



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A SPECIAL MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **24TH DAY OF NOVEMBER, 2015** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz, Novick and Saltzman, 5.

Commissioner Saltzman arrived at 9:32 a.m.

OFFICERS IN ATTENDANCE: Susan Parsons, Acting Clerk of the Council; Heidi Brown, Deputy City Attorney; and Mike Cohen, Sergeant at Arms.

SPECIAL MEETING THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz, Novick and Saltzman, 5.	Disposition:
<p>1211 TIME CERTAIN: 9:30 AM – Replace Code Chapter 16.40 pertaining to Private For-Hire Transportation in the City of Portland (Previous Agenda 1162; Ordinance introduced by Commissioner Novick; replace Code Chapter 16.40) 2.5 hours requested</p> <ol style="list-style-type: none">1. Motion to accept (a) Novick scrivener corrections and (b) Novick amendments to 16.40.230 regarding TNC insurance with Fritz friendly amendment regarding disclosure: Moved by Novick and seconded by Fritz. (Y-5)2. Motion to amend 16.40.130 G.1 to require a minimum of \$500,000 of insurance liability coverage in period one: Moved by Fish and seconded by Fritz. (Y-2 Fish and Fritz; N-3 Novick, Saltzman, Hales) Motion failed.3. Motion to amend 16.40.160 C to give taxi cab companies flexibility of using more than one unique color: Moved by Fish. (Y-5)4. Motion to add 16.40.980 C and D: C. The effective date of any requirement in this Chapter applicable to the operation of a non-motorized Private for-hire Vehicle or provision of non-motorized Private for-hire Transportation, and Non-Emergency Medical Transportation Companies/Specially Attended Transportation Companies, NEMT/SAT Vehicles, NEMT/SAT Services, and NEMT/SAT Drivers is suspended until such time that alternate provisions in Chapter 16.40 pertaining to non-motorized and NEMT/SAT companies, drivers or vehicles are adopted by City Council.	<p>PASSED TO SECOND READING AS AMENDED DECEMBER 2, 2015 AT 10:00 AM TIME CERTAIN</p>

November 24, 2015

D. The Director may, by administrative rule, suspend any requirement in this Chapter for a period of 180 days that will likely result in prejudice to the public interest or the interest of the affected parties.

Moved by Fish and seconded by Fritz. (Y-5)

- 5. Motion to add to 16.40.250 A: The Transportation Network Company may not dispatch a vehicle unless the designated Trade Dress includes a visible Portland Business license identification number specific to each PFHT Vehicle:** Moved by Saltzman and seconded by Fritz. (Y-4; N-1 Hales)

At 1:44 p.m., Council Special Meeting adjourned.

November 25, 2015

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **25TH DAY OF NOVEMBER, 2015** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz, Novick and Saltzman, 5.

OFFICERS IN ATTENDANCE: Susan Parsons, Acting Clerk of the Council; Ben Walters, Chief Deputy City Attorney and Linda Law, Senior Deputy City Attorney 10:55-11:15 a.m.; and Jason King, Sergeant at Arms.

Item No. 1216 was pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

<u>WEDNESDAY, 9:30 AM, NOVEMBER 25, 2015</u>	
THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz, Novick and Saltzman, 5.	
COMMUNICATIONS	
1212 Request of Ptery Lieght to address Council regarding policy on houselessness (Communication)	PLACED ON FILE
1213 Request of Krista Barron to address Council regarding houseless issues (Communication)	PLACED ON FILE
1214 Request of Barry Joe Stull to address Council regarding Partnership Agreement: Street Musician Free Music Zone (Communication)	PLACED ON FILE
TIMES CERTAIN	
1215 TIME CERTAIN: 9:45 AM – Establish a tax on the demolition of certain residential structures in the City of Portland (Previous Agenda 1054; Ordinance introduced by Mayor Hales; add Code Chapter 6.08) 1.25 hours requested	
a. Motion to accept Mayor’s amendments 1 & 2 to (1) delete 6.08.055 paragraph 2 regarding rebates for development that increases the number of dwelling units; and (2) change effective dates 6.08.030 to March 1, 2016 and 6.08.050 to February 29, 2016: Moved by Hales and seconded by Fish.	
b. Motion to accept Fish amendment 1 to add 6.08.050 A 3, Demolition shall not apply to “Properties purchased by the City for restoration purposes that are in the floodplain or, in the reasonable estimation of the Director of the Bureau of Environmental Services, are at risk of future flooding”: Moved by Fish and seconded by Hales.	

<p>c. Motion to accept Novick amendment 1 to 6.08.055 to add rebate provision if a sales price of the replacement Residential Structure meets certain thresholds: Moved by Novick and seconded by Fish.</p> <p>d. Motion to accept Novick amendment 2 to add directive c "The Revenue Division shall study and report to Council by June 2016 about options for administering and enforcing an exemption or rebate to the tax for existing owners who plan to occupy the new house for at least three to five additional years": Moved by Novick and seconded by Saltzman.</p>	<p>PASSED TO SECOND READING AS AMENDED DECEMBER 2, 2015 AT 9:30 AM</p>
<p>e. Motion to accept Saltzman amendment regarding exemption for affordable housing to follow guidelines Portland Housing Bureau sets for Home Ownership Limited Tax Exemption program approved by Council each year: Moved by Saltzman and seconded by Fish. Motion withdrawn.</p> <p>f. Motion to accept Fritz amendment 6.08.050 Exemptions to add "3. Demolition permits where the applicant is the homeowner": Moved by Fritz and seconded by Fish.</p> <p>Votes:</p> <p>1. Motion to accept Bureau-proposed amendment to 6.08.055 Rebates; strike "exempt" and replace "under either" with "such as" in paragraph B of Bureau amendment; replaces Saltzman amendment: Moved by Saltzman and seconded by Fritz. (Y-5)</p> <p>2. Vote on Mayor amendment 1 on density (a1. above): (Y-4; N-1 Novick)</p> <p>3. Vote on Mayor amendment 2 on effective date (a2. above): (Y-5)</p> <p>4. Vote on Fish amendment (b. above): (Y-5)</p>	
<p>5. Motion to accept Fritz amendment (f. above) and add "whose legal residential address was the site as of March 1, 2016": Moved by Fritz and seconded by Fish. (Y-5)</p> <p>6. Vote on Novick amendment 1 (c. above): (Y-2 Fish, Novick; N-3 Fritz, Saltzman, Hales) Motion failed.</p> <p>7. Vote on Novick amendment 2 (d. above): (Y-5)</p> <p>8. Motion to amend 6.08.030 Demolition Tax to clarify that unit means individual dwelling unit. Add "per dwelling unit" to end of first sentence: Moved by Fritz and seconded by Fish. (Y-4; N-1 Fish.)</p>	
<p>CONSENT AGENDA – NO DISCUSSION</p>	
<p>Mayor Charlie Hales</p>	

November 25, 2015

Bureau of Police	
1216 Authorize a Memorandum of Understanding with the partner agencies that constitute the Domestic Violence Enhanced Response Team for the stated project goals listed in the Office on Violence Against Women FY14 Grants to Encourage Arrest Policies and Enforcement of Protection Orders grant program award (Second Reading Agenda 1190)	RESCHEDULED TO DECEMBER 2, 2015 AT 9:30 AM
Commissioner Steve Novick Position No. 4	
Bureau of Transportation	
1217 Amend Intergovernmental Agreement with Oregon Department of Transportation for design of the SE Holgate & SE Ramona: 122nd to 136th Ave Sidewalks project (Ordinance; amend Contract No. 30002698)	PASSED TO SECOND READING DECEMBER 2, 2015 AT 9:30 AM
City Auditor Mary Hull Caballero	
*1218 Waive bond requirement of Code Section 5.08.160 D to allow City to pay accrued leave to spouse of deceased employee (Ordinance) (Y-5)	187458
REGULAR AGENDA	
Mayor Charlie Hales	
1219 Add Code Removing Barriers to Employment to establish procedures for the use of criminal history information by employers within the City (Second Reading Agenda 1208; add Code Chapter 23.10) (Y-5)	187459
Commissioner Steve Novick Position No. 4	
Bureau of Transportation	
1220 Repeal Ordinance which vacated a certain portion of NE Emerson St between NE Martin Luther King, Jr. Blvd and NE 6th Ave under certain conditions (Second Reading Agenda 1201; repeal Ordinance No. 169325) (Y-5)	187460

November 25, 2015

Commissioner Dan Saltzman Position No. 3	
Portland Housing Bureau	
*1221 Extend contract with Bowman Systems, L.L.C. for five years and increase the Software and Services Master Agreement for hosted software and related services by \$1,250,000 for a not-to-exceed contractual total of \$1,750,000 (Ordinance; amend Contract No. 30003215) (Y-5)	187461
*1222 Amend subrecipient contract with Cascadia Behavioral Healthcare, Inc. to add \$924,000 for the creation and operation of an intensive street engagement program for people experiencing homelessness (Ordinance; amend Contract No. 32001163) 15 minutes requested (Y-5)	187462
1223 Authorize a subrecipient contract with Portland Housing Center for \$123,000 for homeownership counseling and education (Second Reading Agenda 1206; Contract No. 32001218) (Y-5)	187463

At 12:55 p.m., Council adjourned.

MARY HULL CABALLERO
Auditor of the City of Portland



By Susan Parsons
Acting Clerk of the Council

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

<u>WEDNESDAY, 2:00 PM, NOVEMBER 25, 2015</u> DUE TO LACK OF AGENDA THERE WAS NO MEETING	
--	--

November 24, 2015
Closed Caption File of Portland City Council Meeting

This file was produced through the closed captioning process for the televised City Council broadcast and should not be considered a verbatim transcript.

Key: ***** means unidentified speaker.

November 24, 2015

9:30 AM

Hales: Good morning, everyone, and thanks for accommodating us here with a different schedule this morning. This is a special meeting of the Portland City Council on November 24th. Would you please call the roll?

Novick: Here. **Fritz:** Here. **Fish:** Here. **Hales:** Here.

Hales: Good morning, everyone. We have a single item on the Council calendar this morning, which is a continued item from a previous Council meeting. I'll be brief about the specifics of how we have Council meetings because maybe some of you were here for that one.

This is a continuation of a previous Council meeting. We'll be taking testimony of folks who signed up last time and didn't get a chance to speak. We'll also be considering Council amendments and taking further testimony on those amendments from those that came here today to speak about them.

As always, we maintain the rules of decorum here in the chambers, so if you agree with someone and want to indicate your support, give them a thumbs up. If you don't, give them a thumbs down, but we ask that we not applaud or make vocal demonstrations in favor or against our fellow citizens so that everybody has a chance to be heard here. If you're here to testify, you need only give us your name, unless you're representing an organization, in which case you need to let us know who you're representing. With that, let's please read the item.

Item 1211.

Hales: Commissioner Novick.

Novick: We actually have two amendments to offer, which I'd like Mr. Hockaday to explain.

Hales: OK. Come on up, please, Bryan. Let's make sure that everybody on the Council has copies of the proposed amendments. I think I do. Commissioner Fritz may not.

Fritz: No, I don't.

Hales: Copies of the amendments, please?

Fritz: Commissioner Novick has an uncanny ability to schedule these things when my lead person, Claire, is on vacation.

Novick: [laughs] That is not intentional. I really value Claire's input.

Hales: Commissioner Fish needs a set too, and Commissioner Saltzman. I have one.

Fritz: Thank you.

Hales: OK, gentlemen, walk us through these, please.

Bryan Hockaday, Office of Commissioner Steve Novick: Good morning, Mayor and City Council. My name is Bryan Hockaday, I work for Commissioner Steve Novick.

Commissioner Novick has two amendments to offer. The first is the sheet of a list of scribes and typographical errors that we wanted to make sure that we corrected. You'll see that there. Just to address some unintended errors within the actual code. The other, however, is a substantive amendment relating to TNC insurance.

As you'll recall, at the last Council hearing where this issue was addressed, there was an amendment adopted to strike language which essentially stated that insurance

November 24, 2015

could be provided and maintained by not only the TNC, but also the driver or a combination of the TNC company and the driver. That language was removed and now just reads insurance must be provided and maintained by the TNC.

So, this amendment before you adds some language stating that drivers do have the option of purchasing a ride share endorsement, which is additional insurance above the City's required minimums. The TNC is required to maintain at all times the City's required insurance levels at all periods, and they must disclose to their drivers that the drivers do not need to purchase anything additional and that the specific levels of insurance are maintained by the TNC.

The drivers still have the option to purchase a ride share endorsement. The product is not currently available in the state of Oregon. It's a relatively new product being offered in a few states, including Colorado. Metromile, as I understand, has applied with the state to provide -- to offer ride share endorsements, but, again, it is not available. And this amendment makes it very clear that the TNC is always responsible for providing primary insurance.

Novick: And our concern at the last hearing was that if we say there is an option one or the other, then the TNCs will pressure the drivers to always buy insurance themselves. So, we added language specifically saying that the TNC shall not require or encourage a TNC driver to secure a primary personal automobile insurance policy. They'll disclose in writing that the drivers are not required to purchase and maintain their own policy covering TNC activities. We also added language saying that the TNC shall advise affiliated TNC drivers that the driver's personal automobile policy may be subject to cancellation or might not provide coverage because the driver uses a vehicle in connection with an affiliated TNC as specified within the terms of the policy.

So, we want to make it actually a violation of the rules for a TNC to even encourage a driver to secure a primary personal automobile insurance policy, and also to more directly address a concern that has been raised before that drivers should know that -- although we haven't seen a lot of evidence that this is happening or any evidence recently -- that the driver's personal automobile policy might be at risk if you are a TNC driver.

Fritz: I'll second for purpose of discussion.

Fish: I have a question of the sponsor. Steve, we discussed a couple of proposed amendments that I drafted yesterday, and I'm not going to offer most of them based on the conversations we had. But the question I have is at some point, the ride share endorsement may become -- is readily accessible in the marketplace and may become industry standard. What's the mechanism for us to revisit the question of whether that's something we're going to require?

Novick: Actually, Commissioner, I think that for this new industry -- as for Airbnb, for that matter -- we should be revisiting a bunch of these issues as time goes on and more information becomes available, more products become available. So, I am planning to ask for Council to have probably a work session on a variety of issues relating to TNCs after we're out of the budget season, before into the next one -- like maybe sometime between June and September.

Fish: OK. And as these things evolve in the marketplace and become available, we'll have a chance to be briefed on them and decide whether we think they are -- should be part of our regulatory system.

Novick: Yes. Another issue where I want us to keep monitoring the studies that are done and the information that we get is what the environmental impact of TNCs is. Right now, the jury is out. The people I trust think they're persuaded on balance that the existence of TNCs results in fewer overall automobile trips, but New York City I know is undergoing a study to that effect. And if it turns out six months from now, a year from now there's strong

November 24, 2015

evidence that we're increasing the number of vehicle trips by allowing these, I think we need to revisit the whole issue.

Fish: Mayor, I have two amendments.

Fritz: Oh, before --

Fish: Sorry --

Fritz: To this?

Hales: To this? Let's stay on this.

Fish: No, not on this.

Fritz: I have a suggested friendly amendment -- at least I think it's friendly -- Commissioner Novick, to add to number two about the disclosure in writing. At the end, add "the disclosure shall include a statement that the TNC does not provide collision insurance." Do you accept that as a friendly amendment?

Novick: I'd want to ask Mr. McGair and Mr. Hockaday if that raises any particular flags for them for some reason.

Ken McGair, Office of the City Attorney: It doesn't raise any particular flag for me. The collision insurance is an optional coverage under state law, Commissioner, and this is simply a disclosure that the TNC has to make to the driver.

Novick: It's my understanding that taxi cabs also are not required to provide collision insurance for drivers that happen to be driving for them but own their own cabs, is that correct?

McGair: That's correct. It's not in our code that they have collision insurance, but practically I think they do provide collision insurance for most vehicles, not all of them, and a few of the companies self-insure that particular coverage, as I understand it.

Novick: OK.

Hales: Could you read your language again, Commissioner Fritz? I think I have a question.

Fritz: At the end of paragraph two, "the disclosure shall include a statement that the TNC does not provide collision insurance."

Hales: Well, what if they did? I don't know if that would be possible, but maybe it needs to say as to whether or not --

Fritz: I would accept that as a friendly friendly amendment. [laughter]

Hockaday: May I just add -- in paragraph three, we are requiring that the TNCs disclose in writing to the TNC drivers the insurance coverage, including the types of coverage and limits for each coverage.

Hales: Oh, well maybe you have covered it then. Hear that? You're proposing to require that they disclose what kinds and amounts of coverage that they provide.

Hockaday: Right.

Novick: Yeah, but I actually think that that wouldn't necessarily result in a specific statement that we don't provide collision insurance.

Hales: OK, alright.

Novick: So I accept Commissioner Fritz's friendly amendment as friended by the Mayor. [laughter]

Fritz: Thank you.

Fish: Getting awfully friendly.

Hales: Any other questions or suggestions about Commissioner Novick's proposed amendments? Then we could take a vote to accept them for purposes of testimony and move on. Roll call, please.

Roll on amendments.

Novick: Aye.

November 24, 2015

Fritz: Since I haven't had my expert staff person looking at the -- it looks like a couple of dozen technical amendments, I'd like to reserve the right to look them over. I don't know if we're planning to have a final vote today. I also have a question about the amendment, a technical amendment that I had requested to 16.40.020 A to make that language more clear. I don't believe I received anything on that. But for the purpose of this hearing, I vote aye.

Fish: Aye. **Saltzman:** Aye. **Hales:** Aye.

Fish: Mayor, I have two other amendments and a question. Let me start with the question. Mr. Hockaday -- I'll follow your boss's lead -- when we had a discussion yesterday about some amendments that we were considering, one of the issues that we raised was whether a -- in the context of someone that had Washington or California license plates, whether we would require a DEQ certificate of compliance. And I believe that the information you shared with me was that we're satisfied that Washington and California have equivalent standards and therefore, we would not require an additional certification for the DEQ. Can you just elaborate on that?

Hockaday: Absolutely. We are requiring a new requirement for taxis and TNCs that they do comply with Oregon DEQ standards for the Portland metro area. That is new, and it's to address or help address some of the environmental concerns we have about this industry. We do not have an agreement with the state so that we could require that every single vehicle go through an additional emissions test. However, I can rely on folks from PBOT who are the technical experts. It is our understanding that California has higher DEQ standards than Oregon, and Washington's are about the same for Portland.

Fritz: Can I just ask a follow-up question on that? My understanding is that even Medford or Pendleton don't have the same air quality requirements that we have.

Hockaday: And if those vehicles are not able to demonstrate they meet or exceed the Portland metro requirements, they cannot be permitted to operate in the city of Portland.

Fritz: How would we know?

Hockaday: A few ways. We can look for the Portland metro sticker to make sure that it's gone through the test or we can refer to other decals or other certifications from other states to determine exactly what the emission rates are for that particular vehicle. And most vehicles these days -- particularly very new ones -- they are not even required to be tested by Portland and by many states because they do comply with stringent DEQ standards.

Fritz: We heard, though, in testimony that you can go and buy -- I don't understand when you say the state doesn't agree to it. Anybody can go to the DEQ and do a test and get a sticker.

Hockaday: Sure, absolutely. It's just that we, the City of Portland and PBOT, have not entered into an agreement with the state so that we could include a requirement that all vehicles go through that. And we think that would not be necessary because all vehicles already -- many vehicles do meet those standards.

Fritz: I'm sorry, I don't understand why we need an agreement for the state to do that.

Hockaday: The volume of taxi and TNC vehicles that would go through that test would be quite a bit.

Fritz: But presumably they charge a fee for service, so I don't understand that. Also my understanding is it's a number of Utah drivers are driving in Portland. What are Utah standards like?

Hockaday: I don't know how many Utah drivers are in Portland nor do I know what the Utah DEQ standards on at the top of my head. I'm happy to look that up and provide that to you.

Fritz: Thank you.

November 24, 2015

Fish: For purposes of today, Commissioner Novick, I would just like a commitment that we'll park this issue for future consideration. And since you've identified some environmental impact questions that you have concerns about, at some future date, we'll take up the question about whether our standard is sufficient to ensure that people's cars are meeting our emission standards.

Novick: Absolutely. And I should note that the cars are required to be less than 10 years old, and as Mr. Hockaday said, newer cars tend not to have a problem with anybody's emission standards. In fact, in California -- which has very stringent emission standards -- they're not requiring exhaust tests for 2009 or newer cars.

Hockaday: And we've been engaged with BPS at the beginning of the process because we are very concerned about the environmental impact. Nationally, there's not enough information known about the industry and its environmental impacts, but I think this is an issue that everybody around the U.S. is looking at.

Fish: I appreciate the conversation we had yesterday, the fact that it's on the radar, and so I will not be offering an amendment on that issue today. I will be offering --

Saltzman: Can I just ask you a question about this amendment? You are offering the DEQ one?

Fish: I'm not.

Saltzman: Oh, you are not. OK.

Hales: He wants to have the issue examined and looked at again later. Is that right?

Fish: Professional team yesterday raised concerns but also made a commitment to follow up on the issue and I thought it better to defer.

Saltzman: OK.

Fish: So, the first amendment I'm going to offer is on insurance. The last time we gathered, Commissioner Fritz offered an amendment which I seconded which would require a minimum of one million dollars of liability coverage in periods one, two, and three. That amendment did not secure Council approval. We've had some extensive discussion since then on this question. Reasonable people can disagree about insurance, but I'm offering an amendment that would require a minimum of \$500,000 of insurance liability coverages in period one.

Fritz: Second.

Hales: Questions?

Fritz: If I might speak to the amendment. We received yesterday some information from the taxi cabs' insurance company representative that I'm sure -- that I hope we'll get some testimony about examining the data from crashes in taxi cabs and showing that between 75% and 80% of the crashes that taxis are involved in have no passengers in the car, which implies that they're in period one equivalent, and that the average taxi cab crash rate is about .5 to .6 crashes per car per year. So if you take a conservative estimate of 50% of the crashes happening in period one and .5 crashes per year, with 2000 TNC drivers on the road, that's 1000 crashes per year in period one.

So, knowing that having good insurance doesn't cost that much more than having poor insurance -- I looked at my own records for how much I pay for insurance on the one car of mine that would be eligible for this ride sharing that's new enough, and it would only cost about \$100 a year to go from -- six months to go from the state minimum to going to good insurance coverage.

What we all have been striving for here is first of all to make a level playing field between the taxis and TNCs -- taxis are required to carry \$500,000 at all times -- and second of all, to provide a safe system that protects drivers and customers and the general public. And having 2000 commercial drivers on the streets with only \$50,000 in liability for death for a person is just not adequate. So, Commissioner Fish's amendment more clearly

November 24, 2015

addresses the needs if you are driving commercially, you need to have adequate commercial coverage.

Fish: Mayor, the only other thing I would add -- and urge us to take a vote on it -- is over time, we have had a number of very thoughtful hearings on this issue and other issues. The principled objections that I've heard to having a higher limit in period one are as follows. There was a national insurance settlement and that settlement resolved the issue and therefore Portland should follow the national settlement. To that, I simply say we have not felt constrained in regulating in this area based on national standards. In fact, Portland has taken some pride in setting the bar higher than national standards or the practice in other jurisdictions, and I think in this area we can take some pride in providing an extra measure of protection for the public.

The second claim that we've heard is that somehow the market doesn't provide insurance at this level in period one. I think that's been effectively rebutted by testimony we've had. And my general understanding of the marketplace is if you require people to have insurance and it turns out it's an over-insurance, there will be plenty of people willing to offer it because that's a pretty good business model. For those and other reasons, I would just call the question.

Novick: And I will say again that I think that the argument for a higher level of insurance is a perfectly reasonable argument. I also think it's a reasonable argument that period one is sort of a period in between commercial service and personal use. Uber has given us their crash data during the pilot period, and what they've had out of a million rides, 95 crashes. 11 of them have occurred in period one. 19 in period two. 65 in period three. So, that's the data that we have so far. And by the way, Commissioner, period two is also a period when there's no passengers in the car. It's when a ride has been accepted, but there is no passenger in the car.

So, I think again that this is an issue where we ought to monitor the data. And it's quite possible that some months from now or a year from now we might actually reverse this decision, but for now I'm inclined to follow the lead -- and yes, I'm talking about other cities here -- of Denver and Seattle and Ann Arbor and Austin and Chicago and other cities that have adopted the model that we have adopted now.

Hales: Other comments before we vote? OK, roll call on the proposed amendment, please.

Roll on amendment.

Novick: Nay.

Fritz: This Council is different from other Councils because two members of the Council have had dear relatives killed in car crashes. And for us to say that those 11 people who were injured in period one this year are somehow part of an experiment -- we don't know what the extent of their injuries were or what the cost of their medical bills were. \$50,000 per person, \$100,000 per incident does not go very far in today's economy. And I urge the Council to take responsibility for our citizens. We're talking about the people of Portland who are at risk from commercial drivers. Aye.

Fish: Aye.

Saltzman: No.

Hales: I'm not going to support the amendment, but I'll hear testimony on the subject. No.

Fish: And Mayor, I have one additional amendment.

Hales: Yes.

Fish: I'll hand this out. I discussed this briefly with Commissioner Novick this morning, and this was brought to our attention yesterday. My amendment would amend 16.40.160 C to give taxi cab companies the flexibility of using more than one unique color to identify their cabs. This issue came to me yesterday through one of the cab companies that in effect

November 24, 2015

made the case that they may choose to have more than one color scheme. I guess we could call them the Oregon Ducks of cab companies. In addition, we currently don't require a uniform color, obviously, for any of the TNCs and so we don't regulate that area.

It would seem to me while this is not the most important issue that we're going to address, I couldn't see a good reason why we wouldn't afford the same flexibility to the cab companies to choose more than one unique color to identify their cabs. And let's just use an example of EcoCab. They may choose to have a chocolate brown, a green, a blue -- all that may or may not be identified as having environmental branding -- but have the flexibility to do so. I can't think of a good reason why we would regulate one and not the other, so I'm offering this amendment.

Saltzman: Second.

Hales: Further discussion?

Novick: I'm curious as to what Mr. Hockaday thinks of this idea.

Hockaday: Taxis do have the exclusive right to queue in taxi stands and to accept street hails, and part of that exclusive right is that those vehicles are very clearly identifiable by their unique color and design scheme. I think that removing that color requirement would make it more challenging to easily identify vehicles for the use of street hails.

Fritz: Are you saying TNCs are not easily identifiable?

Hockaday: TNCs are not allowed to accept street hails, they are not allowed to queue in taxi stands --

Fritz: But there was a question as to whether the sign is visible enough on all sides. So by saying the taxis have to be clearly identifiable, that implies that Uber and Lyft vehicles are not.

Novick: Well the difference, Commissioner, is that with Uber and Lyft, with the app, you have a digital record of who exactly is giving you the ride and you don't have to rely on your recollection as to what the cab looked like. So, I'm actually curious about this amendment. I mean, the final words in the provision would still be "as approved by the Director," and I'm actually wondering if the Director might speak to whether she would find it too much of a burden to review color schemes.

Leah Treat, Director, Portland Bureau of Transportation: Good morning, Mayor and Commissioners. Can you repeat the question and for what the work would be for PBOT?

Novick: Well, what it would mean is every taxi vehicle affiliated with a taxi company currently must be painted in a unique color and display the design scheme of the affiliated taxi company. The amendment would be to strike the "painted in a unique color" and simply say "display the design scheme of the affiliated taxi company in a manner that clearly identifies the taxi company as approved by the Director."

Fish: Commissioner Novick, just to be clear, "as approved by the Director" I believe modifies the language about the design scheme. We're not -- I'm not suggesting in this amendment that the Director be the art czar approving colors. She has to approve many things with cabs. As long as there's an identification of the company and it has the licensing stuff, we're giving her the flexibility to allow them to use other colors. It's not meant to burden her, it's meant to give the companies additional flexibility. I'm guessing that there will be some companies think there is a competitive advantage to have a uniform unique color because for some people, that's a shorthand for what cab they're going to get into. They are in the habit of getting in one that's green or yellow or something. For others, like particularly me in the evening, I can't tell the color of the cab, so that's not the distinguishing characteristic. I look to see that it has a license, that there's someone competent to drive, and that they have a photograph and a license that I can verify. We're not trying to -- it was not my intent to create another level of administrative burden for the Director.

November 24, 2015

Novick: I do think, though -- I mean, what the Director would end up doing is determining whether the design scheme clearly identifies the taxi company, so I think it would become sort of a judgment call as to whether a taxi company that uses multiple colors is, in fact, clearly identifying itself.

Fish: We could take the "as approved" out. I think that was originally -- I believe that is in the existing code to give you the flexibility to make sure that there isn't someone gaming the system or doing something that creates havoc in the marketplace. It keeps you in the mix so that you're using your good judgment, which is why I kept it in.

Treat: OK. So, from a public safety perspective, I think because there are street hails allowed for the cabs, it is important that they are clearly identified as a taxi. As long as that is still included in the rules that it be clearly identified and the company associated with it, I don't administratively see an issue for us and I think we're still protecting people who would be hailing cabs on the street so they have visual identification of a cab company.

Fish: And let me be clear -- this is not intended to erode or dilute in any way the other requirements of what's a cab -- the licensing, the standards. This might give someone the flexibility to use a light green, green, heavy green, green with a stripe or something. Again, I don't think this is the most important issue before us, but it does seem like it creates a little more of a level playing field to give the cab companies that option.

Treat: I don't see any issues with it, but I welcome the cab companies to testify on that later.

Hales: We'll take testimony on this as well. Could we take a vote on accepting this amendment?

Vote on amendment.

Novick: Aye. **Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Hales:** Aye.

Hales: OK. Anymore amendments?

Fritz: Commissioner, are you going to present the other one on the TNC -- the trade dress signage?

Fish: No, I'm happy to have a colloquy, but we talked about that yesterday and I was persuaded to defer on it.

Fritz: We've heard testimony that the Uber and other decals are sometimes difficult to see, and your amendment specifies how clear they must be. Can you give me a summary as to why --

Fish: When we raised this issue yesterday about requiring a PFHT vehicle decal with a specific number for each vehicle and require that to be certified, you and Commissioner Novick had some strong feelings about that. Why don't you share those with us again?

Hockaday: Absolutely. The trade dress requirement for TNCs is not the only identification requirement that the TNCs have. They actually are required to provide more information to consumers, and it's primarily built in with the app. So, not only to the vehicles have trade dress in the front and these new rules required that they will required in the front and the rear, but the app itself has to clearly identify the driver, picture of the driver, name of the driver, a description of the vehicle, the license plate of the vehicle. So there's actually more identification requirements for the TNCs in that regard for the consumers.

Fish: And when we were discussing this, Commissioner Fritz, someone in the room actually took out their phones and showed me old rides and the identifying information on the phone, and it struck me based on that that in fact the customer gets more information on his or her phone that then becomes a permanent record than we would be requiring in this on the car. So, it struck me as a nice to have but not a need to have.

Fritz: OK. Thank you.

Hales: OK. More amendments, if any? Alright. Thank you very much. Anything else you need to put into the record before we take testimony? Thanks very much. Let's go to the

November 24, 2015

sign-up sheet from the last hearing and call any of the folks that were there and didn't get a chance to speak and give them that opportunity now.

Parsons: OK, we have 12 today. First three, please come on up.

Hales: Good morning, welcome. Go ahead while they're getting settled.

Peter Newell: Hi, City Council and Mayor. My name is Peter Newell. I'm a Lyft driver. Lyft has been a life-changing event for me. For 15 years, I've worked two jobs, 40 or more hours a week, and have not been able to make ends meet. With Lyft, I now am able to work a single 55 to 60 hour a week job. I'm making well over \$1000 a week on a consistent basis. For those who think that Lyft is a part-time job for college students taking away full-time jobs from taxi drivers, they should be aware of the fact that Lyft incentivizes their drivers to work 50 hours by allowing them to keep 100% of the fare that is taken in on each ride. Lyft is satisfied with simply taking the \$1.55 service fee they add to each drive. Because of this, I'm now able to see my wife. I actually have a date night with her every week. And when she needs me to come home and take care of some emergency around the house, like the water heater that blew up, I can just stop my job and go home and deal with the issue. I don't have to worry about going to a boss and seeing if I can keep my job if I go home and put a new water heater in.

There's a few things that people have been misspeaking about in previous testimony based on supposition with no knowledge of how things work. In the first phase of the Lyft app, I'm free to do anything I want. Frequently, I take a nap. I'm not driving around because driving around will not get me a hail because I'm not allowed to take hails. So the first thing I do after I drop off the customer is I find a safe place to park where I'm not interfering with traffic. And I can be sitting off to the side of the road. I might catch up with email. I might get some lunch. I can take a nap. And I don't have to worry about missing a ride when I'm taking a nap and I get a ride offer, I get this really loud obnoxious noise that wakes me up. If I'm driving and I get a request, I don't have to be looking at my app to see if I'm going to get a request while I'm driving to get to a place to park because my app is so loud, I can hear it. I can reach up and touch the app without looking at it. Touch the bottom of the screen and it will start to navigate me to my passenger. So, I never have to see where I'm going, I never have to look at my phone at all. So, there is no danger involved with the app.

