COMMISSIONERS PRESENT:
David Yassky, Chairman
Elias Arout
Frank Carone
LaShann DeArcy
Mark Gjonaj
Edward Gonzales
Nora Constance Marino
Lauvienska Polanco
Iris Weinshall

ALSO PRESENT:
Meera Joshi, General Counsel
Staff
The Public
The Press
THE CHAIR: Good morning.

We'll bring the meeting today of the Taxi & Limousine Commission to order. It is 9:24 a.m.

I am joined by Commissioners Gjonaj, Carone, Arout and Gonzalez, and we are here just now -- and Commissioner Weinshall. We are here simply to vote on a motion to recess for executive session I move that we recess for an executive session.

All in favor say "aye."

(Chorus of ayes.)

THE CHAIR: Opposed?

(No response.)

THE CHAIR: None.

There are a couple of commissioners who are running late. I expect that we will reconvene at about 10:30. So folks who are here, I would ask that we start the public meeting at ten o'clock as scheduled. If people want to get a coffee, they can feel free to do that without
fear that you will miss the
beginning of the meeting as long
you're back by 10:30.

    Thank you. With that, we
will recess for Executive Session.

    (Whereupon, an Executive
Session was begun at 9:25 a.m.)

    (Recess taken)

    (Whereupon, the
Commissioners return from Executive
Session and the following public
proceedings commence at 10:40 a.m.)

    THE CHAIR: Good morning.
We are reconvening here at 10:40
a.m. Present are Commissioners
Arout, DeArcy, Yassky, Weinshall,
Gonzalez, Polanco and Marino, and
Commissioner Carone is in the
building, and Commissioner Gjonaj,
so I'm sure they'll be in the room
very shortly.

    We have some important
business but first just, we have
some announcements. And the first
is a bit of sad news. Unfortunately we have to begin the meeting with a note of sadness, but I want to note that we are paying our respects to TLC Inspector Ruben Roman who passed on after suffering a stroke last week. He was a member of our enforcement team in the USB, a relatively new member, he joined us only last December but after a career in the U.S. Air force. And in a short time he had been the sergeant of his graduating class, had earned the class leadership award, and was an inspector of great promise with us, and it is a loss. We extend our sympathies to Inspector Roman's family. And for folks who might want to hear information about the services, you can call my office if you wish. So I'd like to just ask for a moment of silence in honor of Inspector Roman.
(Whereupon, a moment of silence is held.)

THE CHAIR: Thank you.

On a note of happy news, today is the -- well, happy in not that he's leaving us but happy for the State of New York and the People of the State of New York; I do also want to note that today is the last Commission meeting for Commissioner Mark Gjonaj, who will soon be known, and I have to insist that you address him as such, as Assembly Member Mark Gjonaj of the 80th Assembly District in the Bronx.

(Applause.)

THE CHAIR: You know, while I can express both my congratulations and some measure of my sympathy --

(Laughter.)

THE CHAIR: -- I have nothing but congratulations for the people of the 80th district who I
know will be superbly represented, and all of us in New York State since the legislature handles so much critical business for all of us. I just want to take a moment to say for me personally that it's been a privilege to serve with you, Mark, and you have contributed, as you know, enormously to the Commission and its work here. I am grateful for the opportunity to serve with you, and I hope we can continue to work together in your new position.

COMM. GJONAJ: Thank you.

THE CHAIR: Congratulations and thank you.

A couple of notes on what's been going on at the TLC. First of all, I am really thrilled to report that culminating several years really or work by many, many people in the agency, our enforcement staff is now fully equipped with handheld summons issuing devices. I think at
our prior meeting I mentioned that we are beginning to deploy them. And after testing we reviewed the testing, corrected the bugs, and now that is in full deployment.

And Deputy Commissioner Conan Freud, our CIO, Jeff Grunfeld, the Deputy Commissioner of USB, Ray Scanlon, I should mention and really also our now retired Deputy commissioner for Enforcement, Pansy Mulling, who oversaw the inception of the project. It brings us into the 20th century -- well, the 21st century, as we are doing in so many other ways, and it's really a tremendous boon for our folks who no longer write summonses on summons pads and then people back at the office have to enter it in by hand. It's an example of how technology makes us more efficient. I am really thrilled that we have done that.
I think related to that really, even before the handhelds were out there, the Enforcement Division has been extraordinarily productive in ways that I think are best suited to protect the rights of our licensees and also the public to have only licensed service. Just in the -- I'm not sure. In truth, this must be calendar year-to-date I'm guessing, so -- no. It's got to be fiscal year-to-date. So in the last let's say five to six months our inspectors have seized 2,813 vehicles operating illegally, taken them off the street. That is up from 749 in the same period last year. So 749; 749 to 2,813. And Ray Scanlon and his folks deserve just tremendous credit for that, and I hope you will all thank him personally.

