

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

**Minutes of**

**April 24, 2007**

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 Holly Sharp and Commissioners Kim Thompson, Tom Turner, and James Utley (4). Also attending were Metro Legal advisor Scott Neely; Commission staff members Milton Bowling, Walter Lawhorn and Lisa Steelman; and Brian McQuiston, Director-Executive Secretary to the Commission.

**Chair Holly Sharp** called the meeting to order and read the Notice of Appeal statement, advising of the right to appeal decisions of the Transportation Licensing Commission.

The minutes of the March 27, 2007 meeting were unanimously approved.

**PUBLIC HEARING: ADDITIONAL ADA-ACCESSIBLE TAXICAB PERMITS**

At the March meeting, Yellow Cab President Doug Trimble had recommended that the Commission authorize a limited number of additional taxicab permits to each certificate holder, for the exclusive purpose of adding more ADA-Accessible Taxicabs. Director McQuiston reported that he had met with certificate holders to evaluate potential proposals to allow additional permits for this purpose. He noted that the Commission had made a commitment to increasing the number of ADA-Accessible Taxicabs, but that the small number of ADA-Accessible vehicles currently in operation made 24-hour dispatch services impossible. Noting that the staff still had concerns about whether increasing the number of vehicles would result in more on-demand service availability, he presented a proposal for a two-year pilot program initiative, as follows:

- The Commission will authorize up to five additional permits per company, for the exclusive purpose of adding ADA-Accessible Taxicabs. Current ADA-Accessible Taxicabs will not be included in this program.
- Participation by a company is optional, but any unfilled permits will automatically expire after two years.
- Additional permits filled under this program will not be included in calculation of airport slots. Permits filled under this program will not be included in calculation of percentages of vehicles/permits required for retention of permits under Commission Rules.
- All other Commission requirements will apply.

Director McQuiston stated that the limited period of the program would enable the Commission to evaluate its impact on service in 2009, and determine at that time whether it should be modified.

**Chair Holly Sharp** opened the hearing for public comment.

Sophia Maneski stated that she used AccessRide, but the requirement for pre-scheduling transportation was a problem. She added that she had tried taking taxicabs, but that they had also required reservations twenty-four hours in advance. She stated that she was in favor of the proposal.

Guilford Thornton and Jim Church, representing Taxi USA of Tennessee, provided information on the accessible vehicles in operation at Allied Cab and Nashville Cab. Mr. Thornton stated that he was not opposed to the proposal, but requested that current ADA-Accessible Taxicabs in the companies be included in the program, which would allow them to replace those permits with non-accessible vehicles.

Kevin Wright stated that people with disabilities need spontaneous transportation. He noted that MTA had done very well with fixed route service, and stated that the proposal could address the need for more on-demand service. He stated that any vehicles fielded under the proposal should be ADA-compliant.

There were no other public comments, and **Chair Sharp** closed the public hearing.

During discussion, **Chair Sharp** asked if ADA vehicle standards should be addressed. Director McQuiston responded that Commission Taxicabs Rule 39 already cited the appropriate federal guidelines for ADA-Accessible Taxicabs. Responding to Mr. Thornton's request, Director McQuiston argued that allowing a company to include current ADA-Accessible Taxicabs under this program so that it could replace permits with non-accessible vehicles would defeat the intended purpose of the program. He added that, because Taxi USA held certificates for both Allied Cab and Nashville Cab, the proposal would already enable them to add up to ten additional ADA-Accessible Taxicabs. **Commissioner Tom Turner** moved to approve the proposal as presented. **Commissioner James Utley** seconded, and the motion was approved (3-0).

