



Charlotte City Council  
**Community Safety Committee**  
Meeting Summary for January 6, 2014

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## COMMITTEE AGENDA TOPICS

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- I. Subject:**        **Digital Dispatching**  
**Action:**            At the October 7, 2013 City Council Workshop, the issue of Passenger Vehicle for Hire and Digital Dispatching Services was referred to Committee for review and consideration. North Carolina General Statutes Section 160A-304 prohibits the regulation and licensing of digital dispatching services by municipalities. However, these companies are currently operating within the City. Staff will update the Committee on this issue.
- II. Subject:**        **2014 Meeting Schedule**  
**Action:**            Consider and adopt the proposed 2014 Meeting Schedule
- III. Subject:**        **Next Meeting**  
Thursday, February 13, 2014 at noon in Room 280

## COMMITTEE INFORMATION

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Present:        Claire Fallon, Chair, Al Austin, Gregg Phipps and Kenny Smith  
Absent:        Co-Chair Michael Barnes  
Time:            12:00 – 12:52 pm

## ATTACHMENTS

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1. Agenda Package
2. Digital Dispatch PowerPoint
3. 2014 Meeting Schedule

## DISCUSSION HIGHLIGHTS

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Chairman Fallon called the meeting to order and asked everyone in the room to introduce themselves.

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## **I. Digital Dispatching Services**

Chairman Fallon said this is basically an informational meeting about Digital Dispatching Service. She asked Assistant City Manager, Eric Campbell, to introduce the first item.

Campbell: As you mentioned we have one item on the agenda today which is the Digital Dispatching issue. We also have an action item which is the adoption of the 2014 Meeting Schedule for this Committee. This is not our normal meeting room; we usually meet in Room 280, but given the beginning of the year and meetings that were already scheduled, this room was the only room available at this time, but we will go to our regular room once the meeting schedule has been adopted.

Item #1 – Digital Dispatch, this is a legacy item left over from the last Council and the issue with this is that, when the General Assembly concluded last year, it passed the law that said the City or Municipalities could not regulate Digital Dispatch companies under Passenger Vehicle for Hire. What that ended up doing was immediately creating two different industries within the City, an industry that is not allowed to be regulated as well as taxi cabs and black cars which we normally regulate under the normal process. One of the challenges has been how do we do then as a City to go forward given that the State has said we can't regulate this industry. Basically, technology has increased to the point where now people can request vehicles by digital application. Normally, you would pick up your phone, call for a cab or a black car, but now you can use your smart phone and basically request the same type of service from a digital application. The State is saying we cannot regulate that process. What we have today is a presentation that will be provided by Mr. Powers with the City Attorney's Office. He is going to walk you through the history of how our PVH Program works here in the City and then walk you through what the State Program basically says we can and can't do and then it is a broader policy decision for Council on how you want staff to proceed in investigating what the current situation is.

Powers: To kind of give you a quick background into what we are talking about, we are talking about the PVH Office. The City has the authority under N.C.G.S. 160A-304 to actually regulate Passenger Vehicle for Hire industry. This has actually been codified in Chapter 22 of the City Code. We actually have four inspectors who go around enforcing the actual ordinances and insuring that all passenger vehicles that are in the City are either licensed or up to the minimum standards that Council has set forth. If those individuals or companies are not meeting those standards, then they are either cited, have their certificates or permits revoked, and then have the subsequent ability to appeal those decisions to the PVH Board. The way the current ordinance is structured is we have three types of licenses that we issue. We have the first which is the company operating certificate; that means for any company that wants to operate within the City they have to actually get that type of permit first. You have the vehicle operating permit which allows for the cars that are on the road to pick up passengers and fare them from point A to point B. That is also a particular permit. Then we have the driver's permit that is for the individual who is faring the passenger from point A to point B. In order for a Passenger Vehicle for Hire to actually operate in the City, the driver is permitted, the car is

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permitted and the company is also permitted as well that is subject to our background checks. Mr. Powers used PowerPoint for his presentation to the Committee.

Fallon: They are called by phone and they are the ones that wait outside businesses and they are allowed to stand there and wait?

Powers: The Contractor services?

Fallon: The black cars.

Powers: The black cars are allowed to wait outside businesses. Typically, you may see a black car affiliated with the downtown area where it is actually being fared from the Airport to downtown or to Ballantyne for those businesses. With regards to our vehicle operating permits, I want to make one distinction, when this PowerPoint was actually crafted, I put in there a valid point for the manufactured date; actually there is a set date that we actually do the vehicle operating permit, and I can't remember that date.

