

Committee on Public Safety

Councilor Maureen T. Carney, Chair

Councilor Jesse M. Adams

Councilor William H. Dwight

Councilor David A. Murphy

Committee on Public Safety **Wallace J. Puchalski Municipal Building** **212 Main Street, Northampton, MA**

Meeting Minutes

12/14/2015 - Minutes

1. Meeting Called To Order

At 5:15 pm Councilor Carney called the meeting to order.

1.I. Activate NCTV Camera To Record Meeting

1.II. Announcement Of Audio/Video Recording Of Meeting

1.III. Members Present/Absent

All committee members were present.

Police Chief Jody Kasper was present.

Mr. Jeffrey Miller of Cosmic Cab was present to discuss the Taxi Operator's Permit Denial.

2. Public Comment

None

3. Taxi Operator's Permit Denial - Jeff Miller Of Cosmic Cab

Mr. Miller explained the circumstances that brought him before the committee. Due to a 911 call from his place of business, the Northampton Police were dispatched to his place of business. While there, the police conducted a search of the property and found drugs, including marijuana and cocaine. As a result of the search, Mr. Miller was arrested. Following the arrest, he was informed by the police department that his permit to operate as a taxi driver was revoked. This notice came via a hand-delivered letter. The charges have since then been dismissed and Mr. Miller re-applied for the operator's permit. The Police Department did not grant the permit even after the dismissal. Mr. Miller has tried to contact the police on two occasions; he states that no one has returned his calls. Mr. Miller explained that his business has suffered; not having the permit is affecting his livelihood.

Chief Kasper explained that when looking at taxi operator's permit, there is a little more discretion that can be exercised by the Chief or designee. A person's background can be evaluated to consider their criminal record as well as driving record. Although the court case was dismissed, the department still has knowledge of what was going on at the business location. The department used this knowledge to base a decision to deny the permit.

Councilor Adams was present at the last appeal in 2012. At that time he voted to overturn the denial because the information presented to the committee may have been misleading. Number of instances involving Mr. Miller may have included instances where he was a victim or witness to a crime. It seemed to

Councilor Adams that the issues of concern in 2012 were in the past and he was willing to overturn the decision. While the case may have been thrown out due to constitutional issues, there is factual information describing drugs on the premises which lead to Mr. Miller's arrest in 2015. Councilor Adams asked if Mr. Miller would be willing to describe any convictions he has.

Mr. Miller indicated that regarding convictions, he has never spent more than a month in jail. From the time he was 17 until he was 34, he was on probation. He has spent time getting 'clean" off of heroin. He is now sober. He does not deal drugs. He admitted to smoking marijuana, however, he does not drink alcohol. He hopes to continue with what he has been working on. Marijuana is sold legally two doors down from his place of business.

Councilor Adams asked if Mr. Miller still had a taxi license in Amherst; Mr. Miller stated that he did not.

Councilor Dwight explained that the Public Safety Committee is not a court of law. They committee does not have the same standard to address the constitutionality of the case. The committee is concerned with protecting the safety of the public. Operators cannot operate under the influence. Councilor Dwight indicated while the committee is concerned for Mr. Miller personally, the job of the committee is to ensure safety of the public.

Mr. Miller explained that he is not currently in a program. There have been no reported cases of Mr. Miller operating/driving under the influence of drugs. He has considered drug testing of his drivers because he is concerned for the safety of his customers. Mr. Miller indicated that the incident that happened was a random occurrence. While working, he is on call constantly and needs to work long hours. He recognizes that having his name in the paper has had an impact on his business. He has had to take drastic measures to keep his business afloat, including doing his own vehicle repairs. He has two year putting his best foot forward. The city has depended on his business in the past.

Councilor Dwight indicated that the committee does not issue punishments; it does distribute a privileges in the form of operator permits. The committee must answer to the public and he does not feel that he can give back to this privilege.

Councilor Adams asked how the business survived back in 2012 when Mr. Miller's operator's license was denied. Mr. Miller stated that the business was small. It has grown since then, however, and he depends on this permit. He would have to take drastic measures to cut costs if he did not get the permit re-instated. Mr. Miller stated that his purpose in coming to the committee was to have a say. To date he has not gotten a response from the police department. He wanted to be heard regarding his situation.

Councilor Murphy has experience with these types of issues. As a member of the state licensing board for a long time, he has done CORI checks. The overwhelming responsibility of the committee is for public safety. He recalled that in 2012 he was not in favor of overturning the decision; he is not inclined to do so today.

Mr. Miller feels that in the past four years he has given the city excellent service. He compares his company to other companies. He apologized for the incidents that took place in his spare time.

Councilor Murphy indicated that he recognizes that Mr. Miller must make a living, however, a living tied to public safety may not be the best choice.

Mr. Miller feels that his customer service goes above and beyond. He feels that many customers will speak well of the company.

Councilor Adams asked whether the Police Dept. had any reports about driver safety. Chief Kasper stated that she did not know. Councilor Adams asked where the drugs were found. Mr. Miller stated they were in a back room which is not accessible to the public.

Councilor Dwight confirmed that he has heard good things about Mr. Miller's company due in large part to Mr. Miller's commitment to establish a business by the rules and abiding by the criteria defined for a taxi company. Mr. Miller stated that he has no DUI or OUI's nor have any customers complained that he has been under the influence. Councilor Dwight indicated that while that is the case, he has a larger responsibility to the public.

Councilor Dwight moved to uphold the denial; Councilor Murphy seconded the motion. The motion failed on a voice vote of 2 Yes (Councilor Dwight and Murphy), 0 No (Councilors Adams and Carney) .

Councilor Adams stated that the drugs were found in the back room of Mr. Miller's business. There is nothing presented that shows that this has affected the service of the business. He does draw his conclusion based on the absence of evidence from the Police Department that there has been a concern about driver behavior, specifically about driving under the influence. Mr. Miller has had the business for four years; the case against him was dismissed. The fact that the drugs were found in the back of the business does not demonstrate how this affects the service of the business at all. He stated that it seems that given the facts of the case, the courts could not punish Mr. Miller. He does not support punishing him either. He feels Mr. Miller went through a relapse that didn't affect the business at all.

Councilor Dwight indicated that this is not about Mr. Miller's business. He re-stated that this is not a punishment, but rather the denial of a privilege.

Councilor Murphy stated that Mr. Miller has operated his business for a long time. The fact that the drugs were found in his personal area is the reason he doesn't feel Mr. Miller should have his own personal operator's permit.

Councilor Carney agrees with Councilor Adams. Given the amount of marijuana and where it was discovered will have her voting to not support continuing the denial.

To avoid confusion about the interpretation of the outcome of the vote, the committee took a different vote.

Councilor Dwight moved to override (overturn) the denial; Councilor Adams seconded the motion. The motion failed on a voice vote of 2 Yes (Councilors Carney and Adams), 2 No (Councilors Murphy and Dwight).

4. Adjourn

Councilor Dwight moved to adjourn the meeting at 6:15 pm; Councilor Murphy seconded the motion. the motion was approved on a voice vote of 4 Yes, 0 No.

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