

METROPOLITAN NASHVILLE-DAVIDSON COUNTY
TRANSPORTATION LICENSING COMMISSION

Minutes

July 26, 2012

The Metropolitan Nashville-Davidson County Transportation Commission (TLC) met in regular session on this date at the Metropolitan Courthouse. Commissioners present were Chair Helen Rogers, Commissioners Sal Hernandez, Rhonda Marko, Sam Patel, Tom Turner and Curt Wallen (6). Also present were Metro Legal Adviser Theresa Costonis, TLC Staff Lisa Steelman, Howard Morris and Milton Bowling.

Chair Helen Rogers called the meeting to order and led the Pledge of Allegiance. She read the Notice of Appeal Statement which outlined the right of appeal for TLC decision. The Chair then welcomed Billy Fields, former executive director of the TLC (2000-2003) as the interim director following the retirement of TLC Director Brian McQuiston (effective in September).

The Chair asked the TLC to consider the draft charge letters (which were circulated at the last meeting to the commissioners) for inspectors Buddy Lawhorn, Milton Bowling and Howard Morris. She said charges against Mr. McQuiston were now moot due to his retirement. The Chair stated the charges were directly from the investigation executed by the Metropolitan department of Human Resources (Metro HR). The chair stated that the options were for the TLC to hold hearings on these charges are asked that Metro HR assemble a hearing panel. Attorney for the inspectors Ed Highland offered his objection to the process, but the Chair found out of order. Legal Advisor Costonis said the TLC had previously approved that the Metro HR would assemble a hearing panel to consider the charges, but the Chair suggested that no action was taken. Ms. Costonis explained the process which would be used by Metro HR and that the TLC had already decided to ask Metro HR Director to assemble a panel. Commissioner Wallen made a motion to authorize the Chair to sign the charge letters and send them to HR with a second from Commissioner Marko.

Motion passed 5-0.

Annual Public Hearing on Emergency Wrecker Zones

After an explanation by Mr. Fields of the need for this public hearing, he stated that no requests for zone assignment change had been requested and no applications to operate any of the current zones had been requested. The chair opened the annual public hearing on Emergency Wrecker Zone assignments and asked any companies to offer comments then. Emergency Wrecker Zone Operators present included: AB Collier (David Dunn); Baileys-Martins-Mike's Custom Towing (Maggie Martin; Brown's Wrecker (Gary Brown); Chapman's Wrecker (Chris Graham); Dad's (Jimmy Mitchell); Donelson (Larry Neltner; Smith's (Manuel Lopez); Tommy's (Tommy Goddard) and West Nashville (Larry Boggs. Not present were Carter's, Cotton's, Hillwood and Tow Pro. Representatives from the Police Impound Lot were there to report no problems. Commissioner Hernandez made a motion to maintain current emergency wrecker zone assignments which was seconded by Commissioner

Motion passed 5-0.

Public Hearing on Request to Increase Wrecker Fees

Mr. Fields has asked to appear before the TLC to offer their proposal for the increase. Jimmy Mitchell, president of the Davidson County Zone Towing Association, made a presentation included explanations of the need for increases since there has been no increase since 2004. Commissioner Marko made a motion to approve the increases and recommend adoption to the Metropolitan Council. The motion did not receive a second. The Chair asked Mr. Mitchell if the association would consider any compromises or alterations. Mr. Mitchell said the association was offering a compromise to start with, but would consider and appreciate any increase. Johnny Potts, Martin's Wrecker Service, spoke in support of the increase as well. Commissioner Wallen asked if this would be a "blanket" approval and the Chair said the TLC could take action in several ways. TLC Commissioners asked several questions about the wrecker businesses as a part of the discussion. The Chair suggested that the proposed cost of living increase be considered separately from the proposed rate increase. Commissioner Marko moved to recommend that the Metropolitan Council approve the increases with a second from Commissioner Wallen.

Motion passed 4-1

Mr. Mitchell said this would allow annual increases without having to seek approval annually. The Chair asked if the this proposal was tied to any indexes such as the Consumer Price Index or interest rates and Mr. Mitchell said no, but said he could. Commissioner Hernandez moved that the TLC should recommend to the Metropolitan Council not to have annual cost of living increase implemented with a second from Commissioner Turner.

