METROPOLITAN NASHVILLE-DAVIDSON COUNTY TRANSPORTATION LICENSING COMMISSION

Minutes of February 22, 2011

The Metropolitan Nashville-Davidson County Transportation Licensing Commission (the "Commission") met in regular session on this date at Metro Southeast. The Commissioners present were Chair Helen Rogers, Vice Chair Mary Griffin, and Commissioners Jennifer Brundige, Sam Patel, Ed Whitmore and Brian Winfrey (6). Also attending were Metro Legal advisor Corey Harkey and Brian McQuistion, 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.

PUBLIC HEARING: APPLICATION FOR TRANSFER OF EMERGENCY WRECKER ZONE AND LICENSE

Chair Helen Rogers stated that this was a public hearing to consider applications for the transfer of the zone and license operated by Gary's Wrecker Service. Director McQuistion noted that an application had been received by the Commission at the January 25 meeting from Bailey's Wrecker Service owner Joseph Michael Martin for the transfer of the zone, and that no other applications had been received. He stated that Mr. Martin's intention was to merge the territory of the Gary's zone into the Bailey's zone, and to operate from the current Bailey's lot. He provided a map showing the two zones. The director noted that the location of the Bailey's storage lot was close to their common border; and would be almost at the center of the combined zone if the application were to be approved.

Gary Ray appeared with Mr. Martin. He stated that he had decided to get out of the emergency wrecker business. Inspector Walter Lawhorn stated that Gary Ray's family had been doing business at the same location for 83 years. He added that in his 31 years as an Inspector there had been almost no complaints received about Gary's. **Chair Rogers** complimented Mr. Ray for the company's extraordinary record of service to the community.

There was no public comment.

Vice Chair Mary Griffin moved to approve the transfer of the license and the consolidation of the Gary's zone territory into the zone operated by Bailey's Wrecker Service. **Commissioner Ed Whitmore** seconded, and the motion passed (5-0).

<u>APPLICATION FOR TAXICAB DRIVER PERMIT: RANDY JENNINGS</u>

Mr. Jennings appeared. Director McQuistion reported that Mr. Jennings had applied for an initial permit on December 8, 2010, to operate a taxicab for Allied Cab; because he failed to disclose, that application had been disqualified. The director stated that Mr. Jennings had re-applied on January 4, 2011. Commissioners were provided with a copy

of his application and background check results. **Chair Helen Rogers** noted that his record appeared to be clean over the past five years. Mr. Jennings stated that he had five children, and was working. **Vice Chair Mary Griffin** asked if someone from Allied Cab management was present to support the application. Jim Burrow, the company's general manager, appeared. He stated that he had removed his support for Mr. Jennings' application. **Vice Chair Griffin** stated that because no company had appeared to support him, she moved to disapprove the application without prejudice. **Commissioner Sam Patel** seconded, and the motion passed (5-0).

APPLICATION FOR TAXICAB DRIVER PERMIT: JERRY ANDERSON

Mr. Anderson appeared. Chair Helen Rogers noted that he had re-applied for a wrecker driver permit to drive for ALCAR National Recovery and that the Commission had denied his applications twice in the past year. She asked Mr. Anderson if he had been driving a wrecker in Davidson County since November 16, 2010; Mr. Anderson stated that he had not. He stated that he had worked only in Rutherford County since then. Chair Rogers asked how long he had driven for ALCAR; he responded about three and a half years. He stated that during that time he had not held a permit. Commissioner Jennifer Brundige moved to approve the application, and to restrict his permit to ALCAR National Recovery. Vice Chair Mary Griffin seconded, and the motion passed (5-0).

