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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

1 PRESENT:

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3 MATTHEW W. DAUS, Chairman

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6 ELIAS AROUT, Commissioner

7 HARRY GIANNOULIS, Commissioner

8 EDWARD GONZALES, Commissioner

9 JEFFREY KAY, Commissioner

10 LAUVIENSKA POLANCO, Commissioner

11 IRIS WEINSHALL, Commissioner

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13 CHARLES FRASER, ESQ., General Counsel

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

11 MS. PHILLIPS: Thank you. Good
12 afternoon. We want to give you a brief update
13 on the proposed rule changes on the distracted
14 driver program. As you know, the proposed
15 changes are modifications to a ten-year-old ban
16 on the use of cell phones and handsfree devices
17 and after presenting to you, we had I think very
18 good conversation with the industry as well as
19 you and we looked at a few different things in
20 terms of what we were proposing initially. We
21 received a lot of very interested comments and I
22 think that as the list shows, we met with many
23 folks from the industry and we also did some
24 internal research in terms of both the
25 scientific literature that's available as well

1 as additional research into the technologies 4
2 they are available and I think that after those
3 very good conversations with the industry and
4 with you, we have some recommendations to our
5 proposed rules, which are the following: We are
6 proposing that for the for-hire vehicle industry
7 only and I want to step back for a second and
8 say that this is something that we definitely
9 looked into because we realized in our first
10 presentation, we didn't really address the fact
11 that the for-hire industry has needs for
12 dispatch and communication and so we wanted to
13 modify our recommendations to accommodate that.

14 So the recommendation is that the
15 definition for prohibited devices would
16 specifically exclude FCC license two-way radios,
17 voice activated hands-free communication devices
18 that are mounted in the vehicle and can only be
19 operated by one touch pre-program button or key.
20 The prohibition for the use of these devices
21 would exclude short dispatch related
22 communications. We also looked at the use of
23 electronic devices as being permitted if the
24 vehicle is lawfully standing or parked without
25 the requirement of the engine being turned off.

1 And for the industry as a whole, the GPS device,
2 they are permitted while driving as long as the
3 entry of the address is not done while driving
4 and as long as the device gives directions to
5 the driver by audio, regardless of whether it
6 also displays a map or other visual queues.

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

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

21 MS. POLYAK: So once we started
22 looking into distracted driving and really
23 making sure that we had the most comprehensive
24 rule, we started looking into the hundreds of
25 studies that have been done on distracted

1 driving and the consequences of talking on your 6
2 cell phone while driving and all of them really
3 came to some of this same basic finding that
4 shows unequivocal evidence of the dangers. For
5 some examples of this studies, many of them came
6 to find that while talking on the cell phone,
7 whether it's handsfree or handheld, you're four
8 times more likely to get into a personal injury
9 crash and if you are engaged in an unconstrained
10 cell phone conversation, you were two times more
11 likely to fail to detect a traffic signal and it
12 was also surprisingly found that when talking on
13 the cell phone, you're more impaired than
14 actually driving while intoxicated.

15 That being said, the evidence is
16 undeniable of it's dangers, but in meeting with
17 all of the different industry organizations, we
18 came to realize that they still needed to
19 conduct their business and further research
20 showed that while distracted driving is always a
21 concern that needs to be kept in mind, the level
22 of complexity of the conversation actually
23 played a really big role in how distracted you
24 were. So it was found that short constraint
25 conversations actually did not affect your

1 driving performance and that simple 7
2 conversations could be excluded, as well as
3 verbal material that you were just listening to.

4 Studies were done where drivers were
5 just listening to the radio or watching books on
6 tape and their driving ability was not
7 significantly impaired, therefore we found it
8 conducive to exempt short dispatch calls and GPS
9 technology. That's it.

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

18 MS. SCATTERGOOD: Thank you. Before
19 I begin, I would like to thank the chairman and
20 commissioners for allowing me to speak before
21 you on this really very important matter. At
22 Fried Frank, our number one concern regarding
23 ground transportation is the safety of our
24 lawyers and our staff while they are in transit.
25 Unfortunately our riders too often report that

1 they feel unsafe and frightened. This is 8
2 because while in the cars, while the cars are in
3 motion, drivers frequently use their cell phones,
4 blackberries and other electronic devices. They
5 allow texting or require that they input
6 information to notify their basis that they have
7 made their pick up. Even when asked to stand
8 curbside to notify their basis and then to park
9 for the ride, drivers ignore this request on a
10 frequent and almost always basis.

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

20 I personally had many frightening
21 experiences in Black Cars and taxis. In taxis I
22 think the illegal use is rampant of cell phones.
23 I regularly ask drivers to get off the phone and
24 if they don't, I ask them to pull over and I get
25 out of their car. This is a serious problem. I

1 would say two out of every three taxi rides they
2 are on the phone. I'm in the City all the time
3 and you know, I've been paying a lot of
4 attention to this. In Black Cars, I would say
5 it's one out of every three as would our users
6 within Fried Frank. I think that it shouldn't
7 be necessary for a passenger to ask a driver to
8 get off of the phone. I am comfortable doing
9 that, but many people are not, so they continue
10 to be in an unsafe situation.

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

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

24 MR. DIZENGOFF: Good afternoon
25 Chairman Daus and commissioners. My name is

1 Victor Dizengoff, I'm the executive director of 0
2 the Black Car Assistance Corporation and the
3 trade association of the Black Car industry.
4 The BCAC represents in excess of 40 companies
5 which have approximately 10,000 affiliated
6 vehicles. To the extent that we represent the
7 companies, we are also very much concerned with
8 driver issues.

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

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

1 better serve the industry and the riding public.

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

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

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

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

24 MR. HEREDIA: I have additional
25 copies of my testimony. Good morning Chairman

1 Daus and distinguished members of the Board of 12
2 Commissioners. My name is Pedro Heredia,
3 Chairman of the Livery Base Owner's Coalition
4 and co-owner of Riverside Radio Dispatcher.
5 Thank you for the opportunity to testify before
6 you today. Today we stand as a coalition of
7 bases and drivers to acknowledge the fact that
8 talking or texting while driving is dangerous
9 and that it puts the lives of the riding public,
10 the driver and others at risk.

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

23 As your definition of the use of a
24 commercial FCC licensed two-way radio in
25 connection with a dispatched call, the word

1 "short" should be deleted because in the Livery 3
2 industry, this method of communication is
3 already restricted and monitored to a short and
4 businesslike manner by the FCC. Allowing this
5 language in the law will only create unnecessary
6 summonses, sanctions and hearings to the drivers
7 and the bases.

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

21 Since this rule, still a working
22 document, the recommendations of the Livery Base
23 Owners Coalition is that we continue to make
24 improvements and changes to the laws to
25 accomplish safety measures to both, the riding

1 public, the drivers and also to prevent 14
2 excessive and unnecessary regulations.

