NEW YORK CITY LIMOUSINE COMMISSION

PUBLIC MEETING

Held on Thursday, December 17, 2009

1:30 p.m.

40 Rector Street

5th Floor

New York, New York
PRESENT:

MATTHEW W. DAUS, Chairman

ELIAS AROUT, Commissioner
HARRY GIANNOULIS, Commissioner
EDWARD GONZALES, Commissioner
JEFFREY KAY, Commissioner
LAUVIENSKA POLANCO, Commissioner
IRIS WEINSHALL, Commissioner

CHARLES FRASER, ESQ., General Counsel
CHAIRMAN DAUS: We do have a forum to conduct business, but we have limited period of time for commissioners to be here, so we are going to go skip around on the agenda. On the revised agenda, we are going to go directly to item 4A, distracted driver rules. Tweeps and Nichole, could we give a very brief presentation and bring us up to speed and then we'll start the public hearing. Welcome and happy birthday, by the way.

MS. PHILLIPS: Thank you. Good afternoon. We want to give you a brief update on the proposed rule changes on the distracted driver program. As you know, the proposed changes are modifications to a ten-year-old ban on the use of cell phones and handsfree devices and after presenting to you, we had I think very good conversation with the industry as well as you and we looked at a few different things in terms of what we were proposing initially. We received a lot of very interested comments and I think that as the list shows, we met with many folks from the industry and we also did some internal research in terms of both the scientific literature that's available as well
as additional research into the technologies they are available and I think that after those very good conversations with the industry and with you, we have some recommendations to our proposed rules, which are the following: We are proposing that for the for-hire vehicle industry only and I want to step back for a second and say that this is something that we definitely looked into because we realized in our first presentation, we didn't really address the fact that the for-hire industry has needs for dispatch and communication and so we wanted to modify our recommendations to accommodate that.

So the recommendation is that the definition for prohibited devices would specifically exclude FCC license two-way radios, voice activated hands-free communication devices that are mounted in the vehicle and can only be operated by one touch pre-program button or key. The prohibition for the use of these devices would exclude short dispatch related communications. We also looked at the use of electronic devices as being permitted if the vehicle is lawfully standing or parked without the requirement of the engine being turned off.
And for the industry as a whole, the GPS device, they are permitted while driving as long as the entry of the address is not done while driving and as long as the device gives directions to the driver by audio, regardless of whether it also displays a map or other visual queues.

The devices that are shown on the monitor are actually some of the different types of mounting devices that can be used for the hands-free device or for the use of short communication for dispatch services and the next page is--these devices are ranged in prices from $5 to $25, and we think are reasonable options.

Nichole is actually going to give a little bit more in depth insight into some of the actual literature and scientific resources that we looked into to make sure that our presentation and our rules were fully comprehensive.

MS. POLYAK: So once we started looking into distracted driving and really making sure that we had the most comprehensive rule, we started looking into the hundreds of studies that have been done on distracted
driving and the consequences of talking on your cell phone while driving and all of them really came to some of this same basic finding that shows unequivocal evidence of the dangers. For some examples of this studies, many of them came to find that while talking on the cell phone, whether it's handsfree or handheld, you're four times more likely to get into a personal injury crash and if you are engaged in an unconstrained cell phone conversation, you were two times more likely to fail to detect a traffic signal and it was also surprisingly found that when talking on the cell phone, you're more impaired than actually driving while intoxicated.

That being said, the evidence is undeniable of it's dangers, but in meeting with all of the different industry organizations, we came to realize that they still needed to conduct their business and further research showed that while distracted driving is always a concern that needs to be kept in mind, the level of complexity of the conversation actually played a really big role in how distracted you were. So it was found that short constraint conversations actually did not affect your
driving performance and that simple conversations could be excluded, as well as verbal material that you were just listening to. Studies were done where drivers were just listening to the radio or watching books on tape and their driving ability was not significantly impaired, therefore we found it conducive to exempt short dispatch calls and GPS technology. That's it.

CHAIRMAN DAUS: Any questions? Thank you Nichole and Tweeps for that update. First speaker, again, I'm sorry you had to sit down, Susan Scattergood, Fried, Frank, Harris and the Black Car User's Group. We have the rules of rotor, three minutes per speaker, so if you're getting close there will be a little beep and then try to sum up.

MS. SCATTERGOOD: Thank you. Before I begin, I would like to thank the chairman and commissioners for allowing me to speak before you on this really very important matter. At Fried Frank, our number one concern regarding ground transportation is the safety of our lawyers and our staff while they are in transit. Unfortunately our riders too often report that
they feel unsafe and frightened. This is because while in the cars, while the cars are in motion, drives frequently use their cell phones, blackberries and other electronic devices. They allow texting or require that they input information to notify their basis that they have made their pick up. Even when asked to stand curbside to notify their basis and then to park for the ride, drivers ignore this request on a frequent and almost always basis.

The use of these devices causes a serious distraction for them while they are driving and an absolute safety hazard. At Fried Frank we are diligently working with our Black Car providers to eliminate this problem. We have their support. They tell us that they too are concerned and are actively seeking ways to stop these unsafe practices. Nevertheless, they remain a serious issue.

I personally had many frightening experiences in Black Cars and taxis. In taxis I think the illegal use is rampant of cell phones. I regularly ask drivers to get off the phone and if they don't, I ask them to pull over and I get out of their car. This is a serious problem. I
would say two out of every three taxi rides they are on the phone. I'm in the City all the time and you know, I've been paying a lot of attention to this. In Black Cars, I would say it's one out of every three as would our users within Fried Frank. I think that it shouldn't be necessary for a passenger to ask a driver to get off of the phone. I am comfortable doing that, but many people are not, so they continue to be in an unsafe situation.

So I'm really here today, one, to thank the commission for your efforts on really taking a serious look at this and to say that I believe and my firm does, that in passing and then dedicating the appropriate resources to enforcing regulation, these regulations, the committee is taking critical steps to insure the safety of all Black Cars and taxi passengers. So I please really hope that you will make safety your foremost concern when you make your decision. Thank you for listening.

CHAIRMAN DAUS: Thank you. Next speaker is Vick Dizengoff.

MR. DIZENGOFF: Good afternoon Chairman Daus and commissioners. My name is
Victor Dizengoff, I'm the executive director of the Black Car Assistance Corporation and the trade association of the Black Car industry. The BCAC represents in excess of 40 companies which have approximately 10,000 affiliated vehicles. To the extent that we represent the companies, we are also very much concerned with driver issues.

The Black Car industry has since it's inception and continues to be, an industry regulated by the New York City Taxi and Limousine Commission. Our primary concern, in addition to the quality service we provide our clients, has always been and continues to be their safety, the safety of our drivers and the safety of all the citizens in New York, it's visitors and commuters.

I'd like to take this opportunity on behalf of our association to thank the Taxi and Limousine Commission and especially Commissioner Daus for reaching out to our industry and sitting down with us so as to clearly understand our needs for conducting our business. We believe that it is through outreach such as was done here which enables us to work together to
better serve the industry and the riding public.

As the Executive Director of the BCAC, I want to again thank the Taxi and Limousine Commission and Chairman Daus for listening to us regarding some critical concerns we had with respect to the implementation of rule 6-16 and responding positively to those concerns. We look forward to continuing to work together with the Taxi and Limousine Commission on issues affecting our industry as they may arise.

In closing, let me add that the Black Car industry has and always will be an advocate for regulations that enhance our industry and improve the quality of life of its drivers and its members' corporate clients.

Thank you very much for allowing me the time to testify on behalf of the BCAC. If they are any questions, I will be more than glad to answer.

CHAIRMAN DAUS: Thank you Victor, I appreciate your support. Next speaker is Pedro Heredia.

MR. HEREDIA: I have additional copies of my testimony. Good morning Chairman
Daus and distinguished members of the Board of 12 Commissioners. My name is Pedro Heredia, Chairman of the Livery Base Owner's Coalition and co-owner of Riverside Radio Dispatcher. Thank you for the opportunity to testify before you today. Today we stand as a coalition of bases and drivers to acknowledge the fact that talking or texting while driving is dangerous and that it puts the lives of the riding public, the driver and others at risk.

Although the Commission's intentions are well intended, it continuously applies the same language and set of rules to all the regulated sectors of the TLC, as if the Livery, the Black Car and the Yellow industry were the same. The need and use of communication and technology by these three groups is something we all use differently and the distracted driver rules in the case of the Livery industry, should be restricted to times where there's a passenger in the car only. For all the other times, New York State laws should apply.

