



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
TAXICAB AUTHORITY
1785 E. Sahara Avenue, Suite 200
Las Vegas Nevada 89104
Telephone (702) 668-4000 • Fax (702) 668-4001
<http://taxi.state.nv.us>

TERRY JOHNSON
Director

LT. JOSEPH WINGARD
Acting Administrator

ILEANA DROBKIN
Chairman

VACANT.
Vice Chairman

Members
VACANT

JOHN G. MARUSHOK
JOSHUA C. MILLER
JOSEPH P. HARDY, JR., ESQ.

BEFORE THE STATE OF NEVADA TAXICAB AUTHORITY
BOARD MEETING AND PUBLIC HEARING MINUTES

April 5, 2011

The Board Meeting and Public Hearing of the State of Nevada Taxicab Authority was held on Tuesday, April 5th, 2011. The meeting was held at the Taxicab Authority, 1785 E. Sahara Avenue, Suite 200, Las Vegas, Nevada 89104. The meeting began at 9:30 A.M.

Present were: Chairman Ileana Drobkin, Member John Marushok, Member Josh Miller, Member Joseph Hardy and Member Dennis Nolan. Others present: were Legal Counsel, Deputy Attorney General Scott R. Davis and Recording Secretary, Barbara A. Webb.

This meeting was to interview 8 candidates for the Administrator position.

2. Compliance with Open Meeting Law.

Ken Mangum, ASO I, stated that we were in compliance with the Open Meeting Law.

3. Public Comment.

Mark James, COO, Frias Holding Company, talked about the A NLV driver, Tesaye Arze, that was murdered on March 4th and had asked for a moment of silence. Mr. James gave the background of Mr. Arze and how he is the main support of his family in Ethiopia. He was born in 1980 and is one of many children. He stated that Frias is setting up a fund so they will continuously support his family. He went on to explain what had happened the night of March 4th and how one of the suspects was apprehended and one is still at large. Frias has donated money to CrimeStoppers of Nevada to create reward funds for the apprehension and conviction of the individuals involved. He said that because of this situation, they and the industry have agreed to create the Tesaye Arze Memorial Taxicab Driver of the Year Award which will be an annual award given to a driver in the industry based on meritorious service and other criteria. Frias will fund the trust, they will provide a \$1000 reward for the Las Vegas area taxicab driver of the year, every year after the first of the year. He said they would welcome any other industry participants who would like to contribute to the trust and some have already agreed. He said that in October of each year, a certificated operator will nominate one taxicab driver to be considered for this award. He said there will be a Board consisting of 7 people – 2 taxicab drivers, the Administrator of the Taxicab Authority, 3 industry representatives and 1 representative from the LVCVA – who will determine the liberative criteria for the award, review all nominations and name the winner each year. Hopefully, the criteria set up by the board, and which will be set up as a not-for-profit corporation to have a perpetual existence, will be for meritorious service within the normal scope of work, length of service and other special circumstances, heroic events, efforts to go above and beyond the call of duty. That will determine the winner who will be presented the award at a regular Taxicab Authority Agenda Meeting early in the year with a keepsake award such a plaque or trophy, #2 – we suggest that a plaque be permanently affixed in this room or someplace else that the TA might designate and each year the name

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of the recipient be engraved on that plaque and a photograph of the winner be displayed throughout the year of his/her award.

The second thing he brought up was an industry reward trust of which he has a lot of industry participation. This would be set up as a not-for-profit trust funded by industry participants for reward funds in an effort to apprehend and convict perpetrators for this type of crime against taxicab drivers. Frias has pledged the first \$25,000 for the establishment of this fund which is \$5,000 from each of their 5 cab companies to support law enforcement and CrimeStoppers in their effort. He complimented Brent Bell on how much he supports CrimeStoppers stating that his company will be a part of this as well as Desert Cab and Yellow/Checker/Star Cab Companies all of whom will participate in this as of today.

At this point, new Board Member Nolan had arrived and the Chair welcomed him once again.

Steve Lanett started by complimenting the enforcement staff especially Investigator Infurno and Investigator Costantino in the arrest of the killer of the cabdriver in February. He also commended staff analyst and Brock for the way he handles his classes. He commented that the candidates must concentrate on fixing the long haul issue immediately. He said that if he had applied for the Administrator's position, he would fix the problem in a month. He said the most important thing is the signage at the airport and the hotels. He said he hoped the new Administrator has an open-door policy.

