioner Roger Abramson seconded, and the motion was approved unanimously (4-0).

Chair Cynthia Odle directed staff to notify the MNPD, Downtown Partnership, Chamber of Commerce and all other wrecker companies about the specific requirements for nonconsent towing from private property.

WRECKER COMPANY DISCIPLINARY HEARING - CITY TOWING:

Director McQuistion notified Commissioners that three complaints had been received about City Towing, Inc., all related to nonconsent towing from private property; and that he had confirmed that the company had not reported these tows to the Impound Lot.

Ms. Wendi Crosby appeared before the Commission. She stated that she had been towed by City Towing from her place of employment at Cummins Station on August 12, 2005; when she went with a friend to retrieve her vehicle, she was charged \$80. She stated that she had asked for a written receipt or contract describing who had authorized the tow, so that she could obtain reimbursement from her employer; but that the City Towing employee told her that she could not have the documents, because they had already been dropped into the safe.

Mr. Lawrence Redding appeared before the Commission. He stated that he worked in the Green Hills Mall, and had parked his vehicle in the Mall parking garage on the morning of August 18, 2005; when he returned at 1:00 p.m., he learned that it had been towed. He stated that he had called the Impound Lot after 4:30 p.m., but the tow had not been reported; when he talked to Mall security personnel, he was told that it had been towed by City Towing. Mr. Redding stated that, when he went to pick up his vehicle at City Towing, he had asked to see the tow ticket and whether a member of mall management had signed to authorize the tow. He stated that City Towing staff had told him they did not need a signature for an individual car to be towed, and they charged him \$80.

Mr. Andrew Jordan appeared before the Commission. He stated that he also worked at the Green Hills Mall, and that his vehicle had also been towed from the Mall parking garage on the morning of August 18, 2005. He stated that he had called the Impound Lot, but there had been no record of the tow. On the advice of Mr. Redding, a fellow employee, he then called City Towing, and learned that they had his vehicle. Mr. Jordan stated that he had asked staff at City Towing why there was no signature authorizing the tow on his \$80 tow ticket/bill; City Towing personnel had told him they did not need a signature, because they had a contract.

Mr. Mike Myers, president of City Towing, Inc., appeared before the Commission with Mr. Mark Ownby, City Towing employee. **Chair Cynthia Odle** asked for a response in regards to Ms. Crosby's complaint. Mr. Ownby stated that he had dispatched a tow truck to Cummins Station at the request of Chris at DZL Management, the office that manages Cummins Station. He stated that he had been unable to provide a copy of the tow ticket to Ms. Crosby because it had already been dropped into the safe with her payment, and he did not have access to the contents. When he was asked why City Towing did not call the Impound Lot to report the tow, Mr. Ownby stated that the company had to call the Impound Lot within one hour; but that Ms. Crosby had picked up her car within that time. **Chair Cynthia Odle** asked the staff if they had a copy of the tow ticket; Director McQuistion stated that they did not. Concerning Mr. Redding's complaint and Mr. Jordan's complaint, Mr. Ownby stated that the vehicles had been towed at the request of Mall security. He explained that it is often difficult to contact

the Impound Lot, but that he had prepared a new policy for City Towing employees to preclude such mistakes in the future.

Commissioner Gladys Lozada moved to defer action on Ms. Crosby's complaint until the next Commission meeting, and to require City Towing to provide commission staff with a copy of the tow ticket receipts related to all three of the complaints within twenty-four hours. Commissioner Roger Abramson seconded, and the motion passed unanimously (4-0). Chair Cynthia Odle directed staff to check with the Green Hills Mall parking garage, to determine how tows from that facility were being authorized and directed. Chair Odle reminded City Towing management that a license to conduct nonconsent towing is a privilege granted by the Commission, and not a right; that removing someone's vehicle without their permission demands strict adherence to a set of specific rules.

On advice from Mr. Bergeron, **Chair Cynthia Odle** directed that the Commission should consider any actions on Mr. Redding's complaint and on Mr. Jordan's complaint separately.

Concerning Mr. Redding's complaint, **Vice-Chair Sammye Woods** moved to place City Towing on probation for a period of sixty days; and, if similar offenses occur during the sixty-day period, to consider revocation of their license. **Commissioner Roger Abramson** seconded, and the motion was approved unanimously (4-0).

Concerning Mr. Jordan's complaint, **Vice-Chair Sammye Woods** moved to place City Towing on probation for a period of sixty days, consecutive to the previous probation period; and, if similar offenses occur during the sixty-day period, to consider revocation of their license. **Commissioner Roger Abramson** seconded, and the motion was approved unanimously (4-0).

Chair Cynthia Odle reminded Mr. Myers that action on Ms. Crosby's complaint would be on the next meeting's agenda.

TAXI DRIVER DISCIPLINARY HEARING: SAMUEL O. OGAGA

Ms. Beverly Faulkner, complainant, appeared before the Commission, accompanied by her seeingeye dog. She stated that she had arrived at the bus station in the early morning hours of August 25, 2005; and with the assistance of security guard Greg Steele had exited the station and entered a taxicab. She stated that the driver, Mr. Samuel Ogaga, had refused to transport her with her service animal.

