

**MINUTES**

**PUBLIC TRANSPORTATION COMMISSION**

**WEDNESDAY, APRIL 14, 2010**

**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  
Councilman Joseph Caetano  
Councilmen Mark A. Knapp*

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

*Commissioner Beckner sat in on this meeting on Commissioner Ferlita's behalf as her alternate. Commissioner Ferlita thanked Commissioner Beckner in her memo to the Commission.*

*The following Commission members were absent:*

*Commissioner Rose Ferlita  
Commissioner Ken Hagan  
Commissioner Dan Raulerson  
Councilman John Dingfelder*

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

*Chairman White announced that a few commissioners would be absent. Commissioner Rose Ferlita sent a memo saying that she would not be in attendance at today's Public Transportation Commission because she was home recuperating from surgery. Chairman White also read a letter from the City of Tampa from City Councilman John Dingfelder that his term on the PTC ended March 10, 2010 and that he would no longer be able to serve on the PTC's board, but has requested that a replacement be instated. Chairman White announced that Commissioners Ken Hagan and Dan Raulerson would not be present at this meeting either.*

**II. INVOCATION AND PLEDGE OF ALLEGIANCE**

*Chairman White led the Commission in the invocation and pledge of allegiance.*

**III. SWEARING IN OF WITNESSES**

*After the approval of consent, Chairman White performed a mass swearing in of the witnesses wishing to speak before the Commission.*

**AUDIENCE PARTICIPATION:**

*Moshe Leib spoke first. He said that the Chairman went to Tallahassee with Victor Dimaio and was not authorized by the Board to lobby against the DOAH bill. He said Victor DiMaio said that using DOAH would be more money, but that he sued the PTC about five times and that the PTC has paid money. He*

*felt that the PTC is just stopping citizens from having a way to sue the PTC and its rules. Mr. Moshe said the difference between the PTC and other agencies is that it has arrest powers. He asked the Board if it wanted to save money and said that the only way to stop them from suing the PTC is by changing the rules. He was disturbed that the PTC went to Tallahassee to turn over a bill. He said that the PTC is breaking the law and that it received three letters from the JAPC. He said he sent emails and the law and if the PTC keeps making rules, they will keep suing.*

*Chairman White said that he was not lobbying against anything in Tallahassee. He said that he was gathering information from the legislators regarding their bill and they way it was proceeding and to see what they needed from the PTC in order to expedite their legislation.*

*Louie Minardi of Yellow Cab spoke next and said that he would support Local Bill Number 3. He felt that the PTC should be taken out of DOAH and any issues should be heard in civil court. He said that he never had a problem suing the PTC and has done it a number of times in the last ten years.*

*Steven Michelini spoke next regarding closing times for wreckers. He said that the wrecker association had obtained letters from the Sheriff's office and the City of Tampa and sent them to the PTC stating that they had no objection to an earlier closing time. He asked that the item be brought back to the Board as a rule change. Chairman White said that he wanted clarification from legal staff or the Executive Director. He said that he understood that some investigating was done and that it might be a State Law that says they have to be open until 6:00 p.m. Director Padilla said that the decisions of the PTC are based on statutes and FS 715.07 indicates that anyone conducting private impounds must remain open from 8:00 a.m. to 6:00 p.m. He said that it will be important to figure out who will be handling private impounds but at this point he felt uncomfortable even advising them to close at 5:00 p.m. knowing that there is a statute out there that says otherwise. Chairman White suggested to Mr. Michelini that he contact any of the other agencies and find out under what authority they are closing. He said that if Mr. Michelini can come back with this information regarding closing at 5:00 p.m., he did not think anyone else would mind either, but we must adhere to the law. Mr. Michelini spoke about private impounds, but the Chairman said there is some discrepancy, so it can be on the next month's agenda with some backup. The Chairman said he would work with the Director and County Attorney regarding the matter. Mr. Lou Castellano of Sunshine State Garage said that he owns a small wrecker company and the amount of cars release between 5:00 p.m. and 6:00 p.m. is small. He said that he believed that the concern was safety of the tenants that are managing the companies. The Chairman thanked him, but said that the PTC would abide by the letter of the law unless there is some relief allow by that same law.*

*Wayne Salat of AI Limousine asked about the waiver on this meeting's agenda. Attorney Perez informed him that in order to grant a waiver, five members must be present, so the item was deferred until the next meeting.*

IV. REPORTS – For receipt and filing – February and March, 2010

- A. Inspector's Report – February and March, 2010
- B. Fiscal Year Status Report
- C. Year-to-Date Report

*Motion to approve the reports section of the agenda was made by Councilman Knapp seconded by Councilman Joseph Caetano and carried unanimously.*

V. CONSENT ITEMS

- A. February and March 10, 2010 Public Transportation Commission meeting minutes
- B. Approval of Public Vehicle Driver's Licenses – February and March, 2010
- C. Administrative Change Application for a business location change from Action Towing, Inc.

