STATE OF NEVADA

NEVADA TAXI

MEETING TRANSCRIPT

FRIDAY, JULY 9, 2021

MR. OLSEN: Alrighty. First, I need to introduce two new members of the Board. To my left is Cynthia Rodriguez. She is currently the President of the National Law Enforce -- or excuse me, Latin Police Officer's Association. I apologize. And will be until September. She's retired from Metro with 28 years on. She retired as a Police Lieutenant, and she has two sons, one's in the Navy, one's on Metro. And she has her Bachelor's Degree in leadership so, all good stuff. The other person I need to introduce is Mr. Dan Reaser. Mr. Reaser, am I pronouncing it properly?

MR. REASER: Reaser is it.

MR. OLSEN: Reaser is it, okay. Mr. Reaser is an attorney here in Nevada. He’s got extensive background on boards and commissions with the State. He gets it. He knows what our job is here. We don't even have to explain it to him, but just to touch on some of them, he's been -- he's represented the Gaming Commission, Nevada Gaming Control Board, State Department’s transportation, agriculture, corrections, minerals, transportation, wildlife, and the Nevada commissions on economic development, tourism and environmental protection. So, you know, not to say he's bored, but he has got a lot of experience, and welcome Mr. Reaser.

MR. REASER: Thank you.

MR. OLSEN: And welcome, Cynthia. Okay, so we'll start in our usual manner. Mr. Decker, are we in compliance with notification?

MR. DECKER: Mr. Chair, JD Decker, for the Record, interim administrative of the Taxi Cab Authority, we are in compliance with open meeting.

MR. OLSEN: Okay, very good. Man, I think our next --

UNIDENTIFIED: The pledge of allegiance, sir.

MR. OLSEN: The pledge, yes. Let’s stand. Mr. Thompson, would you be so kind as to lead us in the pledge?

MR. THOMPSON: Yes. I pledge allegiance to the flag of the United States of America. And to the republic for which it stands, one nation under God, indivisible, with Liberty and justice for all.

MR. OLSEN: Thank you. Okay. All right. We’re now at the point of public comment. Is anybody wishing to step forward during public comment? Please step forward and identify yourself. Seeing none, we will move on.

MR. THOMPSON: Well, we do.

MR. OLSEN: Oh, we do, I apologize. Sorry, Mario No, I didn't see you getting up.

MR. LACASA: Morning, everybody. Mario LaCasa, DM with Deluxe Taxi. Just wanted for the record. On February 20th, I wasn't here because I was coming up here, and I got a call that one of my guys was having a heart attack at T1. So, I weighed the two together, and I ran there. The name was Hoover, been there a long time. He was a friend of mine. But I don't know if I can get back on, but in public comment, I do want to put on record that I agree with all the other companies. And he’s a -- I read the word by word on the transcript. There's something that wasn't said. When someone opens a new company, there's going to be the factor besides revenue, also, the drivers moving into that company. I'm the smallest company so I'll see the effect a lot less than the bigger guys. It’s always the grass just takes better on the other side, and then they come back. And I just want that on the record that effects the company's very severely on that side. That was never mentioned. (Inaudible.) Thank you.

MR. OLSEN: Thank you. Okay. Now moving to agenda item number three, appeals of prehearing conference order regarding petitions for intervener status filed May 26, 2021. An application for certificate of public convenience and necessity. I can’t read today. By applicant's Brent Carson and Claudia Hoeppner?

MS. HOEPPNER: Hoeppner.

MR. OLSEN: Hoeppner. Independent Cab Company and request for 35 cab medallions.

MR. GROOVER: Mr. Chairman, I’d like to make a disclosure real quick.

MR. OLSEN: Yes.

MR. GROOVER: This is Board member Groover. I'd like to disclose that Mr. Carson worked for me approximately 30 years ago as a runner when he was going to college. I have done work for his office in the past, over the past five years, I think I’ve billed maybe $500 to him. So not a lot, but I don't think it's anything in theory that it would cause any type of bias or conflict.

MR. OLSEN: Okay. Thank you.

UNIDENTIFIED: Excuse me, Mr. Chair, if I may. Board member Groover, is there anything in your disclosure that would cause you to not be able to hear this matter fairly?

MR. GROOVER: No.

MR. OLSEN: Anybody else?

UNIDENTIFIED: Nobody.

MR. OLSEN: Okay. Let's go into the appeal then. Carson?

MR. CARSON: Yes, sir?

MR. OLSEN: I'm sorry, one more thing. Mr. Reaser, I’m sorry cause you're not here, I'm not seeing you, did you have anything you wanted to add at this point?

MR. REASER: No, I do not.

MR. OLSEN: Okay. Thank you. Go ahead.

UNIDENTIFIED: I figured this was their moving papers, that they would go first. It’s up to you, your honor. I can give you guys the standards or whatever you feel like that --

MR. OLSEN: Well, you’re already up there --

UNIDENTIFIED: -- since it’s their arguments, I’ll counter them.

MR. OLSEN: Fair enough, come on up.

MR. TRAFTON: Good morning, Mr. Chair and fellow Board members, Attorney General. My name is Mark Trafton. I'm the Vice President and General Counsel for Whittlesea Blue Cab Company and Henderson Taxi.

MR. WINTER: This is Bob Winter. I'm here representing Desert Cab.

Keith Gibson: Good morning. This is Keith Gibson, attorney for Nevada Yellow Cab Corporation, Nevada Checker Cab Corporation, as well as Nevada Star Cab Corporation.

MR. MIGLIORE: I'm Dan Migliori., I'm here on behalf of Nellis Cab.

MR. AWAD: Ryan Awad, attorney for Lucky Cab and Western Cab.

MR. TRAFTON: Mr. Chair, since I -- I think I was the first one to file the appeals, so I'll make my argument if that's okay.

MR. OLSEN: That's fine.

MR. TRAFTON: First, I'd like to say thank you to Mr. Groover for the disclosure. We have no problem with you hearing this matter. So thank you for the disclosure. As I was contemplating filing this appeal and discussing it with my client, I learned some history about the Taxi Cab Authority and Nevada Law. And the history I learned stems from a case, a Nevada Supreme Court case that I've cited in my brief, the Checker Cab case. And just a brief summary. In 1979, Nellis Cab filed an allocation -- an application for an allocation in front of the Taxi Cab Authority. A hearing was noticed and set, and everybody showed up at the hearing, including representatives from the various cab companies. Nellis Cab presented their evidence as to allocation in front of the Taxi Cab Authority. And then, the Taxi Cab Authority asked for evidence from the taxi cab companies. Before any evidence was presented, the attorney for Nellis Cab objected. And the objection was that the cab companies had not even filed a petition to intervene. The attorney general advising the Taxi Cab Authority at that time said, absolutely, you can't go forward with any evidence from the cab companies because they did not follow the procedural requirements, which the Attorney General at the time advised the Board that the procedural requirements were mandatory. Therefore, the Board said, sorry, cab companies, no evidence from you. We're going forward with the allocation hearing, and they allocated taxi cabs accordingly. Checker Cab objected to this. How they did so, was they filed a petition in district court here in Clark County. The petition was heard by the district court judge. The district court judge said, sorry, I agree with the Attorney General for the Taxi Cab Authority. I recognize Checker Cab that you were aggrieved. You have a valid -- a valuable property right. You were aggrieved by this allocation because you didn't -- you weren't allowed to be heard, but procedurally, you didn't file a petition to intervene. So sorry, there’s nothing I can do for you. Checker Cab filed an appeal to the Nevada Supreme Court. Here's what the Nevada Supreme Court said when they overturned the decision of the district court and the Taxi Cab Authority. The Nevada Supreme Court said, where a procedural dereliction as in this case is relatively unimportant in the rights of other parties to the agency proceeding are not prejudice, substantial compliance with the procedural requirements is adequate. I've read that sentence probably 20 times. Now, what was the procedural dereliction they were talking about in that case in 1981 is when the Supreme Court issued this finding. The procedural dereliction that the Supreme Court was talking about was the fact that none of the cab companies, none of them, filed a petition to intervene. They called that a procedural dereliction, and they also said it was relatively unimportant. Why? Because the rights of the cab companies as certificate holders are paramount, and the other party wasn't prejudiced by -- if the Taxi Cab Authority would have allowed the cab companies, nobody would have been prejudiced. It just would have been more evidence for the Board to consider. In this case, we're arguing the same thing, substantial compliance, okay? In this case, let's look at the facts of what happened. We all -- in the cab industry, we all filed our petitions to intervene timely, and arguably there were some issues with the technical requirements of the intervention regulation, hence the May 26, 2021, order by the hearing officer. I believe it's 23 pages long. That order with regards to my client found two things that my client didn't do according to the hearing officer, two things that are mentioned in the regulation for intervention. The two things are that the hearing officer found we didn't do in our petition to intervene: No statement as to the nature of any evidence. That's one. Second thing that the petition did not outline the matters and things relied upon by Whittlesea Blue Cab as the basis for their request. In my brief, I laid out for you all, what exactly Whittlesea Blue Cab did to outline the matters and things relied upon as the basis for their request. Now, I understand the hearing officer's ruling, why he ruled the way he did, but with all due respect to him, I think it may have been considered in a vacuum. I think we need to look at these regulations like our Supreme Court recognized back in 1981, look at the big picture here. So maybe technically we didn't have the words in our petition to intervene outlining the things relied upon for the basis of our request to intervene. But if we step back and think about this, Whittlesea Blue Cab has been a certificated carrier for a long, long time. And they've participated in many, many hearings through the years. Never once have they had their petition to intervene denied because of this argument. And I laid out in my appeal, the exact things that were done. I'm not going to repeat them. But common sense would dictate as a certificate holder and knowing the requirements for a new company to get a certificate, those are the matters that we're relying upon that one of the requirements in 7068827 is that the existing certificate holders will not meet the needs being sought by Independent Cab. That's evident, that's obvious that Whittlesea is going to rely upon the fact that it's meeting the needs currently. We are meeting the needs. I don't think it needs to be explicitly stated. And for that to be the basis to deny us our intervention rights, I think is -- it contradicts what our Supreme Court said. Our Supreme Court said substantial compliance. I laid out why I believe Whittlesea substantially complied with the intervention requirements. I even broke it down into six different requirements as I counted in the intervention regulation. And I contend that Whittlesea complied with four out of the six, worst case scenario. I think that, like I just articulated, we actually did satisfy the outline of matters and things relied upon. And then the other infraction, if you will, was that we didn't include any statement as to the nature of the evidence. Well, there hasn't been any evidence yet. How can we even talk about the statement of the evidence when nobody has disclosed witnesses or exhibits at the time we filed that petition to intervene? We have since done so pursuant to this May 26th order, which gave us 30 days to do so. But at the time we filed a petition to intervene, no evidence had even been disclosed by anybody except for the application filed by Independent Cab. I'm going to wrap up here. The theme, if you will, of my appeal is that I don't believe the hearing officer applied liberal construction when he interpreted the intervention rule. Why do I make that my theme of my brief? ‘Cause that's what the regulations require the Taxi Cab Authority to do. Apply liberal construction and even deviate from the rules when necessary or if the Board so chooses. I think this is the perfect time to deviate. We could have been asked to amend our petitions, that wasn't an option. We're asking you to allow us to amend. If you want us to go back and technically comply with every word in that regulation, even though the Nevada Supreme Court says we don't have to, we will do that. We want an opportunity to be heard as interveners. We recognize that we are designated as interested parties. That's not what we asked for. We asked to be interveners, conduct discovery. I can go into the importance of discovery if you want me to. I'll save that if you have a question of me. So liberally construed, I don't believe that's the way that the regulations were viewed by the hearing officer. And there's all kinds of language in the regulations supporting that position. There's also language in the regulations that allow this Board to modify the order, actually in the order itself, it says that this order may be modified by the Taxi Cab Authority. It's the second to last paragraph on page 23. So with all due respect, I'll stop at this point. I think this Board should modify the order, allow Whittlesea Blue Cab and Henderson Taxi to be interveners for the reasons that I've stated. And I'm happy to answer any questions. I left out a lot of the technical arguments because I believe they're in the brief, but if anybody has any questions, I’d be happy to answer. Sorry.

