

**Connecticut Public Transportation Commission**  
Minutes of February 5, 2009

Connecticut Department of Transportation  
2800 Berlin Turnpike, Conference Room A  
Newington, Connecticut

**Attendance: Members:** Tom Cheeseman, Alan Sylvestre, Russell St. John, Kathy Anderson, Yvonne Loteczka, Richard Schreiner, Richard Carpenter, Richard Sunderhauf, Kevin Maloney, Ed McAnaney, Christopher Adams, Gail Lavielle, William Kelaher. **Ex-officio members:** Susan Simmat (OPM), Connie Mendolia (DEP), Fred Riese (DEP). **ConnDOT staff:** Dennis Jolly, Ken Gambardella, Laila Mandour, Eugene Morris, Judith Almeida, Linda Dillon, Dennis King. **Guests:** Carrie Vibert, Miriam Kluger, Glendine Henry.

Chairman Cheeseman called the meeting to order at 1:32 pm. He welcomed new members Kathy Anderson and Gail Lavielle to the Commission and asked them to briefly mention their transportation-related backgrounds. Kathy Anderson of the Department of Administrative Services serves as the chairman of the Commission on Persons with Disabilities and also serves on the Accessibility Committee for the CORE-CT system. Gail Lavielle of Wilton is a rail commuter to New York City.

The minutes of the meeting of January 8 were then approved as written.

Due to a problem with the projector in Conference Room A, Chairman Cheeseman revised the order of the agenda until a technician could arrive to repair the problem and allow the featured speakers to make their PowerPoint-based presentation.

**Comments from the Public**

None.

**Comments from Operating Entities**

Richard Sunderhauf noted that Connecticut Transit has implemented some changes in service as of February 1. These amounted to tweaks in the schedule, not major changes.

Russ St. John informed the Commission that Providence and Worcester Railroad and Marino Crane had teamed up to move two major components of the Kleen Energy power plant in Middletown from a dock in Cromwell to the plant site south of Middletown. The components had been brought up the Connecticut River by barge to Cromwell. The two generators for the plant are coming in next week. Special cars have been ordered for this move. Several other special moves of large components of the power plant will follow later.

Bill Kelaher reported that all operating unions for Amtrak and Metro-North have current contracts in effect. He also reported that the unions had agreed to a proposal to add 42 additional ticket vending machines to the 210 vending machines currently in place on the Metro-North.

Rick Schreiner mentioned that HART is working on Section 13b-38bb Dial-a-Ride matching grant applications to be submitted soon and is helping the District's towns with their Section 5310 grant application submittals. Also, Schreiner reported on an upcoming meeting to discuss bi-state commutation issues between Lewisboro, NY and New Canaan. The main problem to be discussed is the lack of parking at New Canaan Station which often precludes non-residents from using the Metro-North service there.

Fred Riese reported that a meeting on the Waterbury Branch Study took place here at ConnDOT on January 22. One option being considered is a new station at Devon at the junction of the Waterbury Branch and the New Haven Line. If this station is constructed, more frequent shuttle service on the Waterbury Branch could be run between Waterbury and Devon, with passengers transferring at Devon rather than at Bridgeport. Most Waterbury Branch trains would not continue onto the New Haven Line to Bridgeport.

Fred also reported that a third meeting of the New London Intermodal Transportation Center Steering Committee will be scheduled later this month to consider additional survey work on physical conditions, current and future service needs, and marketing opportunities in connection with the development of an intermodal transit center in downtown New London. [Note: This meeting has subsequently been scheduled for March 11.]

Lastly, Fred mentioned that the final meeting of the advisory committee on the reconstruction of the intersection of Routes 8 and 84 in Waterbury took place January 29. The two options under consideration differ chiefly in that one option would shift the downtown portion of Route 8 from the west side of the Naugatuck River to a new alignment east of the river. This would aid in the construction of the new interchange but would cause significant land use impacts, both positive and negative, in downtown Waterbury. ConnDOT is looking for final comments on the alignment options by February 20.

### **Chairman's Report**

Chairman Cheeseman noted the discouraging national pattern of reductions in transit services due to budget shortfalls just as the demand for transit service is growing. An attempt to restore some Federal operating support for transit fell short in the Senate. Tom noted the example of St. Louis where 2,300 bus stops are being eliminated in an effort to close a \$169 million deficit.

