

**MINUTES**  
**Newport Business License**  
**Work Group Meeting**  
**City Manager Conference Room**  
**Wednesday, August 6, 2014**

**Ad Hoc Members Present:** Ralph Busby, Bob Berman, and Rod Croteau.

**Ad Hoc Members Absent:** Mark Saelens (*excused*).

**City Staff Present:** Community Development Director (CDD) Derrick Tokos, Finance Director Mike Murzynsky, and Executive Assistant Wanda Haney.

**Guests:** Bill Trope', owner of Yaquina Cab Company.

Busby called the meeting to order at 3:05 p.m. The minutes of the last meeting, July 22, 2014, were approved. Because of the guest attending, the order of the agenda was changed.

**Review Taxicab Ordinance and Identify Whether Other Changes are Needed.** Busby noted that the group had received a copy of the old ordinance as well as the proposed draft from four to five months ago. Trope' asked what Busby meant by the old ordinance. Busby said the ordinance that is currently in effect. Trope' said that he still needed clarification on that. Tokos said he believed it ties back to Ordinance No. 1935 from September 4, 2007. Trope' said that it actually goes back to Ordinance No. 1408. He said that is the underlying document, which is the cornerstone of the whole thing. Then it was codified into the code; and then there was an amendment to the codification. He said the original ordinance is 1408, and that is where the group needs to start. Busby said that is not where the group needs to start. He said the group first needs to consider if we want to continue forward with a taxicab ordinance. He said from discussion the question raised was whether the City needs to impose things on taxis that it doesn't impose on anyone else. He wondered if this group wanted to make a recommendation on that.

Tokos said that, looking at the taxicab ordinance and endorsement, the purpose of the endorsement is to ensure that those acting as taxicabs are licensed, insured, and are in a position where they are not putting the public at risk while riding in their taxis. He noted that we have taxis operating on a regular basis and also have short-term licensing done by the police for events like the Seafood and Wine Festival where they are doing it for funds during that period of time. Berman asked if there are any state regulations concerning taxi drivers specifically. Trope' said not specifically; it's up to the municipalities to handle that. Berman said, to Busby's point, this is a very specific ordinance that only applies to taxicabs and drivers. It excludes bus drivers, which also involves public safety. He said the school bus company carries a whole lot more people than taxis. There are the Lincoln County Transit buses and several other transportation-related businesses not even discussed in the code and have no regulations. Tokos said that it's his understanding that the last time when we had this conversation and the Police Department was here they noted that buses get picked up because of the required commercial drivers' licenses. The state fills that safety role. Taxis are not subjected to CDLs. Berman asked if vehicle inspections and insurance for buses are requirements of the CDL; and Busby said no. Berman said maybe everything in the transit business should comply. It refers to the single-use type taxi so we can see what kind of vehicles are being used. All of these things; the background checks, the insurance. Berman said that he doesn't do a background check on people he does business with. He doesn't see the distinction between taxis and other businesses.

Trope' wanted to give the background. He said if you go back to the early 80s before taxicabs were regulated, you had six to ten people driving taxis all over the place. There were complaints and nobody was happy. In 1984, the City Manager, Mayor, and Police Chief wanted to do something about it, and Ordinance 1408 was drafted giving the City the authority to regulate taxicabs in the community. It set out how to get approved for a license and what could and couldn't be done. In 1986 the owner of the only servicing cab company passed away, and his widow sold that company to Trope'. Since then we went up to 2007 when the City decided they had to do something to figure out how to charge the right licensing fees and streamline the process a little bit. A few applicants didn't meet the criteria and didn't get permits. During those sessions, it was brought up that the City didn't have a handle on what fees to charge and wanted to amend the ordinance for that. They wanted to codify it into the Municipal Code. During codification there were some changes made or additions made, fees added, etc. Originally the City wanted an ordinance to have control over the willy-nilly, fly-by-night taxis; and there ended up being just one company. He said whether somebody else was qualified or not is beside the point. He's been here for twenty years without any problems; and he still hasn't seen any problems about the concern of regulating cab companies. He said that Ordinance 1408 is good; it protects the infrastructure of the City. He said we all agree that it is good for the City to have a cab company that operates 24 hours 7 days a week; one that has reliable and safe vehicles, whose drivers are covered by workers comp, pays payroll taxes, and has an upstanding citizen at the helm. He said when the City gets a fly-by-night driver that doesn't qualify and you change the rules so that he can qualify, you go back to what we had in the 70s. Berman asked if when Trope' says fly-by-night, he means an individual that has a station wagon and wants to get into business himself; and Trope' confirmed that. He said he takes a hit

when someone cherry picks stuff whether they have insurance or not. Busby said that he still feels that we shouldn't be putting more of a burden on taxicabs than we do on any other business. Trope' said it is your infrastructure; not just a shop. If you have too many cab companies and people are cherry picking, like last fall; that lost him a couple of good drivers. He added that the other guy didn't have the where-with-all to make it in business anyway. Busby said we could debate that but he doesn't consider a cab any more infrastructure than a coffee kiosk.