As your definition of the use of a commercial FCC licensed two-way radio in connection with a dispatched call, the word
"short" should be deleted because in the Livery industry, this method of communication is already restricted and monitored to a short and businesslike manner by the FCC. Allowing this language in the law will only create unnecessary summonses, sanctions and hearings to the drivers and the bases.

The exaggeration of requiring a vehicle to be lawfully standing or parked with the engine off creates a greater hazard to the driver. Shouldn't we be concerned about the driver's safety as well? Although the rules allow for the drivers to make emergency use of an electronic device, they do not allow for anyone to contact the driver, even under emergency situations to inform the driver of a family crisis, if the passenger poses any danger to the driver, to inform the driver of a lost and found item that needs to be returned ASAP or to send a distressed signal.

Since this rule, still a working document, the recommendations of the Livery Base Owners Coalition is that we continue to make improvements and changes to the laws to accomplish safety measures to both, the riding
public, the drivers and also to prevent excessive and unnecessary regulations.

CHAIRMAN DAUS: Thank you. Next speaker is John Acierno from Executive Charge.

MR. ACIERNO: Good afternoon. Thank you for the opportunity to address the commission today. My name is John Acierno and I'm the president of the Executive Transportation Group. We provide Black Car service to about two million passengers a year through our affiliated bases which manage about 1500 franchised Black Car drivers. We have been providing ground transportation services in New York for decades beginning in the 1920s with my great grandfather and transitioning to Black Cars in the mid 1980's.

As you are aware, the Black Car industry has been directly impacted by the economy. What many of you are probably not aware of is that like many other volume commodity businesses, Black Car industry is a low margin business that is continually subject to downward price pressure. To address this, the industry and ETG are continually working to find efficiencies in the business and one of
these efficiencies was before the adoption of dispatching using handheld devices such as Blackberries about four years ago. These have replaced what are known as mobile data terminals or MDTs in the cars, which at the time required us to maintain our own radio networks, including towers and transmitters. In addition, the MDTs were expensive in themselves, as well as requiring radio infrastructure.

Currently, approximately 70% of the Black Car bases and a large number of Luxury and Livery bases use handelds to dispatch work. In our case, we've created an application on Blackberries which is designed to ease the workload of the driver in the car. It provides a workflow which minimizes the actions that the driver needs to make in the car, while at the same time providing our dispatch system and the customer real updates on the vehicle status. We have spent considerable time and resources making the system require as few keystrokes as possible when the car is moving.

Unlike texting, it requires only a one touch response and the responses are by rote; they are the same time and time again.
The driver can complete most jobs in five easy steps, with one hand. They accept the job, one click. They give an ETA by selecting the appropriate option, one click. They arrive on the location, one click. They unload the passenger, one click.

A little under a month ago we demonstrated the program to a number of staff at the TLC and discussed the wording and application of the proposed rules in light of both the State level anti-texting law and the distracted driver program. We were pleased to have the opportunity and believe that the revised rules incorporate business and operational needs of the Black Car industry. It's a difficult task for the TLC, as the rules needed to comply with the state law level which had broad definitions, yet provide the industry with the ability to operate in an efficient and economical manner.

In addition, it will require changes in the industry by having these handhelds mounted when the car is in operation and in some cases may require changes to the programs operating on these systems. We believe the
proposed rule balances the concerns for safety and operations of the business and support its adoption as presented. Thank you.

CHAIRMAN DAUS: Thank you John and thank you for stepping up. You are one of the first people that came in here with a workable solution to make a safe exemption and also put the options out there for safe and economical, so thank you for going above and beyond.

MR. ACIERNO: Thank you, I appreciate that.

CHAIRMAN DAUS: Next speaker is Mr. Avik Kabessa from Carmel.

MR. KABESSA: Good afternoon Commissioner Daus, members of the commission. Thank you for allowing me to speak, my name is Avik Kabessa. I'm the CEO of Carmel Car and Limousine service. We are a Livery service. As a person who strongly believes that the use of electronic devices while driving is life threatening, I truly applaud the TLC's attempt to protect the riding public and the drivers. I would like also to point out that the process by which the rule was formulated is a process I highly compliment. The TLC met with the
industry and listened to the industry. As far as I'm concerned, the end result is a rule that will save lives and at the same time allow the for-hire industry to operate. It is a perfect example of how the TLC can work with the industry and this pattern should be repeated.

I would like to make some small comment about something that was mentioned here before; the definition of the word short. It may leave things--the rule allows for short conversations on two-way radio. It may leave things to the interpretation of the inspectors on the field and place them in the position of making a wrong judgment, even unintentionally. I believe the word could be taken out or better defined.

Overall, the rule you anticipate we support and look forward to an ongoing true work and partnership with the TLC. This is my commitment from the Livery industry to the TLC and I will keep on doing it. I urge you to vote, to accept to approve and approve those new rules. Thank you.

CHAIRMAN DAUS: Thank you, sir. Our next speaker is Guy Palumbo. Julia De Martini
MS. MARTINI DAY: Good morning everybody and Commissioner Daus. I'm Julia De Martini Day with Transportation Alternatives. Transportation Alternatives has 8,000 dues paying members and 25,000 activists subscribers supporting our campaign to promote bicycling, walking and public transit and making New York City streets safe and livable. Thank you all for the opportunity to testify today. I'm here to speak in support of the proposal to extend the ban against licensees using a portable and handsfree electronic device while driving a vehicle and require violators to attend a mandatory driver education course emphasizing the dangers of distracted driving.

In addition to improving driver attention, the TLC proposal set a precedent for how other city and state agencies can revise laws to reduce crashes caused by distracted driving from mobile phone use. We strongly support the proposal on the table today and urge you to enact it without delay.

I want to share some research. Some of it has been cited already that shows how
electronic devices, handheld and handsfree distract drivers and increase crash risk. In 2007 in New York State, distracted driving was the number one cause of vehicle crashes in New York. New York State Department of Motor Vehicles accident contributing factor data showed driver attention distraction caused 19% or 10,472 accident. This was the cause of 47 fatalities and over 7,000 personal injuries. A 2003 Harvard study estimates that eliminating the use of cell phones while driving would prevent over 2500 traffic deaths every year and over 300,000 accidents that result in moderate or severe injury in the U.S.

We also heard that a driver is four times more likely to get into an accident when talking on a wireless phone, whether handheld or handsfree and that driving while cell phoning leaves driving performance to be as poor as if they were legally drunk.

What’s related to our work in New York City, a majority of the people fatally injured by taxi and Livery crashes are vulnerable users. 16 of the 29 persons fatally injured in taxi and Livery crashes in 1999 were
pedestrians and one was a bicyclist. We know given all these facts we have to do something to make our streets safer and a law strengthening the penalties for using a portable or handsfree device can do this.

There was a study done a few years ago that showed well publicized laws restricting drivers use of handheld cell phones, showed it had a strong effect on behavior and reduced cell phone use. With publicity and enforcement, the same should prove true for the proposal we are discussing today.

The TLC has been a leader in taking steps to make taxi drivers in New York City streets safer.

CHAIRMAN DAUS: Ms. Day, if you could sum up please?

MS. MARTINI DAY: After you passed your initial ban in 1999, New York State followed suit as did many other states and cities. We believe today is an opportunity to continue to be a leader in making all 240,000 million annual taxi passengers and pedestrian cyclists and drivers safer in New York City.

Thank you.
CHAIRMAN DAUS: Thank you, Ms. Day.  

Next speaker is Ethan Gerber from the Greater 

MR. GERBER: I represent the Greater 
New York Taxi Association, a group of owners 
that own many of the accessible taxicabs in New 
York. I must say that today it is with much 
fanfare that the TLC announces a ban on handheld 
text messaging devices. The irony is that two 
years ago, the TLC announces a planned dispatch 
wheelchair accessible taxis. The TLC awarded a 
dispatch contract to a vendor, you heard him 
today, that dispatched the vehicles using 
handheld Blackberry devices, Blackberry Nextel 
devices. The TLC distributed these handheld 
devices to drivers in the cars and issued 
summonses to any owner that did not hand out 
these Blackberry devices to the drivers.

The TLC rules and directives required 
the drivers to adhere to dispatch vendors 
procedures. These procedures required drivers 
to read and respond to the text messaging 
devices within 120 seconds; even if they were 
moving and even if they had passengers, even if 
they were in bridges or in tunnels. The Greater
New York Taxi Association had meeting after meeting and many dozens of e-mails and phone calls with people in the TLC, tried bringing this to the TLC's attention. We met with commissioners, the general counsel. There was even an Arnold Diaz piece on shame, shame, shame.

