

TAXI COMMISSION MEETING  
Minutes of the December 21, 2009 meeting

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**I. CALL TO ORDER**

Chair Frank Daggett called the meeting to order at 9:10 a.m.

**II. ATTENDANCE**

Present: Members: Chair Frank Daggett; Commissioners, James Feehley and Peter Bresciano, Captain Michael Schwartz, City Attorney Sullivan and Deputy City Clerk Dianne M. Kirby

Absent: Councilor Eric Spear, Commissioner Joel Look

**III. ACCEPTANCE OF MINUTES FROM DECEMBER 21, 2009**

Commissioner Bresciano moved to approve and accept the minutes of the October 19, 2009, Taxi Commission meeting. Seconded by Commissioner Feehley and voted.

Chair Daggett stated a letter was received from Blue Star Taxi Owner Paul Ford that he would like Deputy City Clerk Kirby to read to the Commission prior to moving on to the next item on the agenda.

Deputy City Clerk Kirby read the letter from Paul Ford which stated that he was deeply concerned about the Commission allowing the entry of new taxi businesses. The letter continued to state that due to the recession Blue Star Taxi's revenues are down 40%. He said he has turned in one medallion, laid off an employee and implemented a rotation of reduction of hours in the hopes of continuing to keep all his drivers employed. He further said he feels the entry of another cab company, at this time, would result in his having to turn in one or two additional medallions and possibly lay off more employees.

**IV. NEW BUSINESS**

1. Letter of Intent to Operate a Taxi in Portsmouth - New Hampshire Checker Cab Company, LLC

Chair Daggett stated he received a letter from Mr. Goumas and Mr. Nunez of New Hampshire Checker Cab requesting that Commissioner Feehley refrain from voting as they feel it is a conflict of interest to have an operating taxi company voting to allow them to operate a taxi company in Portsmouth. Chair Daggett stated he discussed this with City Attorney Sullivan and he stated there is no conflict of interest because the taxi companies select who is going to represent them on the Commission. Commissioner Bresciano said he sees no problem and if someone has a problem they will have to take it up with the City's Legal Department.

Commissioner Bresciano moved to approve the letter of Intent to Operate a Taxi in Portsmouth by New Hampshire Checker Cab Company. LLC. Chair Daggett asked for a second. No second was heard.

Discussion arose as to what was the correct way to move this matter forward since the motion to approve was not seconded. Captain Schwartz moved to open the matter for discussion, but the board was unsure if this was the proper procedure.

Discussion on this matter was suspended until City Attorney Sullivan arrived.

Commissioner Bresciano explained to City Attorney Sullivan that he had made a motion to approve the letter of Intent to Operate a Taxi in Portsmouth by New Hampshire Checker Cab Company LLC., which was not seconded. He further explained that Captain Schwartz then moved to open the matter for discussion. He requested if this was correct protocol.

City Attorney Sullivan stated it can be done this way with a second.

Captain Schwartz moved to open the matter for discussion. Seconded by Commissioner Feehley and voted.

Captain Schwartz stated he feels we should allow Mr. Goumas and Mr. Nunez to explain their request and to also hear from the board members as to their feelings on the matter. He said this will give the board the whole picture. City Attorney Sullivan said in order for the board to hear from these gentlemen, someone has to make a motion to allow them to speak. He further stated that unless this is done, the discussion would be between the members of the Commission.

Captain Schwartz requested to know what hesitation the members were having on approving this request. Commissioner Feehley said the economy is bad right now and the present companies have lost business because of the addition of the two new companies that have recently been added, he feels now is not the time to add more companies. He stated he has already turned in one medallion and laid off a driver already and allowing New Hampshire Checker Cab Company to operate a fleet of 6-10 taxies will result in Blue Star having to lay off more employees and turn in more medallions.

Captain Schwartz asked Commissioner Bresciano what his thoughts were. Commissioner Bresciano stated he is a capitalist and he does not want the Commission to take over, but he thought 30 medallions were too many when the Council adopted that number years ago. He said we now have 30 medallions and he believes if the Council Representative advises the City Council that the Taxi Commission disapproved medallions for taxi companies when we have medallions available they would be very upset. He said the Commission is not here to tell people how to run their businesses or to tell them how they can be more profitable or stay afloat. He said he would have to approve the request based on the fact that we have medallions available. He further stated we might want to bring up for discussion how many medallions the Commission feels would be sufficient to support both the public and the taxi companies within Portsmouth. This would then be forwarded to the Council for their vote.

City Attorney Sullivan stated the City has a taxi ordinance for three reasons. He said number one is so that the taxi cabs on the street are safe and clean. He said two less obvious reasons are the City wants to make sure there are enough cabs on the street to satisfy the needs of the public. He further said the third reason is in conflict with the second item in that in order for a cab company to stay in business, there needs to be some limit on the number of cabs or else the business gets diluted to the point where nobody can survive and there will be no cabs. He stated this is the set up of the most recent ordinance. He said he thinks the Commission needs to keep those competing interests in mind – are there enough cabs and are the cab businesses being protected enough so they can stay in business – it is a delicate issue. City Attorney Sullivan stated it is a City Council decision as to the number of medallions that are going to be available. He said Commissioner Bresciano is correct that a discussion and vote would need to take place to reduce the number of medallions the City would allow.

