

1255 Imperial Avenue, Suite 1000
San Diego, CA 92101-7490

**San Diego Metropolitan Transit System
Taxicab Advisory Committee Meeting**

TAXI 585.3

July 2, 2015

10:00 a.m.

James R. Mills Building
Board Meeting Room, 10th Floor
1255 Imperial Avenue, San Diego, CA 92101

Minutes

1. Roll Call

Ms. Myrtle Cole, chair of the Committee, called the meeting to order at 10:02 a.m. A roll call sheet is attached listing Taxicab Advisory Committee member attendance.

2. Approval of Meeting Minutes – March 26, 2015

Motion:

A motion was made by Mr. Antonio Hueso to approve the meeting minutes from March 26, 2015. The motion was seconded by Mr. Hushang Nahavandian. The motion passed unanimously.

Vote:

Aye: Abraham, Nichols (SDCRAA), Hamidi, Haratian, Hilemon, Hueso, Mayekawa, Majid, Mercer, Nahavandian.

Nay: 0

Abstain: 0

Absent: Gebreselassie, Lemma, Staples.

3. Non-agenda Public Comment

Mr. Alan Gold – 1464 San Altos Pl., Lemon Grove, CA, 619.698.9187

Mr. Gold made the suggestion that the due date for payment of the annual regulatory fee be split into two payments; one in January and one in March or May. Currently, the fee is due by the first week in April, which is when income taxes and other payments are also due.

7. MTS Taxicab Administration Fiscal Year (FY) 2016 Budget

Ms. Cole took this agenda item out of order to prevent the need for MTS Finance staff to attend the entire meeting.

Mr. Bill Kellerman apologized for not taking the proposed FY 2016 Budget to the Finance Subcommittee prior to MTS Board approval, and explained that because of the collection of taxicab permit *Interest Forms*, which were accompanied by a \$50 per-permit US Postal Money Order, the budget was unsure until those funds were processed. He introduced Mr. Lucas Kromer who provided a PowerPoint presentation regarding the FY 2016 Budget, and reviewed the budget information that had been previously approved by the MTS Board.

Discussion:

Mr. Hueso inquired under what category taxicab stands were allocated, and Mr. Kromer replied they were under the *Materials and Supplies* line item. Mr. Hueso suggested that some of the taxicab stands needed upgrading regarding the signage, and felt there may be a need for a separate line item so members were aware of the investment made regarding taxicab stands. He also mentioned that some of the signs still contained information regarding the LSVs.

Mr. Kamran Hamidi inquired as to whether MTS Taxicab Administration was paying for the recent legal fees stemming from a pending lawsuit, and Ms. Sharon Cooney advised that those fees were being absorbed by the City of San Diego.

Motion:

A motion was made by Ms. Namara Mercer to receive the FY 2016 Budget Report. The motion was seconded by Mr. Hamidi, and passed unanimously.

Vote:

Aye: Abraham, Nichols, Hamidi, Haratian, Hilemon, Hueso, Mayekawa, Majid, Mercer, Nahavandian, Palmeri

Nay: 0

Abstain: 0

Absent: Gebreselassie, Lemma, Staples. Mr. Palmeri had left the room briefly and did not vote on this item.

4. Committee Member and Management Communications

Mr. Hueso requested that the suggestion made by Mr. Alan Gold, regarding splitting the regulatory fee payments into two payments, was taken into consideration. Mr. Kellerman said staff would review the request.

Mr. Kellerman provided an update on the following:

A. New City of San Diego Taxicab Permit Update

- Over 1300 Interest Forms received;
- 1500 new taxicab permits requested;
- orientation meetings with new permit applicants began June 1;
- 188 individual applications provided to date;
- 5 completed and returned; and
- first permits possibly issued in the first two weeks of July.

B. TAC Lease Driver Representative Vacancies

Mr. Kellerman advised that two of the three driver representatives were no longer serving on the TAC, and that attempts had been made to contact those drivers with the next highest number of votes in the last election with no response, nor had there been a response from one of the permit holder members. Mr. Kellerman explained that staff may not have the option of replacing these members prior to the next election, which would leave 3 vacant seats.

