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Transcript of the Meeting of the

7

TAXI AND LIMOUSINE COMMISSION

8

9 Held on Thursday, February 9, 2006

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40 RECTOR STREET

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Borough of Manhattan

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TANKOOS REPORTING AND VIDEOCONFERENCING

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1 Meeting convened at 9:50 a.m.

2 P R E S E N T

3 MATTHEW W. DAUS
Chairman

4 ELIAS AROUT
5 Commissioner

6 NOACH DEAR
Commissioner

7 HARRY GIANNOULIS
8 Commissioner

9 EDWARD GONZALES
Commissioner

10 ELLIOT SANDER
11 Commissioner

12 HOWARD R. VARGAS
Commissioner

13 IRIS WEINSHALL
14 Commissioner

15 CHARLES FRASER
General Counsel

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1 PROCEEDINGS

2 CHAIRMAN DAUS: Good morning,
3 everybody. Sorry for the delay. I would like
4 to go right to the agenda. First, the
5 Chairman's Report.

6 On the customer service technology
7 enhancements, within the next few days we will
8 hopefully be sending the package to the
9 Comptroller of the City of New York with the
10 contracts. Four have been executed to date.
11 Within the next few weeks to month, I expect
12 that we will be briefing the Commissioners,
13 bringing them up to speed and we will be
14 providing more information to the industry in
15 some format. So we will keep you posted on
16 that.

17 On the reciprocity front, the issue
18 between Nassau, Westchester, as I reported at
19 our last public meeting, the administration
20 and the TLC are exploring the possibility of
21 statewide legislation that would deal with the
22 issue as opposed to having piecemeal

23 agreements between various counties. To that
24 end, we are working on some drafts and we have
25 had two productive meetings. My staff and I

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1 met with Commissioner Bobstead from the Nassau
2 County TLC, we had a productive meeting. And
3 just this past week we met with Commissioner
4 Monaghan from the Westchester County TLC. And
5 the discussions were very fruitful, we agreed
6 to look into agreeing, and it was very, very
7 well received. So now we are at the point
8 where we are going to start negotiating,
9 talking, and see where it goes from there.

10 At the last Commission meeting, we
11 had a presentation regarding LA Plates, which
12 I thought staff did a terrific job on
13 condensing the issue, explaining it to the
14 Commissioners, and telling a little about what
15 we have been doing enforcement-wise. To
16 further the goals of making sure that we
17 tighten up this process and we deal with the
18 wrong doers, we had a meeting with the State
19 Insurance Department, the First Deputy
20 Commissioner Lou Petralongo (ph) was here.
21 Staff and I met with him to explain the issue

22 to them so that they can take any action that
23 they need to take on their part involving
24 brokers and insurance companies to make sure
25 that the process is tight so we don't have a

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1 reoccurrence of the problem.

2 We also met with -- we had here last
3 week the Executive Deputy Commissioner for the
4 Department of Motor Vehicles and the Deputy
5 Commissioner of Operations, Ren Donado (ph)
6 and John Hillier {ph} respectively. Ray
7 Martinez, the Commissioner, has moved on, he
8 is working for Condoleezza Rice apparently as
9 Chief of Staff of Protocol, I think that's the
10 right title. He was very, very helpful. Most
11 of his staff remains in place, and there is a
12 new Commissioner that I believe the Governor
13 has named we will be meeting with her in the
14 next --

15 COMMISSIONER WEINSHALL: Who is it?

16 CHAIRMAN DAUS: I don't know her
17 name. I don't know if it has been announced
18 yet, officially and publicly, but there is a
19 new Commissioner coming in and we will be

20 meeting with her in the next two to three

21 weeks hopefully.

22 Meanwhile, the DMV has a copy of the

23 presentation that was made here at the last

24 Commission meeting regarding LA Plates. Eric

25 and Andy and I explained the problems to them.

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1 They were very, very receptive and don't seem

2 to have a problem with some of the rule

3 proposals that we were talking about. So we

4 will also start having regular meetings with

5 the DMV, whether it's quarterly or whatever,

6 periodic meetings that will address some of

7 the issues because they are basically a sister

8 agency, we have to work with them hand in hand

9 on a lot of licensing issues, so a lot of this

10 is going to be administrative work, but the

11 important thing on the LA Plate issue is that

12 there seems to be an agreement by our partners

13 in state government that we want tackle this

14 and clean it up.

15 In terms of upcoming Commission

16 meetings, the next two Commission meetings

17 will be March 9th and April 4th. As you know

18 and as I announced at the last meeting, it's

19 going to be a standing meeting every second
20 Thursday of each month. Because of Passover,
21 we had to change the date and move it up to
22 the first week of April. The agendas will be
23 posted on the website. I can tell you that at
24 least on March 9th, we will be having a public
25 hearing regarding the lease cap rule, which is

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1 a hearing that is mandated by law. So that
2 will be at least one of the agenda items.

3 Also, we have an industry notice in
4 the back, and I believe it may be posted at
5 this point, reminding everybody about the Toy
6 Fair at the Javits Center. Cabs are needed,
7 so for fleets and agents and other operators,
8 if you could be kind enough to help distribute
9 that notice to drivers, the dates are February
10 12th to the 15th, and cabs are needed there.

11 As we know, there has always been an issue
12 getting cabs to the Javits Center, but
13 especially during the Toy Fair, it is a very,
14 very big seminal convention and the Javits
15 Center and NYC & Company have asked for our
16 help in disseminating that information as we

17 did last year.

18 Also, we will have some more details
19 at the next Commission meeting about the
20 upcoming medallion sale. As you know, it
21 needs to be conducted and completed by June in
22 accordance with our current plan. If anything
23 changes, we will let you know. Obviously, we
24 will have some house cleaning that will need
25 to be done. We need to take a look at the

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1 rules and make sure that the rules regarding
2 the auction still make sense and there is
3 nothing that we want to change, and,
4 hopefully, we will have more information about
5 that at the next meeting.

6 Last, but certainly not least, we
7 have some changes to the for-hire vehicle and
8 paratransit renewal transaction policies and
9 licensing, so I will now ask Barbara to talk
10 about that. There is an industry notice
11 that's out there to deal with the renewal
12 process, so if you could just bring us up to
13 speed, Barbara, with what we are changing.

14 MS. SCHECHTER: Good morning,
15 Commissioners and Mr. Chair. We just wanted

16 to remind the Commissioners and our audience
17 today that the March renewal period is
18 approaching very swiftly and the License
19 Division, as it does every year, has put plans
20 in place to absorb what we know based on prior
21 years' experience, will be a significant
22 increase in the volume of new, renewal and
23 transfer applications.

24 This is caused by the fact that most
25 for-hire vehicle insurance policies expire on

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1 February 28th of each year, and if the insured
2 let's that policy lapse, the policy is often
3 reinitiated on the February 28th date and the
4 vehicle owner comes to the TLC with a new
5 application and new insurance. In addition,
6 many renewals occur on this date because DMV
7 used to have all its registrations expire, all
8 its FHV registrations expire on February 28th
9 of each year statewide. In recent years, DMV
10 has staggered those expiration dates, but the
11 insurance companies, largely, have not
12 followed suit, so we still have the issue of
13 increased volume caused by that.

14 We have had for several years a
15 successful appointment process, that's going
16 to remain in place with one notable change,
17 renewal applications this year are going to be
18 received either by mail or by drop-off in a
19 deposit box at the TLC's Long Island City
20 facility. And this is going to be rather than
21 by appointment at the window. This will
22 ensure that renewals are completed timely, as
23 we have allotted ample time for those renewals
24 to be sent back to us in time. And it will
25 be very efficient because there will be no

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1 on-site waiting for renewals at the Long
2 Island city facility.
3 To help everybody, we posted a
4 comprehensive industry notice on the website,
5 as the Commissioner mentioned. That should be
6 up there right now, and you have hard copies
7 outside. And that describes in great detail
8 the procedures for conducting transactions
9 during the busy period. In addition, that
10 industry notice is accompanied by a very
11 detailed checklist which demonstrates exactly
12 what materials are needed to complete an

13 application for any kind of transaction. So
14 we have great confidence that the busy period
15 will go very smoothly.

16 Any questions?

17 CHAIRMAN DAUS: Any questions from
18 any Commissioners on any of the topics?

19 (No response.)

20 CHAIRMAN DAUS: Okay. Thank you,
21 Barbara.

22 Any questions on my report or other
23 matters?

24 COMMISSIONER DEAR: First of all, I
25 just want to thank you, Mr. Chair, for really

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1 taking the issue on with Nassau County and the
2 border fight which we sort of have, and I
3 appreciate that you have made all efforts.
4 But for the record, I want to make clear that
5 it is totally unfair what is happening there,
6 and we had many discussions and I know that I
7 had a stronger opinion that if they are going
8 to start the war, then we have to retaliate
9 and we have to protect our drivers because the
10 last thing I want is someone to be driving

11 someone from here to be picked up at one of
12 the companies or a law firm or whatever it may
13 be, the black car, and then get into Nassau
14 County and have them picked up. And I had one
15 incident which we talked about, and, again,
16 you assured me that this should be resolved,
17 and I want to make sure we are going in that
18 direction, whatever it takes, that we have to
19 work with the other Counties, keeping in mind
20 that the federal law supersedes everything.
21 That if someone were to decide that they
22 decided that they had had enough with us and
23 what's going on, they could register in New
24 Jersey and start dropping off here and we
25 can't do anything about it.

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1 So the last thing I want is for
2 companies to start fleeing from here, our
3 jurisdiction. And also we have a
4 responsibility of making sure to protect our
5 black cars as well, so I appreciate the
6 efforts and let's continue to make sure that
7 this issue is finally resolved.

8 CHAIRMAN DAUS: You have our
9 continued assurances that we will do

10 everything we can to work towards a peaceful
11 solution.

12 COMMISSIONER DEAR: For the record,
13 I wanted also to thank Mr. Goldstein. The
14 last time I came here with an issue of lost
15 religious articles and they described the car
16 and, unfortunately, we didn't find it, but the
17 effort they made, I couldn't believe it. They
18 called all the cars because they knew it was a
19 van. I think that shows a lot. In fact, I
20 know you got an e-mail from one of the people
21 to thank you for your efforts, and I wanted to
22 thank you publicly and Mr. Goldstein.

23 CHAIRMAN DAUS: You are very
24 welcome. Thank you, Noah.

25 Any other questions, comments about

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1 other matters?

2 (No response.)

3 CHAIRMAN DAUS: Okay, let's proceed
4 to Item 2 on the agenda, the adoption of the
5 minutes of the January 12th Commission
6 meeting.

7 Any comments, questions, changes on

8 the minutes?

9 COMMISSIONER GONZALES: I make a
10 motion to adopt the minutes.

11 CHAIRMAN DAUS: A motion to adopt.
12 Is there a second?

13 MS. WEINSHALL: Second.

14 CHAIRMAN DAUS: All in favor,
15 signify by saying "aye."

16 (Chorus of "ayes.")

17 CHAIRMAN DAUS: Any opposed?

18 (No response.)

19 CHAIRMAN DAUS: Okay, it's
20 unanimous.

21 Item 3: We have two public hearings
22 today. I will turn it over to Chuck in a
23 second. We are going to deal with the pilot
24 program rules first. We have some
25 preregistered speakers and some people who

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1 have signed up. Just so people understand
2 what our intent is here, and there may be
3 various ways of accomplishing this, when we
4 sat down and started talking about putting
5 such rules in place, we spoke about having a
6 uniformed format for the presentation of

7 ideas, which is something we are trying to
8 accomplish so that everybody knows what they
9 need to do to submit new ideas to the
10 Commission to further innovation in equipment
11 design and modes of service.

12 Also we wanted to make sure that
13 there was some type of time frame for getting
14 an expeditious response from the TLC. We
15 thank everyone, probably also some people who
16 in this audience today, for being very patient
17 over the last couple of months as we have
18 developed these rules because I know you have
19 been submitting proposals and they have been
20 sitting in my office and Andy's office and we
21 have been telling you, "Please wait, we want
22 to get a process in place." Well, now is the
23 time to do that.

24 I think the other thing I asked staff
25 to do is to look into making sure that we have

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1 input from the Board of Commissioners prior to
2 implementing the pilot programs so that we can
3 draw from their vast experience and expertise,
4 and that we, as a Board, can make decisions as

5 we go forward in an open transparent way on
6 whether, one, to conduct a particular program
7 or not to conduct it. And also, if we do
8 conduct the program, to provide for
9 uniformity, consistency, and let the whole
10 public know so that if there are other people
11 interested in participating, more will come
12 into the fray and for more people being
13 involved, hopefully, in the marketplace of
14 ideas, you will get the best product, the best
15 technology.

16 And the parameters of the program
17 would include such things as the duration of
18 the program, the size of the program, how many
19 participants or vehicles if it's a vehicle
20 issue. And most importantly, and this is
21 something Andy and I spent a lot of time on
22 and we feel very strongly on, is benchmarks
23 for success. And this is something I think
24 that has been raised by Commissioners in
25 discussion on other issues. Before we start a

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1 program, what are we trying to achieve, how
2 are we going to measure it, and what is the
3 benchmark for success. So with that being our

4 intent, we are happy to hear from the public
5 and the Commissioners into how that translates
6 into an actual rule that will govern as we go
7 forward.

8 So now I would like to turn it over
9 to Chuck. He will talk a little bit about the
10 details of the rule and then we will proceed
11 to this as our first public hearing.