***4. Discussion and Possible Decision regarding the allocation of temporary medallions for the 2011 Laughlin River Run that runs from Wednesday, April 27th through Sunday, May 1st, 2011.**

The Chair stated that the Board would accept the interventions. Member Hardy said that he had Frias as a client 2 years ago, but it had nothing to do with TA business and feels he can be impartial when making his vote.

Kelly Kuzik made his presentation stating that in the past two medallions were issued to only Desert Cab Company and Lucky Cab Company as they are the only two of three companies that can go to Laughlin. Deluxe can also go to Laughlin, but never takes part in the allocation for this event. He said he had no objections to what the two companies would decide.

Intervenors were Desert Cab, Frias Holding Company, A Cab, LLC and Lucky Cab Company.

George Balaban, Desert Cab, stated that the Laughlin River Run is one of the biggest events in Laughlin and the 2 extra cabs for this event are needed from Wednesday, April 27th at noon to run continuously through Sunday, May 1st at noon.

Neal Tomlinson for Frias supports Desert, but does not participate.

Jay Nady, A Cab, supports Desert, but does not participate.

Desiree Dante, Lucky Cab, agrees with Desert Cab.

The Chair asked for a motion:

Motion: 2 medallions for Desert Cab and Lucky Cab continuous from noon Wednesday, April 27th through noon, Sunday, May 1st.
By: Member Marushok
Second: Member Hardy
Vote: Passed unanimously



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*5. Discussion and Possible Decision regarding the Implementation of a Temporary Fuel Surcharge.

Neal Tomlinson, Esq., on behalf of Frias Holding Company, filed an application with regard to a temporary fuel surcharge.

Chair Drobkin stated that even though she had spoken with Mr. Tomlinson regarding this, she will make a decision with no bias.

Kelly Kuzik made his presentation suggesting the proposal of 25 cents on the drop or 25 cents on the metered mile. He commented that by putting the 25 cents on the meter, the meters would have to be changed and tested by the Vehicle Inspectors which would create an enormous amount of overtime that the agency does not have in their budget. He commented that it could better be discussed in a Workshop.

Mr. Kuzik had stated that the industry had said they will pay for the overtime and the meter seals, but our DAG stated that cannot statutorily be done because we are a regulatory agency who regulates them. It can be discussed at a workshop and a regulation adopted.

There was much discussion between the Board and Kelly regarding the drop and the \$4.50 ceiling on the price of gas as well as when gas goes below \$3.50. Kelly explained that by putting the 25-cent drop per trip and they get 3 trips to a gallon, it would cover fuel for 75 cents over the current pump price up to \$4.50 and if it goes higher, we would have to look into it again. The metered mile version would add \$3.00 per gallon and it would have to rise to \$6.75 for the riding public to break even.

Member Marushok wanted to know how the surcharge would be shown on the cab. Kelly answered that new cards would be displayed on the cabs' door as it is now, fully explaining the surcharge.

Member Miller asked what baseline is used and if there was any historical data and Kelly commented that in 2007 there was a fuel surcharge and the base price was \$3.20 with 20 cents on the metered mile which covered them up to \$5.60 a gallon. In 2008, fuel went up real high when the fuel surcharge was put into a rate increase. In 2008 there was another request for a fuel surcharge which was granted and put it \$3.00 over the pump price, but this surcharge was removed by the Administrator when the threshold setting went below it for 10-14 calendar days. Member Miller wanted to know when we should check the price per gallon and Kelly said that he started at \$3.00 a gallon over the current pump price. He asked Kelly if he had a threshold in mind when the Board could ask the Administrator to remove the surcharge and Kelly commented if the fuel goes below the \$3.75 threshold for 14 consecutive calendar days, the Administrator would then have the authority to remove the surcharge and replace the rate back to the original amount.

Member Nolan commented that if it goes down in 3 months and spikes again in the next 3 months, there will be no revenue at that time. Kelly said that was true, but it was factored into the overtime budget as well as the 7 BDRs of which one was to change the regulation to allow the TA to either bill or be paid for unanticipated meter changes. Unfortunately, none of these BDRs made it past the Director's Office. Mr. Nolan commented that the BDRs should have permissive language in the statutes to allow the TA to work with the industry under these circumstances especially if they're volunteering to support the situation, he felt the Legislature would look more favorably at that type of legislation. He felt that if our DAG spoke to LCB legal division regarding some bill drafts or bills that may help us. Kelly stated that he will get with the DAG to try to change it because of unanticipated obstacles where a long term solution is needed. Hopefully with the Legislature still in session, something can be done because the fuel is not going to go down in the near future.



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Cheryl Knapp asked if intervenors can ask staff questions and the DAG said it was up to the Chair who granted her permission.