Tokos said there are a couple of different issues. First, whether or not the City should be regulating cabs; and if we get beyond that, should it be an exclusive franchise. This is not drafted that there can't be other operators as long as they meet the City's rules. If there are others, they will take a bite out of Trope's business. Trope' said if they can qualify and get through Ordinance 1408 without having effects on the infrastructure of the City, then they should be licensed. Berman noted that Ordinance 1408 is no longer the law regulating taxicabs; it's Section 15 of the Municipal Code. It's whatever is in that section and the proposed language for that Section 15. He said that none of the group have read Ordinance 1408. Trope' said that part of the Municipal Code, Chapter 1.20.010 (Codification of Ordinances) and Chapter 1.20.020 (Effect on Existing Ordinances) address that issue. He read from those sections. He noted that it says that the Municipal Code doesn't repeal previously-adopted ordinances. The Municipal Code prevails over inconsistencies in previous ordinances; and on the same subject matter, the Code provisions prevail. He said that the adoption of the Municipal Code doesn't repeal Ordinance 1408, which is the cornerstone.

Busby said the group's job here is to make a recommendation to the City Council on whether we need the ordinance; and if so, what we recommend. He noted that the committee has a proposal for a revised ordinance in front of us. He asked, do we want one at all? If we do, then we'll work on the proposed ordinance. He said the question on the table is, "What does this group think of having an ordinance at all?" Do you endorse the idea or recommend that the City not have one? Tokos said that having been here for a period of time, he knows of a number of issues raised specific to the Seafood and Wine event. Shouldn't the City regulate public safety issues to ensure that people coming here for events have the opportunity to ride in safe cabs? Taxis that have liability insurance so that in the unfortunate event of an accident they are not having to deal with that themselves. He said that anybody expects that when they get into a cab. Berman said that when someone checks into a motel, they expect them to have liability insurance and property insurance so that in case of a fire their belongings are covered; but the City doesn't require that. Trope' said that when people come in, whether residents or visitors, they understand that taxicabs are part of the infrastructure of the City and are regulated by the City. They expect it will be good. If there is a problem, they will sue the cab company, the driver, and the City. He said if there are bed bugs in a hotel, people are not necessarily going to sue the City. He said this ordinance was to protect the City. Having insurance and naming the City as an additional insured is the infrastructure part of it. The City needs to protect itself from lawsuits that could happen.

Tokos said that he didn't see the difference between this and other things that are being very similarly regulated. Yes there's vehicle inspections. But he noted that we have the Fire Department that inspects hotels and motels to make sure the fire alarms work. We inspect them in the first place to make sure they are built to code. He said if we don't deal with taxis, we are not providing the same safety as with a hotel or a vacation rental. Vacation rentals are inspected to make sure they have operating smoke detectors, and that the decks are not going to fall down. Busby said that we don't do anything with car rentals, bicycle rentals, bus companies, air crafts, and charters. Tokos said the buses are a public transit district; and he expects that just by being public transit, they are regulated. Busby said that he was thinking of charter operators. Tokos said they do have CDLs. Busby thought that this is far and above requirements for other businesses. There are other businesses we don't regulate. Croteau said this is a business that is more prone to have "pirate" drivers. He said they used to call them "gypsy" cabs. He said you very seldom find gypsy bus drivers or airplane pilots. Taxis are prone for that; and if someone loses their stuff, unless they get a license number they can't track it down. He said that most cities of any size regulate cabs for that reason. Trope' said that you have to have the where-with-all to afford the fees and vehicles. When there's one or two doing it on their own schedule, like last time; they were racing him to his pickups. That is why he lost a couple of his drivers.

