

MINUTES

PUBLIC TRANSPORTATION COMMISSION

WEDNESDAY, DECEMBER 9, 2009

COUNTY COMMISSIONERS' BOARD ROOM

601 E. KENNEDY BLVD., SECOND FLOOR

I. CALL TO ORDER

The meeting of the Public Transportation Commission was called to order by Chairman Kevin White at 9:00 a.m. The following Commission members were present:

*Chairman Kevin White
Commissioner Rose Ferlita
Commissioner Ken Hagan
Commissioner Dan Raulerson
Councilman Joseph Caetano
Councilman John Dingfelder
Councilmen Mark A. Knapp*

*Board of County Commissioners
Board of County Commissioners
Board of County Commissioners
City of Plant City
City of Tampa
City of Tampa
City of Temple Terrace*

Councilman John Dingfelder was not present.

The Chairman asked Attorney Perez about the election of the Chairman. Attorney Perez said that the Special Act provides for a chairman to be appointed by the commission for a period of two years and said that it would be appropriate at this time to bring the nominations before the board for the chair.

Commissioner Raulerson wanted to nominate Councilman Caetano for vice-chair. However, Councilman Caetano was not present at the meeting at the time.

Commissioner Hagan asked if it was appropriate to nominate someone who was not present. Attorney Perez said it was unusual, but that he was not aware of a legal restriction and the board could ask for a second and make it contingent on Councilman Caetano's acceptance.

Commissioner Raulerson asked if the matter should be deferred until there was better attendance. The Chairman said that it was an acceptable alternative and that he knew that Councilman Caetano was on his way. Attorney Perez confirmed that the idea to put the item to the end of the meeting would be appropriate and so the matter was moved to that time.

Councilman Knapp wanted to make sure that all who were present knew it was his intention nominate Chairman White again for the same position.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Commissioner Raulerson led the Commission in the invocation and pledge of allegiance.

III. SWEARING IN OF WITNESSES

Chairman White performed a mass swearing in of the witnesses wishing to speak before the Commission.

IV. AUDIENCE PARTICIPATION

Chairman White asked if anyone wanted to speak during the audience participation section and Mr. Bob Maxlow came forth. However, the Chairman informed him that his petition would be heard during the “Driver Appeals” section of the meeting.

V. REPORTS – For receipt and filing.

- A. Inspector’s Report – November, 2009
- B. Fiscal Year Status Report
- C. Year-to-Date Report

Motion to receive and file all reports was made by Commissioner Raulerson seconded by Councilman Knapp and carried unanimously.

VI. CONSENT ITEMS

- A. November 18, 2009 Public Transportation Commission meeting minutes
- B. Approval of Public Vehicle Driver’s Licenses – November, 2009
- C. Administrative Change Application for an ownership change from Dial-a-Ride, Inc. to West Coast Transportation, Inc.
- D. Administrative Change Application for an ownership change from Premier Limousine, Inc. to West Coast Transportation, Inc.

Motion to approve the consent items was made by Commissioner Hagan seconded by Commissioner Raulerson and carried unanimously.

VII. ATTORNEY’S REPORT

Chairman White asked if Attorney Perez had anything to report. Attorney Perez said that there was no attorney’s report but that the lobbyist would have something to speak about later on regarding the legislation and the Chairman agreed.

VIII. OLD BUSINESS

IX. NEW BUSINESS

- A. Public Hearings
 - 1. Limousine Service Applications

- a. Bay Area Limousine & Car Service, Inc. (Tampa, FL) – application for a limousine certificate and three (3) unrestricted limousine permits

Director Padilla gave a summary of the Hearing Officer’s recommendation for approval of the application for a limousine certificate and three (3) unrestricted limousine permits requested by Bay Area Limousine and Car Service, Inc. Chairman White asked if anyone wanted to speak regarding the application. The owner was present, Kenneth Cullina, and came forth to introduce himself as the owner.

Chairman White asked if anyone else wanted to speak and no one did.

Motion to approve the application of Bay Area Limousine & Car Service, Inc. for a limousine certificate and three (3) permits was made by Commissioner Raulerson, seconded by Councilman Knapp and unanimously.

