FARE AND LEASE CAP VOTE

AND

PUBLIC HEARING ON ROOF LIGHT RULES

Held on July 12, 2012
33 Beaver Street
New York, New York
Time: 11:16 a.m.

Reported By:
Ann Brunetti
APPEARANCES:

FOR THE COMMISSION:

DAVID YASSKY, Chairman
NORA CONSTANCE MARINO
LAUVIENSKA POLANCO
EDWARD GONZALES
IRIS WEINSHALL
LaSHANN DeARCY
ELIAS AROUT
FRANK CARONE
MARK GJONAJ, Commissioners
MEERA JOSHI, General Counsel

SPEAKERS:
BEREFORD SIMMONS
OSMAN CHOUDHURY
VINCENT SAPONE
MOHAN SINGH

ALSO PRESENT:
The Public
THE CHAIRMAN: All right. Good morning.

First of all, I apologize to the members of the public for the delay in getting started here.

I understand sometimes that the wheels of justice grind slowly, but in this case I think they have ground exceedingly fine and I think we're here today to accomplish something good and worthwhile.

First, before we get started, just the preliminaries. We have before us the minutes of the May 31st, 2012 Commission meeting. I move that we adopt those minutes.

All in favor say aye.

(Chorus of ayes)

THE CHAIRMAN: Oppose, no.

The minutes are adopted.

We have several base applications.

Chris.

I would advise people that Chris considers his left side to be his better side. All photographers please do take note.

MR. TORMEY: Thank you.
Good morning. My name is Chris Tormey, Director of Applicant Licensing for the Taxi and Limousine Commission.

This month we have five new bases for your approval and we have one denial with a request that they get a month to get their outstanding items in order.

THE CHAIRMAN: I move that all the applications for licensing division be adopted, both the approvals, the name change and the denial recommendation.

All in favor say aye.

(Chorus of ayes)

THE CHAIRMAN: Oppose, no.

By unanimous vote those are adopted.

Commissioners, the next item on the agenda is two rules having to do with the fares and lease caps, and before calling for a vote, I know many of you Commissioners, perhaps all, will wish to be heard on this.

So I will introduce the topic and then we will have an opportunity for people to make statements and then we will have a vote.

Let me just say that we are here today
to do our job, Commissioners, and I know some parts of the job are more fun and some parts are more difficult than others.

It's always true that we come here ready to do our job, but this in particular we have been assigned the responsibility of setting the taxi fare and that can be an uncomfortable responsibility for people like me who believe that market forces work and that markets do the best job of setting prices. It can feel a little uncomfortable to be the government setting prices by dictate.

But I submit to you it's the right thing to do, it makes sense. That is one of the features of this unique industry, that passengers know that when they hold up their hand and flag down a taxicab, that they know what they will get.

They will get good service, a trained driver and they will pay a predictable fare. They're not going to negotiate every time they get in the cab what the rate of fare is. I think that there's a reason that
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every city in the world treat taxis that way.
It's better for the customer and that means it's ultimately better for the industry too.
So as uncomfortable as it is, it is our job to set prices.

And it's a unique industry also because we very strictly limit the number of people who can own taxis, 13,237, and a couple thousand more, you know, over the next two years, courts willing, but even that is a strict limit.

Many more people would like to drive taxis. How do we know this? We know this because every day we see them trying to do it and we enforce against that.

Last month alone, and I have to give a shout out to Ray Scanlon and Jeff Huff and their team of enforcement, last month alone they seized 684 vehicles whose owners were trying to drive them as illegal taxis. So one month, June, 684. That tells us that there are a lot more people that would like to drive taxis than are permitted to do it.

And so the responsibility that goes
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with having a protected access to the market, which is what the medallion owners have, and the price guarantee that we offer to customers, that means that we have the responsibility of setting rates.

And I think the system, as different as it is from other types of markets and other types of industries, I think we all agree that system has worked very well. It works well in cities across the world that do it this exact same way. It's worked extremely well here in New York where 600,000 people a day rely on the New York City taxicab to take them where they're going.

So as uncomfortable, again, as it is to be in that position, Commissioners, that is where we are.

And here it's also I know a difficult thing because setting a price is a zero sum game. The seller wants the number higher, the buyer wants the number lower. Whatever number you pick, people will object.

It's no different than other things the government does when there's a number.
When there's a zoning decision and the number of FAR is set where the -- any decision that the government makes where they set a number, there are people who want it higher, people who want it lower, and I do acknowledge that. And I know that it means that we have heard over the last days and weeks from the very zealous advocates for different segments of the industry and I know that that's something that comes with the job.

I would say here, colleagues, we have done a good job. I think we can vote proudly on the fare increase that is before us today and that's the core of what we're voting on is the fare.

That fare has been the same for six years and now, that's good for consumers, for the passengers, it's good that we've held it down, and I know that there are a lot of drivers in the room today and they might feel like, you know, they've had to wait way too long.

On the other side of that are customers, and I say proudly I think it's
good that we can give customers stability and predictability in the price over that period of time, but certainly the time comes when you have to raise the fare and it is clear to me that that time has come. The numbers are clear. They're indisputable. They are stark.

Over the past six years gas is up. It is taking now nearly $40 out of every taxi driver's shift to pay for gasoline. Credit card processing is up, taking nearly $8 out of every taxi driver's shift.