Member Discussion:

Mr. Hamidi asked if it would be worthwhile to have another conversation regarding the composition of the TAC, since many changes had occurred. He suggested reducing the number of driver representatives and having a County representative on the Committee. Mr. Kellerman asked if he was suggesting making the Sheriff's representative a voting member and Mr. Hamidi stated he felt the entire makeup of the TAC should be discussed prior to the next election, including adding the County. Ms. Cooney replied that if it were the consensus of the Committee, this could be accomplished. It would push the elections back even further, but it could be discussed. Mr. Kellerman reminded the Committee members that the TAC Guidelines required that the permit holder and driver representative members had three years' experience in their current capacity to be eligible to sit on the Committee. Mr. Hueso added that because of the fact that things had changed, moving forward there would be fewer driver representatives available for the TAC in the future.

C. Taxicab Administration Staffing Update

- Two new Regulatory Analysts hired;
- Holding back on hiring two new Enforcement Officers until more new permits were issued.

Member Discussion:

Mr. Hueso brought up the airport trip fee, and stated that there had been language added in the past pertaining to the original trip fee increases in order to prevent the need to obtain approval each time the fee was increased. Mr. Kellerman replied that he was aware of the meeting at the airport and had provided information to them at their request. He offered to provide the documentation to Mr. Hueso.

Mr. Palmeri stated that the TAC was the only advisory board that he was on that did not have old and new business on the agenda, and if something new were brought up, there would need to be an interruption in discussion. He cited the fact that the airport had decided not to do background checks on TNCs or taxicabs. He said that if the TNCs were not obligated to come up to the same standards as taxicabs, then taxicab standards should be lowered to make it an even playing field so they could compete. He felt MTS was not helping the industry and that the TNCs were not regulated in the same manner as taxicabs. He stated that if MTS was not going to help the industry, the industry did not need MTS.

Ms. Cooney advised that it was the appropriate time for Mr. Palmeri to bring up those issues. Staff brought up what they intended to discuss, but since it was Committee Member Communications, she appreciated his comments. She said that unfortunately, policy decision was not driven by the TAC, but an item could be brought to the TAC at the next meeting in September, during which there could be a discussion, and a recommendation could be made to the MTS Board. She said as a regulator, MTS had been concerned for some time, but it was a policy decision to allow other transportation to function in that

manner. The MTS Board could not make the decision, as the decision still must be made by either the City or the Airport Authority, but it could make recommendation.

Mr. Palmeri questioned why MTS was able to make recommendations for installation of cameras in taxicabs and higher insurance limits, and the City agreed, but MTS could not recommend that insurance limits be lowered. Ms. Cooney replied that the TAC could make a recommendation to the Board for MTS to recommend to the City regarding those policies. *Mr. Palmeri responded, but did not have his microphone turned on.* Staff notes indicated Mr. Palmeri stated he was tired of hearing that it was someone else's decision and that if the agency did not support the industry, there was no purpose to having the TAC. He said if the TAC went along with the agency, it was agreeable, but if there was another idea presented by the industry, and the agency did not agree, the industry's ideas did not count. He felt everyone should just quit the TAC and forget about the elections because nothing was coming out of the TAC that was valuable to the industry for the long-term.

Ms. Cooney again stated that the TAC should bring forward a recommendation that the MTS Board take a position in opposition to TNCs. She advised that she would need to know if all TAC members were in agreement and in support of taking it to the Board. Mr. Palmeri replied that he was speaking for himself, and the fact that the insurance requirements had changed to allow people to obtain insurance outside California made very little difference, since the amount of insurance remained at \$1M. He said he wanted taxicab regulations to be the same as TNCs. He felt it was political, and he could not fight politics. Either the MTS Board was with the industry regarding insurance and background checks, or against it. He said it bothered him that these matters were going before the MTS Board and they were voting on them, yet some of the Board members were from Chula Vista, National City, and Coronado, were voting for \$1M of insurance, but in their cities it was only \$350k. He wondered why their cities were safer than San Diego, and felt that those cities should recuse themselves from voting, since their cities were different, but nobody cared. He said the industry cared because they could not find insurance, and could not afford to spend any more money. He felt that the Committee got nothing done and said he did not care about the elections, or whether there were 5 or 25 more lease drivers. He said he was trying to save an industry that was going the way of the horse and buggy. Ms. Cole said she heard Mr. Palmeri loud and clear, and thanked him for his comments.

