CONVENED

The Board of Transportation Commissioners convened a regular meeting on Thursday, May 11, 2023 at 10:04 AM in Los Angeles, CA.

ADMINISTRATIVE ITEMS

ITEM NO. 1 – WELCOME

President Eisenberg called the meeting to order and welcomed all those present noting that those wishing to testify before the Board must fill out a speaker’s form. He informed the audience that if anyone is a registered lobbyist, City ordinance requires that it should be indicated on the speaker’s form.

ITEM NO. 2 – ROLL CALL

Present: Commissioners Cris Liban, Eric Eisenberg, Douglas Tohom, and Viggen Davidian; Jay Kim, Assistant General Manager (AGM); and Michael Nagle, Deputy City Attorney (DCA)

Absent: Commissioners Jazmin Ortega, Selika Talbott, and Erin Pak

ITEM NO. 3 - MINUTES

Commissioner Liban moved, seconded by Commissioner Tohom to approve the April 28, 2023 Minutes. Unanimously APPROVED.

ITEM NO. 4 – COMMISSION BUSINESS

Commissioners Liban and Eisenberg welcomed newly appointed Commissioner Viggen Davidian.

ITEM NO. 5 – COMMUNICATIONS

Commissioner Eisenberg mentioned that he received a follow up from a public speaker at the last Board meeting (Jack Illes) regarding his request for a red curb extension to
the sides of his driveway. Commissioner Eisenberg also followed up about a similar request from LAPD (extension of red curb at Franklin Avenue).

AGM Kim acknowledged receiving the requests and reported that the district office staff is still actively investigating.

ITEM NO. 6 – GENERAL MANAGER’S REPORT

AGM Kim mentioned that he had planned to report on a Council motion that will nullify the Department’s replacement parking policy for affordable housing development at LADOT lots, but will defer his report to Item No. 7, of which the full account will be reported.

Commissioner Liban mentioned that he is looking forward to the meet & greet with Interim General Manager Connie Llanos and the Commissioners in the near future.

AGM Kim confirmed that CEA San Luis is working on scheduling the meeting.

NEIGHBORHOOD COUNCIL COMMENT

There were no comments provided.

PUBLIC FORUM

There were no public comments taken.

INFORMATIONAL ITEM

ITEM NO. 7 – LADOT Parking Facilities Available for Development

Ken Husting, Pr. Transportation Engineer – Parking Management, presented the report.

Comments, questions, and answers were provided.

- Commissioner Eisenberg asked that the Council motion, MOU, and seven bullet points mentioned during Mr. Husting’s report be forwarded to the Commissioners.
- Mr. Husting acknowledged the request and will forward the documents to the Commissioners, including the lots that are currently on contract.
- Commissioner Davidian raised the question about the ratio of structure vs surface lot.
- Mr. Husting stated that we have 14 structures and the rest are surface lots.
- With regards to the Council motion, Commissioner Liban asked for the next steps and the coordination process between Council staff, DOT, and other agencies that might be affected by the MOU.
- Mr. Husting explained that due to an amendment added to the motion by the Transportation Committee, he could not confirm what was going forward to City Council and added that the CAO has been requested to report back on revenue and utilization of the lots.
Deputy City Attorney Nagle discussed Admin Code Sec 22.484, which describes the Board's jurisdiction over SPRF properties and has control of both the management acquisition and other aspects of SPRF, and explained how the code section is created and can be amended at any time to take over jurisdiction. He added that the Board is responsible for the management of those properties and have the ultimate say at this time.

Commissioner Eisenberg asked if the Council motion took away the jurisdiction.

Deputy City Attorney Nagle responded that the Council motion has not addressed it and that they have not had a conversation with the Council office as of yet.

AGM Kim weighed in on the Council motion and explained how it will not necessarily take away the Board's authority over setting the rates and hours of the lots, but as the lots develop into housing, the Board will no longer have authority over those lots and only to the existing lots.

Commissioner Eisenberg asked if the Commission will have an opportunity to weigh in either for or against the lot that will be used for development.

Mr. Hustung stated that historically that has not been the case.

Commissioner Tohom asked a couple of questions: 1) when was the MOU between LADOT, Housing, and CAO signed; and 2) will the occupancy report back to Council pre-pandemic or post pandemic.

Mr. Hustung responded as follows: 1) MOU was executed in 2019; and 2) given the short time frame of 60 days to report back, he explained how DOT will not have enough time to get the occupancy at all the parking facilities and talked about staff's approach to gather the information for Council, and added that it may take a bit more time before we see the parking occupancy stabilize.

With regards to the motion or amendment, Commissioner Tohom asked if there were any discussions about expanding transit services or any form of transportation as a result of developing affordable housing.

Mr. Hustung confirmed that there were no discussions on alternative arrangements.