When you add that up, a taxi driver today is taking home $130 less for a 12-hour shift. That's the core number here, plain and simple, $130 for 12 hours of difficult labor. I think that it is time for a raise and I think passengers understand that.

I have been very gratified that in the public debate since this fare increase proposal was put forward the public reaction has been, in my view, overwhelmingly that passengers are prepared to pay more so that the taxi driver can earn a decent living.
You know, New Yorkers are practical, they are compassionate. They're also smart, long-term thinkers who understand if you have an industry based on a workforce not earning enough to put food on the table, then that's not a stable situation.

And if we want the industry to continue to thrive as it has, which is in the interest of the owners, the passengers and the drivers, then we have to deal with the fare.

And what this does would allow after this fare increase a driver will be earning some 160, $170 per shift. Not going to get rich that way, but enough at least I believe to pay the rent and put food on the table. So it is time.

In addition -- and excuse me one second. I just want to make sure we've got all the paperwork that we need here.

In addition, for the first time we are establishing a health and disability fund for drivers. Taxi drivers are considered to be independent contractors.
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(Applause)

THE CHAIRMAN: Please. Please, you know, please, I appreciate the show of support for the proposal, but I will ask people to just show their opinions quietly throughout the proceeding here.

Today taxi drivers get from their in effect employer do not get health coverage, do not get disability coverage. At a minimum, today's proposal will get disability coverage to drivers, and I can't say enough how important I think that is.

For a taxi driver today, if a taxi driver breaks an arm, a leg, can't drive, that driver is out of work. It's not like many office jobs where people work for larger companies where they can be shifted to another job while they're recovering. If a taxi driver can't drive a car, he or she is out of work, income zero.

So disability coverage is -- and I, you know, I'm not going to belabor it, but the number of times that I've gone to visit a driver who's been in an accident and is laid
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up at home and there are children in that
house who now have no income to put food on
the table, I think this is a very important
item.

So and, again, ultimately better for
the public too because the public would know
you can't have a workforce that operates
under those circumstances.

Finally, very quickly, the other items
on our agenda today are also good for the
public. We are doing three things.

One is changing the way credit cards
are handled. Rather than drivers paying a
percentage of every credit card fare, 5
percent today, they will pay a flat $10 fee
per shift.

Now, I've got New York Magazine in my
house I'm proud to say. Yesterday or the day
before and I opened a big 12-page spread on
the taxi papers crib sheet, everything you
want to know about taxis, here's one item:
What should you do when a cabby tells you his
credit card machine is broken?

This is advice that every taxi
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passenger needs one time or another today
because unfortunately, and I will say it to
the drivers that are here, you know that your
colleagues do this, all too often a taxi
driver will say oh, the credit card machine
is broken when it really isn't.

We want that credit card capability to
be available to every passenger without the
driver trying to discourage it. That's what
this change will accomplish.

We are also changing the way that
gasoline is handled, if the industry wishes.
At the option of the fleet or the garage, the
fleet will have the opportunity to pay for
gasoline. Really what this does is as more
fuel-efficient cars are phased into the
fleet, replacing the Crown Victorias, this
enables the fleet and the driver to share in
that benefit created from the fuel
efficiency.

Less gas is consumed this way. The
gas savings, some of it can be realized by
the fleet, some of it can be realized by the
driver, it's fair and it's equitable.
And finally, the item that I think has proved most controversial is the treatment of the DOV operators. It's a huge and important segment in this industry are DOV, so-called DOV, driver-owned vehicle, operators, where the medallion is leased on its own to a driver, who then is responsible for his or her own vehicle.

And we have heard for years that the current lease cap level of 800 a week or 842 a week for hybrid is too low and will endanger the DOV segment.

Indeed we had at both of our hearings on this item on the numbers these proposals. We had repeated testimony that those lease caps are routinely ignored and violated.

And I know that Commissioner Gjonaj, Commissioner Marino, you have each called me to task for our lack of adequate enforcement on lease caps and I'm here to say I agree with you, I hear what you're saying, you are right, we do need better enforcement. And I would want to assure you that going forward we will be enforcing these lease caps, they
will be followed.

   And one of the reasons that I do have
some sympathy for the DOV operators that --

COMMISSIONER MARINO: I don't believe
I contacted you about enforcement.

THE CHAIRMAN: Well, just at the
hearing, two hearings ago it was a comment
that you made there was not enough
enforcement, but anyway, whether you think so
or not, I certainly do think so and I --

COMMISSIONER MARINO: I just wanted to
clarify that for the record.

THE CHAIRMAN: We are going to do that
and I want to assure people we have -- we now
have just one, I'll be honest, we've had only
one person who voted lease cap enforcement.
We are bulking that up. We will be adding at
least two people with that on their
portfolio.

   We are in conversation with other law
enforcement agencies who have more resource
and expertise and we are committed. I want
to assure all the Commissioners that our
rules must be enforced. So we can vote on
the lease cap knowing that it is a real number and not just a piece of paper.

Now, I want to say there's been -- the last point I'll make on this is I know I've heard from some in the DOV sector on the owner's side that the proposed rule is cut and is going to hurt them.

I just want to make sure we understand what the numbers are. The current lease cap rate is $800 or 842 a week, 800 for a regular, 842 for a hybrid.

This rule before us changes that to 1,072 a week for a regular car, 1,114 for a hybrid. That's an increase of $272 a week.

Now, if someone wants to say not enough, that it should be more, understand that and you have every right to do it, but you cannot honestly say it is a cut. I'm not so good at math but 1,072 is greater than 800, 1,114 is greater than 842.