Mr. Hueso added that he felt airport board members and San Diego City Council lacked information as to how the industry operated taxicabs. He said they had learned from what happened with the drivers that a lot of misinformation was stated and was accepted as true, but it was not the reality. If the TAC was to be an advisory committee, it needed to advise the City Council members and the parties that engaged with the industry as to how the industry was operated. He suggested that maybe a regional permit needed to be put in place, because industry competitors had not only regional coverage, but state coverage, and did not have the regulatory requirements that the taxicab industry had. He cited the fact that MTS had six inspectors for their areas of jurisdiction, but that the state of California only had six inspectors for the entire Southern California area. He said the state inspectors were responsible for inspections, enforcement, and complaints. He felt that as far as leveling the playing field, the City Council had lacked that vision. The permits were from the City and the City was a partner to the industry. He advised that the industry needed the City's assistance rather than their politics.

Ms. Cole suggested that the Committee make appointments to speak with Councilmembers, including herself, and stated she did not see that they were doing that. She said she would ask the chair of the Public Safety & Livable Neighborhoods (PS&LN) Committee to have a presentation so that industry members could go before City Council, because if the industry did not feel the City Council was listening, they needed to go and talk to them. She stated

she did not see that happening between meetings. She told them if they made appointments with her, she would hear them out. She suggested that they needed to make presentations at the PS&LN meetings as to what was happening with the taxicab industry, and she would ask the chair to schedule that so they could go and make presentation and be updated on a regular basis as to what was happening to the industry.

Mr. Palmeri stated that he would do whatever he had to do get a response to help the industry. He said that if it did not happen, he would not be sitting on the TAC in a year, not because he did not want to, but there would be no reason for the TAC to exist based on current business. Ms. Cole replied that she understood that, and that she was willing to have members come to Councilmember offices and meet with them on an individual basis to keep them informed and updated on a more regular basis.

Mr. Hueso added that he had learned that government was not talking to government, and that it was important that they did so, especially the enforcement agencies. Mr. Palmeri said that the drivers wanted permits, and Councilmember Emerald worked hard to make that happen, but because of the expense involved some decided they did not want to do it. He felt the City should find out what it cost to get into the taxicab business. He advised that the business was so overpriced with such a small return that they would make more money leasing. He stated this information came from some of the people that were on the list that were going to lose their \$50 deposit because they could not afford to get into the business.

Regarding going before the PS&LN Committee, Ms. Mercer suggested that it should be more of a government-to-government report. She said the drivers and permit holders were very passionate about the issue, but the reality was that there were different costs for taxis and rideshares. She suggested having Mr. Kellerman present the facts as to how much it cost to be a permit holder would be as important as having the individual members present, and MTS would be telling the City of San Diego what that actual cost would be. Ms. Cole said she would also ask Mr. Kellerman to make presentation to the PS&LN Committee. Mr. Kellerman said he would be happy to do that, and he stated that staff had already provided those permit holder costs to the City Council during the permit issuance vetting process.

Ms. Cole suggested that agenda item 6 be taken out of order, since insurance had been part of the discussion.

6. MTS Taxicab and For-hire Vehicle Insurance Requirements

Mr. Kellerman explained the change to the vehicle insurance requirements, stating that the issue had been discussed at the Workshop on Regulatory Matters (WORM) meeting in March, proposing eliminating the requirement that any companies had to be California-admitted. He said that was the only change, and that the ratings would remain the same. Eliminating that requirement might open up other options for permit holders to seek insurance.

