

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: October 25, 2010
	Agenda Item No. 54A Roll Call No. [_____] Communication No. <u>10-651</u> Submitted by: Jeb E. Brewer, P.E. City Engineer

AGENDA HEADING:

Review of application of City Cab LLC for Certificate of Public Convenience and Necessity to Operate a Taxicab Service in the City of Des Moines.

SYNOPSIS:

Shani Amin and Mohamed Ahmed d/b/a City Cab LLC, 100 East Euclid Avenue, Suite E, Des Moines, Iowa, have applied for a Certificate of Public Convenience and Necessity to operate a taxicab service in the City of Des Moines, with a total of six vehicles. As required by ordinance, a public hearing must be held prior to any certificate being issued.

City Cab LLC has provided a complete application for a certificate of public convenience and necessity, and has submitted supplemental information regarding their financial, business and existing taxicab operation. Staff has reviewed the application and the liability insurance certificate and has determined that City Cab LLC meets the requirements for providing taxicab service. Des Moines has historically not limited the number of taxicabs or taxicab companies that obtain a certificate, but has used the entry qualifications for drivers and companies to enhance the safety of passengers, ensure that a fair price is charged for the service, and to provide quality taxicab service for all segments of the public. Based on a thorough review of all the information submitted, staff believes that City Cab LLC is fit, willing and able to provide public transportation as a taxicab company, and recommends that the City Council issue a certificate of public convenience and necessity for the operation of six taxicab vehicles. If City Cab LLC does not operate in compliance with the City of Des Moines ordinance requirements, the City Code contains adequate provisions to suspend or revoke the certificate for violations.

FISCAL IMPACT:

Amount: \$700. The ordinance provides for annual license fees of \$250 per company and \$75 per vehicle.

Funding Source: Revenue to Traffic and Transportation Division, Operating Budget, Traffic Engineering, ENG100419, p. 95 of FY 2010 Operating Budget.

ADDITIONAL INFORMATION:

Taxicab Regulation

Like many other cities throughout the country, the City of Des Moines regulates vehicles for hire, under Chapter 126 of the Municipal Code. These regulations include taxicabs, limousines and paratransit, but exclude hotel/motel “courtesy” vehicles, ambulances and other emergency vehicles, funeral hearses, and DART buses and other buses licensed by the State. The regulations also do not cover animal-drawn vehicles. The taxicab regulations cover both taxicab drivers and taxicab companies.

Staff members have researched taxicab ordinances in other cities as well as studies of taxicab regulations and the impacts of taxicab deregulation. During the 1960’s and 1970’s, a number of cities deregulated their taxicab service, following a national trend of deregulation of transportation in the trucking and airline industries. In general, many cities experienced an oversupply of taxicabs with open entry, which led to deteriorating service. A major study reported that removal of entry controls often induced an excessive influx of independent operators, who were attracted by low entry costs, the opportunity to service “guaranteed” trips at a cab stand and the opportunity to work for oneself. The study found that in cities with large cab stand and street hail markets, “open entry has consistently led to an oversupply of cabs and deterioration in service quality. Proliferation of cabs creates a dysfunctional taxi system that spreads fare revenues too thinly across the industry to support quality drivers, vehicles and dispatch systems and creates incentives for drivers to shun less profitable trips.”

The study further found that “as a result of oversupply and deteriorating service, most cities that were deregulated at one time or another have adopted entry restrictions.” These taxicab regulatory systems establish entry qualifications for drivers and/or companies and may limit the number of taxicabs through a medallion or permit system or through a franchise or certificate system.

Taxicab Companies in Des Moines

Des Moines has for many years regulated taxicab service, with entry qualifications for both drivers and companies and a determination of the need for additional taxicab service. Prior to operating on the streets of Des Moines, any taxicab company must obtain a “Certificate of Public Convenience and Necessity” as well as an annual company license and annual license for each vehicle. A certificate can only be issued after the City Council has held a public hearing and considered the information from the applicant. If the Council determines that further taxicab service is required for the public convenience and necessity, and that the applicant is fit, willing and able to provide public transportation, then they direct the city traffic engineer to issue a certificate. If the Council denies the application, they must state the reason for the denial.

