NEW YORK CITY
TAXI AND LIMOUSINE COMMISSION
FEBRUARY 21, 2013

TAXICAB PASSENGER ENHANCEMENT PROGRAM (TPEP)
PUBLIC HEARING
AND
OPPORTUNITY TO COMMENT ON PROPOSED RULES

Held on February 21, 2013
33 Beaver Street
New York, New York
Time: 9:15 a.m.

Reported By:
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APPEARANCES:

FOR THE COMMISSION:

MEERA JOSHI, General Counsel

DAVID YASSKY, Commissioner

ELIAS AROUT, Commissioner

FRANK CARONE, Commissioner

EDWARD GONZALES, Commissioner

NORA CONSTANCE MARINO, Commissioner

IRIS WEINSHALL, Commissioner

SPEAKERS:

ANGELIQUE MEOLA

RICHARD THALER, Omni Media Network, OMN Gateway
CHAIRMAN YASSKY: Good morning. We are convening at 9:15 this morning on February 21st. Present are myself, Commissioners Carone, Arout, Weinshall and Gonzales.

I move that we go into Executive Session to consider first of all an appeal of a discretionary license revocation in the case, TLC versus Sidikiba Diallo.

In addition, we need to consider matters that are pending litigation including the Black Car Association versus New York. The case has been filed and challenging the E-Hail Pilot Program. Matters following the settlement of MTBOT versus New York, or TLC, which was a leased cab investigation brought by the Metropolitan Taxicab Board of Trade and other pending litigation matters.

All in favor, say, aye.
(Chorus of ayes.)

CHAIRMAN YASSKY: Opposed, no.

(No response.)

CHAIRMAN YASSKY: All right.

We will move into Executive Session. I expect that we will reconvene here between 10:00 and 10:15.

(Whereupon, the Board retires to Executive Session and returns.)

SPEAKER: Ladies and gentlemen, if there's anyone who would like to sign up to speak, please raise your hand.

(No response.)

SPEAKER: No? Okay, thank you.

CHAIRMAN YASSKY: Good morning. We are reconvening at 10:25. Present are myself, Commissioners Carone, Arout, Weinshall, Gonzales and Marino.
A few very quick items. I know we will conclude that, if Commissioners have time (inaudible) this morning and get to our business very quickly, I just want to make sure that I did commend Ray Scanlon and his folks at USB and the Enforcement Division just for the wonderful work they've been doing over the last, well, many months. But in January 2013, we set a new all-time record, TLC record, for seizures of unlicensed taxis, 849 in the month of January. The previous month, the record was 719, and that was set back in 1998. So with seizures of contraband of all sorts, when a huge amount is seized, it's not good news or bad news, but certainly part of the news is that there are a lot out there. But I think it's good news because we have now beefed up our enforcement
and are continuing to do it. We added a new class in January, we have another new class that we're in the process of hiring -- Commissioners, we've discussed this many times -- but we're doing it in a slow and steady way. One squad or two squads at a time so that Ray can integrate them into our existing operation. I think that the fact that he has more than doubled the size of the enforcement staff since he's been in that position, and the productivity has increased. In other words, more employees and more productive, meaning, he's been able to add folks, I think, in just the way you would want. So I just want to commend him for that.

I will skip the rest of the updates with except to note that, really, commend the industry for its assistance in the recent school
bus strike. During the period that school busses were on strike, school bus drivers and matrons were on strike, taxis and liveries and black cars, I suppose and paratransits filled in the gap, not completely, but to a great extent. And many of the bases didn't wait to be called. They called to ask, how can we help?

Gene Freidman and his fleet, as you know, has the bulk of the accessible vehicles. They immediately reached out to us and said, how can we help kids with disabilities get to school? It's my understanding that not only did they participate in the dispatch program, as, of course, they must, but that they footed the bill for the deadhead part of trips including, I believe, some trips even outside of Manhattan, which are not required. So it was really
an exemplary act of corporate
citizenship, and I commend
Mr. Freidman for that and the
industry as a whole.

And I also, I just want to
note that we are joined by Chris
Hayashi, who is my parent partner
in San Francisco. She runs an
excellent taxi service there and
taxi regulatory agency, and I just
want to welcome her in our midst
this morning. So, welcome, Chris.

Let me move to business.
First, before you are the minutes
of the December 13, 2012 Commission
meeting. I move that they are
adopted.

All in favor, say, aye.