Young: Any vehicle that comes in when they get their permits or decals put on, from that date, if a car came in January 2014 it would be good until January 2015. The manufacture date is used to find out the age limit of that vehicle.

Fallon: That is our 8 years?

Powers: Yes, and, just like other permits, we have those renewed annually. Right now this is the number of vehicles we have permitted at this time and that can also fluctuate between those that have expired and not been renewed and those that are coming on for the first time. We only placed on this PowerPoint taxi cabs and executive cars. There are other types of vehicles as well, but taxi cabs and executive cars are the two largest types of permits that we issue, so we only limited it to those, and this is what we have at this time as of January 3<sup>rd</sup>.

Powers: Continued with the PowerPoint.

Fallon: So this becomes a legal matter, not a Council matter? We really have no control over it; it's court.

Powers: Correct, and this is why this was actually created. Your Boards and Commissions in this sense would actually be able to handle those legal matters and in that way, any individual who wants to contest it, can go through the legal process. You have the authority as members of the Council to appoint members to the Boards when those come up for renewal.

Powers: Continued the PowerPoint.

Phipps: In view of the fact that the General Assembly did not provide any kind of definition for Digital Dispatch Services was any attempt made to seek clarification from

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the General Assembly or their counterparts as to what exactly that meant?

Powers: We have discussed seeking an interpretation from the Attorney General on that, that that is still in preliminary discussion. As to the General Assembly's thoughts, I looked through the legislative record, and there was not any previous definition of digital dispatch that could have been in any previous comprised bill. It looks to be an oversight by the General Assembly altogether, but there is nothing that I could find from our research that indicates that the General Assembly attempted to even define digital dispatching service. We looked at trying to seek clarity on that issue.

Fallon: They have not defined it. What happens when we have a problem; when you have two people denying responsibility for a problem with it? There is a case in San Francisco, somebody that drove for UBER killed a little girl 6 years old. They are both denying responsibility. He claims that he was out picking up fares; UBER claims he wasn't – who is responsible?

Evans: Currently that would be a civil matter between those two parties. We wouldn't have any civil liability in that because there is no government action as of yet.

Fallon: But we have a moral responsibility because, if we allow them, then we are a party to a problem.

Powers: Based on our current system and the scenario which you just alluded to, if our current system and something like that happened, let's just say we have a taxi cab driver that is driving around the City and they are not collecting; they are driving around trying to collect a fare and they get into an accident. If I recall the scenario, the UBER car hit a second car and the second car then collided with a fire hydrant and the fire hydrant propelled into the air and struck the individual causing massive injuries. If that all should occur here in the City of Charlotte with a taxi cab, the City of Charlotte would still not be a party to that as Ms. Evans alluded to simply because we, as a governmental entity, would look at and inspect the situation to see whether or not there were any issues for citation, but we would not be part of the litigation matter in regards to the ultimate civil liability that would be assessed. That would still need to go through the courts. Tracy and Mr. Young would look at the situation whether there is any context for a citation being issued or permit being revoked if there was evidence of that. I can't think of anything right now, but let's say, for instance, the brakes were faulty, and we were able to establish that later on; there may be a context for that, but that would be something after the fact.

Fallon: We do have any responsibility because we can't inspect them or overlook any problems they may have. We've been constrained by the Assembly.

Powers: Our current ordinance now, if that scenario took place as of today, what we would basically have is the ability to inspect the vehicle prior to the situation, but if that should occur with one of our own licensed vehicles here that would be a third party act that the City couldn't control or could the City be able to really get in and regulate. If we've done the minimum standards of making sure the vehicle is safe and sound, the

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driver has passed all background checks, but for whatever reason got distracted and ran a red light and crashed into another car, that would be a situation that there is no formal regulation that would allow us to really get in to prevent that situation to occur, but if that driver happened to be drunk and driving, that is where the PVH would be able to step in and possibly look at revoking the permit, but we wouldn't be able to regulate that even now under our ordinance because that is pretty much outside the confines of what we could do.

Evans: I think I want to distinguish between UBER and LYFT. UBER is currently using currently permitted companies so they are using black cars that the PVH has licensed to operate. LYFT is not. LYFT is using private citizens' vehicles, so there is some distinction between those two companies because we have actually looked at some of the cars that UBER drivers are using because they are drivers that are permitted or at least in theory.

Austin: Do they do background checks?

Powers: From what we understand from our conversations with UBER and LYFT, Ms. Evans and I have talked with representatives from UBER and LYFT, and they indicated to us that they do background checks for criminal matters, however, we are not able to really get to the full extent of their criminal background checks simply because some of the information is proprietary, but we have been informed that they do background checks.