- b. I Drive Transportation, Inc. (Sarasota, FL) – application for a limousine certificate and two (2) unrestricted limousine permits

Director Padilla gave a summary of the Hearing Officer’s recommendation for approval of the application for a limousine certificate and two (2) unrestricted limousine permits requested by I Drive Transportation, Inc. Chairman White asked if anyone wanted to speak regarding the application. The owner was present, but did not come forth.

Chairman White asked if anyone else wanted to speak and no one did.

Motion to approve the application of I Drive Transportation, Inc. for a limousine certificate and two (2) limousine permits was made by Councilman Knapp, seconded by Commissioner Raulerson and unanimously.

2. BLS Ambulance Applications

- a. Americare Ambulance Service, Inc. (Seffner, FL) – application for ten (10) additional BLS Ambulance permits on their existing certificate

Director Padilla gave a summary of the Hearing Officer’s recommendation for approval of the application from Americare Ambulance Service Inc. requesting ten (10) additional permits on their already existing BLS ambulance certificate. Chairman White asked if anyone wanted to speak regarding the application. Director Padilla informed the Board that AMR was an intervenor at the hearing.

Chairman White asked if anyone else wanted to speak and David Carr, owner of Americare Ambulance Service, Inc. came forth and just wanted to ask the Board to grant the petition as recommended by the Hearing Officer. He said the additional permits satisfy the existing need in Hillsborough County for additional BLS units.

Chairman White asked if anyone else wanted to speak and no one did.

Motion to approve the application for ten (10) additional permits for Americare Ambulance Service, Inc. was made by Councilman Knapp, seconded by Commissioner Raulerson and passed unanimously.

B. Appeals of Public Vehicle Driver's License

1. Richard Maxlow – Yellow Cab of Tampa

Chairman White asked if Mr. Maxlow was present. Mr. Maxlow came forth.

Director Padilla read staff's recommendation for denial the application for PVDL made by Richard Maxlow.

Mr. Richard Maxlow said that he had been a driver in Pinellas County for ten years and wanted to have an opportunity to work for Suburban Taxi Company. He said that he had a growth in customer base and wanted to pick them up from the airport and that it would be a great opportunity for him. He said that it had been 18 year since he had been charged with a crime and that he felt that he had learned a lesson. He said that he had purchased a home and is a successful person. He said that he knew tat what he did when he was 18 was a bad choice, but that he is a better person today.

Chairman White asked about the arson charge and whether or not there was a fire.

Mr. Maxlow said that there was no fire and that Mr. Minardi had the police report. He said that it was a bad thing that he did and that he did have a lot of regrets from it.

Commissioner Raulerson asked about the arson charge and if Mr. Maxlow could elaborate.

Mr. Maxlow said it was just a firecracker that he put on someone's doorstep as a prank and that the explosion was bigger than he thought it would be. It was an M80 firecracker and he did not know that the explosion would be so extensive since he had never lit one in his life until that time.

Commissioner Raulerson asked about the arson charge.

Mr. Maxlow said that there was no fire and the police report said that there was nothing but a charred door and no fire. He said that he tried to appeal it and get it off of his report, but the charge never really caused a problem until now.

Chairman White asked if anyone else in the office wanted to speak on behalf of Mr. Maxlow and his father, Robert Maxlow care forth.

Robert Maxlow, the petitioner's father explained that there were threats made against his son by an ex-girlfriend's family. He said that his son did the crime and that he had served his time. He said that his son did menial jobs to pay his way, but when he got into the cab business, his life changed for the better. He said his son was told by his attorney to plead guilty and there would be no jail time and that he was given this bad advice. In any case, he felt that his son is an independent person and making a good life for himself.

Chairman White asked if anyone else wanted to speak on behalf of Mr. Maxlow and Louie Minardi of Yellow Cab came forth. He said that he had reviewed the police reports and that it was a firecracker. He said that it is out of the ordinary for him to speak on behalf of the drivers, but in looking at the report, although what Mr. Maxlow did was not smart, he would still endorse him.

Chairman White asked if anyone else wanted to speak regarding Mr. Maxlow's petition.

The next speaker was Mr. John Madiedo of Professional Insurance Center. He said that he submitted Mr. Maxlow for approval with the insurance company and there were no problems with them approving Mr. Maxlow.

Commissioner Raulerson said that he would recommend approval of Mr. Maxlow's PVDL application with one-year probation and Councilman Caetano seconded.