Tom is still negotiating with Local 671 to procure a labor agreement for the Middletown Transit District. These negotiations have been going on for a year now. Tom is hopeful that one more meeting may wrap the negotiations up.

## **Featured Speaker**

Carrie Vibert and Mariam Kluger presented the findings of the study performed by the Legislative Program Review and Investigations Committee on *Taxi and Livery Vehicle Regulation* in Connecticut. Carrie Vibert provided some background, explaining that the Program Review and Investigations Committee have twelve members, six Republicans and six Democrats, and a non-partisan professional staff. The Taxi and Livery Study was one of five studies performed by the Committee in 2008. Mariam Kluger was the sole investigator for this study. The staff report was submitted to the Committee on December 9, 2008 and was subsequently adopted. A public hearing on the report is set to be held on February 20.

Miriam Kluger began her PowerPoint-based presentation by explaining that the purpose of the study was to determine the appropriate level of regulation for taxicab and livery service in Connecticut and to address issues left unresolved by a previous study done by the Taxicab Task Force. In Connecticut, the regulatory standard used to approve or deny a new application to provide taxi service is that the applicant must meet a test of Public Convenience and Necessity. To demonstrate this, the applicant must show that public convenience and necessity requires the operation of the proposed taxicab business, that the applicant is suitable to run the proposed business, and that the applicant is financially able to operate the proposed business. For entry into the market via the sale or partial sale of an existing taxi operation, public convenience and necessity is assumed to have been demonstrated by the prior operator and, therefore, no demonstration of public convenience and necessity for the acquiring operator is required.

Currently there are 103 taxi certificate holders operating 933 taxicabs in Connecticut. The last decade was one of growth for the industry with 181 new taxicabs being authorized. Twenty-three new carriers entered into the market, representing a 72% approval rate for such applications, while 13 full sales and 31 partial sales were also approved, with 100% approval rates for these sale transactions. There was an overall 29% increase in taxicab firms, and an increase in minority-owned taxi firms during this last decade.

The Program Review and Investigations Committee (PRI) study recommends that the statutes be amended to prohibit the partial sale of taxi certificate interests. One abuse connected with partial sales is that certificate holders approved for additional vehicles then turn around and sell these approvals at a substantial profit via partial sales. The presumption of public convenience and necessity for partial sales also skews the regulatory process. Another problem is the proliferation of taxicab companies demonstrates that market entry is being controlled more by existing companies through sales and transfers than through the ConnDOT application and hearing process required for new certificates. All partial sales of taxicab companies over the last 10 years have been approved, a practice that avoids the public hearing process and that increases the deregulation of market entry and expansion for those who can afford the seller's price. Thus, the sellers of these partial authorities have greater control over market entry and expansion than do the ConnDOT regulators.

Relatedly, the increasing number of taxicab companies is also a concern for regulatory enforcement since the ConnDOT Regulatory and Compliance Unit has lost significant staffing while the number of regulatory entities has increased.

The PRI study did find that there is effective competition in the industry in the major markets. For example, there are over 40 taxi firms in the Greater Hartford area, 15 firms in New Haven and four in Stamford.

The study looked at the advantages of regulation to a public convenience and necessity standard versus deregulation of the industry. The study found that deregulation of the industry in other states has not harmed service and may even have benefited service and that public convenience and necessity is often a confusing regulatory standard. However, experience in other states has also shown that deregulation of times leads to over saturation of service in the most lucrative markets while other areas become underserved. All nine other states that have statewide regulation of taxicabs use a public convenience and necessity standard. The PRI study did not find significant barriers to market entry in Connecticut. Unlimited market entry would create a situation where ConnDOT could not enforce regulations that protect the public. Therefore, the PRI study concluded that Connecticut should continue to regulate taxicab market entry to a standard of public convenience and necessity, but that the expedited sale process and the partial sale option should be eliminated. Also the \$88 per vehicle application fee should be raised to \$200 per vehicle.

