



REGIONAL MUNICIPALITY OF WATERLOO LICENSING AND RETAIL COMMITTEE MINUTES

Monday, September 19, 2011
6:04 p.m.
Regional Council Chamber
150 Frederick Street, 2nd Floor

Present were: Chair G. Lorentz, L. Armstrong, J. Mitchell, and K. Seiling

Members absent: D. Craig, J. Wideman

DECLARATIONS OF PECUNIARY INTEREST UNDER THE MUNICIPAL CONFLICT OF INTEREST ACT

None declared.

DELEGATIONS

Re: CR-CLK-LIC-11-005, Request for Tariff Increase for Taxi-Cabs With Meters

David Byers, United Taxi and President, Waterloo Region Taxi Association, indicated the general agreement of the taxi industry with the proposed tariff increases, and suggested that the public would be more comfortable with tariffs at \$32 per waiting hour and \$3.40 flag drop rate. He requested that the tariff increase be brought before Council prior to the anticipated October 5th date.

The Committee clarified that the next scheduled Council meeting is October 5th.

REPORTS - Corporate Resources

a) CR-CLK-LIC-11-005, Request for Tariff Increase for Taxi-Cabs With Meters

Marty Sawdon, Administrator, Licensing and Enforcement Services, provided an overview of the report and staff's rationale for the tariff increase, including the Region's relative positioning among comparable municipalities with respect to tariffs, and the need to fairly compensate drivers.

The Committee clarified with M. Sawdon that staff monitor the various factors that contribute toward the costs of operating taxi-cabs, and that those factors are common for taxi-cab operators throughout the country.

MOVED by J. Mitchell
SECONDED by L. Armstrong

THAT the Regional Municipality of Waterloo amend Schedules A and B of By-law 04-069, A By-law to Licence, Regulate and Govern Brokers, Owners and Drivers of Taxi-Cabs Equipped with Taxi-cab Meters within The Regional Municipality of Waterloo, as amended, to implement the following fee changes:

- a) Initial meter fare (flag drop) to be increased to \$3.50.
- b) Per kilometer rate be increased to \$2.10 per kilometer
- c) Waiting – per hour / contract be increased to \$31.20 per hour or part thereof.

CARRIED

b) CR-CLK-LIC-11-006, By-law Amendments - License Fees and Charges

M. Sawdon introduced the report, noting that four years had passed since the most recent increase of the fees in question and explaining that staff desires to make amendments to these fees as business costs demand them, rather than on a scheduled annual basis.

The Committee asked if any feedback had been received from limousine companies or salvage yards with respect to the proposed amendments, and M. Sawdon responded in the negative.

MOVED by J. Mitchell

SECONDED by L. Armstrong

THAT the Regional Municipality of Waterloo amend Schedule "A" to "E" inclusive of By-law 04-072, A By-law to Establish Licence Fees and Charges for The Regional Municipality of Waterloo, as amended, in accordance with Appendix "1" of report CR-CLK-LIC-11-006, dated September 19, 2011;

AND THAT the Regional Municipality of Waterloo amend Schedule A of By-law 11-015, A By-law to Establish Fees and Charges for the Regional Municipality of Waterloo, as amended, in accordance with Appendix "2" attached to report CR-CLK-LIC-11-006, dated September 19, 2011.

CARRIED

LICENSING HEARING OPENING ADDRESS – Marty Sawdon, Administrator, Licensing & Enforcement Services

Chair G. Lorentz provided opening remarks regarding the general manner in which the taxi hearings would be conducted.

M. Sawdon, Counsel for Licensing & Regulatory Services, brought the attention of Committee members to Tab 1 of the Brief indicating the Region's authority to convene these hearings within By-law 08-054 and the Taxi Meter By-law, with decisions of the Committee made final with an appeal process to Regional Council. M. Sawdon referred members to Tab 2 of the Brief entitled 'Guidelines: Character and Driving Record Criteria – Taxi, Limousine and Special Transportation Services'; to Tab 3 which was an extract from the *Evidence Act* as well as a copy of the case of Franco et al. v. White which describes how records of prior convictions may be applied to other cases, charges, or hearings; to Tab 4, 'Rules of Procedure – Licensing and Retail Committee'; and Tab 5 which deals with the use of evidence, witnesses, and the 'Penalties and Mitigating Reasons – Licensing and Retail Committee' which is used to help make recommendations for penalties.