Busby asked if it was the consensus of the group that the City should have a taxicab code. Trope' wondered why Busby was asking when it was in effect in the 80s. He has owned his company for over 25 years and knows how it works. He said the group hasn't even read the ordinance. Busby said what we are addressing is what is in effect currently. Being fairly new to this, Murzynsky said we have a code in place already, so why are we looking at it? Busby explained that last year another company applied for a license and there were issues on how to proceed and what needs to be done. In the middle of that a proposed revision of the ordinance was prepared. In the process it was decided that we shouldn't be changing it then. This person was told that he could proceed with the existing code or back out and we would put in the new code. He did back out. Nothing has occurred for four to five months now. The question was brought up at a recent City Council meeting about what we are doing with this draft we have on the table. The discussion was whether we need this draft or whether to go forward with it. The Council referred it back to this committee. Berman asked what the issues were with the existing code. Tokos said what he understands is the existing ordinance required a public hearing before the City Council, which is different than any other business. This draft was to try to strip out that process piece and make it more akin to other endorsements, which is supplemental information you have to provide to get a business license. Busby agreed that the difference between the draft and the old ordinance currently in effect is that public hearing. The various qualifying actions are pretty much the same. What it does is place all activity for approval within the administrative staff of the City. Other than that, he believes things like the background checks and insurance

requirements were intended to be the same. Berman said that given the potential gypsy cab situation, which could have a detrimental effect on the City and other businesses, it would be fair to update the existing code to alleviate some of those concerns. He's still not convinced, however, that they are different from other types of tourist activities to justify this extra level; but he is willing to talk nuts and bolts. Croteau said there are lots of details in this ordinance; but it doesn't preclude competition. The bar is not terribly high. As long as it is open to competition, then he is comfortable with it. Murzynsky said this is more detailed than Albany's; but it is the same idea. He said he can say yes to getting away from a public hearing and putting it in administrative hands. He said that from the quick read that he did, he is good with it. Tokos suggested simplifying it as much as possible. We don't need to complicate things. He thought the group would be well advised to look at streamlining this.

Busby said in reading this, there is one significant issue he has. Under the temporary permitting, the Police Chief's approval can be appealed to the City Manager and then can be appealed to the City Council. Under the permanent permits, it says the same, but there is no appeal to the City Council. He thought that should probably be there. It was agreed that the same wording should be used there.

Trope' said that regarding the amendment to the code, the original ordinance didn't require any specific insurance; it just said you have to have insurance. The code adopted in 2007 requires \$1 million of insurance and to name the City as an additional insured. Prior to that he had \$500 thousand of insurance; and he had to increase it to \$1 million. He said a couple of years later, because of the Seafood and Wine Festival, the temporary permits were added. He said he would just as soon not operate during that week himself. He said the gypsy drivers are more than welcome to come in and take the load off him. When the City installed that they could have a temporary permit for those three days, it requires them to have \$500 thousand of insurance. For the experienced company, it requires \$1 million; but for the beginners it's only \$500 thousand. Busby agreed with Trope' that if we are going to put an amount in there, it should be equitable. The others agreed.

Berman asked how the group was going to proceed with this. Tokos said he is just taking notes and thought that Hawker would rework the draft and take it back to the Council. It was agreed that someone should compile the notes. Busby suggested collecting the notes and get with Hawker and let her take another shot at the draft. He thought most is fairly minor. He said the major thing is that the group wants to proceed with a revised ordinance; and the major thing with the revision is the removal of the public hearing. Trope' said that he had a problem with that. He thought that the public hearing is an important aspect of the whole regulation of the infrastructure. If the application is approved, there is nobody looking at the overall operation and what their qualifications are. Are they operating 24/7? Is it fair to just let them pick their hours and let those operating 24/7 suffer dings in their armor? They don't have enough money to repair their vehicles. Busby said there are no operating requirements in the ordinance; no number of hours. Tokos said that has to do in large part with aspects of Ordinance No. 1935. He said when the City adopts an ordinance with a new set of rules, it will commonly be set up so the new ordinance repeals the old language so there is a clear legislative record. He said this may be what it was with the ordinance in the 80s. Now we are changing and adopting something else. Tokos said that he doesn't have Ordinance 1935; but if it has that language then that is what would have happened. He said when the City did the full codification they were worried that they didn't pick up all ordinances. If it didn't get expressly zapped, it is still alive. Since that time, we made changes to put in the temporary permits under the watch of City Attorney McCarthy; which was after codification. He said that is the ordinance to be looking at. Did it repeal and replace the ordinance? If it did, it's a done deal; and we wouldn't look any further beyond that. He said we can take a look at that. We don't want the legislative record to be a mess. Busby agreed we can clear that up.

Busby confirmed that it is the consensus of the group to go ahead with the revised ordinance. Comments will be submitted to Hawker to come out with a new draft. The number one thing is the removal of the public hearing, and the rest is of lesser importance. Tokos said to direct comments to him, and he will coordinate them with Hawker. Busby asked the members to forward their comments to Tokos.

