PUBLIC SAFETY & TRANSPORTATION COMMISSION
Continuation of 10/9/00 Special Procedural Meeting
October 16, 2000

DRAFT

CALL TO ORDER

Chair Mary Gregory asked John Hastie, Vice Chair, to please chair the meeting since she was connected via phone. Mr. Hastie called the meeting to order at 7:09 p.m.

ROLL CALL

Present: John Hastie, Tae Hwa Chung, and Chief Robert Petitt. Present via phone were Mary Gregory, Guy Merculief, Mike O'Brien, Carl Berger, Louann Cutler, and Jack Snodgrass, and Cyndee Simpson-Sugar was the recorder. Mr. Blake and Mr. Berlin were absent.

APPROVAL OF MINUTES OF 10/9/00

Motion was made by Mike O'Brien and seconded by Mary Gregory to approve the minutes of 10/9/00 as amended. Motion carried unanimously.

SET PROCEDURES TO DECIDE ISSUES REGARDING TAXI PERMIT #73 ISSUED TO TERRYL MILLER

Mr. Hastie summarized Mr. Snodgrass' memorandum. It was confirmed that the purpose of the meeting was to consider setting procedures to go forth. Mr. Hastie asked that the record reflect that Mr. Brian Kay, Attorney for Terryl Miller, and Mr. Terryl Miller were in attendance. Mr. Hastie asked Mr. Kay to make his recommendations on behalf of his client regarding setting procedures.

Mr. Kay stated that on behalf of his client Terryl Miller they object to reopening the hearing. He sited BMC 5.20.050 "Hearings and Appeals" and felt it did not provide for such, as well as, for motions to reconsider. He also said that there is authority for appeals in BMC 5.20.050, but it doesn't give members of the committee the right to appeal, it gives the person who appeared before the committee the opportunity to appeal a decision of the Transportation Inspector or Committee. Mr. Kay ended by asking the commission to deny the request to reopen the hearing asked to deny the Motion to Reconsider.

Mr. Hastie asked for comments from members connected telephonically. Mike O'Brien said that Mr. Kay may or may not be right regarding the City's ability to appeal a decision of the Public Safety & Transportation Commission. He also mentioned that there are issues that were not brought up at the original hearing that include Mr. Miller not having a valid business license and there may be sales tax owed to the City.

Mary Gregory stated that the Commission voted 5 to 1 not to revoke Mr. Miller's permit and she was asked for a written decision; it was handwritten and delivered to Mr. Miller. She said that later Mr. Miller asked to have the decision on official letterhead. Mr. Hastie pointed out that later Mr. Miller withdrew this request and also mentioned that the business license issue was not brought out as testimony or an exhibit and therefore cannot be considered at this juncture.

Mr. Snodgrass spoke of his concerns regarding the incomplete record presenting examples to support his concerns and stating that it is very difficult for a judge to decide an administrative appeal upon an incomplete record. He also stated that he believed it was not without precedent to reopen a hearing in situations where an incomplete record existed.

Mr. Hastie expressed his frustration with the mistakes that have occurred; he doesn't feel Mr. Miller should have to prove his case again. He said that he feels the ordinance is bad law and they've asked individuals to get together and write a law that is amenable and fits the cab industry.

Louann Cutler and Mr. Berger were connected to the meeting. Mr. Hastie brought everyone up to speed.

Chief Petitt stated that it is important to interpret the spirit of the law as delineated by the authors of the law. He stated that he has done a lot of research as to the intent of the authors of the ordinance and has read through many documents from the meetings and discussions of how this ordinance came into effect and has based his conclusions on the intent of those authors at the time. The reason the "Motion for Reconsideration" was made is because there have been several procedural errors conducted and flaws within the "Findings of Facts and Conclusions of Law." This warrants an appeal. He also commented that we need to work within the framework of the ordinance, focus on the procedures, and then focus on the issues.

Ms. Cutler commented that we are here only to establish procedures for moving forward and she assumed that the Commission would follow what Mr. Snodgrass suggests. Ms. Cutler stated that Mr. Miller was asked whether or not he would agree to put his proceeding at bay, along with the other folks who decided to put theirs at bay, while we rewrite the ordinance. Ms. Cutler indicated that he specifically chose not

to do that and that is why this is going forward, because Mr. Miller specifically requested that that happen.

Mr. Kay summarized his previous comments regarding the setting of procedures for Ms. Cutler and Mr. Berger who, due to technical difficulties out of our control, were connected to the teleconference late.