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

5 MR. ACIERNO: Good afternoon. Thank
6 you for the opportunity to address the
7 commission today. My name is John Acierno and
8 I'm the president of the Executive
9 Transportation Group. We provide Black Car
10 service to about two million passengers a year
11 through our affiliated bases which manage about
12 1500 franchised Black Car drivers. We have been
13 providing ground transportation services in New
14 York for decades beginning in the 1920s with my
15 great grandfather and transitioning to Black
16 Cars in the mid 1980's.

17 As you are aware, the Black Car
18 industry has been directly impacted by the
19 economy. What many of you are probably not
20 aware of is that like many other volume
21 commodity businesses, Black Car industry is a
22 low margin business that is continually subject
23 to downward price pressure. To address this,
24 the industry and ETG are continually working to
25 find efficiencies in the business and one of

1 these efficiencies was before the adoption of 15
2 dispatching using handheld devices such as
3 Blackberries about four years ago. These have
4 replaced what are known as mobile data terminals
5 or MDTs in the cars, which at the time required
6 us to maintain our own radio networks, including
7 towers and transmitters. In addition, the MDTs
8 were expensive in themselves, as well as
9 requiring radio infrastructure.

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

23 Unlike texting, it requires only a
24 one touch response and the responses are by
25 rote; they are the same time and time again.

1 The driver can complete most jobs in five easy 16
2 steps, with one hand. They accept the job, one
3 click. They give an ETA by selecting the
4 appropriate option, one click. They arrive on
5 the location, one click. They unload the
6 passenger, one click.

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

21 In addition, it will require changes
22 in the industry by having these handhelds
23 mounted when the car is in operation and in some
24 cases may require changes to the programs
25 operating on these systems. We believe the

1 proposed rule balances the concerns for safety 17
2 and operations of the business and support it's
3 adoption as presented. Thank you.

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

10 MR. ACIERNO: Thank you, I appreciate
11 that.

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

14 MR. KABESSA: Good afternoon
15 Commissioner Daus, members of the commission.
16 Thank you for allowing me to speak, my name is
17 Avik Kabessa. I'm the CEO of Carmel Car and
18 Limousine service. We are a Livery service. As
19 a person who strongly believes that the use of
20 electronic devices while driving is life
21 threatening, I truly applaud the TLC's attempt
22 to protect the riding public and the drivers. I
23 would like also to point out that the process by
24 which the rule was formulated is a process I
25 highly compliment. The TLC met with the

1 industry and listened to the industry. As far 18
2 as I'm concerned, the end result is a rule that
3 will save lives and at the same time allow the
4 for-hire industry to operate. It is a perfect
5 example of how the TLC can work with the
6 industry and this pattern should be repeated.

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

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

24 CHAIRMAN DAUS: Thank you, sir. Our
25 next speaker is Guy Palumbo. Julia De Martini

1 Day, Transportation Alternatives. 19

2 MS. MARTINI DAY: Good morning
3 everybody and Commissioner Daus. I'm Julia De
4 Martini Day with Transportation Alternatives.
5 Transportation Alternatives has 8,000 dues
6 paying members and 25,000 activists subscribers
7 supporting our campaign to promote bicycling,
8 walking and public transit and making New York
9 City streets safe and livable. Thank you all
10 for the opportunity to testify today. I'm here
11 to speak in support of the proposal to extend
12 the ban against licensees using a portable and
13 handsfree electronic device while driving a
14 vehicle and require violators to attend a
15 mandatory driver education course emphasizing
16 the dangers of distracted driving.

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

24 I want to share some research. Some
25 of it has been cited already that shows how

1 electronic devices, handheld and handsfree 20
2 distract drivers and increase crash risk. In
3 2007 in New York State, distracted driving was
4 the number one cause of vehicle crashes in New
5 York. New York State Department of Motor
6 Vehicles accident contributing factor data
7 showed driver attention distraction caused 19%
8 or 10,472 accident. This was the cause of 47
9 fatalities and over 7,000 personal injuries. A
10 2003 Harvard study estimates that eliminating
11 the use of cell phones while driving would
12 prevent over 2500 traffic deaths every year and
13 over 300,000 accidents that result in moderate
14 or severe injury in the U.S.

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

21 What's related to our work in New
22 York City, a majority of the people fatally
23 injured by taxi and Livery crashes are
24 vulnerable users. 16 of the 29 persons fatally
25 injured in taxi and Livery crashes in 1999 were

1 pedestrians and one was a bicyclist. We know 21
2 given all these facts we have to do something to
3 make our streets safer and a law strengthening
4 the penalties for using a portable or handsfree
5 device can do this.

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

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

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

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

1 CHAIRMAN DAUS: Thank you, Ms. Day. 2
2 Next speaker is Ethan Gerber from the Greater
3 New York Taxi Association.

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

19 The TLC rules and directives required
20 the drivers to adhere to dispatch vendors
21 procedures. These procedures required drivers
22 to read and respond to the text messaging
23 devices within 120 seconds; even if they were
24 moving and even if they had passengers, even if
25 they were in bridges or in tunnels. The Greater

1 New York Taxi Association had meeting after 23
2 meeting and many dozens of e-mails and phone
3 calls with people in the TLC, tried bringing
4 this to the TLC's attention. We met with
5 commissioners, the general counsel. There was
6 even an Arnold Diaz piece on shame, shame,
7 shame.

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

24 In other words, no matter what the
25 studies say, no matter what the research shows,

1 if the TLC says it's safe, it's safe. Portable 4
2 handsfree electronic device does not, according
3 to rule 201, 4-01, 6-01 and 9-01 does not
4 include any device, the use of which while
5 driving is specifically authorized by TLC rules.

6 This is in direct contravention to
7 the statement of basis and purpose which
8 quantifies all the dangers that were shown. The
9 rules as promulgated on the dispatch system
10 require the accessible taxis to respond --may I
11 continue?

12 CHAIRMAN DAUS: You could sum up,
13 please.

14 MR. GERBER: They require the
15 dispatched vehicle to respond at the time frame
16 designated by the vendor. The vendor gives
17 120 seconds. There are some 42 highways and
18 byways in the City of New York where pulling
19 over is unlawful except in an emergency
20 situation. We have continually asked how we are
21 to respond within 120 seconds. We have worked
22 with the TLC and there are some exemptions to
23 the rules and we applaud the TLC and I applaud
24 Chairman Daus for coming to some compromise with
25 our specific client, however, the rules as

1 written do put the driver in a choice; they must
2 choose whether to follow the dispatch rule or
3 break the law in the State of New York. Thank
4 you very much.