12 MR. FRASER: Just a little bit more
13 to add. The City Charter provision that
14 spells out the Commission's authority and
15 responsibilities includes a provision that
16 authorizes the Commission to encourage
17 innovation and experimentation in relation to
18 type and design of equipment and modes of
19 service and manner of operation. This
20 proposed rule is intended to implement that in
21 a way that is systematic and transparent.

22 The proposed rule provides for a
23 procedure for the submission, the approval,
24 the implementation and then the evaluation of
25 pilot programs. Pilot programs being anything

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1 that will vary from our existing rules or

2 statutes.

3 The proposed rule was published in
4 the City Record on January 6th. The deadline
5 for receipt of written comments was February
6 6th. Three written comments were received and
7 all the Commissioners should have copies of
8 those.

9 CHAIRMAN DAUS: Okay, great. We
10 would like to now proceed to the first
11 preregistered speaker, Eugene Mallard from Ad
12 Fleet Advertising

13 MR. KERR: Good morning. My name is
14 actually Tim Kerr, I am the Chairman of Ad
15 Fleet Advertising and I am here with my
16 colleague Ian Classon, our President. We are
17 here this morning to respond to the
18 Commissioners requests for comments regarding
19 the proposed rules for pilot programs.

20 I would like to thank the Taxi and
21 Limousine Commission for allowing us the
22 opportunity to comment, and we greatly
23 appreciate the time that the Commission staff
24 is taking in creating these guidelines.
25 Rather than provide our comments in writing,

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1 we felt it more productive to comment in
2 person.

3 I would briefly like to introduce our
4 company and our unique product which many of
5 you may already know. We have been featured
6 on television including ABC, CNBC, Squawk Box,
7 and numerous magazines and newspapers. We
8 have created a unique advertising program
9 based on our patented hubcap design.

10 Basically we provide advertising space that is
11 located on hubcaps which are securely attached
12 to the wheels lug nuts and engineered so they
13 do not rotate. The optical effect allows the
14 public to read the message even though the
15 taxicab is in motion.

16 The unique appearance of the wheel
17 covers are usually part of a larger branding
18 campaign. By working on these larger
19 campaigns, we have been able to allow the
20 quality of our advertisers to stay high. The
21 wheel covers have proven a simple highly
22 effective tool in all our markets and demand
23 is growing rapidly. We hope to be able to
24 serve the New York market in the near future.

25 We provide each city where we operate

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1 with a significant economic generator that
2 would have otherwise been missed, including
3 payments to the taxi industry, the advertising
4 industry, printers, maintenance providers and
5 other vendors. We currently use a New York
6 printer to create all our wheel covers and
7 will create even more jobs by opening an
8 office in the city. Specifically, we
9 appreciate the Commission's efforts to develop
10 a standard set of guidelines. We are
11 impressed by the proposed rules and feel they
12 are thorough, simple and cover multiple
13 potential pilot programs with a concise
14 document.

15 After examining the rules, we walked
16 our project through them to see how they would
17 function. After conducting this test, we are
18 confident the proposed rules are good and will
19 work well for us. We are pleased to see the
20 60 day response period. This is adequate and
21 gives respondents feedback in a reasonable
22 time frame. The only issue we hope to see
23 developed further is the linkage between pilot
24 programs and long-term approvals. We would
25 like to know how the Commission intends to

20

1 proceed after the end of pilot programs. In
2 general, we will happy to apply under the
3 proposed rules. We hope that you will note
4 our comments and are certainly available to
5 discuss them with the Commission staff.

6 Thank you very much.

7 CHAIRMAN DAUS: Thank you, Mr. Kerr.

8 Next speaker is Bill Dell, BD for
9 Business Development at SGS Testcom.

10 MR. DELL: Good morning. Thank you,
11 Mr. Chair and Commissioners. I did submit
12 comments in writing and in the interest of
13 time, I am not going to read those.

14 I just briefly want to introduce
15 myself. My company, SGS Testcom, is
16 headquartered in upstate New York. We provide
17 a variety of quality assurance services, data
18 communication reporting, a number of products
19 and services to the State of New York Motor
20 Vehicles in support of the inspection program
21 here, vehicle inspection program. Last year
22 we rolled out some very innovative technology
23 at 10,000 inspection stations throughout the
24 state. And we love these rules. We like

25 innovation.

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1 I made just one suggestion in my
2 written comments that I encourage you to take
3 a look at, and that is to enhance innovation
4 even further, we believe it would be a good
5 idea to have rules also provide a means to
6 inform the public and other interested parties
7 of proposed pilot programs as soon as they are
8 proposed to the Commission or within a very
9 short period of time. I suggested five days.

10 That way other companies that may want to
11 participate or have similar ideas or may want
12 collaborate can also get involved in the
13 innovative process.

14 I have seen this work extremely well
15 in other jurisdictions. We do programs all
16 across the country, all around the world
17 including taxi and limo and for-hire vehicle
18 services in London, England and Ireland, so we
19 think we have some ideas we would like to
20 present to the Commission. These rules are
21 great, and if we get this advance notification
22 of other proposals, we can perhaps see an
23 opportunity to collaborate and provide

24 alternatives or to work with other companies.

25 So I applaud the Commission, I think this is a

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1 great idea. Thank you very much.

2 CHAIRMAN DAUS: Thank you.

3 COMMISSIONER SANDER: I am just

4 curious, sir, where in upstate are you

5 located?

6 MR. DELL: Ballston Spa, right

7 outside of Saratoga Springs.

8 CHAIRMAN DAUS: Thank you, Mr. Dell.

9 The next speakers are Mr. Ed Torres

10 and Bob Smith from Ubiquitous Media.

11 MR. KRESSIN: Good morning. Thank

12 you for having us, Commissioners and Mr.

13 Chair. My name is Rob Kressin with

14 Advermotion and we have teamed up with

15 Ubiquitous Group, with Bob Smith, who is the

16 Chairman, and Ed Torres, who is CEO. May I

17 leave these with the Commission?

18 Thank you, sir.

19 Briefly, we also love the rules and

20 what's going on with the Commission. Briefly,

21 what Advermotion does is Advermotion currently

22 is out of Gaithersburg, Maryland, out of the
23 Washington area, but we are moving with a deal
24 that we have just cut with Ubiquitous, heading
25 up all the sales and everything for our

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1 company to New York City, and we are excited
2 about that.

3 What we do is we put ads on the back
4 windows of cars, and we very excited about
5 what is going on here with the Commission
6 because we use very high quality, we partnered
7 with Warner Brothers in southern California,
8 so they use vinyl that you can see through
9 from the inside and it passes all the safety
10 regulations of the State of New York.

11 We currently have programs going on
12 in California, Pennsylvania, and soon in
13 Texas. The procedure that we work through, of
14 course, with the rules that the Commission
15 passes, we work strictly under the rules and
16 regulations that are passed. As we work with
17 advertisers, and also community service
18 programs which have just become available
19 through some new programs that have been
20 approved and funded through the federal

21 government, safety programs, we have also
22 retained and are very fortunate to be working
23 with a gentleman named Rodney Slater, who was
24 the Secretary of Transportation under
25 President Clinton's Administration, and there

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1 is a lot of new dollars available, and in New
2 York to go after, through a company like ours
3 which fits into the guidelines of DOT to bring
4 safety messages like drunk driving, buckle up,
5 click it and ticket programs, into New York
6 City with normal advertising.

7 CHAIRMAN DAUS: Have you already
8 received such funding?

9 MR. KRESSIN: No. The funding is
10 approved on the new programs and it available
11 starting 2007, so we are starting to get
12 approved by DOT now. That will be one part
13 of it, along with the regular advertising
14 campaigns that are run.

15 The description is, of course, the
16 Warner Brothers high quality, and it goes on a
17 rear window, and all the safety aspects have
18 been met under the guidelines of New York.

19 For a sign to go on, just briefly, because we
20 are looking at the limo companies which there
21 are a lot of cars. The way we do this it only
22 takes less than 15 to 30 minutes to put one on
23 a window, it takes less than two minutes to
24 take it off at the end of a program, so if it
25 is a six-month program or a three-month

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1 window, you are only talking about downtime
2 anywhere less than 30 minutes per car or
3 driver, because we know that is important to
4 limo companies, not to have any downtime.

5 We also have just been allowed and
6 awarded as of two weeks ago on Friday, our
7 patents have been allowed and the patents will
8 be published over the next 90 to 120 days.

9 For this we are talking about a verification
10 system, which is important to the people that
11 own fleet companies for lots of revenues
12 because we can do a mass amount of cars
13 because of the easy process of putting these
14 on and taking them off.

15 Again, we would just like to thank
16 you. We are looking forward to working with
17 the Commission and we appreciate your time

18 today.

19 CHAIRMAN DAUS: Thank you, Mr.

20 Kressin. Were you speaking on behalf of all

21 the preregistered speakers from Ubiquitous and

22 Advermotion?

23 MR. KRESSIN: Yes.

24 CHAIRMAN DAUS: Okay, thank you very

25 much.

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1 Next preregistered speaker is Joseph

2 Gianetto from MTBOT.

3 MR. GIANETTO: Good morning,

4 everyone. With your permission, I would like

5 to have Mike give the primary comments on

6 behalf of MTBOT. He is a registered speaker,

7 and if necessary, I will just provide

8 additional comments.

9 CHAIRMAN DAUS: Great, thank you.

10 Good morning, Michael. Michael Woloz, for the

11 record.

12 MR. WOLOZ: Good morning,

13 Commissioners, Mr. Chair. My name is Michael

14 Woloz, I am testifying on behalf of Ron

15 Sherman, who is the President of Metropolitan

16 Taxicab Boards of Trade who is unable to be
17 here today.

18 MTBOT is a 54-year old trade
19 organization now comprised of 18 fleets, more
20 than 2,500 yellow medallion taxicabs. I am
21 submitting testimony on two separate proposed
22 rule changes regarding pilot programs and drug
23 testing, if you allow me to do both in one
24 shot or should I just do pilots?

25 CHAIRMAN DAUS: Yes, if you could

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1 limit it to the pilots, and we have the
2 written testimony, if you need to go, we can
3 just read it.

4 MR. WOLOZ: I will be here. I will
5 concentrate on the pilots.

6 Pilot programs are necessary, in
7 fact, they are vital to the future of the taxi
8 industry. They are mechanisms by which we can
9 harness innovation, creativity and cutting
10 edge technology to create a more efficient and
11 responsive industry. Whether they involve new
12 approaches to advertising, better equipment or
13 more fuel efficient vehicles, they can result
14 in vast improvements to the passenger and

15 driver experience, and in some cases offset
16 every increasing operating costs. I would,
17 therefore, like to commented the TLC for
18 outlining a procedure that encourages
19 innovation.

20 We have participated in our fair
21 share of pilot programs, some have worked
22 while others have not worked, but regardless
23 of the success of any one particular program,
24 it gives us an opportunity to test drive a new
25 idea before diving head-first, large-scale

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1 into untested waters through an industry-wide
2 mandate. This is a sound and reasonable
3 approach to testing new ideas and technology.
4 And that's especially true in an industry as
5 complex as ours. Thank you.

6 CHAIRMAN DAUS: Thank you, Michael.

7 The next preregistered speaker is Mr.
8 Bill Lindauer.

9 MR. LINDAUER: Incidentally, Mr.
10 Hubcab, due to the rough roads in the city,
11 there are very few hubcaps, and also maybe due
12 to some vandalism too, so I think people will

13 just take off your ads.

14 CHAIRMAN DAUS: Make your comments

15 to the Commission, please.

16 MR. LINDAUER: Yes, it's me again,

17 here to tell the harsh truth. Just like Simon

18 Cowell (ph), the last hearing was a shameless

19 circus of big lies about drivers' earnings and

20 despotic bullying. Many Commissioners saw the

21 plain common sense of the gasoline pass-along,

22 but, Mr. Chairman, you treated them like dirt,

23 as if they were cab drivers.

24 CHAIRMAN DAUS: Mr. Lindauer, could

25 you let us know what your viewpoint is on

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1 pilot programs.

2 MR. LINDAUER: Yes. These

3 distinguished gentlemen perform a public

4 service without pay, that we at the

5 Taxiworkers Alliance appreciate that. I call

6 on these gentlemen to see the ominous truth of

7 this ugly unAmerican pilot program proposal.

8 The drivers and the general public, no public

9 hearing, no public scrutiny.

10 Gentlemen, don't be intimidated. Let

11 common sense triumph over a ruthless reign of

12 terror. Between the preposterous, very costly
13 spy device plan imbued with sleazy corruption
14 and cronyism and this new madness, Mr.
15 Chairman, you are ruling in a moral squalor.
16 You have shed any shred of honor. Resign,
17 it's your moral duty.

18 CHAIRMAN DAUS: I don't think I am
19 going to resign over the pilot program rules.

20 Next speaker is Ms. Barabi Dasi (ph).

21 MR. LINDAUER: She is not present at
22 the moment.

23 CHAIRMAN DAUS: So you are speaking
24 on her behalf,

25 MR. LINDAUER: No.

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1 CHAIRMAN DAUS: Kevin Fitzpatrick, is
2 he here?

3 MR. FITZPATRICK: Hello. My name is
4 Kevin Fitzpatrick, I am from the New York
5 Taxi Workers Alliance. First of all, I sort
6 of like the idea of advertising on hubcaps,
7 you know, I think if I proposed an idea like
8 that, I would probably be drug tested, but
9 that's neither here nor there. I think it

10 would be interesting.