Ms. Kluger next addressed the issue of taxi safety. Taxis have a high accident rate, 2.5 times that of school buses and 4.5 times that of passenger cars. Taxi vehicles undergo initial safety inspection and then biennial inspections upon registration renewal. DMV performs the initial inspections, while the biennial inspections are done at private garages. The failure rate for the initial inspections done by DMV was 41% in 2006 and 38% in 2007. Failed cabs undergo re-inspection within 30 days. Certificate holders are also required to perform quarterly self-inspections of their vehicles to assure that the vehicles are safe, clean and sanitary. ConnDOT has never inspected the self-inspection records so we have no idea if these inspections are being performed or if any identified defects are repaired or remedied. Therefore, the PRI report recommends that the self-inspection reports be submitted to ConnDOT and also that ConnDOT perform random inspections of vehicles and compare their results to the self-inspections as a check. Until 2003, DMV performed safety inspections of taxi vehicles every six months, but in that year this requirement was changed to biennial inspections upon registration renewal and performed by independent garages rather than by DMV. The failure rate for biennial safety inspections performed by private garages is 20%, which is much lower than the historic rate for DMV-performed inspections.

To tighten up the safety inspection program, the PRI report recommends that ConnDOT be required conduct random safety inspections and that the biennial inspections be replaced with annual inspections performed at independent garages but with the inspection reports forwarded to ConnDOT within 30 days of the inspection. No unannounced vehicle inspections have been performed during the years 2004-2007.

In many taxicab firms in Connecticut, drivers are hired as independent contractors rather than as employees. As contractors, they pay very high lease fees (\$250-930 per week) to their companies for the right to operate their vehicles. This often leads to drivers working very long hours to cover the lease fees, a factor that may contribute to driver fatigue and accidents. This status also avoids the taxi companies having to provide health benefits, workers compensation and other labor protections to the drivers. The study recommends that the issue of proper driver classification be referred to the Employee Misclassification Enforcement Commission created under Public Act 08-156 for a ruling.

The study also found that the fines for violating taxi statutes and regulations are relatively low, and are much lower than the corresponding fines in the livery industry. Most of the fines are less than \$250 and 80% of the fines are less than \$400. The corresponding penalties under livery law were increased in 2000 to a maximum of \$1,000 per day per violation under Public Act 00-148. The report recommends that the taxi violation penalties should be increased to match the livery penalties.

The report also recommends that the practice of self-insurance for taxicab companies should be discontinued. Currently, two of the largest taxi firms in Connecticut are self-insured. Of these two firms, the study found that one firm had insufficient assets to cover its potential liabilities while the other had never submitted the necessary paperwork to ConnDOT. Further, ConnDOT is in a poor position to assess the ability of firms to provide self-insurance. The study recommends that C.G.S. Section 14-29(a)(2) be amended to discontinue the practice of self-insurance.

Another responsibility of taxicab certificate holders is to supply child restraint systems for certain passengers that fall below certain age and weight limitations (C.G.S. Sec. 14-100a). According to the 2006 Taxicab Task Force Report, "In order for taxis to comply with this law, they essentially need six different kinds of car-seats to be available." This appears to be an instance where a well-intentioned regulation is nearly impossible to adhere to, and few, in any, taxis are being cited for breaking this rule. Therefore, the PRI study recommends that C.G.S. Sec. 14-100a be amended to exempt taxicabs from the state child safety car-seat law.

The study noted that many Connecticut towns, particularly in the Northwest Corner, have no taxi service at all. One study recommendation which could help to address this problem is to allow a certificate holder with up to 15 vehicles to operate all his authorized vehicles in any town in which he is authorized to operate. Certificate holders currently are assigned a certain number of taxicabs to operate at any one time in a particular town or city in their territory. A taxicab company with five vehicles might be authorized to operate three vehicles in Town A, one in Town B and one in Town C. While public convenience and necessity dictated such a breakout, ConnDOT cannot enforce this vehicle assignment nor can companies provide good service to customers when thus constrained. Therefore, the PRI study recommends that, for any taxicab certificate holder authorized to operate up to 15 vehicles, the certificate shall provide that

all authorized vehicles may operate in all towns and cities noted on the certificate. Since 70% of current certificate holders operate fewer than 15 vehicles, this size limit would prevent the largest companies from driving smaller firms out of business. The study also recommends that ConnDOT invite applications for new service in underserved or unserved areas. The study also recommends that new companies be required to operate for at least one year before requesting authorization to serve Bradley Field. This would make more taxis available locally rather than having them congregate at Bradley Field for the higher fares available there.

Regarding taxi fares, rates used to be uniform across the state but now vary widely. Even the cost of the two legs of a round trip may vary. For example, the 11 mile trip from Orange to Shelton would cost \$26.75 but the return trip from Shelton to Orange would cost \$34.45. The study recommends that taximeter rates across Connecticut be standardized and that this standard rate be reviewed every six months and revised as necessary.