City Attorney Sullivan said with reference to the letter from Mr. Goumas and Mr. Nunez wherein they say having a taxi company representative on the Commission is a conflict of interest. He said he agrees that what they are claiming will happen, but he said he disagrees that it is a prohibited conflict of interest. He said the City Council set the situation up so the taxi companies would have representation on the Commission so points like the one brought up today could get made. He stated he disagrees that there is a conflict with a Blue Star representation on the Commission, but he also disagrees that the Commission itself should refuse to issue a medallion when medallions are available and they meet all the criteria for a medallion. He said if the Commission feels there are too many medallions available the appropriate remedy for the Commission is NOT to stop issuing medallions, but to tell the City Council they have authorized too many.

Commissioner Bresciano stated if he was a taxi company coming into the city with medallions available and he was refused and told they felt there were too many taxis already, the second place he would head would be to the City Council. He said the City Council would be put in a very embarrassing situation. Commissioner Bresciano said the Commission probably should have reduced the medallions a year ago when the economy started to fail, but now our hands are tied. He said if this company came up here with old vehicles that would not pass our inspection, we could probably say no, but as it is we do not have a leg to stand on.

Captain Schwartz moved to suspend the rules to allow the owners of New Hampshire Checker Cabs to speak. Seconded by Commissioner Bresciano and voted.

Mr. Goumas, New Hampshire Checker Cab Company LLC said he has all 2005, 2006 and 2007 Crown Victoria taxis. He said he wants to have a fleet of six taxis. He said he is not looking to put anyone out of business, but he feels Portsmouth is underserved. He said he would start with two cars in January and add more vehicles as he gets established. He said there are medallions available and he should be given the chance to prove himself.

Captain Schwartz moved to close the discussion. Seconded by Commissioner Bresciano and voted.

Captain Schwartz moved to approve the letter of Intent to Operate a Taxi in Portsmouth by New Hampshire Checker Cab Company LLC. Seconded by Commissioner Bresciano.

On a roll call vote 3-1 motion to approve the letter of Intent to Operate a Taxi in Portsmouth by New Hampshire Checker Cab Company LLC passed. Commissioner Bresciano, with reservations concerning the number of medallions available, Captain Schwartz and Chair Daggett voted in favor. Commissioner Feehley voted opposed.

Mr. Nunez, New Hampshire Checker Cab Company LLC asked if the approval was for all six medallions. Chair Daggett stated that was correct and asked if they would be starting on January 1, 2010. Mr. Goumas stated they have some vehicles here and would start up January 1, 2010. He said their headquarters would be at 68 South Main Street, Rochester. Mr. Nunez stated they would have two vehicles January 1, 2010 with the rest to follow. Chair Daggett explained that if they have a taxi in Portsmouth without a medallion they are not allowed to pick up and drop off in Portsmouth. Mr. Goumas said he is going to live by the guidelines and rules.

2. Intent to Buy – Anchor Taxi

Chair Daggett stated that prior to the meeting, Anchor Taxi owner, Edward Spadafora approached him to say he had decided not to sell his company. Therefore, no further action is required.

3. New Year's Eve

Chair Daggett stated there will be extra police on the road as well as the DUI Squad. He requested to know how many taxi cabs would be available on New Years Eve. A canvas of the taxi owners showed there would be 15 vehicles on the road.

**V. OLD BUSINESS**

There are no items to be discussed under old business at this time.

**VI. MISCELLANEOUS/UNFINISHED BUSINESS**

1. Rockingham Livery additional medallion

Chair Daggett stated this is informational only. Rockingham Livery has already been approved to operate within Portsmouth and has only added an additional cab.

2. Taxi Companies Sharing Drivers

Chair Daggett said he received an anonymous call that a taxi driver was driving for a taxi company, but was actually licensed for a different taxi company. He said he discussed this with Lieutenant McQuate, but has not heard back on this issue. Captain Schwartz said he e-mailed Lieutenant McQuate and he said there is nothing he knows that would prohibit this from

happening. Commissioner Bresciano asked City Attorney Sullivan if he know of anything in the ordinance. City Attorney Sullivan said there is nothing in the ordinance. He said the ordinance says in order for a person to get a license they have to have a letter stating they have a job, but it doesn't say they can't work for someone else also.

Councilor Bresciano said sharing drivers is the companies business as long as their insurance covers these individuals.

## **VII. ADJOURNMENT**

At 9:50 a.m. Commissioner Feehley moved to adjourn. Seconded by Captain Schwartz and voted.

Respectfully submitted by:

Dianne M. Kirby, Deputy City Clerk