The current regulations require that a taxicab company must provide an overall service to the public, and further require that they shall: maintain a central place of business, properly zoned; provide taxicab service to the public 24 hours a day, seven days a week and have a phone that is answered 24 hours a day, seven days a week; dispatch taxicabs using any method which accurately records and retains detailed information about each call for service and each trip; answer all calls for service inside the city; provide a minimum of six qualified drivers and five qualified vehicles, with a minimum of four vehicles available to respond into operation at all times; and cannot refuse to accept a call or deny service to any orderly passenger; along with a number of other requirements. These requirements are in close conformance with the recommendations of the Taxicab, Limousine and Paratransit Association, and are important in having quality taxicab service for the public, including service in residential neighborhoods, for short trips and to elderly, frail or disabled passengers.

The current regulations also require that any taxicab vehicle comply with the Motor Vehicle Code, State and City laws; be clean and sanitary, inside and outside; be in excellent mechanical condition, with no

defects; properly inflated, safe tires; have a maximum age of 10 years (based on model year of production); shall include all standard safety features to be in proper working order, and some other requirements.

Taxicab Service in Des Moines

Taxicab industry experts describe the taxicab market as having three different segments – the *dispatch* segment in which customers telephone a taxicab company and request to be picked up; the *cabstand* segment in which taxicabs are waiting at a designated location, such as the airport, for walk-up customers; and the *street hail* segment in which the taxicabs are cruising the streets and are waived down by a customer seeking a ride.

The Des Moines taxicab market is primarily a *dispatch* market, with the majority of trips directed through a company dispatch center. There is also a much smaller, but important, *cabstand* segment, with designated cab stands at the Airport, Events Center, Court Avenue District and several downtown hotels. A customer could hail a taxicab driving by, but Section 126-131 of the City Code prohibits drivers from cruising the streets in search of customers.

Des Moines has historically not limited the number of taxicabs or taxicab companies that obtain a certificate, but has used the entry qualifications for drivers and companies to enhance the safety of passengers, ensure that a fair price is charged for the service, and to provide quality taxicab service for all segments of the public. There are currently three holders of certificates to operate taxicab service in Des Moines: Yellow Cab has been in operation for over 90 years in Des Moines, and operated 59 cabs at the end of 2009; Capitol Cab has been in operation for over 55 years in Des Moines, with 41 cabs at the end of 2009; and Freedom Cab has operated in Des Moines since May of 2009, with a total of eight cabs.

One method Des Moines uses to foster better service is establishing minimum levels of fleet size. A fleet size requirement necessitates that the prospective taxicab company have an initial investment in equipment and drivers before engaging in business in Des Moines. There are several advantages of a fleet size requirement, as expressed by some of the taxicab industry experts who have written articles or done studies on the subject. One advantage is that a taxicab business that has several units available to timely respond to multiple telephone calls for service at once supports a need to increase capacity in the *dispatch* segment of the market, a segment that tends to be underserved because the fares can be for very short trips, and thus not lucrative for the company or driver.

Another advantage is the fostering of quality service; absent a fleet size requirement, the potential exists for an excessive influx of single-taxicab companies, which tend to oversupply the *cabstand* segment of the market (such as the airport where the opportunity for a longer trip exists and thus a guaranteed larger fare) which may make fare revenues for all companies too thin to encourage company investment in quality drivers, vehicles and dispatch systems. Another advantage of a fleet size requirement is the reduced likelihood of the need for greater administrative oversight of taxicab drivers. Absent a fleet size requirement, a market with a few taxicab companies could easily devolve into a hundred or more single-taxicab companies, which would likely increase the expenditure of City resources to oversee ordinance compliance. The burden of managing the taxicab drivers in such a situation would shift substantially from the taxicab companies to the City.

Suspension or Revocation of Certificate of Public Convenience and Necessity.

Sec. 126-190 of the City Code provides the conditions under which the City Council can suspend or revoke a certificate, as shown below. The existing code contains adequate provisions for suspending or revoking a certificate, and no changes in these provisions are needed or recommended.