Commissioner Davidian commented on how staff may be able to use some of the revenue data for occupancy in reference to the facilities that are actively metered and pay stations that are difficult.

Mr. Hustung stated that they will consider using that data if they do not have enough time and pointed out the disabled placard policy, which is very problematic in California, and reported that in some areas of the City there is up to 40% that do not pay for parking due to abusive use of the disabled placard.

AGM Kim shared his thoughts on the impetus of the motion and discussed what he hoped will be addressed in the CAO report - impacts to the businesses and communities, affordability, and revenue impact to the City.

Commissioner Tohom asked to clarify if there are 13 affordable housing developments in DOT lots and are they identified on the list or already off-line.

Mr. Hustung stated that there are 12 and will provide a list that will confirm what is still on the list and off-line.

Commissioner Liban asked how much influence LADOT have on the CAO report.

AGM Kim stated that LADOT works closely with the CAO and will have ample opportunity to weigh in, pointing out the facts and what the impacts might be, but ultimately the decision rests with the Council and the Mayor.
CONSENT ITEM

ITEM NO. 8 – Recommend Approval of Application of P&L Transportation Inc for Three Unrestricted Non-Ambulatory Passenger Vehicle Permits

Commissioner Tohom moved, seconded by Commissioner Liban to approve Item No. 8. Unanimously APPROVED.

ACTION ITEM

ITEM NO. 9 – Recommend Penalty Assessment and Permanent Revocation of 16 Unrestricted Private Ambulance and 6 Unrestricted Non-Ambulatory Gurney Vehicle Permits Held by Skori, Inc. dba West Coast Ambulance (Company ID #2482)

Patricia Barker, Sr. Transportation Investigator, presented the report.

Questions and answers were provided.

- Commissioner Eisenberg asked how much notice was given to the company prior to the current meeting.
- Ms. Barker responded that the notice was sent at least two weeks prior to the meeting.
- Commissioner Eisenberg asked when the company would be eligible to reapply under DOT’s conditions.
- Ms. Barker stated that the original company, as it runs, now will never be eligible to reapply and added that with change of ownership and if all conditions are met, eligibility is two years.
- Commissioner Eisenberg asked how the penalty is calculated.
- Ms. Barker explained how the penalty was calculation and referenced Board Order 580 as the guideline to assess a monetary penalty and confirmed that there were 1,074 violations found just within the West Coast documents.
- Commissioner Davidian commented on the number of on-going violations and the reasons given, other than staff being busy, and shared his thoughts about unpermitted vehicles and unpermitted drivers having anything to do with being busy.
- Ms. Barker added that there were so many driver and attendant violations listed in the document; discussed the staffing in a normal private ambulance run and the different number of staff listed on the documentation that were unpermitted; and talked about the permitting application process.
- Commissioner Tohom wanted clarification on the legal representation with regards to the Lew Firm.
- Ms. Barker explained how she was unsuccessful in her attempt to get confirmation for the Lew Firm as a secondary law firm.
- Commissioner Liban asked to clarify if it was an affirmation that there was a violation or a perception of a violation.
- Ms. Barker stated that it was an alleged violation and that was the reason she asked the company for their records.
- Commissioner Liban asked how the Department would have known about this with that many violations if not for the anonymous information received.
• Ms. Barker talked about conducting and reinstituting routine audits of companies and shared that the information might have come from a disgruntled employee.
• Commissioner Tohom asked if other documentation was requested from the company outside the July – October time period.
• Ms. Barker responded and explained why she did not request for other documentation as she did not want to violate HIPAA or ADA.
• Commissioner Tohom asked Ms. Barker to clarify if she requested driver information for the time period July – September but the company did not provide.
• Ms. Barker confirmed that she has all their driver information in the system and explained how the report was generated to show all vehicles, drivers, and attendants without a valid LADOT driver or attendant permit during the time period.

Donald Wolfe, Wolfe Attorneys & Mediators and Legal Representative for West Coast, was present and addressed the Board.

