

TAXI COMMISSION MEETING
Minutes of the May 20, 2015 meeting

I. CALL TO ORDER

Chair Bresciano called the meeting to order at 9:00 a.m.

II. ATTENDANCE

Present: Members: Chair Peter Bresciano, Assistant Mayor James Splaine, Commissioners Stephen Dunfey, Larry Cataldo, Lieutenant Chris Cummings, City Attorney Robert Sullivan and Deputy City Clerk Dianne Kirby

Absent: Commissioner Tristin Law

III. ACCEPTANCE OF MINUTES FROM APRIL 15, 2015

Commissioner Cataldo moved to approve and accept the minutes of the April 15, 2015 Taxi Commission meeting. Seconded by Commissioner Dunfey. Motion passed.

IV. NEW BUSINESS

1. There was no new business for this meeting

OLD BUSINESS

1. Status of Pending Complaint

Lieutenant Cummings stated the complaint concerned the road rage incident on Congress Street by Brian Schneider, Portsmouth Taxi. Mr. Schneider was found guilty of two counts – unsafe lane change and a red light violation. Chair Bresciano asked if Mr. Schneider's license was pulled. Lieutenant Cummings stated Mr. Schneider has only two violations on his license and the ordinance states the license is pulled once he has three complaints/incidents in a three year period.

City Attorney Sullivan said he would like to point out that what happens in Court and what happens with the Taxi Commission are two different things and the Court will handle their complaints as they do and the Taxi Commission has independent authority to deal with this situation if the Commission feel it's appropriate.

Commissioner Cataldo said he thought we requested Mr. Schneider make an appearance at this meeting to explain his actions. Deputy City Clerk Kirby stated he was to attend the next meeting. Chair Bresciano request a letter be sent to Mr. Schneider for him to appear at the next Taxi Commission meeting. Commissioner Cataldo requested that the letter to Mr. Schneider state if he fails to show for the next meeting that further action may be taken.

2. Taxi Ordinance before City Council

Assistant Mayor Splaine outlined thoughts of what may be acceptable by the City Council. He stated the City Council asked the Taxi Commission to come back with input for changes. He stated the goals are to have an equal level playing field for everybody. He said our main goal is safety for the riding public – to do that we need to deal with the companies themselves rather than the drivers. He said this will allow us to create the standards in the ordinance for all operators to follow without having regulations. He said this way we could create a Transportation Services Operating Agreement that would be filled out and filed with the office of the City Clerk. He said the agreement would be worked out between the business owner and the City of Portsmouth. He said the Transportation Services Operating Agreement would simply state that the owner agrees they will have insurance liability coverage of whatever our ordinance requires and that if they prove that they have that policy to the satisfaction of the City Attorney's office that standard is satisfied. He stated secondly, the agreement would require the business owner verify that the business is going to perform background checks to the satisfaction of the Portsmouth Police Department. He said the Police Department would have to verify with their process or have them follow background checks done specifically by the Portsmouth Police Department. He said the company would have to get agreement from the Portsmouth Police Department that those background checks are reliable. He said thirdly, the company would have to have a statement that they agree to be stopped by the Portsmouth Police Department for spot inspections to check that the driver works for that company, with that vehicle and the driver has the card that explains the insurance policy and that the driver has had a background check. He said the Police Department can, if he wishes to, decide to do background checks on any individual he questions and that background check will be paid by the company. He said that would provide for the kind of regulation that we need to make sure that business owners are going to adhere to the insurance requirement and the background checks required by our ordinance.

Assistant Mayor Splaine further stated companies would have to have identification in both the front and rear of the vehicle either by some type of description or by a sign so everyone is level. He stated the cab companies would have an additional advantage as they can use the taxi stands.

Assistant Mayor Splaine said companies found in non-compliance would lose their privileges to work in Portsmouth for a period of time. He said these punishments will still have to be worked out. He said the bottom line is the City would be fulfilling their obligation to insure the safety of the residents and taxi riders.

Chair Bresciano asked if these operating agreements would be different for every company. Assistant Mayor Splaine stated they would be the same for everyone. Chair Bresciano asked why this just wasn't part of the ordinance. Assistant Mayor Splaine said the agreement would get the companies to commit. He further stated that the signed agreement would allow the Police Department to be able to request background checks on the drivers if necessary. Chair Bresciano asked if violations of the ordinance and the agreement are that much different. City Attorney Sullivan said he thought we would have both an ordinance to set up the standards and an agreement to expressly obligate the owner of the business by signing the document to comply with the standard in the ordinance. Chair Bresciano said if they violate the agreement

then they are violating the ordinance and the City can go after them for violating a City ordinance. City Attorney Sullivan said there would be two separate remedies available to the City. Chair Bresciano asked if there were standard fines for violating an ordinance. City Attorney Sullivan said there is a maximum of \$1,000.00 fine per violation to the City. He said what Assistant Mayor Splaine has suggested is a graduated penalty provision. Chair Bresciano asked if there is already in place a monetary fine for violating City Ordinances. City Attorney Sullivan stated there is.

