



WORKING GROUP SUBCOMMITTEE MEMBERS

PATRICIA BRESLIN, CHAIR
PAUL GILLESPIE
TOM ONETO

JORDANNA THIGPEN, EXECUTIVE DIRECTOR

Rules and Regulations Subcommittee MINUTES

August 11, 2008 at 12:30pm
City Hall, 1 Dr. Carlton B. Goodlett Place
Room 408

Present: Breslin, Oneto, Gillespie

Absent: None

Called meeting at 12:42 pm

1. Call to Order/Roll Call : Quorum

2. General Public Comment (Please limit public comment to items not on the agenda):

- **Peter Witt:** I would like to talk about Fog City's numbers. I was told by Com Oneto that the rules were going to handle the numbers not matching. I was wondering why it takes this committee to enforce rules that are already laid down. Fog City 810 is not in compliance. This is a redundant committee; the Taxi Commission should be doing this so we can save time.
- **Michael Spain:** In the beginning I had hope for this committee; instead this is not what has happened here. We created more than there already were in addition to making rule stronger. Nothing is done to make these rules easier for MTA. This committee has been much politicized and has created more fines and opportunities against taxi companies. Paul, you hand pick the people for your committee so they can vote in your favor. I don't see the legitimacy in these types of committees.
- **Com Breslin:** I just want to for the record say that there have been many issues that we have not been unanimous about. Unfortunately because everyone doesn't attend every meeting. I am more than welcome to speak to anyone who cannot make the meeting. I think we all have done well.
- **Keith Raskin:** Taxi Association. I want to thank Director Thigpen for the meeting Friday it was very informational. In response to Peter Witt the numbers have been changed and they work better with black.
- **Com Breslin:** If that's on tomorrow night's agenda we won't discuss it today. Commissioners, if you want to discuss workers compensation today, let me know.
- **Com Oneto:** I prefer to have someone here from the state or at least someone who is more knowledgeable than we are.
- **Com Gillespie:** I'm not prepared to talk about it today. We will have a good start tomorrow. We need to have a whole discussion about workers compensation.

Public Comment

- **Michael Spain:** I don't know why the commission would take it up at all. Why is the Taxi Commission interfering in the business practices of the companies? There is a workers compensation ordinance but it does not apply to taxicab companies. Why don't you let the state do their job?
- **Charles Rathbone:** As you look into workers compensation, review your own rules and regulations. Who is required to comply with workers compensation laws, Medallion Holders or Color Schemes?
- **Gratchia Makarian:** I think we need to make Medallion Holders responsible for workers compensation not Color Schemes. The more information you get from the state the more you are going to get confused.
- **Peter Witt:** This is one of the first items on the Taxi Commission agenda. How come we keep going in circles? We haven't got a definition yet, we seemed to be passing the compensation book. You guys are here to define, enforce and set the rules.
- **Mark Gruberg:** Here is a partial answer to Michael Spain's question. The city owner of a taxicab permit has to make sure those people are eligible and qualify for workers comp.
- **Dir Thigpen:** He is referring to what is in the MPC sections; 1147-1147.6 (reads). As state law changes the Color Schemes have a continuing responsibility to comply with those regulations.
- **Com Breslin:** I think this is just the reason we need to readdress workers compensation. This is a fitting subject for the commission to put an end to and assure that people are in compliance. I would like a full meeting time for this subject.
- **Dir Thigpen:** Workers Compensation, should this be the subject of the next Rules Committee Agenda?
- **Com Gillespie:** Find a copy of Bay Cabs case, Henry wrote a long discussion and we can use a copy of that.
- **Dir Thigpen:** Regarding item #9. I want to thank Commissioner Breslin for getting us the room at the Hyatt. All but four attended, everyone was very respectful and the meeting was very productive. We also discussed how our office can better communicate with them. Unfortunately we did not get to the discussion of Color Scheme Standards as we had originally planned.
- **Com Breslin:** Were there any comments about dispatch requirements and size of companies?
- **Dir Thigpen:** Yes, very extensive and I promised them that I would summarize all their comments.
- **Com Breslin:** Commissioners; after public comment on 9 should we go directly to 11?
- **Com Gillespie:** I feel like long term leases are a priority since we have it on the agenda for tomorrow night.

Public Comment (Item 9)

- **Charles Rathbone:** Color Scheme Standards are the way to go. I think that the Color Scheme is the place to affect useful regulatory changes
- **Michael Spain:** Are there specific rules changes. Anything planned to discuss that we haven't discussed?
- **Com Breslin:** We have a discussion and the commission proposes if we are going to discuss it. There is nothing pending on the Color Scheme standards. We go through the rules one by one, get comments from the public and then we look to a consensus.
- **Michael Spain:** Public comment on something we are not discussing is odd to me. I've never seen this structure. Some larger companies use this for their own business practice models.
- **Gratchia Makarian:** There are many interesting things that we agree on and we look forward to work through. I urge commissioners not to put all eggs in one basket. I think it might be delayed or problems down the road.
- **Carl Macmurdo:** I see that the meeting started an hour early.
- **Peter Witt:** On the standards set, they are not performance related and I think that's a problem.