Austin: Do we do background checks on all of our drivers?

Powers: Yes.

Austin: And we inspect all of our vehicles?

Evans: Correct. Their background history does not seem to be as extensive as ours is. As far as time limits, they don't go back as far as we do, and the same thing goes for their driving history. We looked 10 years back, and I think they are 3 years.

Austin: I guess this all just disturbs me. I used to be a Vehicles for Hire inspector for this City and there was a story back in the 1980's when we were trying to make sure that we had sound city ordinances to make sure the public was safe when they got into vehicles coming into the city, and I just see this as a way to circumvent all of that, and I'm really disturbed by it. I know I talked with you before about who sponsored this particular bill, and you said it just kind of got in there and nobody looked at it.

Powers: In regards to the regulatory bill, the regulatory bill was ran by Representative Moffitt from Asheville, but it was a consolidated bill from multiple ... deregulation provision that was put in the larger bill. As to the particular entity or lobbyist or person that was really pushing for this, I can't really pinpoint that. There have been rumors as to what particular entity they may have and I don't want to repeat these rumors, but it has

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been rumored that he did push for that legislation.

Smith: Everybody I know that uses or assesses their services provides a high quality, lower price, easier to deal with technology. It seems they have had issues with them.

Powers: The challenge that we are facing is when they initially moved into the community, and then the passage of this legislation, created two separate sets of regulatory ability and so now there is a policy question of fairness because you have traditional industry companies that have to meet certain requirements and background checks, but you have another set of companies now because of how they dispatch that are not subject to any type of background for oversight of the City whatsoever. So you have an industry that is regulated within the City and you have another industry that is not.

Smith: But the issue seems that people are upset that somebody is providing a service at a cheaper cost. It looks as if they are asking the government to subsidize or regulate somebody to help pump up profit margins.

Powers: That is a general policy question that Council has to settle and your comfort level for what is happening.

Austin: In my eyes this is still a vehicle for hire service. This is just a communication mechanism that I see. It is like a computer, we're just utilizing it in a different way, but these are still vehicles for hire that people pay for, and it is in our own City ordinance.

Evans: I want to speak to your point. There is no real answer to that because they are not required to report to the Passenger Vehicle for Hire. I can say I don't think we know of any grand problems so far, but there is no requirement that they tell us the companies are not affiliated with us in any way. It would be more of a private matter between the individual riding and the company.

Powers: Let me piggy back on some of the points that have been stated. We have seen reports across the US, and I will use the hurricane Sandy situation that has come up. In New York, after hurricane Sandy, one of the issues that emerged for UBER was that their rates fluctuate based on market conditions, so they are not set. At peak times their rates may be high and at low peak times their rates may be less. After hurricane Sandy much of New York had a flooding situation, so there were drivers that were not out and transportation was not available in certain parts of the city. A story ran where UBER raised their rates to levels that the public has told them to be high and exuberant, but that allowed, from what UBER has indicated, their drivers didn't get out into the market and provide services to those who requested it. One of the problems was there was a severe backlash from the public that you are now trying to monopolize a situation where there is that issue of now trying to jack up the fares simply because people can't utilize any other transportation options available. That was an issue in New York, and I think in Toronto that issue also emerged with a snow storm or something of that nature where UBER, based on market conditions, raised rates up to a level that was high, but those are situations that we are aware of based on news reports. As to LYFT, I heard reports but I

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can't really state with confidence or can recall that information to give you an example of things we've heard from LYFT as well.

Evans: One example we've heard are about these drivers that are going to the Airport. The Airport is contracted with three taxi companies and some of these pre-arranged rides are going to the Airport and picking people up which is usurping the contracts that taxi companies have with the Airport. That has been a concern that has been addressed with us. Also there is another issue that they are supposed to be pre-arranged, but we have now seen some of these vehicles going to an event and sitting out there waiting for somebody to use the apt to call them which kind of defeats the purpose of making it a pre-arranged.

Fallon: I have another problem and that is, if you call a home and the driver is not there and his brother-in-law, who is a criminal, is there and they don't want to lose the fare, he gets in that car and he drives. You don't know who is driving you because it is not regulated. Just having a picture of somebody, who looks at the picture?

Powers: Let me give you an understanding of how the system works. Let me just start with UBER because those are the personal cars that are being used for commercial purposes. Sorry, LYFT is the one that is using personal vehicles for commercial purposes and a LYFT car will have your typical pink mustache on the front of the car and, based on research information, does a fist bump when you get into the car. Their system allows for your picture, the person who is going to be requesting the service or providing the service, to be provided to the other person as well as if you are the driver and I am the one that is going to get into the vehicle, I would know what car it is before it actually arrives. In the situation where you indicated where I am a driver but my criminal relative decides to use my cell phone to go pick up a fare, theoretically, it is the individual who is getting into the car will see that it is a different person and then decide I don't want to get into the vehicle. There is nothing that will stop that person from still getting into the car, and there is nothing we can do to enforce that situation at all.