Chairman White asked if the probation had a stipulation of criminal or drug testing.

Commissioner Raulerson said that he was not sure that the probation was appropriate, but he wanted some oversight on this driver because of the background.

Director Padilla said that historically, if there were drugs involved, there would be drug testing and with items like traffic offenses, it would be no traffic offenses and no incidents with the law after which time a permanent license would be issued.

Commissioner Ferlita said that although she believed in second chances and rehabilitation, she would not be able to support the application.

Motion to grant Richard Maxlow a PVDL with one-year probation was made Commissioner Raulerson seconded by Councilman Caetano and passed 5 to 1 with Commissioner Ferlita dissenting.

2. Harry Peabody – Yellow Cab of Tampa

Chairman White asked if Mr. Peabody was present. Mr. Peabody came forth.

Director Padilla read staff's recommendation for denial the application for PVDL made by Harry Peabody.

Mr. Peabody said that he was very sorry for his mistake and that he learned his lesson. He said that he needs to get the PVDL license so that he can move forward and that he loved his job because he took his job seriously to help people. He said that he would never have to come before the Board under these types of circumstances and would like to move forward and that he would appreciate an opportunity to explain and prove himself.

Chairman White asked if anyone else in the audience wanted to speak on behalf of Mr. Peabody's petition.

Louie Minardi of Yellow Cab came forth. He said that he has known Mr. Peabody for over 20 years and that Mr. Peabody used to work for an exterminating company and worked at his parents' house. Mr. Minardi said that Mr. Peabody had been a supervisor on the street for Yellow Cab for a little over a year and there have been no incidents and many letters of recommendation. He said that Mr. Peabody does a lot of work with the University of Tampa students and has worked with Hops in the past. He said it was his belief that Mr. Peabody would be very good for Yellow Cab and they would put him to work since he has no problem with Mr. Peabody's past history.

Chairman White asked if anyone else in the audience wanted to speak on behalf of Mr. Peabody's petition.

Michael Moses of Bay & Beach Transportation and Bay & Beach Car Services came forth. He said that he has only known Mr. Peabody for six months, but that Mr. Peabody has been a great mentor to many of Bay and Beach's drivers. Bay and Beach serves both sides of the bay and Mr. Peabody has been very helpful and Mr. Moses said that he found Mr. Peabody to be a very fair and generous gentleman in the business.

Commissioner Ferlita said that although she believed in second chances and rehabilitation, she would not be able to support the application.

Motion to grant Mr. Harry Peabody a PVDL was made Commissioner Hagan seconded by Councilman Knapp and passed 5 to 1 with Commissioner Ferlita dissenting.

3. Richard Rivera – Executive Limousine of Tampa Bay

Chairman White asked if Mr. Rivera was present. Mr. Rivera came forth.

Director Padilla read staff's recommendation for denial the application for PVDL made by Richard Rivera.

Mr. Rivera thanked the Board for their time and apologized for what happened 20 years ago. He said that he is appealing the denial of his PVDL application because he was young and naïve when the offense happened over 20 years ago. At the age of 40, he said that he has made a new life and has been married to his wife for over 19 years and has three children. He said that he is a loyal taxpaying citizen who has worked and paid all his debts to society and to creditors. He said that he has no debts in his life up to this point and wants to stay that way with the Board's help and leniency. He again said that he has paid for his crime and looked forward to the Board granting his license.

Chairman White wanted Mr. Rivera to expound regarding his arrest in October of 2005. He said that there was an arrest in 1989 that Mr. Rivera was talking about, but there was another arrest in October of 2005.

Mr. Rivera said that it was an unfortunate incident which took place in Hillsborough County wherein he got into an argument with someone and tossed a drink. He said that he met with the officer concerning the incident and the officer said that it was up to the individual who he tossed the drink at whether or not he or she wanted to pursue the issue. Mr. Rivera said the officer told him that he would receive a letter. However, he never did receive it. Mr. Rivera said that when he did get a copy of the letter, it had been mailed to the wrong address. Therefore, he was arrested for a matter that could have been handled through a court appearance. He apologized for the incident, but said that it was out of his control at the time.

Attorney Perez said in reference to the 2005 incident, the Special Act addresses some types of crimes upon which the Board could deny applications. Generally, a misdemeanor with adjudication withheld would not qualify for a basis to deny an applicant a PVDL.