**Confirmation of Revision Areas for Draft Ordinance Update:** Tokos said what he was hoping to get out of this is a confirmation so he can put together language and an example of what other jurisdictions are doing in relation to this. It won't be resolved here. Tokos said the first one is the biggest issue. The others said yes to the definition of business. Berman said as far as the approach, have a general definition of business as all-inclusive and then get to exemptions. Tokos said he can bring examples. Busby said that under employees, it doesn't address volunteers or contractors, which probably should be included.

Busby said there are a lot of not-for-profits. We make a clear definition. Berman said we want to limit it to those that deserve it. Busby said on the next page for application, we need to address that everybody needs to apply. We charge everybody for the application, but the license fee is only charged to for-profit businesses. He asked if we should be charging the application fee to nonprofits. Croteau asked if the application fee is \$25. Murzynsky said that pays for staff time. Tokos noted that we have a nonprofit exemption for portable signs. The quilt show was last weekend, and they submitted an application for 43 portable signs. If it had been a for-profit business, that would have been a \$450 sign permit. He couldn't ask Mettle to drive around and make sure all signs are in the right spot. Tokos said there is a risk of being too generous; and they will take advantage of it. Busby said that he agrees with the other things that are noted on that last definitions page.

On the fees page, Busby said provisional licenses are a big deal and agreed that is an issue that has to be addressed. Berman thought the whole payment thing needs to be thought through in terms of Finance's procedures. He said, say they pay the application fee with their application, and then they pay the annual fee for the license; that is two financial transactions. Croteau said maybe if it's 30 days before they can qualify for the real license, and they can't operate. Berman said maybe they get a provisional license with an application fee. He thought we should eliminate refunds. Murzynsky said it's not as bad as you may think. Berman said we can talk about the nuts and bolts later. On the next page, under number 2 of the exemptions, Busby thought under item "d" we should add "when asked." He wondered if the bottom paragraph, "F (1)," is necessary. It's for special events like the Seafood and Wine Festival. Tokos said that's one master list, and they get the license on the organizer. He said it seems to have been working fairly well. Berman asked if it applies to the Farmers' Market too; and Tokos said yes, it should.

On the next page under "Multiple Locations," Busby agrees with the comments for item "A".

Under "Application" item "B" when it says all addresses and locations, Walmart would have to list all of their stores. Murzynsky said maybe just put "within the City." Busby said it's just an oversight. He said that he agrees with "C" and "D" on the next page.

Under "Issuance; Transfer" item "B" at the bottom of the page, there's actually a loophole in a sense. He said for example, say he applies for a business license and as soon as he gets it he sells the business. That is why they did it that way. It is a loophole. Berman suggested in item "B (4)" putting "within 30 days" for the new owner to contact the City. Then the City could revoke the license if that person didn't qualify. Busby agreed they should qualify the new person.

He said that he had no problem with the notes under "Administration."

Going back up to "Disclosure," Berman said that he didn't know why under item "B it is just 20% maximum. He wondered why stop at 20%. Tokos wondered if the City shouldn't be looking to approach all delinquencies as consistently as possible; like with water account delinquencies. Busby said maybe it should be "per City policy" and establish that policy; not 20%.

Back under "Administration", Berman asked about the difference between rules, procedures, and regulations. Tokos said getting rid of "administrative rules" is one suggestion and put how we process this. Put parameters, not refer to the administrative section, for what we do after we receive the application so it's very clear and people know what is going to happen after it's submitted. This was drafted as a basic code and defer to the administrative rules. Busby said it makes it all very clean.

Busby had no problems with the "Denial" section.

Busby said in item "C" under the "Violations" section it says "shall be personally subject to penalties." We can't go after someone like the president of Walmart. We probably shouldn't use "personally." That's a lawyer question.

Berman didn't think the timing on item "B" under "Appeal" works given the frequency of City Council meetings. He thought it may have to be higher. Busby said they could still go three weeks because of the long months. Tokos asked if we should do 30 days. Croteau said that 30 would be plenty. Murzynsky said it covers the five Mondays.

Back at the beginning, Berman thought that the second paragraph doesn't belong there under "Purpose and Scope" and suggested moving it to exemptions. Tokos agreed it doesn't speak to purpose.

**Establish Next Meeting Date.** Tokos said he thought he had what he needed to go forward for next time, which he said needs to be no sooner than four weeks out. Since he's doing the work, it was suggested that Tokos set the date and email the group. The next meeting is when the committee will see the draft. Tokos said he may have optional language of examples from other jurisdictions. Croteau wondered if the group would get that to review well before the next meeting. The group is leaving the timing up to Tokos.

**Adjournment.** Having no further business, the meeting adjourned at 4:00 p.m.

Respectfully submitted,

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Wanda Haney  
Executive Assistant