11 Okay, let's get back to GPS. You
12 know, privacy, I think if anybody has read the
13 papers in the last few days, I think we know
14 what a warrant means nowadays. The President
15 and his Attorney General, Torture Boy Gonzales
16 tells us they don't need that. Well, so much
17 for privacy. Anybody who thinks the NSA can't
18 hook into this GPS system, well, you are a
19 Pollyanna. Let's get back to the GPS, that's
20 one issue --

21 CHAIRMAN DAUS: What about the pilot
22 rules, Mr. Fitzpatrick?

23 MR. FITZPATRICK: The pilot rules
24 are there, too, the whole program is a joke.
25 Now, frankly, we have -- have any of you

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1 listened to the radio lately?

2 They have the system now, they have
3 Tom Tom. This is a navigation system, and Tom
4 Tom, if you are going to find Joe Smith's
5 hunting shack on Boiling Springs Road in
6 Galveston County, Montana, it will direct you
7 right from 40 Rector right there. Now, our
8 system can't do that. We have a system called

9 Ron Ron, after Ron Sherman, who is apparently
10 one of the people who is going to sell these
11 dogs to us.

12 We are being told that advertising is
13 going to pay for this. But what happens if
14 advertising doesn't pay for it? Now, the
15 Director of Business Development in the MTBOT,
16 Joseph Gianetto is on record of saying to pay
17 for these things there is going to have to be
18 a lease increase. Well, I have been in this
19 industry longer than most people here, and you
20 know in this industry, it's an old thing,
21 follow the money trail. Now, whatever were
22 the original reasons behind this system, I
23 think what we are seeing is a typical taxi
24 industry scam. They raise the leases and we
25 pay for these systems.

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1 Now, the system is not going to work.
2 It didn't work in the bus company, it didn't
3 work in the Police Department, it didn't work
4 in the Corrections Department, so there is no
5 reason it's going to work here. But what will
6 happen is that the leases will go up. Just

7 like when the landlord puts in a refrigerator
8 in the house and they charge you. It's a \$300
9 refrigerator, they charge you 25 bucks. That
10 is paid off in 12 months, but you continue
11 paying for that.

12 Okay, that's it. Have a good day.

13 CHAIRMAN DAUS: Thank you.

14 MR. LINDAUER: He tells it like it
15 is.

16 CHAIRMAN DAUS: Now, we will go to
17 the sign-in sheet. The next speaker is Mitch
18 Schwartz.

19 MR. SCHWARTZ: Good morning,
20 Chairman Daus and TLC Commissioners.

21 CHAIRMAN DAUS: We thought the
22 Council was spying on us.

23 MR. SCHWARTZ: No, they gave that
24 up.

25 CHAIRMAN DAUS: Welcome to the

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1 private sector.

2 MR. SCHWARTZ: Thank you very much.

3 Again, my name is Mitchell Schwartz and I am

4 here to speak on behalf of Clear Channel Taxi

5 Media. Thank you for the opportunity to

6 address the Commission today regarding the
7 proposed rule regarding pilot programs.

8 At the outset, I would like to praise
9 the Commission for seeking to put into place a
10 structured process whereby pilot programs may
11 be brought to the Commission for consideration
12 in an effort to improve the quality and
13 services of the industries regulated by the
14 TLC. This is a good initiative and one that
15 if carefully crafted and executed will improve
16 these industries and provide better services
17 to the public. I don't wish to take up much
18 of the Commission's time so I will confine my
19 remarks to the following three points that I
20 hope the Commission will consider and address
21 prior to promulgating a final rule.

22 First, the time frame for review of
23 pilot program submissions. The 60 day
24 Chairperson review period appears to be proper
25 for equipment related items that may have an

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1 impact on public safety. I would submit that
2 a shorter review period, perhaps 30 days,
3 would be more appropriate for any pilot

4 program that is not equipment related and that
5 would not impact safety in any way.
6 Additionally, the provision for the Chair to
7 extend the 60-day review period if he or she
8 deems the initial 60 days to be insufficient,
9 should include an outside time limit at which
10 point an approval or rejection must be
11 forthcoming. Perhaps an additional 30 days
12 should be the maximum allowable additional
13 time limit.

14 Second item: Pilot program
15 submissions to be made solely to the Chair.
16 While the TLC's wish to have the Chair serve
17 as gatekeeping function here certainty has
18 some utility and merit, it would be a more
19 transparent, open and deliberative process to
20 have all pilot program applications submitted
21 to and reviewed by all TLC Commissioners, not
22 just the Chair. At a minimum, if the Chair's
23 gatekeeper role is retained, any determination
24 by the Chair, approval or rejection, must be
25 reviewable as a matter of course by the rest

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1 of the Commissioners.

2 Third and final item: There is no

3 guarantee of pilot program participation by
4 the individual or entity making the initial
5 application to the Commission for pilot
6 program approval. The rule, as currently
7 drafted, would allow a company like Clear
8 Channel the opportunity to submit a proposal
9 to do a pilot program after considerable
10 expense and effort, but does not make
11 provision for ensuring that Clear Channel, the
12 originator of that pilot program concept, will
13 be a participant in the actual pilot program.
14 This allows for an inequitable result and will
15 serve as a disincentive for individuals and
16 companies to step forward and propose
17 innovative concepts for improving the industry
18 and better serving the public.

19 Thank you again for the opportunity
20 speak today. I would be more than happy to
21 assist the Commission in any way possible to
22 ensure that the pilot program rule put forth
23 will be the best and most practicable rule
24 possible. Thank you for letting me appear.

25 CHAIRMAN DAUS: Thank you. I look

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1 forward to working with you in your new
2 capacity.

3 The next speaker is Juan Perez from
4 Hybrid LLC.

5 MR. PEREZ: Good morning,
6 Commissioners and Chair. We are representing
7 Hybrid Outdoor. We are a company out of
8 Brooklyn, New York, and we specifically work
9 with the commuter vans within the city. What
10 we do is we advertise doing marketing,
11 grassroots marketing with several companies
12 within the area. However, we would like to,
13 through the pilot program, extend our
14 capabilities to include commuter vans.

15 We thank you for the opportunity for
16 allowing us to take part in the pilot program.
17 One point that we would like to make is I
18 would like to reiterate the point that was
19 made by Mr. Schwartz. It is our feeling that
20 the 30 days instead of 60-day time limit, I
21 think, would be appropriate as far as the
22 approval process. I think the 60 days, it is
23 our feeling that 60 days may be a little bit
24 too long, as well as a 60-day time limit in
25 general doesn't allow enough time for us to be

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1 able to rectify any situations that may need
2 to be resolved as it relates to any proposals
3 that we submit.

4 More so than anything, we just wanted
5 introduce ourselves, let you know about our
6 capabilities here, and thank you for the
7 opportunity.

8 CHAIRMAN DAUS: Thank you, Mr.
9 Perez.

10 CHAIRMAN DAUS: Last speaker is Mr.
11 Richard Thaler.

12 MR. THALER: Good morning, Chair
13 Daus, Commissioners.

14 I am here speaking on my own behalf
15 against adoption of this rule.
16 Notwithstanding the remarks you, Chair Daus
17 and Counsel Fraser, I believe that this rule
18 as presented is in violation of the City
19 Charter, Section 13, Procurements. This is a
20 demonstration procurement by any measure, and
21 according to the Charter, this Commission does
22 not have the authority to implement the
23 processes of such a demonstration procurement.
24 That is vested, according to Chapter 13, I
25 think it is 3.10, 3.11, 3.22 that's vested

1 with the Procurement Policy Board. But the
2 remedy is very simple, as some of the
3 criticisms were presented here, all of this
4 could be remedied by simply adopting the
5 demonstration 3.11 under the Procurement
6 Policy Board then all of these matters were
7 addressed. And I think that if this were
8 done, that would remedy this illegality.

9 Currently, this rule, as I said, is
10 in violation of the Charter. Furthermore, I
11 would recommend that not all things should be
12 subjected to the rigors of a demonstration
13 pilot. For example, in the case of taxi
14 meter, a taxi meter gets a federal NISD
15 approval, then goes to New York State and gets
16 Department of Agriculture approval. Under New
17 York State Law, that taxi meter can be used in
18 any venue. To again subject it to a pilot in
19 New York City may be unnecessary.

20 There are other things, for example,
21 if I want to make a bumper guard or put a new
22 rim or a tire, as long as it meets the FMVSS
23 requirements, it would seem to me that kind of
24 stuff flies under the pilot program
25 requirements. If you then go to things that

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1 should address public safety and protection of
2 the public, for example, a new material for a
3 partition, a redesign of a top line, a
4 redesign of a rooftop sign, perhaps the rigors
5 of this pilot program are not necessary. When
6 you get to such things as a significant
7 departure current practice, such as the credit
8 cards, there, for instance, 3.11 would be
9 appropriate and legal to be applied to
10 innovation and experimentation.

11 Once again, I suggest this is in
12 violation of the Charter, should not be
13 adopted. But the remedy would be adopting 3.1
14 of the Procurement Policy Board Rules as
15 required by the Charter.

16 CHAIRMAN DAUS: Thank you, Mr.
17 Thaler.

18 That concludes our public hearing. I
19 would like to -- yes?

20 COMMISSIONER SANDER: Does Chuck want
21 to comment on the issue of legality?

22 CHAIRMAN DAUS: Yes.

23 MR. FRASER: Regarding the comment

24 that the proposed rule violates the Charter as
25 an illegal procurement, obviously, I disagree.

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1 The Law Department has reviewed the rule and,
2 obviously, they disagree. The proposed rule
3 does not discuss procurements so it cannot
4 possibly be in violation of the rules
5 regulating how procurements must be done.

6 CHAIRMAN DAUS: Thank you.

7 Before we get into a discussion, I
8 want to let everybody know that staff and I
9 have read and analyzed some of the written
10 comments as well as listened to some of the
11 testimony here today and there are a couple of
12 themes that come up. But, certainly, I can
13 say there is one thing, based upon my
14 discussions with staff, and I had good
15 discussions with staff and I had a good
16 discussion with Commissioner Giannoulis as
17 well. I think that my role in this process
18 needs to be clarified somewhat so the public
19 understands it, and make it consistent with
20 what the intent of the rule was.

21 The intent of the rule is to have, as
22 I asked it be drafted, Commission involvement.

23 Whether it is for purposes of efficiency after
24 the fact or before the fact, for me, it
25 doesn't matter one way or the other. Whatever

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1 my colleagues choose to do is fine by me.

2 There are two options basically. The
3 Chair and staff's role could be one of a
4 ministerial nature where we certify that there
5 has been compliance with the application,
6 somewhere like what we do with licensing.
7 Staff looks, makes sure that all the things
8 you need to do with your licensing application
9 is met and then we forward it here for a
10 public discussion to approve it or reject the
11 concept, and then proceed with the other
12 aspects of the rule.

13 The other option is to have my office
14 serve as kind of a vetting responsibility, to
15 fight ideas which we feel are not just
16 practical, not workable, to have the rejection
17 come out of my office so that we don't burden
18 the Commission's agenda, when we have so many
19 things that we need to do, with every single
20 idea. I mean, there could be ideas that are

21 so outlandish that it would be, quite frankly,
22 a further waste of taxpayer money to have a
23 discussion about them. But the one thing that
24 stuck with me --

25 COMMISSIONER GIANNOULIS: Just for

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1 the record, we don't get paid.

2 CHAIRMAN DAUS: Well, some of us do.

3 And we certainly appreciate your commitment.

4 We wish we could, but as the Charter makes it

5 very clear that you aren't to be paid, if we

6 could change it, we would you, because you

7 certainly do a tremendous amount of work for

8 an unsalaried Board, and we appreciate

9 everything that you do.

10 But the concern I have is we do have

11 somewhat similar rules in the context of

12 rulemaking petitions. And many of you who may

13 have followed the fare increase may know this,

14 and have studied it, the way that the

15 Commission gets involved is that the Chair on

16 the merits, rejects a proposal, like we had a

17 few proposals the last couple of months. The

18 procedure that has been in the rules for

19 sometime is to present the rejection at the

20 next public Board meeting, so that's another
21 option. So that the transparency of the
22 process will be realized by rejecting it and
23 offering it. So I have asked Chuck to draft a
24 couple of different proposals. He is
25 recommending one proposal that he would like

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1 to distribute for discussion.

2 But in terms of the various issues
3 that were raised, I think that's the one that
4 I think we need to resolve and clarify for the
5 record. It is a good point that was raised by
6 the people that commented. And as long as you
7 understand what my intent was, that we have
8 transparency, Commission involvement, how we
9 accomplish that, really, I leave it to my
10 colleagues.

11 Chuck, do you want to explain the
12 amendment and then we will have a discussion
13 on it?

14 MR. FRASER: Yes. Based on one of
15 the written comments we received which we
16 thought included an idea that was a good one,
17 I have drafted this. This is a Paragraph C in

18 proposed 14.04. And what you have in capital
19 letters would be an added sentence to what we
20 had previously distributed.

21 Just so I can read it for the record,
22 the added sentence at the beginning of
23 Paragraph C would read: "In the event that
24 the Chairperson rejects the proposed pilot
25 program, he or she shall cause the proposal

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1 and the rejection to be presented to the
2 Commission and any Commissioner may call the
3 matter up for consideration by the
4 Commission."

5 That mimics the procedure we have
6 pursuant to the rules that are already in
7 place, the rule making petitions. Obviously,
8 if the Chair grants a rule making petition, it
9 still comes before the Commissioners for rule
10 making. If the Chair denies a rule making
11 petition, the denial goes before the
12 Commissioners and any Commissioner may call
13 that up for consideration. It is not
14 automatically put on the agenda, but any
15 Commissioner may put it on the agenda.

