

PRIVATE-FOR-HIRE TRANSPORTATION ADVISORY COMMITTEE

FINAL DRAFT MEETING SUMMARY

October 26, 2019 • 1:00 PM – 2:30 PM

GoToMeeting

Advisory Committee Members	Position	Affiliation	Present
Mark Williams	PBOT (non-voting member)	Regulatory Division Manager	Yes
Nickole Cheron	At-Large Community Member with a Disability	Portland Commission of Disabilities	No
Teresa Leatham	LPT Company	Executive Towncar	Yes
Ahmed Alzubaidy	LPT Driver	A1 Diamond Limo	No
Kirk Foster, Vice-Chair	Non-Emergency Medical Transportation Company	Wapato Shores	Yes
Jemal Abdi	NEMT Driver	JB Medical Transport, LLC	Yes
Debbie Brooks	Port of Portland	Port of Portland	Yes
Ed Kelly	Shuttle Company	ecoShuttle	Yes
Idris Khoshnaw	Shuttle Driver	Hillsboro Airporter & Car Service	No
Steve Hext, Chair	Taxi Company	Broadway Cab	Yes
Sirous Tanzadeh	Taxi Driver	Radio Cab	Yes
Caleb Weaver	TNC Company	Uber	No
Vacant	TNC Driver		
Vacant	Tour Bus Company		
Billie Moser	Tourism Industry	Travel Portland	Yes
Margo Moore	TriMet	TriMet-Accessible Transportation	Yes
Vacant	Pedicab Company		
Dave Benson	PBOT	Parking Group Manager	Yes
Gabby Sanchez	PBOT	PBOT Regulatory Division	Yes
Matthew Erickson	PBOT	PFHT Program Manager	No
Tracy M. Smith	Facilitator	Inhance LLC	Yes
Jamie Lynne K. Souza	Recorder	Inhance LLC	Yes

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Other Attendees: Sam Cho, Lyft; Steve Entler, Radio Cab; Lisa Krahl, ecoShuttle; Darin Campbell, Radio Cab; Noah Ernst, Radio Cab.

ANNOUNCEMENTS FROM COMMITTEE MEMBERS: COMMITTEE MEMBERS

- Kirk Foster: This is about the alternative insurance, a couple of years back, to allow companies into Portland that didn't have A-rated insurance. Moving forward it's important to be aware of companies that offer lower financial ratings because the company in question filed for bankruptcy two weeks ago. In the next 24 months, there may be potential tail coverage issues or even claims filed for anyone that had this insurance. They went by a couple of different names, Atlas or American Services Insurance Company. They were admitted into the Oregon Insurance Commission that gave them \$500,000 of coverage, but if anyone in the NEMT sector, who's required to have a million-dollar or more coverage, or any company that had Atlas could potentially be in trouble if they have a lawsuit filed in the next couple of years. This is the reason why the City has the rule of having A-Rated or better because financial ratings for a company is exactly that. American Services Insurance Company and Atlas are the two larger companies in Oregon, but Atlas is what most policies are under. I will email the bankruptcy notice to Mark Williams.
 - Steve Hext: Do you know what the issue was?
 - Kirk Foster: I'm assuming financial mismanagement and having paid out too many claims, but all I know is they're Chapter 11. They may not have had enough reserves to pay claims and got caught. And it's important to learn from this and not let companies like that into the market.
 - Steve Hext: Hopefully no one is injured and has trouble getting help.
 - Kirk Foster: That's the fear, that a tail coverage lawsuit comes up from companies that were insured by them and ends up with no insurance coverage.
 - Mark Williams: PBOT will look through our system for any companies that have a policy under Atlas or American Services Insurance. Companies like NEMT and those that access the Port of Portland are required to have that million-dollar insurance coverage.
- Mark Williams: Welcome Teresa Leatham to the PFHT Advisory Committee.

APPROVAL of 09/28/2020 MEETING SUMMARIES: STEVE HEXT, CHAIR

- No revisions or objections were made for the September 28, 2020, Meeting Summary.

VOTE: Unanimous approval. Motion Sirous, Kirk second

ACTION: No action taken.

PFHT PROGRAM STAFF REPORT: MARK WILLIAMS, PBOT

- IVISA- Photo Software
 - This software allows drivers to take their permit photos from their cell phones and a company photoshops them on the PBOT background. A notification will be sent to all companies and drivers soon.

