

TNC DRIVERS ADVISORY COMMITTEE**FINAL DRAFT MEETING SUMMARY****June 30, 2020 • 3:30 PM – 5:00 PM**

Via Zoom

Advisory Committee Members	Organization	Present
Mark Williams	TNC Program Manager, PBOT (non-voting member)	Yes
Alma Raya, Vice Chair	At Large Member of the Public	Yes
Vacant	At Large Member of the Public	
Chuck Coleman	At Large Member of the Public	Yes
Vacant	At Large Member of the Public	
Duane Hanson, Chair	TNC Driver	Yes
Stephanie Strahan	TNC Driver	No
Orlando Lopez Bautista	TNC Driver	No
Vacant	TNC Driver	
Alan Doud	TNC Driver	No
Mario Salazar	TNC Driver	No
Dave Benson	PBOT Parking Group Manager	Yes
Hank Kaplan	Bennett Hartman Attorneys at Law, LLP	Yes
Sally LaJoie	LaJoie Mediation and Consulting	Yes
Leah Bazzani	Bennett Hartman Attorneys at Law, LLP, Intakes	Yes
Matthew Erickson	Private for-Hire Program Manager	Yes
Erika Nebel	City Policy Advisor	No
Matt Grumm	Government Affairs Manager	No
Eliot Rose	Metro	Yes
Debbie Brooks	Port of Portland	Yes
Caleb Weaver	Uber	Yes
Anne Richter Taylor	Uber	Yes
Richard Fedesco	Moda Center/Trailblazers	Yes
Ken Puckett	Providence Park/Portland Timbers	No
Tracy M. Smith, Facilitator	Inhance LLC	Yes

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Jamie Lynne K. Souza, Recorder	Inhance LLC	Yes

Other Attendees: Amy Ruiz, S360/Lyft; Michelle Plambeck, Strategies 360.

INTRODUCTIONS AND REVIEW OF MEETING AGENDA: TRACY M. SMITH, FACILITATOR

- Tracy called the meeting to order at 3:30 PM.

ANNOUNCEMENTS FROM COMMITTEE MEMBERS: TRACY M. SMITH, FACILITATOR

- Alma Raya: Orlando inquired about what resources Uber/Lyft are offering drivers during this pandemic and how they're supporting drivers? His question wasn't specifically addressed toward Uber or Lyft.
 - Caleb Weaver: Thank you to our drivers for providing an essential service in this difficult time and providing transportation to those that need it. We have worked to find ways to support our drivers and to support public health officials encouraging essential travel only. We have worked to provide masks and cleaning supplies for our drivers and have recently opened our green light hub for supply pick up. We recognize the importance to keep our drivers safe and require riders also wear a mask. We've made it clear to our drivers that if a rider does not have a mask, then there would be no penalty for canceling the ride. We added a checklist for riders to be aware of the requirements and expectations, before requesting a ride, to keep our drivers and community safe. Unfortunately, the path to a full recovery is less clear and less immediate than we hoped, but we're continuing to monitor the situation and respond as much as we can. We still have our program for drivers that may become ill or are forced off the road due to COVID and encourage drivers to take advantage of the program. We've also provided documentation and resources to help drivers apply for federal assistance programs. Things may continue to evolve, and we'll continue to do our part to support drivers and be a good corporate citizen.
 - Alma Raya: Regarding the program, if a driver gets sick, would it be the same if it's tracked back to a ride or not? Could you explain more about the program?
 - Caleb Weaver: It does not have to be tracked to a ride but is intended for drivers who either become sick or can't drive because they're caring for a sick immediate family member and this can help provide some financial assistance. If there's a situation of an ill driver continuing to provide rides or a passenger that's ill, we work with public health authorities. We do not conduct our investigations. We have a system working with public health authorities in tracing and do not disclose any confidential information.
- Tracy M. Smith: Orlando also asked how Uber/Lyft are addressing how neighborhoods with different demographics are priced differently? He sent a link titled "Researchers find racial discrimination in 'dynamic pricing' algorithms used by Uber, Lyft, and others."