Ms. Kluger then moved on to the livery industry in Connecticut. Approximately 300 intrastate livery companies provide service in Connecticut. Unlike taxi drivers who need to undergo state and federal background checks, livery drivers only need to undergo state background checks. The study recommends that both state and federal background checks be required for livery drivers.

The current livery industry regulations have been in effect since 1965 and are thus over 40 years old. New livery regulations were drafted in 2003 but were never submitted to the legislative Regulations Review Committee. The study recommends that ConnDOT resume efforts to draft updated livery regulations and submit them to the Regulations Review Committee by January 1, 2010.

The study recommends that livery safety inspections be improved by requiring that DMV inspect all newly-registered livery vehicles, require proof of vehicle inspection as part of the registration renewal process, and conduct unannounced inspections at least annually.

The non-emergency medical transport (NEMT) livery business in Connecticut appears to be relatively stable. There are currently fifty providers or NEMT in the state. Six companies with 35 vehicles went out of business between 1998 and 2007 but eleven new medical livery applications for 39 vehicles were approved between 2005 and 2007. The study recommends that DMV should issue a new "M" plate to distinguish medical livery vehicles from general livery vehicles, which carry "L" plates. Also recommended, in order to shorten the lengthy time between new livery application submissions and final decisions is the abolition of the automatic public hearing requirement for medical livery applications.

Regulation of the taxi and livery industries is split between DMV and ConnDOT, although ConnDOT has been responsible for the bulk of this regulation for the last 25+ years. There is a need for close cooperation between the two agencies to eliminate

regulatory gaps, to share data, and to collaborate on unannounced inspections. The study recommends that ConnDOT and DMV meet quarterly to discuss regulatory topics.

Efficient regulation of the taxi and livery industry is also constrained by the extremely limited resources and staff dedicated to this task at ConnDOT. A staff of ten in 2003 has now been reduced to two employees overseeing the taxi and livery industry. The PRI study recommends that two additional staff positions be added at ConnDOT to be financed by a \$400 annual fee per vehicle to cover the cost of enforcement of safety and other regulations.

As of today's meeting, two bills have been proposed to cover the safety-related and administrative aspects of the taxi and livery regulations. Additional bills may yet be proposed.

### **Old Business**

None.

### **New Business**

Fred Riese related that Mort Katz was unable to attend today's meeting due to a magistrate assignment, and Terry Hall encountered a family medical need that precluded his attendance today.

Fred also announced that the spring public hearing sites will be Norwich, Norwalk and West Haven. Dennis King will be arranging the locations and dates for these hearings. Fred also asked that members who have not yet submitted their reimbursement requests for fall 2008 do so promptly.

Fred further mentioned that, in his check of the ConnDOT page of the Governor's budget summary, information on the New Haven and Waterbury bus maintenance facilities indicated that the contract for the former was awarded in May 2008 and construction began in July 2008, while redesign efforts on the Waterbury bus facility began in September 2008.

Terry Hall indicated to Fred that he had conversations with personnel from the Naugatuck Railroad at the recent model railroad convention in Worcester. The Naugatuck Railroad staff indicated that Pan Am Railways was requiring that its crews run any Naugatuck Railroad trains from Waterbury Yard to the junction of the Pan Am (Terryville Secondary) and Naugatuck Railroad (Torrington Branch) tracks, a distance of less than a mile. This requirement was creating an economic and operational hardship for the Naugatuck Railroad in serving any freight moves.

Lastly, Fred mentioned that the ConnDOT responses to the recommendations in the Commission's 2008 Annual Report are currently being assembled and are expected to be available in approximately two weeks.

Dick Carpenter asked if any press releases were sent out announcing the release of the CPTC Annual Report, such as the Metro-North Rail Commuter Council does for its report. Dennis King said this had not been done and it was too late to do so this year, but that it could be done in future years.

Alan Sylvestre mentioned a January 25 editorial by Toni Gold in the Hartford Courant was very critical of ConnDOT and very negative concerning progress on major transit projects in Connecticut but that the article also appeared to be mis-informed about progress on the projects and the process they need to go through to get approval and funding. Many of these procedural requirements are federally-mandated and are not steps that can be waived by ConnDOT.

Chairman Cheeseman adjourned the meeting at 3:35 p.m.