MR. OLSEN: That’s a reminder. Can everybody make sure their phone is off?

MR. TRAFTON: I'm sorry. I was going to see if they had any questions.

MR. OLSEN: (Inaudible), do you have any questions?

MR. REASER: I have two, actually three questions, of Mr. Trafton if I may. Mr. Trafton, your position is that as 2704894, that because there had been no discovery or other proceedings that there was an impossibility to comply with the requirement of the rule to set forth the nature of evidence intended to be presented. Is that a correct understanding of your argument?

MR. TRAFTON: Yes.

MR. REASER: So you do not believe given the standards that would apply to the applicant here that you could not make out in a petition a simple statement as to the nature, not the specific evidence, because the regulation doesn't say specific evidence. It just says the nature of the evidence that you would intend to present. For instance, I intend to present evidence to the elements of 7068827. You don't believe that could have been set forth in a petition?

MR. TRAFTON: I believe it could have been set forth in a petition.

MR. REASER: Okay.

MR. TRAFTON: I'm not saying that.

MR. REASER: Okay. Second question, Mr. Trafton, do you contest, or your client contest, that prior to the date of the filing of your Notice of Intervention that the administrator of the Authority had publicly declared that a strict compliance with NAC 706894 would be required in the future?

MR. TRAFTON: Honestly, I believe there were -- I believe based upon what Mr. Carson represented in his reply to my appeal -- let me just back up a second. I don't regularly attend the Taxi Cab Authority Board meetings, and I didn't review all the prior meeting minutes, but I trust Mr. Carson's representation that there were references that -- pertaining to -- that the interveners needed to, you know, pay attention to the rules, things like that. I don't recall seeing any reference to the standard being changed from what’s stated in the regulation to strict conformance.

MR. REASER: Third question, Mr. Trafton. Would you agree with me that given the posture of this case under 233B and 706, that the standard of review that the Board is to apply is that -- whether there was a clear abuse of discretion by the hearing officer?

MR. TRAFTON: Well, I would agree in part. I recognize that is generally the standard articulated in review of administrator's findings. However, 706975 subsection two articulates that we must set forth the grounds that the order was unreasonable, unlawful, erroneous, or not in conformity with the law. So I recognize the abuse of discretion standard applies here, but in the context of us setting forth grounds according to NAC 706975, that the order was unreasonable, unlawful, erroneous, or not in conformity with the law. And I think my appeal sets forth those grounds that this order was unreasonable, particularly in light of the Checker Cab decision.

MR. REASER: Thank you, Mr. Trafton.

MR. TRAFTON: Thank you.

MR. REASER: Thank you, Mr. Chair.

MR. TRAFTON: Thank you.

MR. OLSEN: Mr. Thompson, questions of the -- ?

MR. THOMPSON: Yeah, I have a comment. And delete off -- I need to apologize to the attorney of the Board and other attorneys here. I am not an attorney. And my personal feeling is that I would like to hear the evidence for and against the request for 35 medallions. I -- sitting here listening to this, it’s almost like we're dancing angels on the head of a pin. I'm sorry. I'm not an attorney so I can’t appreciate these subtleties, but my personal feeling is I would like to hear their evidence.

MR. OLSEN: But that’s -- this hearing is only an appeal process. That could happen in the future.

MR. THOMPSON: Then that's fine.

MR. OLSEN: Okay. Nothing? Mr. Groover?

MR. GROOVER: I’d just like to make a statement as to some discussions that I had had with former administrator Whittemore (phonetic). And I think these go back to early 2019 when we were looking at all the agendas with all these motions to intervene filed by everybody, and they never said anything. So I asked administrator Whittemore to address that and to clean up that issue. And then, we fast forward to the late fall of 2019 when we had the Captain Whittlesea deal come up. And then, the NTA granted a 90-day extension for a motion to intervene. And I don't know what it was based on, but I do know this: That deal fell apart as a result of that continuing on. And a couple of things happened. It wasn't just a motion to intervene. We ended up having COVID and everything else. And I think the investors backed out of the deal, but I saw it as a problem. So I did ask Scott to really address it then. And he did on February 20th, 2020. There’s about four pages in that transcript -- and I don't think I need to read that in -- where he really addressed that we need to start going by this. I don't know what discussions he had with the industry prior to that February 20th Board meeting where he addressed it and went into quite a bit of detail on it. But he said that these things would be denied. However, doing the math on it, the prehearing was set for March 2nd, 2020, and I don't know if his comments came after the deadline for the motions to intervene or before. So I just want to point out that he did really address it, but I don't know at what point this report was filed.

MR. OLSEN: And there was a point even prior to that, where we discussed here prior to COVID, because I know we were in the actual building discussing it, where we made it clear that people came up that didn't follow the rules on interveners. We said you were an interested person or party or not an intervener, do you recall that? You were not here; I'd have to ask members of the industry, but it did occur.

UNIDENTIFIED: Yeah, I believe it.

MR. OLSEN: Okay. So, there were several things that occurred leading up to doing it the right way. And the least official one was saying, you're not an intervener, you're a person of interest. And I think everybody from the industry that's here today was here during those statements. That's something to keep in mind. Anybody else have any questions of this initial -- okay. Mr. (Inaudible.)

UNIDENTIFIED: Thank you --

UNIDENTIFIED: Was there a second issue about service on Mr. Carson?

MR. TRAFTON: That wasn't part of the appeal. That wasn't even part of the May 26 order. He referenced it in his opposition to my appeal, but it's not even really a part of this matter at this point.

UNIDENTIFIED: Okay. Got it.

MR. OLSEN: Go ahead.