M. Sawdon provided a broad overview of the cases, indicating that all drivers were served notices by Licensing and Enforcement Services officers, with service sworn to by the officers, and drivers were provided with disclosure packages of the evidence being presented at this

meeting. The recommendations being made by staff are based on the past precedents of the Committee and also the mitigating reasons aforementioned.

LICENSING HEARINGS

a) BRODERICK, GARY – City Cabs Taxi Driver, Licence #5461

Evidence – M. Sawdon

M. Sawdon noted that this hearing was adjourned from May 30, 2011 to allow the defendant to attend to a family obligation.

The Committee Clerk swore in the defendant.

M. Sawdon submitted the following evidence:

Exhibit A: Copy of the driver's taxi-cab driving license.

Exhibit B: Certified copy of owner's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles

Exhibit C: Copy of probation letter to the defendant, dated May 8, 2009

Reply evidence from defendant

G. Broderick noted that he has an outstanding speeding offence that is not included on the submitted driver's record, and he is meeting with the prosecutor in the near future to seek a reduction of the potential penalty. M. Sawdon indicated that those charges could be included in the current hearing.

G. Broderick provided additional details on the driving offenses, as well as noting that he drives part-time for two nights per week.

M. Sawdon emphasized that one speeding charge occurred within a community safety zone.

Recommendation - M. Sawdon

M. Sawdon recommended that the Licensing and Retail Committee place the taxi driver's license on suspension for twenty-one (21) days, immediately followed by one (1) year of probation, with monthly abstract checks during that time, and that the defendant shall obey all provisions of the *Highway Traffic Act* while operating a taxi-cab, and that the driver shall not receive any additional demerit points under the *Highway Traffic Act*. He noted that the notion of progressive penalties would suggest that suspension of the driver's taxi license is in order.

G. Broderick clarified for the Committee that the recommended suspension would result in forgoing six days of driving a taxi, and emphasized that the loss of pay for those days would affect his ability to provide for his family. He provided additional details for the Committee to consider regarding the speeding offense occurring in the community safety zone.

Committee discussion and recommendation

The Committee debated the evidence provided from staff and the defendant.

MOVED by L. Armstrong

SECONDED by J. Mitchell

THAT the Licensing and Retail Committee take the following action with respect to Taxi-cab Driver License #5461, Gary Broderick:

- a) Gary Broderick, the license holder, receive a twenty-one (21) day suspension of his taxi-cab driver license, commencing October 17, 2011;
- b) following the suspension, the license holder be placed on probation for one (1) year effective November 6, 2011, during which time monthly abstract checks will be conducted;
- c) for a one (1) year period following the suspension, the license holder shall obey all provisions of the *Highway Traffic Act* while operating a taxi-cab;
- d) for a one (1) period following the suspension, the license holder shall not to receive any additional demerit points under the *Highway Traffic Act*, and
- e) any additional moving violations or demerit points during this probation period will result in another hearing before the Committee with a recommendation for a suspension or revocation of the Regional taxi-cab driver's license.

CARRIED

b) GREWAL, SIMARDEEP – City Cabs Taxi Driver, Licence #5650

Evidence – M. Sawdon

The Committee Clerk swore in the defendant.

M. Sawdon submitted the following evidence:

Exhibit A: Copy of the driver's taxi-cab driving license.

Exhibit B: Certified copy of owner's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles

Exhibit C: Copy of probation letter to the defendant, dated May 31, 2011

Reply evidence from defendant

S. Grewal acknowledged the insurance card violation and observed that the owner of the taxi cab paid the ticket for the violation. He asked the Committee for leniency in making its judgment.

The Committee ascertained that other people were passengers in his cab when the offences occurred. It was clarified that driving without a valid insurance card is considered a moving violation.