Hales: You mean it gives you audible commands --

Newell: Yeah, it will either give me my choice of Waze or Google Maps, whichever one I have preset, but it will automatically start to navigate me to the passenger and it will announce the name of the passenger to me so when I arrive at the location, I can ask the passenger without having looked at my phone, "is this John?" So I know that the right person is getting in my car.

In my app -- in the app when you request a ride from me, there is not only a picture of myself, but there's a picture of my car, it shows my license plate number, and it has a brief bio of me so if you have questions you can ask of me if you'd like. [beeping]

Hales: Thank you. It's very helpful. Appreciate that. We need you to wrap up because you're out of time.

Newell: Absolutely.

Hales: Thank you. Go ahead, Stephen, please.

Stephen Kafoury: Mr. Mayor, members of the Council. My name is Stephen Kafoury. I represent Broadway Cab and I'm working with the Transportation Fairness Alliance. I wanted to make one comment before I read this testimony having to do with the \$500,000 that is incorrectly stated is the minimum requirement for taxis presently. That is a very old number, Mr. Mayor, and it is obsolete at this point. All our taxi companies carry well over \$1 million insurance presently. And while \$500,000 would be a better figure than \$50,000 -

November 24, 2015

- which is ridiculous -- it still is an obsolete number and we would be delighted to have the minimum raised for taxi cabs as well as TNCs to a million dollars.

Hales: We'll have some questions about that, but go ahead and with the testimony you want to read.

Kafoury: Mr. Mayor, "because we don't want to" is not a sufficient reason for a transportation company to refuse to offer protection for innocent people who may be harmed by the company's vehicles, but it was the best Uber could do at the meeting you held last week. Uber wants \$50,000 of coverage. Notice Uber did not say "we can't afford it." That would have been a ludicrous statement for a \$50 billion company to say, especially when looking at comparing with the Portland taxi cab companies that have well over \$1 million, 24 hour/seven. Even very small companies can afford it. There's no problem about Uber affording a million dollars.

The period one is an important period for the TNCs. The reason that Uber and Lyft are able to be successful in our market is because they can say to their people who wants rides, we can be to your place within two or three minutes to pick up a fare. There is only one reason that they're able to do that and that is because -- as you just heard -- they've got thousands of people out there with their apps turned on. Those people are effectively working for Uber and Lyft because if they weren't, Uber and Lyft would not exist. They cannot exist without thousands of people with their apps on.

You heard about the \$50,000 as some national figure. Let's look. Where did this come from? It did not come from an analysis of good public policy. It did not come from anybody representing consumers or people who had been injured in automobile accidents. It came from a group of insurance companies meeting with Uber because Uber didn't want any insurance at all in phase one, and then they killed a little girl down in San Francisco and there was a big public outrage and they knew they needed to do something. So, they worked together with insurance companies -- and this came to me straight from the insurance company lobbyist, this is not something that I made up or heard on the internet - the insurance companies made a deal and said, alright, how about that we have a low rate for Uber and we can pick up the rest of it? This would give us the opportunity to sell a lot of insurance policies.

This has nothing to do with public concerns or worry about who gets injured, this has to do with a cozy arrangement made between Uber and some insurance policies. And then how do they get this in various cities and counties and states around the country? By their huge lobbying effort, not because of good public policy. And where some cities stood up and said, "no, we want to protect our citizens with \$1 million" Uber then went to the legislatures and got the legislatures to overrule, saying, no, cities cannot have higher requirements --

Hales: Let's let Mr. Aleme testify, and then I've got questions for both of you on this subject. Go ahead.

Tesfaye Aleme: Thank you. Good morning, Mayor and Commissioners. First of all, I want to say something that over and over is commented. We're not asking to stop Uber and Lyft to stop operating. We're asking equal treatment of insurance, permitting, uniforms and inspections, background check, all of these kind of things. We're not asking that Uber and Lyft has to stop. But let me go to my point.

I would like to offer my support to the testimony that will be provided by Wendie Kellington. I also believe that the proposed code requirement and insurance rating of A.M. Best A-minus is excessive and will cripple small companies like mien. For three years, I have done business with American Service Company. They're a leading provider of insurance to the taxi industry. They are a proven reliable company with a great record of fast claim payments. They do not have an A.M. Best A-minus rating, but they're excellent

November 24, 2015

at what they do and more affordable for a smaller business like mine. I also ask you to amend the proposed quote to add a second rating agency, Demotech, to the insurance rating system. No public policy is served by giving A.M. Best companies monopoly or by any level aid. Huge companies really do not work for all companies with fighting claimants.

Finally, the code should be expanded to allow PFHT operators to buy equivalent insurance across all periods from carriers with a B rating or better. That's the critical request. I ask you to please take action on it today.

And I just want to say something that I'm surprised by in my own analysis. When we're talking about period one, period two, period three, I was surprised when I was trying to analyze a year and a half's worth of accidents. From all of that, over 65% of the time, the accidents were period one. And all of the time, we have to have insurance.

The other thing that I will say is we are required \$1 million. That's what it is. And we cover -- you know, the drivers cover collision coverage. So, everything is covered here, but I'm struggling to pay the insurance premium every month, and now I'm seeing -- I'm looking to a company that has \$41 billion not to pay even a million dollar coverage for its vehicles and drivers. That's just asking equal treatment for all our providers.

Hales: Can I go back to your first issue and then I want to talk with -- I have questions for both of you about the insurance issue. So, we're separately in this code package changing the rating requirement for insurance companies that applies to your business and other taxi cab companies? To me that is a new issue. I had not seen this before.

Aleme: OK. What happened is we were insured by American Service Company, which is a Demotech. And then we were told that your insurance company is not acceptable by the City code. So, what happens is the next renewal time that I'm going to renew in December, I have to look for A.M. Best rating, A-minus, A insurance company so that I have to pay more insurance. That's one of the things that we have been talking to staff and they're saying, "we don't know. This is a code." So, imagine if you're allowing personal insurance for Uber to be driven by a personal insurance and now you're trying to tell us you have to have an A-minus rating when we are a company, it's just not -- you know, a place where you have a contradiction. Can you please see this and rectify all of these things? And we need -- these companies that are A.M. Best B rating companies are the best companies. You can have rating levels where it says very good. Those are companies that are rated by their own level of insurance.

Hales: So this was an administrative decision by PBOT, it's not part of the regulations -- I'm not saying it's not an important matter, I'm just trying to figure out where this came from. So, this was an administrative decision by the City to require you to have a different rating basis for your insurance company?

Aleme: Yes.

Hales: OK.

Aleme: Yes, that's what we were told. Because it's a court, we can't move. And now, we're deciding to change to another insurance company that has an A-minus rating.

Hales: OK, I get it. We'll have a chance for us to get some further information from staff about that.

So, back to the insurance issue for a minute. We have been debating this for a long time, and I've been thinking -- albeit maybe a little more slowly about this than I should have. There's a warm side of this issue and a cold side of this issue. The warm side of this issue, we want to make sure that we are giving the citizens of our city reasonable protection from harm. All of us want that. You want that. Everybody wants that. Then there's the cold side of this issue, which is it's a proxy fight between the taxi cab companies and the TNCs.

November 24, 2015

So, let me spin a scenario for you, Stephen, and have you respond, and that is, let's stipulate -- I think you got it right -- that Uber and the insurance industry were having a big fight all over the country, nationally. Somebody can correct my understanding of this if I don't get it right. There were having a big fight nationally all over the country. They also had some catastrophic incidents like the one that we've heard about in San Francisco. So, they reached a national agreement about providing insurance for themselves, for their drivers, and otherwise, right? I won't get into all of the details. But they reached a national agreement. And maybe it is true -- I don't know this, I have never seen their national agreement -- maybe it's true that that national agreement says you won't go hop-scotching up the scale of agreeing to cities that require you to do more. Maybe that's part of their deal. I don't know this, OK. Maybe it is. And so, if we were to require a higher level of insurance than that agreement and if they have that understanding with the insurance companies, they might leave the Portland marketplace. Would that be a good outcome?

Kafoury: Mr. Mayor, that's a very interesting question because this is exactly what happens all over the United States and as far away as close as here as Eugene. It's a typical tactic of a company that's basically a bully -- and you know, we've talked about this --

Hales: I understand that and have experienced that and what's -- [speaking simultaneously] -- what's the outcome?

Kafoury: Here is an outcome. The outcome is this. Alright, if you're not going to play our game, we will take our ball and go home. And taking their ball and go home extends out to the city limits. And they go out there and sit and wait and wait for political pressure to happen on the City Council. And they send an email out or however they get out there -- apps out with text messages or whatever -- to all their riders out there -- they have a fabulous data base -- and they say, "don't you like Uber, don't you like Lyft? Don't you want to have us come here?" And all these people send you text messages. You will get 10,000 texts saying, "oh, please, don't take Uber away." And this is what happens all over the United States. Next thing happens is that City Council -- [indistinguishable] -- excuse me -- says, "we can't afford this. I can't have 10,000 people not wanting me. I'm up for re-election. Let's renegotiate with Uber." This is the pattern over and over again. It has nothing to do with public policy.

Hales: And I understand that description may actually be very close to what could happen.

Kafoury: Absolutely.

Hales: But I'm saying, would that be a good outcome if they left and took their ball and went home? We were back to the situation that we were in when we first had our own head-on collision with Uber, and they stopped operating in the city in the -- stopped operating in the part of the metro area where we write the rules, and continued to operate in the rest of the metro area where no one has written any rules. So there were 600,000 people in the City of Portland, and there's 1,600,000 people in the rest of the metro area. The 600,000 people live in a city where the City Council is adopting regulations about TNCs. The 1,600,000 people live in cities or counties where they have chosen to not write any rules at all. So if they left Portland, we would go back to a situation in which they were operating completely unregulated in two-thirds of the metropolitan area by population, and not operating at all but perhaps carrying out the political campaign that you just described in the area where we govern. Would that be a good outcome?

Kafoury: Mr. Mayor, let me carry that scenario out. Last legislative session, last spring, I had a bill representing Broadway Cab asking for \$1 million insurance for TNCs through period one, two, and three. The bill -- although it came very close -- did not pass. And the reason it did not pass is that people, especially Portland legislators, said "I want to see

November 24, 2015

what the City of Portland does first. I don't want to be at odds with my Mayor and City Council."

We have a bill prepared today for the February session. If this City Council says, yes, we want to have a higher limit, we want to protect our citizens, I think we will pass that bill which will cover Coos Bay, cover Eugene, cover Salem, cover the Portland suburban area so that everybody in the state that gets into a TNC taxi cab -- and I use that phrase advisedly because they are taxi cabs -- everyone that gets into a TNC taxi cab will have insurance if they get hurt and everybody who's in that community, if they get run over, will get hurt.

And I think -- if I may add one other thing, Mr. Mayor -- talking about how many accidents there are is interesting but not really relevant. It takes one accident where a person is permanently disabled, or one accident where a bread winner is killed, and you run that \$50,000 up real fast. So, in the next couple of years, if we have only one accident where someone is badly hurt, then it was worth having that protection. It doesn't cost very much. Uber can afford it.

Hales: Right, well, you're speculating that they would submit to this requirement. But --

Kafoury: Ultimately I don't think they can afford not to be here in city of Portland. It's too much for them, number one. Number two, the city of Portland agrees to raise this limit, I think we will have a statewide legislation that can pass. This is not a Republican legislature down there, Mr. Mayor, as we've had in other states like Idaho and Ohio where Uber lobbyists have gone into a friendly atmosphere. We've got a Democratic legislature that is very supportive of consumer protection. And if you put that together with the support from the City Council so that the Portland legislators say, "this is what my City wants to do," I think we can pass that bill. Interestingly, it's suburban legislators who are carrying the water on this issue, Mr. Mayor.

Hales: Thank you.

Fritz: Can I ask another question about insurance? And first make a comment that I believe that a person injured or killed in a crash -- their estate would come after the City if we have knowingly approved commercial drivers with a lesser level of insurance, and I think that they have a good chance that they would prevail. My question is going back to the very beginning of these sets of hearings about being certified for insurance in the state of Oregon and a question as to whether the James River corporation or insurance company rises to that level that we expect. Can you refresh my memory about that issue?

Kafoury: Mr. Mayor, Madam Commissioner, yes, the Port of Portland requires \$1 million insurance phase one, phase two, phase three. These people are covered by James River insurance. You all have in your office files certificates of insurance copies that we provided for you. I realize that this has been a period of time in the last couple of months where you've had 10 or 15 huge, huge issues and not enough time to focus on insurance copies that we give to you. But you'll find in your files insurance certificates from James River, \$1 million, Port of Portland, phase one, phase two, phase three.

Fritz: Is their company the A.M. Best rated company?

Kafoury: I don't know about that, Madam. All I know is that we have -- this issue was raised to us by EcoCab -- you will hear testimony from them -- and by smaller cab companies here in Portland. There's a real problem. And this is an easy problem to solve, and I don't think it will harm anybody's protection that they get a first-class insurance.

Fritz: Thank you. I'm hoping that we have some insurance representatives here.

Kafoury: We do.

Fritz: OK.

November 24, 2015

Hales: Good to hear. OK. We may have other questions for you later, but thank you very much. Thank you all. We'll get an answer from staff on that issue. Let's take the next folks, please. Good morning.

Ron Knori: Good morning. My name is Ron Knori, CEO of EcoCab. We are one of the newest entrants to the Portland market, having receiving licenses to serve the public with a unique for-hire riding experience, namely a great ride in a non-polluting Tesla driven by a fully-qualified driver who's an employee of my company receiving a living wage and health benefits. Thank you for the opportunity to appear on this important subject.

Like others who are trying to bring disruptive and innovative service to underserved Portland consumers, we are finding market that is hungry for high-quality on-demand service. But we are prepared to do that without asking you to radically deregulate the system that provides consumer protections, public safety, and other valued public policies. If you want riders that are protected, drivers that can earn a living wage, and a for-hire transportation system that exists on a level playing field, I respectfully suggest that you reject the task force recommendations. There's a lot of good work that was done by this task force, and it's useful to have the data about the unmet needs of service in our community, but as a guide for public policy, the report is fundamentally flawed.

The pricing strategy leads to the undermining of city and state consensus on living wages and fair working conditions. By setting a minimum price per mile, this will ensure a minimum living wage. Unequal treatment of taxi cab and TNC business models are baked into the operational regulations in the form of exempting TNCs from certain requirements or allowing them to externalize costs that must be internalized by taxi cab companies. For example, why cameras in cabs but not in TNCs? Why can Uber come in any rainbow of any color they want, but taxis must be a uniform color?

Insurance rating monopoly by Uber's favorite insurance rating company, A.M. Best, puts taxi cabs at a financial disadvantage, especially when other acceptable options such as Demotech exist and could provide price competition and relief for small business cab companies.

The Portland City Council is right to demand innovative, high-quality service for the consuming public, but I am here as just one of many companies who can promise you that you can have disruption and innovation without sacrificing core values in our community. Please tell your staff to go back and remove the fundamental flaws in the product you are reviewing so that you can truly offer the public a for-hire transportation industry that protects and promotes our community. Thank you.

Hales: Thank you. Wendie, would you like to be next?

Wendie Kellington: Sure. Thank you, Mr. Mayor and members of the City Council. Wendie Kellington representing EcoCab. Thank you, Commissioner Fish and Council, for your amendment regarding taxi cab colors. That's a step in the right direction. We really appreciate that, thank you.

I also want to point out that the reason we care about this insurance rating issue is that the A.M. Best A-minus rating does not ensure that the City of Portland is protected. The City of Portland wants to be a named insured. But if you're named insured with A.M. Best A-minus, James River, which is non-admitted in Oregon, that means if they fail, they don't pay into the state safety net and City of Portland has no liability protection. That is a big deal issue. That's an issue for the City.

I want to let you know that the proposal before you purports to be even-handed amendments, but it's really a stacked deck between taxis generally, and specifically against this new entrant into the marketplace built on a business model that is totally aligned with express City policies. If the City stands for innovation, fair wages generally and for taxi drivers specifically, and for clean air, why would it adopt amendments to lock

November 24, 2015

taxi meters and taxi fare systems into a 1960s vintage technology that encourages Walmart-like predatory pricing practices designed to drive out competitors like EcoCab that pays its drivers a living wage, benefits, and complies with the City's sick time off policy and law? Why would it adopt a draconian regulatory model that falls disparately on small, zero-emission taxi companies to buy expensive insurance that only benefits Uber and Lyft but has no relevancy to established City policy and to maintaining the safety of the City's system? Why would be force a choice between new electric vehicles that are incompatible with old-school taxi meter technology in favor of gas guzzlers that are compatible with that old-school technology?

I have provided you with three things and I hope you look at them. One is some modest proposed amendments that would address those three issues. In addition, I provided two articles for you that talk about the new taxi operating system that is not a taxi meter designed to replace the antiquated jumble of meters, navigation devices, and credit card machines currently found in many cabs with the single cloud enabled smart phone. This is the technology that is moving forward in San Francisco, New York City, Philadelphia, Boston, and in Washington, D.C. If you have questions about that, please feel free to let me know.

With respect to base fares, if base fares are not required by the City as they used to be, then it will be impossible for companies that do pay living wages, that do observe compliance with the City's sick time off policy, that do carry this ridiculous amount of insurance that Uber doesn't have to carry to compete in the city marketplace. So, you end up with no zero emission vehicles, taxi drivers making less than minimum wage, lots of gas guzzlers on the road -- because that's what we're encouraging -- and inadequate insurance, and I don't think that is the kind of innovation that the City stands for. Thank you.

Hales: Let me follow up again with the same basic question as Mr. Aleme. So, you raised a bunch of new issues about other regulatory impacts on EcoCab. Are these changes in the City's regulations that are incorporated in our proposed rules -- our proposed ordinance here today? Or are these other administrative decisions by the bureau that you're disadvantaged by?

Kellington: It's combination of both. So, under the current City code before the proposed amendments, the City had interpreted its code under Frank Dufay's leadership to allow it to accept insurance that was less than A-minus, A.M. Best if they felt that it was equivalent and adequate. And that had been the determination that the City had provided. Information was provided by Demotech rating as being an equivalent rating system that deals like metrics like does an insurance company pay, is it rate, is it admitted -- all of these other things that were important to City. And the City interpreted its old code to say yeah, fine, no problem. The City's old code used to say with respect to colors, words to the effect that the cab companies painted in the colors of the company some distinctive logo, and that was recently interpreted to mean, no, it has to be one color. So, the proposed amendment actually ratcheted down the color of the company. That's a problem for EcoCab and other sort of electric vehicle-based companies because it's real hard to come by electric vehicles. And when they're available to purchase, you need to buy what you can buy, and they don't all come in white. That's the issue there.

There are some things in the proposal that are new in the sense that the proposal is trying to address innovation. It's trying to recognize this new type of technology. But in doing that, it doesn't recognize all of the new technology that is available to taxi companies as well to kind of come into the now and to be hailed and pay and all of those things with an app. And so it says, OK, Uber gets to have that, but taxis stuck with old-school stuff that the industry is moving away from. As a matter of fact, you can't get a new electric vehicle

November 24, 2015

that is compatible with the taxi meters. You're having to take these beautiful electric cars and Frankenstein them to get to work on the old technology. So, that's the new problem that's being introduced. It's stifling your innovation, and there are simple amendments that I proposed to address these issues.

Novick: Ms. Kellington, this is the first I've heard of the issue of having a hard time dealing with the old meter technology. I'm certainly willing to have a discussion about that, but it will be hard to act on today when it is the first that I've even heard of it.

Hales: It is helpful to hear this, but it's new to me also.

Saltzman: Aren't these types of things that you could petition to have addressed in the rules?

Kellington: No, that's the problem. The rules say taxis have to have taxi meters that have -- that couldn't be GPS-based, which is what these new systems are, and they have to be certified by the national type evaluation program, NTEP. And NTEP has a subcommittee that is dealing with GPS systems -- you know, these kinds of apps that I gave you these articles about, as well as the Uber-types of apps -- but they're just not ready yet. They don't know how to certify these systems.

Fish: I have a solution. Why don't we propose that in the implementation phase of this for six months or a year or whatever, the Director has the explicit authority to waive any code that doesn't present an unreasonable risk to public safety and health if, in a case like this, there is some benefit to innovation or cost or experimentation or whatever? I would be very comfortable, Commissioner Novick, giving the Director a catch-all for anything during the implementation phase where you're putting an essentially a round peg through a square hole. And there's a case made that it doesn't impact public health and safety, but there's a public policy reason to provide a delay or an exemption -- mostly a delay, I would think, because we're talking about a phase-in. It would seem there ought to be that provision anyway and what kind of Council oversight over that would have to be determined.

Fritz: Let me just ask the City Attorney -- is it legal for the Council to delegate authority to waive code to a Director?

*****: [inaudible]

Fish: I'm not even suggesting potentially a waiver. There could be -- since all of the laws -- since we routinely deal with things called implementation schedules and phase-ins and things of that nature, it just seems to me that we could classify certain things as subject to a phase-in and give a little more latitude during the phase-in period.

Novick: But Commissioner, I don't think it is a matter of phasing in. I think what EcoCab is asking for is a change to long-standing rules about taxi meters, and I'm reluctant to suggest that the Director should on her own undertake a review of those rules. I think that this is an issue that we can take up as a stand-alone issue as to whether we need to change the rules for what taxi meters look like.

Fish: Commissioner, I'm pitching one of a number of options. We could do -- an alternative would be to have an informal -- the equivalent of a recap process for PBOT where as these issues come up, they can petition the Director and Commissioner-in-Charge. If you think it is meritorious, then they would come back to us for tweaks from time to time.

Hales: Let me suggest this. I think this is a very good discussion. I want to later in this hearing call the Director and relevant staff up to talk about some of this. Because this is new to us. That's fine. Not being critical of you. But this Council has to deal with lots of arcane issues, whether it's, you know, what the height of an apartment building should be as it steps down to an adjacent neighborhood, or whether an assistant pool leader is a classified member of our union or not. Likewise here, we've got arcane details about insurance that this Council has been wrestling with for months while we've been trying to resolve the question of do TNCs operate in our City, and how? Now you've raised a new

November 24, 2015

set of issues about do our existing regulations disadvantage cab companies, and is that even more of a problem now that there's TNC competition? And Mr. Aleme's concern is similar. So, I like Commissioner Fish's suggestion in concept. We'll get to whether or not it works in reality. But someone needs to sort through these technical issues and make a decision. That could be the City Council, but maybe not, because what kind of meters you use is probably not best decided by the five of us.

Fish: And I think that is why I think at least each of our bureaus has some administrative process for pursuing hardship appeals. I'm just flagging.

There's a related issue you raise that I want to give you the chance to elaborate on. So, we have been thinking about the insurance issue primarily through the lens of consumer protection. We're thinking about the driver, the passenger, and the person from the public who could be injured in an accident. Basically, the three people -- the driver, the passenger, and someone crossing in front of a car getting hit and injured. We've been trying to figure out how to fairly appropriate liability in those circumstances. We've talked about minimum standards, we've looked at different periods, we've asked the question who is primarily liable, we've looked a little deeper into insurance law generally, we've had a spirited disagreement about what the limits should be, but we have not spent a lot of time looking at this question from the point of view of City's liability. And I would say that using the Mayor's metaphor, this is one of those cold issues that we ought to get right. So, I haven't heard a lot about the interplay between a rating and the extent to which the City as a third-party insured has confidence that its liability is covered by an insurance company. Could you just -- it's not an issue that we're necessarily experts on. Could you just go a little deeper on that question?

Kellington: Sure. Thank you, Commissioner Fish, that's an excellent question. So, there are essentially -- as relevant to that question -- two kinds of insurance policies and companies. There are companies and policies reflecting admitted status and non-admitted. And non-admitted companies and non-admitted policies don't pay into the state's insurance safety net. And so, when they are too big to fail and they fail, there is no compensation available. There's no safety net for any persons associated with that policy, whether it's a claimant or named insured. And that's where the City comes in, because its laws -- bless you, thank you. Now you're going to have my cooties.

Hales: Or you'll have his -- one or the other.

Kellington: Thank you. And so, the City is a named insured, but it would receive no compensation when that company fails.

A.M. Best is a rating company whose matrix is predominantly limited to "how big is the company?" That's what A.M. Best is interested in. How big is the company? They're not really very interested in other metrics. Demotech is interested in other metrics. And so too big to fail, that's important. Admitted, not important. Not admitted, that's important. Do they pay claims? That's important. And so back in the day, the City of Portland accepted Demotech A-minus or even B-rated insurance companies because the City of Portland was protected. Those companies paid into the safety net. They, you know, had good histories. They were solid companies. And the taxi companies were able to provide an affordable product with the City being protected.

Well now, A.M. Best, James Rivers, a non-admitted company. So, if James River has made a bad bet on Uber, and if Uber has to start paying during, you know, period one, and James River fails, the City of Portland is out of luck because it has no coverage. The insurance companies -- sorry -- the taxi companies don't like that because they want to have the safety net. They don't want to be sitting there looking at an injured claimant or the City of Portland and say we're going to somehow try to accommodate that claim. That's the issue.

November 24, 2015

Novick: Mayor, I do want to get along with the rest of the testimony, but Mr. McGair is prepared to respond to a number of statements Ms. Kellington has made.

Hales: OK, good. Let's proceed.

Kellington: I just want to mention to you, this issue about the GPS. These new electric cars that we've been getting have this brand new software that is incompatible. This is a brand new issue. It goes to the point that I think particularly, you, Mayor Hales, care about, and that's being nimble enough to respond to innovation, and that's why we need the amendments sooner than later.

Hales: OK. Thank you.

Saltzman: I would point out with respect to your suggestions for meters that as a passenger, I would not be able to tell what the fare is if I'm in the back seat trying to see this.

Kellington: No, you would. It would be an app-based system, same thing that Uber uses, and that is what we're looking for. And if that's not well-written, it should be. You could ask your staff to come back with something better if you're interested.

Saltzman: What if I don't have an iPhone and I hail your cab, how do I know what the fare is? I like to watch the fare on my meters.

Knori: Can I answer this?

Hales: Please.

Knori: Thank you. These GPS-enabled meters are used throughout the world. They're just now starting to get used in San Francisco right now. We would always make sure that the fare was clear and visible to the passenger at all times, according to code. The only thing that we're asking for is we can use a GPS-enabled meter versus one that's physically connected to the car. Because every time they have a software update, it does --

Kellington: You would have that information. That could be a code requirement to have that information, whether it's on an app or whether it's sitting on a meter. You would have it. The only difference is the source. GPS is the source.

Hales: OK. Thank you. Welcome.

Brian Honeyman: Thank you for letting me speak. My name is Brian Honeyman, I'm the president of EcoCab. I have just recently been brought in to and hired by EcoCab, so I'm a fresh perspective. I actually come from -- I've only been in the role for three months. I come from the franchise industry where I've worked with a number of large international franchises. One was a security franchise where we would hire hundreds and hundreds of patrol vehicles. So, there's some relative information there.

I've been asked to speak because I thought I would share some brief experience from the last eight weeks interviewing people. I have a sample of 350 resumes that I've reviewed. I've completed 142 interviews, and I've hired 25 new drivers. In that, when I first saw some of the documents we've been discussing, livable wages was one I could speak to from my franchise experience. I don't have a lot of taxi insurance experience but I'm getting that pretty quickly.

However, living wage. I've met lots of drivers from all the different taxi businesses and companies. Some currently employed, checking us out. It's Teslas, it's electric, it's new, it's a wage, there's insurance, there's vacation, and so on and so forth. It's attracted a lot of people. I met a lot of people from Uber and Lyft -- some working and some not working. Obviously, those not working will certainly have a bias and I understand that.

Here's some of the learning that I've experienced. Earnings have dropped excessively and it's hard to pay our expenses is what I hear from taxi drivers. From the others, it's that there's a lot of drivers now and it's sure hard to make \$10 an hour. It's challenging. Wait times at the airport. We go to the airport and will wait at time three hours before we get called up to get a fare, and we sure hope it's a fare where it's not close

November 24, 2015

proximity where I'll earn \$20 and have to get back in line and hope it's not another three-hour wait. Extrapolate that out over a 12-hour shift and just ask, is there going to be a cap on the amount of people in the market driving taxi cabs or either Uber and Lyft?

Within the last couple of weeks, I saw something on a morning news show where there was an Uber spokesman. And some of the numbers -- and I was trying to make them work -- \$4.3 billion in wages and 400,000 drivers. Factor that out and they get about \$8750 in earnings. They made the statement that the average driver works 10 hours a week, which I'm fine with. But just working those numbers trying to figure out some expenses which I don't know but just being logical -- it was hard to try to come up with even \$9 an hour. So, what's the quality service that we would get representing the city of Portland to people in the city and our residents if we're going to be attracting someone? [beeping]

Just briefly, I have also been the executive vice president for a security franchise where we would hire hundreds and hundreds of drivers that would be in patrol vehicles. Any driver for the company went through a background check, obviously, and they all had to be fingerprinted. We provided fingerprinting service. It's very cheap. It's quick and easy and much more thorough. And there were cameras. The cameras that were in the cars were not expensive because I would be the franchisor, so we would have all the drivers asking. It was a safety tool looking inwards, it was a safety tool looking outwards for all sorts of people outside the vehicle, and from a quality of attracting the right driver with the right wage it was a skill development. You could be sitting there looking saying, OK, are we doing the right thing for people? So it was beyond just security and it wasn't an expensive thing.

Hales: Thank you. Questions? Thank you all. Let's take the next, please. Good morning.

Alan Loden: Good morning. My name is Alan Loden. I've not spoken like this before, so I'm a little nervous. I have been in the taxi business for 30 years. I have driven cabs in four or five different cities. I had built up quite a large clientele in two of those cities based on my attitude and the way I am fair and honest with my passengers.

You want to deregulate the taxi industry, but you have a lot of regulations for Uber. If you are going to accept Uber, I think you need to accept it in its entirety just the way it is, including its business model and the way it operates. Uber allows drivers to drive their own vehicles. Maybe someone does not own a wheelchair accessible vehicle. Uber allows drivers to drive any time they want to. Uber does not require a certain driver to drive certain hours to make sure someone is available 24 hours a day. If you are going to allow market forces to dictate the taxi business, then the customer will call whichever company has a suitable vehicle for them at the time they want it, whether it is Uber or Radio Cab or whoever.

As an Uber driver, most if not all my negative experiences were because the riders did not know how to operate the app. I got wrong addresses every day several times every day, starting the relationship off on a very bad note. This happens to probably all the drivers. Uber is aware of this and does nothing about it. All Uber has to do is make the rider type in the exact address they want to be picked up at. Guess what? No more wrong addresses. This would only take a few seconds and the riders can save the address so they only have to type it in once and it would create less stress and heartache for everyone involved.

You'd be surprised how many riders literally go less than half a mile. At least, they go short enough distance that only the \$5 minimum is charged. Out of this \$5, Uber takes \$1 for safe ride and then takes 20% of the rest, \$4, which would be 80 cents. Can you imagine how difficult it can be to motivate yourself to be overly exuberant when you know you're only going to get \$3.20 and you're pretty sure you won't get a tip because the app

November 24, 2015

does not allow it, Uber discourages it, and even encourages drivers to refuse tips. That is only one more point where Uber is not driver-friendly, but I won't talk any more about that.

Uber drivers and riders rate each other on a scale of one to five stars. A rider can give you a low rating for any reason. Maybe by mistake, maybe just having a bad day, personality conflict, misunderstanding. [beeping] One of my riders gave me a low rating because I used a Garmin GPS unit. Why? Your --

Hales: Need you to wrap up soon. Go ahead.

Loden: -- guess is as good as mine. You must maintain a 4.6 stars or you can be deactivated. If half your riders give you five stars and half give you four stars, that's a 4.5 average. You can be deactivated and not get less than four stars. In a court of law, you're allowed to defend yourself. You're allowed to confront your accuser and you are assumed innocent until proven guilty. With Uber, if a rider gives you a low rating, you'll never know which rider it was or for what reason. The rider gave you a low rating, you're guilty, you're fired. That's it. Goodbye.

Hales: Thank you very much. Have to cut you off there.

Loden: Can I just take five more seconds?

Hales: Five more seconds. Go ahead.

Loden: If one rider gives you one star, you need nine riders to give you five stars to retain a 4.6 average --

Hales: We understand that issue.

Loden: Can you imagine showing up for work and being told that 10% of your constituents were not happy with you yesterday?

Hales: Thank you. I'd actually be happy with 10%. [laughter] Go ahead.

Loden: Well, you didn't let me finish saying that would be fired because 10% weren't happy with you yesterday.