(Chorus of Ayes.)

CHAIRMAN YASSKY: Opposed,
no.

(No response.)

CHAIRMAN YASSKY: Minutes of
December 13 are adopted.
We had an Executive Session, as you know, in which the Commission considered an appeal for the discretionary revocation of a licensed driver, the driver's license.

Meera, do you want to report on that?

MS. JOSHI: The Commission considered an appeal from the Chair's decision to revoke a taxi driver's license, and based on the evidence presented to the Commission during the Executive Session, the decision of the Chair's to revoke the driver's license is upheld. Three Commissioners voted to uphold the revocation and two voted to reverse.

So the taxi driver, Sidikiba Diallo's, license no. 436633, license is revoked.

CHAIRMAN YASSKY: We have
some base applications here who, from licensing, is going to present them, please.

MS. MEOLA: Good morning. My name is Angelique Meola. I'm the supervisor for the Applicant/Owner Licensing Section. We have 32 bases for approval and one base for denial.

CHAIRMAN YASSKY: I move that the recommendations of the Licensing Division be adopted and those bases be approved.

All in favor, say, aye.

(Chorus of ayes.)

CHAIRMAN YASSKY: Opposed, no.

(No response.)

CHAIRMAN YASSKY: Thank you, Angelique.

MS. MEOLA: Thank you.

CHAIRMAN YASSKY: We have one more matter on your agenda.

Last meeting, as you know, we
adopted a pilot program to
investigate the utility of E-Hail
applications. We would like to
make a few technical changes to
that pilot program. Commissioners'
resolution in making those changes
has been distributed to you.

    Meera, would you describe
them briefly, and then we will
vote.

    MS. JOSHI: Before you,
Commissioners, is a proposed
amendment to the resolution that
the Commission passed on December
13, 2012 authorizing a pilot
program to evaluate e-hail
applications. The amendment
clarifies that safety evaluations
will be done initially and
continuously. It further clarifies
that the last quarterly report will
be considered the final report, and
it sets a deadline for further
making action, if any is necessary.
CHAIRMAN YASSKY: Is there any discussion?

(No response.)

CHAIRMAN YASSKY: If not, I move that we adopt the resolution.

All in favor, say, aye.

(Chorus of ayes.)

CHAIRMAN YASSKY: Opposed, no.

MR. AROUT: I abstain.

MS. JOSHI: One abstention.

MS. MARINO: I'd like to abstain on the vote to implement the pilot program. I think to vote on these amendments is kind of in conflict, so I think I have to kind of abstain as well.

CHAIRMAN YASSKY: Very well.

So then with four in favor and two abstaining, does that mean, we do not act?

MS. JOSHI: We cannot act because there's not a majority.

CHAIRMAN YASSKY: Fair
enough. Okay.

Then we have one last item on our agenda, a set of proposed rules regarding security standards for TPEP.

Meera, would you describe them briefly? And there's one person signed up to speak, and then we'll do a vote.

MS. JOSHI: Before the Commissioners are proposed rules to establish information security standards for authorized TPEP providers. The rules were published in the city record on January 18, 2013. Today, the Commission will hold a CAPA hearing and vote. We received one comment on the rules and no changes have been made to the rules before you now, and no changes have been made from the published version to the version that you have before you now.
Our first speaker is Richard Thaler.

CHAIRMAN YASSKY: Richard Thaler.

Just to fill in again, Commissioners, we adopted our rules for the continuation of TPEP at our last meeting. At that time, these detailed security standards were not quite ready to submit for publication in time for that meeting. As you see, they are detailed, and so we held them over for the following meeting, which is now.

Yes, Mr. Thaler.

MR. THALER: Good morning, Commissioners.

Over the past ten years, the Payment Card Industry, PCI, has established increasingly strong security requirements dedicated to protecting the Cardholder Data Environment, known as the CDE, from
untrusted access. One major challenge has been balancing strong security levels with the cost of compliance. The PCI DSS security standard version 1.2 is the global data security standard adopted by the card brands for all organizations that process, store or transmit cardholder data to build and maintain a secure network according to the 12 requirements as published by the PCI security counsel. I'm not going to recite these, but the list of 12 are shown here.