MR. WINTER: Okay, thank you. I'm Bob Winter. I'm here for Desert Cab. I know Brent Carson pretty well. We used to practice law together. I know Claudia a little bit, not much, but they're both good people. This appeal and our proposed relief, I think would do -- what everyone here seems to be saying, certainly what I've heard, is that there'd be a fair hearing. Applicants are entitled to a fair hearing. I think all interveners are too. People who you believe could be interveners. Desert Cab has a direct and substantial interest. That means it's entitled to be an intervener. The language under 706894, even if you were to strictly apply the fifth section -- which I call it the only one we didn't meet, I believe -- you couldn't take away intervener status, you just couldn’t. This is my reading. When I first read this, and in my brief and I thought in Mark Trafton’s brief, initially the language saying you have to set forth the evidence. I was like, well, that's stupid. You don't know anything yet. There's no discovery. I mean, what? As a lawyer, I was -- I’ve been a lawyer for a few days -- you get trained and when you read the statute or a regulation and it makes no sense, you might be misreading it. Maybe you want to back up a little bit. And I agree with the hearing officer, chairperson on the phone. When I went back and read this, well, this makes no sense. Some guy wrote this regulation and he requires us to put forth evidence at the petition level. That’s just silly. But I agreed with him, and as I thought about it more, well, what are the areas you're contesting? If we did a general, a statement of the nature of the evidence. So the applicant is going to have to prove under 8827 certain elements. The first one I think is fitness, generically called. Do they have the money? Are they nice people? Are they crooks hiding in disguise? Whatever. We might put in there; we are going to challenge the fitness of this application. That would be a statement of the nature of the evidence. We are going to challenge whether or not existing carriers will meet the needs. I think that would comply with the regulation, and that's something we could have done. Our problem is the industry has been doing it a certain way for decades. I've never seen a petition to intervene denied. Now I can understand people are saying, you know, I read this thing, I don't understand what it is, I’d really like a little more. But the quotes I have here from the applicant is, we're going to follow the law -- follow the law. What's the other one? We need to tighten this up. Now the hearing officer made a decision that not having a statement of the nature of the evidence means the intervention is thrown out, and I think the only application if you were to apply it that strictly would mean you can't offer evidence. You can be an intervener, but you can't offer evidence. That would be the fair reading of the regulation. Now, is it fair to do that in this case? I say to you, no. The reason I say no is because the entire industry has been drafting interventions and have been accepted by this Board for decades. And is it fair? Is that how we get to a fair hearing for a hearing officer who -- I didn't know the man, I just -- I've never met him before -- to say, you're all out without any effort? If you had directed the hearing officer or someone had, saying, listen, we want this section of the regulation, you know, focused on. Then the hearing officer, in fairness, should have said, this is defective guys, and you're not going to offer any evidence unless you fix this. If I file a complaint, and Nevada’s different than my home state, but there are certain types of lawsuits where you have to set forth specific evidence, specific facts. Like fraud, sometimes defamation. But if you filed a lawsuit against the chairman and say, listen, you defamed me on this date, and I want -- you owe me money. You file a motion saying this is defective. You don't have the facts in here. What did I say? Are you cra -- what are you talking about? The judge would then say to me, listen, go fix this. I'm not going to allow this to go forward. You got 20 days or 30 days and fix this, otherwise you're out. If the hearing officer were applying to the way rules and procedure go and the history of the Taxi Cab authority on interventions, that would have happened instead of saying they're all defective. I don't think you can do that. I think that Mr. Carson and his spouse want a fair hearing. I think everyone here wants a fair hearing, but the arguments that I've read, and I get those -- I get those -- is if you allow interveners to do discovery or participate, it's just oppressive. Well, the hearing officer has the ability to do that. I went through one of the early oppressive hearings over at this public service commission in the ‘90s where there was no limits on discovery. One party sent me discovery. I got the same questions from the next guy and the next guy, and that was nonsensical. And it’s actually gotten a lot better since then. The hearing officer can say, listen, we don't want to run this guy through the ringer. I think I read that in the papers by Mr. Carson, but we want a fair hearing. What we don't want to do is stifle members of the industry because of a perceived technical defect that could easily be cured. Couldn’t it? Listen, you got 20 days, fix your pleading or you're offering no evidence. Gotcha. That's a fair ruling. To throw us all out? That seemed like it was a previous position. It just -- it stunned me. Stunned me. Ask me this -- well, I ask you this, and you can consider this or maybe ask the applicant this. Is a fair hearing what the applicant wants? And is he saying there's no way it will be fair if there are interveners? That cannot be true. Does the Taxi Cab Authority have a financial analyst? I don't think you do. The NTA does. Now, are you ready to go through his financial application to see if that -- does this make sense? Does he have all the expenses in here? I know one guy who's pretty good at reviewing that, and that's George Valavay (phonetic). He’s been running a cab company and he knows what it takes, what you have to buy, how you have to equip the cab. Anybody up here know? I don't think so. And there’s no financial analyst on staff. You won’t let it get to a fair hearing? You can limit interveners. You can say, listen, Winter, Trafton, you're going to issue written discovery. If there's one that you don't get, let them know. What you're not going to do is flood the guy with interrogatories, requests for production, and bog him down for forever. That's fair. We can take a deposition. You're not going to depose the guy eight different times, each guy gets a different day. That's not fair. But is Mr. Carson here to tell you, I shouldn't have to answer questions that members of the industry have? What did you do when you're figuring this out? Wouldn’t you want those questions answered? He has to prove his case. He does. And I think Mark’s citing of the Checker case is not only instructive, it's binding on. You can be mad at interveners. You can say, listen, you got to tighten it up, which isn't what I would call very constructive. But maybe that would give us your mindset. Follow the law, tighten it up. We are following the law. Or we thought we were. Telling us to fix our pleading is -- or suffer dismissal. That would be a fair way to go about it, wouldn’t it? Isn't that what you want is a fair hearing? If the industry has been doing it this way for decades, and you're instructed to follow the law, we're going to follow the law. Okay? Is that how we change it? Is just say you didn't comply or is there some kind of process where we can fix whatever you deem? My initial reaction to the evidence section, number five of the intervention reg -- was it 894? I get that -- I thought it was just silly, but I was trained to go back and think again. No, I think the person on the phone, who I think is a lawyer, I don't know, but you could just tell the questions, was right. What we should have done to be in compliance with the regulation is set forth which element of 8827 -- the elements that the applicant has to prove -- that we're challenging. That's what we should have done, but we've never been required to do that. And in fact, by abruptly saying, you're defective, throw you out. The initial reaction from us is how can we put forth evidence now? But in rereading the regulation and reconsidering it, I believe that's what it was meant, and that's something we can do, but you should give us the opportunity if you're going to change the law. I suggest you're changing the law because you've accepted, you and prior boards, have accepted this manner of intervening forever. And if you say, well, you're not technically in compliance, in a way you're changing how the business has been done. And you should give us more notice or an opportunity to cure, as opposed to throwing this out. I don't believe the industry could be declared by this board to have been effective in their interventions forever, which is what this ruling does. There was a Supreme Court ruling a long time ago that said separate but equal is constitutional. That changed. How did it change? People going forward had to do things differently. Okay. You want to change the law and say, listen, you're not complying. We want you to comply. Okay, let us try. What kind of notice is that to us? I heard the Chairman say there was something on February 20th saying, hey, if you don't comply, you're going to be denied or something like that. Not exactly, but something like that. Well, I think interventions were due on February 5th. I say this to you, not as in any way to -- I don’t even want to use the word, but -- and this is a factual statement, it's not any kind of a threat. See, I didn't want to say that word. My client, if you deny this, is going to tell me to appeal it. And if the Checker case is binding, which it is, you're going to have to do this hearing again. You can limit interventions. You can limit the scope of the discovery. These are all proper and smart things to do so that, as the applicant says, he's not being abused. He's entitled to a fair hearing, but so are we, and I would ask that you ask yourselves and ask the applicant, aren’t we entitled to a fair hearing too? Can't we put somebody on the stand to say these were our concerns, put forth evidence. Isn’t that what the ultimate hearing law is for? Isn't that what's fair? We want a fair hearing, and I think the applicant’s entitled to it, and I think you guys are entitled to consider evidence in a fair hearing. If you have any questions, I'll --

MR. OLSEN: Okay. Before there are questions, I need to make two statements.

MR. WINTER: Okay.

MR. OLSEN: Number one, don't put words in my mouth. I never said you wouldn't get a hearing, never.

MR. WINTER: I’m sorry.

MR. OLSEN: Number two, okay? You know that the person, the hearing officer, that you keep referring to, I think he's an attorney is Mr. Riker (phonetic), who is the attorney for the TA. He's been in every meeting except today. And so, you do know he's an attorney, so to make it sound like, I guess he's an attorney, you know he's an attorney, and he’s speaking as an attorney. With that, I’ll go to questions. Mr. Reaser?

MR. REASER: Yes, thank you. Mr. Winter, I have two questions for you.

MR. WINTER: Shoot.

MR. REASER: They are similar to the questions I asked Mr. Trafton. Do you contest that prior to the filing of the intervention, the administrator had publicly declared that strict compliance with NAC 706894 was going to be required in the future?

MR. WINTER: I personally don't have any knowledge of that, but I don't go to every hearing. That may have been. But if strict compliance meant, as I read the regulation, as I believe you do under the fifth part, the nature of the evidence, it would not mean that the intervener would be denied intervention status. It would mean that you could not offer evidence. That's my reading.

MR. REASER: Okay. And --

MR. WINTER: Does that answer your question? I’m sorry.

MR. REASER: It did. My second question is, do you agree that the standard of review in this matter given 233B and 706 of the NRS is clear abuse of discretion?

MR. WINTER: No. It could be, but we have a more specific appeal in this environment before the TA and the NTA, which Mr. Trafton cited, I think it was 0.975, but I could be wrong. The question -- I always thought that -- based on the ruling, I was surprised and I thought it was unreasonable. And that’s the initial standard. I do think there were mistakes of law such as saying matters and things relied upon, citing to the fact that Desert Cab is a licensed certificated carrier doing business here. That satisfies that, I believe. I hope I answered your question.

MR. REASER: Yes. Thank you, Mr. Winter.

MR. WINTER: And Mr. Olsen, I’m sorry if I offended you. I didn’t mean to.

MR. OLSEN: Mr. Reaser, any other questions?

MR. REASER: Thank you, Mr. Winter. Thank you, Mr. Chairman.

MR. OLSEN: Mr. Bhalla, (inaudible).

MR. BHALLA: Thank you. Counselors, you both referred to the Checker Cab case a number of times and stated that it's binding due to the holding on procedural defects. That case distinguished between procedural defects and substantive defects. And can you explain how that would apply here and how we would distinguish between those two?

MR. WINTER: I'll take a swing at that fastball. The substantive defect, I don't think it is procedural. At this stage, it's all procedural, filing a petition to intervene. Is it on time? Does it set forth the stuff? What I think you're parsing, if I might say this and maybe I'm wrong, is that there's language in there that if you don't put it in, that it's substantive. And I think you're then saying it's jurisdictional if it doesn't comply completely with everything, it's jurisdictional (inaudible) defect.

