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Jo Ann Hardesty Commissioner Chris Warner Director

## TNC DRIVERS ADVISORY COMMITTEE MEETING SUMMARY DRAFT FINAL

April 11, 2022 • 3:30 PM – 5:00 PM

Zoom Call

Advisory Committee Members	Organization	Present
Owen Christofferson	TNC Driver, Chair	Yes
Chad Derrington	TNC Driver, Vice-Chair	Yes
Keenan Browe	TNC Driver	No
Richard Rohrich	TNC Driver	Yes
Philip Berger	TNC Driver	Yes
Rachel Keller	TNC Driver	Yes
Mark Williams	Regulatory Division Mgr., PBOT (non-voting member)	Yes
Gabby Sanchez	PBOT Regulatory Division, Office Support Specialist II	Yes
Dave Benson	PBOT Parking Group Manager	No
Sally LaJoie	Ombuds Team, LaJoie Mediation and Consulting, LLC	Yes
Leah Bazzani	Ombuds Team, Bennett Hartman Attorneys at Law, LLP	Yes
Hank Kaplan	Ombuds Team, Bennett Hartman Attorneys at Law, LLP	No
Eliot Rose	Technical Advisory Panel, Metro	No
Ken Puckett	Technical Advisory Panel, Providence Park/Portland Timbers	No
Michael Huggins	Technical Advisory Panel, Port of Portland	No
Anna Richter Taylor	Technical Advisory Panel, Uber	Yes
Richard Fedesco	Technical Advisory Panel, Moda Center/Trailblazers	No
Tracy M. Smith, Facilitator	Inhance LLC	Yes
Camerina Galván, Notetaker	Galván Consulting LLC (Inhance LLC)	Yes
Vacant	At Large Member of the Public	N/A
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Vacant	Tech Advisory Position	N/A

**Other Attendees:** Camiel Irving, Director of Central Direction, Uber, and former Uber Driver; Allison Ford, Public Policy Manager, Uber; Stephanie King, TNC Driver, Uber and Lyft; Michelle Plambeck, Strategy 360, Lyft; April Murchinson, Contracts for Ground Transportation, Port of Portland; Kyle Endert, Parking and Transportation Manager, Portland Trail Blazers; Carrie McKowen, Contracts Administrator, Ground Transportation, Port of Portland; Clayton Harris, Director for Government Relations Central United States and Western United States, Lyft

### INTRODUCTIONS: TRACY M. SMITH, FACILITATOR

- Owen Christofferson called the meeting to order at 3:32 pm.

### ANNOUNCEMENTS FROM COMMITTEE MEMBERS: MARK WILLIAMS, PBOT

- Mark welcomed Anna Richter Taylor to the Tech Advisory Panel. Allison Ford will work in tandem with Anna Richter Taylor to represent Uber.
- Owen Christofferson called a moment of silence in honor of [Shaani Mohamed](#).

### APPROVAL OF 02/14/2021 MEETING SUMMARY: OWEN CHRISTOFFERSON, CHAIR

- Approved: No revisions or objections made to the final February 14, 2022, Meeting Summary.

### GENERAL UPDATES FROM TECHNICAL ADVISORY PANEL & PUBLIC COMMENTS: OWEN CHRISTOFFERSON, CHAIR

- The Statement on the TNC Website:** Phillip Berger brought attention to language on the [TNC Drivers Advisory Committee website](#) found on the top of the webpage. It reads, "Focused on issues impacting Portland TNC drivers including data collection, accessibility, wages, safety, injuries, insurance, safety, reliability, standards, and dispute resolution. Forum for drivers to share concerns and suggestions. Facilitator and independent mediator assist, as needed." His recommendation is the language should be changed from livable wages to livable earnings or net expenses since TNC drivers are not employees. He voiced concerns about a lack of transparency regarding the driver's revenue and what the rider is paying.
  - Chad Derrington recommended Phillip Berger join the Fees and Fares Subcommittee. The Subcommittee is a joint subcommittee with the Private-for-Hire Transportation Advisory Committee that addresses compensation issues. Phillip Berger agreed to join the Fees and Fares Subcommittee.



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- Mark Williams shared that the statement was drafted by Commissioner Fish's office when the committee was established. At that time, many union stakeholders were involved, which may have influenced the language used to describe the committee's prime directives.

- **Action Item:** Phillip Berger will receive an invitation to the Fees and Fares Subcommittee.

