

TAXI COMMISSION MEETING
Minutes of the March 19, 2012 meeting

I. CALL TO ORDER

Commissioner Bresciano called the meeting to order at 9:01 a.m.

II. ATTENDANCE

Present: Members: Commissioners Peter Bresciano, and Paul Ford, Councilor Brad Lown, Police Lieutenant Mark Newport, City Attorney Robert Sullivan and Deputy City Clerk Dianne M. Kirby

Absent Commissioner James Feehley

III. ACCEPTANCE OF MINUTES FROM FEBRUARY 21, 2012

Commissioner Ford moved to approve and accept the minutes of the February 21, 2012, Taxi Commission meetings. Seconded by Councilor Lown.

Chair Bresciano stated he had one correction to the minutes. He stated on page four, second paragraph, it lists City Attorney Sullivan as City Manager Sullivan. Deputy City Clerk Kirby stated she would correct the error.

Motion passed.

IV. NEW BUSINESS

1. Letter of Complaint – Annie's Taxi

Chair Bresciano asked if everyone has read the letter from Annie's Taxi. Commissioner Ford asked if Melissa McGuire was there. Deputy City Clerk Kirby stated she was not.

Commissioner Ford moved to discuss the issued. Seconded by Lieutenant Newport.

Chair Bresciano stated what he got out of the letter is that Ms. McGuire fears she will be ensnared in a drug action. He said his contention is the anonymous person should have been the person to make the report to the Police Department. Lieutenant Newport stated anything relating to drugs should be reported to the Police Department. Chair Bresciano stated the Police Department would have investigated the complaint had the report been filed by the person who heard the statements. Commissioner Ford stated he wished Ms. McGuire was present as he would like to hear more about this issue. Councilor Lown asked Lieutenant Newport if the Police Department could investigate this matter. Lieutenant Newport stated this is the first he has heard of it. Chair Bresciano stated she did try to file a complaint with the Police Department. He said the Police Department told her the person that gave her the information would need to file the complaint. Lieutenant Newport said she should have contacted him and he could have looked into it further. He further stated as far as someone

trying to set her up, being a taxi like this with people in and out all the time and if someone were to tell the police there were drugs inside a taxi, we probably would do a pretty extensive investigation not just call a taxi owner in and say this was found in your cab and leave it at that.

Commissioner Ford withdrew his motion to discuss and moved to place the letter on file. Seconded by Councilor Lown and voted.

Councilor Ford stated if people have complaints or issues they need to step forward sign their letters and report it to the proper authority or it just sits. Councilor Lown said we have no way of determining the veracity of this without someone coming forward. Chair Bresciano said the best avenue to report anything is to the Police Department and have a report filed. Lieutenant Newport stated any incident should be immediately report to the Police Department. He said if they are not satisfied with the results they receive at the Police Department, leave a message for him and he will return their call.

2. Letter of Complaint – Robert Brown

Chair Bresciano asked if everyone had read the complaint. Commissioner Ford stated he had a little trouble understanding the content of the letter.

Lieutenant Newport moved to enter the letter into the files. Seconded by Councilor Lown.

Chair Bresciano requested Mr. Brown explain his complaint to the Commission.

Mr. Brown went into detail concerning his employment with Annie's Taxi and the fact that Ms. McGuire has breached the contract he signed with her in numerous ways. He stated the contract he signed stated he would work nights, which was his request. He said after two or three very good nights, Ms. McGuire informed him that he would be working days. He said he told her this was against his contract and she basically said "take it or leave it". He said he needed the job and therefore, worked the hours she gave him. He stated when he signed the contract he requested if she was covering him under worker's compensation, social security and taxes. He said she told him she would get the papers for him to fill out. He stated he continued to ask her for the papers and she stated she would get them to him. He stated he is now attempting to get his statement from her so he can file his taxes and she refuses to talk to him. He stated he has tried to have her served at Striped Bass Avenue in Portsmouth, which is the address she has supplied to Deputy City Clerk Kirby as her permanent address, but was told she does not live there. He stated he knows for a fact that she lives at 23 Yankee Common Trailer Park in Kittery, Maine as he helped her move there. He stated she is violating the law by living in Kittery, Maine and having her vehicle registered in New Hampshire.

Councilor Lown stated Mr. Brown might have a valid complaint, but the Commission does not have the authority to address this type of dispute. He did say that the Commission can look into Ms. McGuire's address issue. Mr. Brown stated he understands the Commission can not do anything about his complaint against Ms. McGuire. He said he understands the Commission does have the power to sanction Ms. McGuire or fine her for certain things. He was hoping she would be here to explain exactly where she lives. Chair Bresciano stated after

looking at this complaint, he sees two things. He said the first thing he sees is a theft of services. He stated he would turn the letter over to the Police Department. Lieutenant Newport stated the Police Department does not handle employee/employer disputes. Chair Bresciano stated the second item is the address issue, which may be a violation of the City Taxi Ordinance, wherein the owner is not living at the address she gave to the City Clerk. He said he would turn this matter over to the Police Department to investigate to see if that is the case. He said if she is not living at the address given to the City Clerk, then that is a violation of the taxi ordinance. Lieutenant Newport said everyone has to re-register their licenses and medallions this month and we can see what she puts down as her address and go from there.