MR. BHALLA: I’m just asking you to explain how the case law that you're referencing is actually applicable here to the specific issue that Mr. Trafton raised, which is the argument that this is a procedural defect, which is the basis of the appeal. And not that the administrator -- the hearing officer below actually made a judgment on the fact that you're filing was substantively defective, not procedurally defective.

MR. WINTER: I'll let Mr. Trafton speak, but I don't remember the language in the order, but the hearing officer said they were substantively defective? It was a long order. I remember quite a number of pages. If he said that, that's the hearing officer's decision. I don't think it's substantively defective.

MR. BHALLA: Understood. Thank you for the clarification on your own.

MR. OLSEN: Mr. Thompson, any questions of Mr. Winter?

MR. THOMPSON: No. Everything he said seemed fairly reasonable. I did count seven or eight angels dancing on this pen, but the choreography is clearly important for the State of Nevada so I will pass. That's it.

MR. OLSEN: Okay. Thank you.

MR. WINTER: And for not being a lawyer, that is a reference to my Tort professor, first year, was counting angels on the head of a pin.

UNIDENTIFIED: Ah, seven or eight?

MR. OLSEN: Ms. Rodriguez?

MS. RODRIGUEZ: No.

MR. OLSEN: Nothing? Mr. Groover?

MR. GROOVER: Just a couple of questions, Mr. Winter. You recited several things that you felt Mr. Carson should complied with or that you could furnish that, as far as the financials and everything else, and in your -- in the transcript from the hearing, you said that you would need six to nine months to complete discovery. Why -- what would you do in that six to nine months, and why was any of that not put into your motion to intervene?

MR. WINTER: Well, I’ve never known discovery issues, procedural issues, to be in an intervention. That would be a first. I believe I agreed to six to nine months because someone else suggested it to the hearing officer. My experience before this was a prehearing conferences held and you try to narrow issues, if you can. You limit interventions. You limit discovery. You put a timeline on them. You might put a timeline on individual depositions. Listen, you're not going to take a deposition for three days, unless you really had to. The hearing officer limits discovery within reason, limits the length of discovery, limits the participation of parties so there isn't abuse. But I've never heard -- I've certainly never done that is when you intervene, say, this is the discovery I want. That was generally done at prehearing conference to say, okay, how are we moving forward? I mean, traditionally, what I --

MR. GROOVER: But you would have to have some idea of how you're going to proceed when you filed the motion to intervene. Correct?

MR. WINTER: Well, yes, I would. If what you're asking is what I have in my mind when I filed the petition to intervene. I tried to read through the application, which I did. I know my client did, George. Initial questions is, well, we’ve got to figure out what the basis is. So, you're going to depose Brent and Claudia, any other witness. I think in response, something more recently, there was the name of a person I can't remember who used to work for Frius (phonetic). That might be somebody you’d want to depose. You’d certainly send over document requests on what they're relying on. There'd be limited, in my mind, limited written discoveries saying give me your documents that form the basis of this. Why are you making this claim? What do you rely on? There's a lot of stuff that an applicant to have a taxicab certificate must do. You got to have 24-hour dispatch. I mean, I'm just going off the top of my head. This is stuff the statutes require of a guy who runs a cab company. You have to have a place to take care of your vehicles. You can't just do it out of your basement. I mean, these are things you want to know. Six to nine months, I think was proposed by somebody figuring that if there's discovery issue, there's a lag time, maybe there's objections. I mean, I've been a lawyer a while. A lot of times there's objections. And so, there's responses that come, okay, now we have the documents. Can we set up a deposition? Okay. My schedule blah, blah, blah. There's, I know, concerns from some in the industry about prior certificates that the applicant has obtained or principles and what's happened to them. I don't know. There's documents over at the NTA, your sister agency, that may be instructive. They certainly should be looked at, don't want to ignore them. And about the limousine companies and how they operate and what they do. Are they complying with the law? I don't know. This is something you'd want to look into, and I would think if you guys aren't going to do it, that you’d want us to do it. To ask these questions and challenge this applicant. I mean this is a privileged certificate. It is.

MR. GROOVER: And again, my question Mr. Winter, is just basically nine months is a considerable amount of time. I’m trying to get to the point, did you have something in plan, because you're the one that cited nine months or -- I want to make sure it's not burdensome on the applicant. Just to throw out a figure of nine months.

MR. WINTER: Well, I didn't -- as I recall the prehearing conference, I think I agreed to that six to nine months discovery, just as somebody else had thrown it out there. I think that is reasonable. If you have an arbitration case. This is in our civil courts, which is a case of likely value of less than $50,000, there's usually 120 days of discovery. It's just -- it takes some time to get stuff going. Paperwork over there, paperwork back, authorizations. It takes some time. Now I have on many cases -- I don't think I've had it with the TA, but other agencies -- where you've done discovery and you're not done. And you say, we need some more time, and this is why. We tried to do it. I mean, in Federal court, you have to set forth what you've done and what you haven't got done and why. And so, if that has happened, but I don't think that's ever happened at the Taxi Cab on a case I had. I just don't recall that.

MR. GROOVER: Okay. I'm done. Thank you.

MR. OLSEN: There’s -- oh, I’ve asked him.

UNIDENTIFIED: Yes. Thank you, Mr. Chairman. Counselor, you’ve referenced the various rules of civil procedure over the course of this hearing, is it your opinion that the Nevada rules of civil procedure are binding on this public body in this form?

MR. WINTER: Oh, certainly. I believe there's a regulation that says to the extent they aren't superseded or by a statute or regulation here, the rules of civil procedure are in play here. They are. I mean, I can go try to look it up, but it's been a long time.

UNIDENTIFIED: I appreciate your statement. Thank you, counselor.

MR. OLSEN: Okay. Mr. Gibson?

MR. GIBSON: Thank you, Chair, Mr. Chairman, as well as members of the Board. I join in the comments of Mr. Trafton, and Mr. Winter. I will not reiterate those for purposes of efficiency. Again, I rely on the Checker Cab case from 1981. It's well, you know, the Nevada Supreme court kind of said it bluntly very early on in this decision, which is allocations of new cabs to all the companies in Las Vegas which act to reduce the proportion of any number of cabs held by my clients or any other currently existing cab company implicates valuable property rights and clearly potentially could injure my clients. And as part of that process, we should be allowed to intervene and the application for Independent Cab as the Supreme Court, in that same case, reiterated of which when they refused to allow Checker Cab to intervene without a petition, of basically showing up at the hearing and trying to intervene at the hearing, they were basically -- and Checker was refused. The Supreme court said under these circumstances, the authorities’ refusal to accept relevant evidence and to accord the other cab companies affected by its action, a reasonable opportunity to be heard. The 0.75 regulation that Mr. Trafton cited earlier talks about the grounds being unreasonable, unlawful, erroneous, or not in conformity with the law. Not permitting the existing certificate holders to conduct discovery and to the applicant's ability to comply with all of their core requirements of a certificate holder is unreasonable. The importance of this Board is to protect the public and to ensure that anyone that is issued a CPCM is approved and meets the qualifications that are required under the law. The only way we're going to be able to get to that is through discovery. The hearing officer's order is erroneous and unreasonable because he specifically states a line item of seven different things that cannot be done. He says interested parties have no right to depose an applicant, a witness, or any other interested party or any other witness. We have no right to submit interrogatories. We have no right to compel written discovery. We have no right to cross-examine the applicant or any witnesses of the applicant, as part of these proceedings or in a hearing on the application. That's what his order says. Furthermore, we can't seek or conduct a subpoena for the production of any documents from the applicant or any witness of the applicant or any other interested party or witnesses of any other interested party or any other person that has a relevant part of those proceedings. And then, it says as the caveat, and here's the bone that was thrown to us in the order, the interested parties may seek a subpoena. However, the grant of such a subpoena is purely discretionary. That's what the order says. As a matter of law, my client's property rights are potentially going to be injured by a decision out of this particular authority. At a minimum, we should be able to conduct discovery and investigate the qualifications of Independent Cab Company, how it intends to operate, what it intends to operate. As far as our original petition, I admit that it's not in strict compliance with the terms of the law. Again, I believe it meets four of the six. I would also like to point out to the Board that is fairly similar to what we did in the application for HandiCab. Where HandiCab was trying to apply for medallions to target handicap people. And that was the thrust of their argument. However, what came as part of discovery and through that process we learned that HandiCab was only going to be doing a small portion of their business targeting and helping people that needed handicap taxis. What we learned was, oh, that's -- if they're not doing that, they're basically going to be a regular taxi company, which basically means they're probably going to focus on the strip, and they're going to focus on, you know, they see a need and basically, they can flip service to the need that they were going to address, but when we investigated and when it was investigated, it was shown that that was basically lip service. And we're going to basically be just a normal taxi company and we're going to say we're going to help out the handicap community. And so, those are the types of things that we should be allowed to investigate as part of the application for Independent Cab Company. Not saying that Mr. Carson doesn't meet the qualifications. We don't know enough of the information. We know what’s in the application. The application hasn't been vetted, and we -- as part of that, additionally, typically when there's a deficiency in a pleading, and again, I understand the rules of procedure are not necessarily binding on this particular court -- or I'm sorry, on this Board. The concept is similar though, which is you have a procedural deficiency. We know there's a -- you pointed out there's a procedural deficiency. Allow us to cure it. We're talking three sentences, basically on -- based on the questions from -- I apologize if I'm mispronouncing your name -- Mr. Reaser is that basically you could have provided this boiler plate, this assertion under generic term for this provision, or a generic statement to this provision, and a generic statement for this provision. If you're just asking for very generic statements as to those provisions, those can clearly be remedied very quickly and within a matter of, you know, frankly, within a matter of days, I mean, you know, if not by the end of, you know, end -- you know, end of the day, depending upon when this -- you were to have this completed. But I think what is important is the purpose of cross -- what is the purpose of cross examination and for discovery? And that is to reveal the truth, because it's amazing how you see someone present their side of something, and it looks very and sounds very convincing. And then, when the person gets cross-examined, you realize, whoa, that was totally different. I have a totally different perspective now that I have all this information that was not shared to me when I was giving a direct examination. That's the purpose of cross is to reveal the truth. And that's the purpose of this process as we go through and evaluate Independent Cab Companies’ application is to get to the truth and whether it meets the requirements of our CPCN. And to that I rest, unless -- I will field any questions that you may have.