So if people want to argue is it far enough, fair enough, but there really cannot be argument about is it a cut or is it an increase.
So with that, I'm going to recommend that rather than have two sets of comments since these issues really are interrelated, why don't we have commentary on both rules and then we will poll the votes.

We'll just go around the table. Commissioner Gjonaj.

If people wish to speak --

COMMISSIONER POLANCO: This is to vote?

THE CHAIRMAN: I thought we would have opportunities for Commissioners to make statements but I'll tell you what, fair enough, why don't we go ahead and call the roll and you can make comments when you vote. Fair enough.

The first vote is on the fare rule before us.

MS. JOSHI: So before the Commission this morning is the proposed rule to increase taxi fares.

The rule appeared in the City Record on June 8th. The deadline for written comments was July 9th and a public hearing
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was held on July 9th. A transcript of the
hearing was made available for the public on
the TLC Website on July 10th.

All comments received were submitted
to the Commissioners for their review, and
based on their comments received, the
following revisions were made to the rule
that appeared in the City Record:

First, the provision that appeared in
the fare rules prohibiting the deduction from
drivers' receipts for 5 percent credit card
transaction fees was deleted from the
proposed fare rules and added to the proposed
lease cap rules.

And two, a new requirement was added
for a biannual review of lease rates and fare
rates to occur every odd number year.

I'm going to go through the
Commissioners in a roll call fashion and you
have an opportunity to speak and then respond
whether you vote yes or no to the fare rule.

THE CHAIRMAN: Again, Commissioners,
there will be two votes. We will vote on
each one. So you have two opportunities to
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speak, or if you wish, you can feel -- you
can make all your comments on the first vote,
it's up to you.

MS. JOSHI: Commissioner Gjonaj.

COMMISSIONER GJONAJ: It's almost
noon. Good morning. Still morning, close to
noon.

This whole industry, including the
drivers and all stakeholders and the
passengers are affected by today's decision.

But I truly believe that today we were
presented with a once in a generation
opportunity to what has been wrong for too
long.

Finally, New York City taxi drivers
will be given a fair and decent wage for
their hard work, but even more importantly,
we have been -- we moved forward on a
systemic change in the way future rates are
charged and set.

With today's vote, the stakeholders
will never again face an eight-year period
without a raise and the passengers will get
the quality and safe service that they
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deserve.

And with that, I vote yes to the rate
increase.

MS. JOSHI: Commissioner Carone, how
do you vote on the fare rule?

COMMISSIONER GJONAJ: I said yes.

MS. JOSHI: Sorry, I was talking to
Commissioner Carone.

COMMISSIONER CARONE: The fare rule --
which one are we voting on, the one presented
this morning or the one that we had prior to
this morning?

Commissioner Gjonaj's commentary just
reflected the process for fare changing is
changing. I'm not sure what he's talking
about.

MS. JOSHI: Before you is a version of
the fare rule as published in the City Record
with one deletion, the deletion of the 5
percent credit card transaction fees, and one
addition, which is, Commissioner Gjonaj's
recommendation for a biannual review process
for every odd number year.

COMMISSIONER CARONE: Thank you.
Thank you.

Well, I'll speak to both. I have reasons that concern me for both twofold.

Starting May 31st, prior to --

THE CHAIRMAN: Commissioner, sorry.

I want to caution people that I know that this is -- again, I know this is an issue that people feel very strongly about. People's livelihoods are affected.

I'm going to insist that every person in the room be courteous. I don't want to hear Commissioners applauded or booed.

They worked extremely hard. They've put hours and hours and hours for no pay into every meeting that we do and this one in particular.

So I'm going to insist that people be courteous. I will ask people to leave if they're discourteous.

I'm sorry. Thank you, Commissioner.

COMMISSIONER CARONE: Thank you, Mr. Chairman.

As I was saying, prior to the commentary and testimony we heard on
May 31st, I've asked the scheduled speakers to be mindful of criteria that I believe Commissioners must follow in considering whether or not a fare increase is warranted, and if so, how much, and that section of our rule which is given the authority by the City Charter is Section 52-04 of our rules.

And while listening to the testimony on May 31st and receiving a written commentary thereafter, I tried to keep my mind focused on that section of the law so I can make an objective determination on a very difficult vote.

Since then the press has essentially framed the question of whether or not drivers deserve a raise. I think they even asked that question by some reporters and it's a very good question. However, it's not the end of the analysis.

The question is more of is it a philosophical one or one that allows us the authority to make such a determination. So the first question I ask is whether or not a fare increase is warranted. The
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first issue is well, do we have the authority
to do so, and if so, where is that authority
written and where is that authority codified.

So looking at Section 52-04, which is
the governing authority, and I'll just read
it here, it says the power to establish rate
setting, the Commission will proscribe,
revise a decent fare.

It goes on in Section 3 to say when
determining a decent fare we may consider all
relevant factors. However, including in the
relevant factors, including the following,
and it goes on to list nine items, the time
and distance of travel, the character of the
service provided, the gross revenue derived
from operation, the net return derived from
operation, the expenses of operation,
including the income of drivers or operators,
the return on capital actually expended and
the need to reserve income for surplus and
contingencies, the number of passengers
transported, the effect a fare on the public
in relation to the fares for other forms of
public transportation and similar service in
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So looking at 52-04, which in my mind governs this analysis, it's not whether or not one segment of the private industry deserves a raise or not, while that's extremely important, and the answer to that is yes, of course.