Hales: It has to be 51, but we'd all settle for 10%.

Fritz: That's his point, though. 10% could get him fired.

Hales: I know, I understand. Go ahead.

Lightning: My name is Lightning. I represent Lightning Watchdog PDX. I think this comes down to leadership on the insurance. The City needs to understand your first obligation is to protect the public. We all know this insurance is too low on the TNCs during period one, two, and three -- or at least one -- and we need to increase that limit to 500,000 plain and simple. Now, if Uber and Lyft have a problem with this like you said, well, they just leave. Leave. Just leave. The public safety is number one. You have plenty of money to pay this and if you're not satisfied, just leave. You have outlying areas you can still do your business. That comes down to leadership of the City. That comes down to protecting the public. You make that rule to them. If they don't like it, leave.

Another issue I have again is pertaining to the caps. I never wanted these caps to just open up the floodgates and let as many drivers as possible. My biggest concern again is on the public transportation, also, streetcar, TriMet, bus. We need more data to see if we're beginning to lose profits there. It's very important to the taxpayers, to the people that maintain these systems, to the values in being able to add money on the infrastructure transportation. If we're losing money, we're going to continue to lose money in all these other areas. So I want to have again take a closer look at this. Now again, from my position, if Uber and Lyft is not happy, leave.

I have always had a concerned on the traditional taxi cab companies. Why not just allowing them as a pilot project to have no caps, operate for a year, and decide if we want to let Uber and Lyft back in the market? I don't think we need them here. I think the traditional cab companies can pick up and begin to pick up the customers faster. And they were basically held down by how many caps they could have. If we release that to them,

November 24, 2015

push Uber to the side right now because they don't want to pay that higher insurance, and let's just see what happens in the marketplace. I can assure you, these traditional taxi cab companies will step up. They will provide more quality service. They will pick up their customers on a faster time frame. They need to be given that chance. We don't need Uber and Lyft here. Uber and Lyft is a \$50 billion company. They aren't going to lose of value by not being in Portland. Thank you.

Hales: Thank you. Good morning.

Patricia Montgomery: Good morning. My name is Patricia Montgomery, not Patrick Montgomery -- to show you it's ironic that I'm talking about fingerprint checks today because then you'll know who I really am. [laughter]

I think that there needs to be some driver oversight in the city. There's no oversight. You got all these people operating in the city and nobody who is watching who. The International Association of Transportation regularly recommended bio metric fingerprinting as a gold standard. I strongly support the City following this gold standard to protect the citizens of Portland. Other big cities like New York City, Columbus, Ohio, and Houston do the same. I was looking at this article that says equally important TNC background checks are name-based checks rather than fingerprint-based checks, which increases the errors. In April in Houston, somebody had 24 aliases and five different birthdates and 10 different names that got through as a TNC driver. Uber argues the time to conduct fingerprinting will delay drivers getting on the platform. If that's the case, the City can issue temporary permits. The continuing stories in the media about Uber drivers committing crimes are not the soccer moms making an extra buck, they are often dangerous criminals who have slipped through the cracks of the current background checks. Biometric fingerprinting would prevent this from happening, and I think it's a very important issue that we protect our citizens in this city.

The second is the vehicle signage. I think the cabs are all at a disadvantage. They are required to do all the extra stuff, and I think maybe it's time to let transportation providers fully painted, but let's not go so far as to eliminate safeguards but instead require all providers have distinctive branding that can be accomplished with an exterior decal that can be easily identified in the dark and rainy nights.

I'm alarmed by the trend of hearing about citizens waiting for Uber rides climbing into the wrong vehicles. I've seen downtown people jump into anything they can get at any time, especially at 2 o'clock in the morning. This trend is dangerous particularly for a woman because it creates too good of an opportunity for predators to prey on citizens. This just happened a few weeks ago in Portland -- someone got in the wrong vehicle. In addition to a brand decal, a vehicle should be required to display a decal issued by the City of Portland which confirms that the vehicle and driver meet the requirements of 16.40. These tiny stickers -- you can get this on Amazon. I can put this on my vehicle and go to work for Uber tomorrow and cruise the streets and I can almost guarantee you at Friday or Saturday night at 2:00 a.m., somebody will jump in my vehicle. Thank you.

Hales: Thank you very much.

Fritz: Does your company require fingerprinting now?

Montgomery: Yes, because we've gone to the bigger contracts. When you have the Portland Public Schools and medical transportation contracts, they require that. I don't know if you guys recall when the SAT, specially attendant transportation vehicles came into service in the late 1990s, early 2000, that they didn't require the fingerprinting and they had a young lady who was mentally disabled and she was taken out to Lake Oswego and raped in the park. They came back and required the medical transportation had to have fingerprinting. This is really an important issue because you're making a decision to protect

November 24, 2015

the citizens of this city, and there are a lot of people that have too much easy access like this to get into vehicles and are not protected.

Hales: Thank you.

Montgomery: Thank you.

Parsons: We have eight more signed up. A couple have signed in since we started. The next three, please come on up.

Hales: Good morning.

Teal Abor Abel: Good morning. Thank you for hearing me today. My name is Teal Abel, I'm with New Rose City Cab Company. We have been around 44 years. We're the smallest cab company in the Portland area. Currently, we have a \$1 million automobile insurance, 24-hour dispatch, and cameras in our vehicles.

Prior to April 2015, there were approximately 500 taxi vehicles in the system for-hire vehicles, as you know. Currently, as I don't have exact figures, I had to do rough estimates, there are approximately 1250 taxis, 5000 Uber vehicles -- excuse me, Uber -- and 1500 Lyft. The Ubers were -- that was the number last disclosed at the last City Council meeting. That brings a total of 7750 vehicles, essentially. According to your report, you're saying that 60% of those rides are being taken by Uber and Lyft. So, that would be about 4650 vehicles that are being used as Uber and Lyft vehicles that are taking rides from the Portland area. 20% of that goes out to California and other areas as far as the income from those. The 20% number essentially is the 4650 that is that 60%, and then 20% of that is approximately 930 vehicles. So basically, the revenue from about 930 vehicles or roughly twice the amount of the previous -- 20%, excuse me, 930 was double the amount of the 500 vehicles that we had before April. So, you're using the revenue from those vehicles double the amount to go into California and other places. So, all that revenue is not kept local.

The other issue is that essentially, you're not only stripping the regulations, but you're essentially using -- before April, we had consistency with the amount of fares that were used so the public also knew exactly how much they were being charged, and they also knew what responsibility the cab companies had for those passengers. Right now with using period insurance, this changes the responsibility and it allows the Ubers and Lyfts of the world to point the finger at other people and other responsibilities. There was an incident with a person that was traveling up via bike up Williams. They got sideswiped by an Uber car in I believe it was period one insurance -- the article didn't quite specify -- but the personal subsequently went end over the passenger or the driver's side door and now has lost three teeth. [beeping] He currently was told by Uber that they have -- they are not holding them responsible -- Uber is not holding any accountability. The insurance company, the private insurance company that the driver had given to the person who was injured is saying that it's not valid, so he has to sue Uber and Lyft -- or excuse me, has to sue Uber for his damages. That's a big problem. We've set unprecedented numbers of cabs -- excuse me, of taxi TNCs in the marketplace, over 7000, which is the highest number that's ever been in Portland. We've never had that, let alone in a nine-month period.

Hales: Thank you very much. Very helpful.

Abel: Thank you.

Hales: Welcome.

Mike McDermott: Thank you, Mr. Mayor. My name is Mike McDermott. I'm here to discuss with you an important point about passenger safety. Just gave Council Clerk over there five Uber decals to give to you guys. I bought those for about \$5 each and nobody checked to see if I was an authorized Uber driver. There was no background check. Nobody checked to see if I had insurance. There wasn't any vehicle inspection. And that's

November 24, 2015

how easy it is to impersonate an Uber driver. This quick example highlights critical safety risk. Anyone can easily impersonate an Uber driver. It seems to me that the City has important obligations to safeguard passengers. The only way is for the safety to issue vehicle decals that identify each vehicle by number and are issued only after the operator has passed a background check, shown proof of insurance coverage, passed safety inspection, and shown a DEQ certificate of compliance. Uber will say only people on platform are registered drivers -- registered Uber drivers and that Uber passengers need to take responsibility for assuring that the drivers are with Uber. That's fine and dandy until it's at night, it's raining, and with the passenger who has had a couple of drinks. It's easy to imagine that the passenger jumping into the first vehicle with an Uber decal that shows up without double-checking the driver photo and license.

Commissioner Novick's proposal suggests merely putting decals like these in the front and back of the car with no permit ID numbers like cabs currently have. This is irresponsible public policy and will place Portland passengers at risk. I urge the City Council to amend the proposed private for-hire transportation code to require City-issued vehicle decals which include an identification number, ensuring that vehicle meets all the requirements under Chapter 16.40. I don't think that's difficult to accomplish, yet it seems like with the warm and cold debates we're talking about here, it seems like the City Council is willing to compromise on public safety. I've heard it in the insurance, I've heard it in the trade dress issues, I've heard it in the background checking. The City Council is willing to compromise public safety to -- and from what I heard you say to Mr. Kafoury, do you want Uber leave town? I mean, if that's really what you're afraid of, Mr. Mayor, then yes, let's have them leave town until they really take our passengers' safety and put that at the forefront. But it seems like they are not willing to do it. They can afford to do it, Mr. Novick, Commissioner Saltzman, they can do it, but they don't do it.

Hales: Thank you. Please go ahead.

John Orr: My name is John. I'm a Radio Cab driver. You know, the other day Uber and Lyft were imploring you to wait for Oregon data and I think national data is actually more valuable because in a more mature Uber market, you have the drivers on the road are used to looking for suction cup rings in the front windshield when somebody hits them after driving carelessly because you can hide this. That's what happens. And that shifts not only costs but that helps their stats because their model requires that their driver in period one gets a rejection from their primary insurance and they'll cover it up some tiny miniscule amount. The way you are setting this up mandates that drivers are either claiming liability themselves, committing insurance fraud, or get the claim denied by Uber. That's in your regulations.

This is a letter to Uber from the City Auditor requesting Mark Wiener's lobbying contract. He was e-mailed a list of the City task force as it was formed, and I think that until this issue is cleared up, Uber says they are going to respond by the December 6th deadline -- or December 4th -- sometime early December to get the contract back to the City Auditor. Until this is cleared up, the integrity of the whole process is called into question. I think we should wait to finalize anything until this issue is behind us and the City Auditor has had a couple of weeks after receiving them from Uber.

Now on to something I prepared. I once heard a quote I really liked from you, Mr. Hales -- measure twice, cut once. I like that.

Hales: We have. Measured about four times in this case, but keep going.

Orr: I'll come back to that. I mentioned the City Auditor. Alright. Still waiting to hear back from Uber, which is an ongoing theme here of Uber eventually getting back with cities or Portland's Auditor requests. But I'm curious why Mr. Wiener, Uber lobbyist, received a

November 24, 2015

copy of the names on our task force from the City. To mem that calls into question the integrity of the entire process.

So back to your analogy, Mr. Hales, it appears our measure isn't merely out of calibration, it's been tampered with. So for the integrity of the process, we need to wait for that investigation.

So, trade dress and cameras. These have been keeping cab passengers safe for decades. Why change that? You know, again, Uber's response "we don't want to. Full commercial coverage. Why change that? It's not that we can't afford it, it's that we don't want to. I would be curious -- maybe you can ask an Uber representative -- [beeping] -- give me just a moment -- because they are coming in here and they're eating their lunch and it's because they raised a ton of venture capital, they operate at losses -- both companies last fiscal year operated at huge loss. It's because one, their lobbying expense, two, because they give out a ton of free rides. They could easily -- I bet if you compare that number of dollars given to their drivers in free rides that were given to their passengers but they paid it to their drivers -- compare that to what it would cost to get full trade dress visible from all sides so you don't have people hopping in to a car with some predator, to get front and back-facing cameras, to prevent tragedies before they happen instead of having a rating system that responds after they happen. And full commercial insurance so that when a tragedy does happen -- like the pedestrian couple that got hit by a NW Couch by an Uber driver, the company responded by saying he wasn't on the platform at the time. Maybe he was picking up street hails. Because you have to be naive to think that's not happening. How much would that cost compared to the free rides they are giving away? They could compete on a level playing field without asking you to reduce their expenses relative to us and using that money to give out rides and after all the freebies probably much lower cost that we do. We can't afford to give out 10, \$20 off.

Hales: Need to cut you off, you've gotten extra time. Thank you very much. Thank you. Let's take the next folks, please.

Orr: You were mentioned by the City Auditor, too, Mr. Hales.

Ryan Hashagen: Hello, Mayor and Commissioners. My name is Ryan Hashagen and I run Portland pedicabs. I'm very surprised to be here today as I and our industry were repeatedly told by City staff there was no reason to attend innovation task force meetings as it would not apply to our industry, yet two days before the first hearing of this code, our industry received a new code that not only included us but completely overhauled the rules around our industry with no input from anyone in our industry. The final report of the innovation task force said in highlighted text, quote, "non-vehicular forms of PFHT, such as pedicabs and horse-drawn, are not addressed in these recommendations." PBOT staff indicates it will be reviewing the program for non-vehicular PFHT at a future time. So, I'm surprised to be here.

We had been told in the last week these changes are just small edits or formatting but they overhaul our training, driver certification, and our operations. All of these issues are ones the TNCs and taxis spent two years discussing for industries. This is déjà vu for the private for-hire overhaul of 2009 where the pedicabs were thrown in as an afterthought with boiler plate language requiring automobile insurance and driver licenses. We actually have insurance in excess of the proposed TNC phase one insurance. We have \$1 million, but we can't buy auto insurance.

Commissioner Saltzman and Council in 2009 saved the day with a thoughtful amendment that created a task force for pedicabs that was supposed to report back to Council in 60 to 90 days with a separate code written for pedicabs and non-motorized providers. It took four years of us working within the system to make this a priority for revenue and PFH staff. After four years, we got a unanimous vote from our task force and

November 24, 2015

also unanimous from the private for-hire board of review -- which is pretty remarkable -- supporting a new code, section, 16.41, non-motorized transport, which was written by the City Attorney and was specific to our industry. We're waiting for a Council date for this code rewrite when Uber showed up, started making threats, and hiring lobbyists, and our industry got pushed aside.

As the City overhauls Uber and TNC taxi codes, we were told not to attend the transportation meeting as they not apply to us, then we were thrown in at the last minute. Amendments were made today to the most glaring and embarrassing oversights like requiring us again to have auto insurance and drivers' licenses. This new code is not the same as the previous code. It is not just minor edits. It completely changes how we run business. Bans on things like dynamic pricing reminds us of being previously thrown into boilerplate taxi language, just this time it's Uber code.

I urge you to stick to the original plan and not include pedicabs in this overall as we had no involvement in this process that dramatically affects our industry. We were told this was about TNCs and taxis and the task force did not apply to us. The TNCs and task force got a two-year process to address these issues, whereas pedicabs got two days. Please use the original plan of separating non-motorized transport from the code into 16.41 and allow our industry to provide input on the new rules that affect our livelihood.

Hales: Thank you.

Fish: Do we need a motion to strip them out?

Hales: Let's get staff back up and find out what's in the package. Go ahead.

Fish: I think Dan and I were prepared to bring such a motion.

Hales: I understand, but let's find out their thinking. Go ahead.

Kirk Foster: My name's Kirk Foster, I'm with Wapato Shores Transport and also still the SAT rep on the private for-hire board as long as it still exists. Two points I want to bring up related to taxis and TNCs. One, the fingerprint that Patricia brought up. There's no reason not to do fingerprints. It's easy, it's cheap, there's a new organization that's putting their terminals in places like UPS stores all over the place. It's easy. There's no reason not to do it. The molestation case she referred to in the late '90s taught TriMet and all other regulatory bodies that work in the state that fingerprints are necessary. The City of Portland is the only government agency that we work with anywhere in the state of Oregon that does not require fingerprints. That's something everyone should think about. City of Portland is way behind the times on the fingerprint issue.

Insurance, also. The new insurance language references making TNCs primary. We do have a contract with Lyft to supplement their WAV service in which we provide their insurance, and so we're providing Lyft with 1.5 million coverage in all periods whenever they are using us as supplemental. The code would prevent that and actually reduce the level of insurance by making them primary. That's something that should be addressed as well.

Those are the points I intended to make. I, like Mr. Hashagen, are in the same boat surprised to be here on this topic because our industry, the NEMT and SAT industry was told the same thing throughout this process that we didn't need to participate because our industry would be addressed after the fact as well. Nothing in the WAV industry or NEMT -- which is completely different from taxis and TNCs -- has never been discussed in any depth at any of the meetings, and our code has been completely rewritten as far as our requirements as well.

And there are a lot of things that are specific to our industry. For example, this new code rewrite that appears to have just been a copy and paste job from the TNC regulations requires all of our employees to have a business license to work for us. It requires all of our employees to own a personal car so that they can have personal auto insurance in

November 24, 2015

order to work as employees. We have \$1.5 or \$2 million coverage, depending on our region and the state, and yet my employees are supposed to go out and buy a car? Most of my employees don't own cars. I'd have to let them go unless they go buy a car and get personal insurance under this code. It just doesn't make any sense. Why would any of my employees need a business license under this code?

The reason I bring this up is because these things are easy to change but I bring it up because there's been a complete and utter lack of process in the other industries. I think there should be an amendment to remove those and revisit those later as well because no other industry other than taxi and TNCs has been allowed any participation or comment on this. And those basic things are things I would like to point out.

I have not found a single member of City staff, the PFHT staff that says they were allowed to read or vet this prior to being submitted to Council. Nobody on City staff saw this first. There are tons of mistakes like I just referenced. There are clear errors made in this that would have been picked up by anyone with experience in the industry or by City staff had they had an opportunity to review it. Again, I have found no member of City staff that was able to review this prior to being submitted to Council. And so, the whole thing really needs to be taken a look at and at least allow the City staff to review it before you vote on it, which hasn't really been done at this point.

Another thing that I wanted to point out that wasn't put in -- you're talking about lack of coverage for WAV transport being a huge part of this, even though the WAV industry has been basically excluded from most of the discussions, because that's us, the NEMT part that were told to wait --

Fritz: Could you tell me the acronyms? I'm getting lost. I know what the WAV is, the wheelchair accessible vehicle, but what is the --?

Foster: NEMT is the national reference for nonemergency medical transportation that looks to be adopted by the new City Code. SAT is Portland's acronym for specially attended transportation, which is essentially the same thing functionally.

Fritz: That's the one when you're providing it, you have the primary insurance rather than the TNC. Is that correct?

Foster: Yes, that's the contract we have. We provide primary insurance during all phases as well when we're providing that WAV service for them. But that's a separate side point.

Hales: OK, we'll get staff back up at the end of the hearing to get information about what is being done or not done in this code proposal.

Foster: It should be brought up. There's another issue --

Hales: SAT and other parties to the transportation system other than the two we have been hearing from at great length on this controversy, which are cabs and TNCs. So we might need you to come back, but let me get them up here.

Foster: There's one other point for the WAV coverage that needs to be addressed. I believe it was in 2012, there was a motion was made to reduce the age of WAV vehicles to 10 years. There was a great outcry, a lot of companies would not be able to replace their fleet fast enough to go into that, so the City made an agreement with all WAV providers, taxi companies, everybody that if you had a vehicle was permitted with the City prior to 2012 an continuously permitted, that vehicle could be used until it reached the age of 15 years. The code rewrites eliminates the agreement the City made with the entire WAV community. And again, had this been reviewed by people familiar with this, that would have been caught. But it wasn't caught. So, you have lots of companies that have an agreement with the City that they can use any vehicle until it reaches 15 years as long as it was permitted prior to the change in 2012, I believe it was, and yet that has been completely eliminated. So, you have a significant portion of the fleet -- which I've been trying to get numbers but nobody seems to have the exact numbers. I would estimate in

November 24, 2015

the neighborhood of 30% of the fleet that will have to be decommissioned immediately when this code takes effect because they are more than 10 years old. And all the providers have that assurance from the City that they can use them for 15 years. And that of course was missed, too.

This new code is rife with examples of things that were completely missed because staff and the provider community was not allowed to even look at this before it was sent to the commission.

Hales: OK. Thank you. Yes, please.

Nona Carrasco: Nona Carrasco, Radio Cab. You know me by now. I wanted to talk about the 50 cents per ride idea. It is my understanding that this is to further enforcement and accountability of the TNCs. I am all for accountability and I am all for further enforcement, however, this is not the way to go about this. This 50 cents a ride would either fall on me, a cab driver, who -- my income has already gone down as it is. Last week, I worked six nights. I worked Saturday, Sunday, Monday, Tuesday, Wednesday, Thursday. I took Friday off because I needed a day off, and then I worked Saturday, Sunday. I took last night off so I could be here today, and I will be working the rest of this week. Last week, I still made about half as much as I did last year when I only worked four nights a week. So, that would either fall on me, that 50 cents a ride, or it would fall on the shareholders which would triple the amount of permitting fees that they are already paying for the City plate on the back of each cab, or it would fall on -- as Novick said -- our consumers, our riders.

Every person I get in my cab -- nine out of 10 times, those are loyal cab customers. They would never take TNCs. I've actually talked with them about this lately and they said, "why would I want to pay even 50 cents for further enforcement of TNCs? I would never take an Uber or Lyft."

Like I said, I'm all for accountability. When I became a cab driver I went in to Radio Cab and I got interviewed by Charlie and Noah, two of the superintendents. After that, I went in person down to the City and I paid the fee to have my background check done by the City in person so I was able to actually prove I was who I was. I'm also all for the fingerprinting. Once that came back, I was clear, which it came back fast for me because I was already in the system as a social worker, and I had worked with vulnerable, developmentally disabled adults for 16 years. I was already in the system getting those background checks every year. That fee was nonrefundable. I also paid for the permit once I passed the test in person. I met the five-year requirement to drive Radio Cab. I also got training, and during training, I was assessed for my knowledge of the city and my appropriateness with my passengers. I now train and assist other drivers. I pick up my cab at Radio Cab, so the superintendents and other staff see me when I come in. They see that I am OK to drive. I also am supervised throughout my 12-hour shift. I have dispatch looking over at me at all times. My cab is clearly marked with the phone number on the cab as well as cab number. How do you enforce rules 24/7 on regular cars with one decal that you can see on the front? I have one of these, too.

Hales: Thank you very much.

Fritz: I have a question because you and I have had some correspondence about the defensive driving class. Are you as a Radio Cab driver required to take defensive driving class?

Carrasco: Absolutely.

Fritz: How often?

Carrasco: Every two years. And if an incident occurs or anything happens, I can be required to take one immediately.

Fritz: Are there other things that happen periodically other than just the first certification that you went through? Are there other requirements to continue being a Radio Cab driver

November 24, 2015

that you have -- like defensive driving is every two years. Are there other things you have to keep doing?

Carrasco: Well, I also have to get recertified every year.

Fritz: Every year you have to get recertified?

Carrasco: Yes, I have to go in and renew my permit. I was actually going to bring my permit. My permit also has my picture on it. That's displayed in my cab. I do have some recommendations.

Hales: OK. Why don't you -- no, we're not gonna -- this is not a work session. Let me thank you. We're going to get staff back up here. We have lots of questions from the testimony that's come in and I want to make sure we have time to do that.

Fritz: I know the cab drivers have put in a lot of time -- if you could just give us your top two recommendations, please.

Carrasco: OK. I think that all TNCs should have lived here for at least five years. I would like to know --

Hales: The people driving or the company?

Carrasco: The people driving.

Hales: That's not constitutional. We can't do that.

Carrasco: That's a requirement for me to drive Radio Cab.

Hales: I don't believe it's the City's requirement but keep going.

Carrasco: I would like to know how long the person that hit those two pedestrians last week -- I would like to know how long he had lived here. I'm almost willing to bet he just moved here within the last six months.

Hales: OK. Thank you very much. Let's take more testimony, please. Good morning.

Dan DeGrange: Good morning. I'm Dan DeGrange, I'm with Propel Insurance. I've been providing insurance to the delivery industry in the western United States for the past decade. I want to share with you some important loss data for my insureds in Portland and other cities throughout the west.

In Portland, my insureds claims data reveals most claims occur before period two and three. But before getting into the specific details of the claims data, I think it is important to share with you some statistics about how many accidents livery companies have annually in Portland and other cities. The cities that I currently have insureds in is Portland, Seattle, San Francisco, Phoenix, and Los Angeles. The lowest accident occurrence rate for the livery industry is a half an accident per car per year. So if you had 200 cars, the best-run company would have 100 accidents. The highest accident occurrence for the livery industry that I've seen is almost two accidents per car per year. The high accident occurrence rate almost always occurs in those cities with high driver turnover and inexperienced drivers. The low accident occurrence rate occurs with those cab companies or livery companies that have experienced drivers, and those companies spend a great deal of time and money training their drivers to be safe.

So, let's get into the actual claims data in the city of Portland. Steve Entler, the GM at Radio Cab pulled all of his claim files from the past four years. And in that four years, they had a total of 753 accidents. 221 of those accidents occurred -- if we're using TNC language -- in period two and three. The other 531 had no passengers in the vehicles and would have occurred in period one. So, approximately 70% of the accidents occurred with no passengers in the cabs or in the words -- to borrow from the language of Uber -- the driver had his app on and was seeking the next call.

Mr. Entler was nice enough to also go back another four years and during that period of time, he just looked at individual accidents that incurred losses of excess of \$50,000. There were a total of 17 accidents that incurred over 50,000 during that time span, or roughly four a year. Keep in mind, he only had 200 vehicles on the road at that

November 24, 2015

time, OK, not thousands like the TNCs. Of those 17 accidents, the largest incurred losses did not occur in period two and three but instead they occurred in period one. The largest one was roughly \$1.2 million, no passengers in the cab, period one. The second largest incurred was almost \$1 million, no passengers in the cab, period one. The third largest was \$264,000, no passengers in the cab, period one.

My other clients -- Broadway, Green, Union, Portland, Rose -- also reviewed hundreds of claims over the last three years and the average percentage of claims that occurred for these other companies was roughly 58% of the accidents occurred in period one.

Hales: Thank you very much. If you could make a copy of that available to us, that would be helpful for us to consider, but we need to hear from other folks and move on.

DeGrange: OK. I just want to finish. This data has been collected over a period of several years and hundreds of accident files which leads to credible actuarial data. I believe that this is why the liability limit that Uber has with their insurance policy has the lowest limit during the time where there are the most accidents. They have this low limit to minimize their cost for insurance because insurance companies understand this. They understand that most of the accidents occur during that period.

Hales: Thank you very much. Good morning. Go ahead.

Dirk Warninghoff: Hello, my name's Dirk Warninghoff. I'm a 38-year-old Portland native. I've worked as owner-operator at Radio Cab for almost five years. Personally, I'm being punished by your non-regulated experimental double trial period by about 35% less income, however, I would like to address the suggestions of your new rules as quickly as I can.

All the companies should have the same minimum \$1 million policy as a public safety issue. The whole period one quickly removed my little six by six car before someone sees it as my personal insurance company would drop me is a bunch of baloney. I personally called 15 or more major insurance companies in Oregon and not one of them will insure you if you tell them you're driving for a TNC vehicle. So, almost all of these people who drive around prepared to be committing insurance fraud, because if they call I was in an accident, and I hit somebody, a pedestrian, and I told my insurance company they would drop me, so now the pedestrian is stuck suing a driver with no insurance at all and has no job to pay for to. Why are you willing to put the public at risk? If they are not allowed to not have a 24 hour, \$1 million company and taxicabs -- I am -- then that's collusion. You're not allowed to give them a competitive advantage that I don't have, and you open yourself up for possible litigation.

It seems funny that you're really giving new rules for people who are brand new compared to people that have been here a long time following the rules. As for paying the City's 50 cents a ride instead of the \$60 plate fee, I don't know what you're thinking. Let's say I do 15 rides a day, five days a week. That's my 12 hour shift. My partner does the other 15 rides a day, five days a well. That's \$3600 a year we'd be giving you. Why is that six times the after I was giving you before? I was only giving you 600. That doesn't make sense.

Finally, basically, I'd just would like them to be labeled as much as possible. That would be really nice. Matting on all sides of the vehicle. It's really weird that they even want to argue with you guys about the fact that they have one in the back because -- just like they want to argue that they don't want fire extinguishers, because they are not about that. They are about the bottom line, which is lowest denominator, least profit. Either way, it would be nice if they were labeled on all sides of the vehicle for public safety issues. Thank you for your time.

Hales: Thanks very much. Good morning.

November 24, 2015

Jeanette Thibert: Good morning. Jeanette Thibert. Thank you. Commissioner Novick, I have one question for you. You're college educated. You're a leader. Why do you continually insist on devaluing your own life? And now you're putting it in the record. You step off a curb twice a day every day you come to work. At that point, you're a pedestrian. A year ago, your life -- according to this -- was valued at \$500,000. Now, we in the for-hire transportation agreed to value you at \$1 million, and that's what we insured in case for some reason somebody couldn't see you, for whatever happened. We valued you more than you're valuing yourself. As a leader, I'm asking you to reconsider your actions.

Commissioner Saltzman, Mayor Hales, he's throwing you under the same moving wheel. He's valued your lives at that as well. Every visitor to this city, every person who lives here, every person who serves here is worth a million dollars when they step across our streets. And it is a simple task to ask that vehicles be identifiable because an 80-year-old who is not tech-savvy and doesn't have a smart phone doesn't understand the difference between a black and white U on the front of a vehicle compared to a red and white U in this city means this building is unsafe to enter. What's the difference? So I can get a magnet that shows 12 by 18 inches -- it's a magnet and it says the full word "Uber." Not just a U, it says "Uber." Those should be required on the outside of a vehicle for the safety of pedestrians as well.

Novick: I have a question. Do you think all of us should be required -- no matter whether we're commercial or non-commercial drivers -- to carry a million dollars' worth of insurance?

Thibert: I think at least a half million. All of us? So.

DeGrange: Can I answer that question?

Novick: Actually, no, I'm addressing the question to you. I think there's an argument that -- I mean, most crashes happen with non-commercial vehicles. I appreciate your giving an answer that -- I mean, Commissioner Fritz has suggested the Commissioner should raise the overall limit for everyone and sounds like you agree with that.

Thibert: I have no problems if you want to make it a million and if I were driving my personal vehicle. Here's the irony of this. I own two taxicabs. When you submitted this -- up until recently, I didn't own another vehicle. So, how many different ways to you want to put my WAV vehicle out of business? Put me out of business? Because the way this is written -- had my partner not renewed their car and thrown me in on the title at the last minute, a year ago I wouldn't have owned a personal vehicle to have insured.

Fish: By the way, Commissioner Novick, since I'm in a public life, I choose to have much higher limits. Let's be clear, on the private side, whatever the limits I have would cover -- the insurance would cover up to those limits if there was applicable coverage and someone could go after me personally because I'm behind the wheel. One of the things we're trying to avoid here is something which I have some prior experience with in my life before Council, is the living people make doing this on insurance coverage in the commercial side so that people spend a good portion of their lives trying to establish liability and damages. But the reason individually I have higher limits is because I'm insuring me and my family against risk that we will be sued. Insurance will cover up to the limits, but I'm potentially on the hook, which means our savings, our house, and everything else. And it is different on the commercial side because we can regulate consumer protection on the personal side. If you choose to be irresponsible and keep very low limits and put your own resources at risk as a private individual, that's your choice, but once you're in commerce, I think we hold you to a higher standard.

Hales: Thank you all very much. Is that all the testimony? I'd like to call up for questions Leah Treat, Bryan Hockaday, Kate Wood from Risk, Ken again I think should come back up. Pull up another chair as needed. I know we have a lot of questions.

November 24, 2015

****: Break?

Hales: Take a break? OK, let's take a three-minute mercy break for the Council and come back. You can get organized while we're doing that.

Fish: We've gone from "compassion" to "mercy." [laughter]

At 11:42 a.m., Council recessed.

At 11:45 a.m., Council reconvened.

Hales: OK, I think Commissioner Fritz will be rejoining us momentarily. I know there are a bunch of questions, but I guess I'd like to try to get back to some context here, which I tried to do earlier. So, refresh my memory. Again, I think we've had four or five major City Council hearings on this subject over the course of the last year. I think there's a prospect that this hearing could be endless given the constant arrival of new technical issues as we witnessed here today. It's my very fervent belief that it should not be endless and we should make some decisions and move on to perhaps addressing some of the issues, but I'll get back to that. But re-contextualize this for me. At this point in the United States, how much of the United States is regulating TNCs and how much is not?

Bryan Hockaday, Office of Commissioner Steve Novick: The regulations are mostly occurring in large and medium urban cities.

Hales: Right. And it's a fraction of the country, right? Most of the country, TNCs are operating without any regulation whatsoever, right? So I assume there's insurance cases and litigation and that kind of stuff going on in those places, right? So, we'll get back to that.