- (a) A certificate may be revoked or suspended by the city council if the holder has:
- (1) Violated any of the provisions of this article. A certificate may be suspended if the certificate holder or any of the certificate holder's taxicab operators have a combined total of three or more convictions of violations of this article in an 18-month period, and may be revoked if the certificate holder or any of the certificate holder's taxicab operators have a combined total of five or more convictions of violations of this article in an 18-month period; or
 - (2) Discontinued operations for more than ten days unless such discontinuance is caused by a labor dispute; or
 - (3) Violated any provision of this Code or ordinance of the city, or any law of the United States or the state, the violation of which is found by the city council to so affect the public safety as to prove the holder not a proper person to offer public transportation.
- (b) Prior to suspension or revocation as provided in this section, the holder shall be given three days written notice by the city clerk of the proposed action to be taken and shall be afforded an opportunity to appear before the city council and be heard.

Application for Certificate of Public Convenience and Necessity.

Section 126-63 of the Municipal Code requires the information to be included in the application for a Certificate of Public Convenience and Necessity. Following each requirement (in bold) is a summary of the information provided by City Cab LLC in the formal application and supplemental information requested and provided after the October 11 Council meeting.

1. **The name, address, and age of the applicant.** Applicant is an Iowa limited liability company formed on June 24, 2010. Owners are: 1) Shani Amin, 6000 Creston Avenue Apt C9, Des Moines - age 35. 2) Mohamed Ahmed, 6000 Creston Avenue Apt C21, Des Moines - age 44.
2. **The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to the judgments.** The Applicant and its owners are financially solvent, with no unpaid judgments. A financial balance sheet shows total assets of \$51,660, including \$20,000 for cabs and \$18,285 in cash; \$0 in liabilities; and owner's equity of \$51,660.
3. **The experience of the applicant in the transportation of passengers, including a statement of any state or municipality where the applicant has ever been licensed to operate a taxicab or taxicab service, whether such license was ever suspended or revoked and the reasons for suspension or revocation, and whether an application for a license or a renewal of a license was denied and the reasons for denial.** Mohamed Ahmed owned and operated "Millennium Car Hire" in Nairobi, Kenya for 14 years (1994 to 2008), managing the company as well as being a dispatcher and driver. The company started with three taxicabs and grew to 15 taxicabs.

Mohamed sold the company to move to the United States. He served as First Secretary for Somalia to the United Nations in New York for six months, then moved to Minneapolis and drove a taxicab for six months. He moved to the Des Moines area in 2010 to become an owner/officer/employee of City Cab.

Shani Amin worked as a dispatcher of taxicabs for tourists in Mombasa, Kenya in 1996, then moved to the Des Moines area in 1997. From 2004 to 2008, he was a professional truck driver. From 2008 to 2009, he transported disabled people for Link-up Transport, Inc. From 2009 to 2010, Shani drove a taxicab for Freedom Cab. Since leaving Freedom Cab, Shani has been a dispatcher and driver for City Cab.