### **WRECKER DRIVER PERMIT APPLICATIONS:**

**Mitchell Copeland:** Mr. Copeland appeared before the Commission with his wife Theresa Copeland, owner of Copeland's Towing and Recovery. **Chair Holly Sharp** asked him to address a 2005 assault conviction revealed by his background check and a recent conviction in environmental court for operating a wrecker without a permit. Mr. Copeland explained the circumstances of the earlier conviction, which had occurred at City Towing because he was alone with a customer whose vehicle had been towed; the customer had threatened to charge him with assault unless he gave him back the vehicle without payment. The resulting arrest had resulted in the denial of his permit application in 2006. Inspector Bowling reported that he had cited Mr. Copeland recently for driving a Champion Towing wrecker without a permit. **Chair Sharp** expressed concern about this. Mr. Copeland stated that the company had told him that he did not have to have a permit in Davidson County because they were based in LaVergne. Mrs. Copeland explained that the reason they had decided to start their own company was because they disagreed with the policies and directions of his former employers. **Commissioner James Utley** asked about Mr. Copeland's attitude when he was cited; Inspector Bowling replied that Mr. Copeland had been polite. Director McQuiston asked Mr. Copeland about his past experience as a wrecker driver, and the companies for which he had worked. Mr. Copeland responded that, in addition to City Towing, he had worked at Tow Masters and Action Towing. Director McQuiston noted that all three of these

companies had had problems with nonconsent towing violations, resulting in their licenses being suspended or revoked by the Commission. Mr. Copeland stated that was why he wanted to stop working for companies doing nonconsent towing, and that Copeland's Towing and Recovery would not be doing that kind of business. Director McQuiston expressed satisfaction with Mr. Copeland's response. **Commissioner Tom Turner** moved to approve Mr. Copeland's application for a wrecker driver permit, with a six-months probation period. **Commissioner Kim Thompson** seconded, and the motion passed (3-0).

**Aubrey Vaughn, Jr.:** Mr. Vaughn appeared before the Commission with his father. **Chair Holly Sharp** asked him to address a 2004 reckless driving conviction on his background check. Mr. Vaughn stated that his past offenses had been caused by a serious drinking problem, but that he no longer drank at all. **Chair Sharp** asked how long he had been sober; Mr. Vaughn replied that he had not had a drink since the reckless driving arrest in 2004. Aubrey Vaughn, Sr. spoke on behalf of his son; he stated that he owned a used car lot, and that his son would be working for him. **Commissioner Tom Turner** asked Mr. Vaughn about his assault conviction in 2000; Mr. Vaughn stated that he had been drunk. Mr. Vaughn, Sr. stated that his company would not be doing nonconsent tows. **Commissioner Turner** moved to approve Mr. Vaughn's application for a wrecker driver permit. **Commissioner James Utley** seconded, and the motion passed (3-0).

**John W. Waldron:** Mr. Waldron appeared with Earl Garvin, owner of Easy Towing. **Chair Holly Sharp** asked him to address convictions revealed by his background check. Mr. Waldron stated that he had bought a car in 2002 from someone he knew; he did not know that the VIN had been changed, and he had been convicted of felony theft. He explained an aggravated assault charge had resulted from a custody disagreement. Mr. Garvin stated that he had known Mr. Waldron for many years, and that Mr. Waldron had been working for him for two years. **Chair Sharp** asked if Mr. Garvin if Easy Towing had training and other standards for their employees. Mr. Garvin answered that he did not tolerate employees who caused problems; he added that Mr. Waldron enjoyed a good relationship with customers, including people in Rutherford County whose vehicles had been towed without their consent. Responding to questions about the company, Mr. Garvin explained that he had moved his company into Davidson County to meet the requirements for nonconsent towing. **Commissioner Turner** moved to approve a temporary wrecker driver permit, restricted to Easy Towing, until December 1, 2007; during this period, Mr. Waldron would be on probation with the Commission. **Commissioner James Utley** seconded, and the motion passed (3-0).