MR. OLSEN: Okay. Thank you. Mr. Reaser, do you have any questions of Mr. Gibson?

MR. REASER: I do, Mr. Chairman, thank you. Mr. Gibson, these won't be surprises. Do you contest that prior to filing of the intervention, the administrator publicly declared strict compliance with NAC 706894 would be required in the future?

MR. GIBSON: I cannot speak to that specifically because I have not attended any hearings prior to March of 2020 so I can't speak to that. I’m aware of at least instances where there was discussions of a generic nature of (inaudible) becoming more strictly compliant or being compliant with the law, but that's -- I'm not -- I don't have personal eyewitness -- could not personally attest to those.

MR. REASER: And I take it from your statements that you do not believe that the standard to review is clear abuse of discretion in this case?

MR. GIBSON: In this particular instance no, I believe the discretion is under 0.975, which it says -- which is the unreasonable, unlawful, erroneous, or nonconformity with the law standard.

MR. REASER: Thank you, Mr. Gibson. Thank you, Mr. Chairman.

MR. OLSEN: Thank you. Mr. Thompson?

MR. THOMPSON: I have no further comments. Thank you.

MR. OLSEN: Okay. Ms. Rodriguez?

MS. RODRIGUEZ: No, sir.

MR. OLSEN: Nothing? Mr. Groover?

MR. GROOVER: No, sir.

MR. OLSEN: All right, thank you, gentlemen. We now go to Mr. Carson.

UNIDENTIFIED: Do you want to hear from (inaudible) or --?

MR. OLSEN: If you want to come forward, come on up. You need a couple of your guys --

UNIDENTIFIED: Yeah, I will now vacate.

MR. OLSEN: Oh, come on.

UNIDENTIFIED: I'm just going to go back around in case the Board has any more questions.

MR. MIGLIORE: Dan Migliore here on behalf of Nellis Cab. As you likely know, Nellis joined in the Mr. Trafton -- attorney Trafton’s petition and appeal. And I’d just like to go on record that we agree with Mr. Trafton’s statements and comments, and we'd like the record to reflect that.

MR. OLSEN: Thank you. Mr. Reaser, do you have any questions?

MR. REASER: I didn't hear the speaker’s name, I'm sorry.

MR. MIGLIORE: Dan Migliori.

MR. REASER: Mr. Migliore, what's your position on the first of my two questions concerning the administrator’s declaration in public that they, going forward, there be a requirement for strict compliance with NAC 706894?

MR. MIGLIORE: I haven't reviewed the statement, but I would say if Mr. Carson represented that that statement was made, I believe it to be true.

MR. REASER: Okay. And do you believe that the standard review in this case is clear abuse of discretion?

MR. MIGLIORE: I think it has been an abuse of discretion, yes.

MR. REASER: Okay. Thank you. Thank you, Mr. Chairman.

MR. OLSEN: Thank you. Mr. Thompson, anything?

MR. THOMPSON: No. I have nothing for him.

MR. OLSEN: Ms. Rodriguez?

MS. RODRIGUEZ: No. I have nothing.

MR. OLSEN: Mr. Groover?

MR. GROOVER: No, sir.

MR. OLSEN: All right. Good to see you again.

MR. AWAD: Ryan Awad for Lucky Cab and Western Cab, and I'll keep this short and sweet.

MR. OLSEN: Can you restate your name clearer so that Mr. Reaser can -- ?

MR. AWAD: Ryan Awad for Lucky and Western. And I’ll keep this short and sweet. Our petition for intervention was denied on the same grounds as Whittlesea for misstatement as to the nature of evidence presented at a hearing. And that the petition did not outline the matters and things relied upon by Lucky and Western. We joined in Whittlesea’s appeal and just want the record to reflect that we agree with his statements and incorporate that.

MR. OLSEN: Does that conclude?

MR. AWAD: That concludes.

MR. OLSEN: Thank you. Mr. Reaser, any questions of Mr. Awad?

MR. REASER: Mr. Awad, same two questions. Do you contest that prior to filing of the intervention, the administrator publicly declared that strict compliance with NAC 706894 would be required in the future?

MR. AWAD: I do not recall that statement personally, but it's been reflected that Mr. Carson said it was true, and with everyone else, then I don't deny that it may have been said.

MR. REASER: And do you believe the standard review in this case is clear abuse of discretion?

MR. AWAD: I think it's erroneous in non-conformity.

MR. REASER: Okay. Thank you.

MR. OLSEN: Anything else, Mr. Reaser?

MR. REASER: No. Thank you, Mr. Chairman.

MR. OLSEN: Okay. Mr. Thompson?

MR. THOMPSON: I have nothing further. Thank you.

MR. OLSEN: And Ms. Rodriguez?

MS. RODRIGUEZ: No, sir.

MR. OLSEN: Mr. Groover?

MR. GROOVER: Mr. Awad, at any point, did you try to correct or cure your filing?

MR. AWAD: I believe I made an amended filing, yes, for our original petition.

MR. GROOVER: And that was when?

MR. AWAD: I do not recall the exact date. Do you mean the --

MR. GROOVER: Was that accepted by the Taxi Cab Authority.

MR. AWAD: We had filed an initial petition for intervention that was denied. We amended it, and it was accepted.

MR. GROOVER: It was accepted?

MR. AWAD: It was, yes.

MR. GROOVER: Okay.

MR. OLSEN: Anything else?

MR. GROOVER: No, that’s it. Thank you.

MR. OLSEN: Okay. Thank you. Anybody else? Seeing none, Mr. Carson?

MR. CARSON: Thank you, Mr. Chair, members of the Board. Brent Carson and my wife, Claudia Hoeppner, here for the applicants.

MR. OLSEN: I'm going to ask you to speak up.

MR. CARSON: All right, thank you. Brent Carson and Claudia Hoeppner here for the applicants, Independent Cab Company. It's almost ironic. Claudia, my wife here, immigrated from the United States from Columbia. At that point, she thought that she was leaving the cartels behind. Then we filed this application. They, the industry, do not believe the rules apply to them. Either they don't care or they don't listen because you know what? They're banking on a bailout from you guys. They all admitted deficiencies in their petition to intervene. But what they now are saying to you, because somebody called them out on it, saying this was inadequate. We had a hearing on this exact reason for over two and a half hours in front of a seasoned transportation hearing officer, Mr. Rickert. And he came to his conclusions of law and findings of fact dated May 26, 2021. This is the controlling document here that's before you today, nothing else. He --

MR. OLSEN: Okay. Read what the title is of that for the benefit of Mr. Reaser, please.

MR. CARSON: Okay. Thank you. Mr. Reaser --

MR. OLSEN: He doesn’t see --

MR. CARSON: -- I’m referring to findings of fact, conclusions of law, and order prehearing conference, March 2, 2020. This is the document that was filed on May 26, 2001, as the basis for the industry's appeals.

MR. REASER: I am aware of the document. Thank you.