These concerns were continuously and consistently cast aside and dismissed. Even when there was pending legislation banning the devices, we informed the TLC, we were told, we'll cross that bridge when it comes. The irony seems lost. These very rules while preaching the danger of handheld devices, to find a way their own TLC issued devices and continue to impose penalties on drives who choose not to risk the lives of passengers, the public and themselves by refraining from the use of the TLC issued Blackberries. The rule carefully and I believe disingenuously states that a handheld portable device does not include "any device the use of which while driving is specifically authorized by the TLC."

In other words, no matter what the studies say, no matter what the research shows,
if the TLC says it's safe, it's safe. Portable 4 handsfree electronic device does not, according to rule 201, 4-01, 6-01 and 9-01 does not include any device, the use of which while driving is specifically authorized by TLC rules. This is in direct contravention to the statement of basis and purpose which quantifies all the dangers that were shown. The rules as promulgated on the dispatch system require the accessible taxis to respond --may I continue?

CHAIRMAN DAUS: You could sum up, please.

MR. GERBER: They require the dispatched vehicle to respond at the time frame designated by the vendor. The vendor gives 120 seconds. There are some 42 highways and byways in the City of New York where pulling over is unlawful except in an emergency situation. We have continually asked how we are to respond within 120 seconds. We have worked with the TLC and there are some exemptions to the rules and we applaud the TLC and I applaud Chairman Daus for coming to some compromise with our specific client, however, the rules as
written do put the driver in a choice; they must choose whether to follow the dispatch rule or break the law in the State of New York. Thank you very much.

CHAIRMAN DAUS: Thank you. Mr. Artie Grover?

MR. GROVER: Mr. Chairman, Commissioners. My name is Arthur Grover, president of the New York City Fleet Livery Owners Association. Our association appreciates that the TLC took the time to meet with our members of the industry and association prior to proposing new rules related to the use of telephones and other portable handsfree electronic devices. The commissioners listened to the needs and concerns of the for-hire Livery industry, many changes responsive to our input. By allowing continued use of corded and cordless two-way radios, the commissioners have demonstrated that they were open to modifying rules and balancing the essential needs of the industry with equally important safety concerns of the general public. The two-way radios have been and remain the life blood of the for-hire Livery industry. Business relating
communication are essential to the continued existence of hundreds of neighborhood for-hire car service establishments. The radios facilitate efficient dispatch and recall of vehicles. They permit prompt and reliable customer service, particularly in regard to service request and changes related to pick up times or locations. They allow instant price confirmation for customers and give operators the ability to immediately communicate and confirm route changes as required by the TLC.

For the customer who may have left something behind, they most importantly facilitate prompt and effective lost and found. Notifications and of course two way radios also serve as an immediate means of emergency and safety communications. The commission has proposed rules which we all hope will enhance safety on the roads, while allowing the professional communications essential to the continued existence of the for-hire Livery business here in New York City. We thank the Commission for it's efforts and we hope to continue working with the members to provide all New Yorkers with reliable and viable Livery
CHAIRMAN DAUS: Thank you. Eli Hirschenboim? Jeannette Vega?

MS. VEGA: Good afternoon, my name is Jeannette Vega, and I'm a Hack driver. I've been working as a cab driver in New York for 23 years and I want to put a face to the people that you're actually talking about in proposing these rules changes for. I started out working in the Bronx as a Livery cab driver in 1986 and I have been working as a Hack driver since 2002. I take pride in my work. I consider myself an ambassador to New York City. The majority of the people that get into my cab are tourists. I am polite, I take them from point A to point B as quickly as possible, smile, cheer; the whole bit and consider myself more a transportation specialist, but I'm concerned about these proposed rule changes. I think they are a little harsh. The amount of hours that we spend on the road increase the chances of us being ticketed, having more points put on our license. I'm happy to say I have zero points. I have never been pulled over, I've never been ticketed, no moving violations, because I do my
job the way I'm supposed to do my job. But, as a single mother of four children, two that have hemophilia, I need to be able to access my phone for emergencies. It's happened to me before. I've had a phone call, I've had passengers. I'm very polite, I'm sorry it's my home calling, can I just make sure it's not an emergency, never had a problem. Sure, no problem. Is it an emergency, no? No problem, I'll call you back.

We need to be able to access our phones. I think it's ridiculous concerning the amount of taxi stands that have been pulled away from us to expect us to be able to pull over to use our phones if it's an emergency. A lot of drivers I feel are rampant and I think these proposals are great. It is a danger. You know I totally agree with a lot of the studies, but at the same time, I think we have to find that balance. I think the increase in point changes are too harsh. I feel the fact that you're going from point changes to suspension to revoking a license is too harsh. Hit them where it hurts. Increase the amounts of money that they get ticketed with. We're out here making money. Charge more, that's fine, because if I
have an emergency I can show proof. If I get called in and if I get ticketed, I can say this is where I was; I was in the emergency room with my son who could bleed to death, so I just wanted to bring that to your attention.

I think what the gentleman from Riverside Car Service does make sense. If we don't have a passenger in the car, we should be able to access our phones hands-free device really quickly. I use them all the time to check on Kennedy and La Guardia updates to see what percentage of cabs are needed up there and I use it for other emergencies.

I just wanted to bring that to your attention. I feel that these studies focus on regular drivers. Cab drivers are not regular drivers. We have a very unique profession. We have the ability to multitask. It's like what one driver said to me before, I'm able to drive, read the paper, be on the phone, take a shower in my cab. I mean, he was exaggerating, but it is just the point that I'm trying to make. We are very unique and we do know how to multitask. Thank you.

CHAIRMAN DAUS: Next is Robert Kirk.
MR. KIRK: My name is Robert Kirk. I've been a taxi driver for 40 years and when I first started driving a taxicab, I'm not even sure we had wireless phones in our homes. So truth of the matter is I do not keep my cell phone on and when I came here I wasn't even sure what was going on here. But I think it's really important for a long standing taxi diver to really say that it is dangerous to be using cell phones when you're driving and although a Yellow taxicab is really a yellow phone booth for the passengers, we really have to be concentrating on the road, especially with all of the new electronic initiatives that are in taxicabs that also are extremely distracting, but since we have to use them, that's what we have to concentrate on.

One of the issues that came to my mind is parking, because it's extremely difficult to find any place in the business districts in Manhattan to pull over if there is an emergency and I will be very thankful if the taxi or limousine commission considers changing a few different laws because you can't even pull onto a pump if the area is not legal for
But what I'm most concerned about has to do with political agendas and I don't believe that it's a good idea to be attacking taxi drivers and I do not believe that it's a good idea to not be thinking about how enforcement truly occurs in New York City. Because police officers are given stacks of tickets and these particular officers are relatively new and they go into a battle mode and they use taxi drivers often enough as collateral damage and I believe the taxi commission has already heard about some of my nightmares because the taxi commission were the first people that I had contacted. I do not use cell phones. I do not believe that drivers should have been overindulging in them and I believe that this is a reason why you were getting a little bit more difficult with us.

Since I spent a lot of time with different fields in the taxi industry, I thought doing classes is kind of silly. Drivers know they shouldn't be using their phones and one of concerns I have-- and I'll be finishing up with this-- is that if it goes to the City University for classes, the Federal government pays the
City University for students, whether they take a three-month class or a one hour class and I do not believe that the Federal government should be giving New York City any money for silly classes. Drivers know they shouldn't be using their cell phones. I thank you very much and I do support much tighter initiatives with this, because I see what goes on in the street.

CHAIRMAN DAUS: Thank you. Next speaker is Osman Choudbury.

MR. CHOUDURY: My name is Osman Choudbury. I'm from the member of New York Taxicab Workers Alliance. I have been driving the last 13 years. The things I'm hearing are very upsetful because somebody said make a study that said that the texting driver is more dangerous. I'm saying that New York City Taxicab and most of us in the world who are driving will see the situation. The New York City, the JOR, how are they doing. They are dangerous there. They're using their cell phones, texting, how dangerous. Need to stop it from them there, not the taxi drivers. Taxi drivers are hard working. See it depends on the city, because where are we going to park.
them, they park by calling on them, we go there.

There is some difficulty because of the cell
phone. Even somebody is in the hospital, I
working, they call me and I see that it's my
family in the hospital. Sometimes, the
passenger I ask them, I spoke to the phone and
they said okay. Sometimes the passenger, they
call me and I give direction and the passenger
knocks, please don't use the phone. I said to
him, please later I will call back. Thank you

very much.