Motion passed 5-0.

Public Hearing on Changes to the Taxicab Ordinance

The chair asked Mr. Fields to explain the changes being suggested by staff. The chair asked if these proposed changes were in line with the recommendation from the recently released RPM Report on the Taxicab and Other Passenger for Hire in Nashville Study. Mr. Fields said they were not, but there were some coincidental similarities. Commissioner Turner moved that this be deferred until there can be some reconciliation with the reported and Commissioner Hernandez offered a second.

Motion passed 5-0.

The Chair directed that the reconciliation of the RPM Report and the proposed changes be brought back in August.

Public Hearing on Additional Taxicab Certificate and Permits

The Chair asked Mr. Fields to recap this issue. He stated that the TLC had, at its November 2011 meeting approved with conditions the issuance of 88 Certificates of Convenience and Necessity for taxicabs in Metro Nashville. He said the conditions, including an additional transportation licensing inspector, were not met. In subsequent meetings, he said the TLC expressed a desire to continue discussions on whether or not additional taxicabs were needed. Mr. Fields said that other requests have been received by staff since last November requesting certificates. Normally, he explained, the TLC only hears these requests annually (by practice) in November. However, he believed it would be inappropriate to not advise the TLC of the additional requests at this time since the conversation on needs was already underway and the RPM study suggests adding additional taxicabs.

Ms. Costonis said there were several options available to the TLC including using the annual meeting, calling special meetings to consider the issue. The annuals meetings must

be held, but there is no specific date when annual meetings must be held. Commissioner Hernandez moved that we consider all of the applicants at today's meeting with a second by Commissioner Patel.

Motion passed 5-0.

The Chair suggested that the TLC hear from the companies first.

Checker Cab, represented by Mulugetta Abebe, said his company had requested 50 additional permits at the November meeting, but was granted only six taxicabs which have been requested would be six hybrid vehicles and more could be brought into the fleet in as little as four weeks and agreed that 100 percent of the new permits issued would be hybrid.

Green Cab, represented by Emily Ogden, said she believes her company should receive half of the original 76 permits approved. She said this company would be the first company of its kind in terms of hybrid and alternative fuels Metro Nashville. She expressed that the company have these vehicles available and financing in place for the purchase. The company agreed that it would open with GPS technology.

Kwik Cab did not have a representative present.

Taxicab USA, represented by Gif Thornton, said the awarding of the 88 permits was conditional and at least one condition s was not met and the TLC should not fee bound by the action previously taken. They original Taxicab USA request was 40, but conditionally awarded six. He said this company could make half of any new permits issues to be hybrid and 10 percent would be accessible vehicles.

TennCab, represented by Jere Lee, said he was not expecting this to be a full hearing on permit needs and suggested this action should be deferred until November. He said this company is a driver-owned company which believes its best for the city to have more driver-owned companies. TennCab requested 120 permits and said the company would meet prescribed number of hybrid and accessible vehicles. Mr. Lee said the company could be working within 30 days if approved.

Volunteer Taxi, represented by Paul Soper, originally requested 81, but reduced the request to 61. He said this company had been operating under the impression that the TLC had already approved issuance of permits based on previous TLC action. He said this will be a driver-owned company and will provide better service since there will be pride of ownership and have a vested interest in high level customer service. Mr. Soper said this would be a board managed company with full authority over drivers and their actions. Ina addition, shareholders can be removed from the company if certain circumstances warrant their removal from the partnership. He said the company would commit to any level of accessible which the other companies meet. He said that as the vehicles roll off in terms of age, it will be replaced by hybrid vehicles. The company also reported that GPS systems would be used.

The commission took a break at this point.

United, represented by Rajbir Mann, said he was not expecting the additional permits would be considered until November and his application can be deferred until annual meeting. He then read a prepared statement from his father Kuldip Singh (company owner who was not able to be present) which outlined his concerns about some of the other applicants for certificates. United requested 60 additional certificates. He said United will comply with any rules regarding the requirements for hybrids and accessible taxicabs.