Ms. Knapp asked Kelly why his formula did not include dead miles and he explained that what is reported is paid miles and he also used the amount of fuel and the total miles driven. He commented that it works out about the same. Jay Nady asked if the actual trip that a rider takes is 4 miles and Kelly said yes. Mr. Nady said that two thirds of the time his cabs are moving with only the driver, he did not agree with Kelly because he said for him it is 12 miles, not 4 miles. Kelly went on to say that he based it on the numbers – 2010 - 25 million trips – and he went on to explain how he came up with his numbers.

The Chair asked to have this presentation completed so intervenors would have a chance to speak.

Interventions were allowed at this time.

Nellis Cab Company did not attend, but George Balaban of Desert Cab will speak for them.

George Balaban, Desert Cab, agrees with the fuel surcharge. He feels that with regard to the overtime and extra expense for the TA that is not available, putting the fuel surcharge on anything other than mileage does not make any sense because the amount of gas you use depends on how long the ride is, so he believes it should be on the mileage which he feels is the fairest way. With regard to how long trips are, he agrees that it is approximately 4 miles which is the actual time the meter is on. He said that with the unrestricted companies, the meter should be on at least 60% of the time, so 40% of the miles are dead miles. He feels it is closer to 6-1/2 – 7 miles for each trip, this point he disagrees with Kelly. He commented on the fuel surcharge of 2007 which was removed at the Annual Review and had a rate increase as part of the Annual Review. At that time, gas was under \$3.00 where he thinks at this time is a good starting point which is what Kelly used. He said in 2008 they received a fuel surcharge of 25 cents a mile when gas was at \$4.00 a gallon and that was removed when gas prices decreased. They are recommending to figure out how to get the meters reset and where the funds will come from. He wants to see it added to the mile. He talked about how the limousines deal with fuel increases. He supports 20 cents per mile as a temporary fuel surcharge which will be advertised on the door starting point being \$3.00. Member Miller reiterated that if the base is \$3.00 per gallon where is the top end going to be. Mr. Balaban stated \$4.00. Member Marushok asked if it goes over \$4.00 what is going to be done. Mr. Balaban commented that if it goes to \$4.50, then he will come back and apply. Member Hardy asked if he has a proposal of how to pay for the extra \$14,000 or \$20,000 to change the meters and Mr. Balaban commented that he is not attorney and Neal Tomlinson could comment on that.

Mr. Tomlinson asked the Chair if he could speak out of order regarding the legal issues that were raised by Kelly Kuzik to show an alternative view. The Chair asked the intervenors for their opinion and they agreed. He stated that the Board does have the legal authority to allow a fuel surcharge to be implemented and allow the industry to voluntarily say that they believe it would be fair and partial regulation to allow them to pay for this. The Chair asked if it had to be approved by the Governor and he didn't think it did. He stated that NRS 706.8819, statutory section says that the TA "shall conduct hearings and make final decisions regarding the adjusting, alter or change the rates, charges of fares for taxicab service." There is also the legislative statute which is 706.151 which states "the Authority shall implement fair and impartial regulation to promote safe, adequate, economical and efficient service and to foster sound economic conditions in motor transportation." He commented that only would it help the companies cover the cost, it will also directly benefit their drivers who pay



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for their fuel so this would benefit them as well because they pay 50% of the fuel. He feels that between these two statutes to allow the industry to voluntarily say that we believe it would foster sound economic conditions in our industry and that it would be fair and impartial to allow them to voluntarily pay that amount. Member Nolan asked if counsel could address this. DAG Scott Davis on behalf of the Board, under NRS 706.8826, subsection 3, specifies what the Taxicab Authority is authorized to charge through certificate holders, \$100 per year for each taxicab and a fee set by the Authority that does not exceed 20 cents per trip each compensable trip. So an additional charge where, and I mean by charge where the Board issuing an Order for the certificate holders to pay an amount to the Taxicab Authority is not contemplated in that statute. Previous decisions from the Board have been overturned on appeal on the basis that if it's not specifically provided for in the statute, then the Board would be acting outside its authority, that the basis on which the Board's Order setting a geographic restriction on temporary allocation was overturned. The same principle would apply there. That would be the basis for the restriction against any charge and also relying on a 1955 Attorney General opinion that's consistent with that. The Board has limited authority, such as this Board, cannot issue a charge beyond what is authorized in statute, while it is old, it is an Attorney General opinion and I agree with that. On the issue of a donation from the industry, obviously the certificate holders are all private companies and they have the right to do with their money what they want. There is a statutory scheme that controls this agency, it does require advance approval before the agency could accept the voluntary donation and that procedure depends on the amount of the donation. If it's more than \$10,000, I believe it's the Interim Finance Committee that must approve the donation. If it's \$10,000 or less, it's the Governor or his designee that needs to give approval to the Board before the Board can accept the donation.

