Council-Manager Memo #10
Friday, February 11, 2010

CHARLOTTE.

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WEEK IN REVIEW:

Mon (Feb 14)	Tues (Feb 15)	Wed (Feb 16)	Thurs (Feb 17)	Fri (Feb 18)
5:00 PM Council Business Meeting, Room 267		12:00 PM Community Safety Committee, Room 280		

CALENDAR DETAILS:

Monday, February 14
5:00 pm Council Business Meeting, Room 267

Wednesday, February 16
12:00 pm Community Safety Committee, Room 280
AGENDA: FY12 Focus Area Plan; Noise ordinance; reschedule March 16 meeting

February and March calendars are attached *(see table of contents on left).*

AGENDA NOTES:

Agenda Items #3, 13 – Airport Taxi Service Plan

Staff Resources: Eric Campbell, City Manager's Office, 704-336-5158, ecampbell@charlottenc.gov
S. Mujeeb Shah-Khan, City Attorney's Office, 704-336-5803, mshah-khan@charlottenc.gov

This item contains information on Passenger Vehicle for Hire issues on owners of King Cab and Royal Cab (Kashmary Enterprises, Inc.).

Recently, *The Charlotte Observer* and WCNC have run several stories concerning two of King Cab's owners (Javed and Naheed Kashmary). The stories discuss plea agreements the Kashmarys agreed to as the result of federal indictments. The stories suggest that the Passenger Vehicle for Hire Unit, which is part of the Charlotte-Mecklenburg Police Department (CMPD), may not have taken into account the Kashmarys' criminal record in issuing a company operating certificate to King Cab or drivers' permits to the Kashmarys. The stories have also questioned the nature of background checks performed for company owners and drivers. Given the nature of the allegations, and that King Cab is part of the recommendation for Airport taxi service on the February 14 agenda, Staff wanted to provide additional information to the Mayor and Council.

Background Checks

The Passenger Vehicle for Hire Unit (PVH Unit) is responsible for reviewing all applications for drivers' permits, company operating certificates, and vehicle operating permits within the City. When an initial application is submitted, the PVH Unit begins a background check which consists of: a search of CMPD's KBCOPS system (a system used for CMPD's records management including reporting for criminal investigations, field interviews, or arrests) for any arrests or criminal matters involving the applicant; a search of the North Carolina Administrative Office of the Courts database for any and all state criminal records; the sex offender database; verification of the applicant's social security number; a search of the applicant's driver's record; being fingerprinted; and a nationwide criminal records check handled by the State Bureau of Investigation. In driver's applications, the drivers are also required to detail their criminal history. For company owners, all owners and management staff are required to provide their criminal history and go through the initial background check.

If the application or any of the other checks run by the PVH Unit show any criminal history, that history is reviewed to see if the applicant is in violation of the City Passenger Vehicle for Hire ordinance. For example, felony convictions involving drug offenses, prostitution, gambling, murder or manslaughter, would automatically disqualify applicants. If no criminal history comes to light, or the violations found do not disqualify the applicant, and the applicant otherwise meets the requirements for a permit or certificate, then it is issued by the Passenger Vehicle for Hire Manager, or his designee.

For renewal applications, the PVH Unit's background check consists of a search of KBCOPS and a search of each applicant's driver history. The applicants are required to again detail their criminal history. If nothing is presented to show that the applicant is in violation of the Passenger Vehicle for Hire ordinance, then the permit or certificate is issued.

King Cab

King Cab is owned by Kashmary Enterprises, Inc. Javed and Naheed Kashmary are two of King Cab's three owners (Kashmary Enterprises also owns Royal Cab). During 2005, Javed and Naheed Kashmary were both indicted by a federal grand jury for conspiracy to obtain and sell fake drivers licenses. Ultimately, Javed Kashmary was sentenced to three months in federal prison and Naheed Kashmary was sentenced to eighteen months. Both were sent to prison during late 2007 and early 2008 as the result of plea agreements instead of a trial.

Company Operating Certificates

Company operating certificates are issued annually and expire at the end of July each year. For the company operating certificate that would be effective beginning July of 2008, Javed and Naheed Kashmary disclosed their federal criminal convictions in the King Cab and Royal Cab company operating certificate renewal applications.