4. **Any facts that the applicant believes tend to prove that public convenience and necessity requires the granting of a certificate.** The applicant believes that public convenience and necessity require the granting of a certificate because:
 - i. The physical size and population of the metropolitan area of Des Moines indicates that presently there is a need for additional taxicab service.
 - ii. Members/Owners of Applicant have received reports from the public that there are presently long waits for taxicab service.
 - iii. Grant of the certificate to applicant will increase public safety in several respects, including but not limited to, providing additional transportation options for intoxicated persons.
 - iv. Members/Owners of Applicant were born in Somalia and lived in Africa during their youth. The Members/Owners, drivers and dispatcher speak several African and Arabic languages, so in addition to providing more overall transportation options for the general public, Applicant will be able to address the needs of members of the public who have encountered language barriers in communicating their transportation needs/desires.
5. **The number of vehicles to be operated or controlled by the applicant.** The applicant will operate six vehicles for taxicab service: a 2002 Ford Windstar, a 2002 Ford Taurus, three 2003 Ford Taurus's and a 2005 Dodge Caravan. All of the vehicles are under the maximum age requirement of 10 years, and were inspected in July 2010.
6. **The location of proposed vehicle storage.** The vehicle terminal will be located at the principal place of business at 100 East Euclid, Suite E in Des Moines.
7. **A statement of the condition of the vehicles to be operated, including the age and type of each vehicle, and the date on which the vehicle passed its most recent safety inspection, if any.** The six vehicles include a 2002 Ford Windstar, a 2002 Ford Taurus, three 2003 Ford Taurus's and a 2005 Dodge Caravan. All of the vehicles are under the maximum age requirement of 10 years, are in good working condition, and were inspected in July 2010.
8. **A statement as to whether the applicant has, within the ten years immediately preceding the date of application, been convicted of, pled guilty to or stipulated to the facts of violating any criminal statute or ordinance, including traffic laws and municipal ordinances. If the applicant has been convicted, a statement as to the date and place of conviction, the nature of the offense and the punishment imposed.** Neither the applicant nor any of its members/owners has been convicted of, pled guilty to, or stipulated to the facts of a violation of a criminal statute or ordinance, except for minor traffic violations. This statement is confirmed by the Police Department's review of the arrest and traffic records of the applicant.

9. **The number of vehicle proposed for operation during periods of maximum demand and during periods of least demand.** The company will operate five taxicabs during periods of maximum demand, and will have four vehicles available to respond into operation during periods of least demand.
10. **Where the applicant will operate its central place of business.** The principal place of business will be located at 100 East Euclid, Suite E in Des Moines, which is properly zoned for operation of a taxicab business.
11. **The color scheme or insignia, if used, to designate the vehicles of the applicant.** The Taxicabs will be blue in color with a CITY CAB logo and telephone number on each side. The color scheme will not conflict with or imitate any existing taxicab or any official or emergency vehicle.
12. **Such further information as the traffic engineer may require of each applicant.** The applicant has provided supplemental information to the original application, as requested by the City Traffic Engineer. This information included additional details about the financial and business operation of the company, and a copy of taxicab service trips for the past 90 days.

Issuance of certificate of public convenience and necessity.

Sec. 126-186 of the City Code establishes the factors the City Council is to consider in determining whether to issue a certificate. Each factor is shown in bold type below, followed by a summary of the information provided by City Cab LLC from their formal application and supplemental information requested and provided after the October 11 Council meeting.

- (a) The city council shall determine whether a certificate of public convenience and necessity shall be issued to an applicant under this division. In making that determination the council shall consider the information in the application, the results of the investigation and the following factors:
 - (1) **The age of the applicant. No certificate shall be granted to any person under the age of 18 years.** The applicant is a limited liability company. The principals of the company are ages 35 and 44.
 - (2) **The character, business and financial responsibility of the applicant.** These factors are covered under items eight, three and two respectively above in the application information. In addition, the applicant has provided a certificate of commercial general liability insurance in the amount of \$750,000.
 - (3) **Experience of the applicant.** The applicant has previous experience in the transportation of passengers, including owning and operating a small taxicab company in Kenya, and dispatching and driving taxicabs in Minneapolis and Des Moines.
 - (4) **The expectation that if the applicant is granted a certificate, the applicant will operate the taxicabs in accordance with this article.** As stated in item eight of the application, neither the applicant nor any of its members/owners has been convicted of, pled guilty to, or stipulated to the facts of a violation of a criminal statute or ordinance, except for minor traffic violations. The applicant has acknowledged that on 9/24 and 9/27, they did pick up passengers in Des Moines. Those two service calls are included in the log of dispatched trips provided by City Cab. No other trips for service originating in Des Moines are listed in the dispatch log.

