

BRIAN SANDOVAL
Governor

BRUCE BRESLOW
Director



RONALD GROGAN
Administrator

JENNIFER DeROSE
Deputy Administrator

STAN OLSEN
Chairman

Members
BRUCE AGUILERA, ESQ.
JAMES E. CAMPOS
ROGER C. THOMPSON, Ph.D

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DEPARTMENT OF BUSINESS AND INDUSTRY
TAXICAB AUTHORITY
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MINUTES OF THE DECEMBER 8, 2016 BOARD MEETING AND HEARING

1. Call to Order

Chairman Stan Olsen called the meeting to order at 9:04 a.m. at the location of 2080 E. Flamingo Road, Suite 114, Las Vegas, Nevada 89119.

Present from the Nevada Taxicab Authority Board

Chairman Stan Olsen

Member Bruce Aguilera

Member James Campos

Member Roger Thompson

2. Pledge of Allegiance to the Flag

Chairman Olsen led the Pledge of Allegiance to the Flag.

3. Compliance with Open Meeting Law

Administrator Ronald Grogan stated the meeting is in compliance with Open Meeting Law.

4. Public Comment

No comments.

5. Approval of the November 17, 2016 Board Meeting Minutes

All in favor – motion passes.

6. Discussion with Maria Soto, Traffic Manager for LVCVA, Regarding Recent Taxicab Service

This agenda item was tabled until the next meeting.

7. Discussion with Freddie Kirtley, Assistant Director, Landside Operations, McCarran International Airport, Regarding Recent Taxicab Service.

This agenda item was tabled until the next meeting.

8. Discussion with Jeff White, Security Manager, Sands Expo, Regarding Recent Taxicab Service

This agenda item was tabled until the next meeting.

9. Discussion to Schedule the January 2017 Board Meeting Date.

The Taxicab Authority Board selected the following meeting dates for 2017: January 26, 2017, February 23, 2017, March 30, 2017, April 20, 2017, May 18, 2017, June 22, 2017, July 20, 2017, August 24, 2017, September 21, 2017, October 26, 2017, November 16, 2017, and December to be determined.

10. Discussion Regarding Annual Review of Rates - Pursuant to NRS 706.8824(6) – The Taxicab Authority shall review annually: (a) The existing allocation of taxicabs; and (b) The rates, charges or fares of the certificate holders in its jurisdiction.

11. Discussion Regarding Annual Review of Medallions - Pursuant to NRS 706.8824(6) – The Taxicab Authority shall review annually: (a) The existing allocation of taxicabs; and (b) The rates, charges or fares of the certificate holders in its jurisdiction.

12. Discussion Regarding Annual Review of Fees – Pursuant to NRS 706.8824(6) – The Taxicab Authority shall review annually: (a) The existing allocation of taxicabs; and (b) The rates, charges or fares of the certificate holders in its jurisdiction.

Items 10, 11, and 12 were discussed together.

Jonathan Schwartz, Vice President of the Livery Operators Association, provided a cost analysis of processing credit card transactions. Mr. Schwartz stated the numbers used to reach the cost of \$2.59 per transaction were provided by, and represent, 70 percent of the taxicab industry in Southern Nevada. Mr. Schwartz further stated driver benefits are not included in the cost analysis. Mr. Schwartz stated he is convinced that the \$3 credit card fee is necessary to cover the costs associated with providing the service.

Member Aguilera asked Mr. Schwartz if all the listed expenses directly relate to accepting credit card payments. Mr. Schwartz answered yes. Chairman Olsen asked Mr. Schwartz if the numbers provided are an average of the numbers provided by 70 percent of the industry. Mr. Schwartz answered that it is an average. Member Thompson asked Mr. Schwartz to define transaction costs from the list of expenses relating to credit card processing. Mr. Schwartz stated transaction costs are the fees paid by the taxicab company to the outside vendor to process the transaction. Member Aguilera asked Mr. Schwartz if the transaction costs are based on a percentage of the charge. Mr. Schwartz stated there is a long list of costs that go into processing credit card transactions. Transaction costs on the analysis represent all of those costs added together and divided by the amount of transactions processed. Member Thompson asked how much is the average fare. Mr. Schwartz answered it is about 17 dollars. Member Thompson commented that the transaction cost would then be about 7 to 8 percent of the fare amount. Member Thompson stated most stores get charged around 3 percent. Mr. Schwartz stated there is a difference because taxicabs are in a mobile environment and each taxicab is equipped with a credit card reader rather than one reader for an entire store. Chairman Olsen asked if taxicab companies are being assessed fees for the credit card readers when the taxicabs are not being used. Mr. Schwartz answered yes. Administrator Grogan asked if the industry has done any analysis regarding the uncollectibles being beyond industry averages. Mr. Schwartz stated the more he researches the charges associated with processing credit card transactions the more expenses he finds.