Chair Drobkin commented that they would have to go to the Legislature. DAG stated it depends on the amount. Depending on how much the companies would donate, it's possible to just go through the statutory steps of obtaining the approval. The Chair asked that for purposes of this discussion and action today, what is the procedure we have to follow. The DAG said it doesn't have to be addressed in a Board Meeting. The certificate holders could approach the Administrator at any time. The Chair stated if their decision is based on that monetary factor how would it be done, is there a contingent, it would be at the Board's rule. The DAG stated it might present some problems because if it's contingent on it, getting the proper approval, you are at the mercy of them and how soon they will address the request. If the Order is contingent upon approval, the Agency may not be able to move forward and implement the Order until the contingency is met. The Board can consider anything that's relevant when they make a decision but not make it contingent on approval.

Member Nolan commented that LCB who wrote the statute maybe could be contacted to give an opinion if there is any conflict in the statutes maybe they can provide some relief in that area because if the Agency has the funds to pay the overtime to put the charge on the meter, they don't have the funds to remove it and that could be a problem.

Mr. Tomlinson commented that he does agree with the DAG that the Board could not impose this fee upon the industry, what he reiterated is that the industry voluntarily agreed to a voluntary assessment and that is what he was talking about. If the Order stated that the industry pay equally, that would be improper, but they are willing to pay voluntarily and he feels the industry would agree to the assessment. Member Miller asked if the industry would agree to put the voluntary assessment on and then agree to take it off at a certain threshold. Mr. Tomlinson feels the industry would agree to that. Mr. Miller questioned the statute regarding meter changes being undertaken by the Authority or could be done by a third party so the industry could pay the third party directly. The DAG explained that the statute requires the Administrator to certify and seal each taximeter.



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Mr. Tomlinson said there was something he wanted to address up front as it was addressed by staff. Frias agrees that it should be 20 cents per mile being that the last fuel charges it was agreed that was the best way to deal with it and the Board at that time agreed. He commented further on how the industry came up with the 20 cents per mile on the meter. There was much more discussion and Mr. Tomlinson said that after all the research it would be best having 20 cents per mile on the meter so everyone would benefit.

The intervenors were given permission to intervene.

Cheryl Knapp, Whittlesea/Henderson, commented that they are willing to pay any assessment to put the surcharge on the meters and also remove it when necessary. She asked for an accounting of the projected \$26,000 for overtime. She agrees with the 20 center per mile on the meter because the drivers will share 50% of that. There was discussion between Ms. Knapp and Member Marushok regarding the last 2 fuel charges that were implemented.

Jay Nady, A Cab, agreed to pay for any changes in the meters, agrees with the 20 cents per mile on the meter, but he doesn't understand why overtime is needed. Mr. Kuzik explained that if it was done during regular hours it would take months to do it.

Chaz Rainey of ITPEU stated that he agrees with the mile because drivers do pay a percentage of their gas unless they are new drivers who then pay for all their gas. The Chair asked if he had a proposal and he said no but would agree to a workshop. He said he does support the mile because it is more equitable.

Desiree Dante, Lucky Cab, agrees also with the 20 cents per mile on the meter because the company and drivers will benefit and also agrees to pay for the meter changes.

Marilyn Moran, Western Cab, agrees with Lucky.

Bill Shranko, YCS, agrees with Neal Tomlinson and George Balaban, urgency is important and his companies will pay for costs to install and remove the meter seals.

Member Marushok asked Mr. Kuzik if budgetary issues were not the issue, what would he recommend and Mr. Kuzik said he'd recommend it on the drop.

A motion was made –

Motion: Based on stipulation Order that the industry would donate the funds to put the fare change for the gas surcharge in place and also to take it off if necessary, motions to put on a gas surcharge with following details – base is \$3.25 which is used for calculation only, the per miles charge added to each fare would be 20 cents per mile and if the gas surcharge would remain in place and not be considered for another increase until gas rises to \$4.45 and that the Board gives the Commissioner the authority to remove the gas surcharge if the price of gas based on our benchmark falls below \$3.25 for 30 consecutive days.

The DAG asked if he wanted to include the price of gas specification with the Department of Energy's Statistics and he agreed.