3. **Adoption of Minutes from the July 21,2008 Subcommittee Meeting [ACTION] :**

- Adopted without objection

4. **Consideration of Commission's Rules Concerning Long Term Leases [DISCUSSION AND POSSIBLE ACTION]**

- **Oneto:** The requirement of leases to be documented, I have discussed with Tom Owen whether we could require it as the rule sits at the moment which we can. He gave us some language on that.
- **Com Breslin:** Read each section Rule 4 item C1 which is in the Rules and Regulations book.
- **Dir Thigpen:** Tom Owen's proposal eliminates 4C2 and adding six new ones in addition to that.
- **Tom Owen:** The police code deals with the obligations of the permit holder. The idea behind regulatory change was to pick up the other relationships.
- **Dir Thigpen:** Right now the Color Scheme should be submitting leases to the ED's office.
- **Tom Owen:** Correct.
- **Com Gillespie:** I'm trying to get a handle on our agenda for tomorrow night
- **Com Breslin:** A resolution does not settle out the practical application.
- **Com Gillespie:** My concern about the resolutions tomorrow night makes long term leases and prepayments illegal.
- **Dir Thigpen:** What would be helpful is if we identify the pros and cons of long term leases.
- **Com Oneto:** We have no way of policing the brokers and how it becomes. I believe the situation is usually that a Medallion Holder is going to a Color Scheme and paying to use colors, someone gets a lease, and then someone releases it. I'm not unfavorable of long term leases but the way its structured now it's unmanageable. I'd like to see it go one way that way we can resolve the situation, if it's not doable we have to get rid of long term leases, to stop the brokers.
- **Com Gillespie:** If it's illegal under our current rules for a 3rd or 4th party "broker" should we have it all under gas & gates?
- **Com Breslin:** Commissioner Oneto has done a lot of work with the City Attorney and I would like each of them to be read off. I do not like to see a date at the top of the resolution because it makes awkward record keeping.
- **Com Oneto:** It was a situation that was going to be brought up on August 15th. This went to the supervisors and it passed unanimously. I believed that all the commissioners should have that in front of them to decide.
- **Com Breslin:** We are supposed to be talking about lease operations. I would like to talk about these different rule proposals to see if they are necessary and should be considered to have color schemes comply. Let's get back to the lease rules; the first rule on page 8, C1 is going to stay the same.
- **Com Oneto:** Reads first proposal on 4C1.
- **Com Breslin:** Public Comment on 4C1.

Public Comment

- **Charles Rathbone:** Define what kind of relationship between various parties are ok and not ok.
- **Mark Gruberg:** The first sentence of layers of leasing is unnecessary and would become redundant to specific rules. The second part on the taxi driver and not on anyone else certainly needs to be corrected.
- **Gratchia Makarian:** I agree with Mark and Charles. I don't think that Com Oneto knows the definition of Long Term Leases or Independent Contractor or Single Shift Operators.
- **Com Breslin:** I do want to follow up on that, your recommendation is for us to define each one. To put within this section.

- **Hal Mellegard:** Brokers, layers, I know what you mean. Brokers are not an official layer. There are no leases to back these brokers up it's just a hand shake deal.
- **Michael Spain:** I'm against this, but I think the aim is to of course go after these brokers. You're trying to create rules that you can never actually enforce. This is not based up contracts or written documents, brokers often time have a good role.
- **Peter Witt:** I'm wondering is 4C1 define, should not be a long term lease?
- **Dir Thigpen:** No it does not do so.
- **Peter Witt:** If a long term lease is allowed, my only gripe would be that they are not accountable and there is plenty room for abuse there. There is a big gap in monitoring long term leases.
- **Com Oneto:** Reads Section C2; proposed demand.
- **Tom Owen:** You could say, written agreement written modified leases or you could just keep repeating it, subsection 4 talks about privities, someone operating under the same medallion.
- **Dir Thigpen:** What that would mean is that any gas & gates driver would have to sign a written agreement with the Medallion Holder. That's going to create problems.
- **Tom Owen:** You can have a generic agreement for gas & gate drivers.

Public Comment

- **Mark Gruberg:** I just think that it's really more than too much to expect to assimilate this comment intelligently. I suggest putting this off when we have it in written form for all of us to see.
- **Dir Thigpen:** Maybe after he reads it, I can say it in English instead of all these legal terms.
- **Mark Gruberg:** Leases should be in writing.
- **Gratchia Makarian:** Leases are already in writing. It's making me seem like we are trying to legalize brokers.
- **Carl Macmurdo:** I think you are headed in the right direction to get this in writing and to get rid of the brokers.
- **Michael Spain:** I think you should turn in the other direction. I don't see any reason you are trying to put this industry in a straight jacket. The different business relations out there are going to continue. This is not going to work and its going to continue along the lines it has for over 100 years.
- **Hal Mellegard:** The state does not have any entrepreneurial risks. In your minds to have to separate that.
- **Charles Rathbone:** The foundation that you need in order to define the relationships. Everything should be done in writing.
- **Barry Taranto:** Union cab that's why we need these in writing to protect. I think to protect them we need a written lease agreement. My concern is that a copy of it should be held at the Color Scheme.
- **Com Breslin:** Public Comment closed.
- **Dir Thigpen:** This requires that the lease is in writing, has to be filed with commission annually. Any changes have to be filed upon changes within 10 days of executing it.
- **Com Breslin:** We already have in the rules that they have to be at the Color Scheme so this is adding that it needs to be at the Taxi Commission office?
- **Dir Thigpen:** It is an existing rule, it's in the MPC.
- **Com Gillespie:** MPC 1124 states that since what date?
- **Dir Thigpen:** since 1988.
- **Tom Owen:** Adopted by the Board of Supervisors and recommended by the Police Commission.
- **Com Gillespie:** I don't have a desire to have a copy of leases in the Taxi Commission office. We have to have knowledge of every taxi in San Francisco. Question; do we need a copy of that in the office?