**Juston Cathey:** Mr. Cathey appeared before the Commission with Jill Mann, owner of Express Towing. Ms. Mann stated that Mr. Cathey had been working for Express Towing in a non-driving capacity for the past year, and had been very dependable. **Chair Holly Sharp** asked Inspector Bowling if he had anything to add; Inspector Bowling stated that the company and Mr. Cathey had proactively applied for licenses and permits, and that Mr. Cathey had made full disclosure of his arrest record. **Chair Sharp** asked Mr. Cathey about his conviction record. Mr. Cathey stated that he had been with a friend in 2001, when the friend decided to commit a robbery. He added that in 2003 he had borrowed a car from William Littlefield, owner of Beacon Towing; the car proved to be stolen. **Commissioner Turner** moved to approve a temporary wrecker driver permit, restricted to Express Towing, until December 1, 2007; during this period, Mr. Cathey would be on probation with the Commission. **Commissioner James Utley** seconded, and the motion passed (3-0).

**Jeffrey Boone:** Director McQuiston informed Commissioners that Mr. Boone was applying for both a wrecker driver permit and a general wrecker license for his company, Anytime Towing. Mr. Boone appeared before the Commission with a friend, Oscar Carter. **Chair Holly Sharp** asked Mr. Boone to explain his substantial record of criminal convictions. Mr. Boone stated that he had been in trouble in the 1980s and 1990s, most of it drug-related. He stated that he got a job with NES and got married; but then began drinking and using drugs again because of marriage problems. He stated that he had hit bottom in 2002, and had been clean and sober since 2003. He acknowledged his past guilt, but stated that he had reformed. Mr. Carter stated that he was a minister, and that he had grown up with Mr. Boone. He stated that he had observed Mr. Boone's behavior for many years, including his marriage problems, and indicated that he believed that Mr. Boone had turned his life around. **Chair Sharp** asked Inspector Bowling if he had anything to add; Inspector Bowling stated that he had no knowledge about Mr. Boone or his business, because Mr. Boone had taken the initiative to apply for his license and permits. Mr. Boone stated that he had been towing, but did not know until recently that a license was necessary; when he learned about the requirement, he came to the commission office to apply. Mr. Carter stated that he had observed a change in Mr. Boone about five years ago, and that he would be helping Mr. Boone with his business. **Commissioner James Utley** moved to approve a temporary wrecker driver permit, until December 1, 2007. **Commissioner Tom Turner** offered a friendly amendment, to restrict the temporary permit to Anytime Towing. **Commissioner Utley** accepted the friendly amendment. **Commissioner Turner** seconded the amended motion, and the amended motion passed (3-0).

## **WRECKER COMPANY LICENSE APPLICATIONS**

Director McQuiston stated that the approval of wrecker driver permits for Mr. Copeland and Mr. Boone had satisfied staff concerns related to general wrecker license applications submitted by Copeland's Towing and Recovery and by Anytime Towing. **Chair Holly Sharp** directed that the companies' applications be removed from the Commission meeting agenda, and referred back to the staff.

## **WRECKER COMPANY DISCIPLINARY HEARING: ABLE TOWING**

Complainant Kevin Peters of Brentwood appeared before the Commission. Mark Wayman, owner of Able Towing, also appeared, with counsel Bill Porter. **Chair Holly Sharp** informed Commissioners that there were two complaints to be presented against Able Towing; the first would be a hearing on a complaint brought by Mr. Peters.

**Chair Sharp** read from T.C.A. 55-16-112:

"In order for a garage keeper or a towing firm to tow or to store a vehicle the garage keeper or towing firm shall obtain an express written authorization for towing and storage of each vehicle from a law enforcement officer with appropriate jurisdiction, or from the owner of the vehicle, or from the owner of the private property from which the vehicle is to be towed."