But looking at this objectively and looking at the evidence presented from the 31st on, I do not believe the nine criteria looking in its totality has been met.

Looking at it in its totality, you see it speaks to the passenger public, the service, of all the service increase and will it be a better passenger experience by a fare increase, looking at the operation and looking at the drivers as a whole, which this is a symbiotic relationship, and as a whole, I do not believe evidence before us has been met to increase the fare. So my vote is no on 52-04 grounds.

I also am voting no on another ground because before me, just handed several minutes ago, is a new version of this
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proposal. I believe that the public is
entitled to commentary. I believe the
capital requirements dictate so and I believe
the vote is premature because the rules as
written are substantive changes and I do not
believe compliant.

So on two grounds my vote is no.

MS. JOSHI: Commissioner Arout.

COMMISSIONER AROUT: Yes, I look at
this issue very simple. Operating cost for
the taxi garage has gone up since the last
fare eight years ago and the bottom line is
yes, those costs have gone up. All business
costs have gone up in the past eight years.
To say otherwise is just nonsense.

So if the cost of the operating taxi
garages have gone up and the only way the
garages can meet those costs is for us to
increase the lease rate, then very simply, we
need to approve a lease cap. I do not know
what the right number is but I know it isn't
zero.

This proposal is not -- this proposal
will not permit taxi fleets to meet their
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costs. It will probably reduce their revenue
even more, and what we eventually see is a
decline in service to the public. We cannot
allow this to happen.

We are here to protect the riding
public and we are here to make sure that the
many segments of the industry are treated
fairly.

I'm asking the Chairman to give us a
proposal that is fair. This proposal is not
fair. Therefore, I am voting no on the lease
cap proposal.

Under the fare increase proposal,
there is no question in my mind that the
drivers deserve a fare increase. Everyone
agrees on that. We are the hardest working
people in New York City as far as I'm
concerned and it has been too long if you ask
me.

But this industry is not made up of
drivers. There are leasing agents, the
fleets and the garages. Together these
different groups provide New Yorkers with
yellow taxi service and all segments of the
industry need an increase.

This should not be complicated. I've been on the Commission for many years and in the past we looked at the data and made up a decision.

The proposal to give everything to the drivers is lopsided and it will backfire and end up hurting drivers, owners and the riding public in the end.

I cannot vote against the fare increase because I like the drivers -- I cannot vote against a fare increase because, like I said, the drivers deserve it, but I am compelled to abstain from voting on this proposal because it is not balanced and it is not fair.

Drivers have waited eight years for a fare increase and I believe the petition for a fare increase was submitted over two years ago.

I don't buy the argument that we don't have time to get this right. I am asking the Chairman to go back to the drawing board, get this right, get us a fare and lease cap
package that I can vote on and I am sure we can accomplish this over the summer and vote again in September.

Thank you.

Abstain.

MS. JOSHI: Commissioner Arout, I want to verify you're abstaining on the fare proposal.

COMMISSIONER AROUT: Yes.

MS. JOSHI: Commissioner DeArcy.

COMMISSIONER DeARCY: It's been just over a year that I joined my fellow Commissioners on this Commission and I've had the pleasure of participating in some significant votes in that short time. I will say that I am particularly proud that I am able to participate in this vote today. I think that there is overwhelming evidence that a fare increase for taxi drivers is warranted. Indeed, I don't believe there has been any legitimate dispute that a fare increase is long overdue.

Importantly, I also believe that it is important that this fare increase go to the
very drivers for whom we are seeking to have their pay raised, which hasn't been raised since 2006; that this proposed rule will also allow for healthcare for the drivers leads to the singular conclusion in my mind that this is the right thing to do.

I must turn now though to the issue of the lease cap. I'm persuaded that along with a fare increase it is important and indeed it is necessary to provide for an increase on lease cap with respect to the DOV model.

I think that the DOV model is important to this industry. I think it's important to the city. I think it's important to New Yorkers who ride in cabs every day.

I think also that failing to increase the lease cap with respect to the DOV model would jeopardize the very existence of that segment of our industry. I don't think that that's a risk that we can take.

I wasn't initially persuaded that, in fact, a lease cap for the DOV model was warranted, and I want to thank the members
from the DOV industry who provided me and other members of this Commission with the information that we asked for to allow me to move from my position that I had taken about a month ago.

That same information, however, was not provided at least to me with respect to the fleets, and as a result, my position with respect to the lease cap in the fleets has not moved.

Because of all of these considerations, as a member of this Commission and as a frequent passenger in yellow taxis, I am enthusiastically voting in favor of both the increase for the fare and as well for the lease cap.

MS. JOSHI: Let me clarify for the record, Commissioner DeArcy, you're voting in favor of the proposed rules and --

COMMISSIONER DeARCY: Yes.

MS. JOSHI: -- increase the fare.

COMMISSIONER DeARCY: Yes.

MS. JOSHI: Commissioner Weinshall.

COMMISSIONER WEINSHALL: Thank you.
I had the pleasure of being on this Commission in 2004, which was the last time that we increased the fare. I truly believe that the time has come to increase the fare for the sake of the drivers. They deserve a livable wage.

I'd just like to say that in 2004, we rolled up our sleeves, the Commission, the drivers, the industry to really iron out a deal that I think worked well for everybody.

