

TAXI COMMISSION MEETING
Minutes of the January 19, 2010 meeting

I. CALL TO ORDER

Chair Frank Daggett called the meeting to order at 9:03 a.m.

II. ATTENDANCE

Present: Members: Chair Frank Daggett; Commissioners, James Feehley, Peter Bresciano and Joel Look (9:30), Councilor Robert Lister, Captain Michael Schwartz, City Attorney Robert Sullivan and Deputy City Clerk Dianne M. Kirby

III. ACCEPTANCE OF MINUTES FROM DECEMBER 21, 2009

Commissioner Bresciano moved to approve and accept the minutes of the December 21, 2009, Taxi Commission meeting. Seconded by Commissioner Feehley and voted.

IV. NEW BUSINESS

1. Intent to Buy – Portsmouth Taxi

Chair Daggett stated he received a letter from Mr. Brian Schneider stating he would be purchasing Portsmouth Taxi and requesting permission to purchase and transfer from Portsmouth Taxi a medallion in order to operate within the City of Portsmouth.

Commissioner Bresciano moved to allow Mr. Brian Schneider to operate Portsmouth Taxi within the City of Portsmouth after all required medallion documentation has been completed. Seconded by Captain Schwartz and voted.

2. Letters of Complaint
Anchor Taxi
Rockingham Livery
Blue Star Taxi

Chair Daggett said he received complaints from Anchor Taxi, Rockingham Livery and Blue Star Taxi concerning New Years Eve. He stated he has talked to all three of these companies and it seems Checker Cab had a car on the road without a medallion or meter. He said this vehicle was picking up people and passing out Checker Cab business cards.

Timothy Goumas, NH Checker Cab stated this is not correct. He said these were vans brought in by a company from Lebanon, Maine that had leased the vehicles from him to pick up people and drop them off in Portsmouth. He said they were giving his business cards out because Checker Cab was to bring them back out of the City with their medallion vehicles.

Chair Daggett asked if they were transporting customers downtown and charging \$18.00 a pop. Timothy Goumas, NH Checker Cab stated that is not correct. He said he had heard that twice already and it is not true. Commission Feehley said some of the customers of his drivers that were picked up downtown and delivered to the Holiday Inn wanted to know why they were only being charged \$8.00 when they were charged \$18.00 to go downtown. Timothy Goumas, NH Checker Cab said that was not true. He said he had three livery vehicles that he loaned to a company from Lebanon, Maine to bring some overflow into Portsmouth. He said the deal he had with them was that we have all the people that we want to drive back out of the City. He said there was no unauthorized picking up of people except with their two medallion vehicles. He said they have been having nothing but problems with the other taxi companies. He said the taxi companies have been ganging up on them, cornering his cars and threatening his drivers. He said this is not what he wants to deal with. He further stated business is business. He said someone should have called him or Mr. Nunez as owners of the company and they would have gladly answered those questions, eliminating the need to put in complaints. He said he only had two cars on that night and Mr. Nunez and he were driving.

Chair Daggett asked why would someone driving another vehicle leased from you, be passing out your business cards. Timothy Goumas, NH Checker Cab said they were driving into Portsmouth and were giving out his business cards to hand out to their passengers to call when they needed to be driven out of the City. Chair Daggett stated technically if they are handing out their business cards, he feels they are representing them. Timothy Goumas, stated it is not his company, it is their company. He said the only deal he made with them was to loan them the vehicles and that was it. Jose Nunez, NH Checker Cab stated the deal was for them to just drop off and then hand out their marketing materials so if the customer needed someone to pick them up they could call us.

Captain Schwartz said he was aware that there was a black van dropping off passengers, but that is all he knew about that night. He said there have been complaints made subsequently concerning Checker Cab and the inspection sticker on one of their vehicles being a temporary sticker. Timothy Goumas, NH Checker Cab stated they do have a vehicle with a temporary sticker and have been given a 90 days or 500 miles temporary permit due to a reset failure.