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- Permit Fee Deferrals
 - We are still accepting referrals to the end of the year with a deadline of January 1, 2021. We have not heard anything about the PBOT Director extending that and have not had any requests. So far, we've deferred \$13,000 worth of permit payments, most being driver permits, and drivers have not taken advantage of the program as we anticipated.
- NEMT Letter of Intent
 - Right now, PBOT is conducting an internal audit where several NEMT companies are randomly picked to ensure we have their Letter of Intent. Kirk Foster has provided the three providers in Oregon that are licensed and in service. My team will confirm that and configure our system to ask for the Letter of Intent, which can be uploaded to the system, during the permitting process. When companies apply for a permit they will be asked for their Letter of Intent upfront.
- Transportation and Permit Fees
 - Before Covid, the PFHTAC had a Transportation and Permit Fee Subcommittee headed by Marlo Maroon, with Travel Portland. Marlo is no longer with this Committee, but we'd like to connect with Billie Moser to see if she'd like to continue in this role and continue those conversations since the initial topic submission was brought up by the tour industry.
 - Steve Hext: Can we remove this from action? You mentioned not having much participation with the payment fee deferrals. There's not a ton of support with this attempt to look at lowering fees, so maybe we can be done with it.
 - Mark Williams: This Committee has the power to abolish the Subcommittee and we don't have to continue that conversation. However, from previous discussions with Marlo Maroon, the biggest concern in the tour industry was for those smaller tour companies and the cost of getting started with the company, vehicle, and driver permits fees. For small companies that only two or three vehicles seemed like a lot. Jeremy from a tour company submitted the original topic submission.
 - Billie Moser: My impression was there was a lot of positiveness toward lowering fees and a lot of support for that. I'd like to ask this Committee to allow me time to catch up and look through Marlo's notes. I'm surprised only \$13,000 were deferred because I heard some tour companies asking about deferment of the permit fees. The tourism industry is down 85% if not more and tour companies are either not functioning or functioning at a small percentage. I would like to take time and have those conversations especially with the companies that reached out about deferment.
 - Steve Hext: Thank you and I'm good with that. I withdraw my suggestion.
 - Mark Williams: Mr. Chair, will you officially appoint Billie Moser the Chair of Subcommittee?
 - Steve Hext: If she's willing, I appoint Billie Moser as Chair of the Transportation and Permit Fees Subcommittee. No opposed. APPROVED.

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PUBLIC COMMENT-NON-AGENDA: STEVE HEXT, CHAIR

- No public comment.

ACTION ITEM: VICE-CHAIR NOMINATIONS: MARK WILLIAMS, PBOT

- Five members participated in a Survey Monkey, on the last page, 10, of this Summary, to vote for the Vice-Chair position. Kirk Foster received the most votes for the Vice-Chair position. Congrats Kirk!
- Steve Hext makes a motion to appoint Kirk Foster as the Vice-Chair.
 - No objections. APPROVED.

ACTION ITEM: MAKE CHANGES TO CODE TO ALLOW DRIVER TO WORK WITH TWO INFRACTIONS BEFORE DISQUALIFICATION: MARK WILLIAMS, PBOT

- This was to change all relevant sections of the code to revise the language in ORS 801.557. Please refer to Topic Submission, Make Changes to the Code to Allow a Driver to Work with Two Infractions Before Disqualification, which shows how the language would read in City code if approved by the Director and City Council. The code currently reads two violations and you're not eligible to provide PFHT services, but this will change it to three violations, based on the conviction date, before ineligibility.
 - Sirous Tanzadeh makes a motion to approve. Ed Kelly seconds the motion.
- Open to Public Comment:
- Noah Ernst: The history of cab driving or PFHT in Portland, before four years ago, was three strikes and you're out. It's easy to get a photo radar ticket especially for drivers that drive 40-50 hours per week. This is returning it to the way it was and to give those full-time drivers more flexibility with tickets. It seemed harsh to have a driver get a photo radar ticket twice in a year for seven mph over the speed limit and the driver wouldn't be able to drive for six months until the first ticket went away.
- Mark Williams: For the Committee, this does not impact what PBOT considers a traffic crime, these are traffic violations or infractions. Anytime a traffic violation becomes a traffic crime such as attempting to elude, that is covered under another code.
- Jemal Abdi: I know of drivers that weren't aware they even had a ticket until they were suspended by the DMV. The driver also moved to a different address and didn't receive any mail. Therefore, there should be a way around suspensions for tickets when they didn't commit any crime because drivers, especially NEMT drivers, provide service to the community for people who need it. It's hard retaining NEMT drivers since the turnover is high due to Covid and the payment.
 - Mark Williams: This Committee approved a recommendation to the Bureau Director, titled Administrative Suspensions, where the language reads that if a driver gets suspended for administrative reasons, such as an address change, and as long as that administrative suspension was less than 60 days, it would not be held against the driver. Once approved by City Council, this new rule allows drivers with any administrative suspensions to be eligible to drive and PBOT would remove that suspension.

