

RESOLUTION No. 36830

Authorize the City Attorney's Office to join in an amicus brief and participate in court proceedings in *City of New York v. Metropolitan Taxicab Board of Trade* (Resolution)

WHEREAS, the City's Climate Action Plan, adopted by Resolution 36748 on October 28, 2009, includes an objective of having average passenger vehicle fuel efficiency increase to 40 miles per gallon by 2030; and

WHEREAS, New York City developed policies to encourage the purchase of hybrid and clean diesel taxicabs; and

WHEREAS, in the case of *City of New York v. Metropolitan Taxicab Board of Trade*, the Second Circuit held federal Energy Policy and Conservation Act preempted New York City's regulations to stimulate investment in hybrid and clean diesel taxicabs;

WHEREAS, the Appeals Court ruling is concerning both for its restrictions on the ability of cities to support efficient private vehicles and for broadly construing the EPCA's preemption provision, which potentially places a myriad of valid state and local programs at risk;

WHEREAS, the Second Circuit's reading of the federal statute infringes on local autonomy to address vital issues of climate change;

WHEREAS, in November, 2010 the City of New York filed a petition of certiorari seeking Supreme Court review of the Second Circuit's decision;

WHEREAS, the City of Chicago's Law Department is preparing an amicus brief in support of New York City's petition for Supreme Court review;

WHEREAS, under the Supreme Court's appellate rules, the amicus brief must be filed within 30 days after the case is placed on the docket;

WHEREAS, the City of Portland has been invited to sign on to the amicus brief, along with other major American Cities;

WHEREAS, it is in the best interests of the City of Portland to participate in this Court proceeding.

NOW, THEREFORE, BE IT RESOLVED, that the City Attorney or her designee is authorized to participate as *amicus curiae* in the United States Supreme Court, in *City of New York v. Metropolitan Taxicab Board of Trade*, on behalf of the City of Portland.

Adopted by the Council: DEC 01 2010

Mayor Sam Adams
Prepared by: B. Walters
Date Prepared: 11/5/10

LaVonne Griffin-Valade
Auditor of the City of Portland

By 
Deputy

1551

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Agenda No. **36830**
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Title

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| INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams | CLERK USE: DATE FILED <u>NOV 23 2010</u> |
| COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams | LaVonne Griffin-Valade Auditor of the City of Portland By: <u><i>Susan Larson</i></u> Deputy ACTION TAKEN: |
| Position 1/Utilities - Fritz | |
| Position 2/Works - Fish | |
| Position 3/Affairs - Saltzman | |
| Position 4/Safety - Leonard | |
| BUREAU APPROVAL Bureau: City Attorney's Office Bureau Head: Linda Meng | |
| Prepared by: Benjamin Walters Date Prepared: 11/22/10 | |
| Financial Impact Statement Completed <input type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input checked="" type="checkbox"/> | |
| Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Council Meeting Date 12/1/10 | |
| City Attorney Approval <u><i>lm</i></u> | |

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| AGENDA |
| TIME CERTAIN <input type="checkbox"/> Start time: _____ |
| Total amount of time needed: _____ (for presentation, testimony and discussion) |
| CONSENT <input type="checkbox"/> |
| REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 5 minutes (for presentation, testimony and discussion) |

| FOUR-FIFTHS AGENDA | COMMISSIONERS VOTED AS FOLLOWS: | | |
|--------------------|---------------------------------|------|------|
| | | YEAS | NAYS |
| 1. Fritz | 1. Fritz | ✓ | |
| 2. Fish | 2. Fish | ✓ | |
| 3. Saltzman | 3. Saltzman | ✓ | |
| 4. Leonard | 4. Leonard | ✓ | |
| Adams | Adams | ✓ | |