Fallon: In other words we do not have any right by statute from Raleigh to regulate them, but we are regulating everybody else. There is the question of fairness with that.

Campbell: Madam Chair, one of the things I want to clarify, we are saying regulation but one of the key things behind regulation is, and I think it should be stated for the record, we don't regulate just to regulate. We are regulating for safety issues. Our point of regulation is to make sure that the drivers have clear backgrounds, that they are properly trained and the vehicles are properly inspected to make sure they are safe on the public streets, because the indication is that, if you hire a cab or hire vehicle, somebody is providing a safe vehicle for you. That is really the issue behind regulation. It is not that we just want to regulate; we want to make sure our citizens are exposed to safe vehicles and safe customer service.

Fallon: Which is our responsibility.

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Smith: Any of these cars for service would have to qualify under basic state standards to pass inspection to be on the road, correct?

Campbell: The private vehicles would have to meet state requirements of any vehicle.

Powers: To Mr. Campbell's point earlier that is the policy question that is going to be presented before you, whether you want to go with a fare model of deregulation or have a model of some full regulation. That is the policy questions that staff is presenting to you at this time and you would tell us exactly which avenue you would like to go down. Once you have made that policy choice, staff can then be able to come back with recommendations at a future date on that. I would refer to Mr. Campbell on that timeframe, but that is what we are presenting to you now in regards to the Digital Dispatching aspect in our PVH ordinance as a whole. Let me go back and actually describe the UBER model as well. To finish up with LYFT, again the way their service works is they are a donation base and that is generally a more community oriented Passenger Vehicle for Hire type of service. Your UBER is more tapped into the established network of black cars and executive cars in the City. They are the ones that would set the fares, they set the distance, you just basically request it, and the black car picks you up and drops you wherever so they are tapped into the more established and traditional network by being the ... between the person requesting and the person who is providing. Highlighting what the provision of the special law does, it prohibits the City from regulating and licensing Digital Dispatching Services and also prevents the city from adopting an ordinance that does that, so it basically covers if you did regulate it previously, it is now void and, if we attempt to do that in the future, it would also be void as well.

Evans: I think the problem there is that it doesn't define what digital dispatching services is.

Powers: That is to this point in hand; there is no definition so there will be some legal uncertainty as to what Digital Dispatching Services includes or does not include. The General Assembly could in the future decide to look at this issue again and provide some clarity. There is also the possibility as part of your policy discussion that you can possibly define what you think it may be, but that will be something that you could look at as well.

Mr. Powers continued with the PowerPoint.

Smith: Just for clarification, were fares established prior to the person getting into the black car; the fare is established and they know what they are paying for upon sitting in the car?

Powers: I can't say with certainty and here is why. Because taxicabs, typically the fare is located on the vehicle, so when you open the door you see the fare. Black cars are a little different and, since black cars are transporting for companies and hotels, therefore, the hotel or the company may be paying the fare, and the person who is getting the service may not be paying any fare whatsoever.

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Smith: My experience with black cars, they told me what I'm going to pay before getting into the car, and I know whether it is \$25 or \$18.

Powers: Typically, it is an individual doing it, and I would see that they were made aware of the actual fare before getting into the vehicle, but most of time it is not.

Powers: Continued with the PowerPoint.

Campbell: Just to quickly summarize. Because of the technology and the way technology has gone in this industry, we are going to have to make some adjustments to our PVH Ordinance. Because of technology now and the way that it operates, it is not in line with our current ordinance, so we have to make some policy decisions up front. The challenge is now, given the State Legislation, and we know that companies are operating. What options do we have available to move forward with digital dispatch specifically. Do we define it in our local ordinance even though it is not defined in the State Ordinance? What ramifications would that bring or do if we make that a priority going forward in our legislative agenda to ask the State to better define digital dispatch or to rewrite the State Legislation to give municipalities more alternatives in regulating. Those are the policy things that we need to discuss.

Fallon: Problem – I have asked Mr. Fenton to set up a meeting with Mr. Tillis or whoever is head of that Committee because I think we have to define this. We are dancing in the dark, and we can't make any decisions until we know where they are going or if they will take this and look into it and understand the problems that Charlotte will have because of it. I think the next step is to see if we can get a meeting with someone up in Raleigh to see what their thoughts are. Can it be turned back in any way; can it be modified so that we know exactly where we are going. As you said, we are going to have to make decisions and put in some kind of safety net for the public.