APPLICATION FOR TAXICAB DRIVER PERMIT: JOHNNY BEASLEY

Mr. Beasley appeared. Director McQuistion reported that Mr. Beasley had applied for an initial permit on December 29, 2010, to operate an Other Passenger Vehicle For Hire for Jarmon's Transportation. He provided copies of a letter received from Mr. Jarmon in support of Mr. Beasley's application. The director stated that Mr. Beasley had fully disclosed his criminal background charges. He noted that the record included a 2009 felony conviction for aggravated assault, but pointed out that the sentence imposed was probation. Mr. Beasley provided documents and explained the circumstances of the arrest and the plea bargain that followed. **Vice Chair Mary Griffin** moved to approve a permit, restricted to Jarmon Transportation, and to place Mr. Beasley on probation for one year. **Commissioner Ed Whitmore** seconded, and the motion passed (5-0).

TAXICAB DRIVER DISCIPLINARY HEARING: MOHAMED M. MOHAMED

Mr. Mohamed appeared with attorney Doug Thurman. Director McQuistion reported that the hearing was being continued from the January 25 meeting, and was based on a report from the Airport Ground Transportation office that Mr. Mohamed had been barred permanently from the airport after an altercation with an airport employee in the presence of a passenger on December 28, 2010. The director stated that the hearing had been continued in order to allow Commissioners to view the surveillance video of the incident, and noted that the video had been provided by email attachment to Commissioners on February 4. He added that Commissioner Ed Whitmore and Mr. Thurman had seen the video just prior to this meeting. The director stated that section 6.72.430(B) of the Metro Code applied:

6.72.430 Prohibited acts by driver.

B. No taxicab driver shall engage in abusive language or conduct, including, but not limited to, cursing, verbal insults or derogatory comments in the presence of passengers.

Director McQuistion stated that Mr. Mohamed and two other drivers had submitted letters to the Commission concerning the employee at the airport, and that these had been included in the Commissioners' packets.

Mr. Thurman questioned Mr. Mohamed about the incident. Mr. Mohamed stated that earlier in the day on December 28 the airport valet, Mr. Joel Smith, had damaged his car while loading bags. Mr. Mohamed provided a photograph showing the damage. He stated that when he returned to the airport ground transportation area to pick up another passenger later that day, he got out of his taxicab and told Mr. Smith not to touch the car because he had damaged it earlier. He stated that Mr. Smith cussed at him and approached the car. Mr. Mohamed stated that he did not use physical contact against Mr. Smith. He stated that the airport starter then arrived and told him that he had to leave the airport property. He stated that the starter would not allow him to make a statement. Mr. Thurman asked how long he had been permitted to drive a taxicab; Mr. Mohamed responded that he had been driving for five years.

Chair Helen Rogers asked why he had not reported the damage to the Airport Authority earlier. Mr. Mohamed responded that it was a busy day at the airport, and he knew that the starter would not do anything. He stated that he had intended to come back the next day to report the problem. Commissioner Ed Whitmore stated that the photograph showed scuff marks; he asked which part of the vehicle had been affected. Mr. Mohamed stated that the damage shown was to the floor of the cargo compartment. Commissioner Whitmore stated that the damage looked like it was the result of normal loading and unloading of luggage. Mr. Mohamed stated that the same valet had also damaged other drivers' taxicabs. Commissioner Jennifer Brundige asked if he was currently barred from the airport; he stated that his notice had stated that he was barred until further notice. Johnny White, co-owner of American Music City Taxi, appeared. He stated that he had received a letter from the Airport Authority, notifying him that Mr. Mohamed had been barred permanently. He added that he had been surprised, because Mr. Mohamed had an excellent record with the company. He stated that he had not seen the video. Vice Chair Mary Griffin stated that the video showed that Mr. Mohamed had shoved the valet. She suggested to Mr. White that, based on the letters Mr. Mohamed had provided from other drivers, it might be appropriate for the taxi company owners to talk to supervisory staff at the airport.

Commissioner Brundige noted that Mr. Mohamed had experienced no previous disciplinary issues, and that he was already barred from the airport. She moved to place Mr. Mohamed on probation for one year. **Commissioner Brian Winfrey** seconded, and the motion passed (5-0).