**Chair Sharp** asked Inspector Bowling to report on his investigation into Mr. Peters' complaint. Inspector Bowling reported that initially he had received a telephonic complaint from Mr. Peters. Included in this complaint, Mr. Peters alleged that his vehicle had been improperly towed by Able Towing from the Plaza Art Supply parking lot on Seventh Avenue

on December 31, 2006. He stated that he had obtained copies of the tow slip from both Mr. Peters and from Able Towing. He stated that there did not appear to be a signature authorizing the tow, so he had then contacted Bruce Baker, the general manager of the Plaza to learn if he had signed for the tow. Inspector Bowling stated that Mr. Baker had told him that he did not sign for the tow, because he had given Able Towing a blanket authorization to tow from his lot. Inspector Bowling added that he explained the requirements for properly authorizing a tow to Mr. Baker, and had mailed him a copy of the applicable law. Based upon his investigation, he stated that it appeared that the towing of Mr. Peters' vehicle had been in violation of the code.

**Chair Sharp** asked Mr. Peters to comment on his complaint. Mr. Peters stated that there was damage to his car, and that he understood that would have to be a civil court matter. He stated that when he called Able Towing about the damage, the owner had been very vulgar and had told him that the owner of the Plaza had called Able on the night of December 31 to have the vehicle towed, which he later learned was untrue.

**Chair Sharp** asked Mark Wayman, owner of Able Towing, to respond. Mr. Porter called Yvonne Flowers to testify. Ms. Flowers stated that she had a contract with the Plaza, and that she was the designee to protect that parking lot; if there was a vehicle parking there, she would call Able Towing to come and tow it. She provided a copy of the contract to the Commission. Mr. Porter asked Ms. Flowers if she remembered the circumstances of the towing of Mr. Peters' vehicle. Ms. Flowers replied that she had been driving in the area on the night of December 31, and had seen several vehicles parked in the Plaza parking lot without stickers. She stated that she had called Able Towing, and had signed to authorize the tows. Mr. Porter showed Ms. Flowers the original tow slip on Mr. Peters' vehicle; she identified the authorization signature as her own, and stated that she had signed the tow slip before the vehicle was towed. Director McQuiston asked Ms. Flowers if she had any relationship with Able Towing; she responded that she had no relationship with them. Director McQuiston asked if she had any past relationship with the company; she replied that she was going to work for them, but had decided not to do so. Director McQuiston asked Ms. Flowers if she had any other relationship with Mr. Wayman; she replied that he was her boyfriend. Director McQuiston told Commissioners that, when he had explained the requirements for obtaining written authorization before towing to Mr. Wayman some time before, Mr. Wayman had suggested creating his own security company to patrol lots and authorize tows. Director McQuiston stated that at the time he had told Mr. Wayman that was not appropriate. **Chair Sharp** asked Ms. Flowers where she was working now; Ms. Flowers answered that she didn't work for anyone. She stated that she works on weekends, driving around and looking for vehicles in the lots. **Chair Sharp** asked if she drove around, looking for vehicles to tow. Ms. Flowers responded that she had been downtown celebrating on New Year's Eve, and had driven by the Plaza parking lot; when she saw vehicles parked there without stickers, she had called Able Towing. She stated that she had authorization from the Plaza to monitor the parking lot after hours. **Commissioner James Utley** asked how long she had had the contract; Ms. Flowers stated that she had been doing the job since 2005. She stated that Plaza Art Supply paid her for monitoring their parking lot.

Mr. Porter noted that the Commission had recently accepted that the head of security at a large hotel could be designated to authorize towing from that company's parking lot; he argued that the Commission should also accept a small business owner designating someone to do the same thing. **Commissioner Utley** stated that this was different; because the designated authority was not an employee, and this made it much more difficult to determine if a tow had been properly authorized. Mr. Porter noted that the code stated that only the property owner could authorize a tow; but if a designated representative was to be

accepted as having that authority, then small businesses should be able to designate someone in a contract to provide that service. **Commissioner Utley** stated that he agreed, but that it was improper for a towing company to have a personal or business relationship with the contracted designee. Mr. Porter stated that the law did not address that.

Director McQuiston requested that the Commission continue the hearing at the next meeting, in order to allow the manager of the Plaza to appear and to clarify whether the contract was appropriate. Mr. Porter stated that, if Mr. Baker verified that the contract was valid and Ms. Flowers verified that the signature on the tow slip was hers, then that should satisfy the charge.