Brent Bell, President Whittlesea Blue Cab, Henderson Taxi, and of the Livery Operators Association, stated the reason the charge backs are higher in the taxicab industry is related to the mobile



environment. Mr. Bell stated the revenue from the credit card fee is used on health insurance, DT5 meters, and mobile technology.

Mr. Bell stated that during the last meeting when ITPEU representative Sam Moffitt stated the drivers do not share in the credit card fee, Mr. Moffitt is correct. Mr. Bell stated however, the drivers do benefit from the fee by receiving health insurance and benefits which have been increased by the revenue gained from the credit card fee. Mr. Bell stated his two companies have paid a combined total of \$1,145,000 in increases towards health insurance benefits since they began receiving credit card revenue. Mr. Bell stated he is going to be counting on credit card revenue to offer benefits during the next union negotiation. Mr. Bell compared the credit card fee to parking fees at casinos. Mr. Bell stated it is a convenience fee.

Mr. Bell stated the new DT5 meters that are being installed will accept credit cards and e-hails. Mr. Bell stated his company has spent over \$527,000 on these meters.

Mr. Bell stated with Mobileye technology the driver will be notified with a beep or a vibration in the seat if the driver is approaching an person, vehicle, or object, at too great a rate of speed. Mr. Bell stated his taxicabs have had this technology for 5 years. Mr. Bell stated his company has spent over \$500,000 on Mobileye technology.

Member Aguilera asked when they started receiving credit card fees. Mr. Bell answered they started receiving the fees in 2004. Chairman Olsen clarified that the fees started in 2004 but was authorized by the legislature in 2011.

George Balaban, Desert Cab Company, stated the technology to make processing credit card transactions is more extensive than in a non-mobile environment. Mr. Balaban explained that the readers do not always get a connection and so must also be able to store the information so it can be transmitted later when a connection is established. Mr. Balaban also stated in a mobile environment there is more fraud. One example Mr. Balaban gave is when a customer leaves their card in the machine and subsequent rides are charged to the card thereby increasing fraud.

Mr. Balaban commented on the competition with the TNCs for customers and employees. Mr. Balaban stated previous to the TNCs his drivers ran 12 hour shifts. Mr. Balaban stated over the last year his shifts have changed to 9 hours in order to retain employees. Due to these changes Mr. Balaban stated he has had a 20 percent increase in employees. This has increased his labor costs. Mr. Balaban stated he needs this revenue stream from the credit card fees to cover the costs of an increase in employees and to provide benefits for his employees.

Mr. Balaban stated he does not get any customer complaints regarding the credit card fee. Mr. Balaban stated if the customer does not want to pay the credit card fee they just pay with cash.

Member Campos asked Mr. Balaban if he has a company or industry average for the amount of fraud they experience regarding credit card transactions. Mr. Balaban stated he believes it is about 1 percent. Member Thompson stated he thinks the employee health insurance is a very good thing and he would like to see it continue. Member Thompson stated paying for the health insurance with the credit card fee may mean that the fares are too low. Member Thompson stated he believes general operational expenses should be covered by general operations of the taxicabs, not necessarily the credit card. Member



Thompson stated they need to respond to the audit and the sticker shock to the public. Member Thompson asked if there has been a reaction from the public in regards to this fee. Mr. Balaban stated they do not get complaints about the credit card fees, perhaps because they recognize it as a convenience fee.

Mr. Bell stated they would definitely have health insurance for their drivers even without the credit card revenue. However, they would not be able to carry the same coverage for their employees without the credit card revenue. Member Thompson stated they could offer the same coverage if they raised the rates. Mr. Bell stated they would have to raise rates by 42 percent in order to cover what the credit card fee covers now.

Member Aguilera suggested using a percentage of the fare as the credit card fee rather than the \$3 flat fee and also raising the rates to cover increases in operational expenses.

Chairman Olsen asked Administrator Grogan how many complaints the Taxicab Authority has received regarding credit card fees. Administrator Grogan stated they do not receive many complaints on the credit card fee.

Member Campos asked if there were any proposals outside of the \$3 when the initial fee was approved. Mr. Bell stated he thinks it was only the \$3 figure that was proposed. Mr. Balaban stated initially it was a \$3 credit card fee for every \$50 on the meter and then it became a \$3 flat fee. Mr. Bell stated the Taxicab Authority Board encouraged the industry to accept credit cards because it was in demand by the public.