### DISCUSSION ITEM: PBOT PROGRAM UPDATES: MARK WILLIAMS, PBOT

- **Learning Management System (LMS):** LMS is PBOT's new driver training software. The BETA testers provided feedback, and eThink, the software creator, implemented upgrades. The interface is more intuitive, and the app will be sent to BETA testers again. The app is intended to be used by drivers across the industry. Once finalized, a 30-day notice will be sent to drivers to use.
- **Public at Large Positions:** PBOT is actively trying to fill the Public at Large Positions on the committee. Mark Williams currently has two prospects and one TNC driver. They may join by the next meeting.

### DISCUSSION ITEM& PUBLIC COMMENT: OMBUDSPERSON QUARTERLY REPORT: SALLY LAJOIE, OMBUDSPERSON

- Due to the Ombuds program's shift in focus over the past year, the Ombuds team has a lighter load of complaints. The pending case from the last report has since been closed. It involved an Uber driver who had a series of rider complaints about safety in 2018. The driver may have recently learned about the program and wanted to drive again. The driver filed a complaint, and Ombuds contacted Uber. Uber responded they would not reinstate the driver. Ombuds asked if the driver could complete the "7x7" course, which Ombuds understands to be about safety. Uber responded this is not the case for dangerous driving, and they declined to reinstate the driver. Ombuds sent the driver a closer letter, and the case was closed. The "7x7" program is not a guarantee into Uber, but Ombuds still gives the program information to drivers. The price of the course is \$49.00.
  - Chad Derrington asked if the decrease in requests is due to fewer drivers or the changes in how the Ombuds program is run? Sally LaJoie responded that it's hard to say. It can partly be attributed to lower rides, and during COVID, most complaints were about PPE and safety. It could be the publicizing of the program has quieted down.
  - Mark Williams shared that compared to pre-COVID, there are fewer drivers across the industry. Ridership is also down by 65%, and there is uncertainty that ridership will bounce back to ridership pre-COVID. The cases Sally LaJoie refers to are about off-boarded drivers due to a violation of state law and city code. These types of cases are straightforward. For example, if a driver has six tickets and is not allowed to have more than two or more than one, they are not eligible to drive. The bi-monthly email blast could go out monthly to remind drivers of this resource. Next month, the resource will be added to the temporary permit email sent to all TNC drivers.



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- Sally LaJoie asked Mark Williams if PBOT had seen a drop in complaints. Mark Williams responded that there are very few, and he is currently working on one complaint. The driver was off-boarded for various violations from Uber four years ago, and they are currently driving for Lyft. Once the violations fall off the Uber platform, the driver can try to be recertified with Uber.
  - **Action Item:** Bi-monthly emails to drivers will go out monthly, reminding drivers of the Ombuds resource.

### DISCUSSION ITEM: OMBUDSPERSON INVESTIGATION PROCESS: MARK WILLIAMS, PBOT AND SALLY LAJOIE, OMBUDSPERSON

- Mark Williams: The committee made recommendations taken to the Bureau Director. The Bureau is not comfortable with the language relating to sexual assault and sexual harassment cases and, therefore, would not accept the recommendations as they are written now. The Bureau would consider alternative language because the Ombuds program helps drivers.
  - Sally LaJoie: The Ombuds program began in the fall of 2019 with a soft launch to build relationships with the TNC companies. The program began to receive and review complaints. Roadblocks emerged for complaints where the driver was accused of doing something inappropriate. The drivers did not have the necessary information to refute and disprove the complaints. The Ombuds would be the intermediary between the driver and the company. The companies did not want to provide internal files and investigations. There was a concern the driver may identify the rider and jeopardize the rider's safety. No additional measures were available. The problem on hand was balancing rider safety and privacy and the driver's right to refute complaints and continue as drivers.

In June 2019, the Ombuds made a policy recommendation that the committee adopted. In the recommendation, the companies would increase their cooperation, provide mutually agreed upon information, and develop mutually agreed on confidentiality provisions and safety provisions. It was agreed that public records would not have to be provided to protect the rider's identity.
  - Mark Williams provided two scenarios to offer context. The program's value is that it helps drivers who didn't do anything wrong get back on the platform.
  - Phillip Berger shared that riders get upset with the driver, especially since the mask mandate has been lifted and wearing a mask is still required for Lyft. He recommends companies explore requiring cameras and assist drivers with the cost.
  - Mark Williams shared Portland City Code requires taxis to have unique commercial cameras. The footage is stored in a secured location in the cab that drivers cannot access. Since 90% of taxi drivers



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own their vehicles, they purchase the equipment. Some taxi companies loan drivers the money to purchase the equipment.

