

TAXI COMMISSION MEETING  
Minutes of the March 15, 2010 meeting

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**I. CALL TO ORDER**

Chair Frank Daggett called the meeting to order at 9:05 a.m.

**II. ATTENDANCE**

Present: Members: Chair Frank Daggett; Commissioners, James Feehley, and Peter Bresciano; Councilor Robert Lister; Captain Michael Schwartz; City Attorney Robert Sullivan; Jason Page, Code Enforcement Officer and Deputy City Clerk Dianne M. Kirby

Absent: Commissioner Joel Look

**III. ACCEPTANCE OF MINUTES FROM FEBRUARY 16, 2010**

Commissioner Bresciano moved to approve and accept the minutes of the February 16, 2010, Taxi Commission meeting. Seconded by Councilor Lister and voted.

**IV. APPEAL HEARING – Checker Cab**

Commissioner Bresciano moved to suspend the rules in order to take up an issue not on the agenda. Seconded by Councilor Lister and voted.

Commissioner Bresciano moved to rescind the vote of February 16, 2010 as it applies to suspending the medallions of NH Checker Cabs. Seconded by Councilor Lister.

Commissioner Bresciano stated the Taxi Commission improperly suspended NH Checker Cab's medallions by not giving the company notification prior to the suspension. He said the Commission needs to correct the record and rescind that vote. City Attorney Sullivan agreed with Commissioner Bresciano. He said Checker Cab should have been provided with notice and an opportunity to be heard on the suspension before the suspension was put in place. He said he is recommending the rescission of the February 16, 2010 vote.

City Attorney Sullivan further stated with regard to those issues, Checker Cab is represented by Attorney Sean O'Connell from Dover. He stated Attorney O'Connell is unable to be here today and at his request, City Attorney Sullivan and Chair Daggett agreed to put the matter of the suspension on for a later date. He suggested the Commission reschedule the appeal hearing perhaps at the next Commission meeting on April 19<sup>th</sup> or another date in the future to allow Checker Cab the opportunity to be heard prior to the Commission making any decision on a suspension.

Motion passed.

Commissioner Bresciano said he would like to clarify one thing. He stated since we moved to strike the vote of February 16, 2010, the issues in Checker Cab's Appeal with regard to items (a) (Proper Notification), (b) (Rebuttal of Investigations facts), and (c) (License revocation) of the Notice of Appeal by NH Checker Cab, would become moot. He said item (d) (Insurance), after reading the minutes he feels the City Clerk was not stating NH Checker Cab's insurance was at issue, but the insurance on the two non-medallion mini vans in question. City Attorney Sullivan stated he received some documents addressed to the Commission last week. He said in these documents Checker Cab raises a number of issues. He said the Taxi Commission has a very broad latitude in how it wants to deal with those issues. He said the Commission is not required to take any action on them; however, the Commission has the authority to investigate and discipline entities if the Commission feels that is appropriate. He said he does have one rule which he thinks should be followed and that is if there is the suggestion that crimes have been committed in connection with the taxi business, it is his advice that the City officials refer those allegations to the Police Department. Chair Daggett stated at the last meeting Captain Schwartz stated there was not sufficient evidence to pursue a criminal investigation. City Attorney Sullivan said regardless of what anyone else should feel, reading through these documents, crimes have been alleged. He said some kind of official investigation and some kind of official response from the Police Department, he feels, is called for if only for the sake of public confidence in the operation of the taxi business.

City Attorney Sullivan stated what the Commission needs to do is:

1. Determine what date the Commission wants to deal with the issue of suspending the permits and medallions of Checker Cab.
2. Determine what, if anything the Commission wants to do with the five complaints filed last week by Checker Cab and
3. In the event anybody is suggesting anything of a criminal nature, he recommends the matter be referred to the Police Department.

Commissioner Bresciano stated, in that vein, Mr. Goumas had said at the January 19<sup>th</sup> meeting that Rockingham Livery was threatening his drivers. He asked City Attorney Sullivan if this is one of the points he is talking about. He said these drivers should report this directly to the police, but if they don't and it is brought up to the Commission, he feels it is the Commission's responsibility to refer it to the Police Department. City Attorney Sullivan agreed with Commissioner Bresciano. He further said that he feels there are at least two items in the minutes that could be considered allegations of criminal conduct. He said nobody is in a better position to analyze this than Captain Schwartz. Captain Schwartz stated there are criminal reports that have been filed and there are criminal investigations at hand. He said if they reach a point where a criminal complaint is filed with the District Court, which is the point where it would become public information, he would feel comfortable notifying the Commission in a public forum the status of those cases. He said until that point a criminal investigation has to remain confidential.