5 CHAIRMAN DAUS: Thank you. Mr. Artie
6 Grover?

7 MR. GROVER: Mr. Chairman,
8 Commissioners. My name is Arthur Grover,
9 president of the New York City Fleet Livery
10 Owners Association. Our association appreciates
11 that the TLC took the time to meet with our
12 members of the industry and association prior to
13 proposing new rules related to the use of
14 telephones and other portable handsfree
15 electronic devices. The commissioners listened
16 to the needs and concerns of the for-hire Livery
17 industry, many changes responsive to our input.
18 By allowing continued use of corded and cordless
19 two-way radios, the commissioners have
20 demonstrated that they were open to modifying
21 rules and balancing the essential needs of the
22 industry with equally important safety concerns
23 of the general public. The two-way radios have
24 been and remain the life blood of the for-hire
25 Livery industry. Business relating

1 communication are essential to the continued 26
2 existence of hundreds of neighborhood for-hire
3 car service establishments. The radios
4 facilitate efficient dispatch and recall of
5 vehicles. They permit prompt and reliable
6 customer service, particularly in regard to
7 service request and changes related to pick up
8 times or locations. They allow instant price
9 confirmation for customers and give operators
10 the ability to immediately communicate and
11 confirm route changes as required by the TLC.

12 For the customer who may have left
13 something behind, they most importantly
14 facilitate prompt and effective lost and found.
15 Notifications and of course two way radios also
16 serve as an immediate means of emergency and
17 safety communications. The commission has
18 proposed rules which we all hope will enhance
19 safety on the roads, while allowing the
20 professional communications essential to the
21 continued existence of the for-hire Livery
22 business here in New York City. We thank the
23 Commission for it's efforts and we hope to
24 continue working with the members to provide all
25 New Yorkers with reliable and viable Livery

1 services. Thank you.

27

2 CHAIRMAN DAUS: Thank you. Eli
3 Hirschenboim? Jeannette Vega?

4 MS. VEGA: Good afternoon, my name is
5 Jeannette Vega, and I'm a Hack driver. I've
6 been working as a cab driver in New York for 23
7 years and I want to put a face to the people
8 that you're actually talking about in proposing
9 these rules changes for. I started out working
10 in the Bronx as a Livery cab driver in 1986 and
11 I have been working as a Hack driver since 2002.
12 I take pride in my work. I consider myself an
13 ambassador to New York City. The majority of
14 the people that get into my cab are tourists. I
15 am polite, I take them from point A to point B
16 as quickly as possible, smile, cheer; the whole
17 bit and consider myself more a transportation
18 specialist, but I'm concerned about these
19 proposed rule changes. I think they are a
20 little harsh. The amount of hours that we spend
21 on the road increase the chances of us being
22 ticketed, having more points put on our license.
23 I'm happy to say I have zero points. I have
24 never been pulled over, I've never been
25 ticketed, no moving violations, because I do my

1 job the way I'm supposed to do my job. But, as 8
2 a single mother of four children, two that have
3 hemophilia, I need to be able to access my phone
4 for emergencies. It's happened to me before.
5 I've had a phone call, I've had passengers. I'm
6 very polite, I'm sorry it's my home calling, can
7 I just make sure it's not an emergency, never
8 had a problem. Sure, no problem. Is it an
9 emergency, no? No problem, I'll call you back.

10 We need to be able to access our
11 phones. I think it's ridiculous concerning the
12 amount of taxi stands that have been pulled away
13 from us to expect us to be able to pull over to
14 use our phones if it's an emergency. A lot of
15 drivers I feel are rampant and I think these
16 proposals are great. It is a danger. You know
17 I totally agree with a lot of the studies, but
18 at the same time, I think we have to find that
19 balance. I think the increase in point changes
20 are too harsh. I feel the fact that you're
21 going from point changes to suspension to
22 revoking a license is too harsh. Hit them where
23 it hurts. Increase the amounts of money that
24 they get ticketed with. We're out here making
25 money. Charge more, that's fine, because if I

1 have an emergency I can show proof. If I get 29
2 called in and if I get ticketed, I can say this
3 is where I was; I was in the emergency room with
4 my son who could bleed to death, so I just
5 wanted to bring that to your attention.

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

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

25 CHAIRMAN DAUS: Next is Robert Kirk.

1 MR. KIRK: My name is Robert Kirk. 30
2 I've been a taxi driver for 40 years and when I
3 first started driving a taxicab, I'm not even
4 sure we had wireless phones in our homes. So
5 truth of the matter is I do not keep my cell
6 phone on and when I came here I wasn't even sure
7 what was going on here. But I think it's really
8 important for a long standing taxi driver to
9 really say that it is dangerous to be using cell
10 phones when you're driving and although a Yellow
11 taxicab is really a yellow phone booth for the
12 passengers, we really have to be concentrating
13 on the road, especially with all of the new
14 electronic initiatives that are in taxicabs that
15 also are extremely distracting, but since we
16 have to use them, that's what we have to
17 concentrate on.

18 One of the issues that came to my
19 mind is parking, because it's extremely
20 difficult to find any place in the business
21 districts in Manhattan to pull over if there is
22 an emergency and I will be very thankful if the
23 taxi or limousine commission considers changing
24 a few different laws because you can't even pull
25 onto a pump if the area is not legal for

1 parking.

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2 But what I'm most concerned about has
3 to do with political agendas and I don't believe
4 that it's a good idea to be attacking taxi
5 drivers and I do not believe that it's a good
6 idea to not be thinking about how enforcement
7 truly occurs in New York City. Because police
8 officers are given stacks of tickets and these
9 particular officers are relatively new and they
10 go into a battle mode and they use taxi drivers
11 often enough as collateral damage and I believe
12 the taxi commission has already heard about some
13 of my nightmares because the taxi commission
14 were the first people that I had contacted.
15 I do not use cell phones. I do not believe that
16 drivers should have been overindulging in them
17 and I believe that this is a reason why you were
18 getting a little bit more difficult with us.

19 Since I spent a lot of time with
20 different fields in the taxi industry, I thought
21 doing classes is kind of silly. Drivers know
22 they shouldn't be using their phones and one of
23 concerns I have-- and I'll be finishing up with
24 this-- is that if it goes to the City University
25 for classes, the Federal government pays the

1 City University for students, whether they take 2
2 a three-month class or a one hour class and I do
3 not believe that the Federal government should
4 be giving New York City any money for silly
5 classes. Drivers know they shouldn't be using
6 their cell phones. I thank you very much and I
7 do support much tighter initiatives with this,
8 because I see what goes on in the street.

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

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

1 them, they park by calling on them, we go there.
2 There is some difficulty because of the cell
3 phone. Even somebody is in the hospital, I
4 working, they call me and I see that it's my
5 family in the hospital. Sometimes, the
6 passenger I ask them, I spoke to the phone and
7 they said okay. Sometimes the passenger, they
8 call me and I give direction and the passenger
9 knocks, please don't use the phone. I said to
10 him, please later I will call back. Thank you
11 very much.

