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CITY OF  
**PORTLAND, OREGON**

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OFFICIAL  
MINUTES

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A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 15TH DAY OF AUGUST, 2001 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, and Saltzman, 3.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ben Walters, Senior Deputy City Attorney; and Officer Peter Hurley, Sergeant at Arms.

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**DUE TO THE ABSENCE OF TWO COUNCIL MEMBERS  
NO EMERGENCY ORDINANCES WERE CONSIDERED THIS WEEK**

**ALSO, ITEMS WERE NOT HEARD UNDER A CONSENT AGENDA**

**S-975 TIME CERTAIN: 9:30 AM** - Amends the Comprehensive Plan map, zoning map and code to implement the Northwest Transition Zoning Project, transitioning an area in Northwest Portland from Industrial to Employment designations to facilitate mixed use development and limit development of inactive uses including Electronic Equipment Facilities near the Portland Streetcar (Previous Agenda 974; Ordinance introduced by Mayor Katz; amend Title 33)

**Motion to amend section 33.562, 300 g-2-a to read the urban design elements of the proposed overall scheme and site plan provide a framework for development that will result in an area with an urban development pattern that will be attractive safe and pleasant for pedestrians and is integrated with historic resources and the character of the nearby area anticipated through the northwest area plan process. The urban design elements of the proposed overall scheme and site plan must meet the design guidelines that are in effect for the site at the time of application and 33.562.300 g-2-b-2 to read scale and massing of the development addresses the broader context of the area, including historic resources and the uses and development anticipated through the northwest area plan process, specifically at the edges of the northwest master plan area. Section 33.562.300 g-4-d, to read the scale and immensity of the proposed use and development is consistent with historic resources and the character of the area anticipated as a result of the northwest area plan process:** Moved by Commissioner Saltzman and seconded by Commissioner Francesconi and gavelled down by Mayor Katz after no objections.

**Disposition:**

**PASSED TO  
SECOND READING  
AS AMENDED  
AUGUST 22, 2001  
AT 9:30 AM**

**AUGUST 15, 2001**

<p><b>976</b> <b>TIME CERTAIN: 10:30 AM</b> – Amend City Code Chapter 16.40 regarding regulation of Limited Passenger Transportation Permits (Previous Agenda 968; Ordinance introduced by Commissioner Francesconi; amend Code 16.40.900 through 950)</p> <p><b>Motion to accept the amendment to add a sentence to the end of paragraph 4 in the ordinance to say, the revised proposed regulations shall be submitted to and approved by City Council prior to there becoming effective:</b> Moved by Commissioner Saltzman and seconded by Commissioner Hales</p>	<p><b>PASSED TO SECOND READING AS AMENDED AUGUST 22, 2001 AT 9:30 AM</b></p>
<p><b>REGULAR AGENDA</b></p>	
<p><b>977</b> Cash investment balances July 1 through August 1, 2001 (Report; Treasurer) (Y-3)</p>	<p><b>PLACED ON FILE</b></p>
<p><b>Communications</b></p>	
<p><b>978</b> Request of Robert A. Butler to address Council regarding non-response to his appeal over a flooded basement (Communication)</p>	<p><b>PLACED ON FILE</b></p>

At 11:02 a.m., Council adjourned.

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**WEDNESDAY, 6:00 PM, AUGUST 15, 2001**

**DUE TO LACK OF AN AGENDA  
THERE WAS NO MEETING**

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GARY BLACKMER  
Auditor of the City of Portland

By Karla Moore-Love  
Clerk of the Council

For discussion of agenda items, please consult the following Closed Caption Transcript.

**AUGUST 15, 2001**

**Closed Caption Transcript of Portland City Council Meeting**

This transcript was produced through the closed captioning process for the televised City Council broadcast.

Key: \*\*\*\*\* means unidentified speaker.

**AUGUST 15, 2001 9:30 AM**

**Katz:** Good morning, everybody. The council will come to order. [ no audio ] Roll call.

**Francesconi:** Here. **Saltzman:** Here.

**Katz:** Here. All right. So everything's on regular agenda. We'll take s-975.

**Item No. 975.**

**Katz:** Okay. There's been a flurry of e-mails while I was gone, so why don't you bring us up to date as to where we left off the third time, or the fourth time.

**Gil Kelley, Director, Bureau of Planning, (BOP):** Gil kelley, planning director. We left last week with two issues, one that we had produced a revised draft trying to incorporate everybody's thoughts, just the evening before the last council meeting cnf requested a little more time to look that over and consult with their attorney, steve pfeifer. We think we've worked out all the language issues. Barry has one final amendment to incorporate into your action today, which essentially just explains what the northwest area plan that's evolving now is, and that's in finding section. So that and the st. Patrick's church also weighed in with proposed language changes, which very well explain and distribute --

**Katz:** What's in front of us -- what's in front of us are the amendments?

**\*\*\*\*\*:** Yes. And there has been --

**Katz:** Do we have a substitute? Where are we now in terms of the formal --

**Barry Manning, BOP:** You should have a copy of -- a memo from gil that's dated august 9th, which is the latest version of the code that the bureau of planning has submitted. My understanding is that subsequent to that, ed sullivan has presented some proposed amendments on behalf of st. Patrick's church and steve pfeifer on behalf of cnf. You should have those. In front of you also today you should have one additional proposed amendment to the ordinance.

