

Commission Chamber, City Hall
Millville, NJ
April 20, 2010, 5:00 p.m.

The Board of Commissioners met in special session with Mayor Shannon presiding. Members present: Shannon, Finch, Quinn, Derella and Vanaman.

Mayor Shannon made the statement required by the Open Public Meeting Act of 1975.

"This meeting is being conducted in accordance with the Open Public Meetings Act of 1975", was advertised, posted and made available to the public as required by Statute. The Municipal Clerk is directed to include a statement in the minutes of this meeting.

The City Clerk/Administrator noted two items on the special meeting agenda include denial of Taxicab Driver's License for Carpofero Selaya-Lopez and denial of Taxicab Driver's License Application for Edward Bermudez.

Sergeant Rabbai presented testimony before the board:

"Gentlemen, I sent Mr. Thompson a letter on the second of March of this year in reference to Mr. Carpofero, I think I'm saying it right, requesting his denial for a City Cab license. Mr. Carpofero was charged earlier last year by Officer Mooney in reference to making a false Police Report. Mr. McCarthy, I gave him copies of the letter that I wrote Mr. Thompson. Basically, Mr. Carpofero went to court, his attorney had it downgraded from making a false Police Report to a disorderly person's offense. And at that point, he came down to see me in reference to trying to get his license back. I read section 33-127 of the City Municipal Ordinance in reference to reasons for denial for cab license. At that point, it fell under 33-127 paragraph a, subsection 4, which basically says 'if an applicant or license holder has been convicted of an offense under this article in the Municipal Code in the City of Millville', basically a disorderly person's offense, he can be denied a cab license within the City of Millville. At that point I denied him, I sent a letter to Mr. Thompson in reference to it and at that point he filed an appeal. I gave him the proper information to file an appeal, which he did, and that's why we're here. Like I said, I made a copy of the letter I gave Mr. Thompson, so you gentlemen would be able to read and make your decision at that point."

Robert W. Sebera, Esq. addressed the Board of Commissioners, indicating he represents Mr. Selaya-Lopez and made the following statements:

"My name is Robert Sebera, I'm an attorney from Bridgeton, I'm representing Mr. Lopez. I wish I had the benefit of this, earlier I could have commented on it in a little bit more detail, but the great ??? ??? is an excellent thing. There is a very easy remedy for the ???. We thought that Mr. Lopez was allowing an unlicensed or revoked driver to operate his cab and then to charge him with it, but he wasn't. Because you have to prove that the person actually knows it or should know it. So, I know what the influence is, I know what the concern is, but I

don't think it's something you have to concern yourselves with in terms of weighing this against Mr. Lopez now because he was never charged with it and there's no proof that he did know about it. If he had been charged with that, I think you'd have a much stronger position, but I don't think that's really a concern for this now."

Mr. Sebera further emphasized the difficulty of the language barrier between the Millville Police Department and his applicant as a basis for the misunderstanding of the actions taken.

Carpofaro Selaya-Lopez indicated that the owner of the taxicab license operation is his son, Raul.

Richard McCarthy asked Mr. Sebera the following question:

"Does your client understand that a person who operates a taxicab must have a operator's license? Does he understand that?"

Mr. Sebera's response was inaudible.

Richard McCarthy: *"But, I mean, he obviously knew, he may not have known that the person who operated the vehicle was on the revoked list, but he certainly knew that she didn't have a taxicab operator's license to operate a cab, isn't that correct?"*

Carpofaro Selaya-Lopez: *"She told me she had her license. I asked her a couple times???...."*

Richard McCarthy: *"We're not talking about a regular New Jersey license, we're talking about a person having a taxi license. In other words, the authority to operate a taxicab. She didn't. Didn't you know, I mean, you did realize she didn't have an operator's license."*

Carpofaro Selaya-Lopez: *"She told me she had it."*

Richard McCarthy: *"She told you she had a regular New Jersey license."*

Carpofaro Selaya-Lopez: *"No, she told me that she had that."*

Richard McCarthy: *"A taxicab license?"*

Carpofaro Selaya-Lopez: *"Yeah. That she ??? ??? ???. The day this happened, I asked her, like, two hours before, I asked her a couple times, she don't give it to me."*

Richard McCarthy: *"She didn't operate, you've operated a taxicab for some time in other jurisdictions, have you not?"*

Carpofaro Selaya-Lopez: *"Who, her?"*

Richard McCarthy: *"You."*

Carpofaro Selaya-Lopez: *"Oh, me? Yeah."*

Richard McCarthy: *"How many years have you operated a taxicab."*

Carpofaro Selaya-Lopez: "A year, ??? a year."

Richard McCarthy: "Oh, you didn't operate in Bridgeton."

Carpofaro Selaya-Lopez: "Yeah, I operated in Bridgeton."

Richard McCarthy: "You operated in Bridgeton, also?"

Carpofaro Selaya-Lopez: "Yeah."