MR. FRASER: Thank you, Mr.

Choudbury. The next speaker is Bill Lindauer.

MR. LINDAUER: My name is Bill

Lindauer. I'm with the New York Taxi Workers

Alliance. I drove a cab for 30 years. With age

comes wisdom, so listen up. First of all, happy

holidays, but this proposal comes from the

grinch. This draconian proposal suffers from a

complete absence of logic and reason and

embodies a deficit of decency. New York cab

drivers have proven to be the safest drivers on

the road. Can you point to any fatalities or

serious injuries due to cab drivers talking on

the cell phone; I think not. To make them
virtually incommunicado and revoke their licenses might make even the US Supreme Court state it's cruel and unusual punishment. You think you should just blithely deprive drivers of their livelihood so they can't feed their families and shelter their families, shame, especially you Chairman, you're making 200,000 a year.

I would be very surprised if the commissioners and chairman did not use their cell phones behind the wheel and your trips are short. Imagine being deprived of this life saving connection for 12 hours and facing losing your livelihood for inquiring about your child in the hospital. Why are drivers demonized, singled out and not enjoying the rights of all New York State citizens? Is this a new culture of cruelty in New York City? The MTA wants to hurt kids, senior citizens and the disabled and the TLC wants to perpetuate this misconceived measure, guaranteed to infuriate drivers and their families. Thank you.

CHAIRMAN DAUS: Thank you. Next speaker, Bhairavi Desai?

MS. DESAI: Good afternoon. I'm
executive director of the New York Taxicab Workers Alliance. As a lot of studies have been cited today and I think the point must be made, as Bill said, none of those studies actually focus on professional taxi drivers. And in fact, another pedestrian and bicyclist advocacy right away did conduct a study several years ago which in fact was cited earlier and in that study included that taxis were the safest mode of transportation in New York City. Bruce Schaller studies have also found the same conclusion and I think that point must be made in this discussion, that the proposal that you're undertaking is not a reaction to cabs to accidents with cabs or to any question about the professional driver skills of Yellow cab drivers. I think you must make that point. You must repeat it throughout the media as you go forward with this proposal.

Our position stands that taxi drivers, all professional Yellow cab drivers, Livery drivers and Black Car drivers should not be singled out within New York State. There should be one rule for all of the citizens of New York State and that should come from the
State Legislature, not from the TLC.

Having said that, our most profound criticism of the proposed rules, is the fact that three summonses. You could get a summons as Jeannette said earlier, a phone call from home, an emergency call; as John said, a second call could be because a passenger isn't sure of an address, particularly a tourist; a third call could be to verify directions to a location that the passenger may not be able to guide the driver to and the TLC does not require the driver to know that route. These are all legitimate calls and if by stroke of bad luck you happen to be nabbed by a TLC inspector and we all know a major sting operation has been going on with these rules, then you are not only out of a livelihood for 12 months, but you have lost that license. You may have a Hack number for over 20 years, but you will lose that license. You will have to wait 12 months before you reapply.

When you reapply, there is no guarantee that you will be reinstated because as we know, the TLC rules does not have clear guidelines on reinstating revoked licenses.
Even if the ALJ agrees to reinstate your license, the office of the chairperson could still decide to deny you that license. What you are talking about is a severe penalty, not only a loss of livelihood, but essentially a loss of a career. That punishment does not fit the crime. Thank you.

CHAIRMAN DAUS: Thank you. Next speaker is Richard Thaler.

MR. THALER: My name is Richard Thaler, I'm here for Omni and myself. My comments are concern on Chapter 6, the FHV rules. These proposed rules was not about generalized restrictions on FHV driver behavior that did not apply and are unrelated to FHV dispatch operation and will only hinder FHV driver dispatch operations with no affect on FHV safety.

Otherwise, the stated purpose of these clause, rules should provide for accident and prevention injuries, driving violations directly caused by related dangerous driver behavior. This requires a clear categorical understanding of what a dangerous distraction caused by driver behavior is, since operating a
vehicle subjects the driver to a wide range of simultaneous distractions all competing for the driver's attention and provoking reflexive and cognitive response, even a sneeze. In traffic, a FHV driver must be alert to traffic signs, street signs, emergency vehicles, school busses, passenger requests, police and traffic agents, pedestrians et cetera; all who are performing the functions required for FHV dispatch operation. Although the objective of these proposed electronic device rules is the prevention of those dangerous distractions caused by driver behavior, which overwhelms a driver putting the FHV safety at risk, enabling the driver to perform the FHV function safely is a different matter. A properly designed digital voice and data or legacy land mobile radio dispatch operation system, which the driver operates properly, is not a dangerous distraction, but well within the driver's ability to operate safely. In Section 9, these rules failed to recognize FHV dispatch operator requirements and
the special skills and training that the professional drivers must posses in comparison to ordinary drivers. The published studies referenced in these proposed rules do not address the FHV drivers dispatch operating environment for special purpose FHV dispatch system. In fact, while the stated purpose of the rule refers to Virginia Tech Transportation Institute claim that while the risk of being involved in an accident increased by 23 times when the driver was text messaging by the wheel, it is disingenuous that the stated purpose did not also include the Virginia Tech Transportation Institute claim that the risk of an accident was relatively minor in the case of drivers using voice activated systems.

Also absent is an important prerequisite study of the role of any distraction of Livery drivers played in accidents in the course of using an FHV dispatch system, in order to properly focus the proposed rules on the prevention of dangerous behavior without hindering or sacrificing important FHV driver dispatch functions.

The proposed rules also failed to
recognize emerging advances of active vehicle safety technology with closing velocity, monitoring control which would provide added protection from inadvertent driver distractions due to any source. Closing velocity, monitoring of stationary and moving objects with automatic feedback control, practice safety automatic collision avoidance in addition to electronic--

CHAIRMAN DAUS: Please sum up, Mr. Thaler.

MR. THALER: This is planned for the Lincoln town car and the Crown Victoria wheelchair accessible taxis. But I would like to say that consistent with what I said before, if you look at the first two pages of my comments, there are two exceptions that I propose which would deal with this subject. I don't have to repeat them, they are right in front of you and if these two simple insertions were included I think the protection of the FHV operation would be accomplished. Thank you.

CHAIRMAN DAUS: Thank you. Fernando Mateo? Andrew Vollo.

MR. VOLLO: Good afternoon Chairman and commissioners, thank you for this
opportunity. I'm the director of the taxi FHV 41
driver at La Guardia Community College, where we
have been training taxis for over 25 years.
Back in 1999 when the TLC cell phone restriction
came about, we've been training and discussing
that rule with the driver's section of the rules
and regulations. We were making a distinction
between the State and the City rule. It was
always a concern for us that the drivers weren't
hearing us, because when they got out there,
they were using the phones. Anybody that knows
what I do, they ask me what I do, I tell them
and they said tell them about the cell phones.
Friends tell me every time they see me what
about the cell phone. I had drivers tell me
that they were on the phone with their friend
who was driving, they had a passenger in the
back, forgot the passenger was in the back and
was taking him on the bridge instead of to the
Upper East Side. So these kind of occurrences
happen much too frequently.

We were happy about a few months ago
when the TLC asked us to expand the curriculum
on the cell phone use. What we do now is we
reinforce the severity of this violation. We
force a conversation of the dangers of driving distracted by showing a video that's heart wrenching of the possible concerns that could happen with the distracted driver.

We discussed the upgrading of the violation to a mandatory penalty. I think now that our lecture carries more gravity we should see some change. In addition, because these drivers spend so much time in their vehicle, we feel it's our responsibility to identify and reinforce behavior patterns that will help drivers to manage their distractions. It's very important that they learn to manage their distractions. So in my opinion, I think this whole solution is long overdue and is welcomed by us and I will close with any questions and I will invite any of the commissioners and the Chair has been to the school to see what we do to try to deal with this issue and I think the gravity is quite severe and if there is no questions --

CHAIRMAN DAUS: You did you a good job. I attended the class yesterday. It's a very disturbing video, by the way. If anybody hasn't seen it, I would be happy to send it to
MR. VOLLO: I think it makes the point. It makes them think about it.

CHAIRMAN DAUS: The drivers seem to really get it, so thank you. Three more speakers. We have Sergio Sanchez.

MR. SANCHEZ: Good morning. I'm the president of the Luxury Base Operators Association. On behalf of over 3,000 vehicles in the Luxury Base Operators Association, I would like to commend you first off on the riding public and the safety issues that concern all of us. Secondly, I would like to commend you on your outreach to the industry itself in order to get feedback that would slight out a niche that would not affect on a monetary basis. That's all I have to say and wish everyone a very wonderful holiday season.