TAXICAB DRIVER DISCIPLINARY HEARING: ANDINET BERIUHN

Director McQuistion reported that Mr. Beriuhn had held a taxi driver permit since November 2007. He stated that Mr. Beriuhn had renewed his permit in the fall, and did not disclose any tickets or arrests on his application. The director stated that in December 2010, a report sent from his insurance carrier showed that Mr. Beriuhn had been cited for careless or negligent driving in August 2010 and had been convicted on September 28; an updated MVR confirmed the report. The director noted that if Mr.

Beriuhn had disclosed the charge when he applied to renew his permit, he would not have been approved, because the Metro Code specified that careless or negligent driving made an applicant ineligible for a permit. He provided Commissioners a copy of the Code section, and noted that Mr. Beriuhn was ineligible to receive a permit until September 28, 2013. **Chair Helen Rogers** added that Mr. Beriuhn could not get insurance. Mr. Beriuhn stated that he had been advised to pay for the ticket, and had not realized that it would keep him from driving a taxicab. He clarified that there was no accident, property damage or injury involved in the incident.

Commissioner Sam Patel moved to suspend Mr. Beriuhn's permit until he became eligible to re-apply. **Commissioner Jennifer Brundige** seconded, and the motion passed (5-0).

CARRIAGE DRIVER DISCIPLINARY HEARING: BRENDA SMITH

Mrs. Smith appeared with attorney Russell Willis. Director McQuistion reported that she had held a horse-drawn carriage driver permit since January 2005, and had been a coowner of Sugar Creek Carriage with her husband Johnny Smith since March 2008. The director stated that on December 6 he had received a report from Johnny Smith that Mrs. Smith had scraped a parked car with her carriage on December 4 while operating at the Yogi Bear Jellystone Park. He stated that the owner of the park had also contacted Inspector Bowling to report that Mrs. Smith had struck a vehicle while operating a carriage with passengers and that she had been under the influence of alcohol or drugs. The director stated that Mr. Smith later contacted him and stated that Mrs. Smith had not been drunk, but that she had been taking prescribed medication. The director added that on December 10, a fax was received from Dr. John Sexton, stating that Mrs. Smith had discontinued the medication and was fit to return to work. Inspector Bowling reported on his investigation following up on the initial report from Andy Eaton, the park's owner. He reported that in addition to talking to Mr. Eaton he had also contacted the passengers in the carriage and other carriage company employees who had been present. Chair Helen Rogers asked if the witnesses were to appear. Inspector Bowling stated that the other witnesses were present, but that Mr. Eaton was in Michigan. He noted that Mr. Eaton's written statement was in the Commissioners' packets.

Stacey Farmer appeared. She stated that she no longer worked for Sugar Creek Carriage, but that she had been driving for the company at Jellystone Park on December 4. She stated that she had observed Mrs. Smith stumbling when she was walking earlier in the day, and that she had smelled alcohol on Mrs. Smith's breath after the accident. **Chair Rogers** asked if this was the only occasion that she had observed Mrs. Smith when she appeared to be impaired. Ms. Farmer responded that it was not. She stated that on another evening some time before she had returned to the downtown lot where the company loaded horses and carriages, and had observed Mr. and Mrs. Smith in an argument. She stated that Mrs. Smith had run away and that later she had seen Mrs. Smith hiding under a road barricade and intoxicated. **Chair Rogers** asked Ms. Farmer why she had left the company. Ms. Farmer responded that it was in part because of the drinking, and in part because of the way she kept getting pulled into the altercations between Mr. and Mrs. Smith. **Commissioner Ed Whitmore** asked if the police had been called to the scene of the accident involving the car; Ms. Farmer stated that they had been, but she did not know if a citation had been issued. Inspector