Kimberly Maxton-Rushton, Executive Director of Livery Operators Association, stated the Taxi Research Partner's presentation recommended embedding the credit card fee into the rate. Ms. Maxton-Rushton stated statute restricts embedding of credit card fees into the rates in Assembly Bill 351. Ms. Maxton-Rushton stated the intent is that no credit card fees are imposed on customers paying cash for their taxi service.

John Marushok, General Manager Frias Transportation, stated he was on the Taxicab Authority Board when the credit card fee was approved. Mr. Marushok stated the discussion began in January of 2010 and was continued to March of 2010 with a request for further information. Mr. Marushok stated meetings were held on March 23, 2010 and April 6, 2010 in which the board heard over 12 hours of sworn testimony including testimony from the Attorney General's office and the members of the industry. Mr. Marushok stated he believes the fee was understated at the time in consideration of the amount of money it cost the taxicab companies to process credit card transactions. Mr. Marushok stated at the time the credit card fee was implemented they had no historical records on which to base the fees. Mr. Marushok stated now they have 6 years of history to know exactly what credit card processing will cost them.

Ms. Maxton-Rushton stated in 2011 the legislature clarified the criteria the board can look at in determining the credit card fee as represented in NRS 706.88355. Ms. Maxton-Rushton stated Taxi Research Partner's recommendation of setting a maximum rate is contrary to the law, specifically to NAC 706.471. Ms. Maxton-Rushton stated she respectfully asks the board to maintain strict adherence to their statutory authority and not embed the credit card fee in the fare where customers paying cash will be charged the credit card fee.



Member Aguilera asked if they charge a credit card fee in Northern Nevada. Ms. Maxton-Rushton stated they do and it falls under the Nevada Transportation Authority. Ms. Maxton-Rushton stated the fee has been approved but an amount has not been set as of this time.

Chairman Olsen asked Ms. Maxton-Rushton to supply the documents relating to statutory authority in regards to setting the credit card fee.

John Hickman, General Manager Western Cab Company, stated he agrees with the numbers provided by the LOA in respect to the credit card fees as they are roughly the same as Western Cab experiences. Mr. Hickman stated Western Cab is fine with the amount of medallions they have and they are not pushing for a rate increase provided the credit card fee remains the same. Mr. Hickman stated due to the mobile environment and the reduced use of each credit card reader the costs are significantly different for a taxicab company than a retail business. Mr. Hickman stated in the last 6 years they have put in 3 generations of credit card equipment in their 200 taxicabs and there is a cost associated with that. Mr. Hickman stated they have not hit bottom in terms of loses to the TNCs and he believes raiding this particular revenue stream right now is a mistake for the health of the industry.

Jason Awad, Owner Lucky Cab Company, stated he concurs with most of the statements regarding costs and expenses of credit card transaction stated here today. Mr. Awad asked why the public was not asked if they have an issue with the cost of the credit card fee during the audit. Mr. Awad stated today's reality on the ground should be the focus of the board. Mr. Awad stated they cannot abuse the trust of the public so the board needs to collect the evidence and look at it to determine what is fair. Mr. Awad stated he is concerned that the industry as a whole has lost \$55 million. Mr. Awad is concerned with the reduction in staff at the Taxicab Authority due to these losses. Mr. Awad stated they are recommending an increase in fares and revenues to the Taxicab Authority so they do not reduce their staff. Mr. Awad stated the TNCs are losing money on their rides but they are doing so in hopes of putting the taxicab industry out of business. Mr. Awad urged the board to look at the big picture in determining rates and fees. Mr. Awad stated his SIR insurance premium has gone up 10 percent every year and is up 70 percent from 2008. Mr. Awad recommended the board collect more information before making a decision on the credit card fee. Mr. Awad further recommended waiting until after the legislative session to make a decision.

Chairman Olsen responded to Mr. Awad's concern over enforcement of the TNCs stating that the Taxicab Authority does not have jurisdiction over TNCs. Mr. Awad concurred and stated that the legislature should make changes to level the playing field and provide for the safety of the riding public. Mr. Awad stated fares and fees should be looked at and companies that bilk the public should be sanctioned. Chairman Olsen responded to Mr. Awad's comments regarding bilking the public and stated that the taxicab companies should get a handle on long hauling. Mr. Awad stated he is not defending the drivers committing long hauls but the driver's needs have to be considered.

Kevin Malcolm, Verifone, discussed the fees faced by the taxicab industry when processing credit card payments. Mr. Malcolm stated the standard costs are higher for taxicabs and there are additional costs associated with the mobile environment and the need for a processor in each taxicab. Mr. Malcolm stated in other cities these fees are included in the fare or the fees are passed to the driver and independent contractors.