12 MR. FRASER: Thank you, Mr.
13 Choudbury. The next speaker is Bill Lindauer.

14 MR. LINDAUER: My name is Bill
15 Lindauer. I'm with the New York Taxi Workers
16 Alliance. I drove a cab for 30 years. With age
17 comes wisdom, so listen up. First of all, happy
18 holidays, but this proposal comes from the
19 grinch. This draconian proposal suffers from a
20 complete absence of logic and reason and
21 embodies a deficit of decency. New York cab
22 drivers have proven to be the safest drivers on
23 the road. Can you point to any fatalities or
24 serious injuries due to cab drivers talking on
25 the cell phone; I think not. To make them

1 virtually incommunicado and revoke their 34
2 licenses might make even the US Supreme Court
3 state it's cruel and unusual punishment. You
4 think you should just blithely deprive drivers
5 of their livelihood so they can't feed their
6 families and shelter their families, shame,
7 especially you Chairman, you're making 200,000 a
8 year.

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

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

25 MS. DESAI: Good afternoon. I'm

1 executive director of the New York Taxicab 35
2 Workers Alliance. As a lot of studies have been
3 cited today and I think the point must be made,
4 as Bill said, none of those studies actually
5 focus on professional taxi drivers. And in
6 fact, another pedestrian and bicyclist advocacy
7 right away did conduct a study several years ago
8 which in fact was cited earlier and in that
9 study included that taxis were the safest mode
10 of transportation in New York City. Bruce
11 Schaller studies have also found the same
12 conclusion and I think that point must be made
13 in this discussion, that the proposal that
14 you're undertaking is not a reaction to cabs to
15 accidents with cabs or to any question about the
16 professional driver skills of Yellow cab
17 drivers. I think you must make that point. You
18 must repeat it throughout the media as you go
19 forward with this proposal.

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

1 State Legislature, not from the TLC. 36

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

22 When you reapply, there is no
23 guarantee that you will be reinstated because as
24 we know, the TLC rules does not have clear
25 guidelines on reinstating revoked licenses.

1 Even if the ALJ agrees to reinstate your 37
2 license, the office of the chairperson could
3 still decide to deny you that license. What you
4 are talking about is a severe penalty, not only
5 a loss of livelihood, but essentially a loss of
6 a career. That punishment does not fit the
7 crime. Thank you.

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

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

19 Otherwise, the stated purpose of
20 these clause, rules should provide for accident
21 and prevention injuries, driving violations
22 directly caused by related dangerous driver
23 behavior. This requires a clear categorical
24 understanding of what a dangerous distraction
25 caused by driver behavior is, since operating a

1 vehicle subjects the driver to a wide range of 38
2 simultaneous distractions all competing for the
3 driver's attention and provoking reflexive and
4 cognitive response, even a sneeze.

5 In traffic, a FHV driver must be
6 alert to traffic signs, street signs, emergency
7 vehicles, school busses, passenger requests,
8 police and traffic agents, pedestrians et
9 cetera; all who are performing the functions
10 required for FHV dispatch operation.

11 Although the objective of these
12 proposed electronic device rules is the
13 prevention of those dangerous distractions
14 caused by driver behavior, which overwhelms a
15 driver putting the FHV safety at risk, enabling
16 the driver to perform the FHV function safely is
17 a different matter.

18 A properly designed digital voice and
19 data or legacy land mobile radio dispatch
20 operation system, which the driver operates
21 properly, is not a dangerous distraction, but
22 well within the driver's ability to operate
23 safely.

24 In Section 9, these rules failed to
25 recognize FHV dispatch operator requirements and

1 the special skills and training that the 39
2 professional drivers must possess in comparison
3 to ordinary drivers. The published studies
4 referenced in these proposed rules do not
5 address the FHV drivers dispatch operating
6 environment for special purpose FHV dispatch
7 system. In fact, while the stated purpose of
8 the rule refers to Virginia Tech Transportation
9 Institute claim that while the risk of being
10 involved in an accident increased by 23 times
11 when the driver was text messaging by the wheel,
12 it is disingenuous that the stated purpose did
13 not also include the Virginia Tech
14 Transportation Institute claim that the risk of
15 an accident was relatively minor in the case of
16 drivers using voice activated systems.

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

25 The proposed rules also failed to

1 recognize emerging advances of active vehicle 40
2 safety technology with closing velocity,
3 monitoring control which would provide added
4 protection from inadvertent driver distractions
5 due to any source. Closing velocity, monitoring
6 of stationary and moving objects with automatic
7 feedback control, practice safety automatic
8 collision avoidance in addition to electronic--

9 CHAIRMAN DAUS: Please sum up, Mr.
10 Thaler.

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

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

24 MR. VOLLO: Good afternoon Chairman
25 and commissioners, thank you for this

1 opportunity. I'm the director of the taxi FHV 41
2 driver at La Guardia Community College, where we
3 have been training taxis for over 25 years.
4 Back in 1999 when the TLC cell phone restriction
5 came about, we've been training and discussing
6 that rule with the driver's section of the rules
7 and regulations. We were making a distinction
8 between the State and the City rule. It was
9 always a concern for us that the drivers weren't
10 hearing us, because when they got out there,
11 they were using the phones. Anybody that knows
12 what I do, they ask me what I do, I tell them
13 and they said tell them about the cell phones.
14 Friends tell me every time they see me what
15 about the cell phone. I had drivers tell me
16 that they were on the phone with their friend
17 who was driving, they had a passenger in the
18 back, forgot the passenger was in the back and
19 was taking him on the bridge instead of to the
20 Upper East Side. So these kind of occurrences
21 happen much too frequently.

22 We were happy about a few months ago
23 when the TLC asked us to expand the curriculum
24 on the cell phone use. What we do now is we
25 reinforce the severity of this violation. We

1 force a conversation of the dangers of driving 42
2 distracted by showing a video that's heart
3 wrenching of the possible concerns that could
4 happen with the distracted driver.

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

22 CHAIRMAN DAUS: You did you a good
23 job. I attended the class yesterday. It's a
24 very disturbing video, by the way. If anybody
25 hasn't seen it, I would be happy to send it to

1 you.

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2 MR. VOLLO: I think it makes the
3 point. It makes them think about it.