Questions, answers, and comments were provided.
• Commissioner Eisenberg asked for the total number of fleet and how many in that fleet is licensed currently to operate in the City of LA.
• Mr. Wolfe deferred to Mr. Balayan and added that it was his understanding that currently, all ambulances operating within LA City are licensed to operate within LA City.
• Mr. Balayan, CEO of West Coast Ambulance, addressed the Board and confirmed that every single ambulance owned by West Coast Ambulance is permitted by LADOT and described the two different types of licenses that West Coast Ambulance have with LADOT – ambulance licenses and non-ambulatory gurney van licenses.
• Commissioner Eisenberg reiterat ed that the violation was for the second license and asked how many were licensed with that violation.
• Mr. Balayan provided the numbers of non-ambulatory gurney van licensed with LADOT and vehicles that are not licensed with LADOT due to the geographic location, and mentioned that West Coast Ambulance have multiple stations (one in Antelope Valley) including LA County licensed vehicles. He concluded that every single non-ambulatory gurney vehicle in their main station possess a non-ambulatory gurney van license.
• Commissioner Eisenberg asked Ms. Barker how confident she was that unlicensed gurney vans or ambulances were operating in the City of LA.
• Ms. Barker stated that she was confident.
• Commissioner Eisenberg questioned how much time the company had to respond to the spreadsheets and asked if the spreadsheets came from their office.
• Ms. Barker responded that she asked him (Mr. Balayan) for the spreadsheets in December and that technically he should have had the time to review the documents from December. She confirmed that the spreadsheets came from their office.
• Based on Mr. Balayan’s statement that all these ambulances are licensed with the City of LA, Commissioner Tohom stated that it does not preclude if they were licensed after the fact of the incidents.
In response to Commissioner Tohom’s statement, Ms. Barker reported and discussed in detail the findings of her investigation and made a verbal correction to the report regarding vehicle unit #s 207 and 209 in front of the Board.

Steve Chiu, Manatt, Phelps & Phillips, LLC and Legal Counsel for West Coast Ambulance, addressed the Board, for the record, to correct some facts about the spreadsheets and the erroneous allegations in the report.

Questions, answers, and comments were provided.

- Commissioner Eisenberg asked Mr. Chiu if the 208 of the 1700 that is claimed erroneous or inaccurate are the ones brought to staff’s attention and if the reduction in the fine of $35K is part of the 208 or are they two separate issues.
- Mr. Chiu stated that those are two separate issues.
- Commissioner Eisenberg asked Ms. Barker to respond to Mr. Chiu’s statement.
- Ms. Barker responded that this was the first she heard of it. She also clarified that she emailed Mr. Balayan on May 5th advising him that she had corrected the number of violations down by 35 trips. She explained to the Board why the amendment was not included in the report and confirmed that the report, as it stands, is solid.
- Commissioner Eisenberg asked Ms. Barker to respond to the claim that adequate notice of the current hearing was not given.
- Ms. Barker reported that the moment she knew the Board would meet on May 11th, she sent out the letter to the company via email and regular mail and the company would have received the letter within two days and the email was sent April 27th.
- Commissioner Eisenberg asked Deputy City Attorney Nagle how he would respond to the allegation that due process was not performed correctly.
- Deputy City Attorney Nagle stated that the April notice was correct and Ms. Barker initially put the company on notice in December/January that they had a serious problem.
- Commissioner Liban asked Deputy City Attorney Nagle if the Commission can act on this item per Brown Act given the many verbal information provided at the hearing and a record on the report.
- Deputy City Attorney Nagle advised that the Commission can act on the item since it is on the agenda and that based on what the Commissioners heard, the Board would want to grant the Continuance.
- Commissioner Eisenberg stated that if the Commission believe it should grant the Continuance until the next meeting to give the company time to get their records together and prove that the report is inaccurate or whether the Commission believe the report is accurate, then will move forward with the report.
- Commissioner Liban asked Ms. Barker to clarify if the company is in compliance at this time considering the violations from eight months ago.
- Ms. Barker stated that to her knowledge, the company is complying only because the Department is watching them.
- Mr. Chiu addressed the Board and talked about the company and its operation and the evolving allegations against the company. He expressed how it is completely premature for the Board to consider revocation or a penalty at this level based on record that is unsettled.
• Deputy City Attorney Nagle advised that the Board would want to suspend them if the Department discover a violation so they can then dispute.
• Commissioner Eisenberg stated that it would be a full suspension.
• Deputy City Attorney Nagle agreed that it would be a full suspension.
• Commissioner Liban wanted clarification that the recommendation when it returns to the Board would be revocation.
• Deputy City Attorney Nagle advised that the Board would have the ability to revoke it when they hear it back and if it is a valid violation. He added that in terms of coming back, they would have to submit information to the Board and asked if there is a deadline when they should be able to submit the information.
• Commissioner Eisenberg stated that the information should be submitted to staff within two weeks so staff can review and bring back to the Board with staff’s opinion after its review.
• Ms. Barker concurred with two weeks and will bring it back with opinion in written form to the Board. She asked Deputy City Attorney Nagle if they are suspended as of right now.
• Deputy City Attorney Nagle responded that they are not suspended.
• Commissioner Eisenberg stated that they can operate right now and if they operate illegally in the City of Los Angeles without a licensed proper driver, a vehicle without a proper license, then the Board’s vote is to suspend them pending if they will try to dispute the violation but the Board’s action will be automatic if the violation is valid, will revoke their license, and administer a fine of $1,676,500.00.
• Commissioner Tohom requested that Ms. Barker from this day forward, present to the Commission any email communication, in a spreadsheet format, and to include a notation, date, and time when the communication was sent out and when communication was received back from West Coast.
• Ms. Barker acknowledged the request and stated that she will create a communications log.
• Mr. Chiu addressed the Board and noted for the record that given they have two weeks to respond to the allegations that it seem there are due process concerns. He stated that he was not sure they could get to all 1700 violations in two weeks.