Mr. Malcolm stated the TNCs are operating at a loss for the purpose of driving the taxicab industry out of business and this is something to consider when determining the rates and fees for the taxicab industry.

Jeremy Aguero, on behalf of Livery Operators Association, offered his analysis of Taxi Research Partner's report. Mr. Aguero questioned why the rate comparison table on page 17 of Taxi Research Partner's report is incomplete. Mr. Aguero further questioned how the jurisdictions listed in this table were chosen. Mr. Aguero pointed out that the table 3 on page 17 is in conflict with table 12 on page 41 in that San Francisco is included in table 12 but not in table 3.

Mr. Aguero stated the industrial cost structure of Taxi Research Partner's report only addresses change in prices not what the price actually is. Mr. Aguero stated the vast majority of the work relating to costs as they are is regarding the credit card fee. Mr. Aguero stated he believes the credit card fee has complete disparate treatment. Mr. Aguero questioned why July 1, 2013 was chosen as the start date for the report when gas prices were abnormally high. Mr. Aguero commented on the Taxi Research Partner report's conclusion that insurance has decreased when evidence that insurance has increased has been presented.

Mr. Aguero stated he disagrees with the conclusion in the report that market equilibrium has been achieved. Mr. Aguero believes the market is still in a decline and struggling to find equilibrium. Mr. Aguero stated regulation of fees and encouragement to discount those fees would cause an economic disaster and he knows of no industry in which that method works.

Mr. Aguero commented on the Review Journal article dated July 17, 2016 asking for the public to participate in the survey used by Taxi Research Partner for their report. Mr. Aguero stated the disparaging remarks made in the article regarding the industry overcharging the public tainted the results of the survey.

Daniel Wade, CEO Frias Transportation, thanked the board, administration, and the staff of the Taxicab Authority for the work they do. Mr. Wade stated the industry is in dire times right now and they need the board's help. Mr. Wade stated he would like more communication with the Taxicab Authority in working together to strengthen the taxicab industry. Mr. Wade asked the board to table the decision on rates and fees until after the legislative session.

Ruthie Jones, ITPEU, stated the drivers feel disillusioned. Ms. Jones stated the drivers and the companies are hurting. Ms. Jones stated the drivers need consideration also as they are the ones making the earnings for the companies. Ms. Jones stated the drivers want to share in the credit card fee because they feel the credit card fee negatively impacts their tips.

Sam Moffitt, ITPEU, stated he believes Mr. Bell's statement that he would need to raise the rates by 42 percent to cover the loss of the credit card fee is inaccurate. Mr. Moffitt stated many of the customers are here on vacation and do not want to take the time to call and complain about the credit card fee however, the drivers do consistently receive complaints when the customer is paying. Mr. Moffitt commented that Uber and Lyft do not charge a credit card fee.

Mr. Moffitt commented on the fuel surcharge and how the companies take part in that even when the driver pays for all the fuel.



Ms. Jones commented on the escalating violence between TNC drivers and taxicab drivers. Ms. Jones asked for fairness in the board's consideration. Chairman Olsen stated he will definitely be fair. Chairman Olsen also stated that many of the concerns raised by ITPEU today are concerns that need to be raised at the legislature in order to level the playing field.

Mr. Moffitt stated that the taxicab drivers and the taxicab companies are on the same side regarding several concerns. Mr. Moffitt stated they are willing to discuss these concerns with the companies and go to legislature together on issues that will benefit both parties.

Chairman Olsen stated he appreciates the industry's input and to look for a decision in January as the board will be reviewing the information presented today.

13. Staff Report

a. Administrator's Report

Administrator Grogan stated he is confident that the board will be able to make a better decision with the information that was presented today. Administrator Grogan stated he acknowledges that work needs to be done on Taxi Research Partner's model but he is committed to the structure that the report outlines in terms of moving forward and making decisions about rates and fees. Administrator Grogan stated that more cooperation from the industry in building the model will provide a much better tool. Administrator Grogan thanked the industry for their transparency over the last week and he looks forward to a good outcome.

b. Chief Investigator's Report

Chief Aquino was not present.

c. Stats for December 2016

d. Future Agenda Items

No future agenda items at this time.

14. Report of Legal Counsel

Deputy Attorney General Sophia Long had nothing to report.

15. Public Comment

No comments.

16. Adjournment

All in favor of adjournment – motion passes.

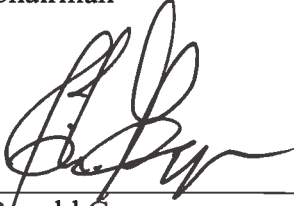


Approved by:



Stan Olsen
Chairman

1-12-17
Date



Ronald Grogan
Taxicab Authority Administrator

1/6/2017
Date