In response to Mr. Kay's comments, Ms. Cutler said that courts commonly look to other models when ordinances or statutes don't specifically lay out procedures. She stated that there are very clear procedures in the rules that govern judicial proceedings and believes they are appropriate for application in quasi-judicial proceedings. Ms. Cutler said that we can resolve this matter and she encouraged the committee to follow Mr. Snodgrass' advice.

Mr. Merculief asked Mr. Snodgrass to comment. Mr. Snodgrass again, expressed his concern for the incomplete record. He said he is trying to cure the problem of the incomplete record and the rest of the problems will fall in line. He advised the commission to consider the six points that he sets out in his memorandum and proceed from there.

Mr. Hastie stated that his notes were used when they created the "Findings of Facts and Conclusions of Law," and he also felt that it was the mistake, on the lawyer's part, when they were advised they had a quorum when they did not. Mr. Snodgrass admitted it was his mistake. Mr. Hastie said that mistakes have been made all around and he wanted to put this matter to rest. He felt the commission should deny the request to reopen and to deny the motion to reconsider. He suggested that the "Findings of Facts and Conclusions of Law" be renewed and obtain the additional signature or signatures needed.

Ms. Cutler stated that the ordinance is what it is. Some may not like the policy the Council made when it enacted the ordinance, but for now that is what the ordinance says. She added that the Chief of Police was attempting to enforce equally; Mr. Miller has not been singled out. Chief Petitt has made an attempt to treat everyone equally. What is different about this proceeding is that Mr. Miller has chosen to go ahead. Perhaps everything has not gone along perfectly at every juncture, but we have made every effort to treat everyone fairly. Again, she urged the commission to follow

the advice Mr. Snodgrass has given, because he is doing his best to set up a procedure that would be fair to everyone.

Mr. Merculief suggested that the Commission go with Mr. Snodgrass' recommendations and hopefully come up with something suitable to both parties.

Mr. Hastie proposed that the "Findings of Fact and Conclusions of Law" be renewed. He entertained a motion. Motion was made by Mr. Berger and seconded by Mr. Merculief to renew the Findings and Fact and Conclusions of Law and obtain necessary signatures based on a quorum. Discussion followed on the motion. Mr. Berger withdrew his motion so the rules of order could be amended allowing an agenda item to be added. Mr. Merculief agreed to withdraw his second of the motion.

Motion was made by Ms. Gregory and seconded by Mr. Berger to amend the rules of order. Mr. Hastie called for the question. Motion carried unanimously.

Motion was made by Mr. Berger and seconded by Ms. Gregory to amend the agenda to include "Discuss the Findings and Fact of Conclusions of Law." Discussion followed on the motion. A break was taken at 9:15 p.m. The meeting reconvened at 9:20 p.m.

The meeting reconvened at 9:20 p.m. on October 16, 2000. Discussion continued on the previous motion that was made. Mr. Berger withdrew his motion and Ms. Gregory withdrew her second of the motion. Discussion followed on what to add to the agenda. Mr. Snodgrass summarized his memorandum.

Motion was made by Mr. Berger and was seconded by Mr. Merculief to amend the agenda to include "Consider the Findings of Fact and Conclusions of Law." Discussion followed. It was decided that the intention of the motion was for Mr. Chung and Mr. Berger to render their vote after an oral reading of the Findings of Fact and Conclusions of Law. Mr. Berger withdrew his motion and Mr. Merculief withdrew his second.

Motion was made by Mr. Berger and seconded by Ms. Gregory to amend the agenda. Discussion followed. Mr. Berger amended his motion to amend the agenda to allow the

Commission to consider the "Findings of Fact and Conclusions of Law." Mr. Hastie called for the question. Motion carried unanimously.

Mr. Hastie read the "Findings of Fact and Conclusions of Law."

Motion was made by Mr. Berger and seconded by Mr. Merculief to allow for the two Commissioners present at the July 13, 2000 hearing, who have not yet voted, to be able to vote on the Findings of Fact and Conclusions of Law. Mr. Hastie called for the question. The motion carried unanimously.

A roll call vote was taken from the two Commissioners who were present at the July 13, 2000 hearing, but who have not rendered their vote on the Findings of Fact and Conclusions of Law. Mr. Chung voted yea and Mr. Berger vote yea.

Chief Petitt inquired about submitting a Motion to Reconsider. Discussion followed on Motion to Reconsider. Mr. Snodgrass suggested that it be submitted quickly if one is going to be submitted. Discussion followed on the ordinances

ADJOURNMENT

Motion was made by Mr. Berger and seconded by Mr. O'Brien to adjourn the meeting. Motion carried unanimously.

PASSED AND APPROVED THIS _____ DAY OF _____, 2000.

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Mary M. Gregory, Chairperson

ATTEST:

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Cynthia J. Simpson-Sugar, Recorder