Campbell: Madam Chair, we had a very productive meeting with LYFT and their representatives just before the holidays. In that conversation we did discover that California, even after they began operating, decided to go back and establish some type of regulation. Washington, DC has done the same thing. What was positive about the conversation was that LYFT was open to that level of regulation. We are trying to meet with UBER now to talk with them about their operation within the city.

Fallon: That becomes a problem because they have no presence here.

Campbell: They physically have no presence; either company physically has no presence; it is all virtual, so that is where we are.

Phipps: So are we saying that, during the period of time that this ordinance was being debated in the General Assembly, were we given an opportunity to provide any comments on the ordinance?

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Campbell: No, sir. This was done near the end of the session; it was included in an ominous bill that actually included several things. In fact, there is an issue with the environmental issue and regulatory issues that was folded into the exact bill and this was a piece of that.

Powers: From what I understand, it was one of those provisions that came in at the last moment, sprung up right before the bill was passed by the General Assembly. It was not one of those things that was introduced at the beginning of the session. It was more or less at the 23<sup>rd</sup> hour right before they closed up shop; it was slid in as a provision and passed along with a bigger consolidated bill.

Austin: I don't think that they actually understood what they were doing.

Evans: Additionally, none of those companies were operating in Charlotte at that time. They came as soon as the law was signed so we didn't have any knowledge really of those companies.

Fallon: I understand they had a very big lobbying effort.

Phipps: I would agree with the Chair that it seems like we would be operating in a knee jerk fashion if we tried to fashion some sort of response based on something that I don't think was debated and fully understood as to what the ramifications of the current ordinance is.

Fallon: Get a definition of what and see what we can turn back or modify and that will take another meeting and Mr. Fenton will see if he can set it up with Raleigh.

Phipps: Madam Chair, I agree with you. Another question: Raleigh or Durham, other market cities, are they having this type of discussion?

Powers: We just received information from Durham requesting our thoughts on Digital Dispatching.

Evans: I contacted all of the major cities of North Carolina, and this was probably in November, and none of the companies were operating in any other city besides Charlotte at that time. I think they may be trying to make entry into the cities going forward, and I think that is why Durham was contacting us.

Powers: We have been made aware that Raleigh is going to get one or two of the actual digital dispatching services as well in the future.

Smith: They do offer it nationwide; a lot of large municipalities such as Chicago, Philadelphia, San Francisco, Dallas.

Powers: There has been a lot of litigation also when either of the companies has gone to those markets as well as based on how those markets interpret.

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Evans: We have not gotten any other State Statute that mirrored North Carolina that prohibited a locality from being able to permit or regulate those services. Usually, it is a state act.

Smith: How would they regulate in another state?

Evans: Most of them did not, and they also had knee jerk reactions where they had to come back and make some regulation. Some cities have filed lawsuits against these companies to block them from operating. Other states have managed to change their statutes to incorporate them which is something we would be looking at.

Fallon: But no one has restricted it like they have for us?

Powers: No state has actually done where they have basically set the confines of the provisions. I think one of the things we will have to highlight, too, as well as a policy matter is, while we are getting the actual definition, you do have a lot of questions that are coming from the community in regards to how this could be implemented because you do have a lot of the members of the PVH who believe they are being treated differently than the UBER and the LYFT. The reason I highlight that is because I'm unsure of our ability to get a definition from the General Assembly prior to it opening in May because, when the short session of this odd year occurs, you do have that lag time of we are still in limbo state. That could create some additional legal issues in regards to the Manager implementing the ordinance as drafted and questions about how it applies to certain individuals and what contacts. I want to give you that thought as well as part of your discussion.

Austin: I would say that we are working toward creating an equal playing field for everybody.

Fallon: And mostly for the public to be safe, which is my big concern.

Phipps: Is there a definite time set when we would have to implement this new ordinance. Did they give a date?

Powers: The General Statute was passed in August, so in essence the General Statute was passed in August. We need to revise our ordinance as soon as possible in the near future because, due to the legal uncertainty, I can't say with confidence that we would not be subject to a law suit and possibly lose. I would say that it is probably more urgent to look at and develop an ordinance in response to this, but, if you decide to wait for the General Assembly, you do have that legal certainly that would create a potential litigation as well.

Fallon: What if we did it and let them challenge it?