**Katz:** Let me just ask you again, with regard to what's in front of us, august 9th, is that -- does that incorporate all the amendments?

**Kelley:** No. What you would be asked -- what we're asking you to vote on today is the version that's in that -- attached to that memo, plus the ed sullivan amendment language that came in subsequently. And plus the one barry gave you today, which has paragraph 14, it's just a one-page paragraph.

**Katz:** Let's dis --

**Kelley:** Not the pfeifer amendments.

**Katz:** Let's distribute -- we've got this. Where is the ed sullivan amendment? We're going to finish this today.

**Manning:** These would take care of the language. We also had an issue with regard to the potential availability of some cnf property that might be available through the master planning process for acquisition for a park.

**Katz:** And I know that commissioner Francesconi was interested in that and had some time to work on that.

**Kelley:** And I think that cnf representatives are prepared to speak on that today.

**Katz:** Okay. For the folks who are watching, you might want to quickly go through these amendments so everybody understands what they are.

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**Manning:** If I may, i'd like to run through what we did for the august 9th version. Okay. We had previously been to you august 1st and got direction -- we were fairly close on this at that point in time, but got some direction from council with respect to a number of issues, and we heard some testimony from the parties. What was submit order august 9th we think responded to the testimony, councils direction and also internal discussion between the bureau of planning and opdr for clarification of review criteria and things like that within the code. So that's what we submit on august 9th. I'm going to run through the bullet points that are on that cover memo from gil kelley that detail what's in that in terms of changes from the august 1st draft. First, we included some discussion of issues related to development near st. Patrick's church in the report, which is exhibited b. It basically explains that the church is an important historic resource in the neighborhood and new development near that ought to respond to the church in a way that respects the church's scale and character and the historical significance of the church. We also included a discussion of issues related to parks and open space in the report. The nwda had gone on record and commissioner Francesconi also commented about parks and nwda commented they felt the area was in need of a park and we checked with bureau of parks and recreation and found their vision 2020 plan indicated that area was park did I efficient. So we included a statement about that in the report itself, saying that opportunities for a park or open space ought to be considered in this area.

**Katz:** This is in the preamble, what nwda wanted to include?

**Manning:** Both nwa and commissioner Francesconi, yes. And that's in the report part, not in the code language itself. In order to clarify the design criteria, we included a phrase, character of the area anticipated through the northwest area plan process to describe the desired land use and development character for areas outside of this area that we're dealing with. I just remind you -- the reason we put this in, we're dealing with an area where we're providing an opportunity for cnf to do some master planning and get moving on their development prior to establishing what the desired character of the area surrounding that is. So we wanted through the master planning process to be able to at least address any desired character that might be established for the area surrounding that. We don't anticipate it will stay industrial. It will likely change to a more intense employment use or residential. We wanted to be able to respond to that.

**Katz:** So your amendment, this one, basically describes what you mean by that.

**Manning:** Yes.

**Katz:** Okay. So that was one of the issues that was flagged. You didn't change the language, but you refer to the character envisioned --

**Manning:** We wanted to clearly explain what the character of the area we were referring to -- we were referring to the character envisioned as part of the northwest area plan process which is the public planning process that's currently underway and expected to be completed in the near future.

**Katz:** Okay.

**Manning:** The next bullet point was, we included a statement in the master plan purpose statement encouraging consideration of a park plaza or open space as part of the master plan. We at council's direction we exempted residential uses from the master plan requirement in the master plan ex area.

We changed the component section that addresses the street system to reflect council's desired language. We changed that from the language that said program and appropriate to establishing the street grid where feasible. The specific code language is in there. We changed the process components part of the code language for clarification purposes. We wanted to really be clear that the applicants could propose a design -- and need to propose a design review process, and an amendments process if they want something different than what our code establishes as a baseline. We wanted to be clear about that.

**Katz:** You may all want to do that.

**Manning:** We changed the approval criteria in another place to revise and provide clarity for the design commission's role and review responsibilities. Right now it's a type 3 review that would be

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reviewed by the hearings officer, and the design commission would review the design approval criteria and make a recommendation to the hearings officer, who makes the final decision on this matter. So we clarified that. We changed the approval -- we add approval criteria to address retail uses over 10,000 square feet. There was some debate about whether retail sales and service uses larger than 10,000 square feet ought to be allowed if approved in a master plan. The council's direction was they ought to be --

**Katz:** Ought not more than 40,000.

**Manning:** 60, in this case, which is the metro standard. But we developed approval criteria in which something that's larger than 10,000 square feet might be approved as part of the master plan. And we had to change one more section of the code, 33562.100 b-2 to make that possible. Those are the extent of the amendments you received on august 9th.