S. Grewal related his family circumstances, emphasizing his role as sole income-earner. He related that he will take an advanced defensive driving course, and expressed his desire to become a taxi owner/operator in the future.

Recommendation - M. Sawdon

In view of the nature of the defendant's charge incurred during probation, M. Sawdon recommended extending the end date of the defendant's current probation from February 28, 2012 to September 19, 2012. He emphasized that any additional speeding charge in that time would lead to a recommendation to suspend the defendant's taxi license.

S. Grewal requested that the Committee be lenient in its actions, and affirmed that no other charges are pending.

Committee discussion and recommendation

MOVED by J. Mitchell

SECONDED by L. Armstrong

THAT the Licensing and Retail Committee take the following action with respect to Taxi-cab Driver License #5650, Simardeep Grewal:

- a) Simardeep Grewal, the license holder, have his present probation period extended to September 19, 2012, during which time monthly abstract checks will be conducted;
- b) the license holder, for the period to September 19, 2012, shall obey all provisions of the *Highway Traffic Act* while operating a taxi-cab, and
- c) the license holder, for the period to September 19, 2012, shall not to receive any additional demerit points under the *Highway Traffic Act*.

CARRIED

c) HIE, JOYCE – Golden Triangle Taxi Driver, Licence #5689

Evidence – M. Sawdon

The Committee Clerk swore in the defendant.

M. Sawdon submitted the following evidence:

Exhibit A: Copy of the driver's taxi-cab driving license.

Exhibit B: Certified copy of owner's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles

Exhibit C: Copy of probation letter to the defendant, dated April 9, 2010

Reply evidence from defendant

J. Hie provided details regarding the collision from which the most recent conviction arose. She asserted her resolve and success at avoiding speeding since her probation, and related that taxi-driving is her full-time job and that she is the sole income-earner in her household.

Recommendation - M. Sawdon

M. Sawdon recommended that the Licensing and Retail Committee place the taxi driver's license on suspension for twenty-one (21) days, immediately followed by one (1) year of probation, with monthly abstract checks during that time, and that the defendant shall obey all provisions of the *Highway Traffic Act* while operating a taxi-cab, and that the driver shall not receive any additional demerit points under the *Highway Traffic Act*. He noted that the notion of progressive penalties would suggest that suspension of the driver's taxi license is in order.

J. Hie emphasized that the collision was an accident and the conviction was not related to speeding. She noted recent commendations received from customers on her safe driving.

The Committee clarified that it is able to depart from the recommended action from staff in making its decision.

MOVED by K. Seiling
SECONDED by J. Mitchell

THAT a closed meeting of Licensing and Retail Committee be held on September 19, 2011 at 7:00 p.m. in Regional Council Chambers in accordance with Section 239 of the Municipal Act, 2001, for the purposes of considering the following subject matters:

- a) Personal matters about an identifiable individual;
- b) A matter in respect of which committee may hold a closed meeting under another Act.

CARRIED

MOVED by J. Mitchell
SECONDED by K. Seiling

THAT the meeting reconvene into Open Session.

CARRIED

Committee discussion and recommendation

MOVED by J. Mitchell
SECONDED by K. Seiling

THAT the Licensing and Retail Committee take the following action with respect to Taxi-cab Driver License #5689, Joyce Hie:

- a) Joyce Hie, the license holder, receive a three (3) day suspension of her taxi-cab driver license, commencing October 17, 2011;
- b) following the suspension, the license holder be placed on probation for a period of one (1) year, during which time monthly abstract checks will be conducted;
- c) during the probation period, the license holder shall obey all provisions of the *Highway Traffic Act* while operating a taxi-cab;
- d) during the probation period, the license holder shall not to receive any additional demerit points under the *Highway Traffic Act*, and
- e) any additional moving violations or demerit points during this probation period will result in another hearing before the Committee with a recommendation for a suspension or revocation of the Regional taxi-cab driver's license.

CARRIED

d) ZIOLKOSKI, CORY – New Hamburg Taxi Owner/Driver, License #6168

Evidence – M. Sawdon

The Committee Clerk swore in the defendant.