Then secondly, of the cities that are regulating, if there's a scale of not much to a lot, where does Portland's current standards as proposed fall on that scale?

Hockaday: I think that Portland has some of the most thoughtful regulations that have been developed in large credit to the task force and because of all the public input that we have received. We're certainly doing some things that are very similar in other cities, but there are some differences in our regulations. For one, we made it very clear to the TNCs that they shall provide service to people with wheelchairs. Most cities have not been able to get that commitment from the TNCs.

Hales: And are other cities stricter than our proposed regulations on issues like levels of insurance, fingerprinting, trade dress, and cameras?

Hockaday: So, the insurance issue, as has been discussed, is a national issue for the TNCs. It was a very, very contentious issue for the past couple of years. The TNCs were at heated odds against the insurers. They finally did come to an agreement with the current levels that are included in these proposed regulations.

Hales: How about the other issues?

Hockaday: For some of the other issues, I think that Portland is consistent in the way -- in our standards for background checks and our standards for vehicle inspections. You know, there is a lot of innovation happening in this industry, a lot of groundbreaking work, but there are some things we know work and work well.

Leah Treat, Director, Portland Bureau of Transportation: I would add that one of the things that Portland is probably at the high mark on is the requirement of citywide service as well.

Hales: OK. My next set of questions are first for Kate. This James River issue and the Port -- can you pick that apart for us?

Kate Wood, Risk Management, Office of Management and Finance: I'm really sorry, I just got called over here and so I have not been following this.

November 24, 2015

Ken McGair, Office of the City Attorney: I can do it. So, the code has for years had a requirement that the insurance carriers be rated by the A.M. Best company, which is an insurance-rating agency that rates the level of insurance companies. At some point -- and I think Ms. Kellington is accurate -- the City, somebody in the City approved EcoCab's insurer that was rated less than the A-minus standard by A.M. Best -- I don't recall what it was -- B, I believe -- because that particular PBOT staffer had determined that a different rating agency had given them an A rating and that was sufficient, but neither Risk Management nor the City Attorney's office had been consulted. The Port has the same requirement, an A.M. Best rating of A-minus with a financial size of eight or greater for the insurers. And when EcoCab went to apply for Port permits, the Port said, hold on a second, you don't meet the A.M. Best rating, and they began discussions with us. We looked at it, and we consulted with Risk Management in Kate's shop and decided that, yes, the A.M. Best rating was the standard that the City of Portland wanted to have and because the company didn't meet that, they needed to find a new insurer.

Now, we gave them a grace period. We gave all the companies a grace period that had insurance that didn't meet the A.M. Best A-minus, eight or greater standard to come into compliance. I'm trying to recall, but I believe it was something like the next time your insurance comes up for renewal, we need you to come into compliance with this. That was the kind of workaround we provided.

In the code, the new proposed code, we still used the A.M. Best company A-minus rating. We have taken out the financial size component of the insurers. And I'm not here to quibble with whether Demotech is a better rating agency or A.M. Best is a better rating agency. I rely on the advice of the Risk Management people who say that A.M. Best is the industry standard and that is what is generally used to rate insurance agencies. Now, that could change as new things come into market, but as it stands today, that's what the City of Portland looks at and that's what a number of other jurisdictions look at as well for determining the viability of the insurers. The second piece to what Ms. Kellington -- **Saltzman:** Did we take a look at all -- the issue was raised about some insurance companies are registered with the state while others aren't?

McGair: Yeah, thank you, Commissioner Saltzman. That's the second piece of what Ms. Kellington raised, which is the admitted versus non-admitted insurers of the surplus lines carrier. The new proposed code and current interim administrative rules that the TNCs are operating under allow for a surplus lines insurer. Generally speaking, that is a non-admitted insurer that operates in a number of states -- and the insurance people behind me can probably fill in the gaps -- but essentially, they do not pay into the state guarantee fund. They do not have a product that's approved by the state insurance division, but they are approved as a surplus lines carrier for the state that they're operating in, and they have an insurance product approved in the state in which they are licensed, which I believe for James River is one of the Carolinas -- North or South, I can't remember.

So, it is true that if James River were to fail for some reason, there would not be the state insurance guarantee fund to draw from. But -- and I think Kate can address this -- I don't think the state guarantee fund is a huge amount of reserves there and that would have to cover all the claims in the state, not just TNC or taxi claims.

So, those are the two issues and I think I addressed everything that Ms. Kellington raised in the insurance context, not with regards to the colors and things like that.

Hales: Back to the colors issue, that's my other more global couple of questions really, for you, Leah. That is, it was news to me today that at least some people believe that the proposed regulations affect pedicabs. It's also news to me that at least some people believe that the proposed regulations affect SAT or special access transportation vehicles.

November 24, 2015

I raised the question earlier of what's the level of detail that the City Council should engage in versus you as the administrator of this bureau and some advisory board. We deal with those issues all the time of where's that dividing point and the discussion about the color scheme on the car to me may have dived below my threshold of what I think the City Council ought to be engaged in, but I appreciate the fact that Commissioner Fish saw the problem. To use it to go to other areas, the City Council adopts design review goals and objectives that say we want these goals and objectives and we want them applied to this part of the city, but we don't generally get involved in picking the color of people's window mullions.

Fish: But Mayor, what we often do is play the role of referee.

Hales: Yeah, I get that.

Fish: I think that's why the essential question is, were the pedicab industry involved in the regulations --

Hales: Oh, fair enough.

Fish: -- because frankly, for me, if they weren't, then I'm not interested in getting into the question of whether this is an improvement or not in the system. That's enough of a red flag that I think we should strip it out, have a conversation, and bring it back. Because we're not the right body to have that discussion --

Hales: Right, fair enough. I'm raising the question of how this is going to work in practice. Because it might not be that we've heard every detailed issue. We heard some new ones today, but we might not have heard every detailed issue about how this is going to get worked out in practice. Where is the boundary in this whole scheme between policy that's going to be set by the Council and issues worked out by your authority as bureau director with or without an advisory body? I have lost track of that boundary just this morning.

Treat: If I can, a couple of comments. First, I'll start with the pedicabs. It's my understanding that the code that is before you today for approval is the same code that was in existence prior to the pilot being started with one exception -- that there's a requirement for pedicab drivers to have a driver's license. That is the only change that I'm aware of.

Hales: That's a proposed new requirement in code.

Hockaday: No, we need to clarify. The pedicab regulations and the nonemergency medical transportation regulations are in wholesale the same as the status quo. It was primarily done because we had not intensively engaged with those stakeholders. However, throughout the entire for-hire program, there are some changes that we're making -- notably, the City's deregulating fares and we are not restricting the number of permits. And we are proposing that the drivers apply to the company they work for as opposed to applying to the City, which is the status quo. We did that in large part --

Novick: Mr. Hockaday, when you say "apply to them," can you elaborate on what that means?

Hockaday: Sure. So when the driver wants to work for any taxi, TNC, or pedicab company, their first action is to approach that company, submit an application. The company reviews it and makes sure the driver meets the requirements. The company is then responsible with contacting the City, presenting all the information to demonstrate that the vehicles and drivers meet the City requirements. We are able to pretty efficiently review and approve those applications to get those drivers and vehicles out there on the road. The current system is pretty administratively intensive and prevents us from doing the type of field enforcement that we want to.

Fish: We could spend all day -- [inaudible]

Hales: Turn your mic on.

November 24, 2015

Fish: Charlie raised the point about what's the right venue to have what discussion. I have to say, I don't think we are the right venue to discuss whether the pedicab concerns are well-founded in the code or not. I think having a follow-up meeting to find out whether there are provisions in this code that impact them and what their views are is important, particularly in light of the fact that we have a representation on the record that they were told that there was no reason to become engaged in this process because it wasn't going to have an impact on their industry. Whether that conversation happened or not is irrelevant because we haven't adopted this code, so we still have an opportunity to say, "what proposed changes impact your industry and are there unintended consequences?" and whatever the fruits of that conversation, you can report back to the Council and we have an option. We can strip pedicabs out altogether, or we can address any inconsistencies. But for me, I'd also like to know what did happen to the new chapter -- the new proposed code in -- I think it was 16.41. What happened to that omnibus set of rewrite? Where is that in this? Is it in your proposal or is it off to the side?

Hockaday: Not necessarily sure I understand that question fully. It is Exhibit A within the ordinance itself -- is that what you're asking for?

Fish: Well, we were told that since 2009, there's been a lot of work in updating the non-motorist transportation chapter of our code, and we were also told at least by one person who testified that that package has not been accepted yet by the Council. What's the status of that?

Hockaday: Correct. So, the task force, the innovation task force was primarily focused on taxis and TNCs. I do want to make it very clear that we encouraged participation at those meetings, input both spoken and written from any and everybody. However, you know, we did make it very clear to the different stakeholders what the focus of each meeting was and throughout the entire task force's process, it was all focused on taxis and TNCs.

Now, the 2009 recommendations pertaining to pedicabs -- we have not gotten to those yet because again, we were focused on taxis and TNCs.

Hales: "Not gotten to those" means not a word has changed, right?

Fritz: But I think it has, Mayor, because 16.40 is the pedicab and it says in number nine of 16.40.775 about what you have to have to be a pedicab driver. Number nine says you have to have a year's continuing driving experience. I was here with Commissioner Fish and Commissioner Saltzman when we adopted the pedicab rules, and there was a huge discussion about whether you actually had to be a licensed driver, and the answer was no. So, I don't think that is in the current code.

Hockaday: The current code, Chapter 16.40 -- the proposed new code -- has a significant rewrite and restructuring. The current code is very challenging and difficult to read in large part because the requirements for the different types of companies and the drivers are kind of interspersed throughout the entire code. We wanted to reorganize the code by the type of company so it was very clear to the companies and to the drivers what those requirements are. So, there's renumbering of the code, certainly, but the actual requirements are the same.

Now, there were a couple of unintentional edits that did make it into this exhibit which we wanted to correct with this amendment here, and those do address a couple of missed references to a couple of requirements. One of those was driver's license. The current pedicab requirement is that drivers have to have either a driver's license or government-issued ID, and that is referenced three times in the code. There were two occasions where we unintentionally left off the government-issued ID, but we put that back in there. Because we do not want -- we did not intend to have any changes for the other types of companies.

November 24, 2015

Fritz: You don't have a change, though, to 16.40.775 number nine, and that requires that there be a year of continuous driving experience. It's on page 126.

Hockaday: Yeah, so -- could you give us that reference one more time?

Fritz: Page 126, and it's 16.40.775, number nine.

Hockaday: Can you see that, Ken?

McGair: Yeah, she's referencing the standard criminal background check requirements.

Hockaday: That would pertain to a driver that presented a driver's license at the time of application.

Fritz: No, it says they will not be certified as a pedicab driver if any of the following conditions exist. So that if they can't prove they have had a driver's license for a year, they would not be a certified pedicab driver.

Hockaday: That would be correct -- yes, that would be correct.

Fritz: That's not what we passed for pedicabs.

Hockaday: That would be a new point to me.

Fish: This illustrates for me -- look, if we were in Salem and not Portland, at this point the committee chair would say, "I direct an industry representative and committee staff to hold a meeting to go through the language, review any changes in the language that impact that industry, see if there's concurrence, and if there are things that cannot be agreed to, that comes back to Council."

Hales: I'm very inclined to do just that. That's my question to Leah -- isn't that what the board is supposed to do?

Fish: I'm personally -- I'll just speak for myself. I don't think Council should adopt legislation that has unintended consequences that can be corrected or that has changes in the law that have not been discussed adequately with an impacted part of the marketplace. And while we've had lots of hearings -- as you point out -- about the main event here, we're now hearing some things that haven't been the subject. And we can flag them. We can spend an hour flagging all the inconsistencies, but we could also require staff to sit down with the industry, go through this, and report back to us if there's any concerns.

Novick: I have a question of timing --

Hales: Let Leah answer my question first.

Treat: Thank you. Sure. We have had some preliminary conversations with the pedicab industry. I do believe several more are warranted. They have some issues that I don't believe we've resolved to their satisfaction. So, if the will of the Council is to direct us to go and work with them, bring back changes, we would be in agreement with that.

Hockaday: We also started -- [inaudible] -- what was the other --

Fritz: Medical --

Hockaday: Medical, yeah. We have already started that work because we want to move forward.

Novick: Can we do that and still move this to second reading?

Hockaday: No, no -- sorry, let me clarify. Because the task force has not engaged with the other stakeholders -- we've already known that there are other changes to other types of companies that they want to see made. We have not had those stakeholder meetings publicly. We've had preliminary conversations with a couple of the company owners to get a sense of where they would like to see the new code go. So again, we wanted to preserve the status quo in large part for the other companies beyond taxis and TNCs and town cars, and begin the work with the stakeholders and with the public to update the code throughout the entire -- in its entirety.

Novick: OK. My question is can we move to second reading on the broader ordinance next week and still be talking to the pedicabs, or do we need to add amendments

November 24, 2015

saying, “notwithstanding anything else here, what we’re passing today has nothing to do with pedicabs” and then have those decisions later on?

Fritz: You would have to remove that section and the NEMT section from what we’re being passed today. I wanted to go back to the City Attorney and get an answer to my question. Does the Council have the authority to delegate to the Director to waive sections of code?

Hales: Push your button.

Fish: Can’t hear you.

Heidi Brown, Deputy City Attorney: Mayor Hales, Commissioner Fritz, in answer to your question about whether you can delegate authority that’s in the code -- you can’t amend the code and just delegate authority if it’s not already delegated in the code. I was hearing something about rules of codes and that’s why I was trying to determine whether you were talking about -- amending rules or amending codes. Amending code would take another act of Council --

Fritz: So no, we can’t delegate -- [speaking simultaneously]

Brown: You can’t just delegate authority without something in the code already authorizing that without an amendment.

Hales: We’d either have to take whole sections out of the ordinance, say, “deal with this by administrative rule, give the Director authority to do that,” or --

Fritz: It’s not to amend the code. There wouldn’t be anything in the code about pedicabs.

Hales: Right, that’s what I’m saying. That is an option. I’m not necessarily recommending it. In other words, to get to the environment in which the Director and her staff works through these technical issues and resolves them outside of Council, we’d have to do this.

Fish: Mayor, there’s actually very simple way we could do that, which is we could say that with respect to any provision of the code which is different from status quo that applies to pedicabs, they shall not be implemented until the earlier of the Director reporting back with a set of amendments or 90 days. And that becomes the transition period. So, we’re just maintaining the status quo for that 90-day period, no changes -- because you’ve said that intent was to maintain the status quo -- and then they report back either a change to the code tailored to the industry or not. But that way, we’re assured of the status quo, and we simply specifically direct there be no change in the status quo until the Director either comes back or a certain period of time elapses.

Novick: Mr. McGair, what do you think about that idea?

McGair: I think that works. I know Ms. Brown is looking at it, but I think that works. I would only say 90 days may not be enough given --

Fritz: I wouldn’t have a “if you let the clock run out, the new code goes into place.” I think it would be until the Director comes back.

Fish: No change in the status quo for six months or earlier if the Director comes back with some kind of representation. If she comes back and says all is well with the world, then I don’t want to hold it up. If she comes back and says there’s issues to be worked out, then I want the moratorium in place until that code comes to Council.

Fritz: Why have any kind of date? Why not just say until the Director comes back?

Fish: I’m fine with that.

McGair: I want to make sure this is only applying to pedicabs, NEMTs, and SATs.

Fish: Unless you tell us it should be broader, at this point --

McGair: I would like -- I think you can direct the sections that apply to those particular industries have the moratorium, and we’ll figure out --

Fish: [indistinguishable] [speaking simultaneously] -- from the status quo.

McGair: Correct.

Fish: There is an existing regulatory system.

McGair: There’s a code in place.

November 24, 2015

Fish: We're saying no changes to that code until such time as the Director comes back with a recommendation.

McGair: Correct.

Fish: I would offer that as an amendment.

Fritz: Second.

McGair: For the particular industries we talked about.

Fish: Just the industries that you've identified.

McGair: OK.

Hales: That's been moved and seconded. Want to take action on that amendment at this point? I'd be happy to. Let's do, please. Roll call.

Roll on amendment.

Novick: Aye.

Fritz: Aye.

Fish: I very much appreciate both the discussion and the testimony that prompted the discussion. Aye.

Saltzman: Aye.

Hales: Aye. Good. Got that all for now.

Fish: Mayor, can I ask -- since we're posing questions --

Hales: Yeah.

Fish: And this may be to Commissioner Novick or to our panel. We heard in one of the prior hearings, someone observed that if we impose a surcharge or fee on a fare for the purpose of creating a fund to take care of a laudable public purpose that it may -- under the compensation agreement between the driver and a TNC, a portion of that fund may go into the wrong pocket. Is that true, and is there any way we can regulate that since any fee or charge that we're contemplating in my words was sort of meant to be something in the nature of pass-through, not as a tool to inflate gross receipts so that the 20% off the top gets bigger. Does that make sense?

Novick: Yes, but I thought that that's kind of -- I mean, the 50 cents is going to be paid to the City to administer the program, so it's not going to be money that Uber gets. And in terms of -- one way or another -- if we had a regular old permit fee as opposed to a 50 cent charge, then Uber winds up taking that out -- either charging it to customers or taking it out of shareholders or taking it from drivers. The fact of -- how we do it doesn't affect how much money Uber makes.

Saltzman: It's designed to be -- I mean, I was sort of the suggestor of the idea -- as a straight pass-through to the passenger. So, it doesn't go through the driver's hands, doesn't go through the cab company's hands, doesn't go through Uber or Lyft's hands, it goes straight to the City from the passenger.

Hockaday: And the way we wrote the --

Fritz: How would that be done for the TNCs? Everything goes through Uber.

Saltzman: Well, they have to remit, yes. It would be on your receipt as a surcharge from the City of Portland. And yeah, the companies do have to remit that to the cities -- to the City. It doesn't count as driver income, it doesn't count as Uber income.

Fish: Can't we specifically provide that it shall not be deemed X or Y subject to whatever fee a TNC takes from that transaction so it's clear it's a pure pass-through?

Novick: But we're not regulating the relationship between the TNCs and their drivers. The 20% thing is something that Uber has applied but I mean, we didn't regulate how the taxi cabs pass on the permit fees to their drivers, either.

Fish: Yeah, but here's the difference. If we keep adding fees and charges which we think are laudable for a public purpose, you may be inadvertently reducing the net income to the

November 24, 2015

driver. That wasn't our intent. It was to create a pool of funds to cover a public purpose, not to adversely impact the driver.

Novick: But why would it adversely impact the driver? The driver gets 80% of the fee -- I mean, of the charge. So, you could argue that maybe it gives the driver another 80 cents. In fact, neither is true. It ends up going to the City.

Fish: It goes to Dan's point about who is responsible for remitting the payment. If it's clearly the TNC's responsibility, then it seems less likely it'll be part of the formula. If it's not clear in the code, it could end up being partially funded by the driver and that was not our intent.

Hockaday: So, the detail of the permit fee -- that surcharge -- is on page 140. It requires the taxis and TNCs add to receipts the 50 cents and with the line item "City of Portland surcharge." We will bill all companies quarterly and collect those fee rates from them. Does that help clarify anything?

Novick: Yeah, so the companies will send us a check for the aggregate amount of those 50 cent charges.

Saltzman: That's fine. You got it right there. I did have a question about the decals. I mean, I'm a little disturbed to see everybody holding up Uber decals today. What about the issue -- we are going to require that the decals be back in front now, but what about the issue that they somehow carry a serial number or something that shows that the City has issued the decals?

Hockaday: So, that goes again back to the whole app. Drivers cannot be on the app on the platform without having been cleared by the City. So, Uber and Lyft provide to us, the City, a list of applicant drivers. Those drivers are not active until we say that they are certified. So, that in and of itself. And the business license is a unique identifying number we're using for the TNC drivers at this time. So, we feel confident -- and maybe Leah can speak to this --

Saltzman: I guess I'm thinking of just the sort of the safety angles that have brought up here. You're coming out of the bars at 2:00 a.m. and you see cars with that Uber, or the Lyft mustache, whatever, -- but you know, given that people are holding them up here in the audience, anybody could get those decals. So that's what I'm thinking about. If I saw a decal that had a City serial number on it, I guess I would feel a little more safe.

Hockaday: So -- oh, go ahead.

Saltzman: I guess -- like, if you're coming out of the bars at 2:00 a.m., you may not be as likely to do your research on the driver history.

Novick: Although, Commissioner, if you're coming out of the bars at 2:00 a.m., are you going to memorize the identification number of the taxi, either?

Saltzman: At least you'll know to look for it.

Hockaday: What passengers really need to be looking for is the app because it provides detailed information about the driver and the vehicle, which we have found to be more useful for customers than just a City identifying number. Again, those drivers are not available for street hails, so you're not supposed to be walking into any car. In fact, it was an incident where a woman mistakenly entered a non-TNC vehicle -- did not have the decal on it -- and the Uber driver actually contacted the passenger because on the driver's app, they also get information about the passenger and who they should be expecting to enter that vehicle.

Treat: And this is just somewhat relevant in that it's not limited to the TNCs. We have several cases on our files of people impersonating cab drivers as well. This is where enforcement is really critical in this industry.

Saltzman: But at least for our cab companies, we're requiring a color scheme, a decal. And Uber drivers, we're only requiring this U

November 24, 2015

Hockaday: Again, the app in and of itself is essentially a digital City certification number.

Novick: The app provides I think more app information about the driver and the car than you normally have when you get into a cab.

Hales: So, another issue that came up in testimony -- fingerprinting versus name-based background checks. Could you elaborate on that?

Hockaday: Actually, Dave Benson is our resident expert on that. Would you mind if he were called up?

Hales: Not at all.

Dave Benson, Portland Bureau of Transportation: Good afternoon, Mayor and Council. Fingerprinting. There's a couple things have been talked about. One is biometric or live scan. Currently in the state of Oregon, the only agencies that have live scan where you actually scan a fingerprint and it's transmitted to the state are police agencies, and then there's one private vendor with Department of Administrative Services who has that. Right now, if you use live scan -- although there are vendors out there and I have spoken to state police, I have spoken to one -- there's no direct transmit. It just -- it's live scan. It gets printed on a fingerprint card and gets mailed in the standard way to Salem. Certainly, you can do that. There are private vendors out there that provide that service and then it takes seven to 10 days to run through the fingerprint check.

Hales: Why is that? The technological connection is not there?

Benson: Well, we just haven't caught up quite yet. The state police is working on it, they just haven't got the systems in place for private vendors to transmit to the state. I think that's where they're going, but we're just not there yet.

Fritz: On my iPhone 6, I have the thumb point recognition to turn it on. As technology increases, is that not going to be available to everybody?

Benson: Commissioner, I believe relative to criminal background checks, if that's what we're talking about, I think state police wants to get us to a place where you can do live scan and it is a direct submit to the state and will get there, but they're just not there administratively yet. We can still do that with an ink card or computer-generated card.

Fritz: So fingerprinting -- whether it's quite possible to do it manually --

Benson: Oh yeah, it can be done. We can't do it here, but there are private vendors that can provide that service and when you check a private for-hire driver, the state only queries the state of Oregon.

Fritz: Why would we not require that?

Benson: You certainly can. I mean, it has some limited value. It doesn't -- there's a misnomer that you verify identity. You don't. You're just testing against a known database of people who have either been arrested. Or there's a limited number of folks, like in my previous life as a police officer -- physicians and a few others maintain records of those folks. But other than that, if you don't compare against somebody in the system, it doesn't verify identity.

Fritz: It would for immigrants, though, because everyone who is not a U.S. citizen gets fingerprinted.

Benson: I don't know about retention of those records. I'm suspecting those are kept in the federal system. For those employment checks, state police only checks the state system.

Hales: Another issue on my list -- sorry, we're running through multiple levels here. The issue that was raised by both EcoCab being disadvantaged by old school, as they were describing it provisions in our regulations, you know, in terms of meters and those kinds of things. Again, are we changing the rules in this proposal? Are we failing to change the rules? Why are we erupting on that front at this juncture in this process?

November 24, 2015

Treat: It's a good question. We are not changing the rules for meters today. This is a new issue for us today as well, so we're happy to work with EcoCab moving forward on their issues, but this is new for us today as well.

Hales: And then we talked about this a little bit, but Mr. Aleme's point about the change of insurance rating. How are we going to resolve that?

McGair: So, we have taken out the requirement of certain financial size, but the A.M. Best company A-minus rating still exists.

Hales: So the change in the size requirement doesn't solve his problem?

McGair: No. We've given them a period of time to come into compliance, which is I believe at their next renewal period. I had a lengthy conversation with Mr. DeGrange yesterday in which he stated to me and I committed to him to continue looking at the Demotech issue with the Risk managers, but he stated to me that there is a larger company that meets the A.M. Best rating that will be writing paper for insurers in the state that do taxi cab insurance products. That should be coming into play in the next -- I think he said the next 30 days.

Fritz: What's the problem we're trying to solve with restricting to A.M. Best A-minus rather than the Demotech B?

Wood: There's a number of ratings agencies available within the insurance industry. A.M. Best has been the gold standard for a lot of years. All the commercial insurance that we place for the City is A.M. Best rated. Brokerage houses have teams of people that review the rating agency's assessment of different insurance companies, and the problem that I would see for the City is, which rating agency do you want? And if you have multiple rating agencies that rate the particular insurer differently, who do you choose? So, it really is more of a practical matter of how do you select which rating it is that you want to use if the rating agency --

Fritz: Is it true the A.M. Best doesn't include promptness of paying claims as one of their criteria?

Wood: I don't know. I wouldn't be too surprised, but they really are looking at the financial solvency of an insurer as opposed to their claims handling process.

Fritz: Given the litigious nature of car crashes, I would suggest that including whether or not companies pay up promptly should be part of our criteria.

Hales: Other questions?

Fritz: Yes, I have one. Are TNC drivers covered by state law that says it's a felony to assault a taxi cab driver?

McGair: I mean -- if it's a felony -- I'm not sure where the question comes. If it's a felony to assault a cab driver, then everybody would be covered by that. Is that what you mean? Or -- [speaking simultaneously]

Fritz: The state law specifically -- and it's going to that section of the code that says taxis are required to have cameras and cameras are required to have it posted underneath that it's a state law that it's a felony to assault a taxi driver. The state law specifically says taxi drivers and does not include TNCs.

McGair: Then I don't know. I would have to look at the definition in state law. Obviously, you have. We'd have to look at the definition.

Fritz: Part of the reason for my question is the safety of cab drivers or private for-hire drivers, that's the reason that we put in requirements for cameras was not for passenger safety but for driver safety. And indeed, in researching the Uber driver safety, my main concern isn't for passengers, it's mostly assaults by passengers on drivers. So, what's the safeguard like we have the proposal or current requirement that we're keeping for cameras with a sign that it's a felony, how are Uber drivers to be protected from passengers who may be drunk and or assaultive?

November 24, 2015

Hockaday: Well, again, the app does provide some safeguards in this instance that the driver's activities, locations are known through that app. So in the course of an investigation to determine what happened in an alleged assault or something like that, that information would be very helpful.

Novick: And the identity of the passenger --

Hockaday: Yes, absolutely.

Fritz: Or one of the passengers. There may be more than one. There's some question about that. There's no --

Hockaday: The identification of the passengers in a taxi vehicle is not captured in the same way with the camera as it is with an app.

Fritz: And the Council decided not to have the camera turned on. Moving to enforcement, a case was made in Broward County, Florida that since you have to have a phone to order an Uber, each City employee can only do a spot check once because then that phone number will be collected in the database by Uber or Lyft and be known to be an inspector. So, we're not going to be able to do random checks the way we can with taxi drivers. How do you propose to address that problem?

Treat: We currently are doing random checks more than once on our phone and have not been removed from the app, so it has not been our experience in Portland, but I believe we have the authority to compel the TNCs to leave us on the app. We have had instances of those being removed and we have worked with those companies to say people need access to the app, and it has been resolved pretty quickly. Agreement has been reached that we would not be banned.

Fritz: Wouldn't they then have the capacity only to direct your request for a ride to drivers they know are certified?

Hockaday: That's conceivable in the same way that taxis could only dispatch a pristine driver upon our request.

Fritz: Taxis can get hailed.

Hockaday: Yeah. You can also call them.

Fritz: You can do the spot check on a taxi. Potentially, you cannot -- because part of the verification requirements that you have talked about -- it's the same with the Airbnb. How do we know who's not being reported to us? We assume that any company with people with brains in it would only give us drivers' license numbers of drivers they know have done their entire stuff. There could be an entire shadow community of customers that Uber says "have at it" but they don't connect our inspectors to those drivers.

Novick: If we found that our checkers were constantly being directed to the same five drivers, that's something we could definitely look at that. But I mean, there can be shadow communities of anything. There could be people painting their cars to look like taxi drivers and driving around and we wouldn't find them by calling taxi cab companies.

McGair: [inaudible] -- interim rule right now says that they can't block us from the app, so that's part of what the rules say now.

Fritz: They can allow us on but only give us certain drivers, though.

McGair: I suppose -- again, that's conceivable, but.

Fritz: Moving on to defensive driving requirements, as far as did you have a concept of what the training will be that's required and will there be annual -- every two years requirement for annual -- recertification and defensive driving?

Treat: I can ask Mark or Dave to come up and talk about that.

Mark Williams, Portland Bureau of Transportation: Good morning. Mark Williams, program manager for the private for-hire program. Repeat the question for me, please?

November 24, 2015

Fritz: Taxi companies now give their drivers -- every two years, they have to take a defensive driving class. I don't see any reference to defensive driving classes having to be taken in the TNC code.

Novick: But the City does not require the taxi cabs to impose that requirement to the drivers, do we?

Williams: Correct. I understand that some of the cab companies require that internally, but we don't have that requirement in the code.

Fritz: And why would we not if we have the opportunity to have safer drivers? If we're going to Vision Zero here, where all drivers and all road users are more safe, why would we not take this opportunity to get a couple thousand, five thousand more drivers trained in defensive driving?

Hockaday: Because PBOT has adopted Vision Zero -- [inaudible] -- that is a new requirement that we have put into the training requirement. It's obviously not -- it's different from defensive driving, but we are looking forward to advancing the Vision Zero priority through this opportunity by required training.

Fritz: Why wouldn't we do it right now?

Hockaday: For Vision Zero training? We're developing the curriculum right now.

Fritz: For defensive driving.

Hockaday: We never have required defensive driving, so that would be a big departure from the current training and testing requirements.

Novick: Commissioner, you brought this issue up to me a few days ago. And apparently in the entire history of the taxi cab industry, this has not been a requirement. That doesn't mean that we shouldn't consider it for the entire industry, I just am hesitant to shoehorn it in today as part of this bigger process because we want to have both the taxi companies and the TNCs and the drivers as part of that conversation. So I'm perfectly willing to have that conversation which we haven't had previously, I just don't know if we should rush to do it immediately.

Fritz: OK. Well, I have actually brought it up multiple times before a few days ago. My final question on 16.40.020, the nonsensical part A --

McGair: Again, I didn't realize you wanted us to re-write that. That was the existing language that's been around forever -- [inaudible] -- we could bring it back. Obviously we're going to have meetings with various stakeholders -- [inaudible] --

Fritz: And I realize these hearings have been very long, but we did actually have that discussion at the last hearing and we were supposed to work together on that. So yes, I would like that rewritten, please.

Treat: If I could, Dave Benson has further information to share with you on the Uber and Lyft apps and access to that for enforcement.

Benson: Commissioner, I did hear your question about anonymizing phone numbers, and we can do that and we have already considered that. You can go to any store and buy a phone with a data app on it where you can get applications. It has a new phone number on it. And we intend to do that. So we constantly cycle through phone numbers so any of the companies won't know -- and we'll keep changing the numbers, so they won't know who is calling them or who is on the app requesting the ride.

Saltzman: And there's an app that does that for you?

Benson: No, no, we'll buy phones --

Saltzman: Oh, OK.

Benson: You can buy a phone with a data app and a brand new number. Nobody knows who is using it.

Fritz: You use it, it becomes known, then you sell it again? That sounds expensive.

November 24, 2015

Benson: No, we just use it. They are very inexpensive. You can use them for short periods of time. They're disposable and we can just get another phone.

Fritz: Since we're relying on phone numbers to be verifying people, what's to stop the companies from doing that -- the drivers from doing that?

Benson: Well again, if we're constantly cycling through phones and phone numbers, they're not going to know us. As time goes on, we'll go back to the store and we'll get more phones with different numbers. So we'll keep cycling through the numbers so they'll be always a fresh crop of numbers out there.

McGair: To circle back on your question about the third degree assault for taxi drivers -- one of my colleagues from upstairs brought down the statute for me. They are always watching up there. You're correct, it only says a taxi driver and that would be a change that would need to be made in the legislature to fix that for TNC drivers. It's an analog code in a digital world.