***Motion to approve consent portion of the agenda was made by Councilman Knapp, seconded by Councilman Caetano and carried unanimously.***

VI. ATTORNEY'S REPORT

***No information, but received assigned from Chairman White to bring back information about the Director's position***

VII. OLD BUSINESS

- A. Method of Payment to Towing Companies - (***Moved to 4/14/10 PTC meeting – 3/10/10 meeting was canceled***)

VIII. NEW BUSINESS

A. Public Hearings

- 1. Waiver Request from A-1 Limousine of Central Florida for Rule 8.4.3: A stretch Limousine may not be older than five (5) model years when initially inspected to be placed into service. (***Moved to 4/14/10 PTC meeting – 3/10/10 meeting was canceled***)

***Attorney Perez informed the Board that waiver approvals need a supermajority of 5 Board members so a vote could not be taken regarding this matter at this meeting. As a result, the Chairman had to defer this item to the next PTC meeting.***

2. Limousine Service Applications

- a. Pronto Transportation (Tampa, FL) – application two (2) additional limousine permits on their already existing limousine certificate (***Moved to 4/14/10 PTC meeting – 3/10/10 meeting was canceled***)

***Director Padilla gave a summary for staff's recommendation of approval of the two additional permits for Pronto Transportation. Chairman White asked if anyone wanted to speak regarding the application. The company's representative was present but had no comments.***

***Motion to approve the application of Pronto Transportation for a two (2) additional limousine permits was made by Councilman Knapp, seconded by Councilman Caetano and passed unanimously.***

- b. Elite Transportation Management Services, LLC (Wesley Chapel, FL) – limousine certificate and three (3) 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 Elite***

***Transportation Management Services, LLC. Chairman White asked if anyone wanted to speak regarding the application. The owner was present, but did not want to speak.***

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

***Motion to approve the application of Elite Transportation Management Services, LLC for a limousine certificate and three (3) permits was made by Councilman Caetano, seconded by Councilman Knapp and passed unanimously.***

- c. Red Rose Limousine, Inc. d/b/a Airport Express (Clearwater, FL) – limousine certificate and four (4) limousine permits

***Director Padilla gave a summary of the Hearing Officer’s recommendation for approval of the application for a limousine certificate and four (4) unrestricted limousine permits requested by Red Rose Limousine, Inc. d/b/a Airport Express. Chairman White asked if anyone wanted to speak regarding the application. The owner was present, but did not want to speak.***

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

***Motion to approve the application of Elite Transportation Management Services, LLC for a limousine certificate and three (3) permits was made by Councilman Caetano, seconded by Councilman Knapp and passed unanimously.***

### 3. Van Service Applications

- a. Skyline Limousine, LLC (Tampa, FL) – application for a van certificate and two (2) van permits (*Moved to 4/14/10 PTC meeting – 3/10/10 meeting was canceled*)

***Director Padilla gave a summary of the Hearing Officer’s recommendation for approval of the application for a van certificate and two (2) unrestricted van permits requested by Skyline Limousine, LLC. Chairman White asked if anyone wanted to speak regarding the application. The owner was present, but did not want to speak.***

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

***Motion to approve the application of Skyline Limousine, LLC for a van certificate and two (2) permits was made by Councilman Caetano, seconded by Councilman Knapp and passed unanimously.***

### 4. Zone Taxicab Service Applications

- a. Anytime Taxi, LLC (Valrico, FL) – application for two (2) additional zone (SE) taxicab permits on their already existing zone taxicab certificate

***Director Padilla gave a summary for staff’s recommendation of approval of the two additional permits for Anytime Taxi, LLC. Chairman White asked if anyone wanted to speak regarding the application.***

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

***Motion to approve the application of Anytime Taxi, LLC for a two (2) additional zone taxi permits was made by Councilman Caetano, seconded by Councilman Knapp and passed unanimously.***

