

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

**Minutes of
November 16, 2010**

The Metropolitan Nashville-Davidson County Transportation Licensing Commission (the "Commission") met in regular session on this date at the Justice A. A. Birch Building. The Commissioners present were Chair Helen Rogers, Vice Chair Mary Griffin and Commissioners Jennifer Brundige and Brian Winfrey (4). Also attending were Metro Legal advisor Corey Harkey 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 October 26, 2010 meeting were approved.

ANNUAL TAXICABS PUBLIC HEARING:

Applications for Additional Permits/New Certificates:

Director McQuiston reported that the annual taxicabs public hearing was required by the Metropolitan Code to hear applications from current Certificate holders for additional taxicab permits and applications for new taxicab Certificates of Public Convenience and Necessity. He reported that applications had been received from Taxi USA of TN for additional permits for each of its companies: Allied Cab – 26 additional permits; Nashville Cab – 10 additional permits; and Diamond Cab – 4 additional permits. He also reported that an application had been received from Adonis Jarmon for a new Certificate to operate "NV Taxi", with 40 permits. The director recommended that the Commission first consider whether the issuance of any more taxicab permits was appropriate – convenient or necessary – to serve the needs of residents and visitors. He stated that there were already 579 permits issued, and that the approval of additional taxicab permits at this time would be detrimental to the industry. He noted that taxicab departures from the Airport had improved since last year, but were still below 2006 levels - when there had been fewer permits. He stated that in addition to the slow nationwide economic recovery, the May 2010 flood had a severe negative impact on taxicab business. He addressed limitations on staff and noted that the potential positive effects of implementation of the new Other Passenger Vehicles For Hire ordinance would not be fully realized for several months. He noted that the opening of the new Convention Center in 2012 might justify consideration for additional permits, but recommended that the Commission not approve any more taxicab permits until then. He concluded that the applications submitted by the companies for this meeting were in order.

Applications for Additional Taxicab Permits: Taxi USA of Tennessee

Mitch Rouse, Jim Church, and Jim Burrow of Taxi USA of Tennessee appeared to present applications for additional permits for Allied Cab, Nashville Cab and Diamond Cab. Mr. Church agreed that the taxicab industry overall was facing economic difficulties, but he stated that Taxi USA was doing much better. He provided a letter and chart showing the improvements initiated by the company and the growth of the population in the service area since the last time additional permits had been approved. He explained that the company's technology enabled the tracking of data which showed that call demand had increased very significantly. He cited increased contract and residential business, and noted that the company was fielding all of its allotment of ADA-Accessible taxicabs. He explained the positive impacts of technology on tracking of vehicles, response time, and customer payment options. He noted that the improvements in service had resulted in increased demand; because all current permits were filled the company was requesting additional permits. **Vice Chair Mary Griffin** asked whether it was the company or the drivers who were benefitting from the increased business. Mr. Church responded that the company had invested almost \$1 million in improvements in the past five years. He noted that the contract with Vanderbilt University alone provided \$18,000 in revenues each week to drivers.

Application for New Certificate of Public Convenience and Necessity: NV Taxi

Adonis Jarmon appeared to present his application to operate a new taxicab company. He stated that Jarmon Transportation currently operated scheduled transportation services between Clarksville and Nashville and that he also operated a taxicab company in Montgomery County. He stated that the company received requests for additional transportation within Davidson County, but could not meet those without approval of this application. He stated that his company was not interested in operating from taxi stands and at the airport; but would concentrate on other business. **Chair Helen Rogers** asked what other demand there would be for service. Mr. Jarmon expressed reservations about discussing business opportunities in a public forum, but noted that they had received requests from business clients. He added that Fort Campbell soldiers preferred to have taxi service that could enter the installation, and not have to be dropped at the post's Gate 4 entrance. In response to questions from **Commissioner Jennifer Brundige**, he clarified that the company currently had offices at both Clarksville and Nashville, and operated a shuttle service on a fixed route.

Chair Rogers opened the hearing for public comment.

Doug Trimble, President of Yellow Cab, opposed the issuance of more permits.

