

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

**Minutes of  
September 28, 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 Vice Chair Mary Griffin and Commissioners Jennifer Brundige, Tom Turner, and Brian Winfrey (4). Also attending were Metro Legal advisor Corey Harkey; Commission staff members Walter Lawhorn, Milton Bowling, Lisa Steelman, and Kimitha Braden; and Brian McQuiston, Director-Executive Secretary to the Commission.

**Vice Chair Mary Griffin** 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.

**WRECKER COMPANY DISCIPLINARY HEARING: ANCHOR TOWING & RECOVERY**

Director McQuiston stated that this was a hearing in response to an investigation conducted by Metro Auto Theft into a questionable tow of a vehicle. He stated that the conclusion of the investigation was that Anchor Towing & Recovery had towed without proper authorization, had towed the vehicle to a location other than the company's storage lot, and had overcharged for the tow. He noted that Anchor was an emergency wrecker service, and was therefore approved to perform nonconsent towing. The director stated that Inspector Bowling and Detective Hazzard would provide testimony. Inspector Bowling reported that Metro Police had contacted him because they were investigating what appeared to be the theft of a tractor-trailer, and had discovered that someone who had no authority to remove the vehicle had represented himself as a towing company, and then had the vehicle towed by Anchor. He stated that the police were still investigating this as an auto theft.

Detective David Hazzard appeared. He reported that the tractor and trailer had been parked with permission on the property of Lankford Hardware during the May flood, but after several weeks had not been removed. He stated that Lankford had contracted with another wrecker company to remove the vehicle; but before that could be done another individual – Mr. Beasley – had presented himself to Lankford as a towing company and had received authorization to tow the vehicle. The detective stated that Mr. Beasley then had Anchor tow the tractor to 1202 Brick Church Pike, an empty lot not owned by Mr. Beasley. He reported that Anchor was unable to tow the trailer, and refunded half of the \$800 amount they had charged to perform the tows.

Inspector Bowling stated that he had followed up to determine if Anchor had violated any laws related to nonconsent towing. He reported that Anchor had not obtained proper tow authorization as required by State law to tow the vehicle; that the \$400 charge for the tow of the tractor exceeded the \$180 maximum towing fee authorized by Metro ordinance; and that Anchor had not towed the vehicle directly to its own storage

lot, as required by the ordinance.

Caroline Johnson, manager of Anchor Towing & Recovery, appeared. She stated that she had not been manager when the arrangements for this tow had been made; it was done under the previous manager. She stated that the two drivers involved had been fired. She stated that she had thought it was a consensual tow, and that Mr. Blackburn – who had paid for the tow – had been represented by Mr. Beasley as the owner of the vehicle. Inspector Bowling asked Ms. Johnson if anyone had provided proof of ownership of the tractor; she responded that her drivers had seen it, but they were no longer employed. Inspector Bowling asked why a release signed by Lankford, the private property owners/agents, did not make it clear that this was not simply a consensual tow. Ms. Johnson stated that she did not have that until Detective Hazzard contacted her. **Vice Chair Mary Griffin** clarified that Ms. Johnson had not been the manager at the time. **Commissioner Jennifer Brundige** asked Ms. Johnson about her background in the towing industry prior to becoming manager; Ms. Johnson stated that she had been a dispatcher at Anchor for four months until she became manager. **Commissioner Brundige** asked if she had fired the two drivers; Ms. Johnson responded that she had, because they had also torn up the Peterbilt tow truck in the process. Inspector Bowling asked what training certification the two C Class wrecker drivers had; Ms. Johnson stated that they had been driving trucks for years, and that one of them had worked at Anchor for over a year.

Inspector Bowling asked if Darrell Greer was not doing the C Class work for Anchor; Ms. Johnson stated that Mr. Greer had no association with Anchor. Director McQuiston asked about the drivers who had been fired; Ms. Johnson stated that they were Carl Smith and Duane Branham. She stated that Mr. Greer owned his own company. She stated that although she had heard that he had advised some of their drivers on a wreck some months ago, he was not on their payroll. She stated that he was a subcontractor.

**Commissioner Brundige** asked if she was in charge of the emergency towing. Ms. Johnson stated that she was, except for heavy-duty towing. She stated that for heavy-duty towing she called company owner John Stancil, and he advised her on what to do.