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- Steve Hext: I agree with Jemal, but is this referring to Topic Submission, Code Change to Driver History Section of Code?
 - Mark Williams: After our last meeting, I worked with Noah Ernst on some language, but didn't finish to get it reviewed by the attorney. Noah had good ideas on how to address the Topic Submission, Allow Administrator to Waive Certain Disqualifiers, and Issue a Permit to Applicant. We'll bring back to the Committee to review at the next meeting.
- Steve Hext: Jemal mentioned suspended driver's license, is that Topic Submission, Code Change to Driver History Section of Code?
 - Mark Williams: It kind of is, but here's a different example of a driver that moved to Portland with a California license and decided to use Trimet, so they didn't get an Oregon driver's license. Then two months later they decide to drive for PFHT and get an Oregon driver's license. Unfortunately, they now have a two-month gap in their driving history. Under the current rules, that gap excludes a driver until they've had one year of uninterrupted driving history. Topic Submission, Code Change to Driver History Section of Code, revises the language in all the relevant sections of the Code. It currently reads, If the applicant does not have at least one year's worth of uninterrupted driving experience they cannot qualify for PFHT. This revision removes the word uninterrupted. After approval from the Committee, we're looking at a driver that has five or six years' worth of driving history, and even with a one or two month break due to an expired license, they would not be excluded as long as they have one year of driving history for that driver.
- Steve Hext: We're dealing with this issue from two different suggestions?
 - Mark Williams: Yes. Jemal is talking specifically about suspensions for administrative reasons, but there are numerous reasons a driver could be suspended. You can get suspended for not paying a ticket on time, go to the courthouse to pay it, and be reinstated. The way it currently reads, that driver now has a break in their driving history, and a suspension on their record, which is captured in a different section of the code. Therefore that driver with a suspension would not be eligible to drive for three years.
- Noah Ernst: My understanding is the sections for suspension specifically says for driving-related reasons, so when drivers are denied a permit due to an Administrative Suspension it's under the section of uninterrupted driving history. The suspension section is for driving-related reasons, so what we're discussing is approved, it should handle Administrative Suspensions.
 - Mark Williams: That's not how PBOT interprets it because if you have a ticket, don't pay it, and then get suspended, our attorney feels it's a driving-related suspension because it was initiated by a driving offense.
- Noah Ernst: Suspensions for things like child support is under this section?
 - Mark Williams: No. Child support is also under Administrative Suspensions, so if a driver fails to pay child support, is suspended, and gets caught up with payments, they're reinstated. As long as that suspension doesn't last longer than 60 days, according to the current language, PBOT would exclude that suspension and it wouldn't be held against the driver. This Topic Submission, Make Changes to Code to Allow Driver to Work with Two Infractions Before Disqualifications, helps the driver with a break in their driving history for whatever reason. We see this often with drivers who

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move to Oregon and later decide to drive and although they may have been driving for 12 years, they don't have one year uninterrupted, and this would help that driver.

- Noah Ernst: I was confused because letters we've seen related to administrative suspensions always reference a break in driving history, but not the suspension itself.
- Mark Williams: The scenarios we're concerned about will be covered by the Administrative Suspension recommendation and this recommendation once approved.
- Steve Hext: Recommendation for the Committee to support the Code change.
 - Motion to move forward. All members in favor. No opposed. APPROVED.