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- Caleb Weaver: We are aware of that study and do not condone discrimination on our platform in any form whether it's direct or through our algorithms. Although there are news articles, the actual study has not been released and we look forward to examining it and what it says. If changes need to be made, then it is certainly something we want to get to the bottom of. However, there were concerns with unclarity and the exclusion of 30% of rides. Please caution relying on news articles that don't always reflect accurate data until the full study is released.
- Chuck Coleman: My registration has expired and I haven't driven in three months. I can't go to the DMV to renew, so what can be done?
- Mark Williams: PBOT is honoring expired registrations and drivers licenses right now. Go through the certification process that you do every year and you shouldn't run into problems since they should be accepting expired registrations.

APPROVAL of 03/09/20 MEETING SUMMARIES: DUANE HANSON, CHAIR

- No revisions or objections made to the March 09, 2020, Meeting Summary.

VOTE: Unanimous approval.

ACTION: No action taken.

TECHNICAL ADVISORY PANEL AND PUBLIC COMMENT: DUANE HANSON, CHAIR

- Caleb Weaver: Thanks to the Ombuds Team. Uber has been able to identify some issues and are continuing to work on other issues. We appreciate the cooperative process that has been developed to address the raised concerns.

PBOT PROGRAM UPDATES: MARK WILLIAMS, PBOT

- We confirmed that GOV delivery was sent out to more than 8,000 drivers for this TNC Drivers Advisory Committee meeting. This Zoom meeting was set up and open for video or phone calls for those with no access to a computer to call in.
- Customer service during the COVID crisis
 - PBOT is processing driver permits, vehicle permits, and company permits. Although this doesn't apply to Uber/Lyft since they self-certify, the rest of the industry is still able to work as we process applications every day. We've made changes in our system to get those driver permits out and have fewer permits from the rest of the industry going than the TNC permits because the rest of the industry requires a photo on their permit. Hopefully, we'll have a solution in the next week or so, but again this does not apply to TNC drivers.
- Duane Hanson: Any update with DHM Research?
 - Mark Williams: Yes, DHM has been helping this Committee with a survey, which the Subcommittee has put in a lot of work. When we went to renew DHM's contract we ran into the expiration of their MWESB certification. Long story short they applied for the certification, but the State's behind in processing renewals due to COVID-19. We requested an exception from the City Procurement Office

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and were granted that exception. We're in the process of reactivating the contract and will finally be able to launch that survey. Will keep you posted.

- Debbie Brooks: Can you share the number of TNCs permitted within the City, has it remained the same, decreased or increased?
 - Mark Williams: We don't look at that every day, however, we noticed with hubs closed there has been an obvious decrease in the number of drivers that have recertified. The actual permitted drivers are the same before COVID-19, but not as many recertifying or new drivers signing on.

OMBUDSPERSON QUARTERLY REPORT, 6/16/2020: SALLY LAJOIE, OMBUDSPERSON

- In this second quarter since the end of January 2020, we've received a spike of 27 complaints with an additional three more after the report was filed. The major categories were deactivations, damages to vehicles by animals, compensation, and others. Since our last report, we've developed a functional process with Uber including phone meetings and forwarding complaints to the Uber Portland Team. We have meetings, reviews, follow up meetings if needed, and then report back to the drivers. Lyft is also moving in the same direction as we've had a couple of meetings. However, the Lyft contacts have changed in the last couple of months so we're working with them to have a more dedicated team.
- For unresolved complaints, we've developed an arbitration FAQ with additional information for driver complaints that can't be resolved with the Ombuds program. They have options to request arbitration, go to small claims, or refer the Oregon State Bar who then refers potential clients to potential attorneys. We're seeing movement with Uber/Lyft and the drivers seem to be generally happy, even those that don't get resolutions they want. Drivers seem satisfied knowing there's a process where they can bring their complaints, understanding their rights going forward and we also notify them that we'll report any trends to this Committee. We are moving through complaints and have been working better with the companies on getting them resolved.
 - Chuck Coleman: Do you track resolutions?
 - Sally LaJoie: Yes, we have a list of open and closed complaints with notes on how they were resolved.
 - Chuck Coleman: Could we get a semi-annual report of how many were resolved in favor of Uber or Lyft and how many were resolved in favor of the drivers?
 - Sally LaJoie: Let me know what you would want to see compared to what we've shown. It's challenging to categorize wins and losses or resolutions. However, some are very clear when it's a positive and happy ending for the drivers. On page two, of the Ombuds Report, seven were resolved in favor of the driver, and 14 were open/pending. Three complaints were either resolved before we got a hold of the companies or had no response. And two complaints were drivers not wanting to pursue but only to report to help improve the program.
- Sally LaJoie: One of the most positive experiences we had was a driver, supporting a family of five, was deactivated because their driver's license wouldn't upload, and it was flagged as fraud. Our team contacted Uber and had that driver back online by the first of the next week. Some of these complaints