Powers: That is also a Council decision as to how you would like to proceed in that regard. The only thing I would like to emphasize is, if Council did go that route and we

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were unsuccessful, the General Assembly passed a law I think in 2011 that says if the City created an ordinance or did an action that was outside the scope of what the General Assembly required or specified, we would have to provide attorney fees to the person who actually sued the City. If the Committee as well as Council is comfortable with that action, then we would actually develop the ordinance in the manner that you deemed appropriate and wait for a challenge in that regard. That is a policy question for you.

Smith: When you say lawsuit, you are talking about lawsuits from cab companies?

Powers: In this instance, I can't say who. Right now we could be subject to a lawsuit from a driver, a vehicle operator, a company because they may indicate that they are not subject to our ordinance and they are digitally dispatched, therefore, the state law trumps our ordinance. We have received indications of threats to that from companies in the city as well as drivers and vehicle operators. We have indicated our position is that the ordinance still applies, but we could be subject to that type of lawsuit and would have to litigate this matter in court. There is that possibility that, if someone decides to file a lawsuit tomorrow, we may get an answer from the court as to what our position will be and have to implement that accordingly.

Campbell: One thing that is clear is that the existing Passenger Vehicle for Hire Industry feels that they now have an uneven playing field. They feel that companies that are not based here don't pay taxes here, are now challenging their industry. I think many of you probably got e-mails from members of the industry, and that will continue. One of the other aspects that we as staff are dealing with is how would the existing industry interpret the existing situation and maybe create an environment that would make it more challenging to regulate. For example, if they feel that it would be better for them to become digital rather than to be a traditional company and how do we regulate them at that point? Those are things we are concerned about going forward.

Fallon: Can I get the statute that Washington passed?

Campbell: We are in the process of getting what California and Washington passed.

Fallon: Send it to all of us so we can look at it and make a decision on how we want to go.

Powers: We will do the research on the other communities and get that to you as well.

Fallon: Also I had asked Eric if he would do something for me and that would be I would like to know the problems they've had because I know that UBER and LYFT have had multiple problems and I would like that history so we can possibly look at what is going to come here to visit us.

Phipps: If I understand what you are saying is that, even right now, we have exposure.

Powers: That is correct, yes. In this instance, unfortunately I can't say how to minimize

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your exposure until you have made a policy choice. If we don't change the ordinance, we are exposed; if we change the ordinance we are still exposed; but the question becomes how comfortable are you with the exposure?

Fallon: Or Catch 22.

Powers: Basically, we are going to be exposed regardless of the fact and just to make Council aware of the exposure and how comfortable you are with that level of exposure. Once you've made a policy choice of what avenue you go for, Tracy and I with Eric will be able to work and try to minimize that exposure as much as possible to help alleviate those potential litigation costs.

Fallon: In the end this is a Community Safety Committee, and that is what our main object is, safety for the public. Right now the public is exposed.

Phipps: It would appear to me, too, that there is more an immediacy in my mind that we would have to do something sooner.

Fallon: That is why we will get the Washington and California statutes and see how we can coordinate with them that fit our circumstances.

Campbell: We will provide the Committee with the information you requested and, as we go forward, we will continue looking at what our options are and inform the Committee as appropriate when we think we are developing something that would be feasible for you all to consider and to take forward to the full Council.

## **II: Adoption of the 2014 Meeting Schedule**

Campbell: Madam Chair, we have one action item and that is the adoption of the 2014 Meeting Schedule.

Fallon: We want to accommodate another Committee. Michael is not here today, and he is Vice Chair, and we don't want to interfere with Economic Development, so we better do it on different weeks so that we don't.

*Motion was made by Councilmember Phipps, seconded by Councilmember Austin, to adopt the 2014 Meeting Schedule as presented. The vote was recorded as unanimous.*

## **III. Next Meeting Date**

Campbell: Our next meeting will be February 13, 2014 at noon in Room 280.

The meeting was adjourned at 12:52 p.m.

**Council Community Safety Committee**  
**Monday, January 6, 2014; 12:00 p.m. – 1:30 pm**  
**Room 266**

Committee Members: Claire Fallon, Chair  
Michael Barnes, Vice Chair  
Al Austin  
Greg Phipps  
Kenny Smith

Staff Resource: Eric D. Campbell

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**AGENDA**

**I. Digital Dispatching**

*Staff Resources: Thomas Powers and Tracy Evans*

At the October 7, 2013 City Council Workshop, the issue of Passenger Vehicle for Hire and Digital Dispatching Services was referred to Committee for review and consideration. North Carolina General Statute Section 1604-304 prohibits the regulation and licensing of digital dispatching services by municipalities. However, these companies are currently operating within the City. Staff will update the Committee on this issue.