M. Sawdon submitted the following evidence:

Exhibit A: Copy of the driver's taxi-cab driving license.

Exhibit B: Certified copy of owner's extended driving record from the Ministry of Transportation, Office of the Registrar of Motor Vehicles

Exhibit C: Copy of probation letter to the defendant, dated May 31, 2011

Reply evidence from defendant

C. Ziolkoski emphasized that the offense for which he is present occurred prior to his receiving probation from the Committee on May 31, 2011, and emphasized that he has received no tickets since he was put on probation. M. Sawdon indicated that new convictions during the probation period are treated as new offenses, no matter when the offence occurred. C. Ziolkoski responded that he was unaware that the Region would only have access to the record of convictions, and would have disclosed the current offense if he had been aware. The Committee ascertained from C. Ziolkoski that some of the listed offenses occurred in a taxi cab, and that he is an owner/operator of his taxi cab.

Recommendation - M. Sawdon

M. Sawdon recommended that the Licensing and Retail Committee place the taxi driver's license on suspension for thirty-five (35) days, immediately followed by one (1) year of probation, with monthly abstract checks during that time, and that the defendant shall obey all provisions of the *Highway Traffic Act* while operating a taxi-cab, and that the driver shall not receive any additional demerit points under the *Highway Traffic Act*. He noted that the notion of progressive penalties would suggest that suspension of the driver's taxi license is in order.

The Committee ascertained from M. Sawdon that if the current charge had been included in the hearing of May 31, the staff recommendation would have been a longer probationary period.

C. Ziolkoski indicated that he has no new tickets outstanding, and that he has no new offenses since being put onto probation. He detailed a tracking system that he has installed to mitigate speeding, and indicated his desire to demonstrate that he and his drivers are safe.

MOVED by K. Seiling

SECONDED by J. Mitchell

THAT a closed meeting of Licensing and Retail Committee be held on September 19, 2011 at 7:23 p.m. in Regional Council Chambers in accordance with Section 239 of the Municipal Act, 2001, for the purposes of considering the following subject matters:

- a) Personal matters about an identifiable individual;
- b) A matter in respect of which committee may hold a closed meeting under another Act.

CARRIED

MOVED by L. Armstrong

SECONDED by J. Mitchell

THAT the meeting reconvene into Open Session.

CARRIED

Committee discussion and recommendation

MOVED by K. Seiling
SECONDED by L. Armstrong

THAT the Licensing and Retail Committee take the following action with respect to Taxi-cab Driver License #6168, Cory Ziolkoski:

- a) Cory Ziolkoski, the license holder, receive a three (3) day suspension of his taxi-cab driver license, commencing October 17, 2011;
- b) following the suspension, the license holder be placed on probation through to May 30, 2012, during which time monthly abstract checks will be conducted;
- c) during the probation period, the license holder shall obey all provisions of the *Highway Traffic Act* while operating a taxi-cab;
- d) during the probation period, the license holder shall not to receive any additional demerit points under the *Highway Traffic Act*, and
- e) any additional moving violations or demerit points during this probation period will result in another hearing before the Committee with a recommendation for a suspension or revocation of the Regional taxi-cab driver's license.

CARRIED

OTHER BUSINESS

L. Armstrong noted a recent situation where taxi drivers did not contact their dispatch to ascertain the destination of customers with special needs, and asked if any specific training could be provided to mitigate such situations in the future. M. Sawdon responded that drivers of accessible taxis require special training for such situations, and that he will discuss the situation with the taxi association.

K. Seiling asked if the Committee should examine its ability to fine taxi owners for not having insurance certificates in their vehicles. M. Sawdon responded that he did not believe the Committee could level such a fine, and Richard Brookes, Solicitor, noted that owners/drivers would be in compliance with the Region's by-laws if they can prove they have insurance, regardless of whether the certificates are in the vehicle.

NEXT MEETING – To be announced

ADJOURN

MOVED by J. Mitchell
SECONDED by L. Armstrong

THAT the meeting adjourn at 7:34 p.m.

CARRIED

COMMITTEE CHAIR, G. Lorentz

COMMITTEE CLERK, M. Grivicic