On a business note, in Staten Island, as you know, our
Staten Island office was decimated by Sandy, to the point where we and our sister agency, DCAS, have determined that it is not economically feasible to do the repair work. So we are looking for replacement space for the Staten Island office.

However, to ensure that our service to Staten Islanders continues and at the urging of Commissioner Arout, we wanted to make sure there was no gap in service, I asked Borough President Molinaro if we could borrow some of his space, and he incredibly graciously -- have you ever known someone in government to say sure, I'll lend you some space; I don't think it's ever happened. I mean I know we would be fast obviously, but Borough President Molinaro stepped right up and he's given us an office at Borough Hall.
Gary Weiss and Jeff Grunfeld did lot of very fast work to get connected there so we can have our data bases operative there. So Staten Island folks will continue the licensing transactions that they had do at our Richmond Terrace location at Staten Island Borough Hall. So for Staten Island livery folks--really that's who this affects, I guess taxi drivers as well who live there--I want to make sure you know that it's open Monday to Friday from eight a.m. to two p.m., so somewhat shortened hours, but still, Monday to Friday, eight to two.

So moving to business. Today first we will vote on the adoption of the minutes of the November 29th Commissioner meeting. Commissioners, are the minutes -- oh, I do want to also note our CART reporter, not our
court reporter but our CART reporter for hard of hearing folks canceled at the last moment and we were not able to get a replacement here. So if there are folks who are here counting on that, I apologize to you for that absence. But we will investigate whether to have a backup scheduled in the future so we won't allow that to happen.

So let me just call for a vote for the adoption of the minutes of the November 29th Commission meeting. The minutes are before you. All in favor say "aye."

(Chorus of ayes.)

THE CHAIR: Opposed?

(No response.)

THE CHAIR: No. The minutes are adopted.

We have a number of base applications. Chris will present them.

MR. TORMEY: Good morning.
My name is Chris Tormey. I'm the Director of Licensing of the Taxi and Limousine Commission. The following bases on the agenda are recommended for approval, with one denial.

THE CHAIR: I move that the recommendations of the Licensing Division be adopted and that the bases listed for approval and renewal are approved and renewed, and the application listed for denial be denied. All in favor say "aye."

(Chorus of ayes.)

THE CHAIR: Opposed?

(No response.)

THE CHAIR: No.

Chris, thank you.

MR. TORMEY: Thank you.

THE CHAIR: Your proposal is fully ratified.

We have two items before us for Commission action today.
Commissioners, these are here for a vote.

The first item is a proposed rule on TPEP. Meera will describe it to you, and then I will make my lengthy comments.

MS. JOSHI: Before the Commission are the proposed rules and specifications for potential TPEP vendors who would like to become authorized TLC TPEP providers prior to the expiration of the current TPEP contract. The proposed rules were published in the City Record on October 30th, 2012, and the CAPA deadline for public comment is today, November -- I'm sorry, was November 29th but was extended by the TLC until December 12th. The CAPA public hearing was held on November 29th.

The proposed rules before the Commission reflect in sum the following revisions from the version
that was publish in the City Record:

Increased maximum allowable contract length was extended from one year to five years;

An early termination fee of 25 percent of remaining monthly fees, not to exceed 24 months, was added;

An increased fee for E-payment that the E-payment app must provide a TPEP provider, it was increased from two cents per trip to five cents per trip, and the 97 percent pass-through payment model was eliminated;

A one thousand dollar fine was added against medallion owners who do not timely remit a six-cent health care fee per trip;

The time required for TLC content was reduced from four minutes to two minute and fifteen seconds, prologue time from one minute to 45 seconds, and the
passenger route map maximization

from two minutes to 30 seconds, and

the size and number of buttons

required on the home screen was also

reduce and an option was also

provided for TPEP providers to

propose an alternative means of

collecting the health care fund fees

as opposed to collecting them

directly from the medallion owners;