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

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

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

25 MR. TEETER: That's correct and thank

1 you. My name is David Teeter. I'm with the 44
2 National Safety Counsel, I'm senior director of
3 Transportation Initiatives. The National Safety
4 Counsel is a 100-year old safety organization.
5 We are non-profit; we are not a government
6 organization. We are headquartered in Chicago.
7 Our mission is to prevent accidental deaths and
8 injuries that occur in the work place, that
9 occur in our homes and that occur on the
10 roadways. I have a wonderful job with them. My
11 job is to save lives by preventing crashes that
12 result from teen driver crashes and distracted
13 driver crashes. I spent the last three years
14 working full time on the subject of distracted
15 driving studies you've heard mentioned today.
16 I've read every one of them, I've talked to most
17 of the researches that conducted them. There is
18 over 75 peer review studies that talk about this
19 danger. We have been driving cars for about a
20 hundred years, we have been talking on phones
21 for about 75. We've really only combined those
22 two activities in any great degree in the last
23 five or ten years. We had no idea what happens
24 in our brain when we are involved in a telephone
25 conversation. We're just starting to understand

1 that. We never needed to know that because we 45
2 were always sitting on a chair and hooked to a
3 wire, but we are not anymore, obviously. What
4 we are finding is that the cognitive load on the
5 brain is dramatically more than we ever
6 understood.

7 People that study distractions,
8 driving distractions lump them in three
9 categories: Visual, taking your eyes off the
10 road; mechanical, taking your hand of the wheel
11 and cognitive, when our brain is not fully
12 engaged in the task of driving. We all
13 understand the visual and mechanical, so when we
14 are visually or mechanically distracted, we
15 limit the time of duration. We do it quickly.
16 We shouldn't be fumbling for something in the
17 front seat, but if we are, we do it quickly and
18 keep looking up. We do not understand and do
19 not know when we are cognitively distracted, so
20 the huge danger the cognitive distraction is how
21 long it lasts. Without the research and in a
22 very lay person way to describe it, I frequently
23 ask people, can you watch your favorite
24 television show and follow the plot while you
25 talk to somebody on the phone and virtually

1 everybody says no, I can't do that. Then how 46
2 can you drive a 6,000 pound vehicle in a dynamic
3 always changing environment where you can't
4 predict what's going to happen in the next
5 second and do it safely while you're talking on
6 the phone. The answer is we can't. The problem
7 is we don't understand that we can't. So we are
8 just starting to understand that.

9 I want to complement the TLC. What
10 you did ten years ago was wonderful. You really
11 got this country moving and I think what you are
12 doing today is important and what you are
13 considering today is important for a couple of
14 reasons. We are also finding out that unlike
15 other traffic safety issues, the activity of
16 being in touch with people, talking on a phone,
17 answering a ringing phone, answering an inbound
18 text message is extremely compelling. Even
19 well-meaning people, whether it's kids or
20 employees or people that just want to follow the
21 law will find it difficult to ignore a ringing
22 phone, as all the thoughts run through their
23 mind, someone is hurt whatever. So strong rules
24 unfortunately are very very necessary and I
25 encourage you to adopt these rules and then just

1 in closing, I want to mention very briefly, as a
2 parent, my 12 year old son Joe was killed by a
3 distracted driver six years ago and it was a
4 very egregious scene where the person was
5 looking straight up at the windshield and she
6 missed the traffic light and that's what happens
7 with cognitive distractions. We don't see the
8 cues in front of us. It's an epidemic. The
9 National Safety Counsel compliments you for what
10 you are doing and good luck and keep leading the
11 way on this. Thank you.

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

14 MR. GIANNOULIS: I want to thank you
15 for coming, as well. I think it's important
16 that hearing from somebody who has studied the
17 issue and studied the reports because quite
18 honestly, I find a lot of the hyperbole today a
19 little bit offensive, especially when I hear a
20 story like what happened to this gentleman's
21 family. Apparently every taxi driver's child is
22 in the hospital 24 hours a day, with all due
23 respect to the woman whose child is ill. People
24 are having emergencies every seven minutes, it's
25 not real, it's not realistic. Taxi driver's

1 lives are not different than other people's 48
2 lives. People do have emergencies. I assume if
3 you get pulled over by a really bad cop and he's
4 not going to give you a break and you can't go
5 to court and you can't explain it, I guess it's
6 a horrible scenario, but this notion that people
7 need to have like this 24 access to their phone
8 while they are driving a 6,000 pound vehicle
9 with somebody in the back seat, I just find to
10 be ridiculous. And hearing this story about
11 what happened to your family kind of proves the
12 point. Thank you for coming, I appreciate it.

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

15 MR. MATEO: My name is Fernando
16 Mateo, I'm the spokesman for the New York State
17 Federation of Taxi Drivers. Commissioners,
18 thank you for the opportunity and I'm sorry I
19 was a bit late. One of the things that I
20 believe is very important about this specific
21 issue is that there are numerous ways that a
22 driver, be it a taxi driver or a regular driver
23 can use their phone. They can have a piece in
24 the ear which everyone can see. They can get
25 stopped as you are requesting and pulled over

1 and given a summons or there is a bluetooth 49
2 that's installed in the vehicle that has a
3 speaker in the car. So if the issue is
4 bluetooth, what are you going to do about the
5 technology that exists like I have in my car,
6 that I just talk and I'm speaking into a speaker
7 phone. So this is similar to like a thief
8 breaking in through a front door where someone
9 could spot him and make an arrest or breaking in
10 through the back door and in essence, I don't
11 know what you are going to accomplish by this.

12 We all that it's dangerous, we all
13 that texting and driving is dangerous, but I
14 don't really believe that taxi drives are
15 involved in this type of practice. We believe
16 that speaking while you have a passenger in the
17 car is rude. It's not appropriate. It bothers
18 me when I sit in the back of a vehicle. But on
19 the other hand, what would you prefer. Every
20 time a cab driver needs to make a call, to pull
21 over wherever it is, get out of the car and
22 waste time and speak and then get back in the
23 car and fulfill it's duties. These are the
24 kinds of things that we are going to be
25 confronting.

1 The other thing is, we are the eyes 50
2 and the ears of the NYPD. We had met with
3 Commissioner Ray Kelly numerous times, at night
4 specifically. There are a lot of crimes being
5 committed in the streets and the people that are
6 looking at what's going on are the drivers. And
7 the only tool that they have to report that
8 crime is by making a phone call. The use of a
9 phone is multipurpose. It's going to be very
10 difficult to understand whether or not that
11 driver is making an emergency call or a non
12 emergency call. I think that there are better
13 ways of addressing this specific issue and
14 accomplishing what you want and that is that the
15 drivers are paying attention to the road and
16 that they are not being rude to their passenger.
17 We believe that if you ask the riding public
18 whether their driver is on the phone most of the
19 time while they are in the vehicle, I think 70
20 percent of the people will tell you no. Why,
21 because they are encouraged to provide good
22 service for the passengers.