CHAIRMAN DAUS: Thank you, Mr. Sanchez. Fernando Mateo, is he here yet; I heard he was minutes away. I think our last speaker then will be someone who flew in from Michigan, David Teeter, from the National Safety Counsel. Hope I'm pronouncing your name right.

MR. TEETER: That's correct and thank
you. My name is David Teeter. I'm with the National Safety Counsel, I'm senior director of Transportation Initiatives. The National Safety Counsel is a 100-year old safety organization. We are non-profit; we are not a government organization. We are headquartered in Chicago. Our mission is to prevent accidental deaths and injuries that occur in the work place, that occur in our homes and that occur on the roadways. I have a wonderful job with them. My job is to save lives by preventing crashes that result from teen driver crashes and distracted driver crashes. I spent the last three years working full time on the subject of distracted driving studies you've heard mentioned today. I've read every one of them, I've talked to most of the researches that conducted them. There is over 75 peer review studies that talk about this danger. We have been driving cars for about a hundred years, we have been talking on phones for about 75. We've really only combined those two activities in any great degree in the last five or ten years. We had no idea what happens in our brain when we are involved in a telephone conversation. We're just starting to understand
that. We never needed to know that because we were always sitting on a chair and hooked to a wire, but we are not anymore, obviously. What we are finding is that the cognitive load on the brain is dramatically more than we ever understood.

People that study distractions, driving distractions lump them in three categories: Visual, taking your eyes off the road; mechanical, taking your hand of the wheel and cognitive, when our brain is not fully engaged in the task of driving. We all understand the visual and mechanical, so when we are visually or mechanically distracted, we limit the time of duration. We do it quickly. We shouldn't be fumbling for something in the front seat, but if we are, we do it quickly and keep looking up. We do not understand and do not know when we are cognitively distracted, so the huge danger the cognitive distraction is how long it lasts. Without the research and in a very lay person way to describe it, I frequently ask people, can you watch your favorite television show and follow the plot while you talk to somebody on the phone and virtually
everybody says no, I can't do that. Then how can you drive a 6,000 pound vehicle in a dynamic always changing environment where you can't predict what's going to happen in the next second and do it safely while you're talking on the phone. The answer is we can't. The problem is we don't understand that we can't. So we are just starting to understand that.

I want to complement the TLC. What you did ten years ago was wonderful. You really got this country moving and I think what you are doing today is important and what you are considering today is important for a couple of reasons. We are also finding out that unlike other traffic safety issues, the activity of being in touch with people, talking on a phone, answering a ringing phone, answering an inbound text message is extremely compelling. Even well-meaning people, whether it's kids or employees or people that just want to follow the law will find it difficult to ignore a ringing phone, as all the thoughts run through their mind, someone is hurt whatever. So strong rules unfortunately are very very necessary and I encourage you to adopt these rules and then just
in closing, I want to mention very briefly, as a parent, my 12 year old son Joe was killed by a distracted driver six years ago and it was a very egregious scene where the person was looking straight up at the windshield and she missed the traffic light and that's what happens with cognitive distractions. We don't see the cues in front of us. It's an epidemic. The National Safety Counsel compliments you for what you are doing and good luck and keep leading the way on this. Thank you.

CHAIRMAN DAUS: We are very very sorry for your loss.

MR. GIANNOLIS: I want to thank you for coming, as well. I think it's important that hearing from somebody who has studied the issue and studied the reports because quite honestly, I find a lot of the hyperbole today a little bit offensive, especially when I hear a story like what happened to this gentleman's family. Apparently every taxi driver's child is in the hospital 24 hours a day, with all due respect to the woman whose child is ill. People are having emergencies every seven minutes, it's not real, it's not realistic. Taxi driver's
lives are not different than other people's lives. People do have emergencies. I assume if you get pulled over by a really bad cop and he's not going to give you a break and you can't go to court and you can't explain it, I guess it's a horrible scenario, but this notion that people need to have like this 24 access to their phone while they are driving a 6,000 pound vehicle with somebody in the back seat, I just find to be ridiculous. And hearing this story about what happened to your family kind of proves the point. Thank you for coming, I appreciate it.

CHAIRMAN DAUS: Mr. Mateo, you're the last speaker, I'm glad you made it.

MR. MATEO: My name is Fernando Mateo, I'm the spokesman for the New York State Federation of Taxi Drivers. Commissioners, thank you for the opportunity and I'm sorry I was a bit late. One of the things that I believe is very important about this specific issue is that there are numerous ways that a driver, be it a taxi driver or a regular driver can use their phone. They can have a piece in the ear which everyone can see. They can get stopped as you are requesting and pulled over
and given a summons or there is a bluetooth that's installed in the vehicle that has a speaker in the car. So if the issue is bluetooth, what are you going to do about the technology that exists like I have in my car, that I just talk and I'm speaking into a speaker phone. So this is similar to like a thief breaking in through a front door where someone could spot him and make an arrest or breaking in through the back door and in essence, I don't know what you are going to accomplish by this.

We all that it's dangerous, we all that texting and driving is dangerous, but I don't really believe that taxi drives are involved in this type of practice. We believe that speaking while you have a passenger in the car is rude. It's not appropriate. It bothers me when I sit in the back of a vehicle. But on the other hand, what would you prefer. Every time a cab driver needs to make a call, to pull over wherever it is, get out of the car and waste time and speak and then get back in the car and fulfill it's duties. These are the kinds of things that we are going to be confronting.
The other thing is, we are the eyes and the ears of the NYPD. We had met with Commissioner Ray Kelly numerous times, at night specifically. There are a lot of crimes being committed in the streets and the people that are looking at what's going on are the drivers. And the only tool that they have to report that crime is by making a phone call. The use of a phone is multipurpose. It's going to be very difficult to understand whether or not that driver is making an emergency call or a non-emergency call. I think that there are better ways of addressing this specific issue and accomplishing what you want and that is that the drivers are paying attention to the road and that they are not being rude to their passenger. We believe that if you ask the riding public whether their driver is on the phone most of the time while they are in the vehicle, I think 70 percent of the people will tell you no. Why, because they are encouraged to provide good service for the passengers.

CHAIRMAN DAUS: If you could sum up, Fernando.

MR. MATEO: Having said that, I
believe commissioner, that the punishment that you're looking to impose on the driver is harsh and we believe that there are better ways of accomplishing the same thing, because we are not disagreeing. What we are disagreeing on is the fact that someone should have an ear piece in his ear and being caught with an ear piece in his ear or whether he's doing it some other way. There are many ways of talking while you are driving, so just please consider that and then see if maybe we can at some point or another come to some type of an agreement that will accomplish what you are looking for and will not hurt the drivers.

The other thing is, and I'm going to make this very short, when you walk down the street, I would say six out of ten people are on their cell phone. People work, they operate with a cell phone. These drivers are behind the wheel for 10, 12 hours sometimes. It's very difficult for them not to have communication with co-workers, with their family, with their children, with their wives all hours of the day. So please also consider that. Thank you.

CHAIRMAN DAUS: That concludes the
public hearing. Do the commissioners have any questions, thoughts?

MR. GONZALES: I have a couple of comments. First of all, the way I read the rules is that the emphasis is on distraction and not trying to infringe on anybody's rights to speak on a cell phone. My personal experience is it's relatively easy just to pull over to the side and use the phone. I don't see what the issue is. Fortunately we have to have this comprehensive list of all possible electronic devices because at the end of the day it's about safety for the driver and safety for the public. And I agree with Commissioner Gioannoulis, if you really look deep and hard at the number of times that you actually had to take that call because it was an emergency, I want to say it's a relatively small percentage and you know what, at the end of the day it's probably a relatively small percentage that you will be in an accident, but why take that chance. That's all I have to say.

CHAIRMAN DAUS: Commissioner Polanco?

MS. POLANCO: Thank you. At least in my case I will say that people should not use
the cell phone while driving and should not text
while driving; for me that is very clear. And
if you do, then you go to court and contest your
summons and you put that to the defense that you
had an emergency and so forth. I think the
minor issues that I have with the rules is
dealing with the definition section as to what
is considered a portable and handsfree
electronic device because I think it's too broad
and my fear is that it will hamper the ability
especially for the Livery and the Corporate
industry to conduct their business.