B. Appeals of Public Vehicle Driver's License

1. Steven Eckhardt – Super Shuttle

*Chairman White asked if Mr. Eckhardt was present. Mr. Eckhardt came forth.*

*Director Padilla read staff's recommendation for denial the application for PVDL made by Steven Eckhardt.*

*Steve Eckhardt came forth and said that the information was misinterpreted. He said that that he went through a nasty divorce and that the charges were erroneous and have been changed to a petty misdemeanor. He said that he had three naked statues in his yard and that he was falsely charged with obscenity. The Chairman said that he is looking at the charges and asked Mr. Eckhardt if they were regarding the naked statues in the yard. Mr. Eckhardt said those charges were dropped and that he got into trouble for obscenity. He said the other three charges have been dropped as a nonissue. He said that he worked with Embassy Limousine and never had a problem with it in the past and they would hire them again. He stated that he never had any problems with the Board and no DUI's. Mr. Eckhardt said that it looked like he had DUI treatment, but if you look at the bottom it says "other" and he agreed to have a counselor agree that there was nothing wrong with him. He said that he had never even got pulled over for a DUI. Mr. Eckhardt said holds a license and has a concealed weapons permit and he wants a hack license to make a living. He said that he worked in the insurance industry, but the insurance industry is not making him money. He claimed that he did a great job with his staff, bosses and clients and never had any issues on the road. Councilman Knapp asked that if Mr. Eckhardt was aware that if he is denied he can only reapply in one year. Mr. Eckhardt said that he was not aware. Councilman Knapp told Mr. Eckhardt that if he is not approved, he cannot reapply for one year after denial. Councilman Knapp suggested that Mr. Eckhardt remove the application at this meeting and come back and bring information and let the Board make determination at next meeting. Mr. Eckhardt asked what he should bring. Councilman Knapp told him to bring something that clarifies the child pornography charges as well as the other charge.*

*Attorney Perez informed that there was a fire arms charge and a child pornography charge that was not represented on the submitted report, but based on the cover sheet, this information is indicated. Chairman White asked Mr. Eckhardt if he currently possessed a concealed fire arms permit that was issued from the State in 2009 and Mr. Eckhardt said that he did. He also said that he had a clean record and did not even have any parking tickets.*

*Commissioner Beckner asked about the resume' that was submitted in the packet. He wanted to know if Mr. Eckhardt prepared and submitted it and Mr. Eckhardt said that he did. He said that he has always been gainfully employed, but at this time he is having a hard time making a living. Commissioner Beckner asked who did Mr. Eckhardt's background checks in 2009. Mr. Eckhardt said that one was done for his PVDL. Commissioner Beckner wondered about Mr. Eckhardt having a clean record, but having a background check that shows he has charges. Mr. Eckhardt said he thought the matter was finished after his divorce, but when he followed up with an attorney, he thought it was taken care of through the Court and that the matter was resolved. He said that he paid Crimestoppers voluntarily and went through an evaluation process to prove that he has never had a problem. Commissioner Beckner said that he felt Mr. Eckhardt had not been honest and that he would not support his appeal at this time.*

*Attorney Perez said that these types of offenses are usually felonies, but in Illinois, obscenity is a misdemeanor and that there are different crimes of moral turpitude that are not necessarily felonies because sometimes the Law looks at these things differently.*

*Commissioner Beckner made a motion to accept staff recommendation.*

*Councilman Caetano said that he would not support the motion, but that Mr. Eckhardt should withdraw the application and move it to next month. He told Mr. Eckhardt that if he got shot down at this meeting, he would be denied for a year.*

*Chairman White asked for any other comments*

*Mrs. Dot Eckhardt, Mr. Eckhardt's wife said that her husband had a hack license already and went through background checks and has four licenses that he went through background checks in Florida. She said that when he went to reapply, and that someone is willing to hire him. Ms. Eckhardt said that her husband let the PVDL lapse because he went into the insurance business and it frustrates her because he wants to work and if the charges had been bad, they would have never dropped to a misdemeanor. He has already carried the license before and she said that she did not understand since her husband has an insurance license and a concealed weapons permit.*

*Chairman White asked Director Padilla if Mr. Eckhardt held a hack license before.*

*Director Padilla said yes, and that back in 2005 staff did Florida background check. The PTC now we do national background checks.*

