

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

Minutes of

August 25, 2009

The Metropolitan Nashville-Davidson County Transportation Licensing Commission (the "Commission") met in regular session on this date at the Metropolitan Courthouse. The Commissioners present were Chair Helen Rogers and Commissioners Jennifer Brundige, Tom Turner and Ed Whitmore (4). Also attending were Metro Legal advisors Jon Michael and Corey Harkey; Commission staff members Milton Bowling, Walter Lawhorn and Lisa Steelman; 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 July 28, 2009 meeting were approved.

PUBLIC HEARING: PROPOSED ORDINANCE – OTHER PASSENGER VEHICLES FOR HIRE

Director McQuiston reported that a draft ordinance had been published in May to regulate all non-taxi/non-carriage passenger vehicles for hire transporting up to sixteen passengers, exclusive of the driver. He described the process followed since that time to solicit public input and to incorporate stakeholder recommendations into a revised draft. He noted that both the original draft and the revised draft being proposed at this hearing were published on the web, and that most issues had been resolved during the revision process. He stated that the target date for implementation would be in the January – March 2010 time frame. He added that the Commission should anticipate that there would also have to be some public hearings to discuss and establish appropriate Rules.

Chair Helen Rogers opened the hearing for public comment. She noted that there were a number of people who had signed up to speak, and asked presenters to be as brief as possible.

Brian Cannon, single car company owner, spoke in favor of the revised draft as presented. Matt Yorke, representing Signature Transportation Services, spoke in favor of the revised draft as presented.

Mark Lundy, representing Super Shuttle, spoke in support of regulation, but asked for clarification for services provided on demand. Director McQuiston responded that there must be a clear distinction between prearranged service as allowed under the proposal and immediate service provided by taxicabs. **Chair Rogers** asked Mr. Lundy if he had a specific recommendation for change to the proposed ordinance; he responded that he did not.

Rick Williams, representing Nashville Limousine Service, stated that he operated a 2-car company. He spoke in favor of the revised draft as presented.

Diane Nesbitt, representing Matchless Limousine, spoke in favor of the revised draft as presented.

Bill Faeth, representing Silver Oak Transportation, spoke in favor of the revised draft as presented. He clarified that immediate service was appropriate for pre-approved shuttle routes, and was allowable for shuttle services under the proposed ordinance.

Donald Roy, representing Adept Limousine, spoke in favor of the revised draft as presented.

John Owen, representing Lifestyle Limousines, spoke in favor of the revised draft as presented.

Derek McCann, representing Gaylord Opryland Resort, expressed concern about three requirements contained in the proposal: the \$50 minimum fare for livery services; the one hour minimum time; and the minimum 15-minute pre-arrangement time. He explained the impact on hotel guests who would use resort-owned/operated transportation services.

Chair Rogers asked if Mr. McCann supported the rest of the proposed regulation; he responded that he did. He requested that the Commission consider a hotel guest's reservation with the hotel's concierge desk and purchase of a transportation ticket as adequate to meet the pre-arrangement requirements. He stated that the \$50 minimum per-trip fee in the proposal would make the resort's transportation service uncompetitive. He stated that their current rate was \$30. He also expressed concern about the potential impact of the proposed ordinance on third party contracts that the hotel had with other transportation services. Director McQuiston stated that a possible solution for the pre-arrangement issue would be to make an exception to the 15-minute time for full-service hotels that were also certificate holders to pre-arrange transportation for their departing guests. **Chair Rogers** asked where the minimum \$50 fare had originated; the director responded that this had been a recommendation of the livery association during the revision process. The director also stated that the proposed ordinance did not intend to restrict contracting with other certificate holders for transportation services, noting that such practice was necessary to support major events. **Commissioner Jennifer Brundige** asked if the contracting issue would impact on pre-arrangement: would the 15-minute requirement apply for the contracted certificate holder? Director McQuiston responded that for enforcement reasons the exception should only apply to the hotel-owned services. Mr. McCann stated that the objection to the \$50 minimum fare was based on the fact that the typical trip provided by the hotel's transportation services was only about 7 miles, or 15 minutes. He noted that the 15-minute pre-arrangement requirement for contracted services would not be a problem.

Warren Evans, rickshaw operator, appeared. He requested that rickshaws be excluded from the proposed ordinance, and recommended that the Commission write a new ordinance that would be appropriate for licensing and regulating the rickshaw industry. He noted specific requirements in the proposed ordinance that would not be appropriate.