The second issue that I have is with
the penalty section; I feel that it's a bit
severe and I have some questions dealing with if
they receive one summons, they automatically go
for training and how much will that involve, how
much fine. I think they increase the fine
amount, no? So it's the training -- I don't
know the amount of that-- plus the fine and then
after the first offense, I believe a second
offense it says two or three points.

CHAIRMAN DAUS: Chuck can answer the
question about the definition, but I will tell
you that I think the training is a necessary
component. The training will be a minimum of an hour. I went to the 20 minutes session that Mr. Vollo conducted the other day and I would love for people to see this video. The drivers when I left the room got it, so training is a necessary component, so I would anticipate that once we pass these rules if we pass them today, we would get a lot of drivers getting summonses initially and go to that course and I hope they never do it again. It's going to cost I think anywhere between $20 and $30. I think we were very reasonable on the fines. There was originally a proposal to raise the fines; I stopped that and I recommended to all of you at our last meeting that this is not about money, it's about safety and it's about saving lives. Unfortunately, we need to make a choice in our regulated industry at all times with all of our rules when it comes to safety between one's livelihood and one's life. I choose saving one's life over one's livelihood and that's a choice we have to make and three strikes you're out is very reasonable. Right now the law the way it's written is not working, it's five strikes,
you're out. I think we should revisit the fine issue, but I think what is important for the drivers to understand, it's not about the TLC making money or the City. We'd rather get somebody off the road if they don't get it before they kill somebody as opposed to it being a cost in doing business. So I think that's my response to that. I think it's a reasonable and a necessary component of it. Chuck, do you want to answer the definition question?

MR. FRASER: You have to look deep into the rule, but the rule is identical as to all four of our regulated industries, except as the for-hire industry, there is an adaptation to accommodate the dispatch problem. In other words, unlike all of the other industries, the FHV does in fact have to have communications with a driver from a base to conduct dispatch business and so we've created an exception to the rules that applies to the others, just for the FHV industry to allow dispatch. It does not allow dispatch by cell phone and it does not allow dispatch by handheld device. It allows it either by the two way radio, which is an old traditional dispatch device or a voice activated
device. I think Mr. Thaler spoke about some of the new technologies that are being developed. Some of the cars have essentially computers that are voice activated and then the last thing would be a mounting device which Mr. Thaler brought us and showed us and that's what--

MS. POLANCO: The Blackberry.

MR. FRASER: With a mounting.

MS. POLANCO: And that's included?

MR. FRASER: That's permitted, but only for FHV, because they are the only ones who have the need to do dispatch.

MS. POLANCO: What about the definition of short, there is no definition?

MR. FRASER: There is some flexibility there and obviously when a rule has ambiguity it has to be construed to the advantage of the person it's being applied against, and so we realized when we wrote it. We didn't want to try to put any minutes or seconds on it which would be arbitrary. What I have to say about that, obviously Deputy Commissioner Mullen will be doing the enforcement, but I think what we are looking for is if we find someone who has been on the
communication but not a phone for half an hour, 7
this is not a dispatch.

CHAIRMAN DAUS: And I did notice the
other day as well, we were going over some of
the summonses that people got. There is similar
rules that certain situations you got to give
some discretion to enforcement, like you have
the expeditious pick up and drop off rule for
Black Cars and the traffic regs and the TLC regs
and I specifically saw in the summons, which I
encourage all officers to do, that such and such
Black Car was waiting in that one spot for five
minutes, so there should be some-- five minutes
clearly is not an expeditious pick up and drop
off. I would anticipate that Commissioner
Mullen and her enforcement would be reasonable
and used at discretion and if there ends up
being a problem, I have no problem revisiting
it, but if you just take that short word out,
then basically you're opening it up wide and
there's no limit to that conversation and they
could be having long, extended conversations
which we know are unsafe.

MS. POLANCO: What type of equipment
that is out there besides the cell phone and
bluetooth and Blackberry and so forth that we have all this definitions—

MR. FRASER: The stuff that we allow for dispatch was actually based on what the industries came in and told us what they are using.

CHAIRMAN DAUS: Look on the screen.

MS. POLANCO: These are the mounting devices and then the other ones are the Blackberries.

MR. FRASER: Those are the things that have to be mounted and they have to be one touch preprogram.

CHAIRMAN DAUS: And they are pretty cheap and inexpensive and a lot of people are already requiring them and using them in the Black Car industry, so we really listened to the industry. Obviously we can't always agree on everything, but I think these are fair rules.

Any other questions or comments?

MR. GONZALES: One other general comment that I forgot to make before, Mr. Chairman, we do appreciate time and effort the staff put in for the research and also that the industry provided meaningful input in developing
these rules.

CHAIRMAN DAUS: Thank you, any questions? Commissioner Mr. Arout?

MR. AROUT: Mr. Chairman, thank you very much. I'm pretty impressed by all statements that all the organizations out there said. I had an opportunity about three or four days ago, I'm going down on my street. Some of the Staten Island men and women out of there will understand that area, Howard Avenue and Clove Road. I got down there, made a stop, cars on the right of me should go straight ahead. He had a cell phone in his hand. He went out and a car before me got hit with this car. Now, there was an injury, the police came. I went over to help if I could. I couldn't, it was all taken care of and the police told me that person had a cell phone in his hand and deliberately went through the red light and smashed into that car. That person was taken to the hospital with multiple injury. So yes, I agree we have to have this law; it's overdue. I would like to make a motion Mr. Chairman to accept those rules.

CHAIRMAN DAUS: Thank you. Do we
have a second for the motion?

MR. GONZALES: Second.

CHAIRMAN DAUS: All in favor.

(Whereupon, it was unanimous.)

CHAIRMAN DAUS: It's unanimous.

Thank you commissioners and thank you everybody for their testimony. I would like to actually, instead of holding the meeting over for Commissioner Kay to come back, we are going to lose another commissioner, so I would like to jump to another important matter, item 5A on the agenda, La Guardia airport. We have a presentation Adrienne Gonzales and Gary Roth. If you could be expeditious, that would be much appreciated.

MR. GONZALES: Thank you. Good afternoon commissioners. My name is Adrienne Gonzales and I work in the Constituent Affairs office and next to me is Gary Roth and he works in the TPEP system and today we are going to present on a pilot proposal for a group ride from La Guardia airport to Manhattan. So why do we want to do a group ride to Manhattan? There are several reasons for it, one being there's no direct access through mass transit from
Manhattan to La Guardia airport. It's at least a two seat ride and we would like to see if we can improve the amount of time a traveler has to take to go from the airport to Manhattan.

Another reason is the high cost for taxi trips and FHV trips. A typically trip on a Yellow cab from La Guardia to Manhattan is approximately over $30, give or take, depending on what section of Manhattan. For the most part it's a little bit over $30 and comparatively, some of the large Livery services that do citywide service, charge about that same amount. So with the group ride we hope to reduce the cost of the passenger and increase the revenue for the driver.

Another reason is high volume. There is a lot of taxicab trips that go from La Guardia to Manhattan. In a morning period there's about 10,000 trips on a typical morning from La Guardia to Manhattan. And there's also the availability issue. We spoke with Port Authority, had preliminary discussions with them and they at times had difficulty attracting taxi cabs to come. They may not have enough taxicabs at
their terminals, so we hope this can attract more drivers to go.

We also think it's ideally suited for business travelers who usually travel individually and this is something that we have also heard from the Port Authority and the Port Authority itself is very supportive of this program. They think it's going to catch on, they think the airlines will like it, so they want to work with us on it and also it's part of the other group rights that we discussed previously in May of this year.

Some possible locations for the group ride is-- Port Authority has discussed with us the possibility of starting it up at the US Air terminal and the Marine Air terminal, but they also wanted the flexibility to do up to five locations because as I said earlier, they think it's going to catch up with a lot of the airlines and they think it'll be successful, so they want to be able to implement it quickly.

MR. ROTH: My name is Gary Roth. I'm in the Chief of Staff's office. We did some preliminary analysis using the GPS data from all the 13,000 plus medallion taxicabs. This first
chart is just showing the pickups at the US Airways terminal. We looked at the morning rush hour period, from 7 a.m. to 11 a.m. for one week; the week of October 19th to 23rd. The following slide shows where those trips went and along with the average fare. This is broken down by community board and you can see there is quite a large grouping in the center, in the midtown area, but it's pretty well dispersed across most of the Manhattan. You see the fair is ranged from $33 up to $38.

The next slide shows we did another analysis from the Marine Air terminal which is not as popular as the US Airways terminal. This is an evening analysis, showing there 1,400 trips occurring in the evening rush hour period and the following slide shows where those cabs went. You'll see on this map there is more trips that went into the Upper West Side and Upper East Side, into the neighborhoods, but there is still quite a large grouping in the center midtown area.