23 CHAIRMAN DAUS: If you could sum up,
24 Fernando.

25 MR. MATEO: Having said that, I

1 believe commissioner, that the punishment that 51
2 you're looking to impose on the driver is harsh
3 and we believe that there are better ways of
4 accomplishing the same thing, because we are not
5 disagreeing. What we are disagreeing on is the
6 fact that someone should have an ear piece in
7 his ear and being caught with an ear piece in
8 his ear or whether he's doing it some other way.
9 There are many ways of talking while you are
10 driving, so just please consider that and then
11 see if maybe we can at some point or another
12 come to some type of an agreement that will
13 accomplish what you are looking for and will not
14 hurt the drivers.

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

25 CHAIRMAN DAUS: That concludes the

1 public hearing. Do the commissioners have any 52
2 questions, thoughts?

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

23 CHAIRMAN DAUS: Commissioner Polanco?

24 MS. POLANCO: Thank you. At least in
25 my case I will say that people should not use

1 the cell phone while driving and should not text
2 while driving; for me that is very clear. And
3 if you do, then you go to court and contest your
4 summons and you put that to the defense that you
5 had an emergency and so forth. I think the
6 minor issues that I have with the rules is
7 dealing with the definition section as to what
8 is considered a portable and handsfree
9 electronic device because I think it's too broad
10 and my fear is that it will hamper the ability
11 especially for the Livery and the Corporate
12 industry to conduct their business.

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

23 CHAIRMAN DAUS: Chuck can answer the
24 question about the definition, but I will tell
25 you that I think the training is a necessary

1 component. The training will be a minimum of an
2 hour. I went to the 20 minutes session that Mr.
3 Vollo conducted the other day and I would love
4 for people to see this video. The drivers when
5 I left the room got it, so training is a
6 necessary component, so I would anticipate that
7 once we pass these rules if we pass them today,
8 we would get a lot of drivers getting summonses
9 initially and go to that course and I hope they
10 never do it again. It's going to cost I think
11 anywhere between \$20 and \$30. I think we were
12 very reasonable on the fines. There was
13 originally a proposal to raise the fines; I
14 stopped that and I recommended to all of you at
15 our last meeting that this is not about money,
16 it's about safety and it's about saving lives.

17 Unfortunately, we need to make a
18 choice in our regulated industry at all times
19 with all of our rules when it comes to safety
20 between one's livelihood and one's life. I
21 choose saving one's life over one's livelihood
22 and that's a choice we have to make and three
23 strikes you're out is very reasonable.

24 Right now the law the way it's
25 written is not working, it's five strikes,

1 you're out. I think we should revisit the fine 5
2 issue, but I think what is important for the
3 drivers to understand, it's not about the TLC
4 making money or the City. We'd rather get
5 somebody off the road if they don't get it
6 before they kill somebody as opposed to it being
7 a cost in doing business. So I think that's my
8 response to that. I think it's a reasonable and
9 a necessary component of it. Chuck, do you want
10 to answer the definition question?

11 MR. FRASER: You have to look deep
12 into the rule, but the rule is identical as to
13 all four of our regulated industries, except as
14 the for-hire industry, there is an adaptation to
15 accommodate the dispatch problem. In other
16 words, unlike all of the other industries, the
17 FHV does in fact have to have communications
18 with a driver from a base to conduct dispatch
19 business and so we've created an exception to
20 the rules that applies to the others, just for
21 the FHV industry to allow dispatch. It does not
22 allow dispatch by cell phone and it does not
23 allow dispatch by handheld device. It allows it
24 either by the two way radio, which is an old
25 traditional dispatch device or a voice activated

1 device. I think Mr. Thaler spoke about some of 6
2 the new technologies that are being developed.
3 Some of the cars have essentially computers that
4 are voice activated and then the last thing
5 would be a mounting device which Mr. Thaler
6 brought us and showed us and that's what--

7 MS. POLANCO: The Blackberry.

8 MR. FRASER: With a mounting.

9 MS. POLANCO: And that's included?

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

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

15 MR. FRASER: There is some
16 flexibility there and obviously when a rule has
17 ambiguity it has to be construed to the
18 advantage of the person it's being applied
19 against, and so we realized when we wrote it.
20 We didn't want to try to put any minutes or
21 seconds on it which would be arbitrary. What I
22 have to say about that, obviously Deputy
23 Commissioner Mullen will be doing the
24 enforcement, but I think what we are looking for
25 is if we find someone who has been on the

1 communication but not a phone for half an hour, 7
2 this is not a dispatch.

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

24 MS. POLANCO: What type of equipment
25 that is out there besides the cell phone and

1 bluetooth and Blackberry and so forth that we 58
2 have all this definitions--

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

7 CHAIRMAN DAUS: Look on the screen.

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

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

14 CHAIRMAN DAUS: And they are pretty
15 cheap and inexpensive and a lot of people are
16 already requiring them and using them in the
17 Black Car industry, so we really listened to the
18 industry. Obviously we can't always agree on
19 everything, but I think these are fair rules.
20 Any other questions or comments?

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

1 these rules.

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

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

25 CHAIRMAN DAUS: Thank you. Do we

1 have a second for the motion? 60

2 MR. GONZALES: Second.

3 CHAIRMAN DAUS: All in favor.

4 (Whereupon, it was unanimous.)

5 CHAIRMAN DAUS: It's unanimous.

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

16 MR. GONZALES: Thank you. Good
17 afternoon commissioners. My name is Adrienne
18 Gonzales and I work in the Constituent Affairs
19 office and next to me is Gary Roth and he works
20 in the TPEP system and today we are going to
21 present on a pilot proposal for a group ride
22 from La Guardia airport to Manhattan. So why do
23 we want to do a group ride to Manhattan? There
24 are several reasons for it, one being there's no
25 direct access through mass transit from

1 Manhattan to La Guardia airport. It's at least 1
2 a two seat ride and we would like to see if we
3 can improve the amount of time a traveler has to
4 take to go from the airport to Manhattan.

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

16 Another reason is high volume. There is
17 a lot of taxicab trips that go from La Guardia
18 to Manhattan. In a morning period there's about
19 10,000 trips on a typical morning from La
20 Guardia from 7 a.m. to 11 a.m. from La Guardia
21 to Manhattan. And there's also the availability
22 issue. We spoke with Port Authority, had
23 preliminary discussions with them and they at
24 times had difficulty attracting taxi cabs to
25 come. They may not have enough taxicabs at

1 their terminals, so we hope this can attract 62
2 more drivers to go.

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

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

22 MR. ROTH: My name is Gary Roth. I'm
23 in the Chief of Staff's office. We did some
24 preliminary analysis using the GPS data from all
25 the 13,000 plus medallion taxicabs. This first

1 chart is just showing the pickups at the US 63
2 Airways terminal. We looked at the morning rush
3 hour period, from 7 a.m. to 11 a.m. for one
4 week; the week of October 19th to 23rd. The
5 following slide shows where those trips went and
6 along with the average fare. This is broken
7 down by community board and you can see there is
8 quite a large grouping in the center, in the
9 midtown area, but it's pretty well dispersed
10 across most of the Manhattan. You see the fair
11 is ranged from \$33 up to \$38.