I am very concerned in terms of the industry as a whole how they've acted in the last few years. I fear that this industry has become too litigious and I would ask the industry to please set a new tone going forward.

I am particularly proud to be able to vote on this health and disability fund.

As I think people in this industry know, my father was a cab driver for 30 years. I remember when I was a young girl he broke his arm and came home with a cast on his arm and said that he was still going to have to go out and work because he owed money
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on the loan on his cab, and even though it
was against the law, my father has passed
away now so nothing will happen to him, he
went out every day with that cast on his arm
working because he knew he had to provide for
his family.

So I am particularly proud that this
fund will be set up and that people like my
father will no longer have to choose between
their health and putting food on the table
for their family.

So, Mr. Chairman, I am voting yes on
the fare increase and yes on the cap.

COMMISSIONER MARINO: Are we voting
on --

MS. JOSHI: We're just voting on the
fare proposal.

Ms. Weinshall, that's yes on the
proposed fare increase?

COMMISSIONER WEINSHALL: Yes on the
fare increase.

MS. JOSHI: Commissioner Gonzales.

COMMISSIONER GONZALES: Thank you.

Since the last fare increase, this
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Commission has addressed driver income via
the cost side mainly by advocating for
improved fuel-efficient vehicles in an
attempt to negate the most expense of the
driver, fuel.

Now the time has come to address it
from the revenue side. While no one is for
higher expenses, including myself as a
passenger, upon diligent analysis from staff
here, I believe that the fare increase is
necessary.

Via comparative analysis with other
cities and also with the current MTA fare,
it's justified to have the fare increase as
presented before us.

I'd like to thank staff and my fellow
Commissioners and most of all I'd like to
thank the drivers. I appreciate all that you
do for New York City. You're a special
breed, we all know it, and you're deeply
woven into the fabric of the city.

I expect you, the drivers, to provide
the same level of enhanced service and
commitment to New York City and the riding
I emphatically vote yes to the fare increase.

MS. JOSHI: Commissioner Polanco.

COMMISSIONER POLANCO: Clearly the fare increase is necessary as the cost of living in the City of New York has had exponential increase.

While the earnings and profits of all those involved in this great industry has been diminished while the cost of living, as I mentioned, and cost of operation has increased, a fare increase is the right thing to do.

I'm also proud that for the first time in the history of New York City drivers will have a health and disability fund. This is huge and it's a tremendous benefit for the drivers.

Although I would have liked to see the fare increase rule together with the lease cap rule to have been voted on and not separated for voting purposes, I'm voting yes for the fare increase.
MS. JOSHI: Commissioner Marino.

COMMISSIONER MARINO: One of the benefits of going last is I get the benefit of what everyone else had to say, my colleagues.

And frankly, I agree with everyone here. I agree that a fare increase is necessary. I agree with Commissioner DeArcy that there's overwhelming evidence that the drivers need, that it's long overdue. I agree with everything my colleagues have said. I agree with the fact that the drivers deserve some type of healthcare.

I'm a solo practitioner. I don't belong to any type of healthcare program so I know what a burden that can be because I live it.

I agree with all these things. I think the drivers deserve a raise, but unfortunately, there's a "but" at the end of that statement for me, and that "but" is that as Commissioners, our job is to regulate the entire industry, and that's not just the drivers but it's the DOVs, the agents, the
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fleets owners, the garage owners and the
riding public.

And while I want the drivers to have
this raise, if it were up to me it would be
20 percent, I think they deserve it, but I
think we have to take into account the entire
industry and I don't believe these rules as
drafted are fair to the other aspects of the
industry, particularly the fleet owners and
the DOV agents.

There were some changes made recently,
very recently as a matter of fact, in the
last 48 hours, which also I think is in
violation of the New York Administrative
Procedures Act requirement for further public
notice and hearing.

I mean I barely understand these new
changes and I don't anticipate that everyone
in the audience today understands them all or
has had a chance to consider them and comment
on them.

So because of these additional changes
and the fact that I don't think these rules
as proposed are fair to everyone, I have to
vote no on the fare increase at this time.

    I'm very sorry I have to vote that way, but I don't think it's right to protect one segment of this industry and disregard other segments in the process.

    I believe, as Commissioner Arout said, there is a way to come to a mutually fair agreement where everyone feels satisfied and I don't believe the rules as written today do that.

    MS. JOSHI: Commissioner Yassky.

    THE CHAIRMAN: For the reasons stated earlier, I vote yes on the fare increase.

    Counsel, will you please --

    MS. JOSHI: The vote for --

    THE CHAIRMAN: -- report.

    MS. JOSHI: The vote in favor of the fare increase is six. There are two nos and one abstention.

    With that, the proposed rules for a fare increase are approved.

    THE CHAIRMAN: Thank you, Meera.

    We will now please call the roll on the second set of rules before us, the lease
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cap proposal.

MS. JOSHI: Next on the agenda are the
Commission is considering the proposed rule
to increase fleet lease caps to offset cost
shifts and the increase lease caps to offset
costs of the industry.

These rules appeared in the City
Record on June 8th. The deadline for written
comments was July 9th. A public hearing was
held on July 9th and a transcript of that
hearing was made available to the public on
the TLC Website on July 10th.

All comments were received and
submitted to the Commissioners for their
review, and based on the comments received,
the following significant revisions were
made:

The hybrid lease cap incentive for
fleets and DOVs were restored. The fleet
lease cap was increased by one dollar.