While the proposed Chapter 76 security rules generally covers all of these code requirements, it is solely the right and responsibility of the Payment Card Industry to regulate branded payment card operations. However, the definition TPEP Data, subject to Chapter 76 rules includes,
quote, "data related to credit, debit and prepaid card transactions," end quote. Therefore, the TPEP CDE, which includes the passenger cardholders' Primary Account Number, known as the PAN, should be removed from the Chapter 76 and replaced with a requirement that the TPEP must process fare payments through a certified PCI compliant Payment Gateway, which, in any event, is a requirement of the Merchant Payment Transaction Processing Industry.

The security requirements applied to the remaining TPEP trip data should be reexamined for the necessity to apply the same level of security as required for the CDE in order to provide data integrity and protection for the remaining TPEP trip data. As an example, the number of passengers per trip does not need a security level equal to
the cardholder PAN data.

The TPEP security and fare payment rules have not kept up with recent advances in mobile cash payments providing a direct cash transfer to a driver at greater payment card security, more rapid transaction time, greater passenger convenience and lower transaction cost. Therefore, on a case-by-case basis, mobile cash should be regulated by the rules for cash payment and not be subject to the TPEP rules for cashless payment.

Regarding the confidentiality of TPEP data including tracking information, the Commission must forbid the access and release of TPEP data to private third parties not essential for the collection of TPEP data under contract with a TPEP vendor requiring confidentiality.

The Commission should be
complimented for setting open standards for TPEP approval. However, given the original contract termination date of February 2013, if new TPEP contracts with taxi operators must not be executed between March and April, there is insufficient time for all eligible TPEP vendors to complete the approval process.

With full knowledge years ago of the original contract termination date this month, to let the clock run close to the contract termination before enabling the approval process for eligible TPEP vendors has again resulted in a restricted, anticompetitive market denying medallion operators the opportunity to evaluate and select the best TPEP systems by the April date.

CHAIRMAN YASSKY: Let me just ask you to conclude, if you
MR. THALER: Yes. Just, the last sentence -- therefore, assuming the current vendors are found to meet the requirements of Chapter 75 and 76, the Commission should extend the time enabling a taxi operator to switch their TPEP vendor contract at least for an additional six months without any termination fee.

But I would like to ask, based on my confusion of the February 6th notice, there seems to be some conflict. It says that the current contracts terminate March 1st. And on March 2nd, for the first time, there will be a list provided for all of the approved vendors. Now, I called the TLC legal as to when the window would be open to submit applications for approval, and I was told that there would be a
notice filed, and I would be told. But presumably, there's been no window opening for approval for new vendors.

So my question is, first, where it says, by April 30th, it says, the TPEP vendor only has to comply with Chapter 75. Does that mean --

CHAIRMAN YASSKY: Just to clarify that, currently, that window is open. We are --

MR. THALER: There was no notice, ever. And we were supposed to be informed. So I take --

CHAIRMAN YASSKY: Just so you know now, if anyone wishes to apply for approved vendor status, I believe -- I'm looking at Gary, or I'm looking for Gary -- I believe that the form is on our website. Am I right? Yes. It is on our website.

MR. THALER: Could you tell
me when it was posted? Because I haven't seen it.

CHAIRMAN YASSKY: It's been posted for a couple of weeks, but I --

MR. THALER: In any event --

CHAIRMAN YASSKY: At any rate, it is certainly up there now, and if you wish to file the application -- I understand your point about the short timeframe. Whatever applications we receive, we will make every effort --

MR. THALER: Understood.

CHAIRMAN YASSKY: -- to dispose of them in time for people to compete with --

MR. THALER: Thank you. But the only other remark I have is, by April 30th, it states that a TPEP vendor must comply with Chapter 75. It doesn't mention these rules, Chapter 76. That's from the February 6th notice.
CHAIRMAN YASSKY: I hear your point. We will take a look and see if that needs to be corrected.

MR. THALER: Thank you.

CHAIRMAN YASSKY: On your point about, there is nonsensitive information that TPEP handles that does not need to be subjected to the same rigorous security standards as credit card information, I hear that point. We will consider that. That's something we may be able to handle administratively.

In other words, if what you're saying, if someone may want to apply and be a TPEP provider and meet the security standards only for credit card information and not for others, that's, perhaps, something we can consider administratively. I'm not sure that it's a practical matter. The
way the systems are set up to 
operate, it would make sense to 
have security standards. But at a 
thoretical matter, I take your 
point --

MR. THALER: Thank you.

CHAIRMAN YASSKY: -- and 
that's something I think we can 
handle administratively.

MR. THALER: Thank you.