The next slide is break down by hour from the US Airways terminal. The peak pickup time would be the 9 to 10:00 a.m. period in the
morning and then in the evening it's the 4 to 5 hour period that is the busiest and we also looked at the Marine Air terminal, hour by hour breakdown and I guess to speed things up we will go to the next slide. So if we based a $20 flat fare, this chart just shows the gains that both the drivers would have with 2, 3 or 4 passengers and the passengers themselves would have an approximately 1/3 reduction in their fare, approximately a $10 discount in their fare, so we think a number in their area would be reasonable.

MR. GONZALES: Thank you Gary. So next steps that we have to take is work with La Guardia and other interstate holders to make sure that the proper locations are placed and work with community boards that will be affected by it and also, we will work with the Port Authority as well to figure out what works best in their scenario and their operations. One of the things that we have to keep into account is that there's a possibility that US Air and Delta may swap terminals and we need to keep that in mind because we don't know how that will affect taxi trips.
CHAIRMAN DAUS: I will add to that that I did speak to, after your meeting with Bob Triggely and Port Authority and they anticipate that the swapping with Delta will lead to more passengers coming because there is going to be more flights added over time and US Airways is going to go over to Marine terminal in addition to the flights that are there and there is going to be more coming in and Delta is going to be taking over part of US Airways, so there's going to be more.

MR. GONZALES: So again, we're going to consult with Port Authority and additional community boards. We want to finalize the stand locations, negotiate with you and the Port Authority so we make sure that TLC and Port Authority are on the same page with this project and constantly come back to the Board of Commissioners with updates on what's occurring with this.

CHAIRMAN DAUS: Commissioner Weinshall has a question.

MS. WEINSHALL: I think it's a great idea. I guess the dispatchers will group riders by where they are going in Manhattan, is that
MR. GONZALES: That's what we anticipate. That's actually one of the reasons why we wanted to do the US Airways terminal and Marine Air, because they have three dispatchers working there, so it would be easier for them to group people. They also talk about having sign-in so they could have separate lines---

MS. WEINSHALL: So if someone was going to the West Side they would stand there, someone going to the East Side, they would stand there. The other thing Mr. Chairman, I think this is terrific, I think it's great you're doing it in Manhattan. I think one of the things that the TLC should look at is doing group rides from Kennedy airports to Brooklyn and also from La Guardia to Brooklyn.

CHAIRMAN DAUS: Speaking to inquire as a fellow Brooklynite of yours, I don't think anyone here lives in Manhattan, do we?

MS. POLANCO: I do. I just want to say, does your data include anything above 96th Street, I would say up to 177, does the Port Authority do there?

MR. GONZALES: The data includes
everything; the volumes up there aren't as high.
So we focused where there is a greater
availability for a group ride.

CHAIRMAN DAUS: You know what, by the
next meeting, could we do just out of curiosity
a run of the maps for Commissioner Polanco for
Washington Heights and also for Commissioner
Weinshall--

MS. POLANCO: Not just for Washington Heights, above 96th Street.

CHAIRMAN DAUS: We should do a five
borough plan. We should also do JFK, because
the flat fare that's in effect, people will
probably be angry if we change that because
right now it's 45 bucks and everybody is
grouping together now, but Brooklyn and Queens
we have this whole issue with the shorties and
the drivers get angry about going to any place
other than Manhattan because they are going to
have to go on the meter, so that might be
something we should look at, so why don't we
crunch and run the data and in January we'll
take a look at it, in addition to the Lower East
Side which we've given to Commissioner Weinshall
which we will discuss in January. Any
questions?

Okay. So I think this is a first on item 4B as well. No one signed to speak so this is the first public meeting that will not happen, so I would like to make a motion to repeal on item 4B, the La Guardia rules and to enact the resolution that was distributed to the commissioners.

MS. WEINSHALL: Motion.

MR. AROUT: Second.

(Whereupon, it was unanimous.)

CHAIRMAN DAUS: And of course before we do these stands we will be in touch with all the commissioners before we implement them to make sure all the final details are shared with them and the MOU et cetera. Any questions? So thank you very much, that's item 4A and B. Thank you Gary and Adrienne.

I'm going to go back to the first item which is the Chair's report. Feels a little bit weird doing this at the end. Big news, the long awaiting Taxi of Tomorrow RP is on the streets or if you download it you can get it. This is something that we've been working on for a long time and thanks for the Design
Trust and various other city agencies where we started with taxi '07. It's been a long road after the hundred year anniversary of the taxicab when we thought about making a better cab, but we are actually at the point where the rubber is meeting the road and we are going to try to get this done.

I want to thank Commissioner Kay who had to leave us, for an important meeting but I see Emily Gallow is here. Emily basically was instrumental, could not have happened without you Emily, so thank you from the mayor's Office of Operations. I also want to thank Commissioner Martha Hurst, Department of Citywide Administrative Services, also known as DCAS, is going to be hammering this RP for the TLC. It is very extensive. Many, many hours have gone into drafting this with our consultants over the last year and a half and our goal is to provide a potentially exclusive deal to one automaker to produce for a period of at least ten years and to sell for at least ten years the Taxi of Tomorrow, one that meets all of the utopian goals that we set forth, including making sure that's it's accessible for
all, clean air fuel, affordable and comfortable and better than we have now. All the details are set forth in a press release and in the RP itself, so I'm not going to go over them, but I will just point out a couple of important dates on this important project, for those that are interested. You can access the RP through our website, as I said.

We're going to be holding a pre-proposal conference with DCAS at 100 Gold Street on the eighth floor in Manhattan on January 14th 2010 at 10 a.m. The due date of proposals is 2 p.m. on March 26th of 2010 and it is our hope that we'll have a contract signed by October of next year and if all goes well, we will see the first cabs hitting the streets before the end of the Bloomberg administration in 2013.

The accessible dispatch system, quick update; we had all 45001 dispatchers as of December 14th. 4039 trips were completed with only 462 cancellations. The average wait time for an accessible cab was 37 minutes and the average daily dispatchers are 10.

Also, just want to give everybody a
heads-up that the mayor had signed a bill on November 17th which will take effect on February 16th of next year, requiring that all commuter vans have a bill of rights posted and I think we are now at the point where almost all of our regulated cars with the exception of commuter vans and para transits are required to have bill of rights, so it seems very fair and appropriate to me. I can't think of a reason why we wouldn't have those bill of rights for passengers in all of our vehicles, so we are going to look at para transits as well.

Also it is the holiday season, as you know and lots of tourists are on the streets. There is a lot, unfortunately in our industry, illegal activity going on. I just want to bring you up to speed on some of the efforts that we've been undertaking and will undertake.

First of all, thanks to the Economic Corporation Development Queens District Attorney George Brown, Chris Ward, the executive director of the Port Authority and the TLC Deputy Commissioner Mullen and her folks, we did our first successful crackdown at JFK airport of which we rounded up 19 people and arrested them
and putting them through the system for illegally hustling at JFK airport. Now if you remember, this is the new criminal law that was passed that the entire industry, many people in this room here MTBOT, Taxi Safety, Avik Kabessa, and the Federation, all the folks that are here and I apologize if I leave anybody out, but I can't think of a person here who did not lobby for that law, Vick Dizengoff. Everybody wanted to get this law passed and we got it passed and I'm pleased to say that this is the first of hopefully several crackdowns where we are going to put the dangerous practice of illegal hustling at the airports to be a thing of the past. The day that we arrested these 19 individuals, I went to the holding lot and spoke to hundreds of drivers. They were very thrilled, so I thank everybody for their collectively effort. We should do more of that.

Also I want to thank Lotto and several drivers who I actually met when I was talking with them on the street and also at the airport, who many months ago told me that they believe that the dispatchers at the airports were accepting bribes again to give out shorty
tickets. So we swore them to secrecy and we spoke to the authorities, including District Attorney Brown's office and the Department of Investigation and I'm pleased to announce that thanks to their hard work and my Chief of Staff, Ira Goldstein and his staff, we were able to arrest several people who are involved in this bribery sting; dispatchers basically accepting money from drivers so they could get their shorty tickets when they are annoyed that they have to go to Brooklyn and Queens, instead of Manhattan.

So this has happened once before, there was a press correspondence I held in 2001 where they were doing this. We caught them again and that's really thanks to the industry providing us with that information so we thank you for that and we do listen and will act upon those things in the future.