Mr. Brown asked what the Commission's position was on commission contracts as of September 7, 2011. He asked if the contracts where you get paid a percentage of your fares and your tips legal. City Attorney Sullivan stated the Commission on that date and as of this date does not regulate by ordinance or otherwise the relationship between the company and the driver. He said the Commission has recommended an ordinance change and it will soon become the law of the City that the companies are required to comply with all State and Federal laws as a condition of keeping their local medallion. He said most of the complaint discussed did sound like a number of violations perhaps of State and Federal laws or issues for the Department of Labor or the IRS, but are not, so far, issues for the Taxi Commission with the exception of the address.

Stephen Gerrato, Rockingham Livery stated he has paperwork that states that employment securities have no record of Ms. McGuire being a company. He said he has done investigation with the State of New Hampshire and she is not registered as a business in the State of New Hampshire. He said the quickest way to fix this is to pull the medallions and make these companies prove they are legit.

Councilor Lown moved to require Ms. McGuire to produce her current address during the re-licensing and place Mr. Brown's letter on file. Seconded by Commissioner Ford.

Commissioner Ford asked Mr. Brown if he has been to the Department of Labor, Employment Securities. Mr. Brown stated he has. Commissioner Ford asked if they have seen the contract he and Ms. McGuire signed. Mr. Brown said they have. Commissioner Ford said the contract itself is very conflicting as it states Mr. Brown is an independent contractor, but it also says he is her first employee. He said the Commission is not in the business of saying how people are paid, but the New Hampshire Department of Employment Security is and that is where Mr. Brown needs to go with this. He further stated if a company is entering into these contracts, you can't get into trouble by going to the Department of Employment Securities and have the contact checked. He said there are so many reasons why entering into an independent contract model can go against a business owner and a driver.

Chair Bresciano asked Deputy City Clerk Kirby to get Ms. McGuire's residential address or check the address she puts down when re-licensing and requested this item be placed back on the agenda for the April 16th Taxi Commission meeting.

Motion passed.

V. OLD BUSINESS

1. Taxi Inspection

Commissioner Bresciano stated a date has been selected for the Taxi inspections. He said the inspection will be held at the Public Work's Department on April 13, 2012. He asked Lieutenant Newport what time the inspection would begin. Lieutenant Newport stated the inspections would be from 8:30 a.m. to 3:30 p.m. on April 13, 2012. He stated each company should have at least one vehicle there at 8:30 and they will rotate until all vehicles are inspected. He stated the taxi owner's should take note that the inspection is on a Friday and there will only be someone there for any re-inspections until 3:30 p.m. He said if a taxi fails the inspection and the owner does not get back for re-inspection by 3:30 p.m. they will be without that vehicle all weekend.

2. Taxi Licenses and Medallions

Deputy City Clerk Kirby reminded everyone that April 1, 2012 all present medallions and driver's licenses expire. She stated she handed out the renewal packet to all taxi owners at last months meeting with suspense of March 7, 2012 to return all medallion and license renewals to her. She said as of this meeting, she has only received 2 medallion renewals (Anchor Taxi) and licenses for Anchor Taxi. She said Rockingham Livery dropped their license renewals off late Friday afternoon. She stated Lieutenant Newport has to review all these applications prior to her preparing the licenses. She stated reviewing these licenses is Lieutenant Newport's additional duty and therefore, his primary duty takes precedent. She said this being the case; we need to give him plenty of time. She requested the owner's turn in their paperwork within the next week in order to give Lieutenant Newport time to review and return them to her. She further explained that April 1, 2012 falls on a Sunday and therefore, she will be issuing the medallions and licenses on Friday, March 30th. She said any medallion/license that have not been turned in and/or approved by Friday, March 30th will not be allowed to be in service after midnight on Saturday. Councilor Lown requested to know the procedure. Deputy City Clerk Kirby stated every year in April all taxi licenses and medallions have to be renewed. She stated the medallion plates change color each year. Councilor Lown asked if they return the old plates. Deputy City Clerk Kirby stated they do. Councilor Lown asked what they do when they turn in the old place before they get the new one. Deputy City Clerk Kirby stated she issues the new plates prior to April 1st and the companies drop off the old ones after they have replaced them. She stated the new medallions must be on the vehicle on April 1st. She stated Public Works makes the medallions each year and any old medallions she gets back are reused if possible to make the new medallions for the next year.

VI. MISCELLANEOUS/UNFINISHED BUSINESS

1. Police Liaison Report

Lieutenant Newport stated there were no reports for this meeting.

