

Taxi and Limousine Commission Meeting
February 25, 2016

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TRANSCRIPT OF THE
NEW YORK CITY
TAXI & LIMOUSINE COMMISSION

Thursday, February 25, 2016
33 Beaver Street
COMMISSION HEARING ROOM, 19TH FLOOR
BOROUGH OF MANHATTAN

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HEARING CONVENED AT 10:25 A.M.

COMMISSIONERS PRESENT:

Meera Joshi, Chair

Frank Carone

Edward Gonzalez

Lauvienska Polanco

Jacques Jiha

Bill Aguado

ALSO PRESENT:

Chris Wilson, General Counsel

Staff

The Public

Reported by:
Danielle Cavanagh

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CHAIR JOSHI: Good morning. The time now is 10:25 and I'm going to move for the Commission to go into a brief Executive Session to talk about pending legal matters.

All in favor.

(Whereupon, Commissioners respond with a show of hands.)

CHAIR JOSHI: And with that, we'll take a short recess just to talk about pending legal matters and expect to be back in about ten minutes.

(Whereupon, the Commission is in Executive Session.)

CHAIR JOSHI: The time now is 10:40 and we're going to start our public meeting.

First on the agenda is the Chair's report, so I'll be brief.

You may have heard in the press we are reviewing data now to reassess our rules on the number of hours, consecutive hours, drivers across all sectors are permitted to drive. And we've just begun that process. We're going to review best practices across the nation as well as our own data to try to

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figure out what actual driving trends are in today's data and then formulate a new rule that would apply to every sector. Today we have a rule on the books but it only applies to taxis. We have over 150,000 licensed drivers today, so it's time to update that rule and have it apply to every driver. And so that's what we intend the rule that we propose later on this year to do.

I also wanted to thank everybody for their cooperation during Jonas. We successfully got almost every single licensed vehicle off the road. There was one small news clip with a cab behind the Mayor. It was a little hard to deal with. But almost all vehicles got off the road. So thank you very much for your cooperation and allowing sanitation to do its job. It was also the first time we've had an opportunity to use our text messaging to communicate with drivers and that way we are able to directly tell drivers when they needed to get off the road and when they could resume. And we'd like to take advantage of that kind of

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communication going forward so we can get you information quicker and we can get you information personally and you won't have to read our industry notices as carefully anymore. So that's that.

Today on the agenda we have two pilots that are up for extension or expansion since we had greater-than-initially-expected interest in both.

First is our Vehicle Safety Pilot. We currently have six participants with technology in 53 cars; 19 yellow, 2 green and 32 FHV's. We've had considerable interest from safety technology providers who'd like to test equipment and from sizable fleets that would like their affiliated vehicles to be used for testing. So with no further action, this pilot is scheduled to end on April 7, 2016, foreclosing the possibility of future testing. So the amendment before the Commission today would be to extend the Vehicle Safety Pilot for an additional year.

Second, our Alternative Taxi Technology Pilot has also had

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2 more-than-anticipated interest and we have
3 now more candidates than we have slots
4 available. The pilot passed previously
5 allowed for four participants but we now have
6 seven promising applicants including our
7 existing technology providers, all proposing
8 valuable features including virtual meters,
9 charging capability, and passenger-directed
10 interactive back-seat screens. To test all
11 of these proposals before the Commission
12 today is an amendment to increase the number
13 of participants from four to seven and
14 leaving the cars-per-participant cap the
15 same.

16 Also before the Commission is a
17 proposal on Owner Must Drive requirements,
18 which I know several commissioners voiced as
19 a priority, in particular Commissioner
20 Jacques Jiha and former Commissioner LaShann
21 DeArcy who's now federal district court
22 judge. So we've previously lowered the
23 driving requirements for an independent owner
24 and now we propose eliminating them in favor
25 of allowing the demarcate to determine hours

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of service and our Vision Zero initiatives which require vigilance from all of our drivers, not just independent owner/drivers who have a history of safety.