**Commissioner Brundige** asked where Mr. Stancil was; Ms. Johnson stated that he was in Florida, but would return that afternoon. **Commissioner Brundige** asked Ms. Johnson what she would do if there was a major accident that day which required heavy-duty towing: would she have to get on the phone to call Mr. Stancil, who was enroute back from Florida, before anything could be done? Ms. Johnson responded that she would; or she could pass it off to another company, which was what they did. She noted that a few days earlier she had passed a wreck on to Dad's Towing when she could not reach Mr. Stancil.

**Vice Chair Mary Griffin** noted that Anchor had had several managers in the brief period it had been an emergency wrecker service. She urged Ms. Johnson and her drivers to attend the heavy-duty recovery demonstration/training event scheduled for October 9.

**Commissioner Brundige** expressed concern that no one at the company had the authority to make a decision to dispatch heavy-duty wreckers in case of an emergency. She stated that taking the time to call for a decision or to pass the call off to another company resulted in time lost to provide the emergency response – with very serious public safety implications. Following discussion about assignment of heavy-duty towing responsibilities, **Commissioner Brundige** moved to remove heavy-duty towing responsibilities from Anchor Towing & Recovery, and to authorize the director to assign

them to another emergency wrecker company; and to prohibit Anchor Towing & Recovery from performing nonconsent towing from private property for six months. **Commissioner Brian Winfrey** seconded, and the motion passed (3-0).

### **APPROVAL OF MINUTES:**

The minutes of the August 24, 2010 meeting were approved as corrected.

### **PUBLIC HEARING: PROPOSED NEW TAXICAB STANDS**

Director McQuiston reported that the Commission had not held a hearing concerning taxicab stands in at least six years, and that much had changed in downtown Nashville during that period. He stated that the ordinance authorized the Transportation Licensing Commission to establish taxicab stands, and to eliminate any unnecessary stands. He noted that the ordinance also established procedures for the Traffic and Parking Commission to assess traffic conditions at the taxicab stands' locations and thereafter submit their written recommendations to the Transportation Licensing Commission. The director noted that at the July 27 meeting the Commission had received public comment on two different proposals for new stands; at that meeting the Commission had deferred action, requesting: information on existing approved taxicab stands; a single proposal for consideration, with less specificity on the stand locations, to enable Traffic & Parking Commission flexibility to identify best spaces; and a map showing the proposed locations. The director noted that the requested materials had been provided to the Commissioners for this meeting. He added that these were the product of meetings held with representatives of taxicab companies and taxi driver organizations in August to develop a coordinated position.

**Vice Chair Mary Griffin** thanked those who had participated in the process, and opened the hearing for public comment.

Basel Awwad, driver, supported the proposal. He noted that many of the recommended stands were for night hours only.

Michael Kaiser, driver, supported the proposal.

Dietrich Johnson, representing the USW/Nashville Taxi Drivers organization, supported the proposal, and recommended approval.

Jim Burrow, manager of Taxi USA of TN, supported the proposal. He stated that taxicab stands had been needed for many years, and thanked those who had worked to develop the proposal.

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

**Commissioner Tom Turner** stated that he would like more time to review the list, but noted that he might have to recuse himself. **Vice Chair Griffin** noted that the matter had been deferred previously. Director McQuiston stated that in responding to

Commission concerns, the current proposed list reflected an effort to identify locations by city block, in order to provide the Traffic and Parking Commission flexibility in assigning specific spaces; and he noted that there would be opportunity for the Downtown Partnership to participate in the Traffic and Parking Commission's review. **Commissioner Turner** recused himself.

**Commissioner Jennifer Brundige** moved to accept the proposal and to approve the taxicab stands as presented. **Commissioner Brian Winfrey** seconded, and the motion passed (3-0). Director McQuiston stated that he would forward the list to the Traffic and Parking Commission.

### **APPLICATIONS FOR TAXICAB DRIVER PERMITS:**

**Dario Kozul:** Director McQuiston reported that because of the nature of the offenses on Mr. Kozul's record, his application is being forwarded to the Commission for decision. **Vice Chair Mary Griffin** noted that he had an open charge related to an August 2010 arrest for domestic assault. Mr. Kozul appeared. He explained the circumstances of his August arrest, and stated that the charge would be dismissed on October 5. He also explained the other charges and convictions on his background check. He stated that he no longer drank. **Commissioner Brian Winfrey** asked him why he believed the charges would be dismissed on October 5; Mr. Kozul responded that his girlfriend would ask that the charges be dropped. Following discussion, **Commissioner Jennifer Brundige** moved to approve a permit restricted to American Music City Taxi, on the conditions that the open domestic violence charge be closed, and that he undergo random alcohol testing for a period of one year. **Commissioner Winfrey** seconded, and the motion passed (3-0).