16 This proposal mimics that. In other

17 words, it explicitly gives the Commission the
18 ability, in the event of a rejection, to
19 review that rejection. An acceptance, of
20 course, would automatically be reviewed
21 pursuant to the rules we've previously
22 drafted.

23 COMMISSIONER DEAR: So in the case
24 if someone is rejected, that company can
25 request that it comes before the Commission?

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1 MR. FRASER: No. Any Commissioner
2 can request that.

3 COMMISSIONER DEAR: How would we
4 know what is rejected?

5 MR. FRASER: You would get a copy of
6 the proposal and you would get the rejection,
7 which another paragraph provides has to state
8 reasons for the rejection. So you would get
9 the proposal and the reasons that it was
10 rejected. And if you, obviously, wanted to
11 know more about it, you could bring it up at a
12 Commission meeting.

13 COMMISSIONER DEAR: The parties that
14 were rejected, do they have a right --

15 MR. FRASER: I didn't provide for
16 that in the draft.

17 COMMISSIONER DEAR: I would like to
18 suggest, if I could make an amendment, to
19 provide it. Just like we can recall it, they
20 can as well make that appeal to us.

21 MR. FRASER: I guess my only concern
22 about that is that I think the result of that
23 would be to automatically place every
24 rejection in front of the Commission.

25 COMMISSIONER SANDER: That would be

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1 my concern, too, from a workload standpoint.

2 COMMISSIONER GIANNOULIS: If I could
3 jump in, the reason I brought this issue up
4 from the beginning is the Charter is
5 unequivocally clear that any pilot program
6 must be approved by the Commission. There is
7 no confusion about that at all. I am not a
8 lawyer. I guess the question then is: Does
9 any rejection of the pilot program have to be
10 rejected by the Commission? That's really the
11 question at heart here.

12 In my opinion, the Charter doesn't
13 say anything about rejection because that is

14 just normally not the way laws are written.
15 But it is very clear that it says it has to be
16 approved. So we can kind of not deal with the
17 issue of rejection and just say we don't have
18 to put everyone up to a vote. I think you are
19 going to get challenged in court by that, and
20 I think we are going to lose. But there
21 should be some way -- it should be clear to
22 people who are proposing this that at the end
23 of the day, the Commission will vote on their
24 proposal, that the Chair and the staff will
25 make a recommendation to us because we just

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1 don't have the information to know whether
2 something makes sense or not. And that will
3 obviously have a lot of influence over us,
4 what the Chair and the staff recommend to us.
5 And that's who the people who make the
6 proposal are going to be working with.

7 So there is a forum here basically.
8 To me, this whole process should be like the
9 rate hike. There is a form that needs to be
10 filled, there is a form that needs to be
11 followed. They propose that to the Chair and

12 to the staff. They then should, in my
13 opinion, make a recommendation to us. And
14 that recommendation should be: Pursue this
15 pilot program, or don't pursue this pilot
16 program. That's common sense to me, and I
17 think that that's cleanest adherence.

18 The Charter is very clear. It is
19 literally, there is a listing of ten
20 responsibilities that this Commission has, not
21 the Chair, that that Commission has. I think
22 number 9 is we are responsible for voting on
23 pilot programs. So I just think we don't want
24 to get into a process where the Chairman says
25 no and then some business person thinks that

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1 they can come and lobby us and we have to
2 override the Chairman. And once we override
3 the Chairman, I actually don't even know what
4 that means. What happens then? Do we send
5 him back to go analyze it more and then come
6 back to us again?

7 It just seems very confusing. I
8 don't know how that back end -- let's say we
9 disagree, we will call up the matter for
10 consideration. What does that mean, call it

11 up for consideration? Call it for what? We
12 are calling to implement the pilot program?
13 How often is there going to be a scenario
14 where the Chair has rejected it, it comes up
15 to us and -- I, quite honestly, don't want to
16 do that -- we randomly just vote and say, "We
17 disagree with you, it's now a pilot program."
18 That's a strange way to approach this.

19 COMMISSIONER SANDER: My concern, I
20 think we are in agreement that in terms of
21 voting affirmatively, the Commission needs to
22 do that. And it sounds as if the Charter is
23 very clear about that. My concern is
24 balancing the role of the Commission with
25 workload, and my concern is that, again, I

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1 don't know how many pilot programs we are
2 going to have.

3 COMMISSIONER GIANNOULIS: From
4 looking at the audience, I think a lot.

5 COMMISSIONER SANDER: And it sounds
6 to me that that could eat up a lot of time
7 from the Commission. So, to me, this looks
8 like a fair balance between the workload of

9 the Commission and the issues of due process.

10 I agree that Commissioner Giannoulis
11 raises legitimate points about what happens
12 when the Chair rejects it, we are notified of
13 it, it would seem to me that the next step
14 would be that any Commissioner would have the
15 right to then have it presented before us, and
16 then we would either vote yea or nay.

17 COMMISSIONER GIANNOULIS: So we
18 would say, "Okay, Technology X Company, we
19 have read your proposal, I guess we think it's
20 a good proposal, we are therefore going to
21 vote on a public hearing." I just don't know
22 what the next step would be here.

23 I wouldn't know what the next step
24 would be either way.

25 CHAIRMAN DAUS: Let's have Chuck

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1 answer that question, and then Commission Dear
2 has a comment.

3 COMMISSIONER GIANNOULIS: I just
4 want to say, I personally do not want to be
5 involved with analyzing the pilots. That's
6 not my interest.

7 CHAIRMAN DAUS: You want some

8 analysis and recommendation, I understand.

9 Chuck?

10 MR. FRASER: The idea is if the
11 pilot were rejected by the Chair and the
12 rejection was then forwarded to the
13 Commission, the Commission would then, if the
14 commission felt otherwise and wanted to
15 proceed with the pilot, would direct the Chair
16 or the staff to propose or to draft the
17 recommendation, in effect that would be in
18 14.04(d).

19 In other words, the point of the
20 Commission's resolution is to include a whole
21 lot of parameters that would govern the
22 implementation and evaluation of the pilot.
23 Obviously, if it comes, having been rejected
24 by the Chair, it won't come with all of that.
25 If the Commission feels differently, it will

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1 vote, send it back to the Chair and the staff
2 to develop those criteria, those elements of
3 the 14.04(d) plan.

4 COMMISSIONER GIANNOULIS: So then
5 essentially we would implementing a pilot

6 program?

7 MR. FRASER: You would be making a
8 yes or no vote. The details would still be
9 worked out in this resolution that would have
10 to be drafted.

11 COMMISSIONER GIANNOULIS: I looked at
12 D. D is fundamentally the implementation of a
13 pilot program. So we would then by -- we keep
14 on using this word the Chair rejects it, and I
15 have a problem with that. The Chair cannot
16 reject a pilot program. I don't know where we
17 are coming up with this. He just can't. So
18 to keep on saying that is incorrect.

19 If somebody makes a proposal for a
20 pilot program, it's very clear under the
21 Charter they can present it directly to us and
22 we would be happy to put it up for a vote,
23 bottom line. So we keep on talking about the
24 Chair rejecting this thing as if there is some
25 reality to it. There isn't any.

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1 But just to finish your point, so if
2 we move forward, if we override the Chair, the
3 pilot program is implemented. That's my
4 problem.

5 CHAIRMAN DAUS: Let's deal with the
6 legal issue, Chuck. How restrictive is the
7 Charter provisions?

8 MR. FRASER: I don't think I agree
9 that the Charter requires that the Commission
10 most vote on a rejection. I think that the
11 Charter would allow us to pass rules, and,
12 obviously, as I said, the Law Department
13 agreed with me because they had approved these
14 rules for a proposal, that the Chair can --
15 you can call it a rejection, you can call it a
16 recommendation, since it is obviously subject
17 to review by the Commission. But terminology
18 aside, there is nothing that requires a vote
19 by the Commission, in my opinion, on a
20 rejection.

21 COMMISSIONER GIANNOULIS: I think
22 the terminology is different to the vendor. I
23 think if a vendor gets a letter -- If I am a
24 vendor and I get a letter from the Chairperson
25 of the TLC that says your proposal has been

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1 rejected, I am either going to have to go hire
2 a lawyer or a lobbyist at that point to try to

3 figure out how I can override the Chair.

4 These are smart people, obviously, and they
5 will figure it out.

6 CHAIRMAN DAUS: Whether you want to
7 do it or not, if you do decide to do it,
8 correct me if I am wrong, because it sounds
9 like -- I think the Law Department's role, we
10 are given a lot of leeway in terms of actually
11 drafting the rules, but their number one role,
12 as I understand it under the Charter, is they
13 have to approve contracts as to form and they
14 have to approve rules that we enter into if we
15 have the authority to do it.

16 So I would assume that, consistent
17 with other rules that we have passed, I
18 understand what the intent of the people that
19 drafted the Charter is, they put Commission,
20 Commission, this is what the Chair does. But
21 the way I understand it, the Law Department
22 said that the Commission can delegate any type
23 of matters it wishes to to the Chair if you
24 want to. Am I correct, is that what they are
25 saying?

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1 If you wanted to delegate certain

2 matters to me, including this ability to
3 reject it, you could if you wanted to? Is
4 that accurate?

5 MR. FRASER: Two examples are rule
6 making. The rules provide for the chair to
7 reject the rule petition and place rejection
8 in front of the Commission. The second
9 example is the Charter provides that the
10 Commission grants licenses. Obviously, that's
11 not true in a literal sense. The Commission
12 does not vote on licenses.

13 COMMISSIONER GIANNOULIS: Well,
14 that's because that is not listed as one of
15 the responsibilities of the Commission.

16 COMMISSIONER GIANNOULIS: Could you
17 just read that paragraph because both of the
18 Commissioners just asked me. I forgot it in
19 my office.

20 MR. FRASER: The Charter provision?

21 COMMISSIONER GIANNOULIS: Yes, like
22 the tenth, ninth listing.

23 MR. FRASER: It is 23.03(b)(9)
24 provides in full, this is listing the
25 authorities of the Commission, the

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1 responsibilities of the Commission, "The
2 development and effectuation of a broad public
3 policy of transportation affected by this
4 chapter as it relates to forms of public
5 transportation in the city, including
6 innovation and experimentation and relation to
7 type and design of equipment, modes of service
8 and manner of operation, which for limited
9 purposes and limited periods of time may
10 depart from the requirements otherwise
11 established to licensed vehicles pursuant to
12 this Chapter."

13 COMMISSIONER GIANNOULIS: Isn't the
14 word "pilot program" in there?

15 MR. FRASER: No. It uses the phrase
16 "innovation and experimentation."

17 COMMISSIONER DEAR: I can say i am
18 an attorney, and to me, that's clear, that the
19 Commission must do this. So Commission
20 Giannoulis raises a very good point, that this
21 amendment may not comply with what the Charter
22 says.

23 COMMISSIONER GIANNOULIS: I am just
24 very concerned that people will legitimately
25 be rejected because the Chair and the staff

1 legitimately think it is not a good idea. And
2 then we are going to be in this constant
3 strange position of people trying to get us to
4 override. And then I don't know what happens
5 when we override. It is not clear to me
6 still. And it seems to me the only thing we
7 can do is pass a pilot program at that point.

8 Commissioner Weinshall, do you have
9 an opinion?

10 COMMISSIONER WEINSHALL: Andy?

11 MR. SALKIN: I think intent of what we
12 are trying to do is exactly what you are
13 saying. The idea is if the Commission would
14 like the staff to look at any pilot program,
15 whether it was previously brought up or
16 however, you send this back, and following, I
17 think it's Part D of the rule is we would put
18 together a proposal on how a pilot program
19 could be run. And when we bring that back to
20 you, and then you can decide if you want to go
21 forward with what we put together or if you
22 want modify it based on your knowledge of the
23 industry or the market at that time. So the
24 way this would work is if something is brought
25 up, recommended for rejection, brought up at

1 some point in the near future or right there
2 saying maybe we should look at this again, you
3 direct the staff to either go back and do more
4 research and bring it back in front of the
5 Commission, or you direct the staff to put
6 together the format of how a pilot program
7 would run.

8 The staff would bring that in front
9 of the Commission, and if you think it was
10 okay, then that would initiate the pilot
11 program under the terms and direction of the
12 Commission. I think the idea here is every
13 situation is a little bit different and every
14 situation may require kind of different
15 parameters on how the program should be
16 enacted. And I think you heard some testimony
17 today that if it is advertising, maybe it
18 should be a little quicker, if it is a safety
19 matter, maybe it should take a longer.

20 And I think the rule is designed to
21 allow that kind of flexibility, but, again, it
22 always brought in front of the Commission and
23 the Commission provides guidance to the staff
24 on how to carry it out. What we are looking

25 for is really just process so we can get it

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1 finished. And I hope that makes sense. I
2 think everything that you are saying is pretty
3 much consistent with how we envision this.

4 COMMISSIONER DEAR: One comment. In
5 addition to talking about the workload, we get
6 hundreds of base stations, and we are not
7 looking at every base station. We take your
8 report and we ask your recommendation and
9 either reject it or modify it, whatever it may
10 be. So the same thing, we are not going to
11 have more applications than we have base
12 station applications. And if that's the case,
13 we can always modify our rules to recognize
14 our workload.