Robert Russell, American Music City Taxi manager, opposed the issuance of more permits until the economy could recover.

Godwin Poima, driver, opposed the issuance of more permits.

Aguna Denbel, driver, opposed the issuance of more permits, citing that supply already exceeded demand for service.

David Watts, driver, opposed the issuance of more permits. He stated that he had lost his home and cars in the flood, and was having to work longer hours.

Michael Kaiser, driver, opposed the issuance of a certificate to NV Taxi.

Chuck Welch, attorney representing the Nashville Metro Taxi Drivers Alliance, opposed the issuance of more permits.

Basel Awwad, driver, opposed the issuance of more permits.

Maurice Harris, driver, opposed the issuance of more permits.

Mulugeta Abebe, owner of Checker Cab, opposed the issuance of more permits, and recommended a moratorium on additional permits for the next three years.

Robby Mann, representing United Cab, opposed the issuance of more permits.

Baleke Kromah, former driver, opposed the issuance of more permits.

Jesse Harris, driver, opposed the issuance of more permits.

There were no other public comments.

Commissioner Brundige noted that the Commission was required to determine if the number of permits was adequate to meet the needs of the public, as well as the specifics of the applications. **Vice Chair Mary Griffin** noted that there were already 579 permits. Director McQuiston stated that the number of permits exceeded the number of actual vehicles, adding that since the approval of additional permits in 2007 there had been several hearings for taxicab companies that had been unable to meet the requirement to fill 90% of their authorized permits. He reported that the current number of actual vehicles was about 550.

Commissioner Brundige stated that there appeared to be adequate taxicabs to meet the public need. **Vice Chair Griffin** agreed, and moved to disapprove the applications by Taxi USA of Tennessee for additional permits for Allied Cab, Nashville Cab and Diamond Cab. **Commissioner Brundige** seconded, and the motion passed (3-0). **Vice Chair Griffin** then moved to disapprove the application by NV Taxi for a new Certificate of Public Convenience and Necessity. **Commissioner Brian Winfrey** seconded, and the motion passed (3-0).

Extension/Termination of ADA-Accessible Taxicab Permit Incentive Program:

Director McQuiston reported that at the November 2009 annual taxicabs public hearing the Commission had voted to extend the ADA-Accessible permit incentive program until this meeting. He noted that the program had been initiated by the Commission in April 2007 as a two-year program to offer incentives to companies to add wheelchair-accessible taxicabs to their fleets. He stated that it had been a tremendous success: of 24 ADA-Accessible taxicabs in service, 19 had been fielded as a result of the program. He stated that Diamond Cab had reported 3 additional vehicles undergoing the conversion process. He stated that with these additions four of the seven taxicab companies soon would have their maximum quotas filled. He recommended that the Commission terminate the program at the end of 2010. **Chair Helen Rogers** asked why the program should be terminated, if it was successful. The director responded that the program had already been extended twice. He stated that these vehicles were more expensive than other taxicabs. He stated that United Cab and American Music City Taxi had not fielded any of their optional permits, and that both companies had many unfilled "regular" permits that could be used if they desired to add ADA-Accessible vehicles. The director stated that he did not think redistributing the "unused" permits was appropriate.

Chair Rogers invited public comment.

Doug Trimble appeared. He recommended that the Commission redistribute the unused permits. **Chair Rogers** asked if there was sufficient business for the current ADA-Accessible taxicab drivers; Mr. Trimble responded that there was, although they did also pick up other passengers when they did not have passengers with wheelchairs.

Mulugeta Abebe, co-owner of Checker Cab, stated that he had his remaining 3 vehicles undergoing the conversion process. He stated that they had failed initial inspection, but would be ready to be fielded within the next six months. Inspector Lawhorn confirmed that Checker had been working to get the vehicles fielded.

Jim Burrow, manager at Taxi USA of Tennessee, stated that the company had sufficient business to add more ADA-Accessible taxicabs if the Commission approved redistribution.

Commissioner Jennifer Brundige moved to terminate the program on May 31, 2011. **Vice Chair Mary Griffin** seconded, and the motion passed (3-0).