- Sally LaJoie agrees dash cameras can be helpful, but the driver still needs to know when the incident occurred. Some drivers are unable to store hours of footage and overwrite it. The Ombuds program would like the companies to be obligated to cooperate within reason to help drivers, and the Ombuds program would like to help drives more than they currently can.
- Allison Ford agrees there is a balance to achieve. Uber follows what is required under the Public Records legality and requests and always needs to protect the information of drivers and riders. She would need to consult with her legal team to determine what Oregon Law requires. Uber is trying to improve the activation process.
- Owen Christofferson asked if Uber had technological or operational solutions that could solve this issue without the need for drivers to invest in expensive equipment and a secured system.
- Allison Ford does not know of technological solutions handed out, the way PPE or an offering has been distributed.
- **Action Item:** Allison will check in with her team to determine if technological solutions are being planned and report back at the next meeting.
- Chad Derrington suggested that the language in the Portland City Code for taxis may need to be updated as technology has advanced since the code was written. It may be possible that Uber and Lyft could partner with a manufacturing company to offer discounts to drivers for purchasing their technology, and the public may purchase equipment endorsed by Uber and Lyft. It's possible the driver app, which already has access to audio, can pull audio to TNC data centers.
- Mark Williams shared administrative rule [TRN-14.35 Digital Records Requirement](#) that requires taxis to have a digital record for every ride. Any camera system can be added to the administrative rule if it meets the security requirements.

### DISCUSSION ITEM: DRIVER PROTECTIONS: CHAD DERRINGTON, VICE-CHAIR

- Chad Derrington stated drivers don't have the same levels of protection from the rideshare companies that the riders have. Drivers must have a real photo and their real names on the app, while passengers are not. He feels TNC companies are not doing an excellent job of protecting drivers by not requiring riders to match their credit card information, driver's license, or state-issued identification to their app profile. He recommends rideshare companies require riders to use the name that matches their billing



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information on the app. He has noticed the profiles of unaccompanied minors requesting a ride are not being pulled and reviewed by the app. He also recommends that all driver platforms communicate to drivers that a camera is highly recommended. He shared the [link to the Vantrue camera](#) that he utilizes. He thinks many camera companies would like to have their equipment endorsed by Uber and Lyft.

- Phillip Berger recommends riders use realistic photos on the app. He has learned that riders cannot change their names once the account is established unless the rider goes to the Lyft Hub in person and requests to have their name changed.
- Allision Ford and Camiel Irving will take the questions back to their teams. Camiel Irving believes there is a security challenge with having riders change their names regularly and hears that riders' safety requirements are not as strict as those of drivers.
- **Action Item:** Camiel Irving will follow up with the committee on rider safety requirements.
- Tracy M. Smith asked Clayton Harris to introduce himself. Clayton Harris recognizes driver safety is paramount. Lyft will take all comments before recommendations and try to move in the best interest of riders and drivers. There is a due process for Lyft drivers, and maybe this process should be reviewed constantly to ensure there's equity for drivers. He will take this back to the Lyft team and hopes to return another time for further discussion.
- Chad Derrington voiced a concern shared with him by Richard Rohrich via the chat. The concern is that drivers are under the impression they will pick up a male rider due to their profile, and a feminine presenting rider enters the vehicle. It's common for one person to order a ride for another individual. The concern is not with dealerships or medical support services that book rides for their clients. Rachel Keller said it becomes a safety issue when there is a discrepancy in the ride.
- Chad Derrington will introduce a Topic Submission to continue the conversation of recommendations for driver protection at the next meeting.
- **Action Item:** Tracy M. Smith will add recommendations for driver protection as a discussion item on the agenda for the June meeting.
- Owen Christofferson asked Sally LaJoie if the Ombuds team had recommendations for driver safety. Sally LaJoie shared one driver asked for additional support during emergencies and the complaint process but has no other direct recommendations. Sally LaJoie clarified that it is rare to see a complaint about sexual assault, and those types of complaints are handled differently because of the seriousness. The Ombuds team sees a range of not criminal or assault complaints, such as a difference in opinion on



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a conversation topic, a look the rider received, or an inappropriate comment. Phillip Berger proposed that audio also be added as a recommendation alongside cameras.

- **Action Item:** Mark Williams and Sally LaJoie will develop alternative language regarding the Ombuds process to bring back to the committee.
- Mark Williams shared that PBOT is developing driver etiquette training to provide drivers with tools for having neutral conversations in the vehicle. It may help some drivers avoid deactivation for non-criminal and non-assault complaints.