At this point, the Chair asked Ms. Costonis to advise the TLC on issues. Ms. Costonis said that the meeting was not properly noticed since a section of the ordinance requires the

public hearing to be advertised in daily, morning newspaper of general circulation. She said the website notice requirement was met, but all notification requirements were not met. Ms. Costonis advised the TLC on its meeting options with respect to publication of notices for a public hearing. The TLC considered Thursday, August 2 for a special meeting to only deal with permits. Commissioner Hernandez asked if made sense to not hold a special meeting, but choose a regular meeting date to have the annual meeting to consider all permit requests and complete this hearing. This would meet the legal requirements for holding an annual meeting and address this specific issue of the applications.

Commissioner Hernandez made a motion to adjourn the public hearing and that the annual taxicab meeting be held at the regular meeting on August 23 so proper notice can be made to the public. He moved new application or additional permits can be requested and that the applications from Checker, Taxicab USA, Green Cab and Volunteer Cab be deemed applicable to the August 23, 2012 hearing. Commissioner Patel seconded the motion.

Motion passed 5-0.

Commissioner Hernandez then moved to clarify that the conditions placed on the permits approved at the December, 2011 TLC meeting were not met and that no permits were issued. A second was made by Commissioner Turner.

Motion was approved 5-0.

Commissioner Wallen moved that at the next meeting the TLC will hear from each applicant up to five minutes for questions and answers and tell anything they have not had the opportunity to share. A second was made by Commissioner Turner.

Motion passed 5-0.

The Chair stated that the next meeting would be the Annual Meeting to consider requests for certificates of Necessity and Convenience for Taxicabs. The Chair also reminded the public that Commissioners should be contacted through the TLC staff rather than through direct contact to make sure the process is fair and open.

Public Hearing on Horse Drawn Carriages

Mr. Fields said the staff had suggested some changes to the ordinance regarding street temperatures restrictions for horses. Metropolitan Police Officer Greg Jones is now responsible for the mounted patrols and agreed to assist TLC staff on this issue. Mr. Fields requested this issue be deferred and a substitute be offered. Commissioner Hernandez moved to hold a public hearing on horse drawn carriage rules at the September, 2012 meeting. The motion received a second from Commissioner Marko.

Motion passed 5-0.

Application for Taxicab Driver Permit

Nagy Gadalla applied for a taxicab driver permit in April. Marvin Sutton, Yellow cab, was present to request approval. Mr. McQuiston based on his criminal background check, recommended disapproval. Commissioner Hernandez moved to disapprove, but there were no second. Mr. Fields described the use of a restricted permit. Commissioner Turner moved to disapprove with a second from Commissioner Hernandez.

Motion to disapprove passed 5-0.

Derrick Berry applied for a taxicab driver permit in May and applied in January, 2012, but was disapproved by the TLC. Mr. McQuiston based on his criminal background check, recommended disapproval. Mr. Berry, through attorney Ed Swinger, said he was not

aware of some of these charges and Mr. Fields shared the TBI fingerprint background check with Mr. Swinger. Commissioner Turner moved to defer this application to the August meeting with a second from Commissioner Patel.

Motion to defer passed 5-0.

Application for Wrecker Driver Permit

Dale Elder did not appear. Commissioner Patel moved to disapprove with a second from Commissioner Hernandez.

Motion to disapprove passed 5-0

Clarence Knight did not appear. Commissioner Turner moved to disapprove with a second from Commissioner Hernandez.

Motion to disapprove passed 5-0.

Other Business

The Chair formally announced the retirement of TLC Director-Executive Secretary Brian McQuiston and said Mr. Fields, former TLC director, has agreed to return to his previous post. The Chair asked the TLC to appoint him, at least on an interim basis. Commissioner Turner made a motion to appoint him as interim director with a second from Commissioner Wallen.

Motion to approve passed 5-0.

With no further business, the meeting was adjourned.

ATTEST:

APPROVED:

Billy Fields
Interim Director

Helen S. Rogers
Chair