

TAXI COMMISSION MEETING  
Minutes of the June 20, 2011 meeting

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**I. CALL TO ORDER**

Chair Frank Daggett called the meeting to order at 9:01 a.m.

**II. ATTENDANCE**

Present: Members: Chair Frank Daggett; Commissioners James Feehley, Peter Bresciano, Paul Ford, Councilor Robert Lister, Lieutenant Mark Newport, Assistant City Attorney Suzanne Woodland and Deputy City Clerk Dianne M. Kirby

**III. ACCEPTANCE OF MINUTES FROM MAY16, 2011**

**Councilor Lister moved to approve and accept the minutes of the May 16, 2011, Taxi Commission meeting. Seconded by Commissioner Feehley and voted.**

**IV. NEW BUSINESS**

1. Acts of Misconduct

Chair Daggett stated the Taxi Commission, at the May 16, 2011 meeting, heard from various individuals concerning acts of misconduct that have been occurring in the City during taxi cab operations. Specifically, the Commission heard:

1. That cab operators have been engaging in public profanity aimed at other taxi cabs
2. Cabs have been jumping calls
3. That in at least one instance an object was thrown from one cab at another cab

As a result of the discussion at the May 16, 2011 Taxi Commission meeting, City Attorney Sullivan sent a memorandum to all taxi owners advising them that these actions will not be tolerated in the City of Portsmouth. His memorandum further stated that effective immediately the Commission will react to any further incidents of misconduct and that the Commission has the authority to suspend or revoke owners' medallions and operator's licenses. He further stated these actions will be taken when necessary.

Chair Daggett stated years ago the Commission had a lot of problems between the taxi companies and the Commission will not go back to that again. Commissioner Bresciano stated if a driver or an owner has a problem with another driver or owner, contact the Police Department and file a complaint. He said the Commission can then take action on the complaint. He said the Commission can not take action on hearsay.

## V. OLD BUSINESS

### 1. Appeal of Suspension of Taxi Operator's License – Brian Schneider

Attorney Jeffco stated he represents Brian Schneider in his appeal of the suspension of his taxi operator's license. He stated they do not appeal the two (2) speeding violations, but they do not recognize the "misuse of plates" violation as a moving violation. He stated the Taxi Ordinance Section 7.211 C 3 a. states "*The individual has three or more convictions for moving violations, in this or any other state, in the three full years prior to the date of the application.*" He stated they do not believe misuse of plates is a moving violation.

Frank Daggett stated when this action first came before the Commission, Mr. Schneider brought up the issue with the misuse of plates. Lieutenant Newport stated Mr. Schneider; under his own omission stated he was driving the vehicle at the time the violation was given.

Commissioner Bresciano stated he would defer to Assistant City Attorney Woodland. Assistant City Attorney Woodland stated in the absence of more details, the Commission can use their own interpretation. She stated Attorney Jeffco is correct regarding the State laws. She stated it is really the Commission's call on how the Commission outlines moving violations. Attorney Jeffco stated it is their opinion that misuse of plates is not a moving violation. Lieutenant Newport stated our ordinance is broad. Councilor Lister stated our ordinance is general in order to protect public safety. Commissioner Bresciano stated if an individual intentionally drove without proper plates he feels that would be a moving violation. He further stated proving the driver did intentionally drive without proper plates would be difficult to prove. He stated even with this being the case, if you look at Mr. Schneider's driving records you will notice the following:

1.	11-30-10	Convicted speeding @ 25 over limit	Violation Date 8-2-10
2.	3-18-10	Convicted misuse of plates	Violation Date 11-21-09
3.	1-7-10	Convicted improper lane or location & Convicted speeding	Violation Date 2-8-09

Lieutenant Newport stated he wasn't sure if the conviction on 1-7-10 would be counted as two violations or one, since both violations were for one traffic stop. Assistant City Attorney Woodland stated the ordinance states: "*The individual has three or more convictions for moving violations, in this or any other state, in the three full years prior to the date of the application.*" She stated each conviction is a violation in its own right. Attorney Jeffco stated he was not aware of the improper lane or location violation. He stated when he talked to Lieutenant Newport he was told the violations were two speeding and the misuse of plates violations that were in question. Assistant City Attorney Woodland stated the Commission could vote to rescind the suspension and re-start the issue over allowing for a new appeal period. Commissioner Feehley requested the Commission take a vote and either reinstate Mr. Schneider back his license or not.