MR. AWAD: Okay. That is the controlling document. That's the reasons we're here. They're here telling you that this document is erroneous and unlawful. That's the reason we're here. What upsets me kind of the most is, like I said before, they know this stuff. This has been on the books for 33 years, petition to intervene. The classification of their party. This was put on the regs in 1988. What’s also upsetting is I watched this video of the June agenda, and the industry comes up here during public comment on a non-agenda item and asked the Board and tries to facilitate their position to ask for affirmative relief from this order, knowing that I'm not sitting here, and it hasn't been -- not put on the agenda. Thank you, Mr. AG for stepping up and shutting them down. I mean, come on. They don't care if it's fair. They are up here preaching, oh my gosh, we've got to be fair in this hearing. We got to do this. What's fair to me? I expect and the Board should demand that the laws and regulations set in the statutes and regs be followed. The intervention process became a big deal when the Frius companies were sold. This was the first time this Board has ever had to deal with the transfer, an application, anything else, and this is different than whether or not Chief Reuben (inaudible) impounded a TNC car last night. And, yes, administrator Whittemore, this Board -- I sat through these things, these hearings. I'm not a member of the industry. I've been in the transportation field for a number of years. And it's appalling for me, and it should be to you that they are told something over, and over, and over again. And you know what? They just don't listen or don't care. Because, you know what? In February 2019, the Frius companies were sold. Mr. Awad, his client, didn't file a petition to intervene. He came back April of 2019, then the following agenda, filed his petition and boom, this is when the Board started saying, we need to look at these petitions to intervene. This is April of 2019, mind you. And Scott Whittemore, the then administrator, says every agenda there's a clear provision that says persons wishing to intervene must file the appropriate petition in accordance with the procedures of NAC 7068894 and serve their petitions on all appropriate persons. The process is transparent for a reason. It's going to affect you. Please come and notify that what your position is as an intervener, whether you oppose it. You, Chairman, I mean, I sat there at the end of September, I think it was September of 2019, you said to the industry and to people, come up here. I'm not going to let you sit back in the audience. You filed this thing, I want to hear from you. You know, don't just file something, make us go through all the hassle and then just sit back there in the audience, and I -- I'm done. I don't have anything to say. No, you made them each come up and state their position. They knew this. They knew this well in advance of me filing an application. They don't care. You know what? Look at their petitions to intervene. Look directly at those. Every one of them is riddled with errors. And Officer Rickert clearly denied them on their face as being deficient. You know why? They're referencing two statutes and a regulation that deal with the allocation of medallions or a licensing criteria for multiple licenses. I filed this under 8827. My application has nothing to do with an allocation of existing carriers or whether or not I have more than one CPCN from the Taxi Cab Authority because I have zero. So here's -- and I'm going to ask you this again, is why are all these people just joining in Bell’s? He filed the first appeal; we know that. These applications were denied based upon each and individual petition for intervention that was filed. Their own certain set of facts. So Bell files his first and says, and you’ve heard his arguments, but the others just file a joinder. They don’t address their individual petitions for interviewing. What did they file? What did they say? Why did Officer Rickert deny their petitions on its face? Looking at the document that I referred, the findings of fact, nowhere does it show that Mr. Rickert made a finding that these guys have met a direct and substantial interest in this application that we've submitted. Nowhere. It wasn't in their petition to intervene, and it wasn't found, by Hearing Officer Rickert. They completely cite the law wrong. Even if they did have a direct and substantial interest, it is not a matter of right for you to allow them to intervene. But you know what? They've been doing it this way for 30 years so, what's another time going to be? We're going to file these petitions to intervene. They're going to be defective, admittedly. But please, Mr. Board, Mr. Chairman, Mr. Commissioners, give us this one last chance. We'll do better next time. We'll get it right. As an applicant, is that fair to me? Let me read the opinion of -- I'm sorry, excuse me, I don’t -- Administrator Whittemore; February 20, 2020, (inaudible) meeting. We have been consistent now for the last several meetings. There is going to be a difference between an intervener formerly recognized who wants to perhaps cross examine or examine an applicant and ask for discovery, and that's a very informal thing, but the Chairman has indicated he expects an opposition when it's filed to be formal. It’s due process folks, so that the applicant understands exactly what they're up against. It's only fair for them. Those are not my words, Your Honor, members of the Board. Those are your words. These are your intentions. This is what you want. You control this. The statute 8827 says the Taxi Cab Authority will determine if I am fit and operational to run a taxi cab company. It does not say the industry gets to decide whether I'm fit or operational. For them to say that you guys can't do your job, and you can't make that determination. You guys are a party to this matter, regardless. You have a stake. And it's my burden to prove to the State that I can meet all of those requirements. Don't let this 30 years of the way that it's been going sidestep you from the truth. In the last 30 years, how many applications have there been? Three that I can name? So on three times, they were required to file a petition to intervene on an application. This isn't a regular occurrence. This is something that's different. They all admit to it in their appeals saying, oh my God, this is such a big step for us. We all need to get in there and do discovery because it's so important to the industry. If it was so important to the industry, follow the law, 706894 has certain requirements. They're coming to you and asking you affirmatively to allow me to become a party in this application. This isn't my burden. This isn't your burden. This is their burden to meet it. And I've cited in my appeal that there's numerous -- you want to talk about Nevada Supreme Court? You cannot pick and choose which regulation you want to or do not want to apply. This Board from February 2019 through today has used words like transparent, fair, and due process. I want to talk to you about the standard of review because I can definitely tell that Commissioner Reaser’s Board experience is easily showing. He understands what the process is and the appeal process and 233B. Now true, NAC Taxi Cab Authority does have their own statute for appeals, which is NAC 975, which was cited by Mr. Trafton. But you have to show that it was unreasonable, unlawful, erroneous, or not in conformity with the law. But in order to do that, you have to apply the abuse of discretion standard. Did Hearing Officer Rickert abuse his discretion in coming to these findings of fact and conclusions of law? Was it clearly erroneous? That is the standard that you need to do. And so, basically both Federal and State law holds that agency's decisions are reviewed for an abuse of discretion. What is an abuse of discretion? An abuse of discretion occurs when the correct law is not applied or rest its decision on a clearly erroneously finding of a material fact. The ninth circuit, an abuse of discretion occurs when the record -- this finding -- this hearing transcript, this findings of fact -- this occurs when the record contains no evidence to support his decision. So we look at what the record is: The hearing transcript, the petitioner's original petitions to intervene. And you look at those documents. Is there any evidence in those documents that supports Hearing Officer Rickert's decision? And admittedly, the answer has to be, yes. He went through 30-something pages on these findings of fact and outlined his decision. Then he went to conclusions of law, and all of his conclusions of law are supported by a Nevada statute or regulation. You cannot clearly say that this was an unreasonable or unlawful or erroneous decision by Hearing Officer Rickert. Now regardless of that, they come before you and they throw out this, oh, you, the Board, the commissioner's, authority, you need to liberally construe the regulations relating to intervention. We have substantial compliance. Don't kid yourselves. When they say they want to liberally construe, they want you to grab this pen. They want you to grab their petition to intervene, and they want you to sit there and write in what they failed to do. They had no problem telling you today, the nature of the evidence. Everything that they said today, they knew when they filed their petition to intervene. I've been a limousine operator and owner since 2017. They want to come up here and question my ability. I've been twice approved by the Nevada Transportation Authority to operate a transportation company in this state. One of them being an unlimited limousine license that I purchased from the Frius Estate. They don't need to come and tell me what the burden is or what I need to prove. That's your job. Let me put on my case. They can't come before you now, just now and say this intervention regulation is impractical, which is very, very comical to me because they've used that same statute to keep out other applicants for the past 30 years. They come before you and say, oh, since we failed to do it, it obviously cannot be done. How hard is it to state the nature of the evidence? Hey, I don't like Brent Carson. I don't like Claudia. We don't need more cabs. We don't need this. He has a limousine operation. Let’s get to the bottom of that. Let's check his financials. Let's do that. Is that hard? That's the -- look at 8827. That's my burden. That's the evidence that I am going to put forth. They know that. And they say, well, I'm going to question his operational fitness. I'm going to question his fitness. I'm going to question his financials. They could have said that. That suffices. Let me know what their problem is, and I can see if I can fix it. That's fair to me. And you know what's not fair? Is that they're coming here -- we've already -- I've already disclosed all of my documents. I've disclosed an (inaudible). I disclosed drivers. I have 70 drivers lined up ready to go to work for me. But look at this, I don't care. You know, now, what are they going to do? They're going to -- oh, we've already, you know, I've already showed my cards. Here they are. My cards are on the table. They know what it is. Rickert’s thing says, present your evidence, present your witnesses. I've done that. They know what it is. Yet, when asked what discovery you guys want, what response did they give you? Oh, I don't know. I think we should just do some written discovery and some of this. Show me anywhere in the NEC 706 that governs the practices here before the Taxi Cab Authority where they are entitled to written discovery. It doesn't. They don't get to do discovery. This isn't the NTA. This isn't a civil lawsuit. It doesn't say that they get any kind of discovery. It says that they can do a deposition and maybe some subpoenas for whoever, for their witnesses. So we need nine months of discovery on my application. Liberally construe. They want you to fill in the blanks. That's it. They didn't do it. They got called out on it. Anyway, but listen to this, they don't even address the second part of the statute that they're referring to. In order to liberally construe, you have to have a just speedy and economical determination of all issues presented before the Authority. We submitted the application. That's my issue. Liberally construing, does that affect me? Do I want to -- they're asking me, do I want a fair hearing? Yes, I want a fair hearing, but I want you to follow the law too. And if you got called out on it, that's your bad, not mine. I'm a lawyer. I'm pointing out this thing. I can read a statute and a regulation just like any one of you guys can. And if they don't follow it, that is my job, and I pointed it out. Hearing officer agreed with me 100% and said, you know what? I don't even need to go any further because on its face, they are defective. Start with number one, direct and substantial. Never referenced. Never a finding of fact. Never a conclusion of law. So, for them to come up here and say, oh, we substantially complied with this thing, and that's what the Nevada Supreme Court says. How can you substantially comply when you haven't met the first and most important, whether you have a direct and substantial interest in this application. And why is the word substantial in there? Direct, yeah, if they’re certificating carriers, yeah. This directly affects them. Substantial? Look at their petitions to intervene. Do you see one word about what my application brings that is so substantial that they need to intervene and find out all this information about me? I’m asking for 35 cars, less than 1% of the industry. Is that substantial? Or was the regulation written this way so it doesn't waste your guys' time, applicant's time, and everybody else's time? There has to be a substantial reason. Never. Not once in any moving paper before you does it say how this substantially affects them. Oh, it affects them. Don’t get me wrong. Oh, it's going to affect us. It's going to affect us. How? What have they told you? What evidence is before you? Zero. Other than the statement that we're certificated carriers with a direct and substantial interest in this application. Tell me that. Does that meet the requirements? When they say, hey, you need to show a direct and substantial, does a statement saying we have a direct and substantial interest -- does that meet the requirements? Is that evidence? No, it's not. The following statement after the liberal construction argument that they're doing is, is it just? Will this be a just determination of all issues? Just. Is it fair? Would it be fair to all involved? They knew about this. They knew about your position. They knew about Administrator Whittemore’s position about filing these things. His words, not mine. That's only fair to follow the regulation standard. And you know what he says? I'm not going to ask my staff. I'm not going to ask the Board. I'm not going to ask my staff to bend the rules for them when they fail to follow this regulation. What's changed? Nothing. Are you going to bend the rules for them? Is that fair? Is that just? Applicant's March 2, 2020, hearing, Hearing Officer Rickert: Applicants are entitled to due process. This needs to be handled correctly, and it will be. This argument that you heard from them that, oh, you're changing the reg. We've never been denied. Intervention was specifically addressed in the record. I can have you guys -- I’ll just reference it. Page 71 of the March 2, 2020, hearing. And Mr. Olsen, I apologize, but I do want to read this into the record. It's about three paragraphs. This is the words of the hearing officer: All right then. Just before we take a break, I've heard a lot regarding a so-called change in standards. Some form of argument regarding detrimental reliance. I want to address this. It seems that there are a lot of claiming that you are caught flat-footed here. You didn't know what to expect. The rules were being changed on you, and I've got three things to say to you. Number one, the intervention regulation, NAC 706894 has been on the books for over 30 years. I guess there are people in this room who actually were around when it was adopted. Number two, I've been with the TA for about a year and a half. From my memory, every agenda I've seen in that time had the regulation NAC 894 listed right on the front page as to what you need to follow in order to intervene. Number three, as Mr. Carson has pointed out, the administrator and the Chair of the Board have made it a point to bring up your status as interested parties, not interveners, at the last couple of Board meetings. And it's been explained that the procedure needs to be tightened up. This application is a serious matter with possible implications for the entire market, and the applicants are entitled to due process. So it needs to be handled correctly, and it will be. I sat through the entire March 2, 2020, hearing, obviously, but the constant belittling, bereavement of Hearing Officer Rickert, he did the right decision. He followed the law. And in fact, Nevada Supreme Court says, if you don't follow the law or the regulations, I get a chance to appeal, you know? So you can't have it both ways. I mean, did they follow the law or did they not? Are you going to choose to bend the rules for them? Are you going to choose to ignore the requirements of 706894? My opinion is you can’t, but that's why I'm not sitting on that side of the table. So, let's talk about the next thing. So now, we've got to liberally construe. It has to be just, but it also has to be speedy. A speedy resolution of all issues. Desert Cab, six to nine months of discovery. Then I'm quoting from the March 2nd hearing, paraphrasing: Then, we'll set the hearing. So, it's not even just six to nine months I'll see you guys again. Six to nine months of discovery, then we might have a hearing later on somewhere down the road. Is that speedy?