CHAIRMAN YASSKY: So, thank 
you, Mr. Thaler.

MS. MARINO: I just want to 
-- can we go back to this 
resolution, please?

CHAIRMAN YASSKY: Certainly.

MS. MARINO: I understand 
we're short today. We're only six 
commissioners, we only have eight 
now because Commissioner Gjonaj now 
is no longer a commissioner.

CHAIRMAN YASSKY: Yes.

MS. MARINO: The resolution 
that we previously voted on
includes a final report as opposed to just a quarterly report, correct? And I think that's a good idea. I was against the pilot program, I'm not changing that, not because I'm against technology --

CHAIRMAN YASSKY: I understand.

MS. MARINO: -- I made that clear, but I'm against the way it was implemented and what, I thought, was a rush. However, I believe, having a final report is better than not having a final report. It's kind of a lesser than two evils.

So I just want to change my vote. I will vote, yes, but I just want it clear that I'm not -- this does not effect my prior vote from the last hearing where I did abstain, because I didn't think the rules had enough time to be developed. And as I said, I think
once the pilot program is implemented, it's going to be hard to withdraw.

So without disturbing that vote or that opinion, I will change my vote to implement this today, because I do think a final report is better than no final report.

CHAIRMAN YASSKY:
Commissioner Marino, I understand what you're saying, and I appreciate your thoughtfulness. I bear responsibility for really putting you in a position having to do that because we didn't have a chance to discuss this on such short notice.

If you will, though, put that aside for a moment, because I do want to conclude the vote on the security standards --

MS. MARINO: I apologize for that.

CHAIRMAN YASSKY: -- and
then we'll return to that.

That's okay.

So are there any further witnesses in the hearing on the security standards vote?

(No response.)

CHAIRMAN YASSKY: Seeing none, I move that we adopt the rule for TPEP security standards.

All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN YASSKY: Opposed?

All opposed say, no.

(No response.)

No opposed?

MR. AROUT: I abstain.

CHAIRMAN YASSKY: Abstain on the TPEP security standard?

MR. AROUT: Oh, okay. Sorry about that.

MS. MARINO: I'm sorry.

That was my fault.

CHAIRMAN YASSKY: No problem. That's okay.
So by a unanimous vote of six to nothing, the rules for the TPEP security standards are adopted.

Okay. So let me now return to the proposal of the resolution with the three technical amendments to the E-Hail Pilot Program. Again, that resolution is all before you. I move that we adopt that resolution.

All in favor, say, aye.

(Chorus of ayes.)

CHAIRMAN YASSKY: All opposed, say, no.

(No response.)

CHAIRMAN YASSKY: All abstaining?

MR. AROUT: Abstaining.

CHAIRMAN YASSKY: Okay.

Meera?

MS. JOSHI: With a vote of five in favor and one abstention,
program, resolution adopted
December 23, '12 is passed.

CHAIRMAN YASSKY: Very good.

MS. MARINO: I just want to
make a statement on the record.

I didn't know that I
could -- technically, it was okay
to vote, yes, but I do want to set
a time, or for as long as it's
going through, and I have no
control over that at this point.

CHAIRMAN YASSKY: I
appreciate that level of
thoughtfulness, and again, I
apologize for the short notice on
which that resolution was adopted,
and I understand that --

MS. MARINO: And as long as
we're on the subject, what has
happened with our Bronx
Commissioner? Are we expecting a
replacement relatively soon?

CHAIRMAN YASSKY: You know
what, that's up to the city council
to forward a name. No doubt they're taking a serious consideration. As you all know, folks for the TLC, you serve for a --

MS. WEINSHALL: It's a life sentence.

CHAIRMAN YASSKY: -- a significant period of time, and I'm sure they want to make sure that we have somebody, a Commissioner, who can venture the responsibilities.

So I think that concludes our business for today. With one minute to spare, I move that we adjourn the meeting.

All in favor, say, aye.

(Chorus of ayes.)

CHAIRMAN YASSKY: Meeting for February 21st is adjourned.

(Time noted: 10:44 a.m.)
CERTIFICATION

STATE OF NEW YORK )
COUNTY OF NEW YORK ) ss.: 

I, MARGARET CRANE, a Notary Public within and for the State of New York, do hereby certify: 

I reported the proceedings in the within-entitled matter, and that the within transcript is a true record of such proceedings.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of February, 2013.

________________________
MARGARET CRANE
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### NYC Taxi & Limousine Commission
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