The rules were revised to permit under
all three types of lease caps other
transactions as long as they're recorded and
not related to the vehicle lease.
The requirement in the DOV lease cap, DOV medallion vehicle lease cap, that the agent cover costs of repair was deleted. An option was added to cover delivery coverage for the medallion vehicle DOV lease with the maximum rate of $50 per week. There was an increase in penalties for retaliation. We eliminated the requirement that the medallion only lease rate can be charged to a driver -- can only be charged to the driver who holds vehicle title. Up to three drivers are allowed on a DOV lease. And also to get a vehicle medallion lease was restricted to a conditional purchase. The reference to leases was deleted. The time period for a vehicle medallion lease was limited to three years. And that concludes the revisions to the lease cap rules. THE CHAIRMAN: Thank you. Before you call the roll, Meera, I
know you have a motion, Commissioner Polanco, that I will entertain.

Just before you go, I just want to thank the staff in particular for the work on this rule. As here the list of provisions indicates, a great deal of work went into this. We got really a very large number of comments from the public, from stakeholders. They were processed very thoroughly and many changes were made in response to those comments.

I know, to be clear, I know that many stakeholders who made comments still feel that they do not support the final product, but I just wanted to recognize that the staff I think did a great job of processing comments and responding to many, though to be sure, not all of them, and incorporating them.

Commissioner, you have a motion.

COMMISSIONER POLANCO: Yes.

Before I vote on your proposal, Mr. Chairman, I move to amend Chairman Yassky's proposed lease cap rule and move to table the
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whole lease cap rule for a September vote, as
I have serious issues with the credit
surcharge section, the lease cap rate
section, as well as the new lease cap rule
with respect to the DOV industry.

As such, I move to table the rule for
a September vote, and let me be clear, it is
to place the rule for a vote in that it would
be discretionary.

THE CHAIRMAN: Okay. Commissioner, I
understand.

Let's now call the roll on the motion
to table.

Commissioners, I recommend -- I'm
going to recommend a no vote on this motion.

While I understand the intent behind
it, I do feel that a great deal of work and
effort has been put into this. I think it's
ready. I think the issues have been resolved
as well as they can be and that further
delay, while I think it would be unlikely to
result in further support from any of the
folks from the public and will just delay
implementation of these much needed changes,
so I'm recommending a no vote on the motion to table.

COMMISSIONER AROUT: I'd like to second.

THE CHAIRMAN: Please call the roll, Counsel.

MS. JOSHI: Commissioner Gjonaj.

THE CHAIRMAN: The Commissioners do have an opportunity also to speak on the rule itself, assuming we do vote on it, but if you wish, you can speak on the motion to table.

COMMISSIONER GJONAJ: Based on commitments and negotiations that have gone on over the last few days, I will say no.

MS. JOSHI: Commissioner Carone.

COMMISSIONER CARONE: Thank you. I'm going to speak to the rule itself because I really support Commissioner Polanco's motion is the same reason why I would vote no on the underlying lease cap proposal.

Up until an hour and a half ago, because of the changes and disagreements as to the proposed rule, this rule is still
being worked on and not going to a vote.

The new proposed rule was handed to the Commission approximately 45 minutes ago, which I think is a flagrant violation of New York City Administrative Procedures Act.

So I think tabling it and allowing the public to comment on it, allowing us all a chance to reflect on that commentary is prudent and is also lawful.

Because I believe the vote as presented is unlawful pursuant to New York City Charter 10-43, I vote to support Commissioner Polanco's motion.

MS. JOSHI: Commissioner Arout.

COMMISSIONER AROUT: I realize I was ahead of my self before and I'll read this again to get it into the book.

I look at this issue very simple, have operating costs for the taxi drivers gone up since the last fare increase eight years ago.

MS. JOSHI: Excuse me, Commissioner.

I just want to clarify for you, before you now is a motion on whether or not to table the vote on the lease cap.
COMMISSIONER AROUT: I table it.

MS. JOSHI: Commissioner DeArcy.

COMMISSIONER DeARCY: I vote no.

MS. JOSHI: Commission Yassky.

THE CHAIRMAN: No.

MS. JOSHI: Commissioner Weinshall.

COMMISSIONER WEINSHALL: No.

MS. JOSHI: Commissioner Gonzales.

COMMISSIONER GONZALES: No.

MS. JOSHI: Commissioner Polanco.

COMMISSIONER POLANCO: Yes.

MS. JOSHI: Commissioner Marino.

COMMISSIONER MARINO: Yes.

MS. JOSHI: With that, the motion is denied, three in favor and all others opposed.

COMMISSIONER MARINO: I think it's four.

THE CHAIRMAN: I think it's four in favor.

MS. JOSHI: Four in favor.

THE CHAIRMAN: Would you call the roll on the underlying rule.

MS. JOSHI: Commissioner Gjonaj.
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COMMISSIONER GJONAJ: Based on the commitments and negotiations, I vote yes.

MS. JOSHI: Commission Carone.

COMMISSIONER CARONE: No.

MS. JOSHI: Commissioner Arout.

COMMISSIONER AROUT: No.

MS. JOSHI: Commissioner DeArcy.

COMMISSIONER DeARCY: Yes.

MS. JOSHI: Commissioner Yassky.

THE CHAIRMAN: Yes.

MS. JOSHI: Commissioner Weinshall.

COMMISSIONER WEINSHALL: Yes.

MS. JOSHI: Commissioner Gonzales.