And our final rule, proposed rule, up for hearing and possible vote is the deletion of a provision of our rules that required the deduction of \$0.06 for a driver benefits fund which a court ruled the TLC did not have the authority to authorize.

So with that, we can move on to base applications -- oh, no, I'm sorry, adoption of minutes. All in favor of adopting the minutes from the January 2016 meeting.

(Whereupon, Commissioners respond with a show of hands.)

CHAIR JOSHI: Minutes are unanimously adopted.

And base applications for determination.

THE SPEAKER: Today we have 25 bases for your recommendation for approval. We have 1 new application, 10 renewals and 14 bases with various changes -- relocation,

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name, ownership -- and 1 base for relocation denial.

CHAIR JOSHI: All in favor of accepting the recommendations.

(Whereupon, Commissioners respond with a show of hands.)

CHAIR JOSHI: With that, the base application recommendations are accepted.

Next on the agenda are both the amendments to our two pilots, and Chris Wilson will read out the particulars.

MR. WILSON: Okay. The first is an extension of the Vehicle Safety Technology Pilot extending the pilot for one year. The pilot is currently set to end on April 7, 2016 and the staff believes that the extension is necessary to better evaluate the technologies and also because we think additional vehicles are going to come into participation using these technologies, which we think would be valuable.

As local law requires, the final amendment for Commission action was posted on the TLC's website on February 22nd and sent

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to the Commissioners on that date. If there are no questions, if everybody's in favor, everybody ready to vote, all in favor.

(Whereupon, Commissioners respond with a show of hands.)

MR. WILSON: Okay. And the next on the agenda, as the Commissioner indicated, is an expansion of our Pilot to Test Alternative Technology Systems for taxis. This pilot was originally approved by the Commissioner on October 15th. The proposal would increase the number of participants to seven from four. We did, as local law requires, circulate a final amendment for Commission action and posted it on the website on February 22nd. I think several of the commissioners had some questions or wanted to address a couple of issues of the proposal as originally circulated.

COMM. CARONE: Thank you, Chris.

As consistent with comments that I made at the hearing on October 15th wherein I said that I thought this pilot program is a good idea, the section of the -- our charter

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that allows for pilots is a great section which gives us flexibility to experiment and try new things. I still always like to balance that the marketplace which allows for experimentation with the reality that we do live in an artificial market to some degree. By that I mean the regulations that control some decision-making and who can enter and who cannot enter and barriers to enter, and so on and so forth. So I believe the proper balance which will allow new exciting technology for us to experiment and monitor should also be measured against existing contracts, existing obligations and existing expectations. So I think the number should come down, like I said, on October 15th. I believe the right number is 175.

MR. WILSON: Okay. As the Commissioner indicated, he's advocating that the number be reduced to 175. The proposal as circulated would have left the number at 250. I'll remind the Commissioners if they want to amend the resolution they can do so unanimously and I'll have to go off and

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change the number to accommodate Commissioner Carone's concerns.

COMM. CARONE: And I don't know if I have to formalize that a little bit better than I just did. That's my view and I'd like to formalize that in a motion to reduce to 175.

MR. WILSON: All in favor.

(Whereupon, Commissioners respond with a show of hands.)

MR. WILSON: Okay. As I go to finalize the pilot, let's start the hearing on the Repeal of the Owner Must Drive. These rules, as the Commissioners may recall, in January of 2015, amendments were proposed -- were passed considerably lowering the penalties for noncompliance with the Owner Must Drive Rules. The Commission now proposes to eliminate the Owner Must Drive requirement applicable to owners of medallions altogether.

The proposed rules were published in the City Record on January 25th with a comment deadline of February 24th. Three

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written comments were received, all of which have been provide to the Commissioners. As local law requires, the final rule for Commission action, which was unchanged from the rule as originally published, was posted on the TLC's website on February 22nd and sent to the Commissioners on that date.