City Attorney Sullivan said if something improper is happening in the taxi business, the Taxi Commission has the authority to do something about it and has done so in the past. He said these kinds of allegations sound like the sort of thing that use to happen years ago. However, in order for us to proceed against Checker Cab or any cab company we need to have either a written complaint signed by somebody or a live human being who has seen something and is willing to testify to the Commission about what they have seen or heard. He asked if there was any written complaint signed by anyone that we can act on. Captain Schwartz stated he had a written complaint that was dropped off at the Police Department, but is not signed. He went on to state that the gentleman that made the statement is present at the meeting.

City Attorney Sullivan asked Mr. Gerrato to speak. Stephen Gerrato, Rockingham Livery Inc. stated he witnessed the events on New Years Eve while he was at the Holiday Inn. He said he witnessed the van pull up and pick up passengers from the Holiday Inn and take them downtown. He said when he asked the driver for one of his business cards, the driver gave

him a card for Checker Cab. He said he also witnessed the same van, or another like it, at the Court Yard Marriott where he witnessed them picking up more passengers. He said when he explained to the passengers that the black van wasn't a taxi and that he didn't have a meter, these passengers got out of the van and got into his taxi. He said apparently there were no reservations and, in fact, they had sheets in all the hotels where the passengers could sign up to wait for a ride into town, which is skirting the whole livery vs. taxi issue. He said passengers are paying a per run basis which makes them a taxi. City Attorney Sullivan asked Mr. Gerrato if the vans he saw were unmarked and if they had taxi permits. Mr. Gerrato stated they were not marked and they did not have permits. He further stated he had pictures of these unmarked vans.

City Attorney Sullivan stated what makes a vehicle a taxi for our ordinance is the arrangement for the ride is made at an unscheduled time, at the request of the passenger within the City.

Timothy Goumas, NH Checker Cab stated these allegations are not true. He said there were no sign up sheets. He said the passengers were dropped off at the Holiday Inn, the Court Yard Marriott, Market Street and a Shell Station down the street and then they were out of town. He said the vans were in and out of town in 15 minutes.

Chair Daggett stated he had telephone calls and three signed complaint letters all stating the same things. He stated the Commission cannot put up with this. Timothy Goumas said that was never the intent here. He said the intent was to bring the overflow down and Checker Cab would get the business for out of town from these people. He said that was the deal they made with them. He stated there was nothing shady going on. He said they know the ordinances and they did nothing wrong at all.

John Eisenberg, Portsmouth Taxi asked what constitutes a reservation. Chair Daggett said a reservation would be the passenger making previous date and time arrangements.

Timothy Goumas, NH Checker Cab said the passengers coming in from out of town were their passengers, their reservations. He said they already had the reservations; they just needed cars from us. He said that is all we gave them. He stated they didn't make any reservation, we didn't book anything, and they only gave out their business card for their passengers to call them when they wanted a ride home. That was all. He further stated they did have calls from these passengers and they were transported in our cabs out of town. City Attorney Sullivan asked who are "they"?

Timothy Goumas, NH Checker Cab stated they are a transportation company out of Lebanon, Maine. He said he met them through his mechanic about a month ago. He said they asked him if he could get them a fleet of cars. He said he sent the cars to this livery company and made a deal with them that if they were dropping off in Portsmouth, he would like the pick ups. He said we loaned them the cars, they paid us for the cars and we picked up and transported the passengers out. That was it.

City Attorney Sullivan said the livery company from Elliot had arrangements to bring people from hotels outside of Portsmouth? Jose Nunez, NH Checker Cab stated they were from