MR. OLSEN: Mr. Carson, I’m going to interrupt you for a second.

MR. CARSON: Yeah.

MR. OLSEN: While I want to hear everything you have to say, I’d like you to just kind of stick to the topic, drop the theatrics, and move forward.

MR. CARSON: Thank you.

MR. OLSEN: Thank you.

MR. CARSON: Okay. Again speedy. Lucky's position, six to nine months, and then we'll do experts, and then cross-examining of these people, these experts and stuff. So, again, is that speedy? Yellow Checker Star, same as Whittlesea, six months of discovery, written discovery, which they have no right under the statutes to have. February of 2019, Fruis sold five companies and over 1100 medallions, and that was done in less than a month, two months if you want to include the 12 medallion issue. In November of ’19, Captain got their applications on in less than two months. We know what happened at the NTA when they granted an intervention on the limousine side of the Captains. Mr. Bell and Mr. Balaban bought (inaudible) February 2019. This is what Mr. Bell had to say about his application: It was a long tenuous process that we tried to get done rather quickly for the benefit of the traveling public and the industry. Long, tenuous process. He didn't have interveners, but yet it was still a long and tenuous process to get his application filed and accepted within a two-month period of time. Double standard? When they do it, it's for the benefit of the traveling public and the industry. When we file our application, it's, you know, what it is. So we're entitled to this. It's our matter of right. We’re the industry. Final determination is economical. I don't even need to address this. We know that. The longer this goes, the more it's going to cost, time and energy, everybody. There's 16 cab companies here, 16 cab attorneys or less, I don't know. But on the June 24th agenda, Mr. Trafton came before you admitted that it was -- if we had to go down these two paths, it's going to be an economical detriment to everybody involved. So when you look at the liberal construction NAC 706876 language, it says it needs to be a just, speedy, and economical determination of all issues. Does not say some of the issues. The main issue we're here today is because of the application. Now, addressing some of the comments. Checker Cab case that Mr. Bell, or I'm sorry, Mr. Trafton cites, that's not controlling here. It's clearly distinguishable. That case has nothing to do with what he's pointing to. In that case, and I pointed it out in my response is, in Checker Cab they brought it up and they said -- the Attorney General, first off, Checker did not file a petition to intervene, that is correct. And they were denied a voice at the hearing. That is true. But is the reason that they were denied their voice was what the court found as the procedural infirmity. At that time, the acting Board had an attorney general that said, you cannot hear from anybody that didn't file a petition to intervene. Now, the court said, that opinion of the attorney general was wrong because the TAs are probably PS -- UPCs rules at that time provided one, a chance to deviate or two, to offer them a different classification of parties, not an intervener, but an interested party where they can come up and give their voice. But the fact that the Attorney General told the Board, you cannot under any circumstances listen to what these guys have to say is what the court found was wrong. Commissioner -- Hearing Officer Rickert already addressed these two things. He said one, they asked for a deviation. He didn't do it. And he gives his reasons why in his thing, but then he also gives them a chance to be heard. He gives them interested party status. Not intervener, but interested party. And an interest party can come up and hear their voice at my hearing. So to say that Checker is controlling is not true. They were given their voice, interested party, to come up here and talk to you, and to present witnesses. Commissioner Reaser’s three questions: First one was the nature of the evidence. Now it doesn't ask you to produce every percent -- everything in evidence. It just is giving you the nature of it. I have no problem coming up here months later and saying what it was. All of that stuff was available to them before the petition to intervene were filed and they're available now. He asked about the strict compliance by the administrator. We all know that. February 8 -- February 2019 to present. You guys make it a point, saying tighten these things up. If you don’t, I'm not going to bend the rules for you. And finally, the standard abuse of discretion. You guys, I mean, with all due respect, you cannot substitute your opinion or the opinions and findings of facts of the hearing officer. You just have to decide whether or not there was enough evidence or any evidence to support the findings he made and the conclusions he came to. He was the one that heard the arguments and made these findings of fact. Now you look at the record and it's confined to the record on appeal as whether or not there's any evidence to support his conclusions and not substitute your own judgment for that of him. For timing, I'm going to pass it over for questions, Mr. Chairman. I believe I've outlined my positions in my briefs that are in front of you on the binders, so.

MR. OLSEN: Thank you. Mr. Reaser, any questions?

MR. REASER: I have no questions.

MR. OLSEN: Okay. Mr. Thompson?

MR. THOMPSON: Well, I was listening with interest to what you're saying. It seems to me, I heard you say at one point that you are not requesting any medallions. Did I mishear that?

MR. CARSON: Yeah, I'm requesting 35 medallions.

MR. THOMPSON: That’s what I thought, so I must have misheard it. The other implication that I heard was that you're afraid that the interveners are going to judge you. They are not. They're providing information. And my understanding of the Board is the judgment. Is that correct, Mr. Chairman?

MR. OLSEN: Correct. That is right.

MR. THOMPSON: So my desire is to be fair to every side, your side, the intervener's side, the Board side. I want fairness. And listening to your arguments, it almost sounded like you were saying one of the angels dancing made a misstep, and so, that's a problem. Well, it's a problem for the TV show Dancing with the Stars, and the legalism in the State of Nevada, which I confess I don’t understand. I will confess that my wife has told me several times I'm a terrible dancer. Okay? And I can't enforce myself to watch Dancing with the Stars. So I really shouldn't comment further, and I'm going to turn this back over to the Chairman.

MR. OLSEN: Thank you, Mr. Thompson. Ms. Rodriguez, any questions?

MS. RODRIGUEZ: No.

MR. OLSEN: Mr. Groover?

MR. GROOVER: Just kind of wanted to see Board member Thompson dance.

MR. THOMPSON: No, you don't.

MR. GROOVER: No, I think it's pretty clear at this point. I have no further questions.

MR. OLSEN: Then let's go to Ms. Hoeppner, do you have anything to add?

MR. HOEPPNER: No. I thank you for the opportunity. This is a serious matter for us, and we respect the process and we thank you for your time and the industry for participating. They might have good intentions, but it's been quite a experience so, on the way that their behavior is. I'm sure pretty soon I will have more comments to you with regards to all the details of our application and such, but I thank you for your time.

MR. OLSEN: Okay. Thank you. Mr. Reaser, any questions of Ms. Hoeppner?

MR. REASER: No, I have none. Thank you, Mr. Chairman.

MR. OLSEN: Okay. Mr. Thompson?

MR. THOMPSON: No, thank you.

MR. OLSEN: Ms. Rodriguez?

MS. RODRIGUEZ: No.

MR. OLSEN: Mr. Groover?

MR. GROOVER: None.

MR. OLSEN: Okay. Thank you. Pull back to the Board and Board members, deliberation, discussion, comments? Mr. Reaser, would you like to start, sir?

MR. REASER: Certainly. Thank you, Mr. Chairman. I'm prepared to make two motions, so I don't know if you want me to be the first person to speak.

MR. OLSEN: Let me see if anybody has any discussion before we do any of the motions, if that's fine?

MR. THOMPSON: Nothing from me really, other than I want fairness to all sides.

MR. OLSEN: Ms. Rodriguez, anything?

MS. RODRIGUEZ: No, sir.

MR. OLSEN: Groover?

MR. GROOVER: Go ahead with the motions.

MR. OLSEN: Okay. Go ahead, Mr. Reaser.

MR. REASER: Thank you, Mr. Chairman. Members of the Board, I would make two motions. The first motion relates to the appeal of A Cab. I would move that we dismiss the appeal of A Cab. During the proceedings before the hearing officer; transcript page 13, line six; the representative of A Cab found acceptable the denial of the notice of intervention and having been given interested party status. Like the doctrine of judicial estoppel in a court, there is a similar doctrine in administrative proceedings and contested case proceedings that if a party takes a position in a case, they are prevented from changing that view. In my view, A Cab accepted their interested party status and cannot now appeal and so I would move to dismiss that appeal.