**Katz:** Okay.

**Manning:** As gil pointed out, we've just submitted an additional finding that will go in the ordinance. It's number 14.

**Katz:** The church wants existing historic resources -- no?

**Manning:** That's the other amendment. That's the amendment that ed sullivan has suggested. The planning bureau has no issue with the ed sullivan amendments which are on preston gates and ellis memo. In principle, we wish to reserve the right to do some minor tweaking to the language because I think mr. Sullivan refers to existing historic resources and we think we don't need to say existing, we just need to say historic resources. The language needs to be altered to make it more clear. I've discussed this with mr. Sullivan.

**Katz:** He's signaling that's okay.

**Manning:** Good. We're going to propose some minor amendments to that.

**Katz:** Okay. All right.

**Kelley:** That's it. On the park issue we did have a discussion with commissioner Francesconi, and I think i'll let -- I think steve pfeifer --

**Katz:** Let me just touch base with everything. St. Patrick's church, you're okay? I hate to ask this question, because I think I know the answer. The nwda, you're sort of okay with where we are right now? A grudging okay. You're okay. All right. Why don't you come on up and talk to us about the park. This has been a tortured, tortured way of doing some planning, but it is also -- it also shows when there are potential opportunities, you want to meet them. This is not our normal planning process, but I want to thank everybody for participating, especially nwda, because they were going through a normal planning process and had to take a detour to get there. And I want to thank cnf as well for all of your work. Park.

**Steve Pfeifer, CNF:** Mayor Katz, steve pfeifer for the record. Here today on behalf of cnf. Chuck dragon is ill or he would be here instead of me. We're comfortable with the st. Patrick's amendments and with the staff amendments together with the package on the whole. On the parks point, I would only -- i'll offer our sense of where we are following a meeting with commissioner Francesconi last week, and I can answer any questions you might have. First, we understand the need for parks planning in particular in that area. We did have a meeting last week with commissioner Francesconi and people from his staff. They shared some of the parks planning documentation which shows parks deficiencies in type and scale and we had a good discussion for those of us who know the area in particular, the kind of park that might fit in the area. Obviously parks have to be preceded by some form of public control -- acquisition, easement, whatever it might be, and there's a an issue in this area. And I think that's commissioner Francesconi's point last time. You are being asked to make some map amendments. Zoning does have an effect on value, as commissioner pointed out. We had a good discussion, and the commissioner asked chuck in particular if he would consider taking to cnf management a proposal that would say that if during the course of the master planning, or frankly even if a master plan doesn't happen if we end up in

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the legislative piece, or -- in the course of the development of that area, whether cnf would consider working with the city in entering into preliminary agreements if possible on acquisition of land from cnf, and particularly on the question of whether in doing so the company could enter into some form of agreement that the value to be placed on that land might reflect the zoning in place today as opposed to the one you're asked to adopt. I can say today, and I think as chuck indicated to jim that day, that is something that chuck and others at cnf will take forward to their management. It does require that they take that up to management for its consideration and it would actually have to go to the board as a publicly traded company, as you can imagine. But I can say without equivocation that that is something we will take to the management and we'll do so very quickly. Secondly, that we will move quickly to speak to whatever kind of preliminary negotiations or discussions we need to have soon era they're than later, because it's important to us as well as the city. If we're going to be in a situation where a park, be it a whole block or something less than that is put on the table, that will have a tremendous effect on the planning that goes into preparing any master plan, let alone their own business strategy. They need to know which lands are available, which are not. We need to know the kind of park, the location, the facilities. Are we talking about linear parks, are we talking about a couch replica? Whatever it might be. So that's what I can carry forward now and without hesitation represent to you, and i'll answer any other questions you might have.

**Katz:** Thank you very much. Questions.

**Francesconi:** It was my understanding that the only addition I would add to what you said is that you and chuck were going to recommend it to the board. The board would have the right to reject it. Can we -- is my understanding right? [ laughter ]

**Pfiefer:** You're certainly testing my authority. I remember the discussion, and I do remember, commissioner, you asking chuck to clarify that as well. Other cnf representatives are here. Unfortunately they weren't in the meeting.