Fritz: Just to be clear to our friends, the Uber drivers and Lyft drivers who've come here testifying, you're not covered by collision in the primary period and if you're assaulted, you're not covered for that either --

McGair: Well, it's not charged as third degree assault -- [speaking simultaneously]

Fritz: It's a misdemeanor assault.

Saltzman: I did have an amendment I wanted to offer on the decals. I'll just read it. I only have one copy. It's courtesy of Commissioner Fish. It would say that under 16.40.250, it would read "the transportation network company may not dispatch a vehicle unless the Director has issued a PFHT vehicle decal for that vehicle. The Director will issue a PFHT vehicle decal including an identification number specific to each PFHT vehicle upon certification by the Director that the vehicle meets all requirements under Chapter 16.40."

Fish: Second.

Novick: That gets us into the -- we have to think about that because that gets us into the business of manufacturing decals, which we don't do at this point. Director Treat, do you want to address that?

Treat: I do, thank you. While I appreciate the spirit of your amendment, it also would be adding some very heavy administrative burden to PBOT staff to be available on a daily basis to review TNC documents and hand out these decals. We currently don't have that staffing capacity. The number of drivers that are on-boarded on a daily basis far exceeds our administrative ability to administer decals to them on a daily basis.

Fritz: You could charge for cost recovery.

Hockaday: So far we have not -- [inaudible] -- lack of specific TNC decal on these vehicles. I think that might be another issue that we should focus on and commit to coming back to Council to report on any suggestions for improvements on trade dress signage or decals.

Saltzman: I was thinking -- I kind of envisioned working this way, that Uber or Lyft, whatever, would print their decals with some sort of serial number on them and then as they assign them to a driver, they would report that to us -- the driver and the serial number of the decal.

Hockaday: We're actually already getting information that connects a driver to a vehicle just because we get specific driver information and specific vehicle information.

Saltzman: I think it's intended for -- Commissioner Fish and I were just kind of talking about -- so we're downtown, our foot gets run over by an Uber vehicle. Maybe I'll catch the license plate. Maybe I won't even know if it's an Uber vehicle because they are kind of hard to tell, just like a black sedan, unless you really know where to look for the label. And this is just a way of having a particular identifier associated with the vehicle for those of us who aren't on the app. You know, we're not looking at the driver. We're not any of that.

November 24, 2015

Hales: I'm struggling to understand the problem we're trying to solve and the scenario you just described. The car has a license plate.

Saltzman: Right. Yeah.

Hales: So, that's pretty big lettering.

Saltzman: Yeah.

Hales: So, how are we going to see lettering on a label any better than the letting on a license plate?

Saltzman: I grant that point. I guess I would feel -- I would know that vehicle is a truly an Uber or Lyft vehicle if it had a serial number.

Hales: I mean, this has been a long hearing. I wouldn't really care if it's an Uber or Lyft vehicle if it runs over my foot, but I would damn sure want to know who it was! So, the license plate is pretty important to me. I'm trying to understand how that would -- given that the driver and the vehicle are linked in the app, I know that that car is driven by this person because they're on the app and registered with us. It seems to me we have the equivalent information of a sticker and maybe more.

Saltzman: Yeah, OK.

Fish: I guess one point I would say in support of this is that I keep hearing these statistics about all the Uber and Lyft vehicles on our streets and since my daughter moved to Europe, I've had the benefit of driving her car to work. Maybe it's because of my advanced age and what's happened to my eyes, but I almost never see the decal for either car, yet I'm told there are hundreds if not thousands of cars. I think Dan's point is, sure, you hopefully get the license. I've noticed that a lot of cars have dirty plates or they're obscured or the light isn't on so at night, it's harder. I don't see the Uber decal. I think they are discretely placed. I almost never see them, but I'm told they are all around us.

This would have two benefits. One is a clearly-identifying marker, and two, you could also -- I mean, I sometimes get in the wrong cab not because I'm gaming the system but because I'm someplace and I need a cab and I've called a cab, another cab shows up, turns out they're showing up for Dan, but I get in the car, blah blah blah. So I frequently get in the wrong cab, if you will -- I am sorry to acknowledge that publically to my friends who've been left hanging -- but it happens. What's wrong with having a little more formal identification with a serial number that's sort of like a good housekeeping seal that gives the customer an added level -- or the victim of an accident -- an added level of protection? Particularly because what I think Dan is envisioning something that you could run off in a typical printer in an office situation with a little adhesive. What would be so burdensome about that? Because we certainly don't want you, Leah, to get in the business of having to create a whole new shop around this. Couldn't we just impose this on the TNC and have them certify they're in compliance?

*****: [inaudible]

Fish: I think that might get close to the micromanaging the Mayor is going to admonish us on. I would be comfortable with you coming back with a recommendation.

Fritz: That would also take care of the enforcement issue. I mean, this is what we didn't do with Airbnb is require that they have the numbers posted for everyone.

Fish: I'd like to see it big enough that -- I mean, one of the things I'm always reminded of by my friends at Elders in Action it that has to be big enough for the graying population to be able to read, and that means a sufficient font.

Novick: Maybe what we could use a business license number they have to have, and have a strip of adhesive with that number on it.

Saltzman: OK.

*****: [inaudible]

Saltzman: Yeah, that sounds good.

November 24, 2015

Fish: Sounds good.

Fritz: That wouldn't tell you that they've gone through all the trainings.

Novick: Well, but --

Hales: Neither would a bogus number. But if it's a business license number issued by the City, I guess I'm not hugely enamored of this idea at all. I don't think we should be issuing them two numbers as a City. Whatever number we issue ought to be the number.

Saltzman: Yeah, I think business license number.

Hales: OK. Further discussion on this? Let's take a vote on this amendment.

Roll on amendment.

Novick: Aye. **Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Hales:** No.

Hales: But it passes. OK. Now, other amendments?

OK, so you have both amendments that were printed and adopted by Council earlier in this discussion. You had additional verbal amendments. They have been recorded. That gives you the ability, Commissioner Novick, to bring us back an ordinance on second reading as amended by Council discussion. We also have a lot of other requests and follow-up that the bureau needs to provide. Anything else before we close the hearing?

Fritz: Do we need to actually move the sections to be taken out with Commissioner Fish's amount for the pedicab -- [speaking simultaneously]

McGair: I think you already -- [speaking simultaneously]

Fish: The way I framed it was anything at variance with status quo could not be enforced until such time as -- we're leaving it to your good offices to make sure that nothing that's at variance on the status quo is enforced.

McGair: Mayor, I don't know that any testimony was taken on that amendment and leave it --

Hales: I think testimony was taken on that subject.

McGair: OK.

Hales: I think we've covered the subject of whether pedicabs and special access transportation is -- that we intended to change the game for them, and we do not. That's why Commissioner Fish's amendment was adopted.

Fish: We're about to lose a quorum, too.

Hales: We are. OK, so we'll close the hearing. This is scheduled for second reading next week. Thank you.

At 12:44 p.m., Council recessed.

November 25, 2015
Closed Caption File of Portland City Council Meeting

This file was produced through the closed captioning process for the televised City Council broadcast and should not be considered a verbatim transcript.

Key: ***** means unidentified speaker.

NOVEMBER 25, 2015

9:30 AM

Hales: Good morning, everyone. Welcome to the November 25th meeting of the Portland City Council. Would you please call the roll?

Novick: Here. **Fritz:** Here. **Fish:** Here. **Saltzman:** Here. **Hales:** Here.

Hales: Good morning, everyone, and thank you for your patience. We have a full Council calendar this morning beginning with a couple of communications items. I have one request to pull an item from the consent calendar so far, which is 1216. Any others? OK. Let's move directly to the communications Item 1212.

Item 1212.

Hales: Ptery, are you here? Good morning.

Ptery Lieght: Good morning, Council. I wanted to thank the Council for voting two weeks ago to stop any new infrastructure for fossil fuels in Portland. I commend you on that. I also thank you for allowing the Hazelnut Grove to continue to exist here. This is my new home. And congratulations on your ability to be invited to prayers. I will see you there. I've been invited to go there as well as a representative of Right 2 Survive.

In this moment in time here as we're dealing with houselessness, I want to look and really recommend to everyone this really important idea that everything has to change. We have a climate crisis. We have everything coming together as a crisis. And one of the biggest crises that we have in our country is what individual people can do. And good luck to you to figure out how to govern the shift that has to happen. We have to have a change of heart. We have to have a change of how we have our structures. The structures are not working for us.

We have a City Council here -- and I recognize your intent to protect the houselessness and help people -- and yet, the police are still sweeping people. The steel bridge has been swept. We've seen several people come up to Hazelnut Grove saying they were sent here. The cops saying they were going to come up and live there. We are already way over double capacity. Thank you for the porta-potties, thank you the garbage help. This is really helpful. Our community is continuing to be really peaceful. We look forward to your visit.

I understand that you're a City Council. You don't have -- you're supposed to have control over the police department, and I can see it does not necessarily be so in my experience in organizations. You're a City Council and that's all you are, you have other entities, they have their own things, and governing and security and making everything happen is difficult, and I recognize that. That's because our structure is wrong. It's like you have to teach people to be grownup human beings and connected to the planet and connected to their hearts and knowing what's right from within and have those people make those decisions from that place.

Having power over does not work, as we see with this last thing. Not everybody saw what happened to Barry Joe. He asked for an ambulance, he asked for a human being, for assistance, and what he got was police in uniform. That's power over. That's saying, "he's going to be violent so we have to prepare for violence so let's act like he's going to be violent" and then you are going to get violence back. You treat people like animals, they're

November 25, 2015

going to act like animals. You treat people like human beings who have free choice and creativity and genius -- which we do, every child is born a genius -- what the [expletive] happened to us all? We're acting really stupid. But it's our structures. It's a structure of fear. It's protection, it's a structure -- we have to follow the rule out of our hearts. We had several teachers come over and over to our civilizations trying to teach us. St. Francis is a really power teacher, Jesus is a teacher, Muhammad is a teacher, but our heart is the most important teacher. Do we have the courage to follow the heart? That's what I have to ask everybody.

There are the rules in the structures but we as human beings have to take courage and treat each other and deal with our relationships to each other and our planet. And our houseless folks are our neighbors and everybody knows that, but we get it all caught in our heads. Our black and yellow and indigenous neighbors, they are people and human beings, not those labels.

Hales: Thank you very much, thank you very much for coming today.

Fritz: Ptery, just one second. As a representative of Hazelnut Grove, I want you to know about the water situation at Overlook Park. We were able to get it turned back on, however, it's going to freeze this weekend, so we're working on a strategy. Tim Crail, my chief of staff, is waiting outside and would like to talk to you about that and work with you on how we can provide services. My understanding, Mayor and Commissioner Saltzman, is that the warming shelters will also be open from tonight through Sunday, so we hope that people will be able to get inside at least for the very cold weather.

Lieght: And I also want to invite any human being who's listening to this -- that they have the option of opening up their doors and opening up their back doors and backyards. You know, we as human beings have that choice. We just need to make it, have the courage to make it. Reach out to another human being, treat them as a human being and you will get a humanness back.

Fritz: We are definitely going to be looking at all kinds of new strategies. Thank you very much for your partnership.

Hales: Thank you.

Item 1213.

Hales: Good morning, come on up.

Krista Barron: Hello and good morning, everyone. My name is Krista Barron. This is now the second time I've spoken before all of you. I'm from New York and lived in Portland before coming back in January. I'm here to talk about some issues like needing more showers and laundry facilities for the houseless. You know, there's tons of soap that I've received, but no water or place to bathe. Public bath houses or bathtubs wouldn't be a bad idea. I feel we need these things because it would help to not spread diseases like head lice and, you know, like athlete's foot and body lice and other stuff. I feel that as people -- if anyone is in need -- a desperate, smelly, need -- we should help them and not hurt them. Before I finish talking about these hygiene issues, I also wanted to say that this isn't the only state with these issues. It's all over and where there has been a few showers and no public bath houses and few services that allows people to do laundry. The public needs a place to fulfill their hygiene requests without feeling cramped. Please create more showers. We really need that. Thank you and thank you for listening to me again.

Hales: Thank you. Thanks for coming. Let's move then to the consent calendar before we go to our time certain items. Again, just to pull 1216 if there are no others, and there are only two more, so let's vote on the balance of the consent calendar, please.

Roll on consent agenda.

Novick: Aye. **Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Hales:** Aye.

Hales: Ok. Thank you. Now, the next item 1215.

November 25, 2015

Item 1215.

Hales: As staff comes up, let me just reset the context for this. This is continuing a Council discussion that we started at a public hearing on October 14th. Obviously, we see a lot of growth in the city, a lot of positive change that comes with that growth like jobs and parking lots getting redeveloped as mixed use buildings, and fewer abandoned houses -- though that's another issue that we need to take on. But like a lot of people in Portland, I'm less happy with what's happening to our existing housing stock in the neighborhoods and the demolition of great, old houses being replaced by much larger, more expensive houses is a problem not just for one house at a time, but for the very character of our neighborhoods. The average difference between a house that was purchased and demolished and the house that replaced it is nearly \$300,000. So, this is not the provision of new affordable housing by any stretch.

Our goal is to reduce the number of demolitions to try to preserve more houses that are in repairable condition, and to generate funding -- the first new funding for affordable home ownership that we will have created since the Council made a commitment to do more in housing funding.

Fish: Mayor, can I just -- on that point, we have adopted an amendment saying the funds will go to the HIF without condition.

Hales: That's right. So, we hope that what will happen as a result of this tax is that we'll see a diminution in the number of demolitions and that we'll see new revenue flowing to that HIF fund, as Commissioner Fish just mentioned.

We have some invited testimony in panels here this morning, and we also have amendments, so I would suggest that in our usual way we take up the amendments first and then invite our panels and then invite public testimony. So, I have Jillian Detweiler from my office and Thomas Lannom from the Revenue Bureau here to walk us through the amendments that I want to propose, and I know that there are others from the Council. Jillian, is there anything that I've left out in the bigger picture here?

Jillian Detweiler, Office of Mayor Charlie Hales: Nope.

Hales: OK. So, let's move to amendments. Last month's hearing persuaded me that the tax would be less effective if it provides a rebate for increased density, so I'd like to eliminate that rebate. There are some other ideas I know that we'll discuss today in terms of the changes, but I think in each case we should err towards simplicity and make this thing as simple and understandable as possible. There are some other possible amendments that we should think about extending the effective date to allow Thomas time to develop administrative rules. Think about owner-occupied houses. I know Commissioner Fish has some interest in dealing with the question of houses that are being demolished in the floodplain by our bureau because they are in the floodplain. So, let's take up each of those and talk first about the amendments, which I think we have in front of you. If we don't, we'll get you copies. First, to eliminate the density rebate and then secondly, to change the affected date. I would propose those amendments -- amendment amending 6.08.055.

Fish: Mayor, do we have copies of the amendment?

Detweiler: I gave copies to Sue.

Hales: OK, let's make sure Sue distributes those.

Fritz: That's just the one that we just amended.

Fish: It will take just a moment to get this ready. You have a complete set?

Novick: I've got one.

Fish: I can make copies if you want. This will be new amendments.

Detweiler: Yeah. First thing this morning, I brought 10 copies of the amendments that Mayor Hales is referring to that would eliminate the density rebate. And then prior to the

November 25, 2015

hearing, I brought an amendment that would change the effective date to allow sufficient time to develop administrative rules.

Fritz: I don't have either of those.

Fish: We don't have those.

Saltzman: What is the proposed effective date?

Hales: The proposed effective date is March 1st, and the tax would apply to any demolition not applied for before February 29th.

Fritz: Wouldn't that encourage a spate of demolitions?

Hales: One way or another, if there is an effective date at all, there's probably going to be some demolitions filed before the effective date. I think that's a reality no matter where we set the date.

Fritz: I wonder if there's a way to do it as an -- well, never mind.

Hales: OK, so I'll give people a chance to look at those. And again, I would move the amendment to 6.08.055, the demolition tax rebate section, to remove the paragraph that says "the Portland Bureau of Development Services shall develop guidelines for persons to apply for and retain rebates of up to 25,000 for subsequent housing development that increases the number of units." Remember, this tax only applies in single family zones, so if somebody is tearing down an existing home in an R1 zone -- there we go --

Fritz: I need the amendment.

Hales: I think it's still the same.

Fritz: No, it's not. As we had a little time before Council, we don't want in code that the bureau is going to develop the guidelines. The code should say there are guidelines and that we're going to allow the rebate. So, it's just a --

Hales: Oh, up above --

Fritz: Yes.

Hales: In the paragraph above. OK, so now that section would read "subsequent housing development following demolition that qualifies as affordable housing as determined by the Portland Housing Bureau, applying the criteria established in section 30.01.095, may apply for and obtain rebates up to 25,000 subject to guidelines developed by the Portland Housing Bureau." So that's the affordable housing rebate that remains, but the rebate for tearing down one house and building two would go away if we approve this amendment. Got that right?

Fish: So I guess I'm now confused.

Fritz: No, this is just the affordable housing one. There should be a second amendment that would take out the --

Hales: Help me out here, Jillian.

Saltzman: Well, I also proposed an amendment before --

Fritz: I also second that --

Hales: The crossed out language is --

Fish: Jillian, how many amendments does the Mayor have?

Hales: Two.

Detweiler: Two.

Fish: We'll do his package first. Two? Let's call that the Mayor's package A. And what are those two amendments?

Hales: The one I just described, which removes the provision that provides a rebate if you tear down one house and build two, and the amendment that changes the effective date from January 16th to March 1st and the filing date by which someone must have filed a demolition permit prior to the imposition of the tax moving that from January 15th to February 29th.

November 25, 2015

Fish: I'm just marking this -- the first one has to do with the demolition tax rebate, so we'll call that Mayor 1, and the second has to do with the effective dates, and we'll call that Mayor 2?

Hales: Works for me. I would move those two amendments.

Fish: Second.

Fritz: Just a clarification, this isn't the -- what your staff and I worked on during the break wasn't to amend this bit, so I'm wondering, is it --

Hales: Let's take that up as a second --

Fritz: No, it's a question about this. Is it the Bureau of Housing who's going to develop the guidelines or the Bureau of Development Services?

Detweiler: The amendment that Commissioner Fish is calling Mayor 1 doesn't touch the first paragraph. I think that Commissioner Fish is suggesting we treat that as a third or -- as a separate amendment to amend the language regarding a rebate for affordable housing.

Fish: Why don't I offer Fish 1? We have Mayor 1, Mayor 2, let's do Fish 1, which is the BES exemption, amend section 6.08.050 A to include a new subsection three as follows: "properties purchased by the City for restoration purposes that are in the floodplain or in the reasonable estimation of the Director of the Bureau of Environmental Services are at risk of future flooding."

Hales: I'll second that. I just want to make sure that I understand the way that would work just reading the language. So, in both cases, these are properties that have been purchased by the City. They are either in the floodplain or they are at risk, right? But in all cases, they are owned by BES.

Fish: Mayor, that's correct, pursuant to a willing seller program for the purpose of removing the structure and doing floodplain restoration. There is no replacement home and therefore, in our view, no reason to trigger the \$25,000 fee.

Hales: Right, I get it. OK, now, Commissioner Fritz, I think you also wanted to amend -- we talked about another amendment.

Saltzman: I think there may be up to three competing amendments on the affordable housing exemption. I think Commissioner Novick has one, maybe Commissioner Fritz, and I have one, too.

Fritz: This is complicated, isn't it?

Hales: Let's get them before, let's get them in front of us so we can understand the difference between those. So again, the one that I have moved and Commissioner Fish seconded as Mayor 1 simply removes the exemption taking down one house and building more than one house in a single family home. The second changes the effective date. The third one, Fish 1, provides for an exemption for the Bureau of Environmental Services for houses that the bureau has purchased or that the City has purchased for purposes of floodplain mitigation. So, we've got that one. Those three are on the table. What's next?

Novick: I've got two amendments, Mayor. Amendment one would establish the tiered structure for the demolition tax in effect related to the price of the replacement structure. I think that what we've heard the most complaints about are someone tears down a house that's compatible with the existing neighborhood and builds a million-dollar McMansion instead. But having a flat \$25,000 tax that relates to any demolition means that if somebody is tearing down the dumpiest house within three blocks and replacing it with a \$350,000 house that's the same as all the other houses in the neighborhood, the same tax will be paid as if someone is knocking down a \$400,000 house and building a million dollar house.

So, my suggestion is that if the sales price of the replacement structure is equal to or less than 100% of the median Portland sales price -- so in other words, they are not contributing to any more unaffordability in the market -- the rebate would be 100% of the

November 25, 2015

tax. If the sales price of the replacement structure is more than 100% of the median Portland sales price and equal to or less than 125%, the rebate is 75% of the tax. If the sales price of the replacement residential structures is more than 125% of median Portland sales price and less than 150%, the rebate is 50% of the tax. So in other words, if the sales price replacement structure was more than 150% of median sales price, then the whole 25,000 will be paid and there will be no rebate.

Fish: I will second it for purposes of the discussion and I have a question. So, how does this prevent a scenario where an insider purchases the home to trigger the rebate, and then places it on the market and sells it at the fair market price?

Novick: An insider -- OK, explain to me how that would work.

Fish: A family member, friend, developer -- someone does a proxy purchase to get the rebate and then a week later wants to put the market on the house, so sells it at below market value to a proxy person to get the rebate and then puts it on it at whatever the full market is.

Novick: My understanding is that for the existing Portland Housing Bureau affordable housing SDC waiver, that -- my staff asked yesterday whether there is any guard against that dealing for the SDC waiver, and we were told no, that the Housing Bureau hasn't considered that a big enough problem to try to come up with some way to avoid it.

Fish: That's because we have a robust system of oversight annually to make sure people have -- we have mechanisms for doing oversight and covenants, including -- depending on the program -- either a 10 or 60-year covenant which is baked into the deal.

Fritz: And it's just multi-family, right? The SDC waiver?

Saltzman: There is a single family.

Fish: There is a single family.

Saltzman: There's a home ownership limited tax exemption, also. HOLTE.

Fish: But there is a significant restriction that apply and significant oversight.

Novick: I'd certainly would be open to suggestions as to how to have some prophylactic measures.

Hales: I like this in theory. I'm concerned about administrative ability. I guess I'm also concerned legally that we may be in a more vulnerable place if it's based on the sales price of the house than if it's a flat tax, but I'll wait for the City Attorney to opine on that.

Novick: One thing I want to say about this is that if what we were trying to do is deter demolitions, than having a \$25,000 tax is more likely to deter a scenario where you pull down a \$200,000 house and replace it with a \$350,000 than one than where somebody is planning to sell the replacement house for a million dollars --

Hales: Absolutely, that's why I like the idea in theory. And from the beginning, we had hoped to have this be more graduated than flat but geared towards a simpler approach.

Fish: I'm just thinking out loud here, but -- because I appreciate the spirit of your amendment -- but doesn't it work better when we're dealing with nonprofit providers who are in the business of building long-term affordability into single families? So either through a land trust model or something else, and then we have the existing mechanisms. Doesn't it work less effectively in a private market?

Novick: That may be true but my concern is the fairness sense of the overall tax, and I think that if you're saying that you're going to have a 25,000 tax that applies to any demolition no matter what the structure is being replaced by or the price is, I think that's a serious problem.

I mean, we need to remember that there are three parties to any transaction, which involves someone selling a house, the developer knocking it down, and somebody else buying it. You've got Helen Homeowner, Dastardly Developer, and Bobby Buyer. And if Helen Homeowner has the dumpiest house in an up and coming neighborhood and wants

November 25, 2015

to cash in and make some money for her retirement and it's not too much cashing in because the replacement house is only going to be \$400,000, I am worried about applying a \$25,000 tax that will affect both Helen Homeowner and Bobby Buyer, who is somebody who is buying a \$400,000 house rather than a million-dollar house. I think that it tends to be an assumption that Dastardly Developer bears all of the tax but I think that, in fact, the tax will be shared by Helen Homeowner, Dastardly Developer, and Bobby Buyer, and I am more concerned about the impact that at the lower than at higher end of the scale.

Fish: And isn't it the case, Commissioner, that if Helen Homeowner decides to spruce up the house so she has a long-term asset, we actually think of that differently than if she is selling it?

Novick: Yeah, but Helen Homeowner might not have the money to spruce up the house.

Saltzman: So, Mayor, I --

Fritz: I have an amendment --

Hales: Let's continue with the discussion of this one.

Saltzman: I think both Commissioner Fritz and myself both have amendments related to the same topic, and I don't think we need more than one of these to emerge.

Hales: Let's get those on the table, and then I would like to ask Jillian and Thomas to comment on them.

Novick: Actually, Mayor, can I just put my second amendment on the table? Which would be Novick amendment 2, which would say, "the Revenue Division shall study and report to Council by June 2016 about options for administering and enforcing an exemption for existing owners who plan to occupy the new house for at least three to five additional years." And the reason we're asking the Revenue Division to study this is that Mr. Lannom has said that this is a concept that should be explored and we shouldn't run it out there without sort of our due diligence. I think that, again, there's much -- people are much less concerned about an existing homeowner tearing down their own home and rebuilding it. I mean, what we hear about is the original homeowner would have been horrified of this monstrosity that was built when they sold a home. I think that there is less of a concern about existing homeowner doing a demolition and living in a house they'll have to live in themselves. So I'd like to explore this concept of an existing homeowner exemption, but given Mr. Lanham's warning that it will be a complicated issue, I would rather address it now simply by asking them to study it.

Hales: Is there a second? Somebody second that?

Saltzman: Second.

Fritz: I have a simpler amendment.

Hales: Alright, we've got that one on the table and now let's hear yours.

Fritz: We can go to Commissioner Saltzman's.

Hales: OK, Dan.

Saltzman: My amendment -- I think we're all operating in the same spirit here, and that is an exemption for affordable housing, and what I'm proposing that we simply follow the guidelines the Housing Bureau sets for the home ownership limited tax exemption program where we determined every year, or the Council determines every year a price, a sales cap price that a home must sell for or less in order to qualify for the SDC waivers and property tax exemption for the purchaser. And so, it simply ties the rebate to the sales price cap that Council sets annually. Right now, currently the sales cap is \$291,000.

Fish: I'm going to second this, and Dan, I have a question. A question has come up in some correspondence we have all received about whether this should be structured as a rebate or a waiver. And obviously, the difference is primarily whether the purchaser -- nonprofit, let's say -- would have to finance the rebate -- excuse me, the demolition fee --

November 25, 2015

in anticipation of getting it back. What are the arguments on either side of that? Structuring it as a rebate versus a waiver?

Saltzman: I've been operating under the paradigm we're talking about, which is the concept of a rebate. The point you make about a waiver versus a rebate is a good point. I think it applies to everything we're talking about here.

Fish: We've had some folks in the affordable housing community argue that a waiver is cleaner, and they have a track -- particularly when it's a Habitat or a Proud Ground or someone that we know who has a track record of doing this kind of housing, but if you do it as a rebate they have to finance the cost up front and then apply for the rebate. So, is there any reason administratively we wouldn't just make it a waiver versus a rebate?

Thomas Lannom, Director, Revenue Division, Bureau of Revenue and Financial Services: Yes, there is. Thomas Lannom with the Bureau of Revenue and Financial Services. So, the issue there is that an event would need to occur subsequent to the assessment date of the tax, and we don't really and truly know the triggering event has occurred until after the fact. So, putting the exemption at the front end is a little more difficult administratively. I'm not sure how I would do that. I would also add that I have not seen the language of your amendment, Commissioner, so I'm not --

Fish: Could we delay the collection of the tax until the closing so it has the effect of being a waiver?

Detweiler: Commissioner -- Jillian Detweiler from the Mayor's Office. I think that is possible and I think that's something that could be worked out with the administrative rules. Shannon Callahan on Commissioner Saltzman's staff indicated one of her objectives in referencing the HOLTE program is that it is a program that affordable housing developers apply for prior to actually developing and starting construction. So, we would have those commitments in place quite early in the development process and it would at least, I think, give us the opportunity to shorten a period where the 25,000 might have to be carried. I'd like to find a mechanism that treats it as a lien or some other way suspends an actual cash payment where we have that affordable housing commitment.

Fish: Is your preference -- we haven't seen Commissioner Fritz's amendment, so I wanna --

Hales: Let's get that on the table.

Fritz: And actually, Commissioner Saltzman, a friendly amendment to yours, which is the rewording that was suggested in Mayor number 2. This section 608055 is actually the code, so the statement such as the "Portland Bureau of Housing shall develop guidelines" is more what goes in the ordinance rather than the code. So, Mayor 2 reorganizes the code, and says what the rules will be from now on. So, your amendment needs to be incorporated into Mayor 2.

Saltzman: OK.

Fritz: So, that's just a --

Fish: I would like to offer a friendly amendment to Saltzman 1 because it sounds like it's six of one-half dozen of the other, and we have to work this out between now --

Fritz: Actually, I wasn't quite done.

Fish: Oh, I'm sorry.

Fritz: Thank you. It says that they're going to develop guidelines, so I don't know that we actually need to set exactly in stone what those guidelines are as part of the code writing exercise.

Fish: Well, it says to obtain a rebate, and I'd like to actually clarify that the guidelines we'll develop have to do with the waiver and not a rebate.

Detweiler: I would just add the language we're using in the exhibit A is actually not a rebate, but -- not a waiver but an exemption. It would be the exemption chapter.

November 25, 2015

Fish: I'd like to make a friendly amendment.

Hales: That should read "exemption" in the third line of that rather than "rebate"?

Detweiler: Just to be consistent.

Fish: In the course of administrative rule-making, you come back and say that there is another reason we can't do it, let's take that up, but let's state it as the Council's intent. Is my friendly amendment accepted?

Hales: Yes, I think so. Dan, is that OK with you?

Saltzman: Yes.

Fritz: Thank you. And I'm sorry I don't have this written down because it was a miscommunication between the Mayor and myself as to who was proposing this amendment, but it's an amendment to 608050 exemptions. It would add to A, the demolition tax shall not apply to. It would add number three, demolition permits where the applicant is the homeowner as of March 1st, 2016, assuming that we change the effective date. So what this does is instead of Commissioner Novick's amendment that they have to promise to live there for three to five years, it just says for people who currently own their property and own their property as of March 1st, if they themselves -- not the person that they sell it to or the developer -- if that homeowner wants to apply to demolish their home and build a new one, then they get to do that without having the tax.

Fish: Second.

Hales: Right. That's a separate issue, and I agree with it. I think that it was not processed the into that other amendment because it's a discrete issue. But I agree with that.

Fish: Is that labeled Fritz 1?

Fritz: Fritz only, yes.

Saltzman: I guess my question would be -- given Mr. Lannom, who worked with Commissioner Novick saying we need to study that issue because there could be, I don't know, machinations that we don't desire to occur, I guess I'm curious to know what your comments are on Commissioner Fritz's proposal.

Fritz: The problem with that if they are going to do a study, there isn't the exemption as of March 2nd, so a homeowner -- like we did hear from two homeowners who came into the hearing saying that they were planning to do this -- you know, basically demolish and start over on their property. They would not get to do that until we have done the study.

Detweiler: Commissioner, Thomas might want to address it. It is simpler to know when somebody owned a home versus trying to document whether or not they both intend to and actually do live in a home for five years into the future. I think that that's -- it's a simpler matter to document when that home was acquired by the person who is applying for the demolition.

Novick: It may be simpler, it also is not inconsistent. I mean, I don't see why current homeowners are entitled to consideration that the future homeowners are not. So, we could adopt Commissioner Fritz's amendment and also adopt mine.

Hales: I'm going to suggest actually that we take testimony and then later act on the amendment since we've got some disparate views. But we know what the issues are. The issues are, should the tax apply to situations in which someone is tearing down one house and building two. The second is, what should the effective date be in order for it to be a successful rollout and operation of the bureau? Third is should we exempt houses that the City is purchasing because they are in the floodplain? Fourth is how do we deal with existing owners -- or maybe not fourth, but -- and then what about reflecting affordability in the amount of the tax or the amount of the rebate, which we have a couple of different ways to go. I think I've captured the issues.

So I think it would be useful to have both our staff reflect on the amendments that we have in front of them, maybe come back at the end of the public testimony, and two,

November 25, 2015

hear from people here to speak on if they think we should approve some version of these amendments, and then we can return to a bit of a work session and act on those amendments at the end of the hearing. Does that sound good?

Fritz: Yes, and I've reorganized the three amendments on the section 605055.

Hales: Why don't you hold that language until the end?

Fritz: Alright.

Hales: We've got these conceptually in front of us, and any front end comments about that now, Thomas?

Lannom: I'm comfortable with all the amendments, except two. Novick 1, I have some concerns about administerability have been covered and the other -- I want to make sure I'm clear, Commissioner Saltzman -- as amended by Commissioner Fish, you would basically go in there and insert instead of "rebates," "exemptions."

Saltzman: Correct.

Lannom: I'll confer on the sideline here on that question.