ACTION ITEM: CODE CHANGE TO DRIVER HISTORY SECTION OF CODE: MARK WILLIAMS, PBOT

- Steve Hext: This is a mixed bag. One part of the code has a Committee and the part that is Topic Submission, Code Change to Driver History Section of Code, addresses a different part of the code relative to the suspensions or breaks.
- Mark Williams: Let's look at this as a break for no apparent violation but is a break in driving history. This revises the code to allow a driver to continue to drive or begin to drive if able to demonstrate they've been operating an automobile for at least a year. A driver may have taken time off, sold their car, license, and insurance. Then six months later, they decide to return to PFHT and PBOT wouldn't look at that uninterrupted break as long as that driver had a least one year of driving history. This topic submission removes the word "uninterrupted" in code.
- Open to Public Comments
- Kirk Foster: I agree there needs to be a change, but here's an example that I've seen before and is due to COVID-19. A driver we'd like to hire moved from Illinois and his driver's license expired before he was able to get to the DMV. Unfortunately, he made the mistake of moving the week before his license expired, and now, he has a gap in his driving history. I am concerned the new language says at least one year of driving experience, but it doesn't say how long ago. This could allow someone who hasn't driven or had a license in 10 years, even with a year of driving history, could get a permit and that concerns me. A lot of people move to Portland and don't drive due to Trimet, but there should be some kind of limitation. I don't think the one uninterrupted year should be any time in their life. I'd like to change the language to put a limit on how long it's been since they drove. It doesn't seem safe and wouldn't want someone that hasn't driven in 10 years driving one of my vans or TNCs.
 - Mark Williams: Any thoughts on how to revise it?
 - Kirk Foster: I'm unsure about a time frame, but I would say, the applicant does not have at least one year of driving experience within the last six months or 18 months. Again, I'm unsure about a timeframe, but a couple of years is too long. It just shouldn't be open-ended and should have a cap on it.
- Tracy M. Smith: The language says immediately preceding the certification, is there a date unrelated to the one year?
 - Mark Williams: That's the day we issue the permit.

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- Ed Kelly: Is there language of verifiable driving history?
 - Mark Williams: It doesn't say that, but we can when we run a DMV record check. When we look at the driver's driving history we can verify if they have 365 days of a valid driver's license. Kirk is suggesting if an applicant doesn't have at least one year's driving history within the last two or three years and suggested we put a limit so drivers that haven't driven in 25 years can't sign up and drive today.
- Steve Hext: Kirk, it does say immediately preceding the certification.
 - Kirk Foster: I'm trying to understand, but how is PBOT interpreting that for determination? Right now, you're looking at having a continuous driver's license and a one or two gap, but how do you determine they had continuous driving history one year continuous immediately before. When you remove the word uninterrupted, how do you determine that?
 - Mark Williams: We can run a DMV record, which shows the driver's history in any state. A driver could have driven six months in California and then drove six months in Oregon and between those two licenses had a one-week break. PBOT would see the driver didn't have a full 365 days in the driver history report, which also shows every driver's license that has been issued when it expires, and when it's suspended, etc.
- Teresa Leatham: Before drivers present to the City, they have to be insurable with the company before the next step, so all of that can be preventable.
 - Steve Hext: In this case, where are you getting the idea of the driver's uninsurable?
 - Teresa Leatham: That's comes from the company's insurance provider and it's submitted to your insurance provider before it's presented to PBOT for anything, but you don't want to go to that level. Your insurance provider, their underwriters, are so strict that you have a certain length of driving time whether you have a break or not they go back and will tell you the driver's uninsurable. Your insurance company's going to prevent that.
 - Steve Hext: I'm not sure every insurance company would take that position though.
 - Teresa Leatham: We are required to have \$1.5 million-dollar insurance and they look for the upper elevated drivers, so I find that odd.
- Noah Ernst: From the time a driver applies, we can go back a year of driving history plus however long the allowed break is in driving history and the length of time needed in driving history.
- Kirk: Instead of removing the word uninterrupted, can we add one year's worth of driving experience uninterrupted not to exceed 60 days?
- Noah Ernst: In Radio Cab's experience, we sometimes deal with breaks that can last 10 hours. So it's not about drivers who aren't renewing their license, but we're talking about things that can happen related to the court system or other short things. The longest we've had to deal with was when one of our drivers left to visit family in Somalia and while away his license expired. His expiration lasted about a month. We are not looking for people who haven't driven in five years before driving with us.
- Mark Williams: We're looking for an applicant who can demonstrate at least one year's driving history and within the past five years have not had a break that exceeds more than 60 days.

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- Sirous Tanzadeh: I am happy and agree with what Mark Williams said.
- Steve Hext: I favor 12 months because there's another language that says that. Does 12 months' work?
 - Mark Williams: An applicant that has at least one year's worth of driving history in the last 12 months, but no more than 60 days uninterrupted. I'll create some language, amend it, and bring this back to Committee for approval at the next meeting. I'll send the amended language to Kirk Foster and Noah Ernst to make sure both points are being captured.
 - Action will be taken at the next meeting.