2. Request for Medallion – Anchor Taxi

Chair Bresciano stated this letter was received after the 12:00 p.m. deadline for the agenda packet; therefore it was placed in miscellaneous/unfinished business.

Councilor Lown moved to suspend the rules to take up the Request for Medallion letter from Anchor Taxi. Seconded by Commissioner Ford.

Chair Bresciano stated he received a letter from Anchor Taxi requesting to add another medallion. Lieutenant Newport asked if Anchor Taxi was asking for one additional medallion. Chair Bresciano stated he was. Councilor Lown stated he has seven already. Deputy City Clerk stated he presently has two medallions. Lieutenant Newport asked how many medallions the City has now. Deputy City Clerk Kirby stated we presently have 19 with Checker Cab approved for 1 and this medallion for Anchor Taxi would make 21 medallions issued. Lieutenant Newport asked if the maximum amount to be issued is 25. Deputy City Clerk Kirby stated there is a maximum amount by ordinance of 25 medallions, but 1 medallion is reserved by ordinance for a handicapped taxi so there is a maximum amount by ordinance for regular taxis of 24. Lieutenant Newport stated he did not see a problem with issuing Anchor Taxi another medallion. Commissioner Ford asked the taxi owners present if they thought it was prudent to add another taxi cab at this time. He asked if the owners were comfortable with the revenue they are taking in and the way the industry was going. Steven Gerrato, Rockingham Livery stated no. He said he feels there are already too many taxis on the road to make it a profitable business. Wayne Cipullo, Blue Star Taxi stated business is already thin.

Edward Heath, Anchor Taxi asked Blue Star Taxi how many taxi cabs they have. Wayne Cipullo, Blue Star stated they have five. Mr. Heath asked Rockingham Livery how many taxi cabs they have. Mr. Gerrato stated he has four vehicles. Mr. Heath stated he only has two. Lieutenant Newport stated according to the ordinance the maximum number of regular taxi medallions allowed within Portsmouth is 24 and we only have 20 medallions approved to be issued. He stated until that number is reduced, he feels as long as there are medallions to be issued; they should be issued should someone request them.

Lieutenant Newport moved to approve Anchor Taxi's request to purchase an additional taxi medallion. Seconded by Councilor Lown.

Councilor Lown stated it maybe that the profit margin is thin for a lot of these companies, but if Mr. Heath wants to invest his time and money into another taxi, he must believe it will be profitable for him and he should be allowed this opportunity for the growth of his company. City Attorney Sullivan stated he agrees with Lieutenant Newport. He said if the Commission feels 25 medallions are too many to keep the businesses viable, they should recommend that the City Council reduce the amount.

Chair Bresciano stated the Commission should take a hard look at the number of medallions authorized within the City. He suggested this issue should be placed on the agenda for the next meeting.

Motion passed.

3. Parking in Metered Spaces (not on the agenda)

Commissioner Ford stated he recently had a discussion with Councilor Smith who also is the Chair of the Parking and Traffic Safety Committee. He said Councilor Smith stated Portsmouth Taxi is still parking in metered spaces on High Street and Councilor Smith is close to pulling a taxi stand. Additionally, Councilor Smith stated Anchor Taxi is consistently parking in the cross walk near Attrezzi and that has to stop because it is a violation. He suggested Lieutenant Newport look into this. He said these are sources of irritation for Councilor Smith and he has indicated the Parking and Traffic Safety Committee is ready to pull taxi stands.

Steven Gerrato, Rockingham Livery asked what is the status between Interstate Commerce between Maine and New Hampshire as far as licensing and being a resident of Maine and getting a New Hampshire taxi medallion. City Attorney Sullivan stated he doesn't know anything about the laws of Maine or Interstate Commerce. Commissioner Ford stated the Commission doesn't involve itself in that necessarily. He said Mr. Gerrato could call the Secretary of State in Augusta or Concord or the Federal Government on Motor Carriers. Mr. Gerrato asked about issuing medallions to Maine companies. City Attorney Sullivan stated the Commission does not require a New Hampshire address, but it requires an address that is accurate. Chair Bresciano said if Mr. Gerrato is asking about Annie's Taxi, we will be looking into that matter. Mr. Gerrato stated the same goes for New Hampshire Checker Cab. Chair Bresciano stated there have been no complaints about Checker Cab. Mr. Gerrato stated the meeting for the Council is tonight, correct. He said the City Council will make a decision tonight on the ordinance amendment. Chair Bresciano asked Councilor Lown if the ordinance change was on the agenda for tonight. Councilor Lown stated he thought so. City Attorney Sullivan stated for clarification, there is a three reading process with a public hearing prior to an ordinance change being approved.

VII. ADJOURNMENT

At 9:50 a.m. Councilor Lown moved to adjourn the meeting. Seconded by Commissioner Ford and voted.

Respectfully submitted by:

Dianne M. Kirby

Dianne M. Kirby, Deputy City Clerk