Fish: It assumes you otherwise meet the requirements of the HOLTE program.

Lannom: Right. I just need to piece together how we might structure that as an administrative rule.

Hales: OK.

Saltzman: Before the two of you leave, I know there was questions about the roles of the Revenue Bureau -- or the Revenue Division versus the Bureau of Development Services in setting rules. Do we have that all -- is that clear in our minds who's responsible?

Lannom: It's clear to me, I wasn't aware that there was any question.

Detweiler: Similarly, I had heard thirdhand there was a concern, but I have not heard that concern from the parties who intended --

Saltzman: OK.

Fish: Dan, I think we agreed that if there is a conflict, the Water Bureau will break the tie.
[laughter]

Novick: Mayor and Jillian --

Fritz: If you'd like to come up and get my proposed consolidation and see if it works.

Novick: A question about the density issue. Are we going to hear from anyone at Planning and Sustainability about the impact of the deletion of the density exemption?

Hales: There's the Planning and Sustainability staff here, so we can do that as needed.

Novick: OK.

Hales: OK, so I have a couple of invited panels and then we have some people signed up to testify. Let's hear from our two panels. The first one is Alyssa Krueger, Al Ellis, Steve Elder, and Margaret Davis -- so bring up another chair if all four of you are here -- from United Neighborhoods for Reform. Good morning. The box does slide around, so if you need to get closer to the microphone, just slide it towards your colleague. Or Sue is providing one, OK. Good morning. Who would like to start?

Alyssa Isenstein Krueger: I'll start. So, I want to read something, but I also have something to say to your thing about the replacing of the \$200,000 home with the \$400,000 home. Most developers use a -- [inaudible] -- formula. So in order to build a \$400,000 house, the home you would have to purchase would have to be priced at \$125,000 to \$130,000. There are no homes in Portland that are \$125,000 to \$130,000. So, that's not going to happen. There just isn't a profit margin on the private market. So I just wanted to pointed that out -- you cannot buy vacant land in the central city for that price, so that just by nature of what is available on the market, that just isn't going to happen. So, I just wanted to point that out.

My name is Alyssa Isenstein Krueger and I'm a real estate broker in Portland, and I represent many first-time home buyers in Portland. I am pleading with you to do something

November 25, 2015

to curb the wanton destruction of our viable vintage housing stock. We are losing our starter homes to the greed of the builders who see dollar signs. If builders and developers are going to make profits at the expense of our citizens' access to affordable home ownership opportunities, then they need to pay into a fund to help offset that cost. Demolition tax isn't perfect, but it's something.

The most affordable home is the one that is already standing, and once these homes are demolished, they are gone forever, taken out of service forevermore. By charging developers \$25,000 for each home they demolish for the purpose of helping to fund affordable housing efforts, this at least creates a revenue source to help families stay in Portland who are otherwise being priced out from both rental housing and home ownership, and addresses the cost of the loss of affordable housing to our rapidly-changing community.

Housing prices over the last year have risen the third fastest in the entire country, right behind Denver and San Francisco. The latest Case-Shiller housing price index shows that Portland metro house prices increased on average over 10.1% from September 2014 to September 2015. Looking at data for our closer in neighborhoods, this increase is probably 15% or more. At the same time, wages have remained stagnant and rents have increased in the double digits over the last year as well, which means potential first-time home buyers who are renting are having an even harder time saving for a down payment. With no affordable homes to buy and rents out of reach, where are the families supposed to live? Revenues generated from the demolition tax could help the families with the down-payment or rental assistance so they can continue to live in their neighborhoods.

And it is not just small starter homes being demolished. The home at 3416 NE Alameda was a gorgeous Tudor that was well-maintained and had gardens featured in Sunset Magazine. It was on a double lot, and in May of 2015, Everett Custom Homes purchased this home for \$815,000 cash, \$36,000 over the list price of \$779,000. The home was recently demolished, and a lot was split into two. Last Wednesday, Everett put the two now-vacant lots up for sale at a list price of \$500,000 each. Perhaps if there had been a demolition tax in place, that home would still be standing. In the Hayhurst neighborhood, 3015 SW Idaho was a 1949 ranch-style home that Everett purchased in March for \$210,000. They demolished the home with the plan to subdivide the property. Last Wednesday, Everett put that lot up for sale for \$500,000. And last but not least, 7850 SW 30th Avenue was a 1941 built home near Multnomah Village that Everett purchased for cash for \$398,500 in May. Last week, they listed that empty lot for \$400,000. Had there been a demolition tax, then perhaps these homes would still be standing. So, the demolition tax would hopefully serve as a deterrent for land speculation, which clearly this is. Everett Homes and other home developers are demolishing homes as fast as they can to get to the land underneath.

Hales: Thank you.

Fritz: Do you really think that -- if they are making \$100,000 on demolishing and selling it off again within a few months, why would \$25,000 make a difference to them?

Isenstein Krueger: Perhaps they wouldn't demolish it in the first place. They clearly are not making a profit on these things. They went in there, probably got overextended -- nobody really knows why, but had there been another \$25,000 added to the cost, perhaps it would have saved the homes knowing that there would not be a profit.

Hales: Good morning.

Al Ellis: My name is Al Ellis, a Beaumont-Wilshire resident and co-founder of United Neighborhoods for Reform, UNR. All four of us are on the steering committee of UNR. I want to thank the Mayor for inviting us to give testimony this morning.

November 25, 2015

The three main objectives of UNR's demolition development resolution, which is endorsed by nearly half of the City's neighborhood associations, closely mirrored three of Mayor Hales stated objectives for the neighborhoods in his State of the City speech last January. One, preserve neighborhood character; two, facilitate affordability; and three, reduce the number of residential demolitions. UNR believes that the proposed ordinance to impose a \$25,000 tax on demolition of single family homes in single family residential zones, subject to the amendments that you're going to be considering, is consistent with the aforementioned objectives and warrants your support.

The recent Oregonian staff editorial characterized this proposal as a NIMBY tax. It couldn't be further from the truth. NIMBY stands for "not in my backyard," the implication being that residents who applaud the Mayor's initiative are somehow only interested in preventing demolitions on their own blocks but could care less if demolitions take place elsewhere in the city. Clearly, the goal of this tax is to discourage destruction of viable homes throughout the city in every residential neighborhood and in accordance with Mayor Hales' amendment number 1, and not to reward the developers who destroy existing homes affordable to average buyers for the purpose of profiting from construction of million-dollar replacement dwellings under the guise of increased density.

The Oregonian editorial also cites aesthetic objections of neighbors as a primary justification for this tax. While the building of a house that is three times the size of the house demolished certainly runs counter to the comprehensive plan's stated objective of preserving neighborhood character, the primary target of this disincentive tax is not the size of the replacement houses but to preserve the existing houses. And where the tax is not successful in deterring demolition, the tax revenue will be used to fund affordable housing programs, which is only fair since every demolition is in effect a cost of the neighborhood in terms of livability and health.

In conclusion, this is more than just a vote to impose a tax. It's an opportunity to send the message that willy-nilly demolitions in our neighborhoods for the purpose of building million-dollar replacement homes with little or no regard to existing residences or the need for affordable housing is not what Portland is all about. Thank you.

Hales: Thank you. Good morning.

Steve Elder: Good morning. My name is Steve Elder, and I am here to speak on behalf of the Mayor's suggested ordinance and the Mayor's amendments to it.

I live in Northeast Portland where I emigrated some three years ago from my native Texas. Since I have lived in Portland, I have been designated by TriMet, the transportation company, as an honored citizen. This entitles me to half-price bus tickets. It's a good thing. I have also been designated by the Oregonian as a NIMBY who would impose my own aesthetic sensibilities of on some poor developers who are just out to try to make a buck. I plead guilty as charged.

In preparation for this for this presentation, I came upon a newspaper account from the year 2000 in which then-City Councilman Charlie Hales said, "you can still build an ugly house in Portland, but we're going to make it hard for you." The issue then, as you may know, was the snout houses, which are bungalows with two-car garages where the front yard usually goes and no discernible front door. A leading developer said that Charlie was our former lobbyist and he's a traitor to his cause, we're all becoming a bunch of socialists. And it passed. And from my research, it passed primarily for aesthetic reasons.

And right now, the City is talking about the issue of demolishing houses and replacing them -- refilling their lots, with -- [indistinguishable] -- that blot out the sky, and I'm saying there is aesthetic justification for disallowing such a thing, but you don't need to stop there. Just listen to what all of the other -- all of my other neighbors are talking about.

November 25, 2015

About asbestos, about affordability, about lead, about tearing down -- all of this gambit of things that are on the table.

So, what the commission is looking at now is quality of life, is desirability -- being in Portland. And that's why, as I said, I submit that the Council should adopt the ordinance as amended. I would point out a couple of things that -- I would ask that the commission not weigh the ordinance down with amendments and technicalities which would make it very difficult to enforce.

And in suggestion to the notion of possibly escalating or varying the amount of the pinprick of the tax regarding how much is going to be replacing, I'd say if the Council is going to consider such things, then if the Council would consider escalating the bite of the tax to maybe raise it a bit more. In other words, escalate it both ways. Consider escalating it both ways.

And in view of my neighbor, Ms. Isenstein Kruger's suggestion that people are tearing down houses and putting the lots up -- you know, it is being real estate speculators -- I say, good.

Hales: Thank you very much.

Novick: Sir, what would you think about limiting the taxed instances where it is demonstrated to have been in fact willy-nilly -- [laughter] -- and the replacement house -- [laughter]

Hales: Good work. First time that's been defined in a long time. Good morning.

Margaret Davis: Good morning. I'm Margaret Davis, I live in Northeast Portland and I work with United Neighborhoods for Reform, or UNR. UNR, whose work is endorsed by 43 neighborhood associations, supports the demolition tax as a way to maintain and fund viable affordable housing while also better distributing the cost of trash and build development. The loss of housing is real, exacerbated by developers now, eliminating homes, to merely put the lots on the market. This during a declared housing emergency. Whatever happens with the tax, we need to do much more.

Because of severe public danger related to the release of asbestos and lead dust during demolitions, UNR proposes a temporary demolition moratorium until the City can craft rules on abatement, comply with the new state law on asbestos, and effectively protect the public from exposure to hazardous materials. At meetings of City staff and federal agency personnel, we have seen how slow and difficult it will be to manage uncontrolled hazmat during the demolitions. Let's give them the needed time and the incentive to safeguard people and the environment, maybe even go up to Vancouver, Washington or any other city there and see how they do it.

In September, Oregonian reporter Fedor Zarkhin looked into the release of hazmat during mechanical demolition and a multi-part series. He found huge gaps in oversight of demolitions that allow lead and asbestos to be visited upon unsuspecting neighbors and surrounding properties. Think about the kids who live near a demolition and play on the swing set, then eat a snack afterwards without washing their hands thereby ingesting small particles of lead that Center for Disease Control says has no safe limit in children. Imagine the asbestos fibers embedding themselves into people's lungs later to bloom into serious illness.

Demolitions occur almost daily, and the exposure is exponential. Have you consulted legal counsel as to the City's culpability when all these serious illnesses present themselves? After the Oregonian stories and our visits here, you can't say you didn't know.

A moratorium sounds like scary stuff, but it needn't be. The law is on your side. Under the Portland City Charter, a key responsibility of City government is to ensure public safety. And I have a citation here in your handout. A demolition moratorium is legally defensible and morally responsible. One grounds for a moratorium according to the state

November 25, 2015

law is that it demonstrate a compelling need, including prevention of irrevocable public harm from development.

It has been hard enough watching our great neighborhoods that we created plundered and turned into profit centers for short-term investors. It has been unconscionable to watch our neighborhoods turn into poison centers where we cannot eat what we grow, breathe deeply, or play safely. As you consider demolitions and their irreversible effects and a moratorium, we urge you to be brave, be responsible, be our leaders. Thank you for your service to your constituents. Happy Thanksgiving.

Hales: Thank you all very much. Thanks for coming. We have a second panel, Ruth Adkins from the Welcome Home Coalition, Tim Pitts from Think Real Estate, and Fred Leeson from the Architectural Heritage Center. Good morning.

Ruth Adkins: Good morning. For the record, my name is Ruth Adkins. I am here today representing the Welcome Home Coalition, which is an organization of 115 area organizations working to increase dedicated funding in the Portland metro region, to build, preserve, and support affordable housing. I am here to strongly support the proposed demolition tax. Obviously, this new tax alone cannot fix our affordable housing crisis, but it is one more tool in our toll box of revenue and policy solutions towards an equitable Portland where everyone can find a place to call home.

As you know, Portland still needs an additional \$50 million annually, to build back the missing 25,000 affordable homes. But this proposed tax will be the first permanent and dedicated revenue stream for Portland's Housing Investment Fund, or HIF, so that's very exciting.

We support the Mayor's proposal to include all demolition of single family homes, including lots where additional density planned. To exempt more than 60% of the demolition with significantly reduce the revenue and the community benefit of the policy without creating any new affordability.

Each demolition of a non-condemned home that is replaced by a market rate housing represents a loss of affordable home ownership starter home opportunity, even when density is added. And of course, in this context, density does not mean a large multi-family apartment building, but we really feel like this helps level the playing field for those first-time home buyers. So, we do agree that the tax should apply to all demolitions and single family homes.

If I may comment in regard to some of the many amendments on the table. Obviously, we strongly support the exemption of the nonprofit housing. Really appreciate that is being put forward, and we're sure that our City staff can capability work through the complexities of figuring out how to make that work, but we really appreciate the intent to not add onto the already high cost of providing affordable housing. We need to reduce those costs wherever possible, so appreciate and hope that you will approve that amendment to exempt nonprofit housing and, of course, potentially privately develop housing that includes affordable units.

In terms of the start date, we are in a housing emergency. Recognizing that there needs to be a balance when new policies come in, but the concern would be that folks would do a rush and capitalize before the extended deadline. So, from my perspective, it should be a moratorium because of the emergency on demolitions until we can get the rules worked out and get this in place.

In terms of the current homeowner piece, we certainly appreciate that there may be some homeowners who plan to demolish their homes, but I think for me and for the coalition, the larger concern is really that speculation by developers. That's the bigger concern that this policy would address. And I don't know what would stop a homeowner

November 25, 2015

from taking advantage of their exemption and turning it around and selling it to Dastardly Developer.

Additionally, we would love it if the tax language were clarified so that it were per unit, not per building lot. In other words, if a four-plex is torn down, the developer should be charged for the loss of four homes, not one, especially since the smaller multi-plexes are really one of the few remaining affordable options in Portland. And we also would love it if the currently existing loophole for partial demolition where you tear down almost not entirely the whole building -- if there is a way to close the loophole, that would be better policy.

On the whole, we are very happy to support the new policy, and really appreciate your leadership to seek new and dedicated revenue streams to permanently close the gap on our affordable housing shortfall. It's a great first step for the Housing Investment Fund and a good stop for housing equity in Portland. Thank you very much.

Hales: Thank you, Ruth.

Fritz: A question of clarification. Does this tax apply to multi-family dwellings?

Hales: I don't believe so in its current form. Jillian might be able to help with that.

Adkins: Yeah, in terms of the density goals -- this doesn't apply to that, so I think that that's why we're OK.

Fritz: It's an interesting question that I wanted to talk about some more later, because one of our problems of course is demolition of larger multi-family structures that could be preserved and continue to be affordable, so that's an interesting concept.

Hales: Good point. We'll get staff to respond to that, too.

Novick: Ms. Adkins, on the subject of needing other tools, there's one potential tool that does not exist I would like to run by you. We now have the state -- I think it's the constitutional amendment that prohibits any real estate transfer taxes. Last year in Portland, about 2000 houses were sold for over a half a million dollars. Even if you only applied a 2% real estate transfer tax to those houses, you would raise \$20 million. And I have asked the legislators if they would be willing to send something to the voters saying, "would you be OK with real estate transfer taxes only applied to homes that sold for half a million dollars?" So, I'm curious if you join me in furthering that suggestion.

Adkins: Absolutely. Thank you.

Hales: Tim, good morning.

Tim Pitts: Thank you. I'm Tim Pitts, the owner of Think Real Estate. It's a residential brokerage on the eastside, and I'm here on behalf of many of my colleagues there and throughout the real estate industry in Portland. The past couple of years have been scary, frankly, for us. We've seen rents and prices skyrocketing, houses are being demolished, and a lot of us have a lot of concerns about the direction of the city, and I think that the demolition tax would really address a lot of these issues.

My two biggest concerns are that we have an extreme lack of affordable housing and that we're allowing too many of our historic structures to be torn down. So, I really think we're fooling ourselves in thinking we are building a better city by letting so many historic homes be torn down throughout the city. I think that there should be stricter regulations, and in cases where someone wants to demolish a functional structure, they should pay a large fee.

Builders are claiming, I guess, that the houses being torn down are not houses that anyone would want to live in. But I seen many houses come on the market and sell only to be torn down and in almost every case, these are houses that could have been remodeled and could have been lived in by future residents. I've remodeled houses myself. The first house I bought in Portland was a former drug house off North Mississippi, and it was in terrible condition. We could have torn it down, but we renovated it and kept it as a historic

November 25, 2015

structure in that neighborhood, and I'm glad that we did. I think many of the houses -- as I've said -- being torn down certainly could be inhabited by future people. And clients would rather have these vintage homes. So, a lot of my clients want new construction for one reason or another, but the vast majority of Portlanders want to live in vintage structures.

Sadly, the way the market is, buyers can't compete with builders for these houses. Time and time again, buyers get beat out by builders that can offer cash, quick close. And people that want to buy a small, modest house with all the money that they have and fix it up over time -- they're simply beaten out because the seller wants the best deal possible or the most sure thing possible, so they go with the builder who can say, "cash, no contingencies" knowing that they're just going to tear it down. So, I think that the \$25,000 tax, while it might not totally prevent that, would level the playing field a bit and allow homeowners or potential homeowners to get into houses that are affordable and in scale with the neighborhood.

I know builders also say that the old houses are inefficient in terms of the energy usage, but when you look at the fact that they're often tearing down a modest, appropriately-sized house and building a monster house in its place, you really lose the efficiencies. You can't tell me that it's good for the environment, to tear down a functional house and put the house in the landfill -- we're not talking about destruction, nobody's deconstructing houses right now, they're just knocking everything down into is a pile of rubble and putting it in the landfill -- and building a big energy-efficient house that sells for often well above \$500,000. So \$500,000 as some measure of transfer tax would be crazy because 500,000 is the new entry point for a modest bungalow in Portland.

So, I think that we really do need stricter controls for demolishing houses. We need affordable housing. Rents are going crazy. People are not going to stop moving here, rents will continue to accelerate, prices will continue to accelerate, and if we don't do something, then quickly, people were not going to be able to afford to live in the city that they lived in. So, affordable housing definitely needs attention, and this to me seems like a very neat and tidy way to address these two issues.

Quickly regarding the one amendment about homeowners being able to tear down their own house. I know that it's tempting to say that you want to have exemptions so you're not punishing people that own their house, but often builders are buying house says off-market. And so if you have a provision where if the homeowner applies they don't have to pay the fee, there's nothing that's going to stop the builders from partnering with homeowners under a contract, tearing down the house, building a new house, and the homeowner is the one selling it and paying a huge profit to the builder as a partnership, but they're going to avoid the 25,000 tax. So I think if you have some provision like that, I would strongly encourage you to have a three to five-year period where the homeowner has to inhabit it to eliminate that scenario from happening. Which is a bit harder -- you put a lien on the property or something like that -- but that would be necessary because that would be a super easy loophole to exploit.

Hales: Thank you, helpful. Good morning, Fred.

Fred Leeson: Good morning. Fred Leeson, Bosco-Milligan Foundation. We own and operate the Architectural Heritage Center at 701 SE Grand. We strongly support the idea of the tax. We believe that it will help maybe in some cases tilt a homeowner or a developer towards renovation rather than demolition. You actually get a better bang for your buck economically rehabbing a house than you do starting over. We are grateful to the Mayor's office for proposing that the density exemption be removed. That had the capacity to gobble up the whole thing.

A couple of ideas we had is that the fee should be levied on the tax lot, not just a house. If there's a situation where there are more than one tax lot involved that's going to

November 25, 2015

be one house. It does happen in some neighborhoods. We also like the idea and would suggest that the revenue generated, because it's coming from a single family neighborhood, should be limited to programs and rehab opportunities in single family neighborhoods. Just something to think about.

Commissioner Novick, I'm concerned about the tiered tax because we know Dastardly Developer will game the system. They gamed the system back when we had the K1 exemption where they would buy a home on a double lot, come in and get the automatic permit for one house, build that house, then divide the lot and build the second house. You got two for one and they had eliminated the delays. I say that in criticism, but it's also extremely human to try to game the system, and people will game systems.

I firmly believe that the most affordable house is the house that's already there. If you're looking for affordable transportation, you don't go to the new car showroom. Thank you.

Hales: Thank you very much. Thank you all. OK, let's move to the signup sheet, please, and take public testimony from others that were here.

Parsons: We have 14 people signed up.

Hales: Good morning. If we could hold the testimony to two minutes that would be helpful, because we have a lot of people signed up. Try to be brief.

Clinton Wood: My name is Clinton Wood. I work at ESCO Corporation as an engineer, and my husband and I adopted a two-year-old. We live in Gresham, Oregon and hope to expand our family.

The number one reason we haven't moved to Portland is not affordability, it's actually suitable family housing. There's simply a lack of suitable family housing that meets our needs and a lot of families' needs. The city has grown over 200,000 people in the last 50 years, and in that same time, there's 30,000 less school aged children in the city. We're moving out to the suburbs and not because it's too expensive in the city, we're moving because the housing needs in the suburbs meet our needs.

This new construction that everybody thinks is a monstrosity meets our needs. It accommodates larger families, they attract families with children which in turn can provide more children to attend public schools. They generate higher property taxes for the City than the existing home that's on there that's capped by Measure 5 to provide a safer and healthier environment that these people here even admit that they're full of asbestos, lead, radon gas leaking into the basement, and dumping stormwater into the City sewer system. They're also more energy-efficient.

Tearing down homes and gutting them fills up the landfill just as much as tearing down the house. You call these eyesores, but you have no problem building apartments and low-income housing in the name of affordability. These demo fees will only increase the cost for my family to move into the city. It's not making it affordable for anybody. I'm going to come in and buy a lower-cost housing and displace somebody with lower income anyway, and you didn't solve anything -- [beeping] -- and -- isn't going to solve anything.

Hales: It means you got about 30 seconds.

Wood: Oh, OK. So, what I'm trying to get at is you guys need to attract families like me, and the housing out there is not suitable or meeting family needs. This new housing is. You guys have a lot of social programs that you want to fund, and you should be funding it through higher property taxes that this new construction pays for.

Hales: Thank you very much. Good morning.

Gary Whitehill-Baziuk: Hi, my name is Gary Whitehill-Baziuk and I've been a real estate broker in the city over 25 years. I'm here today speaking on behalf of a number of my clients as well as several of my colleagues. We find this proposal to eliminate the exemption for multiple units a disservice to the city.

November 25, 2015

We currently have a housing shortage. A balanced real estate market is one in which there exists a six-month inventory of homes on the market. We currently have less than two. This proposal will only add to the imbalance thereby making housing even less affordable. We have two large groups of people who are either in the current market pool for homes or are about to enter that pool. I speak of the millennials who won't be content in their 600 square foot studios on Division forever. They will be looking for affordable homes hopefully in the city. I say hopefully because if we don't fill that supply side of the equation, I suppose they will look in Gresham or Hillsboro or Milwaukie.

The other large group is the baby boomers who wish to downsize. Not all wish of them wish to reside in condos in the Pearl or South Waterfront. So, where do they go? Vancouver? Any constraint on supply not only puts upward pressure on prices but also hurts the economic fabric of the city. Impacts include loss of revenue to local businesses as people move away, less jobs for the construction industry, and lost revenue to the suppliers of products and services to these workers. Additionally, there will be lost revenue in the decrease of property taxes that fund services for the entire state.

Other unintended consequences -- sellers receiving \$25,000 less for their homes because developers will argue to homeowners that this proposal just devalued their home. Another consequence will simply be an increase in home prices. Developers will just simply pass this additional cost on to the consumer. Does not seem logical that if one buys a single home on a 10,000 square foot lot and because of zoning is allowed to build from four to 10 new homes thereby adding more to the supply side that they should be taxed on this.

We as Oregonians value our farm and forest land and do not wish to see our urban growth boundary spread to levels that will create unfettered growth. The City claims that one of the most critical livability goals is to increase density. If density is the goal and prices are already high and supply is low, why is the Council considering placing yet another constraint on infill and applying more upward pressure on home prices?

I realize people are angry that a number of older homes have been torn down that could have been saved, but do not allow the outlier to become the norm and the basis for this proposal.

In closing -- and I speak for many that could not be here today -- I must take issue with the City Council selecting the day before a large traditional holiday as the scheduled time for this important public hearing. It is disingenuous engagement. Though I have no doubt that this proposal was initially well-intended, it is ill-conceived, will fail on many fronts, and will not bring the desired results. This is a critical issue, one that deserves far more discussion and redesign. Thanks.

Hales: Thank you. I just want to make sure you understand -- this tax would not apply to a situation --

Whitehill-Baziuk: R1, R2.5?

Hales: No --

Whitehill-Baziuk: No.

Hales: Like the great project you built in my neighborhood, mixed use over retail -- that's --

Whitehill-Baziuk: That's commercial.

Hales: Untouched by this tax.

Whitehill-Baziuk: What about underlying tax lots?

Hales: Single family zones is what we're talking about. So, single family zones --R5, R7, R10. So, not R2.5, not R1.

Whitehill-Baziuk: OK, thanks. Sorry.

Hales: 2.5 -- sorry, it does apply to 2.5.

Whitehill-Baziuk: But not 1 or 2.

November 25, 2015

Hales: Not R1, R2. Those are multi-family zones. For now. Mixed use zones. That project you built in my neighborhood would be in our new zoning code --

Whitehill-Baziuk: [indistinguishable]

Hales: -- it would still be a mixed use zone.

Whitehill-Baziuk: But an R2.5 if it's a 10,000 square foot lot, you're still adding four units.

Hales: Potentially, yes.

Fish: Do you support the money going to a dedicated fund with the Housing Investment Fund?

Whitehill-Baziuk: Yes, absolutely.

Fish: And by the way, we're not taking a vote today. I think this is the second or third hearing we've had on this issue. Just want you to know.

Whitehill-Baziuk: I know, I've been here.

Fish: Thank you.

Hales: Thank you. Good morning.

John Maternoski: My name is John Maternoski, I'm here representing a local architecture firm and a client in particular. I have a couple clarification items. We have a project that has been delayed for a while and we got approval for demolition --

Fish: What the firm you represent?

Maternoski: William Tripp Architect. It's a small firm. So, the project has been delayed. We have the demo permit. It's since expired. So, we're wondering if the client isn't able to start construction before February 1st or March 1st, whenever the start date is, would we be OK with the demo permit that has been issued previously, or would we need to reapply again and have a current standing permit at the time?

Hales: I believe the answer -- we'll get that answer -- I believe you would have to reapply.

Maternoski: OK, so it would have to be active. OK. Then we have two dwelling units on our site, it's one site. That's been brought up earlier if that would be 25,000 or 50,000.

Hales: As currently proposed, the tax would apply to each house demolished. So it would apply to each unit demolished, not to each unit built.

Maternoski: OK. And then the last thing -- we had a lot of talk about numbers and taxes and all that, but I was wondering if there's ever been mention of more a human element. If you're applying for your demo permit if you can say, "here's what we're doing and here's how it's going to benefit the neighborhood," is there some kind of panel that could review that on a case-by-case basis and give approval or denial?

Hales: No, we're not setting that up. Appreciate the suggestion, but that would be pretty unwieldy for us. Thank you very much. Thank you all. Good morning. Go ahead.

Steve Smelser: Good morning. My name is Steve Smelser. I used to work with you, Charlie.

Hales: Good to see you, Steve.

Smelser: I'm a homebuilder. I spent my whole career since 1970 building primarily affordable housing. It's what I do. Over those 40 years, 45 years of building homes there have been all kinds of fees increase, systems development fees, rule changes, and I have yet to see one that has made housing more affordable. Every one of them, all they do is drive the cost of housing up. This fee will do exactly the same thing.

Existing housing prices follow new construction housing prices. And if new housing construction prices go up because I have to pay a \$25,000 fee to tear a house down, existing housing prices will rise the same. It happens everywhere in the world. And that's what will happen.

When I buy a house -- and I have bought two in Portland and tore them down -- nothing in the last five years but I have in the past, and I didn't build million-dollar houses. There may be some million-dollar houses built but I bet most are not. But when I buy a

November 25, 2015

house and tear a house down, I tear a house down that was not energy efficient, it was not structurally safe for earthquakes, it was probably full of lead, which isn't safe for kids living in those homes, and we built a new house that's energy efficient, has all the latest energy-efficient appliances, no lead, and it's engineered seismically to be safe in an earthquake time. That's what we do.

The last thing that I want to say is the city has blighted areas that you want builders to come in and rebuild. To make it cost \$25,000 extra to tear down a blighted house might be a disincentive to come in and do that, and those areas then remain blighted.

Fritz: May I ask you a question? What would you say to those who say that presumably developers already selling their new houses for as much as they probably can and that they wouldn't be able to tack the \$25,000 on top?

Smelser: It will have to add on top. Builders aren't going to build houses and take a loss. They're going to get what they can get for the market, just as the existing homeowner -- when he sells his house, he gets what he can get. You know? They call builders greedy people and stuff, but every homeowner does the same thing -- they sell the house for what they can get.

Hales: Thanks very much. Good morning.

Terry Parker: Terry Parker. I'm a fourth generation Portlander speaking as an individual today.

Portland single family home neighborhoods are under attack. In addition to working class neighborhoods being torn apart by proposed up zoning in the comp plan, throughout the city, livable single family homes are being demolished at a great rate. The average cost of a new house that replaces a home torn down is 2.4 times more. Many of the homes being torn down are considered to be affordable starter homes, some of them fixer-uppers. Reducing the housing stock of these starter homes also reduces opportunity for lower income people to invest in a house and obtain some wealth through the equity property ownership instead of just continuing to pay rent.

Moreover, diversity within single family home neighborhoods suffer when there's an absence of affordable starter homes. Most of the new replacement houses fall into the category of either a narrow, skinny box or out of scale monster box with a porch superglued on the front side. In most cases, the footprint of the new cookie cutter boxes interrupt the backyard and or front yard ribbons of green add quality of life in most single family neighborhoods. Moreover, the unique historical qualities of neighborhood architecture that make Portland an appealing place to live is lost when the only new single family home comes in the form of various sized boxes. Much has been said about the Portland single family home neighborhoods that have disappeared, including those where the Veterans Memorial Coliseum now stands in areas that have been part of urban renewal.

The city needs to preserve single family housing stock we still have. It must be affordable to all levels of income including families just starting out, the working class, and senior citizens on fixed income. Assessing a demolition tax is a good start to reduce the obscene number of demolitions taking place, but not the entire answer or complete solution to the problem. As an individual and as a member of the UNR steering committee, I fully support the implementation of a demolition tax, the amendment that eliminates the rebate for constructing two houses for one demolished home, and the testimony supplied by UNR.

I would also like to add one other thing. I have a concern about the homeowner not paying the tax because the homeowner could likely be just scamming the system with a developer, joining forces with the developer, so I agree with Steve in this case that --

November 25, 2015

Commissioner Novick -- that there needs to be some sort of policy that the homeowner must live in the home a certain period of time. Thank you.

Hales: Thank you. Good morning.

Lightning: Good morning. My name is Lightning, I represent Lightning Watchdog PDX. I think the ordinance should be adopted as amended but I'm going to state my concern that I still think that 25,000 is too high. I would like that to be reduced by 50%. And again, when the real estate brokers are doing a lot of business with the developers on building new homes and selling the homes, you real estate brokers can discount your fee and make up the difference on this issue, which will go to the Housing Investment Fund. Again on the HIF, I don't want any limitations on where those funds can go. Of course, to affordable housing is the main priority.

Another concern I have is that people selling the houses in the neighborhoods -- why don't the neighborhood associations get together with them and say, "why don't you put something, a covenant or something in an agreement that states you don't want this demolished and only will sell it to somebody that wants to rehab the property?" The sellers have that ability to do that, and if the neighborhood associations get together with them, why not implement that? What I don't want to see again is the developers restricted, impeded, and sent away, because we do need new houses being built as the gentleman stated, for his family, and that's an option that should be out there. We should not restrict him from being able to look at those kind of houses.