ACTION ITEM: PFHT COMPANIES TO CHARGE A MINIMUM FAR PER MILE: MARK WILLIAMS, PBOT

- This is the first reading and an opportunity for discussion.
- Darin Campbell: Back in 2015 with the entrance of TNCs, this was a bit of a contentious issue for a group of taxi companies and transportation fairness alliance. The main issues included fairness amongst transportation providers. It can be argued that Uber/Lyft and others operating as a TNC does the same job as a Taxicab. And when talking about a billion-dollar company coming into a market and having the ability to give away business in an attempt to saturate the market. As a cab company, we have weathered difficultly and I'm sure Steve Hext can say the same with Broadway. We've seen cab companies go out of business because of the inability to compete or right now with the pandemic. It's something a lot of jurisdictions are starting to look at when Seattle with their \$15 minimum wage for TNC drivers and can argue that California has similar motivations. This would allow Taxicabs to compete with TNCs, but also give TNC drivers the ability to make a decent living. This is a big issue especially looking at how TNCs value their trips regarding mileage, time, and fees, and believe a Subcommittee would be helpful. Cab companies have similarities calculating by time if stopped in traffic, but it wouldn't be a bad idea to look further and discuss more in a Subcommittee.
- Jemal Abdi: I mentioned earlier about NEMT's rising price and the company we contract asking for the lower price of the ride even though it's not happening. The market is saturated by 1099 drivers and people, like me and Kirk, who follow the rules and pay our drivers a livable wage cannot compete with them. It's hard to be minimum pricing and it's devastating what has happened to the Taxi companies. It's good to have minimum pricing at least above minimum wage and will help drivers have a good life with a set bottom price that cannot charge less than and enforce it.
- Mark Williams: We now have two Advisory Committees for PFHT, and one represents the TNC drivers. I know they are discussing similar topics related to driver compensation and I'm unsure how to navigate this, but if the Committee wants to pursue, we need to figure out how to bring the TNC Drivers Committee into this discussion or have a separate discussion about this same topic.
 - Darin Campbell: Can we create a co-subcommittee? Could we have the TNC Drivers Committee form a Subcommittee and the PFHT form a Subcommittee and have them discuss together?
 - Mark Williams: I don't see the reason why we couldn't set up a joint Subcommittee, but I will reach out to the Office of Community and Civic Life since they oversee the policies over all the Advisory Committees and confirm any rules regarding that. Then I'll reach out to Steve Hext and the TNC Drivers Committee and figure out how to put this joint subcommittee together.

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ACTION ITEM: ALLOW ADMINISTRATOR TO WAIVE CERTAIN DISQUALIFIERS AND ISSUE A PERMIT TO

APPLICANT: MARK WILLIAMS, PBOT

- I'd like to continue working with Noah Ernst and whoever is interested in draft language to address the specific issues that are raised. What I don't think will be accepted by Legal and Risk is giving an administrator authority to exclude certain violations for certain drivers based on conduct. We started drafting language but I'd like to finish and continue that conversation and bring language to the Committee at the next meeting.
 - Kirk Foster: Is your role the administrator or does it go to the PBOT Administrator that we're referencing here?
 - Mark Williams: I believe I would be the administrator because in previous years my predecessors had an unwritten policy where they exercised this practice where drivers would come in and talk about their violation and a small committee would say yeah that doesn't make sense we're going to let you drive. But when I came on board I was told that was a practice that would not continue and brought that up last meeting and reach out to Radio Cab who drafted the original Topic Submission and I believe we're on the right path, we just need to kick around more language and bring it back to the Committee.
- Mark Williams will have further discussion with those involved and bring the language back to Committee. No opposed.

DISCUSSION ITEM: NEMT DRIVERS STATUS SUBCOMMITTEE: KIRK FOSTER, WAPATO SHORES & MARK WILLIAMS, PBOT

- Mark Williams: Kirk has information that the Subcommittee needs to review. I've reached out to the State of Oregon to see if we can find someone to help us understand wages, Workers' Comp, who's a worker, and who's 1099. That has not happened yet, but we'll review the language and will schedule another Subcommittee meeting, and bring back some updates to our next meeting in November.
- Steve Hext: Kirk, you mentioned sending a case, was that the TriMet case?
 - Kirk Foster: It was an Employment Department hearing for my company when they audited us. I thought it was appropriate since we were going to discuss NEMT status and see the Employment Department's own words when they audited a NEMT company. As far as I know, the Trimet case was settled before a court, so I assume it's sealed with no access to it.

CHAIR ADJOURNED THE BUSINESS MEETING AT 2:10 PM.

NEXT MEETING: Monday, November 23, 2020, via GoToMeeting.

Submitted by, Jamie Lynne K. Souza, Recorder

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