Bowling stated that the police officer had not written an incident report. Mr. Willis asked Ms. Farmer if Mrs. Smith had been driving a carriage on the other occasions when she had been impaired; Ms. Farmer responded that she had. Mr. Willis asked Ms. Farmer if she had filed a report to anyone about it; Ms. Farmer responded that Mr. Smith had told her not to tell anyone. Mr. Willis asked Ms. Farmer how long she had been observing Mrs. Smith on December 4: Ms. Farmer responded that she had seen her from the time they arrived at the park - between 4:30 and 5:00. He asked how many hours passed before the accident; she responded that it was a couple of hours later. He asked how long after the accident she had seen Mrs. Smith; she responded that it was 30-45 minutes later. She stated that during the period before the accident she had reported her concerns to Mr. Smith. Mr. Willis asked Ms. Farmer if she had observed Mrs. Smith drinking that evening; she responded that she had not. He asked if anyone had told her that they had found any alcohol. She responded that Mr. Smith had told her so that evening after they were done. She stated that Mr. Smith also told her that Mrs. Smith was to stay in their vehicle, and that she was to call the police if Mrs. Smith tried to get out of the vehicle. He asked when Ms. Farmer had smelled Mrs. Smith's breath; she responded that it was at about 10:00. He asked if there was any place at Jellystone Park where alcohol could be purchased; Ms. Farmer responded that she did not know. Frank Biller appeared. He stated that on December 4 he was riding with Mr. and Mrs. Smith on the way home from the park. He stated that she began drinking from a bottle of alcohol. He stated that Mr. Smith also saw her drinking, took the bottle away from her, and threw it out the window of the vehicle. He stated that he had been a ranch hand at Sugar Creek, and had also driven for the Smiths. Inspector Bowling asked if he had driven a carriage for Sugar Creek without a carriage driver permit; Mr. Biller responded that he had. Vice Chair Mary Griffin asked Mr. Biller why he had left the company. Mr. Biller stated that he did not want to be a carriage driver anymore. He stated that he was working for Southeastern Recycling. Chair Rogers noted that some testimony might have bearing on both this hearing and the company hearing to follow. Mr. Willis stated that he understood, but he wanted to clarify that Mrs. Smith's notice to appear for this hearing had indicated that she was being charged only as a driver, not as company owner. Mrs. Smith stated that she had been listed as such in the company's certificate application, but that she really was not an owner.

Following a short recess, Mr. Willis stated that Mr. Smith had told him that he was the sole owner of the company. Director McQuistion stated that for the past three years the applications submitted by Sugar Creek Carriage had listed both Mr. and Mrs. Smith as co-owners.

Mr. Willis asked Mr. Biller if he had been convicted of grand theft auto; Mr. Biller responded that he had. Mr. Willis asked if he had other convictions; Mr. Biller stated that he had others, but none in the past 10 years. Mr. Willis asked Mr. Biller how many felony convictions he had; Mr. Biller responded that he had three, the last one in 1998. He stated that he had been incarcerated for five years. Mr. Willis asked Mr. Biller if he had been at Jellystone Park on any other nights. He responded that he had been there on December 4 and on another night when Mrs. Smith was falling down. Mr. Willis asked Mr. Biller why he had driven a carriage without a permit. Mr. Biller responded that he had been told that he did not have to have a permit because it was on private property. Mr. Willis asked him if he thought that he would have been permitted if he had completed the application process; Mr. Biller responded that he thought so. Inspector Bowling asked Mr. Biller if Mr. Smith had known about his criminal record; Mr. Biller

responded that he had. Inspector Bowling asked if Mr. Smith had allowed him to drive a carriage; Mr. Biller stated that he had. Mr. Willis asked Mr. Biller if he had observed Mrs. Smith drinking on December 4; Mr. Biller responded that he had seen her drinking in the vehicle on the way home. Mr. Willis asked when he had first seen Mrs. Smith behaving in an impaired manner that evening. Mr. Biller responded that it was probably between 7:30 and 8:00. He said that he saw her pulled over, waiting for the authorities; then had observed her and Mr. Smith arguing. He added that later, on the way home, Mrs. Smith and her brother were arguing, and her brother said that she had given him a bottle while they were at the park.