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are getting resolved much faster and drivers are very satisfied with the results. We may be seeing more now because the hubs are closed and issues that could get resolved in person aren't able to happen right now.

- Alma Raya: For a future conversation in this meeting, I would like to discuss potential compensation for times when drivers are deactivated at no fault on their own.
- Duane Hanson: I'd like to review the complaint on page six, the driver requested that this Committee and the TNC consider this policy recommendation. Would Uber have any comment on this?
 - Sally LaJoie: The recommendation is on page nine if a rider cancels at the airport they're entitled to the next ride and be entitled to the fare they would have made before the cancellation.
 - Caleb Weaver: That is my understanding of how the system is supposed to work and you're not supposed to go to the back of the queue. Part of the reason we provided compensation for that complaint was that there was an error in the system and I'm unsure of the details on why there was a technical bug.
- Sally LaJoie: On page seven, there's more expansion from the recommendations at the beginning of the year. Companies expressed they have internal processes and think the system they've built is fair. However, from the driver's perspective, they feel they don't get all the information and want to understand and have an opportunity to confront their accuser. The hope is to have a transparent process where the driver is given the complaint and more details about when it happened, rather than only receiving a phone interview or a comment on the app. Sometimes they can't appeal because some decisions are final. However, we are seeing more positive outcomes than in the first round. Drivers want to have an opportunity to present their version and have more credibility with the company, especially when they've driven for some time.
- Sally LaJoie: This is the biggest recommendation and maybe something the Committee wants to consider taking up. We provided three options, as a starting point, allowing drivers an opportunity to review the complaints, subject to confidentiality safeguards, and an exception in cases of rider complaints where there are identified safety concerns about the driver. Secondly, we're doing better working with both Uber and Lyft, but making it mandatory that the companies engage in a process. Companies aren't obligated to provide us with what they consider to be proprietary information. They have a right to keep that information confidential. We're straddling both of those worlds of trying to get information and working together where we can, but also know that if we are truly advocating for a more transparent process for drivers then more information will need to be provided at some point. We can make a report that a driver has three rider complaints, yet we don't ever see what those are and that's the middle ground we don't have. Thirdly, Seattle has created a Driver Dispute Resolution Center in which appeals of deactivations will be handled locally by one of the City Bureaus or agencies and be sort of a fast track arbitration process where parties can go to have their disputes resolved quickly. Currently, if we can't resolve with the Ombuds program and the driver wants to go forward they'll either need to go to small claims court or are required by their User Services Agreements to go to full arbitration, which is an expensive and much more lengthy process. The Seattle model is to have a local framework.