Richard McCarthy: "And you had an operator's license."

Carpofaro Selaya-Lopez: "Yeah."

Richard McCarthy: "And how many years did you have an operator's license, a license to operate in Bridgeton."

Carpofaro Selaya-Lopez: "One year."

Richard McCarthy: "One year. I mean, don't you understand that as part of your job that you wouldn't loan a taxicab to anyone, would you? Why would you do that? Why would you let anybody drive a taxicab that you had the responsibility to operate and protect?"

Carpofaro Selaya-Lopez: "I believe on holidays she had her license and she always told me that."

Richard McCarthy: "She wasn't employed by your son was she?"

Carpofaro Selaya-Lopez: "No."

Richard McCarthy: "You knew that she was not an employee of the cab company, right?"

Carpofaro Selaya-Lopez: "She had applied there before. She..."

Richard McCarthy: "But why would you let anyone else? Why would you let anyone else drive your cab?"

Carpofaro Selaya-Lopez responded, but his response was inaudible.

Mr. Sebera: "Was she learning the roads?"

Carpofaro Selaya-Lopez: "Yeah, she was learning the roads."

Richard McCarthy: "Did she apply to your son for a job of any kind?"

Carpofaro Selaya-Lopez: "I don't think so."

Richard McCarthy: "What's the purpose of anyone learning a route if they're not going to be employed by the cab company?"

There was no audible response to Mr. McCarthy's final question.

Commissioner Finch: "What can we do? Can we suspend this for six months? Can we revoke it permanently? Or what are our options?"

Richard McCarthy: "The Commission, first of all, this application is for the calendar year. You can deny it for the entire calendar year or you could suspend it for a portion of that period of time. But whatever decision you make is for this particular period of time. And the issue of course is that's why in drafting the regulations, that's why it says 'may' rather than 'shall'. Because it was intended that the governing body evaluate the particular offense, evaluate whether it had any connection with the operation of the cab in general or whether it was an unrelated offense, in this case it seems to be related, but that's up to you, I'll leave that up to your judgment. And consider the merits or the severity of the improper actions for one of the better descriptions in evaluating what the intended ultimate decision of the governing body would be in respect to the issue of revocation and suspension. It's his operator's license, it's not the cab license, it's not the owner's license that's in jeopardy here, it's his ability to operate a cab, either his son's or anyone else's within the City of Millville for the period of time that we're talking about, the maximum period being the calendar year. He can apply again next year if you were to say, if your decision were, for example, that he's not to operate or have an operator's license for the remainder of this year, then he could apply again next year and we could evaluate the circumstances at that time. Or, as Commissioner Finch has already alluded to, you could suspend it for a period of time less than that if you chose to do so."

Commissioner Vanaman made a motion to recommend the license be suspended through December 31, 2010.

Commissioner Derella seconded the motion.

The motion was passed, by the following vote. Yeas: Finch, Quinn, Derella, Vanaman and Shannon.

The next matter before the Board was the license denial application of Edward Bermudez, Port Norris, NJ.

Mr. Bermudez indicated he was not represented by council and that he would represent himself.

Sergeant Rabbai outlined the date of the application and the process for driver certification and fingerprints revealed charges in the City of Vineland under 2C35-10c for control of a dangerous substance, trespass violation downgraded to a disorderly in 2007 and a 2008 2c violation in the City of Millville for theft by taking.

Edward Bermudez indicated the charges for theft by taking included shopping carts all over the cities in Vineland and Millville and he took them to recycling yards and thought this was okay.

Commissioner Vanaman affirmed the applicant is applying for a license and does not currently hold a taxi driver's license.

Further discussion was held regarding the applicant's marking the application process that he was never convicted of a crime when the background investigation revealed that he was.

Mr. Bermudez indicated that he marked this box with the impression that he never went to jail and thought that he was not convicted.

Mr. Bermudez stated he has worked five years for the same company, driving a truck for a cement company, however, in the winter time when business was slow, he was driving a taxicab to help support his family.

Further discussion was held with the applicant, confirming he has worked with the same company and been gainfully employed for five years with a discussion to table the matter for thirty days pending Mr. Bermudez' ability to obtain a recommendation from his current employer.

A motion was passed to request Mr. Bermudez to obtain a letter of recommendation from his current employer as to his job history, character and to forward said letter to the City Clerk within the next two weeks and to defer action on the matter until the May 4 City Commission meeting, by the following vote. Yeas: Finch, Quinn, Derella, Vanaman and Shannon.

There being no further business before the Board, the meeting was adjourned, subject to the call of the chair. Yeas: Finch, Quinn, Derella, Vanaman and Shannon.

Approved: May 4, 2010

James T. Shannon
Mayor

Joseph J. Derella

James F. Quinn

David W. Vanaman

Dale L. Finch
Commissioners

Attest:

Lewis N. Thompson
City Clerk/Administrator