Again, from my position I think this tax is too high and the brokerage houses should step up also on the additional amount that should go to the HIF fund. If they don't want to, don't deal with the developers. Just have the developers sell it out themselves and cut the brokers out of the deal at 100%. Maybe they'll understand that if they want to step up to the table today and say, hey, let's not let the developers build a house, but hey, if they have a \$1 million home they just did then I want to get that commission -- well, that's kind of a double standard. So, stand by what you say, and a lot of sellers out there I think would be open to not allowing the house they are selling not to be demolished but they also have to understand up front, you need to talk to your broker and have that put in some form of agreement whether in the listing agreement or have an attorney draw something up to make sure that happens. Thank you.

Hales: Thank you.

Fish: Lightning, can I just clarify something? It just seems like there's still lingering doubt on this proposition and I just want to clear this up once and for all. The current proposal before us that's already been amended states clearly that any revenue will go into the Housing Investment Fund without any restriction.

Lightning: OK, very good.

Fish: For any purpose the Commissioner-in-Charge wishes to expend it without restriction.

Lightning: Very good. Thank you.

Hales: Thank you all. Next three, please. Go ahead, Diane, while the others are getting settled.

Diane Linn: Good morning. Diane Linn, Director at Proud Ground. Thank you so much. I'll try to be briefer than two minutes because I think I'm here to suggest that you're going in the right direction with this tax. It really could be -- as Ruth said from Oregon ON, I join her voice in this effort to create yet another source, another tool in our extraordinary effort to deal with this crisis we have here in our wonderful city around affordable housing.

No tax is ever going to be universally embraced by the community. We all know that. But tough choices have to be made, and I think this is a source that could be really an additional very helpful tool for us.

November 25, 2015

The only thing I would like to add briefly this morning is we really do need to start to plant the seeds of permanent affordability every chance we get. If this money could be applied at least in some ways -- it doesn't have to be exclusively applied -- appreciate Commissioner Fish's effort to expand our choices -- we do need to talk about establishing permanently affordable housing so 10 and 20 and 30 years down the road, we're not facing these similar issues over and over in neighborhoods. We'll be working diligently with our partners at Habitat for Humanity, Proud Ground, to promote homeownership as a real opportunity for the use of these funds. How you amend this exact public policy I give you -- you know, the best of luck in finding the sweet spot, but please do support this tax so we can apply it to some very important investments and ideally homeownership and other affordability efforts in the city.

Fish: Just to your point, I think we should be more flexible in renewing our MULTE program. If we can get an extra 10 years under the program, I think we should have an agreement with the county to do so. I think the 60-year affordability covenant generally that we require a number of our programs is about right. That's for me the gold standard. And if Commissioner Saltzman decides that he wants to use a portion of the HIF to do land banking ahead of affordable homeownership within our community, I think that would be a splendid use of this money. The one thing we don't want to do, though, is start having sources that we put into this fund with strings attached. Then it becomes a less flexible tool that can be used for a whole array of purposes and more an accounting nightmare. So, that's the only purpose behind keeping it unencumbered. But you seem to -- I personally think that you have a number of compelling claims for things around homeownership.

Linn: Can I just add, please, that the gold standard should be permanent affordability in a perfect world together with all those other measures -- the HOLTE and the other exemption programs -- still the price point is too high for people making 60% to 70% of MFI in the community. I would add that point.

Hales: Thank you. Welcome.

Claire Carder: Good morning. My name is Claire Carder. I live at 6156 SW Nevada Court, Portland. I'm here to testify as a draft representative about the proposed -- [inaudible]

Hales: It just does that. Keep going.

Carder: \$25,000 demolition tax. The Development Review Advisory Committee is a Council-appointed group of 17 individuals that include all sectors of building and development community within the city of Portland. We represent a broad array, including neighborhood coalition land use committees, minority construction professionals, environmental conservation green building, low income housing developers, public works permits, small businesses, citywide neighborhood interests, historic preservation, frequent development review customers, design professionals, large developers, large construction contractors, homebuilders, major facilities landowners, home remodelers, Portland Planning Commission, and land use professionals. 17 people that represent the broad array of interests that are involved in development in the city of Portland.

We first heard about this proposal in September at the September 17th meeting we voted to submit a letter to the Mayor's office expressing disappointment that there are been no involvement in this standing City committee in developing or reviewing the idea of a demolition tax. The DRAC met last Thursday at our regular meeting, November 19th. We had a full agenda and it included Jillian Detweiler from the Mayor's office. Thank you, Jillian, for showing up and talking to us about the demolition tax as it is concerned proposed with one of Mayor Hales' amendments but not the array of amendments that has been proposed this morning.

Lively discussion followed. The DRAC voted unanimously to oppose the proposal, and we submitted a letter to the Mayor's office stating our reasons. I have the letter. I don't

November 25, 2015

know if you have all had the opportunity to -- I'm seeing nods. I'll try to finish up. Opposition as detailed in the letter is based on four main concerns.

One, the first is it the proposal attempts to use the demolition tax as a one-size-fits-all response to many concerns expressed by neighborhoods and special interest groups, including developers. The larger issues that need to be addressed are housing affordability, planning efforts to increase residential density, loss of neighborhood landmarks, cohesiveness, character, and the need to replace substandard housing stock with safe code-compliant housing. The proposal does not directly address any one of these issues.

Two, the process of developing the proposal was not inclusive and did not involve key stakeholders, including the development community. Since stakeholder involvement was limited, I suspect the proposal pleases none and offends more than offering solutions.

Three, the proposal will negatively impact housing affordability by adding \$25,000 to the cost of housing built to replace demolished structures. That is a basic truth. You know, you can try to tiptoe around it any way you want but it's going to be \$25,000 on top of the cost of housing.

Fourth, the proposal was developed at least in part to address the demolition crisis. And I would say, having been on the inside of the issue for quite a while, is there really a demolition crisis? We have numbers, but we don't really know what they mean. The analysis has been limited. Is the city really undergoing loss of housing that is higher than ever before? I don't know. Is this the crisis, really?

So, the Development Review Advisory Committee really would like to see this proposal withdrawn, and we would like to see larger involvement of the community in crafting a proposal that meets the needs that are expressed. What I have been hearing this morning is housing affordability in the city is a huge issue. The Council needs to step up and needs to look at finding long term solutions to this issue.

Hales: Thank you. Let me get you to wrap up.

Carder: Thank you so much for your time. I appreciate your attention to this important issue.

Hales: Thank you very much. Good morning, Peggy.

Peggy Moretti: Good morning. My name is Peggy Moretti, with Restore Oregon, a nonprofit that works statewide to pass forward Oregon's historic places and promotes livable communities. I do want to take a second to wish you a happy Thanksgiving and express our thankfulness for your service to the city.

We have been tracking the growing demolition epidemic -- and we do believe it's an epidemic just by the escalating numbers we have tracked. We are participated in several task forces and proposed practical solutions that will curb the demolitions going on while allowing for needed growth. Our staff is currently serving on the residential infill project, the deconstruction advisory group, have participated in DRAC conversations, and the seismic advisory group.

We support very strongly proposed the demolition tax for two primary reasons. It provides a very important disincentive to counterbalance what the accelerating market forces are doing to spur the 400-plus single family residential demolitions that we will experience this year. We think this tax will slow the pace -- it won't eliminate it, but it will slow the pace of demolitions, allowing the residential infill project to do its work to redefine the single family zoning code in a way that will retain neighborhood character.

The second reason we think this makes sense for the city is that the demolition tax aligns with our sustainability goals. Every time a building is demolished, we're throwing away tons of materials, craftsmanship, history, and the embodied energy that has already been expended. It should hurt to dump that much into the landfill. It has been well-

November 25, 2015

documented that it will take decades for a replacement structure to offset the energy thrown away and the energy expended in the new construction.

Some have questioned whether it's appropriate to label this as a demolition epidemic -- Commissioner Novick said that to me last week -- but it does meet characteristics of an epidemic in that it is currently uncontrolled and that the "fatalities" -- I would put quotes around that -- have a very permanent impact on the community. We think the money raised from the demolition tax will not of itself solve our affordable housing issues, but even if only half the current 400 homes demolished end up paying that tax, that is \$5 million towards have very important goal of affordable housing. And of course, we hope some of that affordable housing will be created in historic buildings.

The current situation is costing Portland a lot in the form of waste and landfill, loss of affordable starter homes, the release of hazardous materials, and the loss of neighborhood character that makes Portland Portland. It may make sense to have visit this tax in a few years, and we may even suggest amendments in the form of waiving for a house moved, a house that we relocated, and perhaps reduce it for deconstruction. But right now, the demolition tax offers an important and effective disincentive and gives our neighborhoods a fighting chance.

Hales: Thank you very much. Thank you all.

Parsons: We have five more.

Hales: OK. Go ahead, take the center seat. We don't have to use that other microphone.

Michael Dowd: I'm Mike Dowd. I'm an architect. I oppose this tax as proposed. I am sympathetic to neighbors of developers tearing down good houses and replacing them with incompatible spec houses, but this proposal needs exemptions to avoid punishing people like me due to the assumption that all demolitions are bad.

Before saying anything else, I'd like to ask you to please exempt -- again at a minimum -- one, people who have lived in their homes for -- for me it would work if you've lived there 10 years -- I have lived in mine 10 -- and want to replace their own homes for themselves. Most importantly, number two, houses in flood zones, especially Miles Street neighborhood. There's very few people in either of those categories, but it would be very unfair if those are not exempted. Please look at the photo on the last page of what I have submitted. That's my neighborhood in the '96 flood.

Moving on, I wrote three lists in the testimony. Seven reasons the tax is unfair, 10 situations it should always be exempted, and five things that should happen instead. I also added five situations that are ironically being ignored here. Please read those before voting.

Today, I'm here as a home owner who definitely will lose \$25,000 I don't have unless you make exemptions. Ten years ago, I bought my house for my family with the goal of replacing it with my dream home. It's under 800 square feet, poorly designed, poorly constructed, in poor condition, and in a flood zone. It has no quality or integrity. Its problems cannot be solved through remodeling, even if the design and structure allowed feasible remodeling, which I doubt. Flood regulations would trigger removing the entire basement, tearing out the foundation, building a new liquefaction-resistant foundation, raising living spaces above flood level, and bringing the house up to current codes. My neighbors are in the same boat -- or boats -- if you don't exempt us.

It's assessed far lower in its land and is only the quarter of the size of the nice new homes nearby. In fact, you read my list of 10 situations that should be exempt from this tax, my house meets every one of those. To protect our neighbors also, the zoning already requires that we go through greenway review and design review so any new house will be compatible. I object to having my affordability knocked down by \$25,000 that I don't have to punish us for positive demolition to pay for someone else's affordability. Plus, since the

November 25, 2015

home's value is almost entirely in the location not the structure, I'll still be the one paying the tax if we sell it because nobody is going to pay anything near what we paid unless they can tear it down. And since they'll need \$25,000 for that, they'll offer that much less to us.

Summary, 99% of homes in Portland can be added on to or remodeled. Don't punish me for being in the other 1%. We want to be left alone to achieve at our own expense what others in this room already enjoy. Please read and consider my exemptions, and thank you, Commissioner Fritz, for yours -- if you did that one plus the flood exemption, I'd be happy.

Hales: Thank you. Good morning.

Cameron Herrington: Good morning, Commissioners. My name is Cameron Herrington. I represent Living Cully, which is a collaborative effort for community development organizations in the Cully neighborhood -- Verde, NAYA, Hacienda DCD, and Habitat for Humanity.

Our first major concern, which we relayed to you in written communication you've already taken care of, which was to add an up-front exemption for demolitions resulting in affordable housing. I had a number of really impressive points to make about that. I'll skip those since you've already taken care of that. Our second point is that --

Fish: By the way, I'm glad you did that. I still remember one of my favorite hearings at City Council on an issue involving utilities. And prior to taking testimony, we adopted an amendment which cured the problem, but the person was so eager to go after one of my colleagues that he read his comments and attacked the person who had successfully amended the matter because he had to get it off his chest. And you might have guessed, Commissioner Leonard was on the receiving end, but it was quite a moment. I appreciate it.

Herrington: I'll save you from that.

Fritz: I'm sure they were excellent points, though.

Herrington: Thank you. They were. Appreciate it. Our second point is that we strongly support the amendment to remove the rebate in cases where density is added. The intent of having that rebate in the first place presumptively would be to encourage increased density, which is a goal that we support. However, this rebate is completely unnecessary to achieve that goal. It is in situations where density could be added that demolition is most likely to take place already because there's the highest profit margin to be made by the developer. So, they're already going to do that because that is how you maximize profits is by knocking down one house and selling two or three or four. So, we don't need to also give developers a \$25,000 public subsidy to do the thing they were already going to do. That's just a misappropriation of public funds and it also would limit the revenue brought in through this tax by 50%. The Oregonian reported that half of the demolitions that have occurred in the last two years have resulted in increased density. We would be foregoing millions of dollars for the Housing Investment Fund if we leave that loophole in place, which again is completely unnecessary.

Our third point is the ordinance needs to be clarified to make sure this tax is being applied per unit that is demolished, not per structure. If there's a duplex or a quad-plex, that needs to be really clarified. And in our communication with the Mayor's staff, that sounds like it is still ambiguous.

Fritz: No, the way I read it -- if you look at the definitions, it says that residential structure means a dwelling unit.

Herrington: Yeah, I raised that question with the Mayor's staff and it would be great to really clarify that point as the administrative rules are being put together. We're also very concerned about potentially pushing back the deadline to March 1st without having some intermediate step to hold back on permits being pulled right now. We saw what happened

November 25, 2015

when there was a lag time in the 90-day rent increase ordinance. I mean, I was one of those renters whose landlords took advantage of that lag time to jump in with a rent increase under the gun. It shouldn't take three months to figure out how to implement this new rule.

Hales: Thank you. Good morning.

Paul Grove: Mayor Hales, Commissioners, for the record, Paul Grove with the Homebuilders of Portland, or that dreaded D-word as Commissioner Novick referred to earlier. I handed out my testimony. I won't read it. It's there for you to look at at your convenience. It closely mirrors the testimony we submitted in October with the added policy concern or consideration around the removal of the density rebate. Again, rather than go through my testimony point for point, I want to highlight some issues or items that we've heard and really focus on some consequences, frankly, unintended consequences that may be a result of the proposal before you.

The first thing I want to highlight is testimony that we have heard from economists on the issue around does a \$25,000 tax achieve the goal of dissuading a tear-down and impact affordability, in particular the quote unquote "McMansions" that folks have voiced concerns over. We've heard previously in October the answer was no. Moreover, the economists stressed that the tax could result in a potential hardship for less affluent neighborhoods -- I think something that Council has to be mindful of moving forward with respect to this.

The second thing I was going to note but there's been robust discussion is around the not-for-profit developers, the Habitats and others building in and around the SDC waiver line. I think whatever we can do to encourage their ability to move forward with those types of projects, the better. We know it's a hardship for them to carry the cost of the tax and additional financing. I think the same holds true for smaller builders building in and around the median home price as well. It's a real consideration, and there are fewer and fewer building in that range.

The third thing I want to note -- and you heard from previous testimony in October -- the retired gentleman from North Portland, he and his neighbor were worried about the impact to their nest eggs. And similar to the cost of a home in the \$25,000 being shifted to the purchase price, the same would hold true for that individual property owner.

And the owner-occupied piece really quickly is very compelling from the young pregnant woman, the couple looking to do a remodel could not afford that. Wanted to do a potential tear-down and rebuild but found the \$25,000 was prohibitive. And you heard testimony today around middle class, work force type housing is a real consideration with respect to this tax.

The last thing with respect to the homebuilder's foundation. I know many of you are very familiar with the work that they do around transitional housing for women around and children. And part of their model, as you know, involves potential teardown of a home. And so, I would ask Council that for those not-for-profits in addition to building around the SDC waiver line that are on the front lines of the housing emergency providing transitional shelters and other types of housing, that we don't have an unintended consequence or impact to the work that they're doing at the end of the day because I think it would fly counter and negatively impact their work.

Fish: I have a couple questions.

Grove: Sure.

Fish: And I really appreciate your focus on affordability and I actually share a number of concerns you raised. They really relate to the zip code, where these are happening, and general affordability. And I appreciate your support for the exemption language on the nonprofit affordable homeownership.

November 25, 2015

Maybe it's because we don't have a lot of great data there's some confusion in this debate, but I'm just curious. I have anecdotal evidence about demolitions that are occurring in Northeast. And almost invariably, they're homes that once were affordable being replaced by homes that are now completely out of reach. In fact, every demolition within three blocks of my house is a home that once upon a time, a police officer and a nurse could afford, and now I don't know who is affording these homes that are coming in at \$850,000 except people that have cash from the sale of their prior home and are taking advantage of historically low interest rates. Where in the city are you seeing evidence of demolitions where homes are being replaced by developers with homes that are affordable to police officers and nurses? Randy Sebastian was in here and I appreciated his candor. He is a prominent developer and he's in the forefront of demolitions, and he's building seven, eight, \$900,000 homes. God bless him if he can find someone to buy those. Where are we seeing demolitions leading to replacement homes that are affordable for cops and nurses?

Grove: Commissioner Fish, I appreciate the question. I'll give you one quick example that comes to the top of my head. I know that Mayor Hales has seen the complex. We did a tour and the Mayor graciously provided a lot of his time one day and we could show a variety of homes. One of the projects that we showed him was a tear-down I believe around SE 77th. It was one home torn down replaced with cottage cluster developments, six new homes all around the 335,000 price range. I think that would be an example that immediately comes to mind of a tear-down replaced with increased density at a very affordable price point. So there are those out there. For increased data, I mean I can certainly --

Fish: Are they the exceptions or the rule?

Grove: I don't have an answer for you.

Hales: I think the data -- we've got the data line by line for all the last three years. And the data shows that's the exception. It's a wonderful exception, but as I mentioned earlier, the average difference in price is \$300,000 between the purchase price and the for sale house. That's the difference, just the delta, that's not underlying base. It's a wonderful exception, but it's an exception.

Fish: It goes to the point, though, because we have -- I have my share of qualms with this proposal. I'm not trying to mislead you here. But it does seem that we use a very elastic definition of what's affordable housing sometimes in these debates. I guess I'll put it to you -- I'm interested just from a policy point of view. Does imposing an additional \$25,000 on a transaction where the house is going to be sold for between \$700,000 and \$1 million -- does that work against any definition of affordable housing goals in our city? You may disagree with the policy, you may disagree with the tool, but is there any conceivable affordable housing goal in the city that that offends?

Grove: Commissioner Fish, I think --

Fish: Particularly because we have been preempted from other tools we might think are more strategic. Some of our greatest critics have prevented us from using other tools, which in my mind are actually better tools for a number of reasons. But our hands are tied because they have more influence in Salem than we do. On this one, does it offend an affordable housing goal at \$25,000 if it truly is a pass-through to someone buying a house between \$700,000 and \$1 million?

Grove: I would suggest, Commissioner Fish, that the issue can be looked at in two lenses. You're talking about housing affordability and affordable housing. So, an affordable housing goal, and does \$25,000 offend the notion -- I apologize, I'm not quite understanding --

November 25, 2015

Fish: One of your members who is thinking about tearing down a house and building a bigger house decides to add \$25,000 -- see if they can collect an additional 25,000 -- in other words, pass this cost through. In my neighborhood, by the way, people are strategically listing prices at a ridiculous number then there's a bidding war that goes above that. So we're in uncharted territory in terms of what people are willing to pay apparently at this high end.

Does it offend any affordable housing goals that I know the foundation cares about and we work on to add \$25,000 to the cost of a house that otherwise is going to be selling for \$700,000 or \$1 million?

Grove: Again, I'm struggling with the question. I apologize. Maybe that's just me in the moment not getting my arms around it. But the 25,000 pass-through to support the program or the policy objective that we're talking about today? I mean -- or --

Fish: Maybe I'm -- it's the end of a long month. We all have Council hangover from the big rush to get everything done this year. You make a compelling argument to me when you're talking about at the lower end of the housing market.

Grove: Yes.

Fish: Unfortunately, I'm not seeing many examples of demolitions where developers are placing \$300,000 bungalows with \$325,000 bungalows that are affordable. What we're seeing is -- and the data suggests -- we're seeing a huge bump up in price, and people are therefore building bigger homes serving a different market. I'm not here to question the market, but I'm just wondering, since the argument that is used against this is somehow, even at the high end, it works against affordability, I just want to question that. Because between \$700,000 and \$1 million, I'm not sure the conversation should be framed around affordability. Because already people have demonstrated they have the resources to buy a very substantial house, and I'm not sure it makes a big difference.

Grove: Sure. I apologize for struggling on the spot with the question. One, with respect to the data -- and I don't have the numbers in front of me and I'm not going to question what the Mayor and others have in front of them -- but I would like to ultimately follow up and see what that looks like. Two, as to --

Novick: Mr. Grove, can I throw something out here? My staff informs me the average value of A replacement home in the last couple of years has been around a half million dollars. That suggests that 335,000 is unusual but that 700,000 isn't always what it is either.

Grove: And then to the other piece around the large scale homes and the issues around affordability and is this counter to the affordability objectives, I think you hit upon an important point oftentimes in terms of what the market will dictate with new homes being built. But I would suggest that is what is more affordable, two homes at 425,000 or one home at 850,000? I think there are certainly instances where you have two homes at 425,000 and to me that is a much more affordable proposition at the end of the day.

Fish: And I get that and you therefore disagree with the Mayor's amendment to take that density piece out. That's clear.

At some point, because at the Homebuilders have worked with us on a lot of affordability initiatives -- the foundation does amazing work. I would be interested in continuing this discussion around things we can support together. I appreciate this is a tool you don't support. I'd be interested in what tools we could support. And again, most of them seem to be preempted by the state legislature. I would love to find something that you and I could together go to Salem and agree as a tool that we should use for affordable housing.

Hales: Thank you very much.

November 25, 2015

Novick: Actually, Mayor, I've got a couple more questions. One is how often do you see a demolition resulting in more density in single family zones, which is all we're talking about here?

Grove: Commissioner Novick, we had some data pulled for 2015. And this is older data, it's around end of September, early October. What we had seen -- and these were where development was planned and identified -- we saw 165 tear-downs with replaced with approximately I wanna say just under 300 new homes, so I think that's about 175%, 180% increase at the end of the day. If that gets to your question.

Novick: The other question is a little off topic, but the issue of asbestos. I too have been -- as one of the previous testifiers said -- concerned by the Oregonian's reporting. It sounds like DEQ isn't doing a good job enforcing the asbestos regulations. I'd appreciate today if you have any suggestions to what the City could do to protect people from asbestos while the state's trying to improve what they're doing.

Grove: Certainly happy to follow up.

Hales: Thank you all very much. Let's take the two and then call staff back up. Come on up.

Fish: Jane, when was the last time you batted cleanup? [laughter]

Hales: Go ahead, Charles.

Charles Johnson: Good morning, Commissioners. For the record, my name is Charles Johnson. I just want to slightly quote Commissioner Fish. He said he was not going to question the market. Markets give us cool stuff. Markets also give us child labor, pollution, worker deaths, so I know Commissioner Fish will in the right context question the market, even if it's just real estate. Because the real estate market seen in the journal of commerce and it's seen when you walk down 5th Avenue. 5th Avenue in New York now 5th Avenue southwest in Portland look the same. They're full of buildings that have homeless people sleeping in front of them. That's a small part of the affordable housing thing. I know we have some things coming online hopefully tonight and tomorrow night to start addressing that problem. I'm not sure how much honesty and candor has been in some of this testimony. We know that there are -- first of all, there's no progressive taxation at all when it comes to real estate speculation. So those people already have a huge pass. So primarily, I want to tell you -- pass this, get this on the books, then listen to the people and you'll find that the tweaks that are much more important are going to be to make it progressive and deterrent at the high end. Yes, there might be some anecdotal stories of small homeowners who had some problems. I have confidence in y'all that you can properly interpret the legislative intent for this and that small homeowners won't be hurt, small homes will stay available and on the market at entry level, and you can adjust this so that when somebody buys a \$200,000 home and demolishes it and replaces it with something that comes up to five foot one inch of every lot line and is three stories tall, people can at least look and say, well, at least it's contributing to the community beyond the same property tax rate that I'm paying because they have a hell of a lot more capacity to pay property taxes. Thank you.

Hales: Thank you. Good morning, Jane.

Jane Leo: Good morning. To be honest I'm not sure what I'm testifying on here. It's been amended, it's been a moving object, but I'm going to ask --

Hales: We do this all the time.

Leo: I know. Adhering slightly to my original testimony that I prepared but will not be submitted in writing because I have amended it so many times -- I'm asking you not to adopt the ordinance before you, that it is fatally flawed, and will result in negative consequences.

November 25, 2015

For the record I'm Jane Leo, government affairs director for the Portland Metropolitan Association of Realtors. Every day, our members work with the residents of the city to help them achieve their goal of homeownership. Through our realtor home foundation, we provide grants to our community partners such as Hacienda CDC, Habitat for Humanity, NAYA, so they can build housing for their clients who want to be homeowners. Under the proposed ordinance, the City would be moving the goal further out of reach for the city's residents of all incomes.

The ordinance under consideration is in conflict with the City's own policies and negatively impacts those nonprofit builders I mentioned, but also those who are building under the City's -- what is now called the homebuyer opportunity limited tax exemption program. They would be liable for this tax. And I ask that they be exempted.

I'm asking that you retain the density exemption, specifically -- and Mayor, I'm a little bit confused by a comment you made, but I'm asking that density exemption be retained, especially in areas such as what we see on the eastside of Portland where the underlying property is two or more tax lots. So, allowing a builder to build on those two or three tax lots and allowing them to be exempt for the one going down and more housing going up.

Repeatedly, I've heard City staff at meetings sit at meetings at Metro and say that the City can meet its density requirements and that development should be at minimum 20 units per acre. Without allowing density and giving bonuses for some sort of incentive for those densities, you're detrimental to the own comments made before Metro's committees.

Also I am in support of the homeowner exemption and I look forward to working with you on that. There has to be a way in which a homeowner has an opportunity to rebuild their house and create a dream house, whatever that dream house may look like.

In closing, I would ask you not to adopt proposed demolition ordinance. It's an attempt at universal solution where one size doesn't fit all.

In my last few seconds, I want to say to Commissioner Fritz's comment or her question of one of the previous speakers what's the response when they say that the builder is gaining profit, I would ask that the City take a comprehensive and holistic look at all the fees it places on a building permit as to what it can do in that regard to reduce the price of housing across our full spectrum. Thank you.

Fritz: Actually, that wasn't what I meant whether I may have come across that way. My question is, aren't developers and sellers already maximizing the amount that they can possibly sell the house for?

Leo: The market will always place a limit on it, but for the developers -- who, I do not represent, that was your previous speaker -- every business owner needs to still go home and feed his or her kids so they need to operate on some level of profit margin.

Fritz: Right, and I'm not disputing that. I'm trying to elicit a comment on whether or not this \$25,000 will be passed on to the buyer or not and whether we have maxed out on housing prices here in Portland, or whether there's still some room to put them up still further.

Leo: To that point, if I may -- yes, the cost will get passed on to the buyer in one form or another. ECONorthwest and DHM recently did a presentation actually over the summer months. Many of your City bureau staff there were including your own staff, Mr. Mayor. And one thing we heard was this city has become and continues to become a city of the very wealthy and the very poor. The person in the middle is not able to afford to be here. And you heard one of the previous speakers make a comment on that. So yes, costs get passed on, and that's where it raises a concern that that first time home buyer is not going to be able to afford that additional 25,000.

Hales: Thank you very much. Thank you both. So let's call our staff back up, please. Jillian and Thomas and anyone else that we need. Address questions and then we can walk

November 25, 2015

through these amendments and take action on them. I think there was some work done on one of them. Yes, there was.

Fish: Mayor, is it still your intent to get through the whole agenda today.

Hales: Yes, I think so. There's not that much left. I think we can probably address these amendments in 15 minutes and then power through it.

Fish: Can I start with some questions?

Hales: Please.

Fish: Jillian, I've offered an amendment that deals with the situation of City acquiring a property in a flood zone with the intention of demolishing the house. And mister -- um --

Detweiler: Dowd.

Fish: Mr. Dowd in his very thoughtful handout raises the question of houses in flood zones where it's not practicable to remodel the house to address code issues and other needs where someone may be required to essentially take it down to the foundation, fortify the foundation, and rebuild. I don't quite know how to address that today, but is that something that we could -- it seems to me to be a discrete universe of homes in areas where we know there's flooding. And certainly, if he lives at Willamette Park, even with the new pump station we're building there, there's still going to be flooding. Is this a discrete area we could take a closer look at and think about some changes down the road?

Detweiler: Yes.

Fish: I'm loathe to legislate on the fly here and we do have an effective date, but I would ask on that one, my bureau and your bureaus sit down and talk about that case that seems compelling, particularly where it's an instance of a property owner that's going to remain in the home but has to do that to address flooding issues. There are some areas of the city where I think that is acute. I just want to flag that as an issue of concern.

Is it your intent to come back to Council in one year with a full report on the impact of this legislation and the data? Is that going to be proposed as an amendment, or just --

Hales: My recommendation is that we come back in one year or less -- and the point at which we would come back in less than one year is when we bring forward at least first package of zoning code amendments that will come out of the residential infill project. I think Council ought to look at how the demolition tax is working and how we're trying to shape infill development through plans and policies in addition to tax code. That would be good to do those together.

Fish: If this does pass, I would very much like to see a report and presentation to Council within the one year. Mayor, does that need to be done formally or informally?

Hales: I don't think we need to do that formally. I'll make that commitment to make sure that comes back to Council. Other questions?

Fish: Thank you.

Detweiler: Maybe we could start with having Tom address Commissioner Novick's desire for the view of the Planning Bureau.

Tom Armstrong, Bureau of Planning and Sustainability: Tom Armstrong, Bureau of Planning and Sustainability. I think what you face is a balancing of two values. The density exemption within the single family zones and the added lots that we get from that are actually a small part of our future growth that we're planning on. It's probably less than 10% of the 120,000 new units in the next 20 years, and you offset that with the affordable housing fund revenue that you're generating. In terms of how we meet our future growth projections, I think the affordable housing fund can go a long way towards helping us meet and create that affordable housing that offsets anything that we would lose because of the deterrent of a few infill lot splits.

Novick: This might be a question better addressed to your co-Armstrong, but I'm curious about the carbon emission impact. Obviously, there's carbon used in destroying a building

November 25, 2015

and building a new one, but there's also -- I mean, if you're destroying a leaky old building and replacing it with two tight ones that are near transit where people are likely to not drive, I would think there's a significant carbon benefit. I'm just curious if the bureau has done an analysis of whether on balance, eliminating the density exemption will be a carbon plus or a carbon minus.

Armstrong: I'm not aware of that, especially again in the single family zones. I know more so in the commercial mixed use and multi-family zones you do get that much bigger bump in terms of carbon savings there. But we could bring something back on the tradeoffs in the single family zones.

Novick: Mayor, I have to say, I think this is a pretty important issue. We are concerned about the demolition of the planet as well as the demolition of houses, and major argument for our density policies is increased density results in fewer carbon emissions because when people live closer together, then it makes transit more viable, it makes it more likely that a grocery store will spring up within walking distance, etc. So I think that we really need to have some analysis of the carbon impact of this proposal.

Hales: I think that could be managed. I think, again, there's a larger context of how much density we're going to provide for in the comp plan citywide. That's where the big impact is. Nevertheless, it's worth having that research done.

OK, other requests or questions for staff? Then you've got a revised amendment for us. Can you walk us through that, please, Thomas?

Lannom: The proposed amendment I think gets to the heart of Commissioner Saltzman and Commissioner Fish's desire to not make the low income housing rebate structure but rather something closer to an exemption. So, the proposal would be entirely strike 6.08.055, re-naming it demolition tax exemption instead of demolition tax rebate. And then I can read through this language if we need to for the record, I believe you have a written copy in front of you.

Hales: Go ahead and read it into the record.

Lannom: Following the issuance of a demolition permit, the owner may apply for and obtain a temporary abeyance on the demolition tax assessment on the basis of subsequent development of affordable housing at the property. The Portland Housing Bureau shall adopt administrative rules for qualifying -- in this first instance of the word "exempt" I would strike from in amendment. So it would read, the Portland Housing Bureau shall adopt administrative rules for qualifying affordable housing exempt from demolition tax using criteria under either section 30.01.095 or the home buyer opportunity limited tax exemption program, because I understand there were two proposals here.

Fritz: That's a choice we need to make.

Lannom: A choice the Council needs to make, correct.

Hales: Right.

Lannom: And then continuing -- if the subsequent housing development qualifies as affordable housing under the Portland Housing Bureau's administrative rules, the Director - - that would be the Revenue Director -- shall determine that demolition tax -- that no demolition tax is due.

Hales: This is in effect a rewritten version of Commissioner Saltzman's --

Lannom: Exactly, it gets to the intent -- a more comfort --

Hales: And my Mayor 2, that right? Consolidated those. Oh, the effective date.

Lannom: The final piece of this is that if the subsequent housing development does not qualify as affordable housing, the Director shall determine the demolition tax assessment is due and payable.