**Baleke Kromah:** Director McQuiston reported that Mr. Kromah still had an open charge on a December 2009 arrest for a serious offense. The director stated that the taxicabs ordinance required that, when anyone applied for a permit and had an open charge for such an offense, consideration of the application was to be deferred until there was a final disposition of the charges. He noted that Mr. Kromah had been keeping the staff informed of the status of the case, but that there had been no disposition of the charges to date. He stated that Mr. Kromah's current permit would expire on September 30, and that this application was for a permit for the coming year. **Vice Chair Mary Griffin** asked if his attorney was present; Director McQuiston provided copies of a letter from his attorney which indicated that Mr. Kromah's trial had been postponed until January. **Vice Chair Griffin** informed Mr. Kromah that his attorney was also asking that the Commission continue the matter until after the court disposed of the charge; and that the Commission would not ask him to comment on the case without legal counsel present. Following discussion, **Commissioner Jennifer Brundige** moved to authorize the staff to approve a permit to Mr. Kromah when and if he became eligible after resolution of the court hearing. **Commissioner Brian Winfrey** seconded, and motion passed (3-0).

## **APPLICATION FOR GENERAL WRECKER LICENSE: MARSHALL WRECKER SERVICE**

Robert Rutherford, attorney representing Marshall Wrecker Service, appeared with Dora Williams. He stated that Marshall Boates, the owner, was not able to continue to manage the business, but that Ms. Williams was able to manage it until he could return. Director McQuiston stated that the company had been in business for many years. He stated that in recent years Mr. Boates had not applied to renew his license until the company and drivers were issued citations; he noted that the company had been operating since December 1, 2009 without a license. The director stated that the application was complete and encouraged Ms. Williams owner to renew the license on time.

**Commissioner Tom Turner** moved to approve the application, on condition that the company's tow trucks pass inspection. **Commissioner Brian Winfrey** seconded, and motion passed (3-0).

## **WRECKER COMPANY DISCIPLINARY HEARINGS:**

***Fuqua's Towing:*** Alison Fuqua, owner, appeared.

Director McQuiston reported that the company had been licensed as a general wrecker company since December 2009. He stated that in May 2010 the Commission had heard the company's application for approval to perform nonconsent towing; during that hearing, Mrs. Fuqua had admitted to driving a wrecker without a permit when she was employed at another wrecker company, when her husband Jonathan Fuqua lost his driver's license and was not allowed to operate a wrecker. The director noted that the Commission deferred a decision on that application for six months. He added that Jonathan Fuqua had subsequently applied for a wrecker driver permit; that application had been disapproved by the Commission in May 2010.

Inspector Bowling reported that since May he had twice stopped the Fuqua's wrecker and issued citations to Jonathan Fuqua for operating a wrecker without a wrecker driver permit. He stated that on July 10, 2010 Mr. Fuqua was driving the wrecker, and Mrs. Fuqua was riding as a helper/passenger. The Inspector stated that he had advised Mr. Fuqua to let Mrs. Fuqua drive, because she had a permit. He stated that instead of doing so, Mr. Fuqua had sped off in the wrecker. Inspector Bowling stated that on August 25, 2010 Mr. Fuqua was driving the wrecker, with a vehicle in tow. He noted that there was no other occupant in the tow truck. He advised Mr. Fuqua to call Mrs. Fuqua, and have her come to get the vehicle; instead, Mr. Fuqua had driven off.

Director McQuiston stated that sections 6.80.310 and 6.80.320 of the ordinance placed responsibility on company owners to ensure that their drivers do not operate a wrecker without permits. He noted that Mrs. Fuqua was well aware that her husband did not have a permit, but allowed him to operate the wrecker anyway. He recommended that the Commission first make a decision on the application deferred in May 2010, and then consider the disciplinary hearing matter related to violation of the ordinance.