Excluded spot market

advertising was excluded from TLC

content, and restrict messaging with

a commercial focus was also cut down

to one minute of TLC's two minute

and 15 seconds content loop;

TPEP providers are allowed

to run content for not-for-profit

organizations and charitable causes;

The authorization for the

TPEP provider was increased from one

year to three years;

The number of major credit

cards the TPEP provider must accept
was reduced from two out of the four major credit cards;

    TPEP providers who are the merchant for medallion owners are allowed to pay drivers directly and charge five percent for the credit card processing fee and offer an option for an electronic debit line;

    The split fare requirements, which were optional in the published rules, were further relaxed;

    There was a requirement added that if TLC notifies a TPEP provider that a payment application is not approved poses a threat to public health, safety or welfare, the TPEP provider must make reasonable efforts to block the application;

    The number of updates to TLC content was reduced to 104 times a year, and the amount of notice that TLC is required to provide the TPEP provider was increased from 12 hours
to 24 hours;

A requirement was added that any E-Hail service fee be displayed on printed receipts and PIMs;

A cure period for violations of the TPEP authorization rules was added of five to 20 business days;

Requirement that applicants provide API design, applicant meaning TPEP provider applicants, provide API design in their application was added;

The requirement that pick-up and drop-off locations appear on receipts was removed;

Tip requirement restrictions were relaxed. TPEP providers are at their discretion to choose preset tip amounts as long as they offer a 20 percent preset option;

Store and forward requirements were relaxed for credit card data from ten to five transactions;
A privacy requirement was added for handling of electronic signatures, email addresses and phone numbers;

And the bread crumb data frequency was increased to every two minutes from every 30 seconds;

And medallion owners are required to open a service ticket in order to hold TPEP providers responsible for reimbursement of fines.

And that concludes the summary of revisions made to the proposed TPEP rules.

THE CHAIR: So, Commissioners, before calling for vote -- and we had a public hearing noted on this at a prior meeting, so there's no public hearing today.

Before calling for a vote I just want to say I think this is enormously important, really. It will probably receive less attention
than the other item before you
today, but I would say of more
import for the industry in that the
credit card program has just been
enormously successful. It's, I
think, one of the things the
Commission, prior of course to my
arrival, did that has improved
service dramatically for passengers.
Today some 50, probably running like
57 percent of payments are made by
credit card. All the evidence is
that it has increased taxi ridership
by making taxi service more
convenient for people. Tips appear
to be higher, which is good for
drivers. And maybe it speaks a
little bit to the kind of
rationality of the passengers, why
would this be true, but it appears
to be true, and it an enormous
achievement.

We are continuing today in
think a new and improved form by
having rules rather than contracts with the providers. We can continually be looking for ways to improve it. These rules themselves incorporate a host of minor improvements that are all not so noteworthy that they would get written by the newspapers but cumulatively, I think they're all significant. Everything from ensuring that people with visual impairments get audible information during the rides so that they can fully be taxi passengers and know what they're expected to pay, frankly, at the end, to the geo-fencing so that the out-of-town rate can only be used in the city.

I also want to note that the two providers we have today -- I think it's appropriate at this time for us to give them our public thanks -- Verifone Taxicab System and Greater Mobile Technologies.
They have been wonderful partners for the TLC over the course of the contracts we have had with them. They now will go from contract counterparties to authorized providers under our rule. They may be joined by others; they may not be. But either way, I want to recognize that they've been a valuable part of making this program work, and I recognize them.

The staff, also, I want to say did just an astounding job, Ashwini Chhabra and Meera Joshi, as we know, Joe Rausen, who's fairly new to our team but has taken on this portfolio. Very, very complicated set of rules, worked through them with our industry partners at really exhausting length and came out with a terrific product in a pretty short amount of time. So I thank them.

I don't know if people have
a comment. Otherwise, I would call for a vote.

Why don't we do it by a show of hands. All in favor of the TPEP rules, raise your hand aye.

(Show of hands.)

MS. JOSHI: By a vote of one, two, three, four, five, six, seven, eight, nine the TPEP rules are unanimously adopted.

THE CHAIR: Thank you.

Now, the second item on the agenda is a proposed pilot program for the use of Smartphone apps to hail a taxicab. There's been much public discussion about this, as you know. And what really we have here is new technology that has come along and provided the opportunity for improved service for passengers. And our challenge as regulators is to figure out how to ensure that this new technology is incorporated in the business we regulate in a way
that will provide maximum benefit to passengers with minimal disruption to the existing stakeholders.