Section 22-66(1) of the Charlotte City Code explains the circumstances where the Passenger Vehicle for Hire Manager ("PVH Manager") can deny a company operating certificate application:

(1) The issuance of the company operating certificate would not be against the public interest based on the applicant's court record. However, no application for a company operating certificate shall be approved if the court record of the applicant would not make it in the public interest for the application to be granted. Convictions, commissions and pleas of guilty or no contest to any of the following shall create a rebuttable presumption that the approval of the applicant's application is not in the public interest:

a. Sex offenses;

b. Felonious drug offenses;

c. Prostitution;

d. Felonies involving violence or attempted violence;

e. Gambling; and/or

f. Habitual criminal activity.

In this case, the PVH Manager reviewed the information concerning Javed and Naheed Kashmary's federal convictions. As the convictions did not fit in the six types of crimes listed

above which would require the PVH Manager to deny the application, the PVH Manager had the discretion to approve or deny the application. In his discretion, the PVH Manager chose to approve the application by not finding it would be against the public interest to approve the application.

Drivers' Permits

Drivers permits are issued annually, but expire one year after issuance. The issue dates vary (like with a driver's license) depending on when the driver applies for a permit.

In the case of Javed and Naheed Kashmary, both individuals recently surrendered their driver's permits. Javed Kashmary held a driver's permit from 1989 through 2007, and then from November 18, 2010 through the end of January, 2011. Naheed Kashmary held a driver's permit from 1989 through 2005, and then from 2007 through the end of January 2011.

Section 22-145 of the Charlotte City Code explains some of the circumstances that the Passenger Vehicle for Hire Manager ("PVH Manager") can deny a driver's permit. With respect to felonies, for drivers, a felony conviction in the last ten years can be a disqualifying factor for a driver's permit, and is a disqualifying factor if the applicant has not had their citizenship rights restored. Staff has not verified whether or not the Kashmarys' citizenship rights have been restored.

As with the standard for companies, there are certain types of felonies that serve as an automatic disqualification for a permit. The following types of felonies will lead to an automatic disqualification: murder, including first degree and second degree; voluntary manslaughter; involuntary manslaughter; felony death by vehicle; felonious assaults and/or batteries; robbery; rape and other sex offenses; and felonious drug offenses.

As neither Kashmary fits the automatic disqualification standard, the only reason to deny a permit would be for Naheed Kashmary as his citizenship rights have not been restored.

Staff is continuing to review this matter.

INFORMATION:

Bids Received for Johnston and Mecklenburg Mills
Staff Resource: Peter Zeiler, N&BS, 704-432-2989, pzeiler@charlottenc.gov

On February 4, four teams submitted bids to purchase the vacant Johnston and Mecklenburg Mills. All four bids were reviewed and found to be compliant with the bid specifications. The high bid of $610,000.00 was submitted by The Community Builders, a national affordable housing developer based in Washington DC. Bids were also received from three local teams: Merrifield Patrick Vermillion; ARK Management/Camden Development Partners; and M & J

Realty comprised of the Conformity Corp, Argos Real Estate Advisors, Belmont Sayre, Aptus Management and The Benoit Group.

All four teams have been notified of the high bid and have until 4:00 p.m. Monday, February 21 to submit an upset bid of at least $671,000, which represents the minimum 10% required by the process. If an upset bid is received, a second 10 day window will open for further upset bids. If none is received, staff will begin the process of bringing a sale to The Community Builders to Council for approval.

2011 February 11 State Legislative Update
Staff Resource: Dana Fenton, City Manager's Office, 704-336-2009, dfenton@charlottenc.gov

The 2011 North Carolina General Assembly convened on January 26 and promptly started considering high profile legislation. The attached ***(see table of contents on left)*** report provides summaries of the legislation impacting the City of Charlotte.

On Monday evening, February 14, the Governor will be addressing a joint session of the General Assembly at 7:00 p.m. A highlight of her speech is expected to be the news that the state budget shortfall for FY2012 has dropped from $3.7 billion to $2.7 billion. It is expected her proposed budget will be released within two weeks. ***See table of contents on left for attachment.***

Streetcar Starter Project Update
Staff Resource: John Mrzygod, E&PM, 704-336-2245, jmrzygod@charlottenc.gov

Attached ***(see table of contents on left)*** is the first issue of the Streetcar Starter Project newsletter. This publication will be published periodically to keep City Council, staff and citizens updated on this project.

ATTACHMENTS:

Council Follow-Up Report ***(see table of contents on left)***

Contents Include:
-Citizens' Forum – Cynthia Smith