Lebanon, Maine and they were picking up from surrounding areas and dropping off parties in Portsmouth. He said they asked him for overflow vehicles, which he sent over to them with a stack of business cards. He said they were picking up and dropping off people in Dover, Rochester and along the way to Portsmouth. City Attorney Sullivan asked where were these people coming from. Timothy Goumas, NH Checker Cab said he does not have access to their log book so he has no idea. He said it could have been all the surrounding areas. City Attorney Sullivan stated if they picked someone up in Portsmouth and dropped them off in Portsmouth then they violated the taxi ordinance and they violated it with your vehicles. He said this is a problem for you. Jose Nunez, NH Checker Cab stated they did not tell them to pick up anyone in Portsmouth. He said their deal with them was if they have an overflow and they have to drop off in Portsmouth that we would pick up. Timothy Goumas, NH Checker Cab said they were not authorized to pick up any passengers in Portsmouth and they knew that. He stated that was why they were giving out his business cards for them to take them out of Portsmouth. City Attorney said that is what he was trying to get at – where did these people come from. Commissioner Bresciano said he does not understand. He asked if Checker Cab is saying this livery service from Lebanon, Maine was dropping people off in Portsmouth. He requested where actually did this livery service pick up these people and bring them to Portsmouth. Timothy Goumas stated he does not have their logs to get that information and if he did he would give it to the Commission. He stated he did nothing wrong. Commissioner Bresciano stated the people from Lebanon, Maine brought the people into town and then Checker Cab went over and picked up the people and brought them out of town. Jose Nunez stated they did if the passenger called them. Commissioner Bresciano stated he did not buy that. He said because they were not the company that brought them into town, they should not have been the ones that brought them out of town. Jose Nunez stated they only picked up the ones that called them. Commissioner Bresciano said they could have called any cab company and they could have been taken out of town. He said any taxi with or without a medallion can pick up a fare in Dover and take them to let's say, the Hospital in Portsmouth with the driver making arrangements to pick them up a few hours later and return them to Dover.

Commissioner Bresciano asked who the black vans belong to. Timothy Goumas, NH Checker Cab said he as a fleet deal with a big fleet of cars. He said he has cars at his access at anytime. City Attorney Sullivan said if it is found that these vehicles are owned by NH Checker Cab and they picked people up in Portsmouth and drove them downtown that is a violation of the taxi ordinance. Timothy Goumas stated that did not happen. He said he is a man of his word. He said he knows the rules and he would not do anything to jeopardize his company or any other company around here. He said he plays by the rules. He said a lot of these companies don't. Commissioner Bresciano asked what Mr. Goumas meant when he said a lot of the taxi companies don't play by the rules. He asked who he was referring to. Mr. Goumas said he was referring to Rockingham Livery. He said Rockingham Livery has threatened his drivers. He said he came to Portsmouth to run a clean business and so far we are getting very good reviews by the people in this city.

Paul Ford, Blue Star Taxi stated he has two employees that told him these vans were taking customers from point to point within Portsmouth, specifically Market Square to the hotels that have been mentioned all night. He said according to his employees these vans did not just

bring some people to hotels and leave, they were active in the city all night. He stated whether that was a direct order from Checker Cab or they did it on their own he can't answer.

Captain Schwartz stated if these vehicles are owned and leased by NH Checker Cab, he sees it as NH Checker Cab being accountable. He said his concern is the difficulty to recreate this situation.

Timothy Goumas, NH Checker Cab stated if they were picking anyone up it was not under his direction at all. He said they were leased vehicles to them for which they paid him a fee. He said they paid for the vehicles – it is not my responsibility how they are managed. Commissioner Bresciano and Captain Schwartz both voiced their disagreement. City Attorney Sullivan stated everyone is going to disagree with that statement. Commissioner Bresciano said he disagrees because they are his vehicles and he is responsible for them.

Chair Daggett asked Captain Schwartz since we have complaint letters and Mr. Goumas still hasn't told us the name of this company in Lebanon, can an investigation be opened. Captain Schwartz said it can be but, it would be difficult to find out who these people were that were picked up and dropped off and at what times as well as who was driving that day. He further stated that he would be unable to compel these people to tell him what they were doing in Portsmouth. He said based upon what Checker Cab has said, they are where the responsibility lays and we can hold them accountable.

City Attorney Sullivan stated he would contact the Lebanon Company and find out what they say about it and report back to the Commission. He stated he will need the contact information for who used these vehicles that night. Timothy Goumas said the names are Riley Peters and Ricky Dickson. City Attorney Sullivan asked if Mr. Goumas would get him the contact information by close of business today. Timothy Goumas stated he would.