Commissioner Ferlita asked Mr. Rivera about the issue of his address as to whether his license reflected the correct address.

Mr. Rivera said that it did.

Commissioner Ferlita then asked if they just took another address, regardless of the address on his license and sent to the notice somewhere else.

Mr. Rivera said that he met with the investigating officer off of Falkenburg Road and gave him the driver's license so he could not understand why the address was wrong.

Chairman White asked if anyone else wanted to speak regarding Mr. Rivera's petition.

Mr. Rivera's wife, Wanda Rivera came forth. She verified that they have been married for 19 years and said that her husband is a great supporter as a husband and a father. She said that having a PVDL would be a great opportunity for Mr. Rivera to continue to be a great father and provider to his family.

Chairman White asked if Mr. Rivera had someone who would be willing to hire him and Mr. Rivera said yes and that the person was in the audience. With that statement, Ronnie Rodriguez of Executive Limousine of Tampa Bay came forth to speak on Mr. Rivera's behalf. He said that he has known Mr. Rivera for about a year and that their children attend the same school. He said that Mr. Rivera is a good neighbor and seems to be a good person. He said that he checked Mr. Rivera's license against his insurance and the insurance company approved him and that he would hire Mr. Rivera if the Board approved it.

Motion to grant Mr. Richard Rivera a PVDL was made Councilman Caetano seconded by Councilman Knapp and passed 5 to 1 with Commissioner Ferlita dissenting.

C. Wrecker Workshop (*Deferred from the November 18, 2009 and December 9, 2009 PTC meeting*)

Chairman White said that the wrecker workshop items was deferred from the November 18, 2009 PTC meeting and asked Director Padilla if there was an update. Director Padilla said that at the last meeting there were proposed rule changes and there was confusion about the format in which it was presented, but that there were no changes since the last meeting.

Steve Michelini came forth and said that the Hillsborough County Towing Association wanted to request that this time be deferred to the January 2010 PTC meeting so that they can go through and compare the PTC staff's recommendations and the Association's requests.

Motion to defer the Wrecker Workshop item from the December 9, 2009 PTC meeting to the January 13, 2010 PTC meeting was made by Commissioner Ferlita, seconded by Councilman Knapp and passed unanimously.

D. Election of Officers

VICTOR DIMAIO

Victor DiMaio had a legislative update regarding the PTC bills which he passed to the dias for the Board's review. Mr. DiMaio said that the two local bills #2 and #3 were filed and would be heard at the Hillsborough County Legislative Delegation meeting on December 18, 2009. He said that Local bill #2 is the PTC's bill as previously approved by the Board. There are two sponsors, State Representative Rich Glorioso in the House and Senator Victor Crist in the senate. With this bill, the PTC will be able to regulate nonconsensual towing in Hillsborough County. Mr. DiMaio said that he and Chief Inspector Tamargo worked together to have meeting with local law enforcement agencies in Hillsborough County to endorse the bill. The letters were being prepared. Mr. DiMaio said that the bad news that came at the last minute was that local bill Number 3 was introduced and this is a negative and direct impact on the PTC. There is a committee in Tallahassee that hears challenges to Chapter 120, the Administrative Procedures Act and there are people who have challenged PTC rules under Chapter 120. This issue has been researched for a couple of years and this agency directs how

other agencies set their rules and procedures. He said that Chapter 120 was never intended for small agencies like the PTC with nine people and a small budget, rather it was for huge statewide agencies. There are many exceptions to agencies in Chapter 120 and he checked every single agency in Hillsborough County and none of them are under Chapter 120. Therefore, Mr. DiMaio strongly recommended that the PTC oppose Bill #3. It was his position that someone should have contacted the PTC as a courtesy, but that did not happen. His suggestion was that Chapter be removed from the PTC's act since rule challenges can happen within the bounds of the workshops which are recorded for record and at advertisement of the changes. Then anyone can voice an opinion or objection about these rules to the Board. After the Board's decision, if they still oppose, then they can take the matter to court as they do now. Mr. DiMaio again stated that other agencies do not come under the jurisdiction of Chapter 120. The PTC has had challenges that went to Court in the past and because of chapter 120, the PTC will face more challenges under the Division of the Administrative Hearings. Two challenges have already gone through DOAH and have been dismissed. This bill would force the PTC to go into DOAH. In addition, the bill says that there would be no financial impact to the PTC and that is untrue. If there are challenges after challenges to the PTC rules, the PTC's legal bills will increase significantly.