We have a number of speakers. The first of whom is Uppkar Thind.

MR. THIND: Greetings and good morning, Commissioners. My name is Uppkar Thind. I'm the managing director of the League of Mutual Taxi Owners, better known as LOMTO Association.

I commend you all for considering the proposal of having the Owner Must Drive Rules repealed. These rules have been on the books for over 26 years. If you had waited too much longer, these rules would've become obsolete anyway with the introduction of autonomous vehicles.

Today as you contemplate the repeal of the OMD Rules, the irony is such that owners must keep on driving because of the

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2 dire shortages for taxi drivers due to the
3 uncapped rampant expansion of the app
4 companies. These rules over the years have
5 become unnecessary burden on retirees,
6 widows, and inheritors of such medallions.
7 The elimination of the OMD Rules at this
8 point in time is merely life support to an
9 80-year-old iconic taxi industry which is
10 dying a slow death.

11 Ms. Joshi, we had very high hopes and
12 expectations when you became the chairperson
13 of the TLC in 2014. From that time to
14 present, the New York City medallion values
15 have been decimated. Although the damage was
16 done by the previous administration, but
17 history will forever reflect that mass
18 bankruptcies in the medallion industry
19 happened under your watch. So we urge you to
20 without any further delay to fast track and
21 implement the remainder of the policies and
22 rules which will help level off the playing
23 field.

24 Thank you very much for letting me
25 testify.

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CHAIR JOSHI: Next we have Peter Mazer.

MR. MAZER: Good morning, Commissioner Joshi and Commissioners. My name is Peter Mazer, General Counsel to the Metropolitan Taxicab Board of Trade. This morning I speak in favor of the proposal to repeal the Owner Must Drive Rules and commend the Commission for undertaking this important initiative.

As you know, the Owner Must Drive Rules have existed since 1990. When initially adopted, the intent of the rules was to ensure that independent medallion owners who operate their taxicabs personally to provide good service to the public and safe, clean and reliable vehicles. The TLC at the time recognized the significant contributions independent medallion owners make to the overall health of the industry. Their contributions are just as important today.

However, there has been a downside to the Owner Must Drive Rules. A taxicab

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2 medallion is for many independent medallion
3 owners the largest single investment that
4 they may have and reflects a lifetime of work
5 and sacrifice. But the Owner Must Drive
6 Rules hindered the ability of many
7 independent owners to make sound financial
8 decisions as they plan for retirement or
9 manage their estates.

10 At its peak, the independent
11 medallion was worth about \$800,000 but the
12 Owner Must Drive Rules meant that in most
13 cases the medallion could only be bequeathed
14 or transferred to someone willing to
15 undertake the responsibilities of driving it.
16 A few years ago the TLC amended the rules to
17 permit in some cases a surviving spouse to
18 inherit a medallion without driving it
19 personally but children of owners and other
20 intended beneficiaries could not. They would
21 all be forced to either sell the medallion to
22 a qualified driver or obtain a Hack license
23 and drive it personally.

24 Furthermore, while there were certain
25 hardships exemptions available, a medallion

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1 owner who was physically unable to drive
2 either through illness or age would usually
3 be forced to sell their medallion, which was
4 not always possible or prudent. Owners could
5 work a lifetime to buy and pay off a
6 medallion but they could not retire like
7 everyone else without divesting themselves of
8 their hard-earned asset. It is as if the
9 owner of a house would be forced to sell it
10 after the house had finally been paid off.

11
12 The penalties for violating Owner
13 Must Drive provisions were among the highest
14 imposed by the TLC for any rule violation.
15 Some owners paid as much as \$10,000 because
16 they did not drive enough hours or enough
17 shifts in a given year. The TLC has made
18 several attempts at amending Owner Must Drive
19 Rules over the past few years but these
20 changes did not benefit everyone. By
21 repealing Owner Must Drive once and for all,
22 independent medallion owners are free to make
23 better use of what is in many cases their
24 single greatest asset.