APPLICATION FOR TAXICAB DRIVER PERMIT: SOLEIBAN YUSUF

Director McQuiston reported that Mr. Yusuf applied for an initial taxicab driver permit on October 12, 2010 to drive for Yellow Cab. He noted that Mr. Yusuf had completed all application requirements, but that he had convictions for DWI and drug-related offenses. He provided copies of the application and fingerprint-based background check report.

Mr. Yusuf appeared with Doug Trimble of Yellow Cab. He stated that the drug convictions had been for possession of khat. He stated that he had not known that it was illegal. **Commissioner Jennifer Brundige** asked if he still used the drug; he responded that he did not. **Vice Chair Mary Griffin** asked when he had used it last; he responded that his latest use was in March 2009. Mr. Trimble stated that the company would be willing to perform random drug testing. Inspector Bowling stated that khat would show up in a drug screen as an opiate. Director McQuiston noted that Mr. Yusuf had been in the United States since 1993, that his first drug arrest had been ten years later in 2003, and that he had been convicted on drug charges again seven years later in 2009. He asked why Mr. Yusuf had not known that khat was illegal after the first arrest; Mr. Yusuf stated that it was not illegal everywhere in the U.S.

Vice Chair Griffin moved to approve the permit, restricted to Yellow Cab for one year, and to require random drug testing as directed by Director McQuiston. **Commissioner Brian Winfrey** seconded, and the motion passed (3-0).

APPLICATIONS FOR WRECKER DRIVER PERMITS:

Adam Crocker: Mr. Crocker appeared. Director McQuiston reported that the Commission had approved a temporary restricted permit for Mr. Crocker at the July 2010 meeting. He noted that the permit, which was restricted to American Locators, was further restricted to match the conditions of a court order related to the issuance of a restricted Tennessee driver's license. Director McQuiston stated that the Commission had issued only a temporary permit, because the expiration date of Mr. Crocker's temporary restricted driver's license was October 26, 2010; and that the Acting Chair had directed that Mr. Crocker reappear before the Commission. The director stated that Mr. Crocker had since been issued a new restricted driver's license until July 28, 2011; and a record check had indicated no new arrests.

Mr. Crocker stated that he had been in compliance with the restrictions on his driver's license and his permit.

Commissioner Jennifer Brundige moved to extend Mr. Crocker's restricted wrecker driver permit until July 28, 2011. **Commissioner Brian Winfrey** seconded, and the motion passed (3-0).

Jerry Anderson: Director McQuiston reported that Mr. Anderson had applied for a permit on October 13, to drive for ALCAR National Recovery. He noted that Mr. Anderson's previous application for a permit had been disapproved by the Commission in May 2010, when he had admitted to operating a wrecker at ALCAR without a permit. The director noted that the rules required Mr. Anderson to wait 90 days to reapply after denial of his earlier application, so this was a new application. He added that in hearings before the Commission involving Fuqua's Towing, Allison Fuqua had stated that she had also operated a wrecker without a permit while working at ALCAR.

Mr. Anderson appeared. He stated that he had waited 90 days to reapply, and had listed all of his arrests. **Chair Helen Rogers** asked if he had been driving for ALCAR; he responded that he had. **Chair Rogers** asked how he could do that without a permit; how he could expect the Commission to approve a permit if he did not follow the rules. Mr. Anderson responded that he needed to keep working to make a living.

Alfred "Buddy" Carnahan, owner of ALCAR, appeared. **Chair Rogers** asked how he could operate with drivers who were not permitted. Mr. Carnahan stated that his company was in the repossession business. He stated that there had been a court case several years before that had resulted in an opinion that the companies did not have to get permits. He stated that in approximately 2009 that had changed. He admitted that he had procrastinated and was responsible for his drivers not getting their permits, and appealed on behalf of his drivers to enable them to keep working. **Chair Rogers** stated that the company was not only placing his drivers at risk, but was also placing his company at risk.