Public Comment:

Masoud Shahri – BB&T-John Burnham Insurance, 750 B Street, #2400, 619.525.2849

Mr. Shahri said he had been providing insurance for taxicabs in San Diego since 1987, and was the largest provider of insurance to the taxicab industry in 35 states, and that changing the rule that companies did not need to be California-admitted would not make any difference. He said the only solution was to reduce the limits of liability from \$1M to either \$500k, or \$350k, which was where about 95% of all the municipalities in the country were. He informed the Committee that there were only a select number of cities in the country that mandated \$1M. Mr. Shahri advised that in the past 30 years, there were 3 insurance companies that were non-admitted,

and they had all filed bankruptcy. He also advised that if someone had an accident, and the company was non-admitted, no claims would be paid. In the California Guarantee Fund, if the company was admitted, the claim would be paid up to \$350k. He felt the Committee should be sensitive to that issue, and by allowing non-California admitted, all that was going to happen was an increase in exposure to companies that could go belly-up and there would be no recourse. He stated that in order to open up the market, the \$1M limit needed to be reduced.

Ms. Cole asked Mr. Kellerman how much insurance other cities required, and he responded that with the exception of National City, all cities in the MTS jurisdiction required \$1M, including the airport.

Mr. Hamidi said he agreed with Mr. Palmeri, and that at the WORM meeting there had been a general consensus that they should form an ad hoc committee for discussing insurance, which would then recommend a lower insurance requirement. If it were done now, by renewal time in February, there might be a lower requirement. He said insurance was one of the biggest threats to the industry, and that in 1990, the majority of taxicabs went out of business because they did not have insurance. He indicated that Mr. Shahri had been before the Committee 3 times, and still the TAC had not moved on it, and felt that if MTS could lower the rates of fare without going to the City for approval, MTS could reduce the insurance limit. He volunteered to be on the ad hoc committee, and felt many others would as well, but they needed to get it moving before February. He said originally MTS had suggested \$750k, but some of the permit holders on the Committee wanted \$1M, and MTS went along with them. He said if there were one big lawsuit and the jurors were sympathetic to driver of the cab, the whole industry could go out of business if the \$1M were paid, because the premiums would increase. If they could not pay the premiums they would be out of business. He stated it needed to be addressed and the subject had been moved along many times without resolution. The limits needed to be lowered to \$500k, and he cited the fact that Ms. Susan Lockwood, Risk Manager, said there had not been a claim over \$500k.

Mr. Hueso added that obtaining insurance was an education process, and a lot of people thought it was guaranteed, but it was not. He agreed with Mr. Hamidi that the limits were high, but that staff and the legal department had already stated that they could not go down on the limits, and maybe they needed to look at other ideas. The airport was not willing to go down, and would put pressure on the industry to keep it at a higher level. He advised that the industry had formed groups because they could not survive by themselves and obtain insurance. Insurance providers did not look at it as one entity, but looked at a group. They survive because of what they do by collectively keeping the product intact and viable so it survives. He wondered if the legal department had any information or suggestions regarding insurance. If so, it may be the time to share the information so no more time was wasted on the subject, since the airport was up front and advised they were not lowering their standard.

Mr. Palmeri stated that with the \$1M limit, insurance companies were very interested in the driving habits of the drivers, and pulled their DMV records, including any citations with their private vehicles. If a driver had a bad driving record, the insurance company excluded them from driving. This left the permit holder paying a high premium for each vehicle without any drivers. He said keeping drivers would be easier if the limits were \$350k, as the drivers may not be scrutinized as heavily.

Ms. Cooney advised that she and Mr. Kellerman had been scheduled for two meetings with Councilmember Emerald, but they had been cancelled. She said that the PS&LN was aware that MTS wanted to have a conversation regarding insurance.

Ms. Cole inquired about the ad hoc committee. Mr. Kellerman responded that there had been a meeting with City Council staffers to see if the City was receptive to having that discussion. He reiterated that two meetings had been cancelled, and they would try again the following week.

Mr. Hushang Nahavandian said that it was his concern that if non-admitted companies were permitted, should there be an accident, and the company went bankrupt, a claim would not be paid, whereby if it were a California admitted company, the state would pay the claim.