Mr. Willis questioned Brenda Smith. She stated that she had been permitted as a carriage driver for 8 years. She stated that she had not been cited or charged with any offenses during that time. She denied that she had been drinking alcohol on December 4. She stated that she did not drink to excess, and rarely had even a drink of wine. She stated that she did not keep any alcohol at her home, and that she had no history of alcohol abuse. She stated that she had been taking prescribed antidepressants since September 2010. She produced prescription bottles as evidence. She stated that when she began taking the medication she had no adverse effects, but that she had lost her bottle in November for a period of 3-4 days. She stated that when she found her medication, she began taking it again. Mr. Willis asked when she resumed taking her medication; she responded that it was about November 25. She stated that she had an adverse reaction while driving at Jellystone Park on November 27; she began to feel dizzy and disoriented, and immediately stopped driving. She stated that she called her doctor the next day, and that he told her that the effects she had experienced resulted from her stopping and restarting the medication. She stated that she had an appointment with her doctor the next day, and that he told her to keep taking the medication. She stated that she did do, and was doing fine until she had another reaction on December 4. She stated that she went to see her doctor again on December 6: he told her to discontinue the medication. She stated that a week later, she received clearance from the doctor to go back to work. Chair Rogers asked why she had not stopped driving when she began having the reaction; Mrs. Smith stated that it came on suddenly. Chair Rogers asked about the statements by Mr. Biller that she had a bottle in the vehicle; Mrs. Smith denied drinking, and stated that Mr. Biller was just angry because he had been fired. Vice Chair Griffin asked why Mr. Eaton had barred her from working at the park; Mrs. Smith stated that he had assumed that she had been drinking, but was unaware of the medication reaction. Chair Rogers asked if the company made a practice of hiring people who were not permitted and allowing them to drive a carriage with passengers. Mrs. Smith responded that Mr. Biller had received his driver's license, but admitted that he did not have a carriage driver permit. Inspector Bowling asked if Mr. Biller had also driven the company's limousine with passengers; Mrs. Smith stated that he had a driver's license with an "F" endorsement. Commissioner Brian Winfrey asked how Ms. Farmer had left the company; Mrs. Smith stated that her husband had also terminated her because the company did not have enough work for everyone. She stated that the police had questioned her after the accident on December 4, but had not issued any citations.

Following discussion, **Commissioner Winfrey** moved to suspend Mrs. Smith's carriage driver permit for one year. **Commissioner Whitmore** seconded, and the motion passed (5-0).

Chair Rogers departed. Vice Chair Griffin called the meeting back to order.

CARRIAGE COMPANY DISCIPLINARY HEARING: SUGAR CREEK CARRIAGE

Director McQuistion stated that this was a disciplinary hearing concerning three separate incidents.

The director stated that the first incident involved the operation of an unauthorized carriage downtown on the weekend of November 5-7, 2010. He stated that the number of carriage stands downtown was very limited; as a result, in 2004 the Commission had placed a moratorium on the issuance of more certificates or carriage permits. He stated that since the moratorium had gone into effect companies had been allowed to receive additional permits only for use elsewhere in the county or for special events downtown that did not involve the use of these carriage stands. He stated that if carriage company owners wanted to deviate from the normal carriage stands and routes, as in the case of special events, they were required to obtain approval in advance from the Traffic & Parking Commission staff. The director stated that in early November Johnny Smith, owner of Sugar Creek Carriage, had called him to request permission to operate a fifth carriage – one more than he was authorized to operate downtown – for some weddings. He stated that because the CMA Awards event was taking place at the Bridgestone Arena that week and there were several street closures, he had directed Mr. Smith to contact the Traffic & Parking Commission to get approval for any routes he intended to use.