COMMISSIONER GONZALES: Yes.

MS. JOSHI: Commissioner Polanco.

COMMISSIONER POLANCO: No.

MS. JOSHI: Commissioner Marino.

COMMISSIONER MARINO: No.

MS. JOSHI: With that, a vote of five in favor, the lease cap rules are adopted.

(Applause)

THE CHAIRMAN: Commissioners, I know that it is now 12:05 and I know at least one or more Commissioners may be out of time.
Just to tell you what the rest of the agenda is for those that are able to stay, we have one very quick item, which is the vote to amend the specification for accessible taxicabs, the Transit Connect, which many of the fleet, many our fleet licensees are now buying as their vehicle of choice.

Our specifications are not permitted to be used in its accessible version. The amendment, the rule change before us will allow the Transit Connect to be used in its accessible version.

I don't think there's any -- I think that should be an uncontroversial provision. Meera, would you describe -- so, Commissioners, that will be the last vote. After that there's a public hearing on roof light rules but there is no vote on that.

So for people that have time commitments, if you can stay for this vote, I think we'll be very expeditious and we'll move to a public hearing which there is no vote.
Meera, would you just describe briefly this next rule on the agenda.

MS. JOSHI: Before the Commission is proposed amendments to the TLC's accessible vehicles specification to decrease the requirement for front and rear leg room to allow rear entry of vehicles into the accessible Transit Connect to be licensed as New York City taxicabs.

The rules were published in the City Record on May 17th and the deadline for written comments was June 18th. No comments were received.

Today we will hear testimony. I have one person signed up to provide testimony, Bereford Simmons.

Is Bereford Simmons available to give testimony?

THE CHAIRMAN: Mr. Simmons, here we go.

MR. SIMMONS: Good afternoon. What a day.

Thank you very much, ladies and gentlemen. Thanks for your good work. I've
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been working too as hard as you guys are.

As you know, I am a wheelchair accessible rider and I'm not working today because my medallion is in storage because we're trying to wait for the Commissioners to vote on whether they want the Transit Connect to be a wheelchair accessible car, and my broker is waiting to hear from you guys so.

THE CHAIRMAN: Thank you. That's an excellent example.

Very briefly, Commissioners, as we discussed many, many times, the other alternative accessible vehicles, while roadworthy, involve such a great degree of work when they're converted that many of the owners have been unhappy with them.

From reports, people do seem to feel that the Transit Connect converted version would be superior to the other ones that are out there and I see no reason not to give them that option.

I'm just going to go ahead and call for a vote on this.

Will you call the roll, Meera.
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MS. JOSHI: Commissioner Gjonaj.

COMMISSIONER GJONAJ: Yes.

MS. JOSHI: Commissioner Carone.

COMMISSIONER CARONE: Yes.

MS. JOSHI: Commissioner Arout.

COMMISSIONER AROUT: Yes.

MS. JOSHI: Commissioner DeArcy.

COMMISSIONER DeARCY: Yes.

MS. JOSHI: Commissioner Yassky.

THE CHAIRMAN: Yes.

MS. JOSHI: Commissioner Weinshall.

COMMISSIONER WEINSHALL: Yes.

MS. JOSHI: Commissioner Gonzales.

COMMISSIONER GONZALES: Yes.

MS. JOSHI: Commissioner Polanco.

COMMISSIONER POLANCO: Yes.

MS. JOSHI: Commissioner Marino.

COMMISSIONER MARINO: Did I mix it up?

Yes.

MS. JOSHI: It's a unanimous vote in favor of the accessible -- amendment to the accessible specifications are passed.

THE CHAIRMAN: Thank you.

Do we have a presentation on the roof
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lights?

So we now will have a public hearing

on the roof light rules that were put

forward.

The first witness is Osman Chowdhury.

Mr. Chowdhury, will you come up and

just give us -- while you're coming up, just

bear with me for a minute.

MR. CHOWDHURY: Good afternoon.

MS. JOSHI: Just hold off for one

minute and we'll start.

THE CHAIRMAN: Mr. Chowdhury, before

you speak, again, Commissioners and members

of the public, I just want to remind you we

had our presentation on this at the last

meeting, which I think was a very compelling

presentation by Dawn Miller, if I remember.

The proposal here would address the

ongoing I think minor but non-trivial issue

that we have with customers not knowing what

it means when that off duty light is lit.

So the proposal, the proposed rule, as

you know, replace the current roof light

which has the medallion number in the middle,
it can be either illuminated or non-illuminated, and two lights on either side that say off duty that can be illuminated or non-illuminated with a simple -- only the medallion number, and if it's lit, illuminated, it means the taxi would be available, if it's not illuminated the taxi is not available.

The only goal here is to make the system a little clearer for passengers.

We're not voting today. We're having a public hearing.

Mr. Chowdhury, you have the honor and burden of being the first witness.

MR. CHOWDHURY: Good afternoon. My name is Osman Chowdhury. I'm a taxi driver. I do testify the roof lights. I'm here because (inaudible) but the off duty things are wrong. This is the one thing.

The second thing, sometimes I brought fare to people, hold one people and (inaudible). How I can stop that kind of job and that's the case.

And same thing and I can just complain
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all the phone hearing. One reason I don't
have clear, I don't have any room I
establish. I don't think -- I can't take
them, same thing.

And also if you call 311, the
nighttime, nobody receive directly. All the
ting thing stops, no problem and (inaudible).

Thank you.