Captain Schwartz asked Mr. Goumas if he has had extensive business history with these folks. Timothy Goumas stated they did not. He said it was more along the lines of his mechanic knows these guys in Lebanon who asked him if we had any extra vehicles and he stated we did. He stated they received a call and we leased the vehicles over to them and then we said if they are going to be making drops in Portsmouth could they hand out our business card. He stated he had stops in Dover, Rochester and the surrounding area. He said he gave the guys the business cards to handout and told him they would be in Portsmouth. He said he gave them the cards, we did an agreement with them and they paid us for the cars.

City Attorney Sullivan stated we will look into this, but if it turns out to be that they used vehicles owned by you in an action that violates the cities' taxi ordinance, that will become a problem for them. Commissioner Bresciano asked if the vehicles he leased to them were medallion vehicles. Timothy Goumas stated they were not, they were fleet vehicles. He said they are used in the livery business.

Commissioner Lister asked if there would be any other opportunities that could come up between now and the time City Attorney Sullivan reports back to the Commission that this could happen again. Chair Daggett stated no. Timothy Goumas stated that now that he sees

how this turned out it will never happen again. Jose Nunez, NH Checker Cab said it was a one night deal because it was New Years Eve and being a new company they wanted to do a little marketing out there. Commissioner Lister said this will probably never happen again, but this one issue has really polarized the other taxi companies and involved the police and the City Attorney. He said there were accusations made and it seems like we are not a very cohesive group. He said it is a shame that all the companies are trying to make a living in the City and he would not want to jeopardize that in any way.

Commissioner Bresciano asked how many vehicles were leased to this company. Timothy Goumas, NH Checker Cab stated two vans. Commissioner Bresciano stated he would like to know how many customers were brought into the City of Portsmouth from outside the City in these overflow vehicles. City Attorney Sullivan stated as soon as he gets the contact information for these individuals he will contact them and get answers to those questions, if they will give them to him. He said if they won't, that leaves us to deal with Checker Cab.

Commissioner Bresciano moved to table item IV 2 until the February meeting. Seconded by Commissioner Feehley and voted.

3. Designated-Driver Business

Chair Daggett feels this Designated-Driver Business is the same as a livery as they are getting paid to transport a passenger home. Commissioner Bresciano explained a person calls the Designated-Driver company for transportation home after drinking. He said two individuals are dispatched to this call. He said one individual drives the owner's car and the owner home and the Designated Driver vehicle follows and picks up the Designated Driver for return to the dispatch or the next call. He stated he doesn't feel this constitutes a taxi. Captain Schwartz said he agrees this would not be considered a taxi as there are no passengers in the Designated Driver's vehicle. He said there would be no vehicle to inspect. Commissioner Bresciano said this would be an insurance company nightmare. He said this Designated Driver is getting into a car with no idea if the vehicle is safe or insured. Commissioner Look said as a minimum we should require their drivers to have a taxi license. Commissioner Bresciano said we can't do that. Commissioner Look said we can change the Ordinance so we can. Commissioner Bresciano said we would then have people saying we need to do the same for bus drivers, livery drivers and so on. Chair Daggett stated we would have to write a whole new page of the ordinance. City Attorney Sullivan said the Commission would have to recommend the change to the City Council. He said this is possible if the Commission want to do it. Captain Schwartz said it would be the same idea as a wrecker driver when they give a ride to a driver when they pick up their vehicle. He said there are lots of people giving people rides that involve pay, that by his definition, fall short of a taxi.

Chair Daggett said we are discussing something we have no control over – we will just have to keep an eye on it.

4. Ordinance Review – More Taxi Stands

Chair Daggett stated with the addition of three new taxi companies, he feels the two taxi stands authorized in Market Square are no longer adequate. Commissioner Bresciano asked if we should get some input from the taxi companies on where we would like these stands. Chair Daggett asked Commissioner Feehley if he would check with the taxi companies and drivers as to where we would like these spaces. Commissioner Feehley said we want the taxi stands where the taxis can be in clear view to the customers. Commissioner Bresciano suggested Commissioner Feehley, as the taxi company representative, get with the taxi companies and get some recommendations for suitable spaces. He said it doesn't have to be spaces that are open now. Commissioner Bresciano stated we need to make recommendations of where we want these spaces. Commissioner Feehley said he would do it, but he doubts it will be approved. Commissioner Lister said he feels the Council would immediately refer it to the Traffic & Safety Committee. City Attorney Sullivan stated the Taxi Commission has four options. He said they can contact Jon Frederick, Parking Manager as an individual, contact Traffic & Safety Committee, contact the Parking Committee or refer it to the City Council. He said it would help to have some recommended spaces.