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

23 The next slide is break down by hour
24 from the US Airways terminal. The peak pickup
25 time would be the 9 to 10:00 a.m. period in the

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

13 MR. GONZALES: Thank you Gary. So
14 next steps that we have to take is work with La
15 Guardia and other interstate holders to make
16 sure that the proper locations are placed and
17 work with community boards that will be affected
18 by it and also, we will work with the Port
19 Authority as well to figure out what works best
20 in their scenario and their operations. One of
21 the things that we have to keep into account is
22 that there's a possibility that US Air and Delta
23 may swap terminals and we need to keep that in
24 mind because we don't know how that will affect
25 taxi trips.

1 CHAIRMAN DAUS: I will add to that 65
2 that I did speak to, after your meeting with Bob
3 Triggely and Port Authority and they anticipate
4 that the swapping with Delta will lead to more
5 passengers coming because there is going to be
6 more flights added over time and US Airways is
7 going to go over to Marine terminal in addition
8 to the flights that are there and there is going
9 to be more coming in and Delta is going to be
10 taking over part of US Airways, so there's going
11 to be more.

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

21 CHAIRMAN DAUS: Commissioner
22 Weinshall has a question.

23 MS. WEINSHALL: I think it's a great
24 idea. I guess the dispatchers will group riders
25 by where they are going in Manhattan, is that

1 correct?

66

2 MR. GONZALES: That's what we
3 anticipate. That's actually one of the reasons
4 why we wanted to do the US Airways terminal and
5 Marine Air, because they have three dispatchers
6 working there, so it would be easier for them to
7 group people. They also talk about having sign-
8 in so they could have separate lines--

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

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

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

25 MR. GONZALES: The data includes

1 everything; the volumes up there aren't as high.
2 So we focused where there is a greater
3 availability for a group ride.

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

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

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

1 questions?

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

9 MS. WEINSHALL: Motion.

10 MR. AROUT: Second.

11 (Whereupon, it was unanimous.)

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

19 I'm going to go back to the first
20 item which is the Chair's report. Feels a
21 little bit weird doing this at the end. Big
22 news, the long awaiting Taxi of Tomorrow RP is
23 on the streets or if you download it you can get
24 it. This is something that we've been working
25 on for a long time and thanks for the Design

1 Trust and various other city agencies where we 69
2 started with taxi '07. It's been a long road
3 after the hundred year anniversary of the
4 taxicab when we thought about making a better
5 cab, but we are actually at the point where the
6 rubber is meeting the road and we are going to
7 try to get this done.

8 I want to thank Commissioner Kay who had
9 to leave us, for an important meeting but I see
10 Emily Gallow is here. Emily basically was
11 instrumental, could not have happened without
12 you Emily, so thank you from the mayor's Office
13 of Operations. I also want to thank
14 Commissioner Martha Hurst, Department of
15 Citywide Administrative Services, also known as
16 DCAS, is going to be hammering this RP for the
17 TLC. It is very extensive. Many, many hours
18 have gone into drafting this with our
19 consultants over the last year and a half and
20 our goal is to provide a potentially exclusive
21 deal to one automaker to produce for a period of
22 at least ten years and to sell for at least ten
23 years the Taxi of Tomorrow, one that meets all
24 of the utopian goals that we set forth,
25 including making sure that's it's accessible for

1 all, clean air fuel, affordable and comfortable 0
2 and better than we have now. All the details
3 are set forth in a press release and in the RP
4 itself, so I'm not going to go over them, but I
5 will just point out a couple of important dates
6 on this important project, for those that are
7 interested. You can access the RP through our
8 website, as I said.

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

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

25 Also, just want to give everybody a

1 heads-up that the mayor had signed a bill on 71
2 November 17th which will take effect on
3 February 16th of next year, requiring that all
4 commuter vans have a bill of rights posted and I
5 think we are now at the point where almost all
6 of our regulated cars with the exception of
7 commuter vans and para transits are required to
8 have bill of rights, so it seems very fair and
9 appropriate to me. I can't think of a reason
10 why we wouldn't have those bill of rights for
11 passengers in all of our vehicles, so we are
12 going to look at para transits as well.

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

19 First of all, thanks to the Economic
20 Corporation Development Queens District Attorney
21 George Brown, Chris Ward, the executive director
22 of the Port Authority and the TLC Deputy
23 Commissioner Mullen and her folks, we did our
24 first successful crackdown at JFK airport of
25 which we rounded up 19 people and arrested them

1 and putting them through the system for 72
2 illegally hustling at JFK airport. Now if you
3 remember, this is the new criminal law that was
4 passed that the entire industry, many people in
5 this room here MTBOT, Taxi Safety, Avik Kabessa,
6 and the Federation, all the folks that are here
7 and I apologize if I leave anybody out, but I
8 can't think of a person here who did not lobby
9 for that law, Vick Dizengoff. Everybody wanted
10 to get this law passed and we got it passed and
11 I'm pleased to say that this is the first of
12 hopefully several crackdowns where we are going
13 to put the dangerous practice of illegal
14 hustling at the airports to be a thing of the
15 past. The day that we arrested these 19
16 individuals, I went to the holding lot and spoke
17 to hundreds of drivers. They were very
18 thrilled, so I thank everybody for their
19 collectively effort. We should do more of that.

20 Also I want to thank Lotto and
21 several drivers who I actually met when I was
22 talking with them on the street and also at the
23 airport, who many months ago told me that they
24 believe that the dispatchers at the airports
25 were accepting bribes again to give out shorty

1 tickets. So we swore them to secrecy and we 73
2 spoke to the authorities, including District
3 Attorney Brown's office and the Department of
4 Investigation and I'm pleased to announce that
5 thanks to their hard work and my Chief of Staff,
6 Ira Goldstein and his staff, we were able to
7 arrest several people who are involved in this
8 bribery sting; dispatchers basically accepting
9 money from drivers so they could get their
10 shorty tickets when they are annoyed that they
11 have to go to Brooklyn and Queens, instead of
12 Manhattan.

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

20 Last but not least, we're going to
21 have to do some zero tolerance. I myself saw
22 some real disturbing things out there over the
23 last couple of days in midtown Manhattan. We
24 are getting reports from everybody that illegal
25 activity in the central business district is on

1 an upswing, which is what usually happens this 74
2 time of the year. So in addition to cracking
3 down on cell phones, we are going to be cracking
4 down on illegal street house in the central
5 business district starting next week and it will
6 be not just one day, we will be doing it for the
7 entire week.