MS. JOSHI: Thank you.

Next we hear from Vincent Sapone.

MR. SAPONE: Thank you for accepting
my --

THE CHAIRMAN: Your request for a fare
increase, your what?

MR. SAPONE: You know what you guys
did to me and people from my organization on
the roof light, and I understand that you
guys, Commissioners, were going to straighten
out the problem when the guy's going off duty
and someone is opening the door to get in,
there won't be a complaint about a refusal
and I hope you guys come up with the right
answer for that because that's a very
important part with the new roof light.
THE CHAIRMAN: It is. We thank you for bringing that, you know, important issue up to the floor.

Meera, would you just explain briefly what we propose here.

MS. JOSHI: When people complain that they've been refused service because the driver told them they were off duty, going forward when there's no longer, if the Commission approves the rule, if there's no longer an outside customer-facing indicator that they've gone off duty, we'll continue to do what we do now with complaints.

As soon as we receive them, we verify with the T-PEP records whether or not the driver went off duty, and if they did go off duty, then we don't entertain the complaint so the driver does not have to come down and appear.

MR. SAPONE: Thank you. That's very important. I thank you for that, all your help with that, Mr. Yassky.

THE CHAIRMAN: I would say look, you know this business better than just about
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anybody. I mean --

MR. SAPONE: My wife knows it a little better than I do.

THE CHAIRMAN: I'm not an expert so maybe I can't judge you, but nobody knows the business better than you do.

I hope you feel that when you see something that we're doing that we shouldn't be doing or something we should be doing that we're not, I hope you feel at least get a hearing and we, you know, do our best to accommodate because I sincerely respect the expertise that you and your organization bring to this.

MR. SAPONE: Thank you so much and I thank you guys for looking into that and solving the problem.

As long as they don't have to lose a day or time to go down.

THE CHAIRMAN: You got it.

MR. SAPONE: Thank you so much.

THE CHAIRMAN: Thank you.

MS. JOSHI: Next is Mohan Singh.

THE CHAIRMAN: We can leave the record
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open for him or anyone else to submit
testimony in due course.

Okay. With that -- I'm sorry. Are
you seeking to speak here?

MR. SINGH: Yes.

THE CHAIRMAN: Then go ahead. This is
the time.

MR. SINGH: Good afternoon, everyone.

I'm Mohan Singh.

I'm talking about the light, roof
lights. The thing is that when we are
picking up a passenger from JFK, when we are
turning back, if somebody just gives a hand, hale to, so we cannot stop also because we
have limited time to return back to the
airport so we don't lose the time for that so
we refuse it. If the light is on, what we to
do, this is a main question.

The other thing is that if sometimes
we want to go off duty and the last passenger
is sitting in my car, he goes out and later
on we put up the light, the guy standing
there will say that you are refusing me so
for that purpose what will we do.
These are two that I want cleared up and it's a good thing that this will go on. Thank you very much.

MS. JOSHI: You're welcome.

I think the response to your concern is similar to what we just gave to Mr. Sapone, that if the customer files a complaint and we can see through T-PEP records that you went off duty, we will not go forward with the complaint.

MR. SINGH: When you are returning --

THE CHAIRMAN: This is our practice now.

MR. SINGH: When you are returning from the airport, leaving someone at the airport, you pick up somebody from the airport, you drop him at the residence.

On the way returning to the airport, we never go off duty. So that time what will happen because we have a short ticket. So short ticket is for two hours.

So when we drop the passenger from the airport, we return back to the airport, if somebody hales me on the route, then what
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is --

THE CHAIRMAN: That's the same as any other time of the day, that the driver is obligated to accept the fare. I mean that's the same rule.

If you drop somebody off on 53rd Street and Third Avenue and then you -- and your light is on and someone flags you down, you're obligated to accept that trip. That's one of the basic rules of the service.

MR. SINGH: The thing is that when you pick up a passenger from the airport --

THE CHAIRMAN: I think I understand what you're saying and go right back to the airport, but I would say that's no different than somebody -- I'm on my way to the Carlyle Hotel because I want to get a Carlyle trip and somebody flags you down. I think what we say to the public is if a taxi is available, they're obligated to stop and pick you up. That's no different.

MR. SINGH: But the time is different for the airport.

THE CHAIRMAN: I understand but I
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think it's the same situation.

    MR. SINGH: So we can take it off
duty?

    THE CHAIRMAN: Well, you can switch
off duty but at that point you are off duty.

    MR. SINGH: Okay. Thank you.

    THE CHAIRMAN: So thank you very much.

With that, it concludes the business
for today.

    I move to adjourn.

    All in favor say aye.

    (Chorus of ayes)

    THE CHAIRMAN: Oppose, no.

    The hearing of today's meeting is
adjourned.

    Thank you, Commissioners.

    (Time Noted: 12:18 p.m.)
CERTIFICATE

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               ss.
COUNTY OF NEW YORK )

I, ANN BRUNETTI, a Shorthand Reporter and Notary Public of the State of New York, do hereby certify:

That the foregoing, pages 1 through 58, taken at the time and place aforesaid, is a true and correct transcription of my stenographic notes.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of July 2012.

__________________________

Ann Brunetti
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July 12, 2012

STENO-KATH REPORTING SERVICE, LTD.
139 MAMARONECK AVENUE, MAMARONECK, NY 10543
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Sheet 7 ready - started
T-fare and lease cap vote/public hearing on roof light rules  
July 12, 2012

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