Chairman White said that it looks as if the same people sponsored both bills and asked about the communication regarding those items. He wanted to know what the ramifications would be since both bills have the same sponsors.

Mr. DiMaio said that there was no opportunity to speak to Representative Glorioso directly and staff only found out about bill #3 at the last minute. Mr. DiMaio said that Representative Glorioso is sponsoring the PTC bill, but Senator Storms is not. Senator Crist only sponsored the PTC bill, but there is a common sponsor on both bills. Everyone has been tied up in Tallahassee with the Transportation Special Session and there was no opportunity to meet and with Representative Glorioso about Local Bill Number 3.

Commissioner Ferlita said that she felt it would have been prudent to give Local Bill Number 3 to the Board in a timely manner. Mr. DiMaio said that he understood that.

Commissioner Ferlita said that the Board needs time to discuss these things to make sure about the details. There should be discussion about the matter and it she felt it should that Mr. DiMaio should have briefed the Board. Therefore, she said she would not support it because she did not want to be hurried and rushed to read the item. Also, as a courtesy to Senator Storms and to Representative Glorioso, she wants to have a reason why she would be opposing the bill. She said that she did not hear anything about it from Director Padilla or from Attorney Perez, so she did not subscribe to this kind of process.

Chairman White wanted to know if the Board was under a time constraint regarding this matter.

Mr. DiMaio said that he wanted to get approval because the item is going to the Legislative Delegation meeting on Friday, December 18, 2009.

Chairman White repeated that wanted to know if the Board was under a time constraint regarding this matter to take a formal action from the PTC at this meeting to oppose the bill.

Mr. DiMaio again said that he wanted to get approval because the item is going to the Legislative Delegation meeting on Friday, December 18, 2009 then it would go to Tallahassee. So there would be other steps that could be taken later on if the bill passes and in Tallahassee, the PTC would have

opportunities later on, in March and April, to take a couple of steps. The Bill will be heard in the House and Senate so there is plenty of opportunity to look at the bill and if the Board opposes it, then staff could meeting with Representative Glorioso to speak to him about it, and perhaps Senator Storms too.

Chairman White agreed with Commissioner Ferlita that there is no sense of urgency to oppose this bill, without reading what it contains, and rush into a formal action at this meeting. He said that if Mr. DiMaio still has time, he can meeting with Representative Glorioso and Senator Crist and discuss any concerns and inform them that it has been presented to the PTC and that an action may be taken by them at their January meeting, to oppose the bill.

Commissioner Ferlita agreed with Chairman White and elaborated that Mr. DiMaio could then brief the Board.

Motion to defer the Local Bill #3 discussion to the January 13, 2010 PTC meeting for review by the Board before taking any formal action was made by Commissioner Ferlita, seconded by Commissioner Raulerson and passed unanimously.

D. Election of Officers

Chairman White presented that the board needed have an election of officers for the PTC.

Commissioner Raulerson nominated Councilman Caetano for PTC chair.

Councilman Knapp nominated Commissioner White for PTC chair.

Chairman White asked if there were any further nominations.

Councilman Caetano nominated Commissioner White for PTC chair and declined the nomination for him to be made chairman which was made by Commissioner Raulerson.

Motion to nominate Commissioner Kevin White as Chairman of the PTC Board was made by Councilmen Knapp and seconded by Councilman Caetano and passed 5-1 with Commissioner Ferlita dissenting.

Chairman White then said that the Board would elect its Vice Chairman.

Councilman Knapp nominated Councilman Dan Raulerson.

Motion to nominate Commissioner Dan Raulerson as the PTC's Vice Chairman was made by Councilman Knapp, seconded by Commissioner Ferlita and carried unanimously.

Chairman White and Vice-Chair Raulerson both thanked the Board for allow them to serve and for its confidence in them.

X. ADJOURNMENT

There being no further business, the meeting of the Public Transportation Commission adjourned at 10:39 a.m.

******This is not an official, verbatim transcript of the December 9, 2009 PTC meeting. It should be used for informational purposes only******

Jacqueline E. Calleja, Administrative Specialist

NEXT COMMISSION MEETING – January 13, 2013