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- Duane Hanson: What’s your understanding of the physical makeup of the Driver Dispute Resolution Center? Is it a Seattle version of PBOT and TNC? Who’s coming together on these decisions?
- Sally LaJoie: My understanding is it hasn’t been finalized but they have the framework for it, and they need additional legislation to start the program. The Seattle program is ambitious, but it isn’t in place yet.
- Duane Hanson: Feel free to invite any representatives to any upcoming meetings to assist them with moving along.
- Caleb Weaver: I’m following the Seattle process very carefully and they are at the start of the rule making component and it will be run by the Office of Labor Standards. There will be an advocacy center that is set up that will represent drivers which most likely will be the Teamster Union or an affiliate that will be involved. It will be funded by a new tax that the City just passed. It’s a TNC tax, similar to Portland’s \$.50 a trip tax, and Seattle just passed a \$.75 tax to fund this process.
- Alma Raya: For recommendations from the Ombuds Team, do they go directly to the director, or should they be taken on one by one for this Committee to vote on?
 - Mark Williams: This will be our first one, but anything that the Ombuds Team puts out there is a recommendation for the City to consider. This Committee decides if these recommendations want to be considered and if yes, we can put it on the agenda, take public comment and run through the process. We then make a formal recommendation to the Bureau Director. Just let the facilitator or I know what items you want to be added to the agenda.
 - Sally LaJoie: We had a complaint that we felt was the least successful and most persuasive complaint that we should have been able to resolve differently. From the driver’s version, the driver asked the two appropriate questions of the potential rider with an emotional support dog and the driver explained the ADA requirements and declined to transport. The driver also identified as a person with a disability who has service and emotional support animals and is aware of the law. The unhappy rider reported it and the driver was deactivated permanently because the company’s rule is if they receive two “plausible” complaints under that category, they are deactivated permanently. The standard is if the riders’ complaints were “plausible” under Uber’s policy. They also can’t require the rider to present documentation under the National Federation of the Blind settlement, so the company can’t press any the rider any further for documentation. From the driver’s report, he did everything right and was still permanently deactivated. We discussed ways to make it workable for a driver, yet there’s the issue of taking a rider with an animal and not asking those questions. The company policy is not very clear that damages from a non-ADA support animal are reimbursable. Therefore, the driver is stuck. They risk getting a complaint by denying a rider with an emotional support animal or choose to transfer the animal and risk damages that will not be reimbursed. One recommendation was to have riders check a box on the app identifying they have a non-ADA animal to transport and pay a minor fee for any damages or reimbursement. Another recommendation was a voluntary process where a rider voluntarily agrees to give information and make it easier for drivers, so they won’t be required to ask those sort of ADA questions. As it stands, the system is almost inevitable that we’re going to have more situations like this and there must be a fair number

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of riders that want to transport non-ADA animals and get frustrated when they don't have automatic rights to bring that animal in a vehicle and then makes a complaint about the driver.

- Caleb Weaver: This is extraordinarily difficult, but it does deserve more conversation. We are limited by the settlement with National Federation for the Blind that imposes very strict terms to ensure there is no mistreatment for individuals, but it is an issue that we need to figure out.
- Alma Raya: Caleb, is there anything different in Seattle in deactivations in terms of this topic?
- Caleb Weaver: No, it's a national policy.
- Mark Williams: Under Title III of the federal Americans with Disabilities Act (ADA) and virtually all state laws, a service animal is trained to perform a task for the benefit of a person with a disability. Emotional support animals have not been trained to perform work or tasks and are not necessarily protected under that law.
- Alma Raya: The driver is getting the short end of the stick on both ways because if it's not a service animal then the driver should be able to refuse the ride without getting punished for it. And if it is a service animal then it should be covered under the insurance for any damages.
- Sally LaJoie: Even if the driver does everything right, if a rider is dissatisfied, won't provide documentation, and complains, the driver gets deactivated. If drivers were to transport every animal to not risk a complaint, at least making sure they got reimbursed for any damages could be a way to make it a little better.
- Mark Williams: We're always dealing with this in the rest of the industry too. And it's one of those sticky issues that I've researched many times where the ADA law is not very clear. Recently, it has been clearer to what's considered a service animal which is a dog. This is a complicated one and we need to work with the TNC companies to come up with a solution, but I don't think this is an issue for City Council.
- Caleb Weaver: I'm not a full expert on this, but I know it's been a challenge. We welcome any additional thoughts, ideas for new policies or ways to improve them, additional training, or reimbursement policies along those lines. I'm happy to take anything back to my legal team.
- Leah Bazzani: A lot of issues could be avoided if we had Uber Pet which is in some regions but not here yet. If drivers voluntarily said they're willing to transport an emotional support animal, then a lot of these issues could be avoided. If a rider knew that this driver was completely fine with transporting my animal there would be no question whether the animal was for disability or not.
- Sally LaJoie: I'm not certain if riders know how serious their complaints and the star rating system impact the drivers and their livelihood; it's real insecurity that drivers have. It could have some impact if riders understood that and if there are some ways to educate the public. It is built upon the people that use it.

