

MARIN GENERAL SERVICES AUTHORITY

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MEETING NOTES

Special Meeting of February 9, 2010

The meeting came to order in the Corte Madera Town Council Chambers at 2:10 P.M.

PRESENT: Ken Nordhoff Chair, President called the meeting to order with Gary Broad, Wayne Bush, Cathy Capriola, Clarissa Daniel, George Rodericks and Hamid Shamsapour present. Staff present: Executive Officer Paul Berlant, General Counsel David Byers, Taxicab Regulations Program Manager Jeff Rawles, Sergeant Oliver Collins, Novato Police Department. Also present was court reporter Jennine Ferrel. Present on behalf of Novato Taxi Company were Daniel Carlson, owner and attorney John Sharp.

- A. The minutes of the January 21, 2010 meeting were approved as written.
- B. Berlant had no report.
- C. Taxicab Regulation Program:
Protest Hearing - Notice of Intent to Terminate Telephone Service – Novato Taxi;
Hearing Regarding Compliance Order 2009-02 – Novato Taxi.

Byers explained the process for the hearing being held by the Board, including the four possible actions the Board will consider: finding alleged violations of MGSA Taxicab Regulations did occur; finding alleged violation of California Government Code 53075.7, operating a taxi service without a permit did occur; whether Novato Taxi Company has used telephone service to advertise its business in violation of Government Code 65075.8 and termination of such telephone service; and finding alleged violation of California Government Code 53075.9 did occur, which could result in a fine of up to \$5000 plus costs of investigation.

Berlant explained that he issued Compliance Order 2009-02 directing compliance with MGSA's Marin Taxi Regulation Program. No response has been received. Berlant explained that a notice to terminate telephone service to Novato Taxi was issued on December 31, 2009, to which a protest was filed on behalf of Novato Taxi by John Sharp. The Board's hearing is in response to that protest.

Berlant presented oral evidence regarding the lack of compliance with MGSA's Marin County Taxi Regulation Program (MCTRP) by Novato Taxi Company and the efforts of MCTRP staff to obtain Novato Taxi Company cooperation through submittal of, among other things, the requisite applications, drug and alcohol test results, and criminal background test results. Berlant also distributed written evidence of these efforts: letter dated December 31, 2007 from MCTRP staff to taxi company owners; letter dated January 17, 2008 from MCTRP staff to taxi company owners; letter dated February 26, 2009 from MCTRP staff to taxi company owners; letter dated September 23, 2008 from Jeff Rawles MCTRP Administrator to taxi company owners; letter dated January 5, 2009

from Daniel Carlson to the Novato City Council; letter dated February 12, 2009 from Daniel Carlson to the Novato City Council; MGSA Board meeting staff report dated January 21, 2010 regarding protest hearing – Notice of Intent to Terminate Telephone Service – Novato Taxi Company; Compliance Order 2009-02 – Novato Taxi Company; dated December 18, 2009, Yellow Pages ad, June 2009 AT&T Yellow Pages, Yellowpages.com ad dated 1/18/2010; de.lirio.us web page listing Novato taxi dated 1/5/2010; email dated April 16, 2008 from Paul Berlant to Jeff Rawles regarding Driver Enrollment; email dated 5/5/2008 from Jeff Rawles to ragsailor@comcast.net (Daniel Carlson) regarding Novato Taxi Drivers Compliance with Marin Taxi Regulation Program; letter dated July 10, 2008 from Jeff Rawles to Dan Carlson; letter dated February 26, 2009 to taxi company owners; a blank MGSA/MCTRP Taxi Company Permit; MCTRP Business Permit Application form; MCTRP Owner, Partner or Principal Officer Filing as Applicant form; blank MCTRP Driver Permit; MCTRP Driver Permit Application form; and blank MCTRP Taxi Vehicle Permit.

Rawles described the permit process conducted by MCTRP staff.

Sgt. Oliver Collins, Novato Police Department discussed the 13 citations issued to Novato Taxi drivers who were driving without MCTRP permits. Some of the 13 cases have been combined in to one case, which is pending before the Marin County Superior Court.

John Sharp, representing Novato Taxi presented memoranda and declarations filed in the Novato Taxi cases pending in traffic court. He presented Carlson's concern that if he were to comply with MCTRP regulations and file permit applications he would violate state and federal law. With regard to the Compliance Order, Sharp wrote to Byers that Novato Taxi would not submit applications as directed due to their position previously stated. Carlson had applied for and received a City permit.

Sharp cited Government Code Section 53075.5 which states that drug test results of transportation company employees are to be reported to the company owner. He cited Federal Register that protects employee confidentiality. Carlson does not object to filing permit applications, but for the violation of federal law.

Carlson explained that he did attend a driver enrollment session with a driver, but that when he learned that he would be asked to have the driver sign a waiver allowing drug test results to be sent to MCTRP staff, he felt that doing so would be in violation of the law and would not do so.

Carlson stated that he does background checks and drug and alcohol test on his employee drivers as required by state law.

The Board asked questions of staff, Carlson and Sharp and discussed the alleged violations.

Motion by Shamsapour, seconded by Daniels to adopt Resolution No 2010-01 finding that Novato Taxi Company has been operating a taxi service in violation of MGSA/MCTRP regulations. Motion carried 7 – 0.

Motion by Bush, seconded by Shamsapour to adopt Resolution No 2010-02 finding that Novato Taxi Company has been operating a taxi service without a permit in violation of California Government Code Section 53075.7. Motion carried 7 – 0.

Motion by Shamsapour, seconded by Daniels to adopt Resolution No 2010-03 finding that Novato Taxi Company has used telephone service to advertise its taxi service in violation of California Government Code Section 53075.8. Motion carried 7 – 0.

Motion by Broad, seconded by Bush to adopt Resolution No 2010-04 finding that Novato Taxi Company has been operating a taxi service without a permit in violation of California Government Code Section 53075.9 and to levy a fine of \$5000.00 plus costs to investigate such violations. Motion carried 7 – 0.

- D. Public Comment. Ari Silva, owner of Taxi Company asked the Board to reconsider its permit application fees. Berlant explained that Mr. Silver's application was filed after November 2008 at which time the fees for taxi companies were increased.
- E. Closed Session: Conference with Legal Counsel - Anticipated Litigation Initiation of Litigation Pursuant to Government Code Section 54956.9(c). One Potential Case. No announcements.
- F. The meeting adjourned at 4:15 P.M.

NEXT MEETING: Meeting on Match 11, 2010 at 10:00 A.M.



Paul Berlant, Executive Officer

Approved March 11, 2010