Mr. Samuel O. Ogaga appeared before the Commission. He stated that he had been waiting at the bus station when a man asked if he would take a credit card; to which he said that he would. Mr. Ogaga stated that he then noticed that there was a dog in his taxicab; being afraid of dogs, he said that he would ask another driver to take the fare. He stated that the passenger began calling him names and told him that she had called the Police.

Director McQuistion informed Commissioners that the focus of hospitality classes for the past two years had been to educate taxicab drivers on how to serve people with disabilities. He stated that Mr. Ogaga had attended two of these mandatory training sessions, which included specific training related to the requirement to transport service animals with their owners.

Vice-Chair Sammye Woods asked Mr. Ogaga if he had noticed the harness on the dog in his taxicab. Mr. Ogaga replied that he had not; the dog had been between the seats, and he had been afraid to go near the cab.

Commissioner Roger Abramson moved to revoke Mr. Ogaga's permit. **Commissioner Gladys Lozada** seconded. During discussion, **Commissioner Abramson** noted that Mr. Ogaga had been sitting very near the dog throughout the hearing, without any sign of concern; and that he had expressed no remorse for his actions. The motion was passed unanimously (4-0).

PUBLIC HEARING: FUEL SURCHARGES

Chair Cynthia Odle stated that recent sharp increases in fuel costs had affected transportation industries, and that the Commission wanted to hear from affected license and certificate holders about the specific impact of these increases on their ability to provide service. She asked that those who desired to make a statement limit their discussions.

Mr. Randy Bombard, manager of West Nashville Wrecker, presented information on behalf of the Davidson County Zone Towing Association, representing the emergency wrecker services. He stated that many of the companies were involved in long-haul transport operations following Hurricane Katrina, and that fuel shortages, as well as fuel prices, had already become a significant factor. He noted that, since the Commission had approved wrecker rate increases in April 2004, fuel prices had increased an additional sixty percent.

Mr. Bobby Dean, of Cotton's Towing Service, stated that his company and others performing long-haul operations had increased their prices by a fifteen percent surcharge to offset fuel costs.

Mr. Johnny White, co-owner of American Music City Taxi, stated that he understood that the Commission did not have the authority to approve a fuel surcharge; but that the owners of taxicab companies believed it was important that the Commission work to gain approval from the Metro Council to empower the Commission to approve such temporary surcharges in the future. He noted that other cities had approved taxi fuel surcharges of \$1.50.

Chair Cynthia Odle asked if there were others who desired to be heard. There were none, and she closed the hearing for public comment. During discussion which followed, Chair Odle noted that this was not the first time that the Commission had recognized the need to respond to temporary fuel shortages and cost increases. Vice-Chair Sammye Woods moved that the Commission submit three recommendations for resolution to the Metropolitan Council:

- 1. To authorize an immediate \$1.50 surcharge on taxicab rates, for six months;
- 2. To authorize an immediate 15% surcharge on all wrecker towing rates, for six months;
- 3. To amend the necessary ordinances to authorize the Transportation Licensing Commission to act and make decisions on temporary surcharges in the future.

Commissioner Roger Abramson seconded, and the motion was passed (4-0).

ADA-ACCESSIBLE TAXICABS

Mr. White informed the Commission that American Music City Taxi's two ADA-accessible taxicabs had been inspected by MTA and the ADA office, and should be operational within two weeks. He provided photographs of the vehicles for Commissioners to review.

Director McQuistion introduced Ms. Tricia Griggs, head of the Accessible Transportation Alliance, a local organization of government agencies and nonprofit organizations working to improve public access to transportation, especially for those who have disabilities. He stated that Ms. Griggs had been a key leader and trainer in providing training to taxicab drivers; and that the organization had provided a valuable forum to assist in securing inspection support for the new accessible taxicabs.

Ms. Griggs appeared before the Commission. She thanked the Commission and American Music City Taxi for their efforts to bring the first accessible taxicabs to Nashville – Davidson County. She noted that the community remained far behind other municipalities in providing accessible taxicab transportation, and presented specific recommendations for consideration by the Commission. In order to increase the number of accessible taxicabs within the context of the approval of new permits and the normal nine-year replacement schedule for taxicab vehicles, the Alliance recommendations presented were as follows:

- 1. That 15% of all new taxicab permits issued/approved must be ADA-Accessible taxicabs;
- 2. That 5% of each company's taxicabs will be ADA-Accessible taxicabs by January 1, 2009;
- 3. That 10% of each company's taxicabs will be ADA-Accessible taxicabs by January 1, 2012;
- 4. That 15% of each company's taxicabs will be ADA-Accessible taxicabs by January 1, 2015.

Ms. Griggs also requested that the Commission support efforts to increase ADA-accessible taxi stands in the downtown area.

Vice-Chair Sammye Woods asked what features should be included in an ADA-accessible taxi stand; Ms. Griggs responded that curb cuts were an important first step.

Commissioner Gladys Lozada asked why 15% was considered an appropriate goal. Ms. Griggs stated that this was based on a comparison of accessible taxis in other cities.

OTHER BUSINESS

There was no further business, and the meeting was adjourned.	
ATTEST:	APPROVED:
Brian E. McQuistion Director-Executive Secretary	Cynthia M. Odle Chair