Commissioner Cataldo said he has been thinking about the violations and the penalties and there is still a lot of thought that needs to go into this matter. He said it really comes down to two things:

1. If there is a deliberate attempt not to follow the ordinance he said that would be a serious offence and an owner's ability to operate in Portsmouth can be revoked.

2. If it is a minor offenses such as moving violations etc. can be against the driver. He said we need more thinking on how and what the punishment should be.

Chair Bresciano said he is concerned that it is unusual for 2nd reading to go on and on. He asked what will happen when the City Council meets on the first of June - do we scrap the present proposed City ordinance or do we try for another 2nd reading. City Attorney Sullivan said if the Taxi Commission wishes him to draft a new ordinance, the City's Legal Office will draft a new ordinance. He said his suggestion to the Council would be to amend the ordinance by deleting the ordinance and replacing it with the new ordinance. He said this would require a new public hearing because it is a new ordinance and it would then follow the normal adoption procedures.

Assistant Mayor Splaine suggested a motion that the City Attorney be asked to rewrite a new ordinance with the advice and consent of Chair Bresciano and Commissioner Cataldo with these basic principles and present it to the City Council. Chair Bresciano said he feels the present proposed ordinance is a good ordinance as it is.

Commissioner Cataldo volunteered to work with City Attorney Sullivan on the new draft ordinance. He further stated the idea of attaching an owner's agreement to the ordinance is a great idea making it one document. He said all other issues will be procedural issues and not issues of ordinances.

Assistant Mayor Splaine moved to appoint Chair Bresciano and Commissioner Cataldo work with City Attorney Sullivan to draft a new ordinance rewrite to be presented to the City Council on June 1, 2015. Seconded by Commissioner Cataldo

Assistant Mayor Splaine requested that the rewrite add that riders can voice any complaints to the City Attorney's office, City Clerk's office or the Taxi Commission. He suggested a placard or information sheet with this information and phone numbers be placed in all cabs so the riders will know what their recourse would be for any complaints.

Commissioner Cataldo asked if a placard or decal would be issued. Assistant Mayor Splaine stated that would have to be worked out.

Motion passed.

VI. MISCELLANEOUS/UNFINISHED BUSINESS

1. Police Representative Report

Lieutenant Cummings stated he stopped a vehicle with expired inspection and very bald tires. He said even though we are not having the annual inspection the companies still need to keep their vehicles up to regulation and get their vehicles inspected through the State.

He further stated vehicles are failing to affix medallions on their vehicle. He said he stopped Great Bay Taxi and Mr. Palreiro refused to put the medallions on his vehicle saying he is in a grace period and he doesn't have to put them on. He stated that is not how he understands the grace period. He said he understands the grace period is keeping everything status quo for the time being to include the affixing of those medallions on the vehicles. He said looking at the newest medallion roster, it doesn't appear that the license plates that were issued to him today match any of the medallions that are issued to Great Bay Taxi – so that is another issue. He said by not having these medallions affixed to the vehicles a company can simply place them in whatever vehicle they want.

Commissioner Cataldo asked which company was it that was operating with bald tires and an expired inspection. Lieutenant Cummings stated it was Market Square Taxi, medallion 21. Commissioner Cataldo said the vehicle is considered unsafe. Lieutenant Cummings stated it is. He said he had the vehicle parked until it could be repaired and re-inspected.

Commissioner Cataldo said we are so close to getting a new ordinance that will not require medallions – he wonders if it would not be prudent to allow this company to not drill holes yet. Lieutenant Cummings said he is ok that the companies don't want to put holes in their vehicles, but there are other ways to post the medallion without putting holes in the vehicle. He said this company has a Dover and a Portsmouth Division and we presently only allow 28 medallions on the roads. He said Great Bay Taxi can come from Dover and swap the medallions from car to car without notifying the City Clerk's office. Commissioner Cataldo said if the medallion was being transferred from one vehicle to another vehicle that company could inform the Police Department. Lieutenant Cummings stated they need to notify the City Clerk's office. He said this is something we need to clear up for enforcement purposes. City Attorney Sullivan said if you don't enforce ordinances uniformly and fairly you will have a breakdown in the system. He stated Great Bay Taxi has a history of pushing the envelope and he is pushing this envelope. He said if you allow the medallions to be transferred without going through the process required by the City Clerk then you lose assurance that the cabs have insurance and are inspected and safe. He stated this is a serious matter. He said the way to restore the integrity of the system is to enforce the ordinance against anybody that doesn't comply with the existing ordinance. Assistant Mayor Splaine said the only thing the City Council has done is suspend renewal of the medallions and licenses. He said we did not eliminate medallions, or