**Katz:** The answer is, of course we will recommend that to the board.

**Francesconi:** That's the answer.

**Pfiefer:** The better answer might be that I will of course urge chuck to carry that recommendation forward to the board. I think it's fair to say that was understood and that's of a specific interest to you, and I think --

**Francesconi:** It's a small point, because the board can reject it. But it important. So I take it you can only speak on your own behalf, so you are recommending. And I think you just said that. But whether chuck recommends it, you can't --

**Saltzman:** He's right.

**Pfiefer:** For whatever comfort it may be worth, i've shared some of the -- my own observations on land values in the area knowing what they are under the current zoning and under the proposed zoning, and as I mentioned, we've seen sales, as you well know for the telco site, for instance, on 19th and pettygrove, in excess of virtually any exd numbers that i've seen anywhere else in the central city. We've seen sales of existing industrially zoned land, and as I mentioned only half in jest, you need to be careful what you ask for, because it could be you end up with a higher value as opposed to values associated with a master plan. I don't seriously --

**Francesconi:** I'm satisfied. We can proceed.

**Katz:** Let me see if I can facilitate. You're going to tweak some language, ben, help me out here. I do not want to carry this for another week after next week, because they may come in with some tweaked language. Can we accept a tweaked language that we really don't have yet so we can proceed next week? And vote on it? How far are you tweaking it? Can you tweak it right now?

**Ben Walters, City Attorney's Office:** Can we take maybe a minute or two?

**Katz:** Why don't I give you a minute or two. Don't anybody move, because this isn't going to take long. If we leave, they're going to start negotiating other parts of the --

**Walters:** If staff can prepare some language right now, it may avoid having to go through --

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**Katz:** That's what I was trying to do.

**\*\*\*\*\*:** Yeah, I think --

**Katz:** Steve wants to know what you're writing. This is the historic -- ed, do you know what they're writing? You're okay. John, you're okay? And steve's okay. All right. This is a therapy situation. We're all okay.

**Katz:** For the young people watching us, this is how we do business here. We're very friendly, though we've hit them all over the head for past weeks and now they're all trying to agree on some language. The copy, a business, and a whole community and a neighborhood association. Not easy. But after the fourth try, we're finally there. We think. Okay? Do you want to give us the language?

**Manning:** They don't have that piece. I can hand out that piece.

**Katz:** Why don't you hand that piece out.

**Manning:** Or we can make copies of it really quickly.

**Katz:** Why don't you just read it to us, barry.

**Manning:** Okay. Section -- the proposed section 33562, 300 g-2-a should read -- the urban design elements of the proposed overall scheme and site plan provide a framework for development that will result in an area with an urban development pattern that will be attractive safe and pleasant for pedestrians and is integrated with historic resources and the character of the nearby area anticipated through the northwest area plan process. The urban design elements of the proposed overall scheme and site plan must meet the design guidelines that are in effect for the site at the time of application. 33.562 --

**Katz:** You're pulling out existing.

**Manning:** Yes.

**Katz:** You just want the notion -- the notion is historic resources.

**Manning:** It wouldn't -- if it was a future historic resource it wouldn't make any sense.

**Pfiefer:** Resources was a broader concept.

**\*\*\*\*\*:** The version they have may actually say resources.

**Manning:** The next one actually is a little more substantial change. 33.562.300 g-2-b-2 would read -- scale and massing of the development addresses the broader context of the area, including historic resources and the uses and development anticipated through the northwest area plan process, specifically at the edges of the northwest master plan area. Period. Okay? And then 33.562.300 g-4-d, which is one of the retail use criteria would say -- the scale and immensity of the proposed use and development is consistent with historic resources and the character of the area anticipated as a result of the northwest area plan process.

**Katz:** And the concern we're -- we're doing this because of the concern of the historic resources of the church, st. Patrick's church?

**Manning:** Correct.

**Katz:** I don't think there's much else there unless you call the freeway historic resource. I don't think so.

**Manning:** It's specifically for the church, yes.

**Katz:** All right. Everybody sitting in front of me, gil, steve, barry, you're all right? I will take a motion to accept all the amendments before us.

**\*\*\*\*\*:** And if that mark-up could be turned in to the clerk for the record.

**Saltzman:** so moved.

**Katz:** Okay. Thank you. Do I hear a second?

**Francesconi:** Second.

**Katz:** There are three votes for the amendments. Thank you. [ gavel pounded ] all right. Thank you, everybody. This passes on to next week and we will not allow the rest of the two members to



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add any other language. Is that a deal? So we can move this on. All right. Thank you, everybody. Good work.

**Francesconi:** Let me just thank cnf. Let me say just a word, because the neighborhood folks weren't in the meeting. I'm confident they've come to the conclusion that makes sense to have a park in this area, for a couple reasons. I think the representatives are starting to see that the tide has turned in terms of urban parks and neighborhood parks in the sense they add value to the surrounding property. It really adding value to homer williams's development. Jamison park isn't going to be o'brien square. I'm confident that it's in the self interest of the company. I'm also confident they recognize the need, and i'm also confident they know that it's a high priority for the planning department, the neighborhood, and the city council. So a combination of all those factors lead me to conclude that we can make this thing happen. But I also appreciate the new language in the master plan requirements as well. Thanks.