We have proposed a rule that was published as -- Meera, I'm sorry, do you have to do a formal description of this? Okay.

We had proposed a rule back in October that would have had us license these apps. After considerable discussion among the Commissioners, I am not putting that rule forward for consideration today but rather putting forward a pilot program, a one-year pilot that will allow apps to get out there, get out to the market, allow customers to use them, allow drivers to use them, and allow us to collect data and information and feedback from all of those parties, passengers, taxi drivers, taxi owners and, importantly, car service livery and black car folks, drivers and owners
as well. Because they are affected 
and they have a legitimate interest 
in participating in our process.

So the one-year pilot will 
allow apps. Though we've made some 
changes from what was originally 
proposed, apps will be limited to 
enabling passengers to hail taxis 
only that are within a reasonably 
close distance from the passenger, 
meaning a half mile in the Manhattan 
Central Business District, 59th 
Street and below 59th Street, and a 
mile and a half in the rest of New 
York City. We have made some 
changes to enable drivers to accept 
trips with a single touch so that it 
will be workable for folks. And we 
have required that payment be 
processed through the existing TPEP 
system.

Those are the three major 
changes, substantive changes to the 
rules of the pilot. We have also
required that the staff prepare quarterly reports on the impact of apps, both the benefits to passengers and costs to passengers, and the impact on the other TLC-regulated sectors. So that as the year proceeds, we can make a decision whether to continue the authorization for apps and make it permanent, or to let it lapse or to make changes. And I think, like with other pilot programs, I'm sure we'll produce a wealth of information and enable better decision-making months down the road when we revisit this than we can today.

I'm thinking of the accessible dispatch program. That pilot, I think showed both that accessible dispatch was doable and has value but also showed that the original method of providing that service had a lot of flaws, and we
corrected it, and today's program, permanent program works much better as a result.

You know, I don't think -- we'll I'll end my remarks so we can discuss it if necessary and then vote.

But, you know, the short of it is we should not ignore technology that's out there. There are providers who are providing the service elsewhere in the country, elsewhere in the world. Companies like Uber, like Hailo, like iTaxi that are out there.

In other words, this is not speculative, this is real today. We could look at other cities and see that passengers are using these products and benefiting from them. And when you have new technology that's available and can benefit passengers, regulations shouldn't stand in the way of allowing that
for passengers to benefit.

So today we are clearing the path, letting us move forward with putting apps out in the hands of passengers, letting technological progress move forward, and doing it in a measured way that allows us as regulators to keep a close eye, to adjust our policy as necessary to move forward. The pilot forces us to revisit the issue within a year if we're not going to see it lapse.

So Commissioners, I am going to put this pilot resolution forward.

Before I do, are there questions or a discussion that people wish to have amongst? If not, I will call for a vote.

I'm sorry, Commissioner?

COMM. CARONE: Thank you, Mr. Chairman.

I just think it's important to, from my own perspective, to
share with my fellow Commissioners how I'm arriving at my own vote. This was one of the more intellectually challenging decisions that I've had to face on the Commission. And because I think it's controversial I'd like to explain how the vote is important to me and I'd like to do so.

First I'd also like to say that, as always, working with the staff at TLC has been an incredibly rewarding experience. Deputy Commissioner Chhabra and his team are probably the most finest or one of the most finest staff I have ever worked with in my involvement in government. So it's been especially rewarding working with them and intellectually rewarding hearing their presentation and the colloquy back and forth.

But over a month ago we had a hearing on the permanent rule.
And it's no secret that I did not support that rule. It wasn't an easy decision to arrive at that and how I arrived at my decision to not support the rule as it was presented was as follows:

As I have done in the past, I look at the criteria that I'm supposed to look at as a Commissioner in determining my decision, and there I looked at Section 5204 of our rules. And I think it's important to highlight Section A4, which requires us to establish and enforce standards to ensure all licensees remain financially stable. Looking at that section and how this particular rule, when it was a rule, affects our licensees, particularly the black car and liveries, gave me cause to pause. We've heard a lot of tales from the industry about how their sector would be affected.
Following from that I looked at the history, and I have come to learn that under the great Mayor Koch there were the instances where radios were in yellows and how passengers were having difficulty procuring a cab.