Chair Rogers asked Mr. Evans to be specific; he cited driver's attire, fares and insurance. Director McQuiston stated that he had received no comments concerning rickshaws during the public comment period. He stated that his expectation had been that all passenger vehicles for hire would be regulated under the proposed ordinance or one of the already-existing ordinances. He added that the rickshaws previously had been performing services similar to taxicabs. **Chair Rogers** stated that the Commission's intention was to regulate rickshaws, as a public safety matter. She asked Mr. Evans if he was already operating a rickshaw service; he answered that he was, in the downtown area. **Commissioner Tom Turner** asked how much he charged; Mr. Evans stated that he did not want to discuss his rates in front of competitors. **Commissioner Turner** stated that it

appeared that it was important to regulate his business. Mr. Evans stated that he charged \$3. Mr. Evans expressed concern that he would no longer be allowed to cruise downtown. He repeated that he would welcome regulation, but not under the proposed ordinance. He recommended that the Commission consider the Austin, Texas rickshaw ordinance as an example.

Boyd Kinzer, representing Metro Livery, provided a packet of information to Commissioners. He spoke in opposition to the ordinance. He described the sedan service provided by Metro Livery. He stated that he viewed the ordinance as an attempt to put his company out of business, and an attempt at illegal price-fixing. **Chair Rogers** assured Mr. Kinzer that no one on the Commission had any intention of running him out of business, and that she had never even heard of him or of his company until this hearing. She asked Mr. Kinzer if he had taken the opportunity during the past three months to work with Director McQuiston, while the draft was being revised. He responded that he had not. He stated that he did not know whether Mr. Bokhari, the company owner, had done so. Director McQuiston stated that he had just read the packet provided, and that at least some of the specific items to which the company was opposed related to the early draft, and were not included in the proposal. He noted that the company's issues with permit fees, minimum of one hour for pre-arrangement, and minimum of two hours' service had already been modified during the revision process. He stated that any legality questions would be addressed by the Department of Law during the legislation preparation period.

Theresa Anglin, employee at Metro Livery, spoke in opposition to the proposal. She explained that the company's rates were between those of taxi services and those of limousine services, and stated that her only opposition was to the \$50 minimum fare. **Chair Rogers** asked if she would be in favor if the minimum fare was reduced to \$30; Ms. Anglin responded that she would.

Doug Ollis, former taxicab driver representing Tennessee Airport Express, stated that he had a number of written statements, which he would submit at a later date. He spoke in opposition to regulation of his business as unnecessary and illegal. **Chair Rogers** asked Mr. Ollis to specifically address items in the proposed ordinance, and ordered a recess of five minutes to enable him to put his comments together. Following the recess, **Chair Rogers** called the public hearing back to order. She noted that the ordinance had been posted on the web site and had been made available for public comments since May 1, 2009. She asked Mr. Ollis to present his comments. He stated that the proposal would put him and other small businesses out of business.

Johnny White, representing American Music City Taxi, spoke in favor of the proposal. He stated that regulation of other passenger vehicles for hire was long overdue. He noted that when the Commission had taken away permits from taxi drivers for legitimate reasons, those same drivers had been able to continue driving the unwary public by working as unregulated transportation services. He stated that this was a safety issue.

Bill Soleau, rickshaw company owner, stated that he was in favor of a separate ordinance to regulate rickshaws. **Chair Rogers** noted that, because they operated similarly to taxicabs, an alternative might be to amend the taxicabs ordinance to enable regulation of rickshaws.

Glenn Cravens, former taxicab driver, stated that he was opposed to any regulation of sedan services.

John Woodall, representing Legacy Limousines in Smyrna, spoke in opposition to the proposal. He expressed concern that the application fees, background check fees, permit fees and other expenses were potentially very high; because he did only a small amount of business in Davidson County, these expenses would be higher than his expected income.

He stated that he was opposed to vehicle age limits, as long as the vehicles passed a certified mechanic's inspection; and he cited the age of MTA and public school buses. Director McQuiston explained the specific fees. In response to a question from **Chair Rogers**, Mr. Woodall clarified that he was not opposed to background checks, but noted that the expenses for small out-of-county operators would be excessive from a business standpoint. He stated that he was opposed to the specified vehicle age limits.

Allen VanPliet, representing 1st American Limousine, spoke in opposition to the proposal. He opposed setting minimum rates, vehicle age limits, and driver dress codes. He stated that taxicabs were in poor condition. **Chair Rogers** stated that any problems noted with the condition of taxicabs should be referred to the staff's inspectors. Mr. VanPliet stated that he was concerned that the Commission did not have sufficient resources to enforce the standards. He noted that the State of Tennessee had requirements for limousine insurance, but that these were not well enforced. He stated that it would be preferable if the State regulated the industry.

Allen Jackson, representing Allen Jackson Limousines, spoke in opposition to the proposal. He stated that he was against the minimum rates and dress code. **Chair Rogers** asked about the dress code. Director McQuiston read the section applying to the dress code, and noted that it was identical to the wording currently contained in the taxicabs ordinance.

Luis Vargas stated that he was opposed to the proposal, especially concerning minimum rates.

Richard "Jon" Simpkins, representing A Limo For You, read a statement in opposition to any regulation of limousine services.