**Katz:** Let me also ps on that and ask the neighborhood association also, as you're now going through rethinking couch park, maybe we have a little bit more understanding about the demographics of the northwest, specifically of this area and what it might be, as well as why you're doing the couch park planning that you clearly understand the uses and how many eyes on the park in the park you need to make it safe and to make it safe for the elderly as well as the young, which is the problem that we have I think in couch park right now.

**Francesconi:** And I many make a personal commitment to the mayor that parks will take care of couch park.

**Katz:** You make a commitment not to me, but to the neighborhood association that's been struggling with this. Okay. Thank you. We have a 10:30 time certain, so let's take the regular agenda. 977.

**Item No. 977.**

**Katz:** Anybody want to talk to us about it? All right. This is a report. Roll call.

**Francesconi:** Aye.

**Saltzman:** Aye.

**Katz:** Mayor votes aye. [ gavel pounded ] is robert a. Butler here? I don't see him. All right. We have about a little more than half an hour, so we'll take a recess and be back promptly at 10:30. [ gavel pounded ] [ recess ]

At 9:59 a.m., Council recessed.

At 10:30 a.m., Council reconvened.

**Katz:** Council will come back to session. All right. Item 976.

**Item No. 976.**

**Katz:** Commissioner Francesconi, this was on the calendar last week and it's come back. Do you want to give us a quick review of the discussion last week and what you plan to do today?

**Francesconi:** Sure. Nancy, why don't you come forward while I do this. This is nancy ayers, the city attorney who drafted much of the changes. There's a need to have more regulations on the town cars and other limited passenger transportation. There's a general recognition. We need to level the playing field because the taxi industry, without it, suffers it. What happened last week is commissioner Saltzman and I both raised some concerns about some of the details. In the ordinance, the one in the ordinance was all the vehicles had to be younger than five years, five years or younger.

**Katz:** All the --

**Francesconi:** Town cars. And some luxury vehicles can be older than five years. I think I raised that one. In this draft, that language is taken out. And there was a variety of other things. There -- that the taxi board did, such as from the language it looked like sunroofs, tvs would be required. Commissioner Saltzman in particular made a point of some of that.

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**Saltzman:** As well as large vehicles.

**Francesconi:** And that was done in an exhibit by the taxi board that was attached. So we're trying to figure out how do you involve the -- and then there was the question of who the representatives should can on the taxi board. On the issue -- there was a general agreement, in fact it turns out that nancy had been working on this. We're changing it. It's not going to be a taxi board in the future. It's -- because the shuttle should be represented, as well as the town car industry if we're passing those kind of regulations. So that's going to happen. But the -- it's -- there's a different process for that. In fact, i'm already getting people who want to be on that board. So that's happening separate from this. But we had a discussion about this. The other question is how do you -- it's very important to have the industries be part of this, and so the question was, do we just mandate some of these changes here through the ordinance, or do we send strong signals to the taxi board that they've got to do some things differently in terms of those regulations. So we had a debate after the hearing between jim and john and nancy and i. So we chose the approach of directing -- i'm going to let the bureau take over now -- taking it out of the exhibits, taking the offending limitations out of exhibit a, which is what we have, and i'm going to let nancy -- and the words inserted "to administer -- administratively implement the board's regulations" was substituted. But i'm going to let you folks define what that means.

**Katz:** Okay. Introduce yourselves and talk to us.

**Jim Wadsworth, Director, Bureau of Licenses:** Mayor Katz, commissioners, good morning. I'm jim wadsworth, the director of the bureau of licenses and the chair of the taxicab board of review. As we mentioned to you last week, this was our first step at regulating the executive cars, formerly called town cars, and the shuttles, which the airport has stepped up and put some initial regulation in place. This ordinance is complimentary to that, and trying to define for the industry the differences between taxi service, towncar service, shuttle service, and other limited transportation providers, including the specially assisted transportation providers that we've been before council with before. The -- this was also an effort that the bureau made and the taxicab board made to bring you accompanying proposed regulations along with the ordinance so that you could see what the taxicab board was proposing administratively, as well as what the ordinance would do. And it's hopefully a precursor of what will be -- we'll be bringing forward to you with each step of our rewrite of the code around the ground transportation industries.

**Katz:** So, jim, the taxi board last week had proposed the sunroof and all the elements that commissioner Francesconi and commissioner Saltzman justified. Correct?

**Wadsworth:** They were proposed as a defining, trying to define what type of things the cars would have versus a taxi, versus a shuttle. And we had a "shall" in there where it should have been a "may" or in discussion with council with commissioner Saltzman and commissioner Francesconi, we decided that that probably didn't need to be there.

**Katz:** He wanted to protect -- i'm sorry. They wanted to protect the taxi industry.

**Wadsworth:** That's correct. We're trying to define the different types of ground transportation so they're very clear. Part of the problem with the regulations heretofore and one of the things you heard loud and clear from taxi drivers was that if you've got an unregulated provider out there, as the towncars were, that they can emulate taxi service and it degrades the quality and the level of service that the taxis can provide the public as well as putting some undue effects on public safety and then the pricing that goes along with it from a fair standpoint. So by regulating these other ground transportations and having an overall ground transportation regulation scheme, then we can better serve the pickup and -- public and better help the industry and the drivers in each of those provider categories to be able to make a living and still provide a good affordable consistent service.