15 But I think in all fairness, what you
16 don't want to happen is you are going to pass
17 a proposal, it's going to be rejected, someone
18 is going to make phone call or tell one
19 Commissioner, and someone will say, "Okay,
20 let's bring it up," then it's going to happen
21 anyhow. So rather than having this become an
22 issue where someone has to make a phone call,

23 why don't we just say yes or no, and then it
24 could be the staff's recommendation that we
25 accept this or we don't accept it. And I

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1 don't think we are going to question that, and
2 we have time to review it on our time.

3 COMMISSIONER SANDER: From a workload
4 standpoint, that may be less workload than
5 this where there will be political activity if
6 there is a rejection.

7 CHAIRMAN DAUS: Any other comments?

8 COMMISSIONER AROUT: I would like to
9 say overall it is a good start as far as just
10 adding informally into the whole process. As
11 far as some of the comments about the time
12 frame being 60 days, I think that is
13 reasonable, particularly on something we are
14 just kicking off right now. As we gain more
15 experience and get more efficiencies, maybe
16 that gets cut down at some time in the future.

17 I also would like to suggest, just
18 keeping with the comments about workload and
19 what have you, I think the 60-day time frame
20 also should achieve -- I guess one of the
21 things I would be concerned with is if we

22 have, say, 10 proposals up and running at
23 various points in time, are we spending an
24 inordinate amount of time just going through
25 proposal documentation, follow-ups and things

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1 like that, versus doing things that would be
2 more productive for the Commission.

3 COMMISSIONER GIANNOULIS: One of the
4 things that the Chairman and I talked about
5 yesterday, which I think is maybe a little bit
6 of an out for him and his staff, is his
7 recommendation can be "Let's do nothing on
8 this right now." His recommendation could be
9 "I don't know if we should pursue this."

10 Correct?

11 COMMISSIONER AROUT: One of the
12 things --

13 COMMISSIONER GIANNOULIS: That way if
14 there is a lot on the table and they actually
15 can't deal with it, they can come to us and
16 say, "I want to be within the 60 days, but..."

17 CHAIRMAN DAUS: But I can't make up
18 my mind.

19 COMMISSIONER GIANNOULIS: Yes. Or

20 "The staff has to do more research, there is
21 something coming out next month that is going
22 to change this, so I don't think we should
23 look at this. I don't think we should reject
24 it."

25 CHAIRMAN DAUS: That certainly

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1 provides more flexibility, that approach.

2 COMMISSIONER AROUT: One last thing,
3 in general, I am not sure if it's appropriate
4 or not, but in the revisions here, I am not
5 sure if we need to explicitly define completed
6 proposal, or if it's just implied.

7 MR. FRASER: I think the problem we
8 had in trying to draft that was anticipating
9 the range of possibilities and trying to
10 figure out what a completed proposal would be
11 without knowing in advance what all of them
12 would look like. So in trying to draft
13 something that met your concern, I just found
14 I wasn't really able to do anything that would
15 apply across the board.

16 Again, this may be an area where,
17 with experience, we can gain some precision on
18 that rule, but I guess our feeling was that

19 it's better to leave it at completed at this
20 point, since it's a little harder to be more
21 specific than that.

22 MR. AROUT: Okay, thank you.

23 CHAIRMAN DAUS: Any other comments,
24 Commissioners?

25 Well, I had asked Chuck to draft a

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1 couple of different alternatives. We would
2 like to now hand out Proposal B, which I think
3 is a little bit more --

4 COMMISSIONER DEAR: Are there any
5 other proposals?

6 CHAIRMAN DAUS: What else do you
7 have in your hat there? At least he is
8 prepared.

9 Do you want describe this one, Chuck?

10 MR. FRASER: What this does, I think
11 is what the THE discussion reflected just now.
12 This provides for the Chairperson to forward
13 to the Commission all proposed pilots,
14 completed obviously, within 60 days of receipt
15 of the completed proposal. There would then
16 be a formal vote by the Commission whether it

17 goes either way, rejected or accepted, and any
18 resolution of approval would still have to
19 have all the same criteria.

20 COMMISSIONER DEAR: That's fine.

21 COMMISSIONER GIANNOULIS: I make a
22 motion to pass this.

23 MR. FRASER: Before we do, I have to
24 read it into the record. This will be a
25 little long because it's a revision of

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1 14.04(b), (c) and the first paragraph of (d).

2 "(B) The Chairperson shall forward
3 to the Commission a proposed pilot program
4 within 60 days of receipt of the completed
5 proposal, except that the Chairperson may
6 within such 60-day period extend the time for
7 forwarding the proposed pilot program.

8 "(C) The Commission shall consider
9 the proposal and shall approve or reject the
10 proposed pilot program. Grounds for rejection
11 shall include but shall not be limited to the
12 merits of the proposal on the administrative
13 ability of the Commissioner and staff to
14 implement, monitor or evaluate the proposed
15 pilot program. Approval of a pilot program by

16 the Commission shall be done in accordance
17 with Paragraph (d) of this section.

18 "(D) The Commission's resolution of
19 approval of any proposed pilot program shall
20 set forth terms governing the implementation,
21 monitoring and evaluation of the proposed
22 pilot program, including but not limited to,
23 the following." And then the rest of the
24 proposed rules would be the same as those
25 published and distributed.

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1 CHAIRMAN DAUS: Is that acceptable?

2 COMMISSIONER GIANNOULIS: Yes.

3 CHAIRMAN DAUS: Any other comments?

4 COMMISSIONER DEAR: Is there any

5 other proposal that you have there?

6 MR. FRASER: No, that's it.

7 COMMISSIONER GIANNOULIS: I make a

8 recommendation to approve the proposal as just

9 read.

10 CHAIRMAN DAUS: Is there a second?

11 COMMISSIONER GONZALES: Second.

12 CHAIRMAN DAUS: All in favor?

13 (Chorus of "ayes.")

14 CHAIRMAN DAUS: Any opposed?

15 (No response.)

16 CHAIRMAN DAUS: Abstentions?

17 (No response.)

18 CHAIRMAN DAUS: Okay, it's

19 unanimous.

20 Thank you, Commissioner Giannoulis, I

21 think it was a very good point, and we will

22 see how it goes. We are going to have a lot

23 of work at the beginning. There is a lot

24 sitting in our offices right now.

25 The next matter is the second public

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1 hearing on drug test procedures. I will turn

2 it over to Chuck to describe this proposal.

3 MR. FRASER: This proposed rule

4 pertains to drug testing procedures for

5 taxicab drivers and FHV drivers. This rule

6 would make permanent the expedited rule

7 adopted by the Commission in November. The

8 rule applies where a licensed driver, taxicab

9 or FHV driver fails to submit to required

10 annual drug testing.

11 The rule creates a new procedure for

12 suspension, pending compliance for failure to

13 submit to testing, whereas the old rule
14 allowed only for suspension pending
15 revocation. The suspension pending
16 compliance, obviously, is a more lenient
17 alternative than suspension pending
18 revocation, and gets to the heart of what we
19 are really concerned with, which is
20 compliance.

21 There is one change in the proposed
22 rule from what was adopted by the Commission
23 in the expedited rule making in November,
24 that is a clarification of the point that in
25 the renewal year licensees, drivers are

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1 licensed for two years, in the second year
2 they are applying for renewal and the
3 obligation to take a drug test in the second
4 year is a condition of grant of the renewal
5 application. And so, therefore, a licensee
6 who fails to submit the required drug testing
7 in the renewal year is not suspended, but in
8 fact expires, fails to get a renewal and
9 expires. Only in the median year, between
10 renewals, if the driver fails to submit the

11 required drug testing are they suspended.

12 The proposed rule was published in
13 the City Record on January 6, 2006. The
14 deadline for submission of written comments
15 was February 6, 2006, and no written comments
16 were received. In the Chair's absence, I will
17 call, I think there are four registered
18 speakers. The first is Bill Lindauer.

19 MR. LINDAUER: Aren't you lucky, I
20 get to do an encore. I promise I will be
21 gentle.

22 First, the TLC imposed drug test
23 should be paid by the TLC. New York taxi
24 drivers are probably the only workers in
25 America who pay to be tested. This is not a

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1 revolutionary proposal. If you want
2 something, you pay for it.

3 Number two -- thank you for
4 returning, Mr. Chairman. Number two, Mr.
5 Chairman, I said that TLC should pay for the
6 drug test. You missed that.

7 Two, New York City bus operators and
8 subway motormen are tested initially when they
9 are hired, then they are subject to random

10 drug tests. This sensible and effective
11 system should also apply to taxi drivers. An
12 alternative is to require only a test within
13 30 days of license renewal, every two years.

14 Number three, mistakes are sometimes
15 made. No driver should be penalized
16 immediately upon test failure. A second
17 non-lab corporation test should be required.
18 In one colossal follow-up, a guy I know had
19 test results that showed he was pregnant. I
20 just made that up, of course.

21 So let reason and enlightenment
22 prevail one of the few times at the TLC, and
23 adopt my common sense recommendations, P.S.
24 next time you won't get off so easy. Until
25 then, I will be sharpening my claws.

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1 CHAIRMAN DAUS: Thank you.

2 Next speaker is Ms. Barabi Dasi.

3 MS. DASI: I would actually like to
4 make a quick announcement. I think some of
5 you may remember Leo Lazarus. I think
6 Commission Daus, Commission Dear, I am sure
7 you well remember him. He was a driver for

8 over 30 years. He was active in the taxi
9 union, the rank and file. Leo passed away
10 last month, just shy of the age of 92. For
11 many of us in the industry, he was one of the
12 first persons to fight for the rights of taxi
13 drivers, so I just wanted to acknowledge his
14 passing at this meeting.

15 CHAIRMAN DAUS: I'm very sorry to
16 hear that. Do you have condolence information
17 that we could distribute to our staff?

18 MS. DASI: Sure.

19 CHAIRMAN DAUS: Thank you. We would
20 appreciate that.

21 MS. DASI: The second announcement I
22 want to make is I mentioned this at the last
23 public hearing which I attended, Shantu de
24 Ramon (ph), who is a yellow cab driver who was
25 assaulted on October 2nd, and Humayu Kugar

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1 Leshgar (ph), who was injured in a hit and run
2 on November 27th, both remain in a coma at the
3 hospital. And, again, we ask for the prayers
4 of everybody in the industry, and anyone on
5 the Commission who is able, we would really
6 welcome you to visit with the families.

7 You can imagine, it's been a really
8 hard, difficult time for the family, and you
9 know we would welcome your support on this.

10 Okay, in terms of the issue that is
11 on the table. As Bill said, I don't
12 understand why taxi drivers are the only
13 public transport workers who have to take a
14 drug test every single year. In all the other
15 industries, whether you are talking about bus
16 drivers, subway operators, even police
17 officers or fire fighters, a drug test is
18 taken when you first join the industry and a
19 second drug test is only asked for if it is
20 seen as necessary. It is not required for
21 every year of the application.

22 It should be the same standard that
23 is applied to taxi workers. I don't see why
24 there is a difference here.

25 Secondly, we have a lot of concerns

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1 about LabCorp in particular. We have had many
2 incidents where I believe very clearly that
3 the person was not using, but they have had
4 results that tested positive. And in many of

5 those instances, the drivers believe that the
6 samples were mixed up. Because you go into
7 these places, it is a very hectic environment,
8 there seems to be no policies at that really
9 guide the work of LabCorp while they are
10 testing the drivers. And I think that the TLC
11 really needs to publicly look into that.

12 If you are going to have rules and
13 regulations that the drivers have to follow,
14 there should be rules and regulations that the
15 corporation which is testing drivers needs to
16 follow. They need to be much more diligent
17 about the paper work that they keep. They
18 need to be able to inform drivers who tested
19 positive within not shorter than within a
20 24-hour period. But these things are not
21 happening at the moment.

22 There should also be a policy that
23 allows drivers not just to have a particular
24 sample retested but to have another test done
25 at a different facility, or certainly by their

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1 own physician. I don't know why these are
2 rejected by the TLC.

3 Lastly, I want to add that we have

4 also had instances where if a person is out of
5 country, that when they come back if they
6 tested positive, they were taking some sort of
7 medicine which is legal in that country. And
8 they bring doctors notes or other
9 documentation, but TLC does not accept it. I
10 don't think that that's fair and that's right.
11 The person is not doing anything that is
12 illegal, particularly, if they are on
13 medication. And especially if it's medication
14 that is being prescribed outside of the U.S.,
15 it should be seen as legitimate by the TLC,
16 and those should not be deemed as positive
17 test results.

18 But, again, I want to really
19 emphasize that taxi drivers should not have to
20 take a drug test at every renewal time. It
21 should only be at the time of application.
22 That should be the only time that they are
23 required to do so. Thank you.

24 CHAIRMAN DAUS: Thank you. Mr.
25 Kevin Fitzpatrick.

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1 MR. FITZPATRICK: Just a point of

2 information. TLC inspectors, what are the
3 drug test requirements for a TLC inspector,
4 does anybody know? Is it like the Police
5 Department, you get the job and you take it
6 once and then that's it? Do they have to
7 take a test every year? No, okay, thank you.
8 You answered my question. They only get
9 tested when they are hired, right?

10 CHAIRMAN DAUS: There are various
11 city policies in various matters.

12 MR. FITZPATRICK: TLC inspectors,
13 they don't get tested every year and they
14 don't have to pay for their own test, right?