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DISCUSSION ITEM: HIRING CAPS AND MANDATORY MINIMUM WAGES: DUANE HANSON, CHAIR

- Lyft/Uber tends to overhire around the holidays and then around early January, there are more drivers ready to work yet not enough rides to go around. Then you have people waiting and fighting over one ride at PDX. We might need to look into establishing a hiring cap on how many people can do the work so enough rides are going around and everyone's able to make a living.
- Another item was establishing mandatory minimum wages. In this market, you can average \$6.25- \$6.50 an hour, which is well below the Oregon minimum wage. I'd like to look into ways to address that moving forward.
 - Alma Raya: I support those ideas and agree there's not enough work for drivers to support themselves after the holidays. In addition to this pandemic it's much more difficult finding those rides, so having a cap to the number of drivers could help.
 - Caleb Weaver: We don't hire in the traditional sense as being an open platform is how the business has grown and continues to meet the demand. However, when we see an inability to meet demand, we may offer incentives for new drivers to sign up but that's as far as we do. We do see more people turn on the app or sign up around the holidays because there are more bills and that's one of the things that makes us different for people looking to make a little extra money. I'm not familiar with what happens immediately after holidays in Portland, but I understand people wanting to continue driving when there's still bills but now there's fewer people traveling and less work to be done. This idea has been considered in a few places but it's important to understand that it's a fundamental shift to the business and its impact would have serious concerns. It would be a significant change and it's not something that's in place anywhere else but New York City.
 - Alma Raya: If it helps for future conversations around the hiring cap, we can call it Driver Activated Caps that are not hiring.
- Caleb Weaver: There are different ways to come at it, limiting the number of people that can sign up. There's also where drivers, in New York, who are gated when there's not enough demand and drivers cannot get online, as a result of their earning requirements. Drivers can also schedule time in advance where we offer a sign-up sheet for them. This is not the ideal way we want to run things but it's because of New York's regulatory system. Drivers have been upset and it changes the driver experience, and we decided this very reluctantly. Be aware that this would be a fundamental change that would change the nature of the work being an open platform.

INFORMATION ONLY: CAR INSURANCE GAPS: MARK WILLIAMS, PBOT

- More and more insurance companies are offering the Rideshare coverage and we reached out to our risk managers to see if they could provide additional information. This particular driver said his insurance company required Rideshare coverage on all his vehicles, and they didn't feel that was fair and wants this Committee to evaluate the insurance policies. The City has evaluated insurance policies and requirements for all company's several times, and I think for drivers own protection that the Rideshare coverage is a good idea.

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INFORMATION ONLY: CAMERAS FOR CARS/HEAVY CONGESTION ON ROADS: MARK WILLIAMS, PBOT

- There's a general rule for cameras in taxis for the safety of drivers since they pick up street fares and have very strict rules and requirements for those cameras. We do not regulate cameras in TNCs. However, some have cameras in their vehicles and according to the law in ORS 165.540 you are only allowed to record video. You cannot record audio and video without a passenger's consent, so clear signage would have to be posted stating you are being audio and video recorded. Video recordings in a public place are legal. The Topic Submission also brought up the congestion on I-84 towards the airport and we do have a division within the Bureau that oversees signage. I spoke to that group manager and will submit a formal request to ODOT to add additional signage to inform drivers to move to the right lane sooner than later.

INFORMATION ONLY: REGULATIONS FOR SUSPENSION WITHIN THE PAST THREE YEARS: MARK WILLIAMS, PBOT

- In City Code, it's written that if a driver has a suspension on their record within the last three years, you're not eligible to drive. The PFHTAC has already reviewed this topic and is making a formal recommendation to the Bureau Director and if approved it will go to Council for the next code revision. The changes are "Driving privileges suspended as a result of an Administrative action lasting 60 days or less is not considered grounds in and of itself for permit suspension" and further says "that an Administrative action is defined as an official action taken against an individual's driving privilege, as a result of the driver failing to comply with an Administrative requirement. An example includes but is not limited to failure to file a timely SR22, failure to report an accident, failure to show proof of financial responsibility, or failure to change your address." This new rule would not consider Administrative suspensions, which are the majority of complaints, against drivers. This does not include suspensions due to violations or police suspensions because of speeding or reckless driving.

CHAIR ADJOURNED THE BUSINESS MEETING AT 5:09 PM.

NEXT MEETING: Mark Williams will let everyone know the date and location of the next meeting.

Submitted by, Jamie Lynne K. Souza, Recorder