

/Minutes of the Metropolitan Taxicab Commission Meeting
Friday, January 14, 2005
1:00 p.m., in the Auditorium at 100 North Tucker Boulevard.

(Note: there were 12 attendees in the audience today)

Meeting was called to order at 1: 10 p.m. by MTC Commissioner/Treasurer Mike Morgan, who explained that he will chair today's meeting in the absence of Chairman McCarthy and of Vice Chairman Hamilton, both of whom are out of town.

Roll was called; present were Commissioners Bennett, McNutt, Morgan, Rudawsky and Satz. Absent were Commissioners McCarthy, Hamilton, Harris and Shiferaw. Mr. Morgan confirmed that we do have the necessary quorum to conduct this meeting, since there is a balance of members from both City and County jurisdictions in attendance as is required.

Mr. Morgan stated that, as Mr. Hamilton had done at the December meeting, he is re-ordering today's Agenda to accommodate some speakers who cannot stay until the end of the meeting, yet who wish to address the board members. The formal Agenda will immediately follow, and there will be a brief Executive Session conducted today, which is a *closed meeting*.

Public Comments

First speaker was Mr. Stephen Ukman

- Speaker stated that he represents Mr. John Loynd, who is requesting the Commission's approval to purchase Archway Cab Company – the current owner, Michael Palazzolo, is also in attendance today.

Speaker said that he has submitted the appropriate information to Director Tully and is aware there is a Vehicle for Hire Code which states that the Commission must approve all sales and all transfers of licenses, adding that Archway Cab holds 22 permits.

Director Tully stood and affirmed that this application has been received, as has the contract of sale, which Mr. Tully has accepted and referred for review to our legal counsel, Mr. Patrick McCarthy, who will now explain the legal ramifications:

Mr. Patrick McCarthy then informed the board that he is developing prototypes/templates for each of these kinds of transactions; he added that the parties had met just before Christmas 2004 and he had only received the written proposal approximately 10 days ago. He stated that the next step is to have the staff review the application on its merits and to make its recommendation at the February meeting, as to whether or not to approve it.

Mr. Morgan asked Mr. (Patrick) McCarthy to clarify his own understanding that, once the members receive the staff's recommendation, it is the board's duty to consider and approve the application. (The speaker interjected a question as to whether the decision will actually be made during the February meeting.) Mr. McCarthy replied 'yes' to both those questions.

Second speaker was Mr. Jack (John) Loynd

Speaker stated that he is attending with Mr. Steve Ukman, (today's first speaker) and is involved in the aforementioned transaction, the sale of Archway Cab Company. Now that the procedure/protocol has just been explained, he withdrew his intention to speak today, and will defer his remarks until the February meeting.

Third speaker was Michael Palazzolo, the seller of Archway Cab Company

Speaker stated he is also allied with the above two speakers and will likewise refrain from speaking to the board today, but wishes to speak at the February meeting about this transaction.

Fourth (and final) speaker was Dr. Ioan Ziub, representing Airport Taxicab Company

Mr. Morgan forewarned Dr. Ziub that, before he begins speaking, if his questions/comments will pertain to the pending litigation matters involving MTC he cannot allow Dr. Ziub to voice them; likewise, if Dr. Ziub's subject is to be his previous appeal of the Director' decision in a policy matter, those remarks, too, will have to be disallowed.

Mr. Morgan stated no one else is signed up to speak today. He explained that anyone who wishes to do so must first sign a roster, and he offered attendees an opportunity to do so at this time. No additional persons signed up, however, so Mr. Morgan directed all the commissioners to revert to the official Agenda for the order of business which remains to be conducted today.

Mr. Morgan asked if all members here present had received an advance draft of the December meeting Minutes, and had read them; all answered in the affirmative. Mr. Morgan asked if there were any corrections, additions or deletions proposed; none was offered.

** Mr. Morgan made the motion to approve the December meeting Minutes; motion was seconded by Mr. McNutt and the motion to approve was passed by unanimous vote.*

Old Business

Mr. Morgan stated that Director Tully will present a report on various subjects which are shown on the Agenda, and he asked Mr. Tully to address each of them in turn.