25 A regulation which had many valid

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reasons in 1990 has finally outlived its usefulness and the TLC should be commended for now considering its repeal.

Thank you.

CHAIR JOSHI: Next we have Bill Lindauer.

MR. LINDAUER: Good morning. Good morning. I enthusiastically support the repeal of the Owner Must Drive Rules. It's long overdue. Sometimes I think somebody at the TLC stays up nights thinking, What kind of mean things can we do, what kind of nonsense rules can we perpetrate? You know, it's ridiculous. I commend you. I commend you, Meera and Commissioners. It's long overdue, long overdue.

Thank you.

CHAIR JOSHI: That's a record for briefness. No, no, no, that's all right.

COMM. CARONE: I just want to commend you as well for the briefness.

CHAIR JOSHI: Zubin Solemainy.

THE SPEAKER: He's not here.

CHAIR JOSHI: He's not here? Okay.

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Norman Siegel.

MR. SIEGEL: It's a pleasure to be here this morning. I was one of the lawyers representing the League of Individual Medallion Owners who filed the federal lawsuit challenging your Owner Must Drive Policy. This is one of the drivers (pointing).

Last year you revised a good portion of the Owner Must Drive Rules and we reached the settlement on our lawsuit; however, my clients and the lawyers representing them had and continue to strongly believe that the Owner Must Drive Rules should be eliminated. We believe this because, one, the rules were not rationally related to a legitimate government purpose; two, the rules were irrational, inconsistent, arbitrary and unfair; three, the rules violated both procedural and substantive due process; four, the rules did not enhance public safety nor consumer service; five, the rules were unduly burdensome, as some of the speakers have already acknowledged, to independent

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medallion owners; and finally, the rules, in our opinion, were not in the best interest of the riding public.

 Last year, January of 2015, I was pleased that four of the board members questioned the advisability and fairness of the Owner Must Drive Rules. I heard you say you were going to look into whether the Owner Must Drive Rules should continue. But in my experience, I hear government officials and appointees say they're going to do X, Y and Z and we never hear from them again. So today I appear encouraging you to do exactly that, repeal these rules. If this happens, I would like, in a rare situation, since usually I come and I criticize government and government officials, I'm a little nervous today because I'm here to commend you and thank you for taking our Owner Must Drive objections and concerns seriously and doing what I strongly believe is the right thing to do, repeal the rules.

 I especially want to thank
Commissioner Meera Joshi and Keith Walsh for

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their leadership, fairness, professionalism, and their willingness to listen to a group of generally speaking first-generation immigrants from countries such as Haiti, Jamaica, India, Pakistan, Russia, and show them that they have a voice and that they can be listened to and make a difference.

Let me go outside. I heard some of the criticism about the Commissioner. Let me tell you all and the people here, in the meeting that we had, she was terrific. She came in, she demonstrated how smart she was, how knowledgeable she was. Everyone in our first meeting, including some of the lawyers, didn't know what we were talking about. She knew what we were talking about. But most important, she showed she had, to use Bernie Sanders, a huge heart. And in the context of that, she showed to my clients that she cared, she listened to them, and when the meeting was over and ever since, they believed that they had someone who cared about them.

So let me conclude by saying that all

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of you and Meera and Mr. Walsh instilled in all of us a confirmation of the belief that change can happen. It doesn't matter who you are, where you come from, whether you're powerful or powerless. If you have a voice and you're making sense, sometimes people will listen. I thank you very much for that.

(Applause.)

CHAIR JOSHI: Thank you.

Next is David Pollack.

MR. POLLACK: I echo all of the sentiments of Norman Siegel. My name is David Pollack. I'm the director of the Melrose Taxi Action Center.