### **ACTION ITEM: REVISED SERVICE AGREEMENT LEADING TO DIMINISHED COMPENSATION TRANSPARENCY 11-30-2020 EXHIBIT B: MARK WILLIAMS, PBOT**

- **Committee Recommended Update:** Revised Services Agreement Leading to Diminished Compensation Transparency (Exhibit B) is a policy recommendation for director approval to require Uber and Lyft to provide at least a 30-day notice whenever there's a change in the minimum compensation, the cost, the rate paid, the compensation per mile, or the compensation per minute. It does not affect bonuses, nor does it affect any service pricing. The recommendation states that rideshare companies must give drivers a 30-day notice if the rate per mile and the rate permitted are decreased or increased. Uber suggested revision to this to not require a 30-day notice when compensation increases so drivers could take advantage of any increase in compensation immediately.
- Allison Ford shared that Uber wants to make sure that they aren't putting a ceiling on potential earnings. If they were publishing and needing to give notice for base rates, Uber would have to give notice and plan for these increases. Uber's suggestion is to put forward and publish minimum rates for transparency and to give notice of a floor rate. The floor rate would be published, and the driver would know the time and distance minimum. It would allow dynamic pricing constantly to flex up and increase earnings more regularly, instead of after a 30-day notice. Uber is requesting to change the language from "base" to "minimum."
- Owen Christofferson asked if the floor rate and increases Uber described are not already happening. Camiel Irving explained that currently, drivers have time and distance rates, surges, and bonuses. Sometimes drivers will receive other parts of the fare, and sometimes the driver will receive additional compensation for an extended pickup or a wait time. Uber is looking at different ways to deliver earnings to drivers better and more accurately. Uber does not want to eliminate their ability to dynamically float up rates and not exclude Portland from technology that may be available in the future.



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- Chad Derrington asked if Uber would change the "base rate" to "minimum rate" on the driver's page in the Uber Partner Portal. He asked the difference between "base" and "minimum" and when was the last time Uber and Lyft raised the base rate per minute and mile. Camiel Irving responded that the base rate had not been raised in Portland, but it has recently happened in other cities and states. Uber wants to be able to reserve the ability to increase rates.

In section two of the recommendation, Chad Derrington suggested changing the word "adjusting" in section two to "decreasing" so drivers are notified ahead of time if their rate will be cut. If the language were revised, section two would read, "When *decreasing* Base Financial Compensation, TNCs must inform the driver a minimum of 30 days before the rate adjustment."

- Owen Christofferson shared that Uber drivers receive flat fares that they can accept or decline. He asked Allison Ford and Camiel Irving to comment on the transparency of this fare. Camiel Irving said this technology is being piloted in a few states after receiving feedback from drivers about what they wanted to see on offer cards and what they consider transparency. The technology makes an offer with a price upfront, and the driver can access the fare breakdown in a trip receipt. Owen Christofferson asked if a driver saw passenger tips in the offer. Camiel Irving confirmed they do not.

He voiced concerns about voting on the language because the rideshare companies may be moving away from the current fare structure soon. Chad Derrington asked Camiel Irving if Uber Eats incorporates the per minute and per-mile rate into the fare offered. Camiel Irving is unsure.

- **Action Item:** Camiel Irving will follow up on whether the per minute and per-mile rate are incorporated into the offer presented upfront to the driver and report back to the committee.
- Owen Christofferson proposed tabling this issue until the language is revised. Chad Derrington was hesitant to postpone the vote.
- Mark reminded the committee the language changes do not change the intent of the recommendation, which is already approved by the committee as is. If the committee decides to change the language now or later, committee members can vote by email.
- Phillip Berger asked why the recommendation proposes a 30-day advance notice. Chad Derrington explained that 30-days gives not-for-profit companies that oversee non-local drivers time to review and check-in with their legal teams.
- Owen Christofferson favors drivers receiving a notification if the fare changes.



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- Mark Williams' suggestion was to call a special meeting for the committee to vote on the language revision. Per the bylaws, the committee needs to notify the special meeting one week in advance.
  - **Action Item:** Owen Christofferson will call a special meeting to vote on the language revisions.

**CHAIR ADJOURNED THE BUSINESS MEETING AT 5:02 pm.**

**NEXT MEETING:** The next meeting will be Monday, June 13, 2022.

Submitted by Camerina Galván, Notetaker, Galván Consulting LLC.