MR. OLSEN: Okay. Do you want to tell us your second one or do you want us to move on that one?

MR. REASER: I would suggest Mr. Chairman that we handle each separately.

MR. OLSEN: Fine. Board members, any discussion regarding Mr. Reaser's recommendation?

MR. GROOVER: I would make a motion we accept the --

MR. OLSEN: We have a motion by Mr. Groover. Is there a second?

UNIDENTIFIED: He’s the second.

MR. OLSEN: You second?

UNIDENTIFIED: (Inaudible) second.

UNIDENTIFIED: I thought Mr. Reaser was making the motion so --

MR. OLSEN: You’re right.

UNIDENTIFIED: Member Groover would be second.

MR. GROOVER: I'll second the motion.

MR. OLSEN: So we have Mr. Groover as a second. Okay. All in favor of accepting Mr. Reaser’s motion to dismiss A Cab. Aye.

MULTIPLE: Aye.

MR. OLSEN: Opposed? Passes. Thank you, Mr. Reaser. Your next one?

MR. REASER: My next motion relates to the other appeals that have been filed, and I would -- what I would like to do Mr. Chairman is state the motion, see if there is a second. If there is a second, then I will explain my bases. Is that acceptable to the Chair?

MR. OLSEN: It is, sir.

MR. REASER: I would move that we reverse and remand the hearing officer's decision, sending it back to the hearing officer for the purposes of first, allowing amended notices of intervention to be submitted that specifically comply with NAC 706894. And providing that that must be done within 10 days. Second, that the hearing officer must conduct a pretrial hearing no later than 30 days following the date set for any amended notices of intervention and that he take any supplemental or necessary evidence on the notices of intervention at that hearing that he deems appropriate. Third, that he have no more than 15 days to enter a full and complete prehearing order governing the conduct of this case, including the allocation of any rights of interveners, any discovery committed by statute or regulation, and resolution of any prehearing motions or matters, and that he set a hearing on the application no later than 120 days thereafter. That is my motion.

MR. OLSEN: Okay. Has everybody heard the motion? Is there a second?

MR. THOMPSON: As I think I understand it, I will second that motion.

MR. OLSEN: Thank you, Mr. Thompson.

MR. REASER: I will, with your permission, Mr. Chairman, speak to the motion.

MR. OLSEN: Okay.

MR. REASER: I believe that with the deference to the hearing officer, there was an abuse of discretion here. The -- I -- and that the principal abuses of discretion I see are first, he did not act on the notices of intervention as filed and supplemented at the hearing. He only acted on the intervention notices on their face. And during the hearing, parties supplemented their showings on their notices of intervention. And he failed in his order to address whether those supplements made by some of the parties cured the defects. Instead, he just denied each of the notices of intervention on their face as filed without considering, or at least explaining how he considered or did not consider the showings or statements that were made by the parties in supplement of their notices of intervention. And that therefore denied to us the ability to determine whether or not he fully and fairly considered the statements and the intervention notices as were submitted. I will state also -- and that's my factual concern about the order. I have a more substantial legal concern with his order. It is a very settled proposition of Nevada Law from Greyline Tours versus Public Service Commission 97 Nevada 200626 Pacific second 2631981 that the concept of precedent, which the law called starry decisis has absolutely no application before administrative agencies. Administrative agencies are not bound by their previous decisions and additionally failing to follow that precedent is not deemed to be an abuse of discretion. And I cite for that Motor Cargo versus Public Service Commission 108 Nevada Suite 35, 830 tax second 2631981, and Desert Irrigation limited versus State 113 Nevada 1049, 19 -- I'm sorry -- 944 Pacific second 835, 1997. It is likewise though, a very settled proposition of administrative law that if an agency has for longstanding given an interpretation or application to its regulations or the statutes that it is interpreting and it intends to make a significant departure from that, the agency must articulate why it is not going to adhere to express it. And it must fully explain and justify the departure. It must provide a reasoned and adequate explanation for why the parts from its previous interpretation, especially whereas here, the evidence shows the public has a substantial and good faith reliance. The hearing officer's order failed in all regards to provide that statement, and the fact that the administrator states on a public record that there's a new sheriff in town, and we're going to do it different does not comply with the requirements of these cases. I cite for example, and these are not Nevada cases, but these are cases, administrative law cases, from the Federal system which construes the Federal APA, which is substantially similar to Nevada's. National Labor Relations versus Great Western produce 39 fed second 555, 9th circuit, 1988; Arizona Electric Power co-op versus the United States, 8, 16 fed second, 1366, 1987 ninth circuit case. Another ninth circuit case, (inaudible) versus the United States, 10, fed third, 1361; and Bath versus US Department of Housing and Urban Development, 88 fed third, 739, also a ninth circuit case. I cite nine circuit cases because we are in that circuit. So I believe there is a significant factual error made by the hearing officer by not discussing in his order and disposing of the substantial evidence on the record that there was supplements to the notices. And I also find that there is a legal deficiency in the order for failure to provide an adequate and full explanation of the departure from the precedent that was given or has been followed by the agency based on the record before us. I'd be happy to answer any questions my colleagues might have, but that is the reasoning for my motion. I would want to say this. The reason I have suggested a very tight timeframe is both parties are entitled to due process here. And this application, just in my view, seems to have languished. If the Public Utilities Commission of Nevada can determine what the rates payers are going to pay for electric utilities in this state in six months, including all the interventions and the proceedings that it has to conduct on a statutory timeframe, I think the applicant here is entitled that this not languish. I also appreciate that the applicant is entitled not to have this be a moratorium on competition, but rather proof, a search for the truth of whether or not the applicant complies with 7068827 in making out the criteria for being granted a certificate. But I also believe that the Checker Cab case presents to us as a board, a requirement that we look to the industry's interest as well and make sure that before we go to hearing on the application, we are certain that the rights of other parties, including their property rights, have not been injured. And so, for those reasons, I ask my colleagues to support the motion.

MR. OLSEN: Thank you, Mr. Reaser. Anybody have any questions of Mr. Reaser?

MR. GROOVER: Mr. Reaser, this is board member Groover. So, we apparently have had a significant departure from prior practice on these motions to intervene. Will the statement of former administrator Whittemore hold any weight in demanding that these motions in the future be completed the way that the hearing officer interpreted them or your impression of that? Is that clear?

MR. REASER: It is, member Groover and my, through the Chairman too, I would indicate that I believe that that is a first step, but I believe that it is inadequate to meet the standards that I cited from the ninth circuit cases, member Groover, which requires that if the agency's going to depart, it can depart, and there is no right that you cannot stop it from departing. But the case law, you know, settled administrative case law says that the agency has to provide a full, complete explanation and justification for the departure, what it intends the standards to be with specificity, and the courts say that that's necessary because elsewise a reviewing court or a reviewing tribunal like us, is unable to determine whether the agency is acting consistent with its statutory obligations. And in this case, we've been deprived of that kind of a record, and being deprived of that kind of record, the courts have said is arbitrary and capricious. I hope that answers your question.

MR. GROOVER: It does for the most part. And I'll take it at that.

MR. REASER: Well, I'm going to just add one thing.

MR. GROOVER: Okay.

MR. REASER: I think it's incumbent on the hearing officer, if there's going to be an agency departure to give us a record that satisfies this Federal case law. And that's why I want to remand it to him.

MR. OLSEN: Mr. Bhalla has some questions.

MR. BHALLA: Thank you, Mr. Chairman. Member Reaser, I just want to clarify for the record, do you intend these dates in your motion to be effective within the timeframe after this meeting or within the timeframe after the effective date of the written order that would come from this?

MR. REASER: Are you talking about the written order of this body?

MR. BHALLA: Correct, sir.

MR. REASER: The written order of this body.

MR. BHALLA: Thank you.

MR. OLSEN: Anybody else have any questions? Mr. Reaser? This is Stan Olsen. I want to say that I was thinking quite along the same lines before you brought up your second part of your motion. And so, with that stated, we have a motion. We have a second. All in favor of motion one. We already did motion one. Sorry. Motion two by Mr. Reaser, say aye.

MULTIPLE: Aye.

MR. OLSEN: Opposed? Seeing none. Thank you, sir. It passes. Now going to agenda item number four, public comment. Anybody having any public comment feel free to step forward now, identify yourself. Okay. See none at this point, I will make the public comment that likely this is the final meeting that I will be attending. As Mr. Groover is the most senior member of the board and we cannot proceed without a Chairman, I would recommend that Mr. Groover be the interim Chair until the governor decides which direction to go on this. Does anybody have any concerns with that?

MR. REASER: Mr. Chairman, this is Dan Reaser. May I ask of the attorney general if we can take action on this?

MR. BHALLA: Thank you, Mr. Reaser. There's no action that can be taken at this time. There would have to be some sort of formal designation at the next meeting. I believe the Chairman is just making public his opinion on the matter.

MR. OLSEN: That is (inaudible) my opinion.

MR. REASER: Thank you for that clarification. I just didn't want to hear a motion.

MR. OLSEN: And yeah, no it wasn’t. And Mr. Reaser, are you available for a phone call in about an hour?

MR. REASER: Yes, I am.

MR. OLSEN: Okay. I'll give you a call. Thank you.

UNIDENTIFIED: Mr. Chair, if you'd like, the agency will put that vote on the agenda for the next Board meeting.

MR. OLSEN: Yeah, I think it needs to be. Okay. Anything else from the Board due to the order before we adjourn? Nothing? Okay. We are adjourned.

[end of meeting]