Repealing this rule is long overdue. Independent medallion owners, as you know, have no retirement funds. This is what they looked upon for many years as their retirement fund. Repealing this rule gives them the opportunity to lease out to multiple drivers. In the past, in the recent past, they were being fined. \$6,000, \$8,000, \$10,000 was not uncommon on a yearly basis. To someone who's out there servicing the

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people of the streets of New York it was ridiculous, it was unheard of, and it was unfair. Thank you for being just, thank you for understanding, and thank you for repealing this unfair rule.

(Applause.)

CHAIR JOSHI: Thank you. Next we have Nixon Jean Pierre.

MR. PIERRE: Thank you, Chair Joshi. Thank you, other Commissioners. I would thank you for taking your time to repeal these rules. I've been in the industry since 1993. I think today is one of the best days of my life. And I think this is a good step in the right direction. We still have a long way to go because there are other changes, we have our other challenges that we are facing in the industry. Right now the medallion has lost its value. Banks don't want to finance us. People want to buy medallions, they cannot buy due to the competition we are having. So I'm going to be brief. I think those challenges, we can work together to deal with them. I don't think everything we

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are doing (inaudible) to do everything.
Sometime we can sit down together and solve
it amicably.

I thank everyone for taking the time
to help us and I think this is a good step in
the right direction. And I think if we
continue to work together the relationship
between the TLC and drivers will be upgraded.
Thank you very much.

(Applause.)

CHAIR JOSHI: Thank you.

And that ends our speaker list. So
if the Commissioners are prepared, we could
vote on the proposal to eliminate the Owner
Must Drive Rules today. And I'd like to also
give Commissioner Jacques Jiha a chance to
say a few words.

COMM. JIHA: Thank you. Thank you
very much. I'm going to be very brief
because I think I share the same comments
that many of the speakers have already made.

I want to thank you, Chair, for
listening to the (inaudible) drivers and also
thanking all the Commissioners because this

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is an issue of major concern to them and I think we've done something very good. And as Mr. Norman Siegel mentioned, it is a good thing when government promises something and delivers it. And it's -- again, thank you for this because -- and I also want to thank all the other Commissioners for pushing forward this, the repeal of the OMD Rules. Thank you.

CHAIR JOSHI: Thank you.

And if everyone's prepared, we can take a vote now. So all those in favor of eliminating the Owner Must Drive Rule.

(Whereupon, Commissioners respond with a show of hands.)

CHAIR JOSHI: And with that, the rule is unanimously eliminated.

(Applause.)

CHAIR JOSHI: Next on our agenda is a hearing on a proposed rule to eliminate a provision of our rules that required a deduction of \$0.06 from every trip to go towards a drivers benefit fund. The drivers benefit fund was later ruled outside of our

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jurisdiction so we cannot administer a driver benefits fund. And so as a consequence, we're eliminating that part of the rule which we weren't enforcing anyway, which was deducting \$0.06 from every trip.

So first on the list for hearing is Bill Lindauer.

I apologize. I want to announce the addition of Commissioner Polanco, who joined us at -- let's see -- 10:45. I don't know if anybody's going to debate me on it.

MR. LINDAUER: I get a second chance now. It's a shame that the health benefits fund was defeated by some notorious people in this industry and I wish that the TLC had known that that might happen, that they would be ineligible to administer and put forth this fund, which is hopefully the City Council will rectify this matter and drivers will be covered for things that they should be covered for at a very, very low cost.

We were not the -- New York Taxi Workers Alliance, which conceived the idea and was devoted to administer the plan, was

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not going to make a penny from this plan. It was all to go to the drivers. I'm sorry this plan will be delayed. Hopefully the Council will pass it.

On another end, hopefully the drivers will get their money soon because you've had this money maybe earning interest. I don't know.

CHAIR JOSHI: Yeah. So some of the money is with us and some of the money is with medallion owners.