15 CHAIRMAN DAUS: That's correct.

16 MR. FITZPATRICK: Thanks.

17 Seems wherever you fit in on the food
18 chain is whether you get drug tested. For
19 example, if you are the President of the
20 United States, you don't have to take a drug
21 test. You don't have to take an IQ test,
22 actually. But, you know, I am sure you guys
23 are not paid, so you shouldn't have to take
24 drug tests.

25 You know, it says right here on page

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1 3 of these new rules, now any driver except
2 for a New York Police Officer has to take the
3 drug test every year. Why are police officers
4 exempted?

5 CHAIRMAN DAUS: Because they are
6 required to take drug tests and I think they
7 are subject to random testing, if I am not
8 mistaken.

9 MR. FITZPATRICK: Couldn't that
10 apply to cab drivers too?

11 CHAIRMAN DAUS: I think there were
12 some rules that were passed years ago that
13 made it easier for police officers to drive
14 cabs, and I think that is where this came
15 from. They are two very different
16 professions, as you know, and there are police
17 officers who are moonlighting as taxicab
18 drivers, and why ask them to do it twice. I
19 guess that was the thing.

20 MR. FITZPATRICK: Animal Farm, some
21 animals are more equal than others.

22 CHAIRMAN DAUS: That's really
23 inappropriate, Mr. Fitzpatrick. Could we try
24 to have some more decorum. Make your points.

25 MR. FITZPATRICK: You have your cab

1 drivers, 2.28 revocation. That's for cab
2 drivers, yellow cab drivers. But you have
3 for-hire vehicles, 6.18(a), this is page 4,
4 revocation and \$10,000. Now, I mean -- now
5 presumably yellow cab drivers are treated a
6 little bit better than for-hire drivers.
7 Either this is wrong or you made a mistake on
8 it. Why should a livery driver pay \$10,000
9 because he doesn't want to take a drug test.
10 Maybe the guy said I am not making any money,
11 I am getting out of this business, and you get
12 hit for \$10,000.

13 CHAIRMAN DAUS: Thank you, Mr.
14 Fitzpatrick. I am sure the Commissioners want
15 an explanation on that. Chuck, could you
16 point out what he was referring to?

17 MR. FRASER: Unfortunately, Mr.
18 Fitzpatrick misread the rules proposal. The
19 \$10,000 fine has nothing to do with drug
20 testing. It is a totally unrelated violation.
21 There is no differential treatment whatsoever
22 between FHV drivers and taxi drivers who fail
23 to take the required drug tests.

24 CHAIRMAN DAUS: That was just some
25 text from another rule that was in here, to

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1 just show where it goes apparently.

2 Next speaker is Mr. Joseph Gianetto
3 from MTBOT.

4 MR. GIANETTO: Good morning,
5 everyone. Again, Michael Woloz will deliver
6 the primary comments on behalf of MTBOT, but I
7 just wanted to address some comments that the
8 general counsel in regards to the failure of
9 licensees in the second year of a two-year
10 license to be tested prior to the expiration
11 of the license. Should he take the drug test
12 sometime thereafter, will he be treated as a
13 renewal applicant, which I think is the case
14 today, or does he have to come back as a new
15 applicant? This has to do with the grace
16 periods.

17 MR. FRASER: No. The draft rule,
18 as, in fact, the expedited rule adopted last
19 November, eliminates that grace period. He
20 must take it.

21 MR. GIANETTO: So he comes back as a
22 new applicant?

23 MR. FRASER: That's correct, if he
24 fails to take it within the required time.

25 MR. GIANETTO: Are there any

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1 provisions now, different licensing procedures
2 that allow for grace periods for current
3 licensees?

4 MR. FRASER: I have to get back to
5 you on that. I don't think there are any
6 provisions for grace periods, no. I think
7 that's the answer.

8 MR. GIANETTO: Because it's my
9 recollection, but I could be off base on this,
10 that there are some grace periods. For
11 example, a current licensee, under certain
12 circumstances, has six months after the
13 expiration of his license to renew license and
14 be treated as a renewal applicant, rather than
15 as a new applicant.

16 I will brush up on my own but --

17 CHAIRMAN DAUS: There were various
18 industry notices covering those, going back
19 years ago. I think it's something we should
20 look at in general. On this one, I feel
21 strongly we need to do everything we can to
22 create an incentive for people to take the
23 when they need to take the test. Certainly,

24 if they have to come back as a new applicant,

25 if that's the repercussions, Chuck, I have no

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1 problem with that.

2 MR. GIANETTO: So if that's the
3 case, we would like some consideration to
4 treat that individual as a renewal license at
5 least within some sort of reasonable time
6 frame after the expiration of his license.

7 CHAIRMAN DAUS: Actually, that would
8 be a good matter to consider as we embark on
9 the rules project that I mentioned at the last
10 meeting, whether some of these grace periods,
11 if we keep them or don't keep them, make their
12 way into the rules so the public understands
13 them. We will take a look at the industry
14 notices that you suggested. I know exactly
15 what you are talking about.

16 MR. GIANETTO: Thank you.

17 CHAIRMAN DAUS: Mr. Woloz?

18 MR. WOLOZ: I will be brief. I want
19 to express on behalf Mr. Sherman,
20 Metropolitan, that MTBOT expresses its support
21 for the proposed rule change regarding

22 mandatory drug testing, which is an essential
23 tool to ensure the safety of the riding
24 public.

25 I would like to recommend, however,

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1 that the TLC consider mailing notices to all
2 drivers 45 days prior to their one year
3 anniversary. And make this in the rules. We
4 believe it's in the best interest of the
5 industry, and of the public, that as many
6 drivers comply with the rules as possible
7 without suspension or fines. Many drivers are
8 under the false impression that they need to
9 get tested only once every two years because
10 they told a two-year license, while others
11 simply don't know when to get tested.

12 We believe a little notice will go a
13 long way and we believe that it should be
14 reflected in the rules. Furthermore, we urge
15 the Commission to recognize that many of our
16 drivers are immigrants who often travel to
17 their home country for extended periods of
18 time. As a result, sometimes they are not in
19 New York for the 30-day window of time they
20 have to get drug tested, and would face

21 suspension and fines when they return. We ask
22 the Commission to consider establishing a
23 mechanism that would allow a driver to perhaps
24 temporarily surrender their license prior to
25 leaving for a trip, and essentially stop the

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1 clock with regard to drug testing. The clock
2 would resume when the driver reactivates his
3 license upon his return. We just ask the
4 Commission to consider something of this
5 nature to address the work force and travel
6 habits they may have. Thank you very much.

7 CHAIRMAN DAUS: Thank you. Mr.
8 Woloz. Actually, that's a good idea about
9 stopping the clock. I was informed by counsel
10 that this rule making we wouldn't be able to
11 put that in as part of this, but it is
12 something I think you may want to consider as
13 an element of fairness. I can tell you, I
14 have received letters in my office over the
15 last couple of years. It's just not fair.
16 But there needs to be assurances, from our
17 standpoint, that the person is not out there
18 driving.

19 COMMISSIONER GIANNOULIS: Right now

20 the only way we find out that somebody hasn't

21 taken a test is it's done internally, correct.

22 There is nothing on the license. At the end

23 of the day, what's the process that you know

24 somebody hasn't taken that second test?

25 MR. FRASER: I am not sure what you

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1 mean the second test.

2 COMMISSIONER GIANNOULIS: Everybody

3 gets two-year licenses, correct?

4 MR. FRASER: Yes.

5 COMMISSIONER GIANNOULIS: You have

6 to take a test to get it in the first place,

7 so the second year is when people get into

8 trouble, the second test?

9 MR. FRASER: It would be any

10 subsequent year, yes, after the initial

11 application. Any subsequent year, yes.

12 COMMISSIONER GIANNOULIS: The

13 license gets renewed every two years, there

14 are two drug tests?

15 MR. FRASER: Yes.

16 COMMISSIONER GIANNOULIS: So I am

17 talking about the second drug test because you

18 can't get your license renewed if you don't

19 take the first test, right?

20 MR. FRASER: Yes, that's clarified

21 in what you have in front of you today.

22 COMMISSIONER GIANNOULIS: So the

23 second test people willingly or forgetfully

24 don't take the test. How do you find that

25 out?

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1 MR. FRASER: We are notified of the

2 taking of a test electronically by LabCorp

3 pursuant to an MOU we have with them. They

4 notify us and it is uploaded into our main

5 frame database, our main frame database

6 periodically, I don't know how often, runs a

7 check of the deadlines by which you were

8 supposed take your drug test against the

9 report from LabCorp whether and when you did

10 and determines if there is a discrepancy.

11 CHAIRMAN DAUS: Correct me if I am

12 wrong, it's basically the anniversary of the

13 dates they get their license issued to them,

14 right, that they are due for the drug test?

15 MR. FRASER: There is some flex in

16 the term issued to but it is basically the
17 expiration date of their license, which would
18 ordinarily be the anniversary.

19 COMMISSIONER GIANNOULIS: If I
20 could, how many people in a year get
21 suspended, or whatever you call it, because
22 they fail to fulfill the requirement?

23

24 MR. FRASER: I don't have those
25 numbers.

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1 CHAIRMAN DAUS: Barbara?

2 MS. SCHECHTER: The question is how
3 many fail the drug test?

4 COMMISSIONER GIANNOULIS: No. How
5 many fail to take inevitably the second test,
6 which is really the issue?

7 MS. SCHECHTER: I don't know the
8 percentage offhand. I can get back to you
9 with that?

10 COMMISSIONER GIANNOULIS: 50 people.

11 MS. SCHECHTER: No, more. Hundreds.

12 MS. WEINSHALL: I think Andy has an
13 answer.

14 CHAIRMAN DAUS: Andrew, do you have

15 the numbers? Sara?

16 MS. MEYERS: I know that since the
17 initial drug test rule, which was implemented
18 November 17th, when we have been doing the
19 daily drug test letters, so I guess that's
20 about three months, there have been about
21 5,500 people that have been put on suspension
22 for failure to take their drug test.

23 MR. SALKIN: But most of those
24 people, we believe, are just leaving the
25 industry all together. It is not like they

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1 are not taking the test. Most people who
2 choose to keep driving are complying with the
3 rules. That is what we are seeing. They are
4 not even contesting.

5 COMMISSIONER GIANNOULIS: And you
6 said there are 100,000 licensed drivers?

7 CHAIRMAN DAUS: Right. But
8 consistently, the judge of this is, I think,
9 the end result. What happens, where do you
10 have the convictions, where are the people who
11 tested positive. Consistently, since the
12 program has been in place, it has been 0.00

13 something percent of our licensing pool have
14 been revoked for testing positive. What you
15 have basically, like Andy said, is a lot of
16 people leaving the industry and not working,
17 why should they take the drug test, or people
18 who are just not getting it done in time. So
19 there is an education issue, a notice issue
20 there.

21 COMMISSIONER GIANNOULIS: Can I ask
22 a question?

23 CHAIRMAN DAUS: It's really in terms
24 of what ultimately happens, Harry, this is
25 such a small number. Less than 50, 20 people

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1 a year who I revoke their licenses for testing
2 positive. This is more of a failure to comply
3 with the procedure in a timely fashion.

4 COMMISSIONER GIANNOULIS: That's a
5 lot of people.

6 MS. SCHECHTER: In terms of the
7 failure to comply, every day after the interim
8 date of each batch of licensees, we identify
9 those who did not take their drug test as of
10 their interim date. And we average about 40
11 people a day who did not take their drug test

12 at their interim date. And what we do is we
13 immediately send them a letter once they fail
14 to do that, telling them they have to do that
15 immediately or they will go on suspension.

16 COMMISSIONER GIANNOULIS: I read the
17 rules, there is a fine if they do get
18 suspended, so there is a way to remedy,
19 obviously, the situation, they go and they
20 take the test. But I surely am not going to
21 recommend, and I don't think it would pass
22 anyway for the agency to send out letters.
23 Because you would be doing that if you wanted
24 to do it, I assume.

25 CHAIRMAN DAUS: We do send out

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1 notices.

2 COMMISSIONER GIANNOULIS: It is a
3 little confusing, again, they should be able
4 to hit their dates, but there is some
5 confusion. I had to read it four or five
6 times. 30 days from this date, it was a
7 little unclear to me, so I assume the driver
8 is going to be even more confused.

9 CHAIRMAN DAUS: What's not confusing

10 though, Harry, but we do need to do a better
11 job of educating drivers. But when you get
12 your license, it's a given, one year from now
13 you have to take your drug test. Maybe we
14 need to do more in terms of reminding them,
15 industry notices. But in addition to that
16 simplicity of it, they do get notices that are
17 mailed out to them, reminding them.

18 MR. SALKIN: As part of this process
19 we have improved the letter. We think it's
20 actually easier to read. One of the things we
21 did, because we have better computer
22 programming, we were actually able to tell the
23 person when the 30-day windows starts and
24 ends.

25 COMMISSIONER GIANNOULIS: For next

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1 year.

2 MR. SALKIN: Well, we send out a
3 letter for the interim test 60 days before or
4 90 days before your year is up.

5 COMMISSIONER GIANNOULIS: So you do
6 send out a letter?

7 CHAIRMAN DAUS: Yes. He wants us to
8 put in a rule.

9 MR. SALKIN: There are two letters
10 that go out. One is for the interim and then
11 for the renewal we already send you a letter.
12 We send people information saying your renewal
13 is coming up. We do that 90 days before. So
14 this is for the people that are in the off
15 year, which is the end of your first year,
16 start of your second year, we send a letter 60
17 days before letting them know when the window
18 is to take the drug test.

