

Transportation Council

Minutes from the Regular Meeting on Friday, January 17, 2020

The Transportation Council met on Friday, January 17, 2020 in accordance with NH RSA 238-A.

Council Members Present: Chair, Senator Melanie Levesque, Representative George Sykes, NHDOT Commissioner Victoria Sheehan, Carol Miller (NH DED Director of Broadband and Technology), Nate Miller (NH Assoc. of Regional Planning Commissions), Michael Tardiff (NH Assoc. of Regional Planning Commissions), Rad Nichols (Transportation Service Industry), and Heidi Marshall (Transportation Service Industry).

Others in Attendance: Dianne Martin (NH PUC), Chris Ialuna (DMV-DOS), James Fox (NH Insurance Department), and Betsy Hippensteel (NH DHHS).

Senator Levesque opened the meeting noting that the continued discussion of Transportation Network Companies (TNCs) was on the agenda, and the first agenda item was a discussion with Dianne Martin, NH PUC Chair. Ms. Martin outlined how she had reviewed RSA 376-A (related to TNCs), and there is no specific mention of the PUC in the statute. She noted that the inclusion of the statute within the overall PUC statute is due to it being an historical remnant as transportation related statutes used to be included under the PUC chapter, and there does not appear to be a role for the PUC related to TNCs, although there is a role related to Electric Vehicles.

Michael Tardiff noted that TNC legislation was located under the Public Utilities legislation in many other states, so it is understandable that it was added to the PUC statute here in New Hampshire. He further noted that based on the fact that the RSA 376-A is located in the PUC statute, the Council felt they should reach out to the PUC to see if there are any issues related to potential changes to the legislation. Ms. Martin noted the TNC issue appeared to be more of a transportation and safety issue that one regulated by the PUC.

Ms. Martin then stated that the PUC will be opening a docket on electric vehicles, and that a staff person from the PUC can attend a future meeting. The docket will look at developing infrastructure in the state for electric vehicles so that it can be more feasible for residents to own and be able to charge the vehicles. The location of existing and potential charging stations and the approaches for billing for the charges was then discussed. Representative Sykes then reported on the EV Commission recommendations related to the location of charging stations along the state's major highways, as well as the Electrify America (VW Settlement).

Commissioner Sheehan noted that of the \$30m available in the state from the VW settlement, \$4.6m is to be used for electric charging stations. She then reviewed the impact to road toll (or gas tax) revenues do to increased use of electric vehicles.

Senator Levesque then asked about the next steps. Commissioner Sheehan described how the Council can continue to discuss its role to help the state prepare for new technologies,

including TNCs. A possible approach is to discuss possible legislation that would seek the TNC related data that has been previously discussed, as well as concerns discussed at last month's meeting regarding TNC driver licensing and other related issues.

Potential topics for future meetings were then discussed, including asking a representative of NH OSI to attend to report on the EV Commission as well as further discussion with PUC staff related to Electric Vehicles.

James Fox from the NH Insurance Department then provided some background on insurance requirements under the state's TNC legislation. He noted that the reason for different insurance provisions under the TNC legislation relate to the differences between personal lines of insurance and commercial lines of insurance. He described how there was a concern about livery exclusions on personal lines of insurance, so if there was an accident involving a TNC driver, the insurance coverage would be minimal due to the livery exclusion. The TNC insurance legislation was developed with input from the TNC companies that developed a system with some responsibility for the driver, but ultimate responsibility falling under the TNC itself. He further noted that it is mandatory for TNC drivers to carry insurance and reviewed the state's financial responsibility statute.

A question was then asked about when a TNC driver provides a ride to a customer, and then makes a private arrangement for a ride back at a later time - what are the implications regarding insurance coverage under such a private arrangement? Mr. Fox noted that the arrangement would not be covered by the TNC. It would be covered by the private insurance, but there would be a livery exclusion that would result in a lower coverage amount. He then further noted that the passenger's insurance would then likely be triggered.

Based on a question of next steps by the Council related to TNCs, Commissioner Sheehan reviewed the challenges that NHDOT has to understand the impact of TNCs. In other larger, metropolitan areas, it is known that there is a lot of congestion due to deadhead trips, so there is a need for TNC data to better understand the impacts. A question for the Council is if that data should be sought, and where that requirement would be put in any future legislation. Heidi Marshall added that there is not a specific licensing required at this point, and there is no way to track if a driver retains their license or registration after originally signing up with a TNC. Rad Nichols further outlined TNC related issues such as the classification of drivers as independent contractors and the need for drug and alcohol testing, training, and driver hours. Mr. Nichols then noted his interest in learning more about the issue of potential TNC related insurance gaps. Mr. Fox said he could look into the issue. He further noted after a question regarding how the statute could be strengthened, the State of New Hampshire could require all TNC related insurance company forms to be submitted to the Insurance Department for approval.

Senator Levesque then reported that SB446 regarding the TNC fee was heard last week by the Transportation Committee. She asked if the Council was in support of the bill. Commissioner Sheehan noted that the bill would bring New Hampshire into compliance with federal regulations related to the federal grant assurances that say that the airport can be charging for TNC access. As the bill brings New Hampshire into compliance to allow

the airport to charge a fee, NHDOT is in support. Nate Miller then emphasized the need for the fee structure to be equitable for all users of the airport. If you are charging a fee to users such as taxis, you should be charging a fee to all users that are providing a service.

Michael Tardiff then provided a quick summary of the review of TNC data that the Planning Commission staff had undertaken regarding the TNC data requirements in other states. He also noted that the data requirements continue to change on almost a monthly basis. In Massachusetts, TNC data have been required for over three years, but there is a current bill to add additional data requirements. He noted that eight states currently require the data, although not all require data that would assist in transportation planning as currently required in Massachusetts. Specific transportation data needs were then discussed, as was the theory that it is more straightforward to ask for data that are already being submitted in other states. Representative Sykes noted the need to make data driven decisions. Mr. Tardiff noted that the data currently required in Massachusetts would be very helpful, although it is interesting that Massachusetts is seeking to increase the detail of the data required.

Commissioner Sheehan recounted how the increase in TNC trips in metropolitan areas has led to significant congestion in those areas, leading states like Massachusetts to have a per mile charge that is collected and returned to communities to mitigate the impact of TNCs. Here in New Hampshire, we don't know the number of TNC trips and the impact on the transportation system. Discussion then followed regarding the type of data that could be required, possibly using the current Massachusetts data requirements for example. As the requirement would be strictly transportation planning related, the additional requirement could possibly be included in this year's Ten-Year Plan legislation. Commissioner Sheehan noted that if the Council supports seeking planning data only, it could be included in the upcoming NHDOT House presentation related to the Ten Year Plan. Nate Miller referred to the data required under item 2.A. of the Massachusetts TNC data reporting requirements. Rad Nichols then proposed adding information on rides that did not happen, and rides that should require an accessible vehicle. NHDOT will develop some draft language.

Representative Sykes then reminded the Council of HB1517 related to roadable aircraft, and the January 30 event related to flying cars.

Next Meeting: Friday, February 21, 2020.

The topic of the meeting will be a continued discussion of Transportation Network Companies (TNCs) and potential TNC data requirement legislative language.