*Councilman Knapp said that he wanted to support Mr. Eckhardt, but the information in front of him did not give him the moral judgment he wanted to make at this time. He told Mr. Eckhardt to come back with additional information instead forcing the Board to make a ruling today.*

*Chairman White asked if Mr. Eckhart would voluntarily withdraw his application and bring information back and he asked for a motion.*

*Commissioner Beckner's motion died*

*Councilman Knapp made substitution motion to put Mr. Eckhardt's appeal on the next PTC meeting agenda and told Mr. Eckhardt to work with staff to get information, motion seconded by Councilman Caetano and passed unanimously.*

*Mr. Eckhardt asked if clarification from his attorney would work. Chairman White told Mr. Eckhardt to get with staff and they will get the information to the Board.*

2. Michael Palladino – All Access Transportation, Inc.

*Chairman White asked if Mr. Palladino was present. Mr. Palladino came forth.*

*Director Padilla read staff's recommendation for denial the application for PVDL made by Michael Palladino.*

*Mr. palladino gave his name and said that he is making an appeal because he has had a problem in the past. He said that Peter gave him a chance and he would like to be put on probation so that he can prove that he has made mistakes in the past, but is different now.*

*Chairman White asked if anyone wanted to speak and no one did. The Chairman said that it seemed like he had a history of DUI's and Mr. Palladino said he had one.*

*The Chairman said that there was one in Clearwater and then in 2006 another.*

*Attorney Perez said that there are certain crimes that the Board is prohibited from approving and convictions of certain crimes, because someone was arrested is not enough, but if there was a conviction they cannot approve.*

*The Chairman asked if Mr. Palladino completed any substance abuse classes. Mr. Palladino said it was not necessary and said he made mistake and it was in 2003 and it was unfortunate.*

*Councilman Caetano said that he saw there were two and the only guilty one was in 2003 and we are in 2010 and that was 7 years ago and he believes in second chances and does not need people on unemployment and PTC can make its own decisions. Although he made a motion to approve this application, it died for a lack of a second.*

3. Bruce Statton – Enterprise Limo & Town Car Service, LLC

*Chairman White asked if Mr. Bruce Statton was in attendance and he came forth.*

*Director Padilla read the recommendation.*

*Bruce Statton put his name on record said that he has been in Tampa/St. Pete area for 40 years. He said that 11 years ago, he made a mistake but fulfilled his requirements and does not drink anymore and is trying to get a license. He said that he did write on the application that he had a felony, but checked with St. Petersburg and they said it was misdemeanor. Mr. Statton said that the owner of Enterprise Limo said that he would hire him and he's asking the Board for a break.*

*Chairman White said there is one page and a small judgment issue. Mr. Statton said that he was not trying to hide anything. The Chairman asked if a company representative was present. Mr. Statton said that the owner tried to come, but he was in St. Pete at the time. The Chairman asked if anyone else wanted to speak.*

*Councilman Knapp moved to approve the appeal and issue a PVDL to Mr. Statton, motion was seconded by Councilman Caetano and passed unanimously.*

C. Taxi, Limousine, Van, Handicab and BLS Ambulance Service Rule Changes

*Moved to the 5/12/10 PTC meeting for lack of members present at the 4/14/10 PTC meeting.*

D. PTC Audit

*Chairman White asked Kathy a manager with the accounting firm of Ernst & Young to give the PTC the report of its annual audit. Kathy said that they were wrapping up their audit of the PTC for FY09. She said there were no difficulties dealing with management and it was a very clean audit with no unrecorded or recorded entries and no disagreements with management. There were no consultations with other accountants and Ernst & Young's audit was performed very independently. She said that there was no relationship that would have a negative impact on their work with the PTC. There were no changes in accounting policies or practices or in the applications of the accounting guidelines. She said that there were no unusual or significant transactions that needed to be brought to the board's attention. Ernst & Young performed procedures for the general risk of fraud and they were not aware of any instances this fiscal year. She said that there were no material weaknesses identified, no*

*alternative accounting methods and no written communications issued to management. So, as a whole, it was a clean audit and as soon as Ernst & Young is finished with its wrap-up procedures, a report would be issued. The Chairman asked if the Board had any questions.*

*Motion to accept the PTC's FY09 audit and presented by Ernst & Young was made by Councilman Mark Knapp, seconded by Councilman Joseph Caetano and passed unanimously.*