19 COMMISSIONER GIANNOULIS: How about
20 this as an idea, and I don't know if this
21 would cost you anything. I don't know what
22 your MOU is, is it one drug company you work
23 with?

24 MR. SALKIN: Right now we work with
25 LabCorp.

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1 COMMISSIONER GIANNOULIS: Why not
2 negotiate with them, it's obviously in their
3 interest for people to take the drug tests
4 because they are making money on it, and they
5 have information, I assume. Why wouldn't we
6 work out something with them where they are

7 notifying people on their own --

8 COMMISSIONER GONZALES: Can I just
9 interrupt that, Harry. I know it is required
10 most bases must have e-mail. Now I don't know
11 how the medallion garages work it, but I know
12 on the for-hire vehicle if they are working
13 out of a base, why doesn't the TLC 60 days
14 before, send an e-mail to the base president
15 or the owner, and let them notify all their
16 base drivers within 60 days that they have to
17 be renewed, they must do it. At least it's
18 some way of letting them know, if that's
19 possible.

20 COMMISSIONER GIANNOULIS: What if we
21 had, I don't know how often these contracts come
22 up, but what if we had the testing company, I
23 mean if I owned the testing company, it would
24 surely be in my interest to send out a letter
25 to somebody saying, "According to our records,

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1 your one year is coming up."

2 MR. SALKIN: That's an interesting
3 ideas and one that we will have to pursue.

4 COMMISSIONER SANDER: I am sensitive
5 on that one, to the issue of a for-profit

6 entity being involved. We have to talk about
7 that some more. I do have some sensitivity, I
8 wouldn't just rule it out, but the issue of a
9 for-profit entity being involved in a
10 governmental process --

11 MR. SALKIN: Again, it is something
12 we can look at and bring it back to you before
13 we make any decisions.

14 CHAIRMAN DAUS: Actually, these are
15 great administrative suggestions. It is
16 something that we don't have to necessarily
17 put in the rules, but things we could do.

18 COMMISSIONER AROUT: If I might
19 address this issue, on the license itself, is
20 there a way to maybe just put the drug test
21 date on there as well. That way they have it
22 on the license and they also get some
23 correspondence --

24 MR. SALKIN: I think that's something
25 in theory that we could do. As it is now, the

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1 license says when the license is up, so
2 through simple math you can get there.
3 Perhaps that is something we can explore.

4 COMMISSIONER AROUT: That way, just
5 from a process standpoint, they have two
6 notices, one on the license itself and one
7 from correspondence.

8 CHAIRMAN DAUS: We will look into
9 that. Actually, I'm sorry, we have missed a
10 few speakers. We have two more speakers.

11 Thank you Andy and Sara.

12 Dave Pollack from the Committee for
13 Taxi Safety.

14 MR. POLLACK: Good morning,
15 Commissioners, Chairman Daus, and Mr. Fraser.
16 My name is David Pollack, the Executive
17 Director of the Committee for Taxi Safety. We
18 represent about 2,000 medallion owners and
19 approximately 5,000 drivers who drive those
20 taxicabs.

21 We commend the Taxi and Limousine
22 Commission on the rule to suspend drivers who
23 do not take their drug test. However, we just
24 had a discussion about notification. There is
25 a process in place where we heard 60 to 90

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1 days prior to the drug test a letter is sent
2 out. I cannot urge you enough, to please

3 amend the rule and make notification part of
4 the rule. That's all.

5 CHAIRMAN DAUS: Okay.

6 COMMISSIONER SANDER: Excuse me,
7 David, could you just elaborate further in
8 terms of that point?

9 MR. POLLACK: Agreeing with
10 Metropolitan, Joseph Gianetto and Mike Woloz,
11 drivers do leave the country sometimes and it
12 would be great -- right now we say that they
13 are notified, but this is very rule oriented
14 Commission. The rule doesn't say you have to
15 notify them. I think it's in the best
16 interest of the drivers to have it as part of
17 the rule so 100,000 drivers, or more
18 importantly to us, the 40,000 yellow taxi
19 drivers are notified. So if they do make
20 plans, I forgot, I have to take my drug test
21 within 30 days. Especially since the rule has
22 changed. The drivers just finished
23 understanding that you had to take the test no
24 more than 60 and no less than 30 days before
25 the annual date, which was confusing but that

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1 was the only way to remember it. If you took
2 it 29 days before your annual date, you were
3 in violation.

4 Now we are changing that and making
5 it you must take it within 30 days from that
6 annual date. Notification is very important.

7 CHAIRMAN DAUS: Actually, Lee, Chuck
8 wanted to answer your question.

9 COMMISSIONER SANDER: Also, in
10 answering that, how much of a burden is it on
11 the agency to provide notification from an
12 administrative standpoint as well as from a
13 legal standpoint?

14 CHAIRMAN DAUS: We will do whatever
15 we need to do to make sure that people come
16 and take this test. That is the number issue.
17 We will figure out a way to make that happen.
18 The first thing we have satisfy is the legal
19 aspects of this, what are we required to do
20 legally and then what the best practice is
21 above and beyond that. And what is
22 administrative, what is ministerial and what
23 needs to be in the rule. So I think Chuck
24 wanted to address your first comment, which is
25 a good comment.

1 MR. FRASER: The law would be that
2 the obligation of a driver to take a drug test
3 springs from the existence of the rule, not
4 the sending of the notice. And that would be
5 the reason that we would not want to put a
6 notice requirement in the rule. You would
7 risk a court saying you can't penalize someone
8 for not taking this test because in this case,
9 out of 100,000, you botched up the notice
10 somehow. Whereas, his obligation to take the
11 test comes from the fact that we have the
12 rule, not from the fact that we mail him a
13 letter.

14 Now, in terms of best practices, I
15 guess it's been clear, we do, in fact, mail a
16 letter to everyone at the address that they
17 have given us, 60 to 90 days before the end of
18 their obligation. We send them a second
19 letter once their time has come up, and say,
20 okay, you failed to submit to a drug test and
21 you have five days until you are going to be
22 suspended. And even then, they are only
23 suspended until they get their drug test.
24 They still have that time to then go get their
25 drug test and get their license back.

1 COMMISSIONER GIANNOULIS: How long
2 does it take to get the drug test results?

3 MR. FRASER: We get them like the
4 next day or maybe two days after the test.

5 COMMISSIONER GIANNOULIS: So if I get
6 suspended, I get a letter that says you are
7 suspended as of two days ago. I go, I take my
8 drug test, I can get an appointment relatively
9 quickly?

10 MR. FRASER: As to getting the
11 appointment, I actually don't know. I think I
12 have been told about a week or so, but I am
13 not positive of that.

14 CHAIRMAN DAUS: There are walk-ins
15 also.

16 MS. SCHECHTER: The lab is required,
17 according to the terms of our MOU, to give
18 them an appointment within 48 hours after the
19 time they call.

20 AUDIENCE MEMBER: They don't do
21 that. The 800 number is more than impossible
22 to use. It takes three to four days to get
23 through.

24 CHAIRMAN DAUS: Well, that's an
25 issue.

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1 MS. SCHECHTER: We periodically test
2 the 800 number and just have not found that to
3 be the case.

4 CHAIRMAN DAUS: Do we have in our
5 MOU a standard that they must adhere to? Is
6 that in the MOU, the 48-hour period?

7 COMMISSIONER SANDER: Yes.

8 CHAIRMAN DAUS: Because that is
9 something I think we are hearing, that they
10 may be slipping on that submission?

11 COMMISSIONER SANDER: No, I think
12 what Ms. Barret is saying that they don't
13 answer the phone. And we periodically monitor
14 that phone line to ensure that they do, in
15 fact, answer the phone.

16 MS. BARRET: Many times it is during
17 the course of business, so they are around
18 driving and LabCorp is closed when they come
19 home, so Monday through Friday just doesn't
20 work.

21 CHAIRMAN DAUS: Would you be able to
22 share some of that information, like the dates
23 and times when you called in a general sense,

24 and Barbara will look into that. I mean,
25 that's an administrative issue that's

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1 important.

2 And, you know, Harry, one thing I
3 wanted to point out also, is one of the
4 comments that was made earlier. A lot of
5 people don't know this but even before you get
6 the ability to go before one of our judges to
7 contest the results, you have this whole
8 system in place where you can claim that there
9 was something else that you ate that caused an
10 adulteration, have it reviewed by the medical
11 review officer, which is a whole drug testing
12 protocol that is in place.

13 So there is a lot of due process and
14 a lot of checks and balances that come into
15 place before the agency even goes down that
16 road.

17 COMMISSIONER GIANNOULIS: I don't buy
18 this medical thing. I am not a lawyer again
19 but I assume it is illegal to be in this
20 country using a substance, it doesn't make a
21 difference if it is not illegal in another
22 country.

23 CHAIRMAN DAUS: But in the event
24 that somebody has a valid claim, there are
25 accepted medical procedures in place involving

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1 a medical review officer, an independent
2 doctor that apparently looks at the drug
3 testing procedures to make sure there was
4 compliance.

5 You know, my staff and I actually
6 held a management meeting several years ago at
7 the LabCorp facility, and despite some of
8 these issues with the phone calls, it was one
9 of the most impressive things I have ever seen
10 in terms of the quality and the care that goes
11 into the procedures. It was very, very
12 impressive. So I welcome you to go out there
13 and visit if you have some time and if you are
14 in Jersey, but it was very, very enlightening.

15 MR. POLLACK: Another reason I would
16 urge you to amend the bill and add
17 notification as part of it, is many times --
18 or I don't know if it is many times, but there
19 may be wrong addresses. And sometimes it
20 could be the driver's fault not telling the

21 TLC; however, I would imagine since they know
22 the rules and they don't want to lose their
23 job, there might be human error in inversing
24 numbers or putting the wrong letter in an
25 avenue, and in that case the mail would come

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1 back and it may delay the process of
2 notification. To that end, once again, I urge
3 you, please.

4 CHAIRMAN DAUS: Yes, thank you,
5 David.

6 MR. POLLACK: Don't you have a Rule
7 B over there, Mr. Fraser?

8 MR. FRASER: I am afraid not.

9 CHAIRMAN DAUS: We could draft one
10 though.

11 COMMISSIONER SANDER: Quickly, I
12 think it would be worthwhile for the staff to
13 analyze further the numbers in terms of the
14 5,500 that we heard about, whether that
15 represents the number of people leaving the
16 industry. Just as an aside, it would be
17 interesting to know how many people leave the
18 industry, how many drivers leave on an annual
19 basis, whether that is a one-on-one

20 correlation or whether there are individuals
21 who are staying in, who remain as drivers but
22 are generally not responding.

23 CHAIRMAN DAUS: I think I could
24 pretty much guarantee that those numbers will
25 come down. You are basically dealing with the

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1 wake up call that we sent with our expedited
2 rules to these people, so now all of a sudden
3 everybody is looking to complying. So I think
4 those numbers over the first three months are
5 high. You are talking about people who when
6 they come up for renewal are probably more
7 likely to get it done on time. That's the
8 whole point of the rule. That's what we are
9 trying to accomplish. I don't think -- if I
10 had to place a bet on it, I don't think we
11 will get 5,500 this time next year.

12 COMMISSIONER SANDER: Just out of
13 curiosity, if you could address how many
14 people seem to be leaving on an annual basis,
15 I mean, trend lines in terms of how many
16 people stay?

17 MR. SALKIN: I could give you some

18 numbers now, but what I would prefer to do is

19 if you want I can put together a memo.

20 COMMISSIONER SANDER: I think memo

21 would be good. I just think it is an

22 interesting point.

23 And then, lastly, in terms of David's

24 point in terms of notification. I hear David

25 continuing to say notification. I hear Chuck

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1 continuing to make a point about the burden

2 legally or how that would place the agency

3 from a legal standpoint in terms of pursuing

4 individuals, and I don't know if there is a

5 disconnect between what you are saying and

6 what you are saying. So on balance, I am more

7 concerned about losing the agency's position

8 in terms of being forced to notify and then

9 not being able to prosecute, as compared to

10 the unfortunate impact on individual drivers.

11 If that is a disconnect, then it is what it

12 is.

13 CHAIRMAN DAUS: What you are saying

14 is that legally we don't want to allow people

15 to slip through the cracks because we didn't

16 send a letter out.

17 COMMISSIONER SANDER: Right. When
18 you balance the point that David was saying
19 about the inconvenience to drivers from
20 suspension as compared to our missing people,
21 my own personal view is to be in support of
22 the agency.

23 CHAIRMAN DAUS: We appreciate that,
24 Lee. I tend to agree with you, but I don't
25 want to let the industry think that we are not

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1 considering your ideas. I totally agree, the
2 extra notice should be provided.

3 In fact, also by putting a couple of
4 days notice, we may be tying our hands as to
5 the possibility of giving better notice down
6 the road. We may put our heads together and
7 analyze these numbers and come up with some
8 better ideas and then we are stuck in the
9 rules. So what I would prefer we do, since
10 this is a new process, it has been in place a
11 couple of months, that we vote these rules in
12 and I will come back within a few months
13 hence, or throughout the year and brief you
14 and update you on the numbers, is it working,

15 is it not working, and what our ideas could be
16 on notice.

17 Elias had an interesting idea on
18 notice, but then there is the issue that
19 people might livery bases and go from one to
20 the other. But I think, clearly, drivers need
21 to be more educated about this. Especially if
22 you look at the rule, when it comes to the due
23 process issue, it could be complicated. I
24 think our notices and our letters have made it
25 as simple as we can, but we can work on

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1 education outreach and come back with some
2 ideas.