The director reported that second incident involved allowing an unpermitted driver to operate a carriage. He noted that the Commission had already heard the testimony about Mr. Biller operating a Sugar Creek carriage at Yogi Bear Jellystone Park without a permit.

Director McQuistion reported that the third incident concerned the unauthorized riding of a carriage horse by Mr. Smith on a crowded Broadway sidewalk on January 14, 2011. He stated that in January Mr. Smith had notified the director that he had been contracted to participate in a video shoot downtown; and that it would not involve his carriage, but would involve his horse. The director stated that he had asked Mr. Smith specifically about where he would offload his horse and that Mr. Smith had told him he would do so at his yard, which was south of Broadway. The director stated that he had directed Mr. Smith to contact the Traffic & Parking Commission to ensure that he had the necessary approvals to bring the horse from the yard to the filming site. The director stated that Inspectors Lawhorn and Bowling called him on the night January 14 and reported that Mr. Smith was riding the horse on the crowded Broadway sidewalk; and that when stopped by the inspectors Mr. Smith had told them that he had permission to do so by the director, and from Traffic & Parking, and from the Mayor's office. Director McQuistion noted that riding the horse on the sidewalk was detrimental to public safety. He stated that he followed up with the Traffic & Parking Commission, the Mayor's Special Events Office and Sergeant Byrne at the Central Precinct; and that Mr. Smith did not have approval from any of them. The director added that email correspondence to that effect was in the Commissioners' packets.

Vice Chair Mary Griffin stated that the Commission would consider each incident in turn, and would make a determination about whether there were violations; and would not consider any sanctions until all incidents were addressed.

Concerning the first incident, Inspector Bowling reported and presented witnesses related to Mr. Smith's use of carriages for special events in September. During testimony, Mr. Smith stated that the notice for the hearing had only addressed the operation of a fifth carriage in November, and that he had not been operating downtown on the November dates. Following discussion, **Commissioner Sam Patel** moved to dismiss the charge on the first incident without prejudice. **Commissioner Brian Winfrey** seconded. The motion passed (4-0).

Concerning the second incident, Mr. Willis stated that his client would not contest that Mr. Biller had driven a Sugar Creek carriage without a permit. Vice Chair Griffin stated that the Commission had heard testimony from Frank Biller that he was operating a carriage in December 2010 at Jellystone Park, and that he did not have a driver's permit. Mr. Willis asked Mr. Smith why he had allowed Mr. Biller to drive. Mr. Smith responded that he had trained Mr. Biller and knew that he could drive a carriage; and he stated that because it was on private property he did not think that a permit was required. He stated that a year before he had observed a Southern Comfort Carriage driver operating without a permit at Opryland, and that he had reported it to the director and inspector. He stated that because he had not heard that anything had been done in that case, he assumed that a permit was not required on private property. He stated that after the incident at Jellystone Park he had instructed Mr. Biller to apply for a permit; but after seeing the criminal history that Mr. Biller had disclosed he fired him. Vice Chair Griffin asked Mr. Smith why he did not know the Code; Mr. Smith stated that he had made a mistake. He stated that he had relied on the Commission to advise him. He stated that other than this incident he had never allowed an unpermitted driver to operate a carriage. Commissioner Jennifer Brundige moved to find Sugar Creek Carriage in violation of section 12.54.190 of the Code. Commissioner Winfrey seconded, and the motion passed (4-0).

Concerning the third incident, Inspector Lawhorn reported that on Friday night, January 14 he observed Mr. Smith park his vehicle and trailer in front a business on Broadway, unload his horse, ride it on the street, and then ride his horse on the sidewalk in front of Ernest Tubb Record Shop. The inspector stated he told Mr. Smith to get off the sidewalk, adding that the sidewalk was crowded with people. He stated that Mr. Smith did not comply; he then called Inspector Bowling, who was also in the area, to assist him.