**Katz:** Let me -- I would imagine that the taxi board -- where's the taxi board now, because of the change in the language that was proposed by the council?

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**Wadsworth:** The changes that council was proposing were more than acceptable to the taxi board. We had several of the taxi board members here last week, and these changes are more than acceptable. And we'll bring the -- those back through the taxi board in a revised order for the taxi board. But there was nothing that came out of the hearing that we couldn't fix and be able to deal with.

**Katz:** Okay.

**Francesconi:** Maybe if it's all right, mayor, if you could summarize the changes, nancy?

**Katz:** Do you want john to say anything?

**Francesconi:** I don't think we need to.

**Nancy Ayres, City Attorney's Office:** Three changes have been made to the ordinance and the code. In the ordinance itself, a fourth directory paragraph was added which referred the specific concerns of council last week back to the taxi board for their reconsideration, so the proposed regulations could be evaluated in accordance with those directions. The exhibit a to the ordinance is the new code language, and the definition of executive sedan transportation, which we commonly referred to as town cars, we removed the five-year-old requirement from that definition. That's on -- in section 16.40.900-a-1, small b. That's on page 1 of exhibit a. Unfortunately there are two -- you may have two exhibit a's. Exhibit a code amendment versus exhibit a which were the proposed regulations. It was unfortunate to have them both given the same letter. The last change in the code amendment was to 16.40-910, section b, on page 2 of exhibited a, and we've insert add phrase that would allow the taxi board to delegate its authority for administrative definition and implementation of these requirements so that, for instance, vehicle standards, the taxi board could give general outline of what the vehicle standards should be and then the taxi supervisor then could actually implement that and -- in whatever way he felt appropriate.

**Katz:** Okay.

**Francesconi:** Maybe you could -- that's where it's a little confusing. Could you explain, and john you can -- maybe why you chose to take that approach and what does that mean for the future in light of the council's concerns?

**Ayres:** Well, it was thought that rather than having such a hard and fast definition of what a town car should be as in the proposed regulations with all the various amenities or whatever, that the taxicab supervisor would be in a better position to make a judgment as to whether this vehicle was appropriate for that category of transportation. For instance, you could have a vintage car that would be more than five years old, but it would be a beautiful old car and appropriate for that kind of luxury service. Leave that kind of decision up to the taxicab supervisor as opposed to making it a hard and fast rule.

**Katz:** Let me ask, is there anybody in the audience that wants to testify on these amendments?

**Saltzman:** I have one --

**Katz:** Go ahead.

**Saltzman:** I appreciate these changes. I guess on the paragraph you added to the ordinance, the new paragraph 4, I guess what concerns me still is that as I read that new paragraph, we're still allowing the existing taxicab board to prescribe rules again related to executive sedan passenger amenities, size, and age of vehicles. And that kind of gets to the dynamic I was concerned about last week. Under the board's current constitution you have a board more or less dominated by taxicabs in the position of once again sort of regulating what a town car should look like, so we could end up where we were last week with the same sort of requirements. So I guess i'd like to ask if we could add a partner thetical sentence after -- at the end saying, after the board is reconstituted by ordinance, to include lpt representatives and others. So, in other words, they would have the authority to prescribe these regulations but only after it's included to -- including the new regulated industry. And I understand we're going to do that by the end of the year anyway. So would there be any harm in putting that on there?

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**Francesconi:** My only concern is timing. Part of the reason to delegate this definition as we did, more of it to the director, is because the director is not a member of the taxicab company. The ordinance we just did a minute ago. So whatever john, your title is.

\*\*\*\*\*: Supervisor.

**Francesconi:** I'm fine with this unless it's going to cause too much delay.

**Wadsworth:** Commissioner, I understand your concern. We have in drafting these rules, we did contact members of the executive car industry, and we did have two different hearings where we took testimony and did make changes to this. And again, i'll echo what commissioner Francesconi said. John's responsibility, he serves as staff to the taxicab board, but john is the supervisor for all of the ground transportation providers that we do provide. And he does advocate for them with the taxicab board. So that was the key there. It would in fact delay us in other things that we're doing to try to move forward to having a better ground transportation system and better regulations in place that more accurately reflect the industry and the city's needs for ground transportation at this time. So --

**Francesconi:** How about this.

**Saltzman:** Several of those issues bubbled up. We heard about the sign requirements, amenities. If you tell me it won't happen between now and when the new board is constituted, fine. If you tell me that. Otherwise I feel we need to at least with respect to the amenities and size and age of the vehicles, we can't allow a situation where we have a rules issue that sort of -- discriminatory maybe towards an industry that's not represented on the board.