Attachment 1: NCGS Section 1604-304

**Attachment 2: Digital Dispatching Services Presentation**

**II. 2014 Meeting Schedule**

*Staff Resource: Eric Campbell*

The Committee is requested to consider and adopt the proposed 2014 meeting schedule.

Attachment 3: Draft 2014 Meeting Schedule

**Next Meeting:** TBD

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Distribution: Mayor/City Council  
Bob Hagemann  
Jon Hannan

Ron Carlee, City Manager  
Stephanie Kelly  
Thomas Powers

Leadership Team  
Rodney Monroe  
Tracy Evans

## **N.C. General Statutes § 160A-304. Regulation of taxis**

Effective: August 23, 2013

- (a) A city may by ordinance license and regulate all vehicles operated for hire in the city. The ordinance may require that the drivers and operators of taxicabs engaged in the business of transporting passengers for hire over the public streets shall obtain a license or permit from the city; provided, however, that the license or permit fee for taxicab drivers shall not exceed fifteen dollars (\$15.00). As a condition of licensure, the city may require an applicant for licensure to pass a controlled substance examination. The ordinances may also specify the types of taxicab services that are legal in the municipality; provided, that in all cases shared-ride services as well as exclusive-ride services shall be legal. Shared-ride service is defined as a taxi service in which two or more persons with either different origins or with different destinations, or both, occupy a taxicab at one time. Exclusive-ride service is defined as a taxi service in which the first passenger or party requests exclusive use of the taxicab. In the event the applicant is to be subjected to a national criminal history background check, the ordinance shall specifically authorize the use of FBI records. The ordinance shall require any applicant who is subjected to a national criminal history background check to be fingerprinted.

The Department of Justice may provide a criminal record check to the city for a person who has applied for a license or permit through the city. The city shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The city shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

The following factors shall be deemed sufficient grounds for refusing to issue a permit or for revoking a permit already issued:

- (1) Conviction of a felony against this State, or conviction of any offense against another state which would have been a felony if committed in this State;
- (2) Violation of any federal or State law relating to the use, possession, or sale of alcoholic beverages or narcotic or barbiturate drugs;
- (3) Addiction to or habitual use of alcoholic beverages or narcotic or barbiturate drugs;
- (4) Violation of any federal or State law relating to prostitution;

- (5) Noncitizenship in the United States;
- (6) Habitual violation of traffic laws or ordinances.

The ordinance may also require operators and drivers of taxicabs to display prominently in each taxicab, so as to be visible to the passengers, the city taxi permit, the schedule of fares, a photograph of the driver, and any other identifying matter that the council may deem proper and advisable. The ordinance may also establish rates that may be charged by taxicab operators, may limit the number of taxis that may operate in the city, and may grant franchises to taxicab operators on any terms that the council may deem advisable.

- (b) When a city ordinance grants a taxi franchise for operation of a stated number of taxis within the city, the holder of the franchise shall report at least quarterly to the council the average number of taxis actually in operation during the preceding quarter. The council may amend a taxi franchise to reduce the number of authorized vehicles by the average number not in actual operation during the preceding quarter, and may transfer the unused allotment to another franchised operator. Such amendments of taxi franchises shall not be subject to [G.S. 160A-76](#). Allotments of taxis among franchised operators may be transferred only by the city council, and it shall be unlawful for any franchised operator to sell, assign, or otherwise transfer allotments under a taxi franchise.
- (c) Nothing in this Chapter authorizes a city to adopt an ordinance doing any of the following:
  - (1) Requiring licensing or regulation of digital dispatching services for prearranged transportation services for hire connected with vehicles operated for hire in the city if the business providing the digital dispatching services does not own or operate the vehicles for hire in the city.
  - (2) Setting a minimum rate or minimum increment of time used to calculate a rate for prearranged transportation services for hire.
  - (3) Requiring an operator to use a particular formula or method to calculate rates charged.
  - (4) Setting a minimum waiting period between requesting prearranged transportation services and the provision of those transportation services when the prearranged transportation services are digitally dispatched.
  - (5) Requiring a final destination to be set at the time of requesting prearranged transportation services through digital dispatching services.
  - (6) Requiring or prohibiting taxi franchises or taxi operators from contracting with a person in the business of digital dispatching services for prearranged transportation services for hire.