Director McQuiston explained that the Supreme Court ruling upholding the Metropolitan Government's authority to license and regulate wreckers was issued in 2002, and that Inspector Bowling had been issuing citations to unlicensed and unpermitted companies and drivers since 2007. **Commissioner Jennifer Brundige** asked Mr. Carnahan how many drivers he had; he responded that he had four. **Chair Rogers** asked how many were permitted. Mr. Carnahan responded that one was permitted – his name was Al, but he was not really driving. He added that Allison Fuqua had a permit. **Commissioner Brundige** stated that she did not understand why Mr. Carnahan had continued to allow Mr. Anderson to operate a wrecker when his application had been disapproved by the Commission in May 2010. Mr. Carnahan stated that there just were not any jobs available for Mr. Anderson. Mr. Anderson stated that he had nowhere else to go.

Chair Rogers directed that Mr. Carnahan and ALCAR be placed on the agenda for the next meeting.

Vice Chair Mary Griffin moved to disapprove Mr. Anderson's application. **Commissioner Brian Winfrey** seconded, and the motion passed (3-0).

Ronald Proctor: Director McQuiston reported that Mr. Proctor was applying for a wrecker driver permit, to drive for ALCAR National Recovery. The director noted that his background check showed 2005 charges for drug-related offenses. **Vice Chair Mary Griffin** asked Mr. Proctor what drug was involved; he responded that it was cocaine. He stated that all charges had been expunged. **Vice Chair Griffin** asked if he had been driving for ALCAR; he responded that he had been driving a transport vehicle only – a

rollback used to haul vehicles from the lot to auction. Director McQuiston clarified that a rollback was a wrecker. **Commissioner Jennifer Brundige** asked how long he had been driving at ALCAR without a permit; he responded that he had been doing so for about three and a half years.

Chair Helen Rogers asked if there were many companies operating with unpermitted drivers; Director McQuiston stated that he did not believe that was the case. He stated that unlicensed/unpermitted wrecker operators had been a big problem – due to the confusion about the enforceability of the wrecker ordinance in 2001-2003 – but since Inspector Bowling had begun issuing citations in early 2007 the number of licensed general wrecker companies had doubled. He stated that ALCAR had regularly applied for its company license. **Chair Rogers** asked how they could have a company license without permitted drivers. The director responded that the Commission had held disciplinary and show-cause hearings for companies in the past when this was discovered. He added that it was possible that a company would have one or more permitted drivers, but also others who were not permitted; he added that wrecker drivers could move from one company to another without having to change their permits. Mr. Carnahan stated that the confusion about having to be regulated had been because their company was a repossession company, and not a towing company. Director McQuiston stated that American Locators, another repossession company, had made the same argument. He stated that letters had been mailed as early as 2006 to all companies to explain the requirements.

Commissioner Jennifer Brundige moved to defer the application until the December meeting. There was no second, and the motion failed.

Commissioner Brian Winfrey moved to disapprove the application. There was no second, and the motion failed.

Commissioner Jennifer Brundige asked Mr. Proctor when he had learned that he needed a permit. He stated that it was approximately a month ago.

Vice Chair Mary Griffin moved to approve the application, restricted to ALCAR, and require random drug screening as directed by Director McQuiston; and to require evidence of 30 hours of community service within the next six months. There was no second, and the motion failed.

Vice Chair Mary Griffin moved to defer the application until the December meeting.

Commissioner Brian Winfrey seconded, and the motion passed (3-0).

Commissioner Jennifer Brundige moved to reconsider the decision on Mr. Anderson's application. There was no second, and the motion failed.

TAXICAB DRIVER DISCIPLINARY HEARING: FIKRU WORDOFA

Chair Helen Rogers directed that the disciplinary hearing be deferred until the December meeting.

APPLICATIONS FOR GENERAL WRECKER COMPANY LICENSE AND WRECKER DRIVER PERMIT: TRINITY TOWING & RECOVERY (CHRISTOPHER MORRIS)

Chair Helen Rogers directed that the hearing on these applications be deferred until the December meeting.

OTHER BUSINESS:

Director McQuiston introduced new staff member Deborah Saddler.

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

ATTEST:

APPROVED:

Brian E. McQuiston
Director-Executive Secretary

Helen S. Rogers
Chair