Last but not least, we're going to have to do some zero tolerance. I myself saw some real disturbing things out there over the last couple of days in midtown Manhattan. We are getting reports from everybody that illegal activity in the central business district is on
an upswing, which is what usually happens this time of the year. So in addition to cracking down on cell phones, we are going to be cracking down on illegal street house in the central business district starting next week and it will be not just one day, we will be doing it for the entire week.

Talking about FHV rules, we do have an update on the FH reforms that the commission passed earlier this year. First for Commissioner Polanco, we are making some progress on the point reduction course. The taxi schools have started preparing workbooks for the classes and I believe Chuck, we are going to have to come back and pass some more rules detailing that course.

We have good news on the inspection failure rate. It was 53 percent at the last meeting, it's now down to 40 percent, so that's promising.

Last but not least, I think we have been very reasonable in enforcing these rules. As you know, from the date that they were passed, it's now been six months and I made it very, very clear to the industry that we wanted
to do outreach, we wanted people to voluntarily comply, so Commissioner Mullen and her staff has visited many, many bases and handed out the details and the bill of rights and all the things that you need to put on your cars and I think it's about time that we have to enforce this law vigorously now. We've given plenty of people a lot of leeway. I anticipate that most people are in compliance, but I think that at least 10 to 15 percent may not be in compliance, so this is really the last and final two minute warning. As of January 1st, at any time between January 31, we will be blitzing the FHV industry. If you do not have your bill of rights, if you do not have your license posted, you will be summons and ticketed. This is about the time we have to do. We can't let this go on forever, it's been six months and we got to get this done. Especially the leaders of your organization, if you could help us remind your people, we'd rather not give summonses out to people. If we can make a last ditch effort to get everyone to comply, we would appreciate that.

Last but not least, the rules of
vision project, we've had a very successful year so far. We've enacted provisionally 12 Chapters of our 19 Chapters; we have seven left to go. We have two Chapters currently on our website. We have the transition rules, Chapter 20 up there and comments are due by December 18 of '09. The definition section, comments are due by January 1, 2010.

We also have issued a notice of participation for the Livery stand pilot that went out. As you know Commissioners, you voted for this program on May 28 of this year. We finally put a request of participation out. The due date I think is in mid January. I have already received some feedback. We may be extending that date, but I will let people know for sure. I've gotten some complaints that people say they don't have enough time to submit their proposals, but what we are looking for is at least two pilot stand programs in each of the boroughs. So I'm looking forward once I get the request to sharing some of their information with our commissioners. Since we have commissioners representing all the five boroughs, I look forward to your input on which
areas you think the stand should be. We had a City Counsel hearing the other day, it was Chairman Lewis last meeting of the transportation committee. My testimony is outside if you need it. I testified and said goodbye to John, but we did also talk about the Livery stands and some of the questions, but mostly support of what we've done here. So I'm looking forward to working with commissioners on that; on getting a pilot program. It doesn't mean it's going to work necessarily, we hope it will, but our purpose is to test it out. And we have more records on the medallion sales front. I think we have all time record highs of an average corporate sales price of $779,000 for a corporate medallion and $579,000 for individual medallion. Those are more records and we are now up to 23 percent of our fleet is hybrid or clean air. We have a total of clean air fuel vehicles of 3031 and hybrids, 3009 of those that are voluntarily out there. That concludes my report; any question? Okay.

That concludes item one, now we are back to item two, adoption of minutes. Any questions or comments on the minutes, changes?
Do we have a motion to adopt?

MR. AROUT: Motion.

CHAIRMAN DAUS: Second?

MR. GONZALES: Second.

CHAIRMAN DAUS: All in favor?

(Whereupon, it was unanimous.)

CHAIRMAN DAUS: Item three, base applications. We have a representative from licensing here.

MS. STEELE RADWAY: Licensing would like to present before the commission 12 bases for the recommendation for approval.

MR. GONZALES: Motion to approve.

CHAIRMAN DAUS: Okay, motion to approve. Do we have a second?

MR. AROUT: Second.

CHAIRMAN DAUS: All in favor.

(Whereupon, it was unanimous.)

CHAIRMAN DAUS: It's unanimous.

Thank you.

MS. STEELE RADWAY: Licensing is also recommending three bases with the recommendation for denial with the request that the commission grants an additional 30 days so they submit the outstanding item?
MR. GONZALES: Motion to deny.

MR. AROUT: Second.

CHAIRMAN DAUS: All in favor?

(Whereupon, it was unanimous.)

MS. STEELE RADWAY: Thank you.

CHAIRMAN DAUS: Now we are going to item 6A, Chuck, for Commissioner action rules, revision project, Chapter 18 adjudications.

MR. FRASER: Commissioners will remember we tabled this for last month. This is proposed Chapter 18. This is the 13th Chapter out of 19 of the TATC rules revision project. This is pertaining to an adjudications which will replace existing Chapter eight in the commission book for the month. You have the comments that we received plus the three changes we made based on the comments and the staff is recommending that this Chapter be approved conditionally, subject to a further vote when all of the chapters are complete.

CHAIRMAN DAUS: Questions?

MS. POLANCO: Where are we in terms of stage two? I know we are in Stage one where we basically submitted this non substance and changes rules, but where are we now in stage
MR. FRASER: We haven't begun that phase, the substance and changes. What we have been doing is obviously a lot of people have been submitting comments during this phase that are substantive and what we are doing is we're just sort of accumulating them and we will be coming back to them. They have been indexed and cross indexed, subject matter, chapter rule, however we want to look at it and we will be coming back to them when we complete through the process, which I'm hoping will be this spring.

MS. POLANCO: And one question I have is I know that some changes were made that basically were substantive and they were made subject to reflect existing practices.

MR. FRASER: We gave a very generous definition of substantive changes here because I didn't want any suggestion that we weren't being upfront about what changes we were making. The one you are referring to is the update vehicle towing and storage fees to reflect current practice. What that means is the existing rules imposed, our own storage and towing fees, we no longer do the storage and towing, the PD does,
and they determine the fee and we have obviously made jurisdictions and determined the fee that the PD charges, so the proposed rule just says we will find out what the fee is and tell the vehicle owner who's car has been ceased.

CHAIRMAN DAUS: Is everybody okay with this? Motion to approve?

MR. AROUT: Approve.

MR. GONZALES: Second.

CHAIRMAN DAUS: All in favor.

(Whereupon, it was unanimous.)

CHAIRMAN DAUS: Thank you. We lost the number of commissioners needed to do item 7 A and B, so I apologize commissioners. These have been on several times, so we are going to have to get them done in January. We are going to pick a date that works better for everybody. I apologize for people in the industry being confused about the times, we keep changing them. Everybody's schedules have been crazy, so we're going to poll the commissioners and we are going to come up with a time which we know will work best for everybody. Most of them want to go back to the morning, but we'll work that out.

MS. POLANCO: And we are very soon
going to the other counties, is that right?

CHAIRMAN DAUS: I'm sorry?

MS. POLANCO: Very soon we're going to have a commission meeting--

CHAIRMAN DAUS: We're going to look to see if we can figure that out. I think one of the things we've been talking about is how people will feel, how the commissioners will feel about going to at least one meeting in each of the boroughs. Go on the road; have the commissioners go on the road. Let's first try to get a date that works for everybody and then we'll go to Staten Island, the Bronx, Brooklyn. We'll figure that out, it will be fun. So that's one of the things we would like to do as a New Year's resolution.

Before I finish, I just want to give a shout out to a couple of people I forgot to mention. I want to thank Chuck Fraser and Cheryl Finebloom for a fantastic job on this RP. They work countless hours and they really, really brought this thing home and now the really crazy work begins of the proposals and getting the committees together and I just want to thank everybody on that.
Last but not least, I want to wish everybody a happy holiday. It's been a very, very productive year for us here. I want to thank the commissioners, they worked really, really hard. Unlike me, they don't get paid for what they do and we really appreciate the countless hours you put in and we apologize for the tons of paperwork we've given you, but we are hoping we will be even busier in the new year, but I want to thank you publicly for all your support and wish everybody a happy and healthy and safe holiday. Thank you.

Motion to close the meeting?

MR. GONZALES: Motion.

MR. AROUT: Second.

CHAIRMAN DAUS: All in favor.

(Whereupon, it was unanimous.)

(Time noted: 3:11 p.m.)
I, Pearl Shanet, Court Reporter and Notary Public within and for the County of Kings, State of New York, do hereby certify:

That I reported the proceedings that are hereinbefore set forth, and that such transcript is a true and accurate record of said proceedings.

And 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.

_____________________________
PEARL SHANET