- Mr. Tully reported that the "Yellow Pages' investigation of premium sedan operators has since expanded to encompass Websites, the "Yellow Book," etc. Rather than submit only what has been learned to date, he asked the board for permission to wait until next month's meeting for a more comprehensive report of what has been yielded from a variety of source materials.
- Mr. Tully reminded everyone that the absolute deadline for issuance of driver's licenses is January 31, and that in accordance with the VHF Code, a fine of **\$5 per day** will be assessed to any party who fails to be licensed by the deadline date.
Mr. McNutt asked whether the companies have been reminded of that deadline, and Mr. Tully stated it is published in the Code which was supplied to every certificate holder, adding that the information is also posted on our website. After some discussion, Mr. Tully agreed to issue a reminder letter about the deadline to all certificate holders of On-Call cab companies.
Mr. Rudawsky asked whether the \$5 per day penalty is to be paid by the companies, or by the drivers? Mr. Tully replied that licensing compliance is the driver's responsibility, thus these penalties are to be borne by the driver.
- Director Tully stated that, at the December public meeting, the moratorium was rescinded for the *premium sedan* classification (only) and that, to date, 2 applications from 2 companies have been received, involving a total of 9 vehicles. Mr. Tully added that we also have 3

'incomplete' applications on file, and that the moratorium will go back into effect as of February 1, 2005.

Mr. Tully added that, in order to widely publicize this temporary rescindment of the moratorium, *which is for premium sedans only*, we took 4 actions as the board had directed:

- a) a letter of notification was mailed to all current premium sedan companies and to an appropriate target group of limousine companies
- b) this information was immediately publicized on our website (www.stl-taxi.com)
- c) a press release was issued to all TV and radio outlets in the metro area (the text of that release is maintained on file at our offices, for public viewing during business hours)
- d) a classified advertisement was placed in the *St. Louis Post-Dispatch*, in the 'Legal Notices' section, which ran from Monday-Friday, December 20-24, 2004 inclusive

That concluded the Director's enumeration of issues to be addressed in this portion of the meeting (Old Business).

Mr. Bennett asked whether hospitality/tourism entities have been kept apprised of our actions in this regard, and Mr. Tully replied yes - he had a lunch meeting just today with the Director of the St. Louis Convention and Visitors Commission, (Ms. Carole Moody) adding that although she shares his surprise at the low number of applicants thus far, she too is confident that visitors' needs will be adequately met for several major upcoming events such as the NCAA Final Four tournament in early April.

Mr. Morgan added his view that the Commission has done all it should to publicize the rescindment of the moratorium, commenting also that there is a significant expense to the applicants, which may have deterred some who had verbally expressed strong interest but who ultimately may have chosen not to apply after all.

Mr. McNutt interjected his observation that it is impossible to regulate the entire industry in an effort to satisfy the unique requirements of a few special events; he stated that the insurance requirements alone are somewhat daunting. Mr. Tully concurred, stating that the effort and expense of obtaining physical examinations, drug tests, etc., are operational realities that every applicant must assess when deciding whether to apply for MTC licenses.

New Business

Mr. Morgan directed all Commissioners present to consult their calendars, and asked Director Tully whether Messrs. McCarthy or Hamilton had communicated any preferences to include/exclude any specific February dates from consideration; Mr. Tully replied he is aware of no such preferences, commenting that Friday February 18 does happen to lead into the national "Presidents' Day" holiday on Monday, February 21.

The members nevertheless selected Friday, February 18 as the date of the next public meeting.

Director's Report

Mr. Morgan instructed Director Tully to report on several other pending matters; Mr. Tully complied, as follows:

- He has already addressed one item, the moratorium, earlier in today's meeting
- He today is requesting that the Vehicle for Hire Code be amended to stipulate that fees for a stenographer, etc., should be borne by the 'unsuccessful party' in all disciplinary / enforcement hearings.

* Mr. McNutt interjected the offer to make a motion which stipulates that ANY costs incurred should be borne by the party that loses. Mr. Bennett seconded the motion, which was passed unanimously*

(Mr. Morgan, addressing Mr. Patrick McCarthy, directed him as Counsel to provide the board with a draft text of the proposed amendment revision at the February meeting; Mr. McCarthy agreed to comply).