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

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

21 Last but not least, I think we have
22 been very reasonable in enforcing these rules.
23 As you know, from the date that they were
24 passed, it's now been six months and I made it
25 very, very clear to the industry that we wanted

1 to do outreach, we wanted people to voluntarily 5
2 comply, so Commissioner Mullen and her staff has
3 visited many, many bases and handed out the
4 details and the bill of rights and all the
5 things that you need to put on your cars and I
6 think it's about time that we have to enforce
7 this law vigorously now. We've given plenty of
8 people a lot of leeway. I anticipate that most
9 people are in compliance, but I think that at
10 least 10 to 15 percent may not be in compliance,
11 so this is really the last and final two minute
12 warning. As of January 1st, at any time between
13 January 31, we will be blitzing the FHV
14 industry. If you do not have your bill of
15 rights, if you do not have your license posted,
16 you will be summons and ticketed. This is about
17 the time we have to do. We can't let this go on
18 forever, it's been six months and we got to get
19 this done. Especially the leaders of your
20 organization, if you could help us remind your
21 people, we'd rather not give summonses out to
22 people. If we can make a last ditch effort to
23 get everyone to comply, we would appreciate
24 that.

25 Last but not least, the rules of

1 vision project, we've had a very successful year
2 so far. We've enacted provisionally 12 Chapters
3 of our 19 Chapters; we have seven left to go.
4 We have two Chapters currently on our website.
5 We have the transition rules, Chapter 20 up
6 there and comments are due by December 18 of
7 '09. The definition section, comments are due
8 by January 1, 2010.

9 We also have issued a notice of
10 participation for the Livery stand pilot that
11 went out. As you know Commissioners, you voted
12 for this program on May 28 of this year. We
13 finally put a request of participation out. The
14 due date I think is in mid January. I have
15 already received some feedback. We may be
16 extending that date, but I will let people know
17 for sure. I've gotten some complaints that
18 people say they don't have enough time to submit
19 their proposals, but what we are looking for is
20 at least two pilot stand programs in each of the
21 boroughs. So I'm looking forward once I get the
22 request to sharing some of their information
23 with our commissioners. Since we have
24 commissioners representing all the five
25 boroughs, I look forward to your input on which

1 areas you think the stand should be. 77

2 We had a City Counsel hearing the
3 other day, it was Chairman Lewis last meeting of
4 the transportation committee. My testimony is
5 outside if you need it. I testified and said
6 goodbye to John, but we did also talk about the
7 Livery stands and some of the questions, but
8 mostly support of what we've done here. So I'm
9 looking forward to working with commissioners on
10 that; on getting a pilot program. It doesn't
11 mean it's going to work necessarily, we hope it
12 will, but our purpose is to test it out. And we
13 have more records on the medallion sales front.
14 I think we have all time record highs of an
15 average corporate sales price of \$779,000 for a
16 corporate medallion and \$579,000 for individual
17 medallion. Those are more records and we are
18 now up to 23 percent of our fleet is hybrid or
19 clean air. We have a total of clean air fuel
20 vehicles of 3031 and hybrids, 3009 of those that
21 are voluntarily out there. That concludes my
22 report; any question? Okay.

23 That concludes item one, now we are
24 back to item two, adoption of minutes. Any
25 questions or comments on the minutes, changes?

1 Do we have a motion to adopt? 78

2 MR. AROUT: Motion.

3 CHAIRMAN DAUS: Second?

4 MR. GONZALES: Second.

5 CHAIRMAN DAUS: All in favor?

6 (Whereupon, it was unanimous.)

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

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

13 MR. GONZALES: Motion to approve.

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

16 MR. AROUT: Second.

17 CHAIRMAN DAUS: All in favor.

18 (Whereupon, it was unanimous.)

19 CHAIRMAN DAUS: It's unanimous.

20 Thank you.

21 MS. STEELE RADWAY: Licensing is also
22 recommending three bases with the recommendation
23 for denial with the request that the commission
24 grants an additional 30 days so they submit the
25 outstanding item?

1 MR. GONZALES: Motion to deny. 79

2 MR. AROUT: Second.

3 CHAIRMAN DAUS: All in favor?

4 (Whereupon, it was unanimous.)

5 MS. STEELE RADWAY: Thank you.

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

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

21 CHAIRMAN DAUS: Questions?

22 MS. POLANCO: Where are we in terms
23 of stage two? I know we are in Stage one where
24 we basically submitted this non substance and
25 changes rules, but where are we now in stage

1 two?

80

2 MR. FRASER: We haven't begun that
3 phase, the substance and changes. What we have
4 been doing is obviously a lot of people have
5 been submitting comments during this phase that
6 are substantive and what we are doing is we're
7 just sort of accumulating them and we will be
8 coming back to them. They have been indexed and
9 cross indexed, subject matter, chapter rule,
10 however we want to look at it and we will be
11 coming back to them when we complete through the
12 process, which I'm hoping will be this spring.

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

17 MR. FRASER: We gave a very generous
18 definition of substantive changes here because I
19 didn't want any suggestion that we weren't being
20 upfront about what changes we were making. The
21 one you are referring to is the update vehicle
22 towing and storage fees to reflect current
23 practice. What that means is the existing rules
24 imposed, our own storage and towing fees, we no
25 longer do the storage and towing, the PD does,

1 and they determine the fee and we have obviously
2 made jurisdictions and determined the fee that
3 the PD charges, so the proposed rule just says
4 we will find out what the fee is and tell the
5 vehicle owner who's car has been ceased.

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

8 MR. AROUT: Approve.

9 MR. GONZALES: Second.

10 CHAIRMAN DAUS: All in favor.

11 (Whereupon, it was unanimous.)

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

25 MS. POLANCO: And we are very soon

1 going to the other counties, is that right? 82

2 CHAIRMAN DAUS: I'm sorry?

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

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

17 Before I finish, I just want to give
18 a shout out to a couple of people I forgot to
19 mention. I want to thank Chuck Fraser and
20 Cheryl Finebloom for a fantastic job on this RP.
21 They work countless hours and they really,
22 really brought this thing home and now the
23 really crazy work begins of the proposals and
24 getting the committees together and I just want
25 to thank everybody on that.

1 Last but not least, I want to wish 83
2 everybody a happy holiday. It's been a very,
3 very productive year for us here. I want to
4 thank the commissioners, they worked really,
5 really hard. Unlike me, they don't get paid for
6 what they do and we really appreciate the
7 countless hours you put in and we apologize for
8 the tons of paperwork we've given you, but we
9 are hoping we will be even busier in the new
10 year, but I want to thank you publicly for all
11 your support and wish everybody a happy and
12 healthy and safe holiday. Thank you.

13 Motion to close the meeting?

14 MR. GONZALES: Motion.

15 MR. AROUT: Second.

16 CHAIRMAN DAUS: All in favor.

17 (Whereupon, it was unanimous.)

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19 (Time noted: 3:11 p.m.)

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C E R T I F I C A T E

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