**Francesconi:** How about this approach, commissioner. Because you have a valid issue from a process standpoint. How about if once these rules are passed again, they have to come right to us so that gives us the opportunity to do it again. So we'll protect the others. It's only because I want to get some rules in place because I really believe that the climate out there is unfair to taxi drivers. And I also believe we opened this up to other companies, and it's incumbent upon us to act. That's why I want to move on this. But having said that, if the rules automatically have to come to us and we don't like them we'll change them, that would issue your concern. Because we'll dot same thing we did last time. Is that okay?

**Saltzman:** Sure.

**Francesconi:** Nancy, if you could insert language --

**Katz:** John wants to say something. Nancy, work on that. Go ahead. Do it right now, otherwise it's going to have to wait another week to pass.

**Ayres:** Okay.

**Katz:** Go ahead.

**John Hamilton, Taxi Supervisor, BOL:** Thank you, mayor Katz. I'm john hamilton, taxi supervisor, bureau of licenses. One of the reasons I think it's important to let the board go ahead and make some changes in its administrative rules is to take care of some of the items that were brought up last week regarding the name, how the vehicles will be identified if we wait until we have the new board, that would postpone that and make all the executive car companies have to write "executive sedan" in addition to their name on the vehicle, especially attended transportation for the s.a.t. Providers. I recall there were -- was quite a bit of testimony not wanting to do that. So I wouldn't want the board to be disabled and -- in being able to make those changes.

**Katz:** Nancy, why don't you read the language.

**Ayres:** This would add a sentence to the end of paragraph 4 in the ordinance that would say, the revised proposed regulations shall be submitted to and approved by city council prior to there becoming effective.

**Francesconi:** There you go.

**Katz:** Okay. Does that satisfy you? Good. Anybody want to testify? No? I didn't see anybody. I'll take a motion to -- this is not a substitute. To an -- to amend the ordinance.

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**Saltzman:** So moved.

**Francesconi:** Second.

**Katz:** Any objections? Hearing none, so ordered. [ gavel pounded ] this will come back next week for a vote. Okay. All right. Mr. Butler. Why don't we read the item.

**Item 978.**

**\*\*\*\*\*:** Good morning.

**Katz:** You have three minutes, mr. Butler. Why don't you move the mikes closer to you.

**Robert Butler, 3415 NE Broadway, Portland:** Thank you very much. I'll go as fast as I can. My name is robert butler, long time resident, taxpayer, and voter. Okay. I've tried to go through the chain of command. I have a building located at 3415 northeast broadway. We've been there 25 years. The last 15 years we've been flooded four times. Because the catch basin is -- were not -- it comes at different times of the year in Portland. The first time it flooded we paid, the second time we're not paid, but they did -- the city did come out and put a catch basin in front of our building, which is -- which happened to be located under a tree. I'm not an engineer, but I questioned that. It's not an evergreen tree, it does shed leaves. The third time, nothing happened. The fourth time was the 4th -- the 1st of august of 2000. It really did damage this time. The furnace is not operable.

**Katz:** This now -- now you're talking about damaged furnace.

**Butler:** Yes, I am. And to the basement. It took \$1,000 to get the water out, the total bill was about \$5500. Without being able to provide, you know, heat for my renters, i'm not going to be able to rent the place, and therefore i'm not going to have any income at all. I filed this claim, the first claim was in january of -- 22nd of this year, and from that time on i've been bounced around from risk management to michael mock, who at that time was the ombudsman, I thought, do you have two now? I'm not sure.

**Katz:** He's my public advocate, which is like an ombudsman.

**Butler:** Oh, okay. I met with him, I talked to him on the telephone, I have been bounced around to the sewer department. I even caught commissioner Saltzman coming out of his office and talked fast for two minutes while he was going to a meeting. Nothing has been resolved. I just would like someone to say, you're not going to pay, you're not responsible, then I can carry on. I mean -- but as it is now, I am out of business. I cannot rent the place as it is without a furnace. And I do not think it's my -- in my letter I -- I got a letter from risk management indicating my responsibility as a homeowner, or business person. I checked the catch basins on both sides of the street during the winter -- winter, I carry a rake in my car. I think that's being responsible enough.

**Katz:** Thank you. Usually we don't have a conversation on this one, but there's -- i've got -- and I think commissioner Saltzman has -- this is your file. All the cars dense and -- that I have. I don't know where are we now with this issue?

**Saltzman:** We have somebody here from risk management. I don't know if you wanted to add anything -- I can get my perspective, but i'd like to hear.

**Katz:** Thank you, mr. Butler. Let's suspended rules, because traditionally we don't do this. But mr. Butler has been waiting since -- why don't you go back and if we need -- if you hear something that's not accurate, you may hear something you don't like, but if you hear something that's not accurate, raise your hand. Come on up.