City Attorney Sullivan requested someone propose, by motion, a date on which the issue of the Checker Cab would be heard. Commissioner Bresciano stated he does not feel the agenda for April 19<sup>th</sup> will be full so we could hold the agenda to a few items with one being the appeal hearing. Captain Schwartz said he thinks April is too far out. Commissioner Bresciano stated he agrees. Chair Daggett said we can call a special meeting. Commissioner Bresciano said he would like to hold it on a Tuesday if possible. Chair Daggett stated as long as everyone is available and we have a quorum. Councilor Lister asked if we have this meeting sooner will we have all the information we need. Chair Daggett said we already have all the information. City Attorney Sullivan stated the Commission can schedule the hearing whenever they wish, but to take into consideration that Attorney O'Connell does need some time to prepare for the hearing. Commissioner Bresciano asked if the first Tuesday in April would be ok for everyone. Chair Daggett stated this would be April 6<sup>th</sup>.

Commissioner Bresciano moved to have the appeal hearing at a special meeting on April 6, 2010.

Attorney Richard Foley asked to be heard by the Commission. Attorney Foley stated he was attending in the absence of Attorney Sean O'Connell who represents NH Checker Cab. He stated Attorney O'Connell will be unavailable April 6 – April 14 and that April 19 would be acceptable. Commissioner Bresciano asked if March 30<sup>th</sup> would be acceptable to hold the appeal.

Commissioner Bresciano made a motion to hold the appeal hearing on March 30, 2010. Seconded by Captain Schwartz.

Attorney Foley stated it is his understanding that Attorney O'Connell will be unavailable until April 19.

Commissioner Bresciano withdrew his motion

Commissioner Bresciano moved to hold the appeal hearing on April 19, 2010. Seconded by Councilor Lister and voted.

## **V. NEW BUSINESS**

1. Letter of Request to Add Two Additional Taxi Medallions – Rockingham Livery Inc.

Commissioner Bresciano moved to allow Rockingham Livery Inc. to obtain two additional Tax Medallions. Seconded by Captain Schwartz and voted. Commissioner Bresciano asked if all the paperwork has already been submitted. Deputy City Clerk Kirby stated the company must obtain permission to operate additional medallions prior to the submission of the paperwork. Councilor Lister asked what the usual timeline is. Chair Daggett stated there is no timeline, but we expect it to be done as soon as possible. Commissioner Bresciano said they need to get the cabs on the road within 30 days.

2. Review of Ordinance

Chair Daggett stated Commissioner Bresciano has reviewed the Taxi Ordinance and made some suggestions for changes. He stated we should set up a committee to work on reviewing the ordinance and recommend changes. Commissioner Bresciano suggested the Commission set up a work session with all the members and go through it. He stated he has already gone over it, and there are just a few items he has questions as to what we should do, such as time frames, etc. He said most of it is cut and dry. Commissioner Bresciano suggested it could wait until after we are done with the Appeal Hearing in April. Councilor Lister asked if a work session could be set up for April 19<sup>th</sup> after the meeting. He said we could go into the work session after the Appeal Hearing.

Commissioner Bresciano moved to table this item to the April 19, 2010 meeting following the Appeal Hearing. Seconded by Councilor Lister and voted.

**VI. OLD BUSINESS**

1. Report Back – Commissioner Feehley

Chair Daggett stated Commissioner Feehley attended the Parking Committee meeting last week to request additional taxi parking stands. He turned the meeting over to Commissioner Feehley. Commissioner Feehley stated he attended the Parking Committee meeting and the Parking Committee voted to designate two parking spaces across from Peavey's. Hardware on Market Street by the Portsmouth Gas Light. He said the spaces would be used for loading/unloading of materials during the day and from 6pm-6am for taxies. Chair Daggett asked if the spaces are on the left or right side of the road. Commissioner Feehley stated they are on the left hand side. Chair Daggett stated that really scares him as the left side is such a safety hazard with the patrons getting out of the cab into traffic. Chair Daggett asked if the Parking Committee can make this approval without going to the Council. City Attorney Sullivan stated the Parking Committee has final approval for a one year trial. Councilor Lister asked if this would include signage. Chair Daggett stated it would.

**VII. MISCELLANEOUS/UNFINISHED BUSINESS**

Attorney Foley asked if Checker Cab would be able to get their additional medallions that were authorized in December 2009. Chair Daggett said the Commission rescinded the action of February 16, 2010 so they are entitled to those medallions.

Chair Daggett asked if any of the drivers were having any problems they would like to discuss, there being none, he called for adjournment.

**VIII. ADJOURNMENT**

At 9:40 a.m. Commissioner Bresciano moved to adjourn. Seconded by Councilor Lister and voted.

Respectfully submitted by:

Dianne M. Kirby, Deputy City Clerk