

**TRAFFIC AND PARKING BOARD
SEPTEMBER 28, 2009**

DOCKET ITEM # 4

ISSUE: Consideration of Placing a Certificate of Public Convenience and Necessity on Probationary Status

Issue: Hearing in consideration of a recommendation to place a certificate of public convenience and necessity to operate a taxicab company in the City of Alexandria on probationary status for failure to provide the minimum level of dispatch service required by City Code.

Staff Recommendation: Based on information obtained during the 2008 Annual Review of the Taxicab Industry, staff recommends the Board recommend to the City Manager that certificate of public convenience and necessity number 130, issued to Union Taxicab Cooperative dba Alexandria Union Cab, be placed on probationary status for a period of up to nine months for failure to meet the minimum level of dispatch service required by City Code Section 9-12-32(c).

Discussion: Having determined during the annual review of the taxicab industry that Alexandria Union Cab was not providing the minimum level of dispatch service required by City Code Section 9-12-32(c), the Board recommended to the City Manager that this certificate holder be noticed for hearing pursuant to City Code Section 9-12-33(c) in order for the board to consider whether Alexandria Union Cab should be placed on probationary status for failure to meet this minimum service requirement. The City Manager concurred with the Board's recommendation and notice was provided to the certificate holder, as required by City Code Section 9-12-33(b)(7), for hearing at the regular meeting of the Board on February 23, 2009.

At the February 23, 2009 hearing, Mr. Lonnie Rich and Joyce Woodson spoke on the behalf of Union Taxicab Cooperative. Mr. Cota made a motion, seconded by Mr. Sergeant, to defer action for one month to allow Union Taxicab Cooperative additional time to form and approve a new business plan and to submit this plan to Staff by March 13, 2009, The Board voted unanimously to approve the request.

At the March 13, 2009 hearing Mr. Lonnie Rich spoke on the behalf of Union Cab Company. Mr. Ruggiero made a motion seconded by Mr. Posey to: 1) Give Union Cab Company six months to restructure and come into compliance with the dispatch requirements, during this time they be subject to all of the conditions required by code of a company on probation; 2) Place Union Cab Company on probation not to exceed 12 months if the minimum dispatch requirements are not met within the six month time

frame; and, 3) Deny any driver transfers to Union Cab Company. The motion carried with the Board voting 5 to 1 in favor of the motion and Ms. Slack in opposition.

The taxicab ordinance adopted by City Council in June 2005 introduced new dispatch service requirements for certificate holders, stipulating that each must serve an average dispatch call volume of no less than two dispatch calls per driver per day. Introduced during the fall of 2004 and discussed extensively prior to adoption of the new taxicab ordinance on June 14, 2005, this dispatch service requirement was considered to be a key part of efforts to improve taxicab service within the city. In considering this requirement, City Council expressed its desire to adopt service requirements that:

1. Encourage improvement of taxicab services within the City of Alexandria, specifically dispatch services;
2. Are clear, specific and enforceable; and
3. Would be enforced following ordinance adoption.

As presented to City Council on January 25, 2005, the dispatch service call volume requirement embodied in City Code was described as follows:

In order to demonstrate a meaningful level of dispatch service, companies must show that a minimum number of dispatch calls are served by their drivers on a daily basis. Based on current market demands, a minimum of two (2) dispatch calls per driver is expected on a daily basis. As market needs change, this minimum dispatch service level may be changed by the City Manager based on recommendations of the Traffic and Parking Board.

As adopted on June 14, 2005, City Code Section 9-12-32(c) states that each certificate holder shall “*provide the minimum level of service for dispatch and call response time as prescribed by regulation; however, in no circumstance may regulation set an average dispatch call volume equaling less than two dispatch call per driver per day.*”

City Code provides a one year period for new taxicab companies to organize their operations and become established before service performance requirements fully apply and are enforced. Alexandria Union Cab’s certificate of public convenience and necessity was first issued for commencement of taxicab service on January 1, 2007. The one-year period to achieve compliance with the adopted dispatch service requirements has now passed and enforcement of these requirements is required.

Certificates issued to companies that fail to meet this dispatch service requirement may be placed on probationary status and subsequently revoked by the City Manager. If a certificate is placed on probationary status, the process adopted by Council provides that the City Manager will determine the terms and conditions necessary to bring the certificate into compliance, and if the company does not comply with the terms and conditions of the probation set forth by the City Manager, the certificate shall be revoked by operation of law.

Based on dispatch service records submitted by the certificate holder, the 2008 industry review found that Alexandria Union Cab was serving an average of 0.1 dispatch calls per

driver per day, clearly failing to meet the minimum service requirement specified by City Code.

Based on these findings of noncompliance, staff recommends the certificate of public convenience and necessity issued to Alexandria Union Cab be placed on probationary status with the following terms and conditions:

1. Probationary status is imposed based on the failure of the certificate holder to provide an average of at least two dispatch calls per affiliated taxicab per day. The condition necessary to bring the certificate holder into compliance is the documented provision of an average of at least two dispatch calls per affiliated taxicab per day for a period of at least thirty consecutive days.
2. Probationary status shall last for a period not to exceed nine calendar months, consisting of up to three successive intermediate periods of three calendar months each.
3. Within ten business days following receipt of notification of being placed on probationary status, the certificate holder shall submit to the City a written plan with a schedule describing specific actions, with start and completion dates, that will be taken in order to satisfy the condition necessary to come into compliance and providing estimates of the average daily dispatch call volume to be reached by the end of each three-month intermediate period.
4. In addition to reporting requirements for all certificate holders, the holder of a certificate on probationary status shall submit to the city within five business days following the end each intermediate period a separate report documenting (1) the total number of dispatch service requests received and the total number of dispatch trips served on a daily basis, (2) the number of dispatch trips served by each affiliated driver on a daily basis, (3) detailed daily dispatch call and pick up data files, and (4) efforts underway or being initiated to increase the volume of calls for dispatch service. Note: At the discretion of the city, dispatch service records may be verified by examination of daily trip manifests maintained by the drivers of affiliated taxicabs and other information available to the city.
5. In conjunction with submitting the required report for any intermediate period, the certificate holder may request a review and determination by the city that it has met the condition necessary for compliance and return to non-probationary status.
6. If at the end of any intermediate period based on the certificate holder's report, the city determines that meaningful progress is not being made toward meeting the condition necessary for compliance, probationary status may be terminated and the certificate revoked in accord with City Code section 9-12-33(g).
7. If at the end of the probationary period the certificate holder fails to show that the condition necessary for compliance has been met, the certificate shall be revoked in accord with City Code section 9-12-33(g).