Motion by: Member Miller

Seconded by: Member Marushok

Vote: Passed unanimously – motion passes



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- *6. Discussion and Possible Decision regarding a permanent solution by setting forth Fuel Surcharge Rates for taxicab companies by the establishment of a Workshop venue to address this need and related matters.**

Mr. Kuzik stated that he has any type of information that may be needed and feels a workshop is needed to come to terms. He said that he can send his information to the companies or anyone else involved so everyone knows prior to the workshop where the TA stands. He said his information is similar to how the NTA does there's and it can be adjusted accordingly. He hopes with just a couple of workshops it will be settled.

The Chair asked when a workshop can be scheduled and Mr. Kuzik said because we don't have an Administrator or a Chief, hoping the beginning of May. Member Marushok commented that he encourages one or two workshops to the solution solved before the meeting where rate increases are discussed so history will not repeat itself. Mr. Kuzik said the beginning of May or June was what we had before and feels at least 2 workshops will be needed. The first everyone can discuss the issues and then come back and make the decision. Mr. Mangum said it would give them enough time to work with the industry to be sure to get a good calendar. The Chair commented that once the Board reviews their calendars and date can be set.

Nellis – no one here – George Balaban will speak on their behalf – supports a workshop. Western, Whittlesea, YCS, Frias, A Cab, USW/ITPEU, Lucky all support a workshop.

DAG stated that a motion is not needed because you are just directing staff to schedule a workshop. The Chair asked Kelly Kuzik to get that scheduled.

- *7. Discussion with the following individuals concerning their qualifications for the position of Administrator of the Taxicab Authority. (The list of applicants is available at the Taxicab Authority offices).**
- *8. Discussion and Possible Action regarding the creation of a three-name list of candidates to be submitted to the Director of Business & Industry for the position of Administrator of the Taxicab Authority.**

These Agenda Items were taken together.

The Chair stated that she is not going to allow interventions on these items. She stated that all the Board Members have reviewed all of the applicants' resumes prior to today and independently and have chosen up to two applicants plus an alternate. She asked each Board Member who their choices were –

Member Marushok's #1 choice is Charles Harvey
Member Hardy – Bill O'Donnell
Chair Drobkin's #1 pick is Charles Harvey
Member Miller - #1 – Rex Miller
Member Nolan – Charles Harvey

The Chair explained that at the last meeting it was voted on to interview up to 8 candidates, she would like to vote the three to go through to the interview process and then they'll visit everyone's second choices and that's how they will pick the 8 to be interviewed. She commented that it is up to the Board whether they will interview 8 or not.



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Motion: Put through Charles Harvey, Bill O'Donnell and Rex Miller to be interviewed.
By: Chair Drobkin
Seconded: Member Nolan

Member Nolan stated that he did not realize they were going to prioritize the candidates because there are so many qualified candidates that the request to provide the three top, in his opinion, had equal qualifications that he was waiting for the interviews – just as a personal note for the record, his top pick came when the Chair asked him to pick someone. He feels there is a number of qualified candidates.... The chair asked if he'd like to go down his list and pick someone else just for this round and then more will be added to this list.

Member Marushok commented that out of his 3 choices, 2 and an alternate, that 1 and 2 are equal in his mind. He wants the opportunity to interview first.

Chair Drobkin asked how the Board wants it and Member Marushok agreed with her way but wanted to clarify that when he mentions a name it doesn't mean in the order of priority just as his names.

Member Miller concurs.
Vote: Passed unanimously – motion passes.

Chair asked for more names –

Tami Vernet Bass – Members Marushok and Member Hardy
Jose Troncoso – Chair Drobkin
Timothy Maloney – Member Miller
Kenneth Mangum – Member Nolan

Motion: Put those names in for interview
By: Member Marushok
Seconded: Member Hardy
Vote: Passed unanimously

Member Miller – Brian Scroggins
Member Marushok – William Wright

Motion: Add William Wright and Brian Scroggins
By: Member Marushok
Seconded: Chair Drobkin
Vote: Passed unanimously – motion passes

Of the 70 applicants for the position of Taxicab Authority Administrator, 36 attended the Board Meeting. From that list of 36 attendees, the Board picked 8 to be interviewed in order to choose the top 3 applicants whose names will then be submitted to the Director of Business and Industry. These top 3 will be interviewed at a later day by the Director who will then make his decision.

The 8 that were chosen by the Board to be interviewed were David Day, Kenneth Mangum, William Wright, Bill O'Donnell, Charles Harvey, Jose Troncoso, Tami Bass and Jim Maloney. Bill O'Donnell did not respond when his name was called. The Board started their interviews. Each interviewee was asked the same 5 questions. These questions came from questions that the Board was asked to submit to the Acting Administrator of the Taxicab Authority, individually and independently who then decided on