- Mr. Tully reported on the most recent sessions of 'Taxi Court,' those held since the last board meeting, and again said most offenders are electing to pay their fines and forgo court.
- The Director reported that the Enforcement Agents are continuing to have 'ride-alongs' with local police officers and enumerated: one car has been towed; there has been one arrest; and three citations have been issued; moreover there are several traffic stops occurring each evening when our agents are on enforcement patrols.

Mr. Tully added that the City has committed to having day, afternoon, and night shift police officers permit our agents to ride along with them in the field.

- Concerning Random Drug Testing: the actual testing began in October 2004, and the entire target quota (10 percent) for calendar year 2004 was completed during the 4th quarter. Of the 191 tests which were administered, 3 yielded positive results and those drivers were revoked for cause, per our Code.
- The Director reported that he met with MoDOT representatives earlier this week, and they reiterated their willingness to assist us with enforcement issues.
- Mr. Tully stated he has been invited to join the Chiefs of Police organization and to attend/participate in its regular meetings.

(Mr. Satz interjected a question: what is the status of the specialty, taxicab license plate the board already had voted to approve? Mr. Tully replied that our new governor, Matt Blunt, has just terminated several ranking officials in the Department of Revenue, and it is not yet known if those personnel decisions will impact this issue. He stated that he will be in Jefferson City next week, and pledged to report further details at the February meeting.) These remarks concluded the Director's Report.

Treasurer's Report

- Mr. Morgan stated that prior to today's meeting, he had transmitted the year-end financial report, via e-mail, to each board member; this report has not yet been audited. The St. Louis County Auditor will review this material within the next 60 days, he said.
- Mr. Morgan said that we ended 2004 with a surplus; next year's budget has been 'pared down' due to some one-time expenses in 2004 which will not reoccur.
- Mr. Morgan solicited questions/comments from the board members; none was offered.

Mr. Morgan then asked MTC Counsel, Patrick McCarthy, to provide a brief update of legal matters.

Mr. McCarthy reported that, concerning the case of United Cab vs State of Missouri: the Missouri Supreme Court had just ruled on December 7, upholding the constitutionality of this Commission.

Mr. McCarthy said he wished to address two matters in this public session, as is required by State statute and the Vehicle for Hire Code, so that the information will be submitted *on the record*:

- 1) Regarding the pending appeal of driver William Howell Jackson:

Mr. McCarthy asked Mr. Jackson to stand, then to state whether he still wishes to appeal his case? Mr. Jackson replied in the affirmative.

Mr. McCarthy stated that the staff maintains the records of the Director's actions, and the transcripts of the appellant's testimony; he pledged that he will submit written arguments if the Commission board members desire clarification, etc., but stated that no additional evidence or testimony may be introduced today, beyond that which already appears in the records.

The Commission will then announce whether the appeal was upheld, reversed, or modified. There will be a decision made by an independent hearing officer.

Mr. McCarthy then instructed Mr. Jackson to meet with him at the conclusion of today's public meeting, to discuss the procedural protocols for his appeals hearing.

2) Regarding the pending the appeal of Dr. Ioan Ziub:

Mr. McCarthy explained that this appeal does not involve a disciplinary hearing; rather, Dr. Ziub is a plaintiff party in a matter of pending litigation, and is ably represented by Mark Goodman, Esquire, an experienced attorney. Mr. McCarthy explained he had asked opposing counsel for waiver of his representation of Dr. Ziub, whose intention was/is to appeal a decision made by Director Tully.

Mr. McCarthy stated that he has received no such written waiver from Dr. Ziub's attorney to proceed, and it is inappropriate to do so until that transpires. He added that we had intended to address this matter today, but unless said written waiver is received by the close of business today, we will be obligated to defer this until the February meeting.

Mr. Morgan then explained there will be a brief adjournment to conduct an Executive Session; he asked the audience members to step outside to the lobby while that is being done, adding that the board will reconvene solely for the purpose of official adjournment, and emphasized that no additional business will be discussed or acted upon when the members do reconvene.

** Mr. Morgan then made the motion to adjourn to Executive Session, which was seconded by Mr. Satz. The time was 2:01 p.m.

The Executive Session was held, and the members reconvened at 2:12 solely for the purpose of official adjournment.

**Mr. McNutt made the motion to adjourn; Mr. Bennett seconded, and the meeting was adjourned at that time, with a reminder that the next meeting will be held on Friday, February 18.

-- Minutes taken by Judith Cannon, Office Administrator