Ismail Miranda, representing the Nashville Limousine Company, spoke in opposition to regulation of the limousine industry, but agreed that vehicle inspections and background checks were acceptable. He stated that the Commission might put him out of business, but that he would simply go to one of the adjoining counties, and "come back and visit you once in a while".

There were no other speakers, and **Chair Rogers** closed the public hearing.

Commissioner Turner moved that the Commission consider the comments made in the public hearing and have the staff incorporate them into a revised draft for presentation at the September meeting. There was no second. **Chair Rogers** stated that this would necessitate a second public hearing. **Commissioner Turner** withdrew his motion.

Commissioner Brundige stated that she supported excluding hotels that operate their own transportation service from the 15-minute pre-arrangement requirement for their overnight guests. She asked about the minimum rate requirement, and discussion followed on the \$50 minimum livery services rate. **Chair Rogers** stated that it might be possible to address minimum rates at a later date. There was also some discussion on the status of rickshaw services, concluding that separate regulation would be necessary if their operations were to be allowed to continue after passage of the proposed ordinance.

Chair Rogers ordered a recess of five minutes.

The meeting was called to order. **Commissioner Brundige** moved to recommend adoption of the proposed ordinance, with the following changes:

- Exempting hotels that operate their own transportation services from the 15-minutes pre-arrangement requirement for the transportation of their overnight guests; and

- Amending Section 6.74.025.D.1.c, to replace the language requiring the minimum \$50 fare with language enabling the Commission to set a minimum rate by rule.

Commissioner Ed Whitmore seconded. During discussion, **Chair Rogers** asked for clarification on whether the affected hotels would be excluded from any requirements for pre-arrangement, or if this would only include the exemption from the 15-minutes timeframe. **Commissioner Brundige** clarified that all other pre-arrangements requirements would remain, and that only the 15-minutes limitation would be excluded; and the motion passed (3-0).

PUBLIC HEARING: PROPOSAL TO CHANGE EMERGENCY ZONE LICENSING AND ASSIGNMENT POLICY FOR CLASS C TOWING

Director McQuiston stated that the proposal to be considered at this public hearing was not a recommendation by the staff, but was based on a request received from Darrell Greer, owner of Nashville Towing & Recovery: to allow a company to obtain a license to operate as an emergency wrecker service for Class C/heavy-duty towing only, and to operate throughout all or part of the metropolitan area. The director recounted the history of how Mr. Greer had lost his former emergency wrecker zone. He explained that approval of Mr. Greer's proposal would require a major change in the established practices of the Commission for assigning emergency wrecker service zones.

Chair Helen Rogers opened the hearing for public comment on the proposal.

Jim Mitchell, representing Dad's Towing, spoke in opposition to the proposal.

David Dunn, representing A.B. Collier, spoke in opposition to the proposal.

Doug Williams, representing Tow Pro, spoke in opposition to the proposal. He noted that a letter from Jerry Johnson, who was denied the opportunity to perform Class C towing only, had been provided to the Commissioners.

Darrell Greer appeared. He provided a letter to the Commission, outlining his qualifications and his case for being given an opportunity to perform heavy-duty emergency towing.

Chair Rogers asked him if his request would not open the door for even more companies to do selective towing. Mr. Greer referred to Mr. Johnson, and stated that in that case Jerry's Wrecker Service had sought to do both light-duty and heavy-duty towing. **Chair Rogers** asked if he would not consider working for one of the established zone operators.

The hearing was closed for public comment.

Commissioner Tom Turner moved to disapprove the proposal. **Commissioner Jennifer Brundige** seconded, and the motion passed (3-0).

WRECKER DRIVER PERMIT APPLICATION: KENNETH CURRIE

Director McQuiston reported that Kenneth Currie had applied for a wrecker driver permit. He stated that Mr. Currie's background check, which was included in the Commissioners' packets, revealed a very bad record of criminal convictions; including many felony convictions for drug-related crimes, the latest in 2004. The director recommended disapproval of the application.

Mr. Currie appeared. He stated that he had been through the Davidson County drug court program, and had been clean for three years. He explained that he had turned his life

around. **Chair Helen Rogers** stated that he had been arrested more recently for failure to appear and probation violations in connection with a felony. She noted that he had not completely disclosed his criminal arrests and convictions history; he had listed only 7 violations on his application, but the TBI background check revealed 23 violations. **Commissioner Jennifer Brundige** asked Mr. Currie if he had any experience in the wrecker business. He stated that he had a little experience, hauling wrecked cars to the junk yard.

Commissioner Tom Turner moved to disapprove the application. **Commissioner Jennifer Brundige** seconded, and the motion passed (3-0).

OTHER BUSINESS:

Director McQuiston stated that the annual Incident Management Conference, put on by TDOT and the Department of Safety, would be held on October 27-29. He invited Commissioners to register for all or part of the conference, and provided applicable information.

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

ATTEST:

APPROVED:

Brian E. McQuiston
Director-Executive Secretary

Helen S. Rogers
Chair