Fish: Thomas, the virtue of Commissioner Saltzman's amendment was it's very straightforward and clear. The virtue of this is apparently has your blessing. But it is a little

November 25, 2015

harder to read. Just for the record, would you -- why would you prefer this somewhat more convoluted approach? What's the benefit?

Lannom: Well, the language is more convoluted. The approach actually isn't more convoluted. The language we had before really tried to offer an exemption for an action that's taken after the assessment. That's just not the appropriate way to structure that. That really would have been more of a rebate. That's why we got the term "abeyance" in here. We think it's an abate assessment. The assessment is still there but we're going to abate it until such time as the Housing Bureau has validated the activity we wanted to see occurred.

Fish: The nice thing about an exemption is it takes that cost off the pro forma. Does an abeyance -- what's the timeline between the abeyance and the ruling?

Lannom: The timeline really would be geared on how quickly the developer could complete the demolition and subsequent building of the new housing. So, the timeline isn't set. I didn't want to get into a situation where developers rushing to complete a build or otherwise trying to meet an arbitrary timeline for us, the City.

Fish: The concern -- I just want to make sure we're all on the same page. Obviously, if the Council wants to provide this exemption -- and I hope they do -- then the timing of the granting of the exemption has to be aligned with an event that triggers the exemption. And so your language is designed to better align those two?

Lannom: That's correct.

Hales: Walk us through the choice of using 30.01.095 or the HOLTE standard for what constitutes affordable.

Saltzman: I'll speak on behalf of the HOLTE. The homeownership limited tax exemption -- perhaps Jillian can speak to the other one. To me, the HOLTE is very straightforward. The Council sets the home sales price cap every year, and we'll be doing that I think next month again for this coming year. It just it's a well-established program known by the development community, known by the nonprofit community, and I just think it's a known commodity with a pretty clear determination of what the price cap is -- in this case, above or below an exemption for the demolition tax would apply.

Detweiler: The only thing I would add is we started out floating with the Housing Bureau the idea of the SDC waiver. I think we just didn't think beyond that. And since this has come to Commissioner Saltzman's office, they've looked at a broader range of programs and landed on the HOLTE, and I think that's perfectly fine.

Hales: I think I would prefer that, too.

Fish: My preference is it be as broadly construed as possible. So I would hate to pick one today and find out that it was unduly limiting.

Hales: Oh, I thought you were intending for us to pick one.

Detweiler: We are. Direction to the bureau would be --

Hales: So which is more permissive?

Fritz: We don't have copy of 30.01.095 because it's not part of this proposal.

Lannom: The most permissive approach would be to entirely strike everything after "using criteria" in that sentence, Commissioner.

Fritz: Yeah, because they are going to do administrative rules, which we'll get to review.

Lannom: So then the modified language would read, the Portland Housing Bureau shall adopt administrative rules for qualifying affordable housing as exempt from the demolition excise tax. Period. If you're comfortable --

Fish: I like that.

Saltzman: I mean, you can go that way, but then you're asking us to create a whole new set of rules where we already have --

November 25, 2015

Fritz: Yeah, but you're the Commissioner-in-Charge of Housing. You can create the administrative rules however you want them.

Fish: Encourage you to choose from each shelf --

Fritz: I think we're giving you a lot of power here --

Fish: The most liberal construction --

Saltzman: I'm just trying to keep it as simple as possible. Tie it to an existing program --

Fritz: You get to choose as simple as possible.

Fish: You get to choose. We're giving you the option to pick the broadest possible --

Saltzman: OK.

Hales: You're being railroaded into getting more power here.

Saltzman: OK, OK.

Lannom: This less complicated proposal balances out my earlier --

Fish: Let's strike. Let's take that and delete --

Ben Walters, Chief Deputy City Attorney: Commissioner, before you go much further on this, there is a question of legislative delegation in terms of what are the criteria that will help guide the Housing Bureau in establishing this exemption.

Fish: I think, counsel, we've got that.

Fritz: We have that as the legislative intent. That doesn't belong in the code.

Fish: We've made it clear we want him to be as expansive --

Walters: There is a requirement by the courts under the concept of legislative delegation that gives guidance to the bureau --

Fish: We're giving him the broadest possible grant of authority, and he's going to come back with proposed code.

Walters: Code, or --

Fritz: How about using criteria --

Saltzman: Rules, rules.

Walters: This would develop administrative rules which would occur outside of coming back to Council.

Fritz: So how about instead of striking that, we said using criteria under 30.01.095 and/or homebuyer limited tax exemption. Would that satisfy your concern?

Walter: How about, "using criteria such as" --

Fritz: "Such as." There we go.

Hales: OK. I like that fine.

Fish: I get what we're trying to do, Thomas. It again lacks the clarity of Dan's, but if it's the same intent and we're giving him the broad authority to craft rules with you to create the largest possible exemption for affordable homeownership, then I support this.

Lannom: That's exactly what it would do. In fact, the Commissioner and the Housing Bureau would entirely promulgate the administrative rule. We would make it available on our website, but that would be entirely up to Housing.

Hales: So, is that --

Fish: Withdraw Saltzman 1 and offer this?

Saltzman: I'd be happy to if this is the right time.

Hales: OK. Commissioner Saltzman withdraws his original amendment and offers this as a substitute. Is there a second?

Fish: Second.

Fritz: Second. But I think we need to read into the record numbers 1 and 2 because I don't know that Thomas did that already.

Hales: Right, so numbers 1 and 2 below B that we just modified says that if the subsequent hoisting development qualifies as affordable housing under Portland Housing Bureau administrative rules, the Director shall determine that no demolition tax is due. And

November 25, 2015

two, if subsequent housing development does not qualify as affordable housing, the Director shall determine the demolition tax assessment is due and payable. So, gives that clarity about what happens after the determination. OK. More questions before we try to walk through amendments? Let's do that.

Fritz: Vote on that one?

Hales: We could. Want to take that? We have that on the floor. Want to take a roll call vote on this Saltzman amendment as modified by the handout we received from Thomas and further modified by changing "either" to "such as" under B.

Fish: This is the Saltzman substitute 1 as amended.

Hales: Further discussion? Roll call, please, on that amendment.

Roll on amendment.

Novick: I think this is a good amendment. I'm also going to ask for a vote on my tiered version but I don't think these are inconsistent. Aye.

Fritz: So, in all my votes on the amendments, I want to be clear what I'm trying to do is a make the underlying ordinance as good it can be. And for multiple purposes, I'm not likely to support the underlying ordinance, however, I think the amendments as proposed are going to improve it. Aye.

Fish: Commissioner Saltzman, I very much appreciate the amendment you brought forward, and I appreciate this discussion and the testimony and the commitment we're making to exempt affordable homeownership developed by our nonprofit partners consistent with our existing rules. Aye.

Saltzman: Aye.

Hales: Aye. OK, that one is done. Let's go back then to my first amendment, which is the one that removes the rebate for multiple unit development in single family zones. Further discussion? OK, let's take a vote please.

Roll on amendment.

Novick: I'm sorry, I was --

Hales: This is my number one.

Novick: The density one.

Hales: Yes.

Novick: Yeah. I don't think that we should act on this until we have an analysis of what the implications are for our carbon use. A couple of weeks ago, we passed a resolution opposing new fossil fuel facilities that I think was primarily because we're concerned about carbon emissions. And I think that if we're taking an action that can relate to carbon emissions, we should have an analysis of that before we take that action. So, absent any analysis presented to us of what the carbon impact is of eliminating this exemption, no.

Fritz: I think this makes the ordinance more defensible. Aye.

Fish: Aye. **Saltzman:** Aye. **Hales:** Aye.

Hales: Then let's go to my second one, which was an effective date of March 1. I guess we might push you a bit, Thomas. I think there's concern both on the Council and around community that sooner is better. Thoughts about that before we vote on this?

Saltzman: I would agree. Having witnessed, as everybody knows, the 30-day delay in the renter protection ordinance resulting in a rush to rent increases that March 1st seems too far away.

Hales: So we're making it very uncomfortable situation for one of our administrators, but that's our job.

Lannom: Well, OK. Let me --

Saltzman: What are your holiday plans?

Lannom: We're already pushed back from my initial thought as far as when we could bring this up.

November 25, 2015

Fish: February 1 in here. You could come back to us if you need a hardship.

Lannom: I was going to suggest mid-February. So, here's the thing that needs to occur. We need to modify databases, get the accounting structure set up, we need to promulgate the administrative rules, which requires 30 days public notification -- there's a process involved there. We've gotta try to hire staff person at Christmastime. There's a laundry list of things. If we make the effective date too early, there's a very good chance I'm going to fail. I would say mid-February if that would work for the Council.

Fritz: Colleagues, any time it's 30 days or more, there's going to be people gaming the system. I would encourage us to allow the Revenue Bureau to set up the process with adequate time.

Hales: You're right. No matter what -- unless it's tomorrow morning.

Fish: Thomas, if we told you you didn't have to work on any the sharing economy stuff, would that free up some time? [laughter] I move the amendment.

Hales: OK. Let's take a roll call on the amendment as March 1.

Roll on amendment.

Novick: Aye. **Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Hales:** Aye.

Hales: Let's move next to Fish 1, which is the flood plain issue.

Fish: And Jillian, just to be clear, we're going to take a look at the related issue that's been flagged and see whether that comes back to Council for that discrete category of homeowners.

Detweiler: Yes.

Hales: Further discussion? Roll call on that amendment, please.

Roll on amendment.

Novick: Aye.

Fritz: Aye.

Fish: I really appreciate the professionals at BES that brought this to my attention and made the case for this amendment. Aye.

Saltzman: Aye.

Hales: Aye. Now let's move to Fritz 1, which is --

Fritz: I actually have an amended -- I said I was only going to have one amendment, but I actually have an amendment to my amendment. This is in response to the testimony that we heard. It just clarifies -- so that the amended amendment is to 6.08.050 exemptions, add demolition permit for where the applicant is the homeowner whose legal residential address was the site as of March 1st, 2016. That's so there's not a lot of speculators of property owners buying things up who are not actually living at the address.

Fish: Second.

Hales: Like that better. Further discussion? Roll call on the amended Fritz amendment.

Roll on amendment as amended.

Novick: Aye. **Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Hales:** Aye.

Hales: OK, now let's move to Commissioner Novick's amendments. There are two, right?

Novick: There are two. Novick 1 establishes the tiered rebate structure.

Hales: Further discussion of that or questions for staff? Then let's take a roll call, please, on Novick number 1.

Roll on amendment.

Novick: I think that it is important to acknowledge that there's a difference in the affordability impact of when a house is being knocked down or replaced with a \$350,000 house than when it's being knocked down or replaced with a \$1 million house. The evidence is that the average cost of a replacement house where there's been a demolition is about a half million dollars. I don't mind having the \$25,000 tax applied to a house that

November 25, 2015

sold for over half a million dollars. I do mind it being applied to a house being sold for \$375,000. So, I hope the Council will support this amendment. Aye.

Fritz: This really gets at the crux of is this proposal for reducing demolitions, or is it for providing money for affordable housing? What's the primary purpose of it? I think the most persuasive purpose is that it's providing money for affordable housing. \$375,000 is not affordable to a lot of Portlanders. For the median family income, \$375,000 is not affordable. So, the thought of giving a 50% rebate to properties that sell for 150% of median income or median sales price doesn't meet my definition of what's affordable housing. I would like to have something like this. I absolutely support taxing expensive homes more than modest homes and affordable homes. I don't think this quite gets to it. No.

Fish: Well, I'm torn on this because the arguments we've heard about affordability and housing that is truly affordable resonate with me I'm not sure this is workable. On the other hand, currently with the interest rates, if you have the credit you can get about \$400,000 of financing -- if you have the credit, which translates to about a \$2000 a month mortgage. We're in uncharted territory in terms of debt servicing. I am worried about the police officer and the nurse that want to live in our community. This is not -- I wouldn't and I don't think Steve would say this has been fully baked, but I think it's a good faith effort at getting at the issue. I'm going to support it even though it may need some tweaking. Aye.

Saltzman: I support the intent of this and I think given the discussion earlier on determining what we're now calling an exemption, right, an exemption for affordability, I think that the process that Commissioner Novick has outlined can serve as guidance to the Housing Bureau in developing the rules but I'm just a little leery of putting it into the code at this point. I'll vote no.

Hales: I'm going to vote no for now. A couple reasons for that. One, this is a new thing. As we've heard, only two other small cities in Illinois have any such thing, and we're trying something here that we hope will work. And Steve, what I want to see first frankly is the drop in demolitions and then make sure that we tune it with respect to our revenue goal because I guess I would probably put the priorities for this in different order than you did, Amanda. I think they are both legitimate goals, but my most urgent goal is to reduce the rate of demolition. The revenue effect is beneficial, but the rate reduction is the highest priority. So I want to see that first.

I do not expect that this is something that the City Council is going to set and forget. I think we'll be returning to this tax periodically to see how it's working, and we're also going to be returning to it to see how it fits with what the residential infill project comes up with and what we actually want to see happen on the ground. I've always been interested in having this tax be more progressive that it will be coming out of the gate at \$25,000 for demolition, so I'm very interested in this later but I would like to start at the simplest possible form of this for the most. No. Let's take your next amendment --

Novick: Mayor, before we talk about that, can I ask you a question? How many demolitions to you expect a \$25,000 tax to prevent?

Hales: Well, I'm hoping it will as many as 100 given that we're seeing several hundred a year. Again, it's very difficult to forecast how many demolitions this will prevent. As we've heard in the testimony, there's so many market effects going on in all these different transactions and some of them will be not dissuaded by this at all. Someone will still tear down a perfectly good half million dollar house and build a \$1.1 million house down the street from Commissioner Fish. From what I've been hearing about Alameda and Irvington, it didn't used to happen. In my neighborhood, same thing. Maybe in neighborhoods where houses have not been bid up quite that much, \$25,000 amount will have more actual effect on the transaction. We'll see. I'm hoping that we'll see a 35% to 50% reduction in the rate

November 25, 2015

of demolitions, but \$25,000 may not be enough to accomplish that. And again, it's not as progressive as I would like it to be, so I would hope to return to that progressivity issue not long from now. Your second amendment --

Novick: It's still to say that the Revenue Division shall study and report to Council by June 2016 about options for administering and enforcing an exemption or rebate to the tax for existing owners who plan to occupy the house for at least three to five additional years. By "existing owners," what I mean here actually is not just people who own now but who are existing owners, preexisting owners at the time of the demolition. What Evanston, Illinois, does is you have to have lived in the house three year before the demolition, then you have to live another three years before claiming the rebate. So, it's something like that that I would like the Revenue Bureau to consider.

Fish: I love the spirit of this, and I know Thomas would welcome additional staff. Is there a question about whether we can or should do this outside the budget process?

Hales: Oh, no -- he's just setting a date, right?

Lannom: There's no additional staff added for this activity. It's just something we would put together for the Council.

Hales: This is just of the requirement that they come back by June 2016 with options for rebate for existing owners.

Fish: Excuse me. I'm sorry.

Lannom: To be clear, did Katie's modified language say rebate or exemption be considered?

Novick: Yes. Exemption or rebate.

Hales: That's in here.

Fish: Thank you.

Hales: Further questions or discussion about this amendment? Then roll call.

Roll on amendment.

Novick: Aye.

Fritz: I agree with Commissioner Novick that this is not mutually exclusively to the previous one and I very much appreciate the intent. Aye.

Fish: Aye. **Saltzman:** Aye. **Hales:** Aye.

Hales: Thank you. That's an improvement to the ordinance as well. Do we have any others that I have neglected here? OK. So comments, concerns from staff. This will come back for second reading.

Detweiler: I just wanted to really briefly address, Mayor Hales, the issue of how a structure with more than one residential unit would be treated.

Hales: Thank you.

Detweiler: That would be kind of a rare case where there's either nonconforming development -- you know, something was built during the war that has multiple units and is now in a single family zone -- or it could be the still relatively rare case of a duplex, which is allowed on a corner lot in an R5 zone that is being torn down. We think the ordinance could be a little clearer, depending on where the Council wants to go with that.

The exhibit reads that the 25,000 would be assessed when a residential permit is issued. And so, a duplex would be demolished under a residential permit. But we kind of have a conflict with adding a definition for residential structure, which originally came in when we were trying to work with the density bonus. So, that could be probably cleaned up. Now, if the Council wants to respond to the testimony we heard that it ought to be assessing a tax for every residential unit, that would capture duplexes, non-conforming multi-family development, single family homes where there's an interior accessory dwelling unit, we would write it that way. But as staff really understands it now, a duplex would only require one permit and only one \$25,000 tax would be applied.

November 25, 2015

Hales: Alright. Comfortable with that or do you want to make another amendment?

Fritz: Or a clarification. I think if the goal is to reduce demolitions and to get more money for affordable housing both, we want to make it apply as much as possible. So yes, to my mind you would charge \$50,000 for a duplex being demolished. That destroys two affordable homes.

Hales: So then I hear an amendment to clarify that "unit" means individual dwelling unit, right?

Fritz: That was the way I was reading it in the code. You say the exhibit says something different.

Hales: It may only need to be clarified in the administrative rules, because it does say "unit" in the code, right?

Detweiler: I think the residential -- the paragraph that describes residential structure suggests that maybe you would apply it per unit that's demolished. I think we might modify the paragraph 6.08.030, demolition tax, which only refers to a single residential permit.

Fish: There's lots of houses in my neighborhood that look like on the outside a single family residence but they have two entrances. Under one roof, there's two homes which are generally in the rental market a little more affordable and under one roof. So you're suggesting for purposes of demolition tax, we would charge \$50,000 for that demolition?

Detweiler: The way staff understands the exhibit as written, no. There would only be 25,000 charged. If we want to clarify it to say that it should be charged against each residential unit regardless that there's only one demolition permit applied for and pulled.

Fritz: But there's a conflict between 020 E where it says a structure is a dwelling unit and 030, which says a permit for the whole structure. So it's really a policy call.

Hales: It's a policy call for us. Is there a motion to clarify our policy call?

Fritz: That motion would be to say at the ends of that first sentence in 030, it would say 25,000 per unit.

Hales: "Per unit" would make that clear.

Fritz: Yes, so that's the motion that --

Hales: Commissioner Fritz moves that we adds "per unit" at that point to make that clear.

Walter: Dwelling unit? Per dwelling unit?

Fritz: Per dwelling unit, yes. Thank you.

Novick: Second.

Hales: Further discussion of that?

Saltzman: Jillian, you said it's fairly uncommon that we would encounter this.

Hales: It's uncommon. It's uncommon now. Yes.

Saltzman: The universe is pretty finite, then, of multi-unit dwellings in residential zones.

Hales: Among other things, because the corner duplex allowance has only been in the code about 20 or 25 years. Not that many buildings in that situation.

Fritz: And there aren't any multi-family -- truly multi-family apartments in single family zones. Is that correct?

Armstrong: No.

Hales: There are some nonconforming.

Fritz: Are we fixing that in the comp plan?

Armstrong: In some cases, yes. In other cases where it's just an island surrounded by single family, no, we're leaving that.

Hales: If the building is obviously there and habitable --

Fritz: We would certainly want to stop it from being demolished.

Hales: If it hasn't been declared derelict, we would want it to stick around.

Fish: I'm not going to support this but we do have some examples at the Water Bureau where people live in duplexes that have been condemned because they can't maintain

November 25, 2015

them, they have liens against them, and they are demolished for a new home. And people are not getting the return on the investment of their homes that I think they ought to, but that's because there are speculative developers out there taking advantage of people that are homes and some duplexes. I'm going to vote no because a, I'm not sure it's right policy, and b, I'm not sure I fully understand it and c, I still want to get to some other votes before I pass out from hunger and fatigue. So, let's take this to a vote.

Hales: OK, let's do please. Roll call.

Roll on amendment.

Novick: I believe here the pro-density and pro-affordability position is aye.

Fritz: Agreed. Aye.

Fish: No. **Saltzman:** Aye. **Hales:** Aye.

Hales: Thank you all very much.

Fritz: Good work. Thank you, staff.

Hales: This will come back to second reading next week. Now, we do have a little bit of important work left to do and I know we're tired, so let's try to move --

Fish: Mayor, I know a lot of people have been waiting for 1219.

Hales: Yes, they have.

Item 1219.

Hales: Roll call, please.

Item 1219 Roll.

Novick: About 10 years ago, I was working for a cute little public policy nonprofit called Citizens for Oregon's Future. And at one point taking off on the state's quality education model, we were tasked by our board to develop what we called quality civilization model, figuring out, you know, what should the state do to have a quality civilization in all respects? One of the things that I was looking at was the criminal justice system.

One of the things I heard from experts at that time is that one of the most important things you can do to reduce recidivism is to get people who are coming out of custody into jobs. And I think I'm recalling correctly when I say that there was a professor in Cincinnati who told me that up to a certain amount of time -- maybe it was one month or even more -- every day that somebody has a job after being released from prison, the risk of recidivism goes down by an entire percentage point. So, if you got a job for 30 days, you're 30% less likely to recidivate.

The New York Times reported in February that the share of American men with criminal records, particularly Black men, grew rapidly in recent decades the government pursued more aggressive law enforcement strategies, especially against drug crimes. The reluctance of employers to hire people with criminal records is taking a toll on the broader economy. It is preventing millions of American men from becoming that old phrase, "productive members of society." The bitter irony, of course, as I just said -- ex-offenders who find jobs are less likely to reoffend. So, discrimination against people with criminal histories actually results in more criminal behavior.

This ordinance would provide with limited exceptions prospective employers may not conduct a criminal history background check on an applicant until after making a conditional offer of employment. If the background check shows an offense the employer has a good faith belief is a disqualifier for a particular job, the employer may withdrawal the offer.

The point of this rule is to ensure that people with criminal records have a fair chance to get through the interview process. It's very easy for employers to simply screen out applicants based on background checks without giving thought to whether the record is actually relevant to the job. If there's no background check until the interview process is concluded, an employer is likely to evaluate the applicant on his or her true merits to make

November 25, 2015

a deliberate rather than knee-jerk judgment as to whether the applicant's criminal history is truly relevant.

I am extremely proud that this Council is going to pass this ordinance. It will be one of the two proudest days of my service on the Council, the first being when we passed the paid sick leave ordinance a couple of years ago. We are going to have to pay attention to the administrative rules. I think that some employers have concerns about what "good faith belief" means, so we will address that. But I think that this is a tremendous day for Portland. This is an important civil rights ordinance. Aye.

Fritz: One of the most compelling pieces of testimony I heard is that Black men with no criminal record are less likely to get an interview than white men with a criminal record. So that is proof that there are many biases within our system and that we need to do more to address all of them. This is definitely a step in the right direction.

I did meet with the Portland Business Alliance and had a good discussion on this issue to clarify the state's law simply prevents employers from requiring applicants to disclose prior to an initial interview. The first question in the interview according to the state law can be, "tell us about your criminal background" or "do you have a criminal background?" And so, this ordinance is a huge step forward.

It requires that employers must be committed to hiring individuals before considering the criminal record. We've had experience with this within the City since we've banned the box within the City for our own hiring. The City's law still allows employers to consider applicants' criminal history at any point during the hiring process if the position involves direct access to children, elderly people, people with disabilities, people with mental illness, or individuals with alcohol and drug dependence disorders and if there's a need for consideration according to the duties of the job. So, for somebody who is going to be going into other people's homes or other personal spaces, then absolutely it can be considered ahead of time. It's a very straightforward policy. It's very clean. It's clear. I very much appreciate the good work of Judy Prosper, Rachael Wiggins, and Christina Nieves in my office. Like Commissioner Novick, I'm very proud to vote aye.

Fish: First, I want to acknowledge the goal that brings us to this moment, and it's a goal that is shared by everyone regardless of where they come out on the underlying ordinance. The goal is in my mind threefold. One is to remove barriers. And this Council has shown a hearty commitment to identifying and removing barriers in our community. The second is to promote access to employment and making sure that everyone has a chance to pursue their dream and become self-sufficient. The third is to address the pervasive racial disparities which continue to hold too many people back in our community. These are core values that I share and that led me to practice civil rights law for about 20 years and now guide my work as City Commissioner.

Now, we've had a spirited debate about how to translate those goals into action and I join with my colleagues in stating how proud I am that the City of Portland has already taken affirmative action to ban the box, and I support many of the compromises that have been worked out through the committee process, in particular the exemption for very small businesses, the effective date of next summer which will give us a chance to put this into place and do effective outreach and education, a commitment that annually will look at the data and do some oversight to see if there are changes and tweaks that are needed, and the decision that we will counter with BOLI to do enforcement rather than creating a separate enforcement bureau within the legal department. I strongly support this approach.

I have concerns about the ordinance and I think it's worth acknowledging them because ultimately, we want this to be successful. We're acting ahead of state law, ahead of having a chance to see whether state law actually works, and we are in some instances creating a two-tiered system. I believe based on the work I used to do representing

November 25, 2015

plaintiffs in employment cases that there will be a subtle encouragement through this approach for people to do the kind of profiling that we abhor. And the profiling that an employer who is savvy and unprincipled will do is use information that is apparent but not vetted to make a judgment about an applicant pool and exclude that person from getting to the point of a conditional offer, which is where the enforcement mechanism kicks in. And as I indicated last time, the area I'm most concerned about because it's the area I think you'll see the greatest abuse is gaps in people's employment history on a resume. It would be a shame if all this well-intentioned effort led to employers screening people in ways to prevent them from getting the conditional offer and thereby undermining what we are trying to do.

The third thing that gives me some pause is we have some employers in our community who have actually not just talked about this but done something. Dave's Killer Bread is an example of a company that has made a commitment to hire people who have records, and they brought them in and have given them opportunities, meaningful careers within the company. They have found upstream a more open and candid conversation helpful. But again, they are unique employer in that they have an explicit set of values around their hiring, and I'm not sure we can extrapolate from them to every other employer.

These are real concerns because if we're going to adopt this, we need to make sure it actually has an impact. I guess reasonable people could reach different conclusions. I think we should track the data carefully, Mayor, to make sure this has the intended benefit. But today, I proudly stand with the Urban League and the coalition they have assembled and mostly with the men and women who seek a second chance in our community in supporting this ordinance. I want to expressly explicitly single out one person, and that's Emanuel Price. He has impressed me with passion of his advocacy and he has inspired me with his life story. And in his name, I vote aye.

Saltzman: I am very persuaded by the eloquence of my colleagues that have spoken and voted ahead of me. I do echo some of the concerns Commissioner Fish just echoed about this ordinance. The state did pass something, but I note that they chose not to preempt local governments. So, this is the opportunity before us and I think we should take it because the issue of hiring of people with records is so enormous and so consequential to our society and dealing with issues of race and inequality that we should be grasping at anything that will hopefully change the course of the present statistics and situations around the hiring of in particular African American males. So we need to act. And I do believe that there has to be good -- we have to recognize employers that make good faith efforts and if somebody -- if they make a determination that somebody's record at the point of conditional offer does warrant not offering that job, whether it's issues around access to keys to people's apartments or all the other things we've written into the ordinance and will flesh out in the rulemaking, then we need to respect that and respect the employer's ability to make a good faith effort and honor that. And that's been done in the San Francisco ordinance, I would note. So all in all, I want to thank Mayor Hales for his persistence on this issue, and I look forward to hopefully making a difference. Aye.

Hales: I want to thank you all. I think anyone listening to this would understand that this is a City Council that has commitment to equity and opportunity in our city. I'm proud of being a member of this Council today as I am so many other days. This is an important day. This is a big deal. And I do want to thank especially Rachael Wiggins and Judy Prosper and Josh Alpert on my staff and the City Attorney's Office who have worked so hard on this.

This is a case where community advocates -- the AFLCIO, Urban League, others -- have come to their City Council with a cry for justice and we have responded. And I'm proud of being in that place where, one, we are willing to respond, but two, the community

November 25, 2015

can come forward that way and with clarity of purpose and clarity of goal tell us what the right thing is to do. So, thank you to those who have been advocating for this issue.

You know, I think a lot of us have had enough experience with this issue, as you just did, Commissioner Fish, to have personal contact with people who we'd love to see society not label as ex-cons. People who've paid their debt in the criminal justice system shouldn't have to carry that label, and we hope that the effect of this change in how people think about the content of people's characters as they're applying for jobs will change that nomenclature and change people's hearts. That's I think the best thing that could come from this ordinance. So in addition to the others that have been mentioned, for Stefan and for Robert and for Meg, aye. Thank you all.

Item 1220.

Hales: Roll call.

Item 1220 Roll.

Novick: We're still wondering if this is a de-vacation or simply a cation. Aye.

Fritz: A working public street. Aye.

Fish: Aye. **Saltzman:** Aye. **Hales:** Aye.

Item 1221.

Hales: Commissioner Saltzman.

Saltzman: Thank you, Mayor. This ordinance extends our contract with Bowman for our main database, which is called service point. I think many of you know it as HMIS. It is how we track the services we provide and the clients who we're serving with our federal, state, and local funds in the Portland Housing Bureau. This includes homeownership, home repair, fair housing programs, and homeless service programs. This is also being used by both the County and the City, and it's increasingly being accepted and used in Clackamas County and Washington County, and I also believe that we have communities across the state that are starting to use this system as well. So, seems to be working well.

Hales: Thanks. Questions? Anyone want to speak on this item? Roll call. It's an emergency ordinance.

Item 1221 Roll.

Novick: Aye. **Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Hales:** Aye.

Item 1222.

Hales: Commissioner Saltzman.

Saltzman: Thank you, Mayor. I'm pleased to introduce this ordinance that is a contract with Cascadia in partnership with Native American Rehabilitation Association, or NARA, and the Urban League. I especially want to thank Mayor Hales for his conceptual development of this program and for its inclusion in this year's budget. I'll turn it over to Mayor Hales at this point.

Hales: I'm very happy that we're at this point. It is coordinated effort with the things we're otherwise doing through A Home for Everyone. We appreciate the partnership not only with Cascadia but also with the Police Bureau and with the other subcontractors that are working with Cascadia. So, welcome this afternoon to give us a quick view of this program. Thank you. Beth?

Beth Epps: Thank you. My name is Beth Epps, I'm the chief clinical officer at Cascadia. First, thank you for approving these dollars. It's very, very important. I'm here speaking on behalf of [indistinguishable] who's the primary author of the project. She's out of the country, so couldn't be here today.

The project began on September 1st. It is the partnership with the Police Bureau, with NARA, and Urban League Cascadia. We are seeing folks, we're close to being fully staffed. We're really -- it's difficult because we look for people with specific street outreach experience and who are going to be able to do this job and jump right in. We're having

November 25, 2015

weekly meetings with all three of our partners. Getting referrals from those. We've had around 30 referrals so far, actively working with 20 and we've got a couple of placements already. It's going well.

I do want to introduce Lisa Murdock, she is one of the clinicians on the street outreach team. She's got a couple of stories for some placements we have already had that are pretty impressive.

Hales: Good, thank you. Make this real for us in terms of what you've seen already. Please just push the button on the bottom of the microphone there.

Lisa Murdock: Absolutely. Thank you. Lisa Murdock. In collaboration with our team, we have made contact with two families. We work together with all of the partners to gather all of the paperwork needed to successfully place them within the community. It's a collaborative effort that takes lots of time, lots of hours on the street. I also know that we have those individuals were elderly and physically challenged with their health, and that was imperative that we get them off the street as well as mothers with children we are working with to get them out of the elements and into homes as well.

Hales: That's great. Thank you both very much. Questions? Thank you. Appreciate you being here. Appreciate the great, fast work in bringing this project together.

Epps: Thank you.

Hales: Anyone else want to speak? It's an emergency ordinance, let's take a roll call vote.

Item 1222 Roll.

Novick: Thank you very much and also appreciate your patience today. Aye.

Fritz: Thank you for this work and thank you to the Mayor and Commissioner Saltzman for putting this contract together. I know Leo Rhodes was here earlier and he wanted to make the point that not everybody who is experiencing homelessness or houselessness is somebody who is also experiencing mental illnesses. It's important, however, to have people who are trained in recognizing whether or not somebody is experiencing a mental health crisis, have folks like you out on the streets and helping with some issues like the one we saw at Council first thing this morning at Council. Thank you for your good work. Aye.

Fish: Thank you. Aye.

Saltzman: Thank you and keep up the good work. Aye.

Hales: Appreciate you very much. Aye. Thank you. OK, we have one more second reading item then item carried over from consent.

Item 1223.

Hales: Roll call vote, please.

Item 1223 Roll.

Novick: Aye.

Fritz: This is a very impressive program. Aye.

Fish: Aye. **Saltzman:** Aye. **Hales:** Aye.

Hales: And then we pulled item 1216, and I just need to reschedule that to December 2nd. You need to read it first?

Parsons: I should.

Item 1216.

Hales: OK, this is rescheduled to December 2 and we're has adjourned. Thank you for your endurance.

At 12:55 p.m., Council adjourned.