Commissioner Bresciano stated there is also a Section 7.212: Mandatory self-reporting of Taxi Operator Motor Vehicle and Criminal Violations in the ordinance that states: *“Any person holding a taxi operator’s license shall report each and every driver’s license suspension, driver’s license revocation and conviction of any criminal or motor vehicle offense to the City Clerk within seven (7) days of receipt of the suspension, revocation or conviction. Failure to comply with this provision shall be cause for immediate revocation of the taxi operator’s license of the person who fails to make the report”*. Commissioner Bresciano asked Deputy City Clerk Kirby how many people have reported violations to her. Deputy City Clerk Kirby stated none. Commissioner Feehley asked how many owners have given this ordinance to their driver’s so they know this exists. Commissioner Bresciano stated it is the taxi owner’s responsibility that their drivers know all the rules.

Assistant City Attorney Woodland stated it would be useful to make a decision on this and if another violation is warranted start the process over.

**Commissioner Bresciano moved to reinstate Mr. Schneider’s taxi operator’s license. Seconded by Commissioner Feehley.**

Lieutenant Newport stated that he just reviewed Mr. Schneider’s license application and his actual recommendation was *“denied because of 3 motor vehicle convictions in the last year”*. Assistant City Attorney Woodland stated Lieutenant Newport is correct, the denial states 3 motor vehicle convictions and not misuse of plates.

**Motion passed.**

## 2. Leasing of Taxi Cabs

Chair Daggett stated at the last meeting this was brought up and NH Checker Cab was the only owner not present. He requested Jose Nunez, NH Checker Cab to come before the Commission. Chair Daggett asked Mr. Nunez if he was leasing his vehicles. Mr. Nunez stated he is the owner of the cabs and none of his cabs are leased. He stated his employees are 1099 workers. Assistant City Attorney Woodland stated there are different classes of people. She said regular employees and sub-contractor employees. Mr. Nunez stated all his employees are listed on his insurance policy as operators of his vehicles. Commissioner Ford stated this can be an insurance issue for the City.

**Commissioner Bresciano moved to send this issue to the City Attorney’s office for clarification and a report back. Seconded by Councilor Lister and voted.**

## VI. MISCELLANEOUS/UNFINISHED BUSINESS

### 1. Police Liaison Report

Lieutenant Newport stated there were no taxi related reports this month.

### 2. Request for One Additional Medallion – Rockingham Taxi (not on the agenda)

Deputy City Clerk Kirby stated on Friday, June 17, 2011, a letter was received from Rockingham Taxi requesting an additional medallion. Chair Daggett stated that Deputy City Clerk Kirby had called him on June 17, 2011 and he stated we would bring this request forward today, but last minute agenda changes cannot become a habit. In the future if anyone would like to add something to the agenda, it must be given to Deputy City Clerk Kirby not later than 12:00 p.m. on the Wednesday prior to the meeting.

**Commissioner Ford moved to approve the request for one additional medallion for Rockingham Taxi. Seconded by Commissioner Feehley and voted.**

Councilor Lister stated our Commission and Police Department are being very diligent with the taxi situation.

Commissioner Bresciano stated Section 7.216: TRANSFER OF MEDALLIONS states “*Notice of proposed transfer shall be delivered to the Taxi Commission at least 14 days prior to the date of the proposed transfer*”. He said if a taxi company has a vehicle that breaks down beyond repair and they get a new vehicle to replace the old vehicle it is not fair to make them wait until the next meeting or 14 days to put a vehicle on the road.

Chair Daggett requested this item be placed on the agenda for the July 18<sup>th</sup> meeting.

Commissioner Bresciano requested Deputy City Clerk Kirby do a memorandum to the Taxi owners to notify their driver’s of the following:

#### Section 7.212: MANDATORY SELF-REPORTING OF TAXI OPERATOR MOTOR VEHICLE AND CRIMINAL VIOLATIONS

Any person holding a taxi operator’s license shall report each and every driver’s license suspension, driver’s license revocation and conviction of any criminal or motor vehicle offense to the City Clerk within seven (7) days of receipt of the suspension, revocation or conviction. Failure to comply with this provision shall be cause for immediate revocation of the taxi operator’s license of the person who fails to make the report.

Chair Daggett requested Section 7.212 be added to the agenda for the next meeting. He also requested suspension time frames be added to the agenda.

Deputy City Clerk Kirby stated in setting up new taxi medallion packets she noticed that under certificate of insurance it stated facsimile copies are NOT acceptable. She said she has been getting a lot of Insurance Companies that have been sending facsimile copies. She asked the Commission if she should be requiring original copies. Chair Daggett stated in this day and age of computers, everyone uses and accepts facsimile copies. Chair Daggett took a consensus of the Commission and facsimile copies are acceptable.

## **VII. ADJOURNMENT**

**At 10:05 a.m., Chair Daggett closed the meeting.**

Respectfully submitted by:

Dianne M. Kirby, Deputy City Clerk