MR. LINDAUER: Well, I hope it's returned to the rightful first people as expeditiously because people want to say, Oh, maybe the alliance is keeping the money. You know?

CHAIR JOSHI: No, we are pursuing ways to get it returned. But as you can imagine, it is a large process to return a small amount of money to lots and lots of people.

MR. LINDAUER: Is there any interest on this money?

CHAIR JOSHI: I believe there is and

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I'll defer to -- we can talk to you afterwards about what happens with the interest.

MR. LINDAUER: Okay. And Kalamazoo, Michigan is noted for being the home of the checker cab, the iconic vehicle in this industry. Unfortunately, a terrible thing happened in Kalamazoo this past weekend. And a minute of silence, please, for the Kalamazoo victims of the Uber mass murderer. Thank you.

(Whereupon, all individuals present join in a moment of silence.)

MR. LINDAUER: Thank you.

CHAIR JOSHI: Thank you.

And Zubin is not here, right?

THE SPEAKER: Right.

CHAIR JOSHI: Okay. So with that, we have no more speakers on the proposed rule to delete the \$0.06 deduction from every trip.

MR. WILSON: Okay.

These rules were originally published in the City Record on January 25, 2016 with a comment deadline of February 24th. No public

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comments were received. As local law requires, the final rule for Commission action, which is unchanged from the proposed rule, was posted on the TLC's website on February 22nd and sent to the Commissioners on that date. All in favor.

(Whereupon, Commissioners respond with a show of hands.)

MR. WILSON: So it passes unanimously.

CHAIR JOSHI: And so with that, I think we can return now to a vote on the amendment of the Taxi Technology Pilot to allow additional participants. As originally posted on Monday, it was seven participants with 250 cars each. And I understand that we've reached a compromise so that the Commission's comfortable moving forward with the expansion. I did originally put forward the 250. That was an important number for me and for the staff.

Also important was the expansion of the pilot and the fact that we have seven companies that are interested in joining the

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taxi industry and we think that is a very good sign and look forward to seeing their technology in cars and getting passenger feedback. So in the name of moving this forward, which I think it must move forward, I'm glad we've reached a compromise so that all the participants can be part of the pilot. And as an agency, we're going to move quickly so that passengers can start seeing equipment in taxis and also move quickly so that ultimately the end goal is reached, which is that we have revised specifications for in-taxi technology that reflect today's technology.

MR. WILSON: Okay. The pilot resolution as we originally circulated it on February 22nd to all the Commissioners made an amendment to Section 5(d) to increase the number of participants to seven. With the change proposed by Commissioner Carone this morning and accepted by the rest of the Commission, we will also change Section 5(e) and 5(e) will now be amended to read as follows: "Each participant may install its

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2 GPS meter and/or alternative technology
3 solution in participating vehicles in a
4 series of tranches to be further described in
5 the MOU. During the initial tranche, a
6 participant may install its GPS meter and/or
7 alternative technology solution in a maximum
8 of 10 vehicles. During the second tranche, a
9 participant may install its GPS meter and/or
10 alternative technology solution in a maximum
11 of 90 additional vehicles. During the third
12 tranche, a participant may install its GPS
13 meter and/or alternative technology solution
14 in a maximum of 75 additional vehicles, for a
15 maximum amount of 175 vehicles during the
16 pilot. Following the conclusion of each
17 tranche, a participant must meet reporting
18 and evaluation benchmarks further described
19 in the MOU before the TLC will permit a
20 participant to install its GPS meter and/or
21 alternative technology solution in the next
22 tranche of vehicles."

23 So if that's acceptable to people, I
24 guess we can vote. All in favor.

25 (Whereupon, Commissioners respond

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with a show of hands.)

MR. WILSON: Okay.

CHAIR JOSHI: And with that, the
amendment is unanimously passed.

And that brings us to the end of our
meeting, and it's 11:10. Thank you very
much.

(Time noted: 11:10 a.m.)

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