**VICTOR DIMAIO:**

*Victor DiMaio came forth to give his legislative update. He spoke about the wrecker bill and said that it must go to the House Economic Development Committee before it goes to the floor of the House, then over to the Senate and finally to the Governor's office. He said that there were some concerns with HB1629/SB2814 wherein if there was a grievance with the PTC, it would go through DOAH. He said that there was extensive research done over the last several months and there is a cost involved of \$142.00 per hour to the PTC with no cap and no limit and it could run indefinitely. Anyone who goes through DOAH would pay no fee so it could encourage frivolous lawsuits nonstop. Mr. DiMaio said that he spoke with Brian Moore, the head of the JAPC and offered an alternative that would change one word from administrative review to judicial review. This would ensure that anyone who wants to sue the PTC could go to the Circuit Court or Federal Courthouse to sue the PTC. He wanted to entertain a motion to work with the Chair on the matter or work with the legislature. He said that the PTC could ask for the bill to be withdrawn and work with the legislature next year. The cost involved for filing fees, is \$400 to file a fee in Circuit Court and \$350 in Federal Court and it is capped.*

*Chairman White asked what the fiscal impact would be to the PTC and what it would potentially cost. Mr. Dimaio said that he confirmed with staff by conference call that there is a \$142 per hour cost with no cap.*

*Attorney Perez said that the issue was venue and the cost of where a case would be heard as well as who would be paying. With DOAH, the cost would be passed down to the members of the traveling industry. In a court action, the filer pays the costs.*

*Councilman Caetano asked if it had become a law, and was told that it had not yet at that time. Mr. DiMaio said that the PTC also still had time to work with the legislature. The sponsors of this bill were Representative Glorioso and Senator Storms.*

*Attorney Perez said that there have been several challenges to the rules in the past and a number went to DOAH, but he has argued that DOAH does not have jurisdiction. The administrative law judges agreed and dismissed those cases. The legislation would change it so that the administrative law judges would not dismiss the case. Challenges to these cases have been done in the Judicial System as well.*

*Councilman Caetano felt that whoever sues should pay if they lose a case instead of the PTC. Attorney Perez said that it is not in the act, but there is a way to get attorney's fees in the Act.*

*Commissioner Beckner asked if, when the cases are dismissed, if it was ever asked who they felt should actually be hearing those cases. Attorney Perez said that there were and said that he provided case law to show that the court is the proper venue. Commissioner Beckner also asked if the PTC ever received a bill from DOAH and who paid those expenses in the past. Attorney Perez said that DOAH operates from a trust fund that is pro-rated with a group of agencies who have contracts and he gave an example. He said there is no mechanism in place for us at this time. The Commissioner asked if the bill changed, would the PTC be directly responsible. Attorney Perez said that the bill does not address that issue, but if DOAH examines what is going on, it would not be inappropriate to charge the PTC.*

*Commissioner Beckner said that people should have the right to bring a suit, but not to bring more cost to taxpayers with frivolous suits that cause a burden to other taxpayers. Victor DiMaio said that this information was not put in the economic statement of that bill and he listed about a dozen other agencies in Hillsborough County that are like the PTC and none of them have DOAH designated as the agencies to go to, everyone has to go to court to file against them. Commissioner Beckner asked if there was a lobbying agency and Mr. DiMaio said that there was none. Mr. DiMaio said that he met with Brian Moore himself and that Mr. Moore offered an alternative amendment and that he wanted to offer that to the members in Tallahassee.*

*Chairman White asked Mr. DiMaio, for clarification, if the motion was to ask the Board to draft a letter to the legislators asking them to review the Bill and ask that DOAH not be the reviewing agency. Mr. DiMaio said yes.*

*Motion to draft a letter to the legislators asking them to review the Bill and ask that DOAH not be the reviewing agency for the PTC's rule challenges was made by Councilman Knapp, seconded by Councilman Caetano, motion passed unanimously.*

**X. ADJOURNMENT**

*There being no further business, the meeting of the Public Transportation Commission adjourned at 10:04 a.m.*

*\*\*\*This is not an official, verbatim transcript of the April 14, 2010 PTC meeting. It should be used for informational purposes only\*\*\**

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*Jacqueline E. Calleja, Administrative Specialist*

**NEXT COMMISSION MEETING – May 12, 2010**