After further discussion, Mr. Hamidi moved to create an ad hoc committee for the purpose of reviewing, and possibly lowering, the insurance limits from \$1M. The motion was seconded by Mr. Akbar Majid, and passed unanimously. This was not a noticed agenda item. Mr. Kellerman requested that those who were interested in serving on the ad hoc committee contact the Clerk of the Committee.

Motion:

A motion was made by Mr. Hueso to make a recommendation to the MTS Board of Directors to approve the proposed changes to the MTS Taxicab and For-Hire Vehicle Insurance Requirement to allow non-California admitted insurance carriers. The motion was seconded by Mr. Akbar Majid. The motion passed unanimously.

Vote:

Aye: Abraham, Nichols, Hamidi, Haratian, Hilemon, Hueso, Mayekawa, Majid, Mercer, Nahavandian, Palmeri.

Nay: 0

Abstain: 0

Absent: Gebreselassie, Lemma, Staples.

5. MTS Administrative Penalty Guidelines

Mr. Kellerman explained the proposed changes to the *MTS Administrative Penalty Guidelines* so they coincided with the recent changes to the MTS Ordinance No. 11 language. He explained those changes would be to item 1.8 (q), which added language on information required on a receipt, and that Item 2.3 (q) was a new requirement that stated the credit card device needed to be linked to the taximeter.

Discussion:

Mr. Palmeri inquired how this would be enforced. He said there were many drivers that would not use the machine. Mr. Kellerman replied that staff did receive complaints regarding his concerns and that staff followed up on all of them. He advised when complaints were received, the vehicle was called to the Inspection Facility. Mr. Palmeri commented further, but his microphone was not on.

Ms. Cooney said that there needed to be a better customer service procedure, such as an app. that people could utilize in real time to lodge immediate comments or complaints. She said she would like that to be a main focus this year. Mr. Hueso agreed with Ms. Cooney, since the competition had a feature where there was no cash exchanged. He mentioned that in some cities, there was more collaboration between enforcement agencies and that type of abuse did not happen as frequently, since there was very little tolerance. He felt that as operators, it should be made known through the radio services that it would not be tolerated, because it was hurting the industry. Mr. Brian Hilemon asked what options customers had, and Mr. Kellerman replied that they could either contact the radio service or the MTS Taxicab complaint line

telephone number posted on all taxicab stand signs and on the *Passenger Bill of Rights* mandated in each vehicle. Ms. Mercer asked if there were a customer service app., and Ms. Cooney said that was what she had thought would be effective. She thought it might be a good time to spread the cost over all permit holders, since there would be extra funds coming in from the new permits that were being issued. She said this would be something that the industry would need to help staff determine, because everyone needed to agree that it was within their business model.

Motion:

A motion was made by Mr. Majid to make a recommendation to the MTS Board of Directors to approve the proposed revisions to the *MTS Administrative Penalty Guidelines*. The motion was seconded by Mr. Hueso, and passed unanimously.

Vote:

Aye: Abraham, Nichols, Hamidi, Haratian, Hilemon, Hueso, Mayekawa, Majid, Mercer, Nahavandian, Palmeri.

Nay: 0

Abstain: 0

Absent: Gebreselassie, Lemma, Staples.

Mr. Hamidi stated that he had originally been on the WORM Subcommittee, but had resigned to possibly give his seat to a driver representative. He stated there were no longer enough members on the WORM, and it was becoming difficult to reach a quorum and he wished to volunteer to sit on the subcommittee once again. He reiterated that he would like to have a County representative present as a member on the TAC, because it might be a way to help control the TNCs. He said he would like to see the TAC reorganized before the September meeting and elections. Mr. Kellerman stated that his suggestion would be taken into consideration.

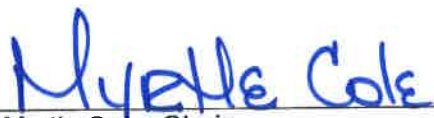
8. Next Meeting - Thursday, September 24, 2015, 10:00 a.m.

9. Adjournment

The meeting was adjourned at 11:25 a.m.

Accepted:

Filed by:



Myrtle Cole, Chair
MTS Taxicab Advisory Committee


Diane Sundholm, Clerk of the Committee
MTS Taxicab Administration