Inspector Bowling noted that Mr. Peters would not be able to attend the next meeting. Noting that the issue of whether the tow had been properly authorized did not require Mr. Peters' presence, **Chair Sharp** stated that the Commission would continue the hearing at the May meeting. Mr. Porter asked Mr. Peters a final question about how he had learned that Able Towing was under probation; Mr. Peters responded that it had been mentioned when he presented his complaint at the March hearing. [The March disciplinary hearing had been nullified because Mr. Wayman was not present, and had not received sufficient advance notice.]

**Chair Sharp** stated that there was a second complaint to be addressed concerning Able Towing. She read from Section 6.80.435 of the Metropolitan Code of Laws:

“The licensee shall keep a copy of such receipts which shall be made available to the Commission or its inspectors at all times.”

**Chair Sharp** asked Inspector Bowling to report. Inspector Bowling stated that on March 30 he had contacted Mr. Wayman concerning another complaint; he had requested a copy of Able Towing receipt number 3468 related to his investigation of that complaint, and had asked for a contact number for Mr. Danny Scruggs, who had reportedly authorized the tow. Inspector Bowling stated that Mr. Wayman would not provide the information, but instead told him to contact his attorney for it. Inspector Bowling provided copies of an email message sent by Director McQuiston to Mr. Porter on March 30 and a follow-up fax message sent by Director McQuiston to Mr. Porter on April 2, requesting the records. He stated that he did not receive the contact number for Mr. Scruggs for two weeks, and had not been provided a copy of the requested receipt until just before this meeting; these delays had held up his investigation for almost a month.

**Chair Sharp** asked Mr. Porter if he had anything to say in response. Mr. Porter stated that he had contacted Mr. Wayman, who previously had been out of the country, to get the telephone number for Mr. Scruggs, and that he had also asked Mr. Wayman for the receipt, which he had then provided to Inspector Bowling. **Chair Sharp** asked Mr. Wayman why he had not provided the receipt to Inspector Bowling when it was requested; Mr. Wayman stated that Mr. Bowling had not asked him for it, and that Inspector Bowling had lied. He stated that he had only refused to provide Mr. Scruggs' personal telephone number. **Chair Sharp** told Mr. Wayman that Mr. Porter had known about the request, and asked why it took almost a month to provide the requested receipt. Mr. Wayman stated that he had cooperated with Commission requests for information before, and had no problem with that. Mr. Porter stated that the complaint which Inspector Bowling was investigating did not have to do with towing per se, but with possibly illegal activities at a parking lot downtown.

**Chair Sharp** asked Inspector Bowling if he had requested a receipt from Mr. Wayman on March 30; Inspector Bowling responded that he had, and that immediately afterward had reported to Director McQuiston that he was trying to investigate a complaint by a Mr.

Ruckart, and had been told by Mr. Wayman that he had to contact Mr. Porter for it. He added that the complaint by Mr. Ruckart had alleged improper towing practices. Mr. Porter stated that he had read the email, but had not noticed that the information requested included a copy of the receipt. He admitted that this was an oversight; after he realized what was required, he had obtained the receipt from Mr. Wayman and provided it to Inspector Bowling.

**Commissioner Utley** moved that Able Towing had violated Section 6.80.435 of the Metropolitan Code of Laws. **Commissioner Kim Thompson** seconded, and the motion passed (3-0). **Commissioner Tom Turner** moved to place Able Towing on probation until December 1, 2007. **Commissioner Utley** seconded, and the motion passed (3-0).

**Chair Sharp** stated that the disciplinary hearing for Able Towing would be continued at the next meeting, which would be on May 22. Mr. Porter expressed concern about the possibility of having to represent Mr. Wayman at a disciplinary hearing, when Mr. Wayman was planning on being out of the country. **Chair Sharp** restated that the hearing would be held on May 22.

### **OTHER BUSINESS**

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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Holland Conner Sharp  
Chair