- (5) **The number of vehicles the applicant owns or controls.** The applicant has the required minimum number of six vehicles.
- (6) **The condition of each vehicle owned or controlled by the applicant including:**
- a. **Age.**
 - b. **Type.**
 - c. **Whether and where the vehicles have passed recent safety inspections.**
 - d. **General appearance, including cleanliness.**
 - e. **Fitness for patronage.**
- As stated in item seven of the application, all of the vehicles are under the maximum age requirement of 10 years, are in good working condition, and were inspected in July 2010.
- (7) **Whether the applicant can provide 24-hour taxicab service.** The applicant has the minimum number of vehicles and drivers to provide 24-hour taxicab service as required by the City Code. Drivers will operate in two twelve hour shifts, and will be available seven days a week, 24 hours a day.
- (8) **Whether the applicant is able to operate a dispatch service.** The applicant will operate dispatch service from the company office. Calls will be received on the company main phone line (515-279-5555) where a dispatcher will answer the call and dispatch the closest vehicle, or a rotation among available drivers. Dispatchers will operate in two twelve hour shifts, and will be available seven days a week, 24 hours a day. Dispatch records will be maintained on a computerized system using “Comet Tracker” software. This software will allow applicant to keep track of time of call of service; time trip was dispatched; address of the origin and destination of the trip; and the time the trip was started (taximeter activated) and ended.

City Cab LLC has provided a complete application for a certificate of public convenience and necessity, and has submitted supplemental information regarding their financial, business and existing taxicab operation. Staff has reviewed the application and the liability insurance certificate and has determined that City Cab LLC meets the requirements for providing taxicab service. Des Moines has historically not limited the number of taxicabs or taxicab companies that obtain a certificate, but has used the entry qualifications for drivers and companies to enhance the safety of passengers, ensure that a fair price is charged for the service, and to provide quality taxicab service for all segments of the public. Based on a thorough review of all the information submitted, staff believes that City Cab LLC is fit, willing and able to provide public transportation as a taxicab company, and recommends that the City Council issue a certificate of public convenience and necessity for the operation of six taxicab vehicles. If City Cab LLC does not operate in compliance with the City of Des Moines ordinance requirements, the City Code contains adequate provisions to suspend or revoke the certificate for violations.

PREVIOUS COUNCIL ACTION(S):

Date: September 13, 2010

Roll Call Number: [10-1462](#)

Action: (C) [City Cab LLC](#) for Shani Amin and Mohamed Ahmed, (Taxicab). Moved by Hensley to adopt. Motion Carried 7-0.

Date: September 13, 2010

Roll Call Number: [10-1463](#)

Action: (D) [United Cab, Ltd.](#) for Mohamed Habib, (Taxicab). Moved by Hensley to adopt. Motion Carried 7-0.

Date: May 18, 2009

Roll Call Number: [09-895](#)

Action: 64. [On](#) Application for Certificate of Public Convenience and Necessity to Operate Taxicab Services from Oh-Ho Venture Strategies, LLC, d/b/a Freedom Taxi. ([Council Communication No. 09-325](#)) **Moved by Kiernan to adopt. Motion Carried 6-1. Absent: Cownie.**

Date: October 27, 2008

Roll Call Number: [08-1870](#), [08-1871](#), and [08-1872](#)

Action: 46. Amending Chapter 126 of the Municipal Code regarding Taxicab regulations: ([Council Communication No. 08-660](#))

WITHDRAWN

[08-1870](#) (A) ~~[Alternate One](#) Ordinance as approved on first consideration.~~

[08-1871](#) (B) [Alternate Two](#) – Ordinance as approved on first consideration, but with the following alterations: (1) adding a three-year delay to the requirement that all taxicab vehicles be no greater than ten years old, (2) changing the requirement that a taxicab company have four of its five required taxicabs “in operation at all times” to having them “available to respond into operation at all times” and (3) reinserting language that emphasizes that a certificate holder is treated as an owner under certain sections. **Moved by Vlassis that this ordinance be considered and given second vote for passage. Motion Carried 6-1. Nays: Coleman.**

[08-1872](#) (C) Final consideration of Alternate One or Alternate Two, (waiver requested by Council Member Hensley), requires 6 votes. **Moved by Vlassis that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, [#14,805](#). Motion Carried 7-0.**

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk’s Office at 515-283-4209 or visit the Clerk’s Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk’s Office on Thursday afternoon preceding Monday’s Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk’s Office or sending their request via email to cityclerk@dmgov.org.