Inspector Bowling reported that when he arrived Mr. Smith told him that he had approval from Director McQuistion. He stated that while Inspector Bowling was calling the director, Mr. Smith changed his story, and told him that he had approval from Diane Marshall at Traffic & Parking and from the Mayor's office. The inspector stated that Mr. Smith refused to get the horse off the sidewalk, so the inspectors called the police department. He stated that the police were very busy. Director McQuistion noted that the Commissioners had communications from Ms. Marshall at the Traffic & Parking Commission, from the Mayor's office, and from the Central Precinct Police that clearly showed that Mr. Smith did not have approval. The director noted that the film shoot was much later than the incident.

Mr. Willis asked the director if he had been aware of the video shoot. The director responded that he only knew what Mr. Smith had told him beforehand; that he had been contracted to have his horse appear in a video shoot. He stated that during that phone

conversation Mr. Smith had said that he would be unloading his horse at his yard. The director stated that he had been very specific in his instructions to Mr. Smith about getting the proper approvals from Traffic & Parking to get his horse from the yard to the filming location. The director added that he later learned more about the film event details from the emails he received from the Mayor's office and the police. Mr. Willis asked if there was a film crew on Broadway that had permission to film at that time. Mr. Willis stated that Sqt. Byrne's email indicated that the meters had been bagged on Broadway for Mr. Smith to offload his horse. Commissioner Brundige asked Mr. Smith if he had called Ms. Marshall after speaking to Director McQuistion to request permission to have his horse downtown and to do anything special with his trailer; Mr. Smith stated that he did talk to her and Sgt. Byrne. He stated that he was told by the police and by the director to put his vehicle in front of the bagged meters. Commissioner Brundige asked who the director was; Mr. Smith clarified that he meant the director of the film crew. She asked if he had anything in writing or email from Ms. Marshall giving him approval; he responded that he had only talked to her. Commissioner Brundige asked what she had told him; he responded that she told him to contact Director McQuistion. Commissioner Winfrey asked if he had told her that Director McQuistion had referred him to her for approvals; Mr. Smith responded that he could not remember. Commissioner Winfrey asked if either Director McQuistion or Ms. Marshall had given him approval; Mr. Smith stated that Director McQuistion did. Commissioner Brundige asked Mr. Smith if Director McQuistion had given him permission to pull his trailer up to offload on Broadway; Mr. Smith responded that the police and the film crew director told him to do so. Commissioner Brundige asked Mr. Smith if he understood, if he was going to do anything more than operate on the approved carriage stands and routes at the times when he was allowed to do so, that he must have specific approval from the Traffic & Parking Commission to operate anywhere on the Nashville streets.; Mr. Smith responded that he knew that. Mr. Willis stated that the film crew director or producer was responsible for getting the appropriate permissions from the Mayor's office, and that Mr. Smith was only working for the film director. Inspector Lawhorn stated that when the incident occurred the area was not roped or barricaded off, there were no police officers present, and there was no film director or crew there; there was only Mr. Smith riding his horse on the sidewalk. The inspector stated that the police arrived only later, when they were called to the scene. Mr. Willis stated that he believed the Commission did not have authority in this case, because the Mayor's office had the authority to issue the film permit. Vice Chair Griffin asked Mr. Smith what time the film shoot was to begin. He responded that it was supposed to have been on Saturday, but the film director had called him on Friday and told him it had been changed to Friday, beginning at about 5:30 and ending at 12:00. Mr. Willis asked Mr. Smith if he had asked the film director if he had the necessary permits; Mr. Smith responded that he did ask, and the film director had assured him that he did. He added that the film director even tried to convince Mr. Smith to go across the Shelby Street bridge with the horse. Mr. Smith stated that the film people were inside the Ernest Tubbs Record Shop when he was outside on the horse. He stated that they had some people trying to detour people from the scene, but admitted that there were quite a few people walking up and down the sidewalk. He stated that the mounted police rode their horses on the sidewalk, so he did not think it was unsafe. Commissioner Brundige asked Inspector Lawhorn at what time he had seen Mr. Smith riding the horse on the sidewalk; the inspector responded that it was at about