Commissioner Eisenberg moved, seconded by Commissioner Liban to Continue Item No. 9. Unanimously APPROVED.

Commissioner Eisenberg moved, seconded by Commissioner Liban to enter into Closed Session. Unanimously APPROVED.

ITEM NO. 10 – Appeal of Laporsha Nicole Russell, Concerning the Department’s February 16, 2023 Cancellation of Motor Bus Driver Permit #624303, Pursuant to Board Order 600, Rule D1 – Permanent Disqualification – D.O.T. Transit

Patricia Barker, Sr. Transportation Investigator, presented the report.

Questions and answers were provided.
• Commissioner Eisenberg questioned the 2018 conviction that shows as a misdemeanor.


- Ms. Barker clarified and stated that the company is in compliance only because she has been concentrating on this and as far as she knows, they could be operating illegally and she is not aware of it because she does not have enough staff that can shadow. She added that she stands on the report before the Board with the amendment that she removed 35 alleged violations and reduced the penalty to what she stated before $1,676,500.00.

- Commissioner Davidian asked Ms. Barker what her normal process is as a rebuttal to the types of violations she have (ie., accept/require written documentation, edited spreadsheet by the company with each case rebutted in the document).

- Ms. Barker explained her process on a normal hearing.

- Commissioner Eisenberg stated that he was inclined to make a motion and stated the motion to be - to delay this action for one month until the next regularly scheduled meeting, which might be a day or two earlier or later than a month depending on how the calendar works and that the motion will include, if West Coast Ambulance is found to be operating either a vehicle or the vehicle being operated by a driver without the license between now being 11:52am and then, they will have the automatic revocation and the automatic implication of the full fine of $1,676,500.00. He added that this motion will give West Coast one last chance to bring upon proof of the allegations being incorrect and protect the public safety in the City of Los Angeles for the next 30 days.

- Ms. Barker wanted clarity from the Board that even if the company was not found to be operating illegally that it does not negate the violations found.

- Commissioner Eisenberg clarified that it does not negate the violations found and that the Board is just giving them one month to bate the 1700+ violations.

- Commissioner Davidian commented that he would expect the rebuttal to Ms. Barker’s investigation be in a credible format as her investigation was and that the rebuttal should be a detailed documentation similar to the spreadsheet format.

- Commissioner Eisenberg stated that the actual permits for those dates needs to be provided to Ms. Barker prior to the meeting.

- Commissioner Liban commented that the proposed motion was a good compromise and wanted to clarify some parts of the motion and reiterated that the first part was that the Board will Continue the decision until the next meeting, addressed his earlier concerns with public safety and stated that any particular violations between now and then would be an immediate revocation of the permit and the application submitted to the Board and the implementation of the $1,676,500.00 fine. He seconded President Eisenberg’s motion.

- Mr. Chiu addressed the Board to thank them for granting the Continuance and asked for clarification with respect to the fact that this revocation becomes automatic upon a finding of a violation, he noted that seeing over 200 of the allegations are erroneous he wanted to make sure that if the Department comes back and makes another finding that there is a violation in the next month that they are not automatically revoked before they are able show that allegation is erroneous as well.

- Commissioner Eisenberg clarified that if that is the case, they will be automatically revoked and it will be up to them to litigate against the City and added that he was not sure if there was an avenue to dispute the violation on its own.
Ms. Barker clarified that the appellant also had a felony out of state from the original DOJs.
Commissioner Eisenberg asked where that was listed and if that was the 2006.
Ms. Barker confirmed that it was listed under 2006.
Commissioner Eisenberg stated that 2006 are disqualifying items also.
Ms. Barker confirmed Commissioner Eisenberg’s statement was correct.

Appellant Russell was present and addressed the Board.

A representative from MV, was present, addressed the Board, and spoke of the appellant’s character and how the appellant is a good employee.

Commissioner Eisenberg moved, seconded by Commissioner Liban to grant the appeal of Laporsha Nicole Russell. Unanimously APPROVED.

Commissioner Liban moved, seconded by Commissioner Eisenberg to exit the Closed Session. Unanimously APPROVED.

Deputy City Nagle stated that in Closed Session the Board granted the appeal of Laporsha Nicole Russell.

**ADJOURNMENT – PURSUANT TO GOVERNMENT CODE SECTION 54956.7**

With no further business to come before the Board, Commissioner Liban moved, seconded by Commissioner Davidian to adjourn the meeting. Unanimously APPROVED.

The meeting adjourned at 12:17 PM.