**Randy Stenquist, Senior Risk Specialist, Risk Management:** Mayor Katz, commissioners, my name is randy, i'm a senior risk specialist with risk management. With regards to mr. Butler's assertion he hasn't heard anything, his claim against the city of Portland was filed on january 23rd, and the letter that we sent to him in response to that claim is dated january 25th. That's a two-page letter essentially denying the claim based on a number of reasons. The incident that gives rise to his claim, his most recent claim is the severe storm that we had in the early morning hours of october 1st during that storm which hit the northeast section of the city particularly hard up to an inch and a

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half of rain per hour was recorded for a period of several hours. That occurred on the early morning hours of Sunday, October 1st, on Monday morning -- all day, October 3rd, my office received 39 telephone calls complaining about various flood situations from plugged catch basins and sewer backups. Subsequent to that we received 25 claims against the city, including Mr. Butler's. Of those 25 claims, 23 of them were denied. The basis for our denial has to do with largely the discretionary use of city funds to make enhancements to the sewer system. Coupled of course with the unusual weather event that occurred that night. City attorney's office has advised the maintenance and a -- it is a discretionary decision made by the council, and we quoted that section of the Oregon revised statutes in our letter to Mr. Butler. Mr. Butler and/or his tenants have filed for flooding claims with my office since 1990. My research indicates all of those flooding claims have been denied. There was one claim that we did pay Mr. Butler. It had nothing to do with a flood issue, rather it was a break after phone cable that was inadvertently severed by the water bureau crews.

**Katz:** At some point, though, my office contacted Commissioner Saltzman's office and we wanted to send them to see whether they made errors somewhere in the past in terms of the location of these catch basins. And I don't -- I think Dean Marriott went out there, and I don't know what the result of that is.

\*\*\*\*\*: I don't have specific --

**Saltzman:** Well, I don't have a question whether the location was appropriate, but the condition of the catch basins was expected -- inspected most recently by April 12th of this year, and they were found to be clear and no problem with the system itself.

**Katz:** When --

**Saltzman:** April 12th.

**Katz:** Okay.

**Saltzman:** I guess -- I think risk management has pretty much put down the city's position on this matter. We've done -- we've been out to your site as well, Mr. Butler, and it looks to me, from what I've heard from my staff people, that the conditions probably resulting in the flooding are first of all the storm event, which the city has no control over, secondly is the maintenance of the catch basin itself, and that's -- that is the property owner's responsibility, at least maintaining the surface, keeping the leaves off, it sounds like you're doing that, but it also looks like there's structural deficiencies on your property itself with respect to how rain water is handled. The drainage pipe from your downspout to the manhole is not functioning. It also looks like the way your basement and stairway are structured, runoff from the sidewalk is going to naturally convey itself down that stairway into your basement. So I'm not saying these are -- these basically fall under property owner responsibilities, not city responsibilities. So I think that's essentially the situation. I don't know about whether there's any investigations as to whether we placed the manholes -- the catch basins in the right place or not. But I would point out if placing them near trees is somehow not allowed, that's a bigger issue than this particular situation, since we have some 5400 catch basins throughout the city and many of which are as we well know from hearing from neighborhoods like Laurelhurst during the fall, leaf removal is a big issue. Throughout many areas of the city.

**Katz:** Mr. Butler, did you hear anything that was not accurate? Come on up. Thanks.

**Butler:** First a comment on risk management. The claim was paid the first claim was paid. Probably before this young man came to work here or something like that. The records are lost. The first claim was paid. Again, with Mr. Saltzman there, I think he did have someone from his office, some -- something like that down the line come and look at our building, and said that -- and you're right, there was a gutter off. On one side of the building. And they said that was the cause from the flooding. My contention is, if the water -- take the dimension of a regular house. If the water from that comes down the driveway, makes a turn to come down into the basement, it's not logical. The water came from the street from the plugged-up catch basins. Thank you.

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**Katz:** Mr. Butler, this is a whole other issue, but is this graffiti on your wall?

**Butler:** I don't know if it's still there.

**Katz:** Make sure that it's painted over.

**Butler:** Yeah.

**Katz:** Okay. Good. That's just a thing I have with everybody. Not just with you. Thank you. All right.

**Saltzman:** I'll check into whether the bureau of environmental services has pursued this request about whether we place the catch bay ins -- basins in the right place, but I wouldn't hold up much prospect of that answer being anything dramatic.

**Katz:** You need certainty one way or the other. Okay. All right. [ inaudible ] fair enough. Commissioner Saltzman will double-check with staff and b.e.s. To see if there's any other circumstances that need clarification and then you'll get your letter from -- your final where from risk. [ inaudible ]

**Butler:** There was a downpour, correct. Would it take a lot of water to create almost a foot in the basement. That water did not come off the roof, it came from the street. That's all i'm --

**Katz:** Okay. All right. Thank you. All right, everybody. I think there is no business before us this afternoon or this evening, so we stand adjourned. And we'll see each other next week. [ gavel pounded ]

At 11:02 a.m., Council adjourned.