Commissioner Bresciano moved to have Commissioner Feehley canvas the taxi companies and drivers for ideas on where they would like to see additional taxi stands. Seconded by Commissioner Look and voted.

City Attorney Sullivan said the Commission needs to try to get a balance between what the taxi companies need and the public needs because that is what the Traffic & Safety and Parking Committees will look at and if you provide them with some balance, then he feels the Commission stands a chance. He said without this balance, Commissioner Feehley is correct, nothing will happen. Commissioner Bresciano said the way Traffic & Safety and the Parking Committees are going to look at this is the taxi drivers use this space five times a day and we have citizens that would use that space twenty times a day. He agreed with City Attorney Sullivan that we need to try to strike a balance.

Chair Daggett stated he has observed two or three taxi cabs sitting in the Plumbing Company parking lot down by the VFW on Bridge Street. He stated this is not allowing for visibility to the uptown area. He said we need available spaces for taxis to be visibly parked uptown. Commissioner Feehley said you have to take into consideration when you say visible space you have to look at how much space there is and there isn't much. Commissioner Bresciano said this is correct. He said if the uptown space is taken, the cabs have to wait some place to await a call. They cannot always be visible to uptown.

V. OLD BUSINESS

1. New Year's Eve – Police Report

Chair Daggett asked Captain Schwartz if there were any major problems on New Year's Eve from the Police stand point. Captain Schwartz stated he didn't see any major problems. City Attorney Sullivan asked if it looked like people who wanted a cab, could get a cab. Captain Schwartz stated no, there were still people around at 2 a.m. screaming for a cab to go home. Paul Ford, Blue Star Taxi said every New Year's Eve is like that. Stephen Gerrato,

Rockingham Livery said after 2 o'clock when the bars close, there is no place that is warm for the people to wait for a taxi.

VI. MISCELLANEOUS/UNFINISHED BUSINESS

1. Kent Kirkpatrick declined reappointment to the Taxi Commission

Chair Daggett stated Kent Kirkpatrick declined to be reappointed to the Taxi Commission. He said the Commission now consists of four Commissioners, Council Representative and a Police Representative for a total of six members.

Alan Ladd, Sunshine Taxi said concerning this problem on New Years Eve after 2 a.m., in the past we talked about coming up with a legal way of putting on extra cabs for that one night. Chair Daggett stated the liability insurance for that one night would be very high. Alan Ladd, Sunshine Taxi stated that would be the taxi company's problem. Commissioner Bresciano said if the taxi companies wanted to pay to have extra cabs on the road for one night as long as they have a medallion and completed all the normal paperwork and inspections, they should be able to. Chair Daggett said years ago a couple of cab companies looked into this and said it was cost-prohibitive. He said it is up to the cab companies as to what they would like to do. Alan Ladd, Sunshine Taxi said he never got that information. He said he was told there was no way to do it legally within the ordinance. Commissioner Bresciano said the companies would have to get a medallion, inspection, etc as with a normal medallion for each cab for this one night, but that can be changed. He said we can do something about that. He said he doesn't want to do something that will cost the company a big fee for only one or two hours. He said if they want to put on a cab or two for that one night, maybe we can accommodate that in the ordinance, but we would have to research this. Chair Daggett said it is something to think about. City Attorney Sullivan said it was something to think about, but it would take an ordinance change. He suggested the Commission not wait until next December to decide to work on an ordinance change.

Steve Gerrato, Rockingham Livery asked what fees could be charged. Chair Daggett stated you would have to have a meter. He stated a taxi company can never charge more than the ordinance stated fee, but they can always charge less.

VII. ADJOURNMENT

At 10:04 a.m. Commissioner Bresciano moved to adjourn. Seconded by Commissioner Look and voted.

Respectfully submitted by:

Dianne M. Kirby, Deputy City Clerk