9:25pm. He added that there were no police officers in the area until Inspector Bowling called them. Mr. Willis asked Inspector Lawhorn had even talked to Sgt. Byrne. Inspector Lawhorn responded that he had, and that Sgt. Byrne told him that he had had to call twelve different people to even justify the filming. Inspector Lawhorn pointed out that the problem was not that there was a horse involved in a film shoot, but that the horse was being ridden on the sidewalk in the middle of a crowd of pedestrians. **Vice Chair Griffin** read from the email from Marilyn Edwards at the Mayor's office:

"This gentleman did not have permission from the Mayor's Office to do what he did with his horse.

I am very concerned that he thought it would be okay to have his horse on the sidewalk in the midst of the pedestrians.

I did issue a film permit to a film production company so that they could film the exterior of the Ernest Tubb Record Shop, but nothing involving a horse, the sidewalks or the Shelby Street Bridge."

Mr. Willis stated that the responsibility for getting the appropriate permits was with the film producer, not his client. He reiterated that the Transportation Licensing Commission did not have authority in this matter. He stated that if there was an issue with some reckless conduct, then it should be a matter for the police department or the Traffic & Parking Commission.

Following discussion, **Commissioner Winfrey** moved to find that section 12.54.070.A.9 of the Code applied, and that the unauthorized riding of a carriage horse on the Broadway sidewalk was beyond the scope of any license or permit issued, and constituted a violation for conduct detrimental to the public safety. **Commissioner Ed Whitmore** seconded, and the motion passed (4-0).

Vice Chair Griffin noted that the Commission had found violations for two incidents. Following discussion **Commissioner Brundige** moved to suspend the certificate of public convenience and necessity for Sugar Creek Carriage for six months. There was no second, and the motion failed. **Commissioner Patel** moved to suspend the certificate of public convenience and necessity for Sugar Creek Carriage for 3 months. **Commissioner Winfrey** seconded, and the motion passed (4-0).

APPLICATION FOR TAXICAB DRIVER PERMIT: JAMES JENNINGS

Mr. Jennings did not appear. **Commissioner Jennifer Brundige** moved to disapprove his application. **Commissioner Brian Winfrey** seconded, and the motion passed (4-0).

<u>APPLICATION FOR OTHER PASSENGER VEHICLE FOR HIRE DRIVER PERMIT:</u> <u>ANTUON PATTERSON</u>

Mr. Patterson did not appear. **Commissioner Jennifer Brundige** moved to disapprove his application. **Commissioner Brian Winfrey** seconded, and the motion passed (4-0).

TAXICAB DRIVER DISCIPLINARY HEARING: KHALID KHADER

Commissioner Brian Winfrey moved to continue the disciplinary hearing until the March 22 meeting. **Commissioner Sam Patel** seconded, and the motion passed (4-0).

REQUEST FOR NAME AND COLOR SCHEME CHANGE: DIAMOND CAB

Director McQuistion reported that this was a continuance of the hearing begun at the January meeting concerning a request by Taxi USA of TN to change the name of its Diamond Cab franchise to 1-800-TAXICAB, and for a new painting and lettering scheme for its taxicabs. Inspector Lawhorn stated that the proposal for the painting and lettering of its taxicabs had been changed, eliminating the checker pattern and yellow paint. He stated that there were no other objections from any company to the changes proposed. **Commissioner Ed Whitmore** moved to approve the request for name change and the new paint and lettering scheme. **Commissioner Sam Patel** seconded, and the motion passed (4-0).

OTHER BUSINESS:

Director McQuistion stated that he would provide information to Commissioners concerning mandatory training.

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

ATTEST:	APPROVED:
Brian E. McQuistion	Helen S. Rogers
Director-Executive Secretary	Chair