change that part of the ordinance. He said the ordinance itself remains and has to be enforced. He said until we change something the current ordinance is the law of the City. City Attorney Sullivan stated all that got suspended with regard to traditional taxis is the collection of the fee. He said in all other respects that ordinance is in place and should be enforced. Assistant Mayor Splaine asked if the Commission has to take any action. City Attorney Sullivan stated they can. He said the Commission can take administrative action and the Police Department as well can take administrative action. Chair Bresciano asked if Lieutenant Cummings pulled his medallion. Lieutenant Cummings stated he did not. He stated he has two summonses to be issued after the meeting.

Chair Bresciano suggested the City Clerk's office contact Great Bay Taxi to ensure that correct medallions are on the correct vehicles or the medallions are turned in.

2. Public Comment

John Palreiro, Great Bay Taxi stated he understands Lieutenant Cummings situation. He said Great Bay Taxi is in the process of changing out their old vehicles for new vehicles. He said UBER has been allowed to drive around the City in unmarked vehicles picking up passengers for hire against the City ordinances and drop these passengers off within the City limits – and nothing has been done to enforce the ordinances against them. He said they have been given a grace period.

John Palreiro, Great Bay Taxi said the vehicles in question are ready to go to Public Works to have the medallions transferred. He stated when he was stopped on Saturday; they were working in Dover by prior arrangement picking up and dropping off outside the City limits of Portsmouth. He said he was told he could not bring his Dover Cabs into Portsmouth to drop off or pick up passengers because he has medallion vehicles. He stated that is incorrect. He said yes he is pushing the envelope because this has been unjust to all the taxi companies in Portsmouth. He said UBER was allowed to run around breaking all the City ordinances before we decided to make this an equal playing field and given a grace period to continue working, but there has been no compliance from UBER. He asked if UBER has ever sent in their million dollar umbrella insurance policy to be reviewed by the City Attorney – have their drivers registered with the City and been properly vetted.

Merle White, Anchor Taxi stated he has put his front medallion on his vehicle but his back plate is in his window because he is not going to drill holes in his vehicle. If he put magnets on his medallion and it scratches his vehicle is the City going to pay to repair it. He said the City has let UBER do anything they want in the City – they park downtown, pick up passengers and now we have all kinds of other vehicles coming into the City doing the same thing. He stated he has been to the Council meetings and given DMV reports, criminal background checks and commercial insurance articles on UBER and nothing is being done. He said this is ridiculous. He stated he wants to get this garbage over with. He said UBER does not want to adhere to any rules.

Stephen Gerrato, Rockingham Livery said what is being discussed today has already been brought up. He asked why Deputy City Clerk Kirby can't issue new licenses to the taxi companies since they have already filled out the papers and obtained the records. He further asked why the Council doesn't just kick UBER out of the City until this is straightened out.

Paul O'Loughlin Kennedy, Founder and CEO of Wini Technologies stated his company gives the same technology to taxis that Ride-Sharing companies use. He stated he welcomes the opportunity to meet with any taxi company that would like to discuss how they can compete with the technology companies.

Wayne Cipulla, Blue Star Taxi stated he is confused with the current state of the ordinance. He said he thought the ordinance was suspended. He said at first he thought it was just the fees that were suspended and then he thought the medallions were suspended. He said it might be helpful if a list of what is now required and what is not were sent out to the companies so they know where they stand. Chair Bresciano stated the old ordinance is still current and in effect except the fees for the medallions and licenses is suspended until the new ordinance has been accepted.

John Palreiro, Great Bay Taxi said his medallions are expired and all his driver's licenses are expired. He said the Commission wants him to drill holes in his vehicle and put expired medallions on his vehicles. City Attorney Sullivan stated the Council suspended the fees and extended the current medallions/licenses.

VII. ADJOURNMENT

The meeting was adjourned at 10:00 a.m.

Respectfully submitted by:

Dianne M. Kirby

Dianne M. Kirby, Deputy City Clerk