**Vice Chair Mary Griffin** asked Mrs. Fuqua to respond. Mrs. Fuqua stated that she was with her husband 99% of the time while he drove the wrecker. She stated that the only time he had driven the wrecker without her was when she was unable to get a babysitter when her daughter was in the hospital. **Vice Chair Griffin** asked if she had

another vehicle; Mrs. Fuqua responded that she did. **Commissioner Jennifer Brundige** asked if the company was still trying to obtain approval for nonconsent towing, when they had only one driver. Mrs. Fuqua responded that she had not hired any more drivers because she had not been granted nonconsent approval. **Commissioner Tom Turner** moved to disapprove the application to perform nonconsent towing. **Commissioner Brundige** seconded, and motion passed (3-0).

**Commissioner Brundige** asked Mrs. Fuqua what she would do if she was called to provide towing services, but there was an emergency. Mrs. Fuqua stated that she could take the call. Director McQuiston stated that the ordinance required that both the wrecker driver and the wrecker helper were required to have a permit. **Vice Chair Griffin** noted that Mrs. Fuqua had stated that she was uncomfortable operating the wrecker alone at night. Mrs. Fuqua stated that she had not known that the second person riding in the vehicle was also required to have a permit. **Vice Chair Griffin** pointed out that it was clear in the ordinance. Director McQuiston read section 6.80.310.

**Commissioner Tom Turner** moved to revoke the company's license. **Commissioner Brundige** seconded, and motion passed (2-1).

**Rivergate Auto Parts:** Director McQuiston reported that this hearing was in response to a complaint received from James Boone, alleging that the company had towed his vehicle without consent. He provided copies of the written complaint, which included copies of the tow slip and the receipt for the tow charges.

Mr. Boone appeared. He stated that he discovered that his vehicle was missing on Saturday, August 28, 2010. He stated that he had initially reported it as stolen, and learned from the police that his vehicle had been towed by Rivergate Auto Parts. Mr. Boone stated that he knew the owners and some employees at Rivergate Auto Parts; when he went to their lot, they were closed; he was unable to get his vehicle, and had to return when they reopened two days later. He stated that when he came to obtain release of his car he saw that it had been parked in a location where it could not be seen from the road. He stated that they had charged him \$380 for its release.

Inspector Bowling reported that Rivergate Auto Parts did not have approval to perform nonconsent towing. He noted that they had charged fees in excess of those authorized for nonconsent tows. He stated that no one had authorized the tow, in violation of the Tennessee Code. He added that a company performing nonconsent tows was required to have someone available to release vehicles; so vehicle owners should not have to wait two days and pay additional storage to obtain release.

Mr. Shaghaghi stated that the company had permission from Mr. John Young to tow vehicles. He produced copies of his company's licenses issued by the Commission since December 2007, and noted that he had been authorized to perform nonconsent towing in 2008. **Vice Chair Mary Griffin** pointed out that the licenses issued in 2008 and 2009 clearly did not authorize the company to perform nonconsent towing. Mr. Shaghaghi stated that he thought he should still be able to tow vehicles from the lot. **Vice Chair Griffin** asked him about the overcharges; Mr. Shaghaghi stated that his employee who charged Mr. Boone had not known how much to charge, because they did not usually do nonconsent tows; he had called the Metro Impound Lot to get the fees. Inspector Bowling asked him how many other vehicles he had towed from the lot without the owners' consent; Mr. Shaghaghi responded that they had towed only two vehicles, and had charged them both the same amount. When questioned, he did not

know whether his storage lot had been approved by Metro Codes. **Vice Chair Griffin** asked why no one had signed to authorize the tows, as required by law; Mr. Shaghaghi stated that he was not there when the cars were towed.

**Vice Chair Griffin** stated that it was clear that the owner did not know how to perform nonconsent towing in a legal manner. **Commissioner Brian Winfrey** moved to revoke the company's license. **Commissioner Brundige** seconded, and motion passed (3-0).

**RECEIPT OF APPLICATION TO TRANSFER EMERGENCY WRECKER LICENSE:  
BAILEY'S WRECKER SERVICE**

Director McQuiston reported that an application had been received from Joseph Michael Martin for the transfer of the emergency wrecker zone license assigned to Bailey's Wrecker Service. The director announced that a public hearing on all applications for the zone license would be held at the next meeting.

**OTHER BUSINESS:**

Director McQuiston introduced new staff member Kimitha Braden, who would be assisting immediately with the annual renewals of taxicab driver permits; and reported that he was interviewing applicants for the additional Inspector position.

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

ATTEST:

APPROVED:

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Brian E. McQuiston  
Director-Executive Secretary

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Helen S. Rogers  
Chair