**CHARLOTTE**<sup>™</sup>

OFFICE OF THE  
CITY MANAGER

# Passenger Vehicle For Hire & Digital Dispatching Services

By:  
Eric Campbell  
Thomas Powers III  
Tracey Evans

- The Passenger Vehicle for Hire Office
  - City authorized by N.C. Gen. Stat. § 160A-304 to regulate passenger vehicle for hire system
  - Chapter 22 of the City Code sets forth the regulations
    - Subdivided into ten divisions
  - Run by a manager and four inspectors
  - Applies PVH ordinance upon companies, taxicabs, executive cars (limos), other special vehicles, and drivers
  - Issues/Suspends/Revokes
    - Company Operating Certificates
    - Vehicle Operating Permits
    - Driver's Permit



- Background Checks Prior to Issuance
  - Criminal background checks for Company Operating Certificates, Vehicle Operating Permits, and Driver's Permits
  - Drug testing for Driver's Permits.
- Enforcement After Issuance
  - Charlotte-Mecklenburg Police, PVH inspectors, and Airport Ground Transportation officials issue citations
  - If citation is not paid in a timely manner (typically 60 days), then certificate/permit is revoked or not renewed

# Number of Certificates & Permits As of January 3, 2014

- Company Operating Certificates
  - Taxi Cabs: Valid from July 1, 2013, – July 31, 2014
  - Executive Cars: Valid from August 1, 2013, – August 31, 2014
  - Renewed annually
  - Number of Companies: Taxi – 10, Executive – 64, Others – 26.
- Vehicle Operating Permits
  - Valid for one year from Manufacture Date; Renewed Annually
  - Number of Vehicles: 1224
- Driver's Permits
  - Some drivers operate taxi cabs and executive cars
  - Taxi Cabs: 830
  - Executive Car: 560

- Passenger Vehicle for Hire Board
  - Eleven (11) member board comprised of PVH drivers, company owners, and users
  - Mayor appoints three (3), Council appoints five (5), and city manager appoints three (3).
  - Responsibilities
    - Conducts appeal hearings
    - Sets taxi cab rates, charges, and fare zones (if any)
    - Reviews whether a cap should be placed on company operating certificates, vehicle operating permits, and driver's permits
    - Makes recommendations to Council



# Digital Dispatching Services

- Rapid technological innovation in dispatching, electronic payments, mobile applications and connectivity are beginning to have a major influence on the Passenger Vehicle For Hire Industry
- North Carolina General Assembly passed Session Law 2013-413 (Signed into law on August 23, 2013)
  - Amends N.C. General Statutes § 160A-194
    - Prohibits the City from regulating and licensing digital dispatching services for prearrangement
  - Amends N.C. General Statutes § 160A-304
    - Prohibits the City from adopting an ordinance that regulates and licenses digital dispatching services



- No definition of “digital dispatching services” in Session Law 2013-413.
  - Legal uncertainty because due to lack of clarity
- PVH Ordinance will need to be revised
- Non-Established Passenger Vehicle Hire Companies
  - Hailo, Uber, UberX, Lyft, Sidecar are mobile apps
- Established Passenger Vehicle Hire Companies
  - Taxi Cab and Black Car companies licensed by the Passenger Vehicle For Hire office



# Established vs. Non-Established

	Established Industry	Non-Established Industry
Call or On-Demand	Regulated by Ordinance	Not Regulated by Ordinance
Prearrangement	Regulated by Ordinance	Not Regulated by Ordinance
Fares	Regulated by Ordinance	Not Regulated by Ordinance
Background Checks	Regulated by Ordinance	Unknown
Vehicle Age Limit	Regulated by Ordinance	Unknown

# Digital Dispatching Services Mobile Apps Information

NAME	PURPOSE	Operational	Fees	Vehicles
HAILO	Summons Yellow Cab Taxis	Not in Charlotte	Set By Company	Commercial Vehicles
UBER	Summons Black Cars	Is in Charlotte	Set By Company	Commercial Vehicles
UBERX	Peer-to-Peer Ride-Share	Is in Charlotte	Set By Company	Personal Cars
LYFT	Peer-to-Peer Ride-Share	Is in Charlotte	Donations	Personal Cars (Pink Mustache)
SIDECAR	Peer-to-Peer Ride-Share	Not in Charlotte	Donations	Personal Cars

- Questions Concerning Public Safety
  - What is impact of Session Law 2013-413?
  - How does PVH minimize the risks of injury to public?
  - What should be the framework for the Passenger Vehicle For Hire ordinance?



- Revise the PVH Ordinance to reflect changes of Session Law 2013-413

**Meeting Schedule for  
City Council Community Safety Committee  
2014**

2<sup>nd</sup> Thursday of each month at 12:00 pm  
Room 280 \*unless otherwise noted\*

February 13

March 13

April 10

May 8

June 12

September 11

October 9

November 13

December 11

**Note:**

No July or August meetings due to Council's summer schedule.