3 I'm sorry, we do have one more
4 speaker. Erhan Tuncel, are you still here?

5 Yes, and he is our last speaker. So
6 I apologize. And then we will conclude the
7 public hearing.

8 MR. TUNCEL: Hello Commissioners,
9 Chairperson. I have prepared something here
10 to really give it to you, but I am not, I
11 changed my mind because a lot of people did
12 that.

13 I am concerned about this new rule.

14 This is all about punishing the driver once
15 more. I feel like every time I come here to
16 testify before you, it's like to prevent you
17 from punishing us. It's really, the drug test
18 is absolute necessity for public safety.
19 That's understood. But at the same time,
20 trying to punish us for non-compliance, as you
21 put it, but first you took the reminders away.
22 The main concern of this is not on the renewal
23 here, obviously, it's the mid year that falls
24 in. There has to be a better way of dealing
25 rather than punish the driver for not

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1 compliance in such what I call severity.
2 From what I understand, it is \$200
3 fine, it's a little bit too much. I say
4 that's okay, but revocation of license
5 immediately? I mean, I have been complying
6 with it all this time, but anybody can forget
7 and it can happen. So I think you should put
8 the requirement for the TLC to notify the
9 drivers, especially on that mid year, on
10 non-renewable year, as part of this law, so
11 that you are required to let us know. I think

12 that's important.

13 That's all I wanted to say.

14 CHAIRMAN DAUS: Okay, thank you.

15 Any other speakers?

16 (No response.)

17 CHAIRMAN DAUS: That is concludes

18 our public hearing.

19 Any other comments from Commissioners

20 or questions.

21 COMMISSIONER DEAR: I would like to

22 propose that we should put the notification

23 because it makes a difference if you put it in

24 the rules or you don't put it in the rules, it

25 doesn't matter. If we are going to do it

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1 anyhow, it doesn't make a difference. I think

2 we should just put it in the rules, like this,

3 that we know that we have to do it, to make

4 sure that one day someone wakes up and says,

5 "Oh, we don't have to do it," so you didn't do

6 it.

7 CHAIRMAN DAUS: I am not adverse to

8 doing it. I think we should do that, I just

9 don't think we are ready to determine what the

10 exact number of days is or whether there are

11 better methods for us to reach the drivers.
12 So while I would agree, that is something that
13 I don't have a problem with, I rather not that
14 we tie our hands right now.

15 COMMISSIONER GIANNOULIS: Can I make
16 a proposal that we accept the rule as adopted
17 and that we authorize the Chair to report to
18 us on this matter within 60 days, and the
19 Chair can give us some kind of report, if
20 staff time allows, within 60 days in regard to
21 is there a better way notify the drivers, what
22 are possible options, and some statistics on
23 this matter. At that point, we will re-review
24 the rule making, if need be. That's my
25 proposal.

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1 COMMISSIONER SANDER: And just to
2 clarify, as part of that report, if it is a
3 significant burden or exposure to the agency
4 if we put notification in, in terms of any
5 individuals possibly slipping through the
6 cracks in terms of our burden to serve on them
7 and what have you.

8 CHAIRMAN DAUS: Great. Is that a

9 second, Lee?

10 COMMISSIONER SANDER: Second.

11 CHAIRMAN DAUS: Okay, all in favor?

12 (Chorus of "ayes.")

13 CHAIRMAN DAUS: Any opposed?

14 (No response.)

15 CHAIRMAN DAUS: Okay, it's unanimous.

16 Thank you for that suggestion. We

17 will report back in 60 days or at the next

18 Commission meeting thereafter.

19 Base licensing application review,

20 Item 4 on the agenda. Bill, could we deal

21 with these denials first, please?

22 MR. CARTER: Yes. Good morning, Mr.

23 Chairman.

24 MR. CARTER: The following bases are

25 being recommended for denial: Bee-Bee Car &

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1 Limo Corp., FS Car Service Inc. Doing business

2 as Clinton Limo Service, Habirah Inc. doing

3 business as Elat Car & Limousine, Monumental

4 Radio Dispatch Corp., St. Albans-Hollis Car

5 Service, and STM Enterprises Inc. doing

6 business as Java Car & Limo Service.

7 These base have failed to supply us

8 with a completed application at this time.

9 CHAIRMAN DAUS: So these are bases
10 that basically we bent over backwards, we gave
11 them notice last time at a public meeting, is
12 this the same group of bases?

13 MR. CARTER: No. This is the group
14 from the next month, that we sent out notice
15 to them giving them a deadline date, they have
16 not complied at this time.

17 CHAIRMAN DAUS: They simply have not
18 completed their application. You have gone
19 above and beyond, it looks to me, by calling
20 them, some more than six times by phone, three
21 letters, two letters?

22 MR. CARTER: Yes.

23 CHAIRMAN DAUS: This is just
24 outrageous. I would like to make a motion
25 that we deny these bases applications.

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1 COMMISSIONER GONZALES: I would like
2 to second that.

3 CHAIRMAN DAUS: Okay, all in favor?

4 (Chorus of "ayes.")

5 CHAIRMAN DAUS: For the record, we

6 are missing a few Commissioners who are out of
7 the room. Commissioner Vargas and
8 Commissioner Weinshall had to leave, as well
9 as Commissioner Dear who will be on his way
10 back. But we do have five votes: Giannoulis,
11 Sander, Daus, Arout and Gonzales.

12 Thank you. Andy?

13 MR. SALKIN: I just want to point
14 out that previous, which was the first time
15 that we denied bases, the Commission voted to
16 deny them but to give them more notice. But
17 you just voted to deny them, so we will
18 consider final notice already added and we
19 will seek to visit these bases and make sure
20 they are not operating.

21 CHAIRMAN DAUS: So logistically,
22 Pansy and her people will go to the bases and
23 shut them down now?

24 MR. SALKIN: Absolutely.

25 CHAIRMAN DAUS: Good. We have waited

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1 a long time for this. Well done.

2 Let's go through the rest of the
3 agenda.

4 MR. CARTER: The following bases we

5 are recommending for renewal.

6 CHAIRMAN DAUS: And, everybody, if
7 you want to discuss an item and pull it to the
8 side, just mention it, mention the base as we
9 go through it.

10 MR. CARTER: 4621 Avenue N Corp.
11 doing business as Mill Basin Car Service.
12 Albuja d/b/a Flushing Express. Classic Car
13 Service Corp. doing business as Paisa Classic.

14 CHAIRMAN DAUS: Can we put that to
15 the side, please.

16 MR. CARTER: Columbia Street
17 Limousine Service, Inc.

18 CHAIRMAN DAUS: That one as well.

19 MR. CARTER: Friendly-Bestway
20 Transportation Inc. Laurelton Car Service
21 Inc. Masada III Car & Limo Service Corp.

22 CHAIRMAN DAUS: Hold that to the
23 side, please.

24 MR. CARTER: New Bell Car Service
25 Inc.

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1 CHAIRMAN DAUS: That one as well.

2 MR. CARTER: Shamrock Dispatch Inc.

3 doing business as Kelly's Private Car Service.

4 Shah & Hassan doing business as PJ Car

5 Service, V&M Transportation Corp. doing

6 business as Empire Care & Limo.

7 Those are the bases for renewal.

8 Shall I go on?

9 CHAIRMAN DAUS: Why don't we go

10 through the whole list.

11 MR. CARTER: The following bases we

12 are recommending for approval of their

13 relocation applications: 440 Car Service,

14 Inc. Early Bird Car Service, Inc. Livonia

15 Corporation doing business as Livonia Car

16 Service.

17 The following bases have combination

18 applications that we are recommending

19 approval: Alnagar Car Limo Service. Brooklyn

20 Heights Car & Limo Service. Kiss Car Service,

21 Inc.

22 CHAIRMAN DAUS: I have an issue with

23 Kiss.

24 MR. CARTER: Maj Management, Inc. --

25 CHAIRMAN DAUS: I have an issue with

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1 that one as well.

2 MR. CARTER: -- doing business as
3 All Corners Car Service. Professional Car
4 Service, Inc.

5 CHAIRMAN DAUS: Add that one to the
6 list.

7 MR. CARTER: Rechev of Brooklyn,
8 Inc.

9 CHAIRMAN DAUS: Any questions on the
10 base list?

11 Can I have a motion to approve the
12 ones that have not been set aside.

13 COMMISSIONER GIANNOULIS: I make a
14 motion.

15 COMMISSIONER SANDER: Second.

16 CHAIRMAN DAUS: All in a favor?

17 (Chorus of "ayes.")

18 CHAIRMAN DAUS: That was seconded by
19 Commissioner Sander, by the way.

20 Bill, the ones that I put over to the
21 side, these are ones again that have one or
22 more convictions for unlicensed activity,
23 dispatching cars without licenses. What can
24 we do about these?

25 I want to make sure we are consistent

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1 with what we have done in the past. I want to
2 make sure that these bases clean up their act.
3 Even one conviction is too much. I just want
4 to make sure that we do whatever we have done
5 on an even playing field to send a message
6 like we did the other bases over the last
7 couple of months.

8 MR. CARTER: At the earlier
9 Commission meetings, you were recommending
10 that they submit to us a comprehensive
11 operating plan, a COP. What we have done,
12 since that time is we have sent the violation
13 to the base along with their renewal
14 application. So they are supplying us with a
15 comprehensive operating plan and we are
16 requiring that they address these summons
17 issues in that comprehensive operating plan.

18 CHAIRMAN DAUS: Have they done it
19 already?

20 MR. CARTER: Yes. I can check them
21 again just to make sure there is an inclusive
22 paragraph of some sort addressing the issue.

23 CHAIRMAN DAUS: So if we approve
24 them, two years from now I would like the
25 record to reflect that we are going to look at

1 them with a very, very close eye on what they
2 have been over the last two years, whether
3 they have adhered to that business plan.
4 Because, quite frankly, I am getting sick and
5 tired of seeing these bases dispatching
6 unlicensed vehicles.

7 And you know, it is not tons of them,
8 some of them, but one, two, three should cause
9 a base to take a close look at what they are
10 doing and how they are doing business. And I
11 think we need to send them a message, and I am
12 looking forward to the two year anniversary of
13 those bases that, quite frankly, have not
14 cleaned up their act, because we really need
15 to start cleaning up certain aspects of this
16 industry.

17 I have no problem making amotion to
18 approve, with the caveat that we look at this
19 in detail on the next renewal and if anything
20 comes up in between about these bases having
21 their records getting worse, that we take a
22 look at them.

23 COMMISSIONER GIANNOULIS: Second the
24 motion.

25 CHAIRMAN DAUS: All in favor?

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1 (Chorus of "ayes.")

2 CHAIRMAN DAUS: Thank you, it's
3 unanimous. Thank you, Bill.

4 We are on to Item 5. We changed the
5 procedures, Chuck is going to explain them to
6 the public, about appeals, Commission appeals.

7 MR. FRASER: The Commission's rules
8 provide for certain adjudications to be
9 appealed to the Commission. The rule further
10 provides that the Chairperson can prescribe
11 procedures for the filing and processing of
12 those appeals. And in consultation with the
13 Commission, the Chair has issued a new
14 procedure dated February 6, 2006. I believe
15 there are copies available to be picked up.
16 It's also posted, I believe, on our website.

17 The last time procedures were
18 promulgated was in 2000. The key differences
19 between the new procedures and the old, is
20 that the new procedures provide that if the
21 Commission decides to call the licensees
22 attorney before the Commission to answer
23 questions or present an argument, that the
24 Commission's prosecuting attorney should also

25 be called.

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1 Secondly, the procedures provide that
2 the Chairperson will not be present for the
3 consideration of the appeals since it is an
4 appeal from his decision. That has been the
5 practice, but the written procedure didn't
6 actually so provide.

7 Then third, the new procedure
8 expressly prohibits what is called ex parte
9 communications, meaning communications between
10 either side, the Commission or the licensee or
11 any representative on behalf of either of
12 those, and the individual members of the
13 Commission about the pending appeal, other
14 than, of course, in the event that they are
15 brought before the Commission to present an
16 argument.

17 CHAIRMAN DAUS: Do we need to make a
18 -- I think the Commissioners have had this for
19 about a week or two.

20 Any comments or issues?

21 (No response.)

22 CHAIRMAN DAUS: Okay, so we need to

23 make a motion, then, to go into executive

24 session.

25 MR. FRASER: Yes, for executive

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1 session to consider an appeal that we have

2 pending, that's right.

3 COMMISSIONER GIANNOULIS: Motion to

4 go into executive session.

5 COMMISSIONER GONZALES: Second.

6 CHAIRMAN DAUS: All in favor?

7 (Chorus of "ayes.")

8 CHAIRMAN DAUS: Okay, and Item 6, a

9 motion to close the meeting.

10 COMMISSIONER GONZALES: I make a

11 motion to close the meeting.

12 CHAIRMAN DAUS: Seconded.

13 All in favor?

14 (Chorus of "ayes.")

15 CHAIRMAN DAUS: Have a happy

16 Valentine's Day everybody. We will see you in

17 March.

18 (Time noted: 11:50 a.m.)

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1 C E R T I F I C A T E

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4 I, MARGARET EUSTACE, a Shorthand
5 Reporter and notary public within and for the
6 State of New York, do hereby certify that I
7 reported the proceedings of the TAXI AND
8 LIMOUSINE COMMISSION on February 9, 2006, and
9 that this is an accurate transcription of what
10 transpired at that time and place.

11
12

13 MARGARET EUSTACE,
14 Shorthand Reporter

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