- **Dir Thigpen:** If it's at the Color Scheme, I think that's enough. If we had a standard lease or something similar, something that can be a guideline approved by the commission. If the driver signed the lease with the Color Scheme that will solve most of the problem.
- **Dir Thigpen:** The vast majorities of these rules were passed in 1988.
- **Carl Macmurdo:** What happened I think is that Prop K in 1978 they found 10 years later nothing was done and something needed to be put in the code.
- **Com Breslin:** Public Comment on copies of leases to Color Schemes/Taxi Commission.

Public Comment

- **Charles Rathbone:** I hope that you don't throw these leases into a box and not look at them. It would be on us during an audit to demonstrate.
- **Gratchia Makarian:** I don't think that we should create more work for Jordanna and her staff. Color Scheme has their responsibilities.
- **Keith Raskin:** There is already a lot in place. We have drivers rosters that we are required to submit to our dispatchers. That communication you are talking about is already in place. To go any further would be redundant.
- **Com Breslin:** Do you think it would be beneficial for the industry to have standardized leases?
- **Keith Raskin:** Everything else in the lease is protecting the Color Scheme and the risk of the driver.
- **Com Gillespie:** That's the lease that we sign.
- **Keith Raskin:** Your lease with Yellow just comes down to your timecard. Some companies allow drivers to work for other companies. Part of the audit is that a lease is submitted to the Taxi Commission.
- **Dir Thigpen:** Copies of the leases are to be submitted, that's a current rule.
- **Keith Raskin:** I don't know what more you would need.
- **Dir Thigpen:** I think it exist so the city can verify that the rule is not violated.
- **Michael Spain:** Finally you hit an idea I really like. I'd love to see the city attorney write up different lease agreements, just real simple language that we drivers can understand.
- **Mark Gruberg:** You did not want copies of all lease paperwork. Lease should be made with the contracting party. Guidelines for leases I think are a bad idea because it involves the commission.
- **Com Gillespie:** You think a copy should be on file with the city?
- **Mark Gruberg:** They should be on file at the Color Scheme. But you don't want to start setting the terms of the leases.
- **Hal Mellegard:** I agree with Mark. You don't want to get into storing more information.
- **Com Oneto:** What about the Medallion Holders who just lease your colors? What kind of leases do you have with them?
- **Hal Mellegard:** In that case we have a lease with the Medallion Holder and we have to know if they are insurable.
- **Com Oneto:** Even though the Medallion Holder is just using your colors you have a copy of all there leases?
- **Hal Mellegard:** No.
- **Com Gillespie:** Some of the Color Schemes don't know. Theoretically they can be driving without the knowledge of Yellow Cab.
- **Com Oneto:** The purpose is to know who is driving those cabs. To be able to monitor those leases they need to come into the Taxi Commission office.
- **Com Gillespie:** If the commission was to send an investigator out to a Color Scheme to see a copy of it at that time.

- **Com Oneto:** I would defer to what staff wishes on this.
- **Com Breslin:** There is no way of really knowing who is driving. If we have something like that in place we can have some enforcement in place.
- **Peter Witt:** 1988 we had a rule change; in 1999 we had a reform as well as 1998. Debate is whether it's enforceable. I don't think we want to double Jordanna's fund by having this. I would like to see the options and boundaries.
- **Keith Raskin:** This is a management issue coming from B&W and the way it was at Worldwide. The dispatch should have that information. Every Color Scheme, monthly lease or medallion operating on a color scheme basis should have who is operating that vehicle at all times.
- **Com Breslin:** What I've heard in both recommendations in C2, C3 not so much where the copies are kept or how many but more less definitions of what is a long term lease and who is allowed to contract for a long term lease. That is where we need to go rather than who is keeping the copies. In our current rules we don't have a definition for long term leases.
- **Com Gillespie:** I think this was valuable today. Tomorrow night is a little more confusing.
- **Dir Thigpen:** For next time, I'll work with Tom a little closer about the things that are already talked about. I would just say that the problem with Long Term Leases is that the Color Schemes do not have motivation to deal with brokers. There is only one person that has motivation to do something with the brokers other than the Medallion Holders. It's a big problem so any resolution we draft has to go into that problem. It's the Color Schemes bottom line that is being eaten into.

5. Adjournment. 2:33pm