So although the burden is very high for me personally to vote against the proposition from the staff, I thought the burden was met in looking at our history, together with the possible troubling issues with Section 5204.

However, the pilot program is very different. The mandates of our pilot program scope under 5221 essentially states that the commission should encourage and provide innovation and experimentation in relation to type of design of matters of service, and such experimentation for limited purposes may depart from our
established rules.

It is exactly for that reason, together with the requirement of reporting that will give us some empirical data which we can look at, and you'll hear from the International Association of Transportation Regulators and hear their data. That will give us real live empirical data to make a decision whether or not to make this rule permanent. So because we will have that in front of us a year from now, I believe this is the absolute appropriate, correct course of action, and I will be voting yes for the pilot program.

THE CHAIR: Thank you.

Commissioner?

COMM. DeARCY: I just wanted to say that I am excited about the opportunity to vote my support for the pilot program to evaluate Smartphone applications. If passed
this program will allow New York to take its first step to assuming its rightful position amongst the other great cities that already allow electronic on-demand taxi service hailing.

Now, I am ever mindful that the introduction of this new technology has raised some concerns within the industry. That said, I believe that an outright rejection of the technology is premature. Equally, I believe that an outright acceptance of the technology at this time is also premature.

With that said, I believe that a pilot program designed as it has been designed by the staff, and considered and deliberated on by this Commission, is the best and right way to proceed. It will allow us to be able to determine whether or not the effects of this program are beneficial to the taxi riders.
and to the industry at large. And for that reason, I am voting in favor of the pilot program.

THE CHAIR: Okay. Well, with that, then, I call for a vote on the proposed pilot program that is before us.

Why don't we do again a show of hands. All in favor say aye.

(Chorus of ayes with a show of hands.)

MS. JOSHI: We have Commissioner Carone in favor; commissioner Gjonaj in favor; commissioner DeArcy; in favor Commissioner Yassky in favor; Commissioner Weinshall in favor; Commissioner Gonzalez in favor; and Commissioner Polanco in favor

THE CHAIR: All opposed, please raise your hands, and then I'll call for abstentions.

COMM. AROUT: Me.

(Applause.)
THE CHAIR: I don't know if that was for the delivery or the --

(Laughter.)

THE CHAIR: But either way, I appreciate it. Thank you.

COMM. AROUT: It seems that this particular Commissioner is against it. No, I'm not against it. But unfortunately in the last couple of days I have received more phone calls, and it's amazing my wife is still talking to me. And I was a little annoyed. I got most of this material just about this morning. And I feel, in good conscience, I cannot vote on something I haven't received within two or three days so I can look at it and read it. And I must abstain on this one. It's just my own personal feelings and nothing to do with the Commissioners. It's just good conscience.

Thank you.

THE CHAIR: Thank you.
COMM. MARINO: I would also like to abstain on this vote for the same reason that my colleague has stated. I do want to just say that, and also I agree with all these statements here today; technology is what it is and we have to keep up with it. I have three gadgets in front of me. I'm all for technology. But I just think New York is a very unique city and we have a unique transportation structure that is not like other cities. And as far as us being a leader, which there was some discussion about at the last hearing, I think part of being a leader is to find what works for us and works with our structure and all of the different facets of our taxi and livery structure in New York.

So that said, I will say one other thing. The pilot program sounds great. We can just change our minds if it doesn't work, but
like a marriage, a lot of things are
a lot easier to get into than out
of.

(Laughter and applause.)

THE CHAIR: One of the
virtues of marriage.

(Laughter.)

THE CHAIR: So, well then,
Meera, the motion is adopted?

MS. JOSHI: So the vote
tally is with seven in favor, the
resolution to commence a pilot
program for E-hail apps is adopted.

(Applause.)

THE CHAIR: Very good. Just
make sure we have no further
business.

So this being our last
meeting for the calendar year I just
want to wish all of our licensees
and friends a wonderful holiday
season. I wish all taxicab
passengers a Happy New Year. That
is my comment for the day.
And so with that, the meeting is adjourned.

(Time noted: 11:15 a.m.)
CERTIFICATE

STATE OF NEW YORK  )
) SS:
COUNTY OF ORANGE  )

I, KARI L. REED, a Registered
professional Reporter (Stenotype) and Notary
Public with and for the State of New York
hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such
proceedings to the best of my ability.

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 18th day of December, 2012.

__________________________  
KARI L. REED, RPR
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