

City of Salem, Massachusetts



**"Know Your Rights Under the Open Meeting Law, M.G.L. c. 30A ss. 18-25 and
City Ordinance Sections 2-2028 through 2-2033."**

The City Council Committee on Ordinances, Licenses and Legal Affairs co-posted Committee of the Whole

met in the Council Chamber on May 20, 2021 at 6:30 P.M.

for the purpose of discussing the matters(s) listed below. Notice of this meeting was posted on

May 4, 2021 at 12:01 P.M.

(This meeting is being recorded)

ATTENDANCE

ABSENT WERE: None

Members of the COW Present: Councilors Madore, McCarthy, and Turiel

Also in Attendance: Beth Rennard, City Solicitor; Ilene Simons, City Clerk; David Kucharsky, Director of Traffic and Parking; Lt. Tucker, Salem PD Traffic Division; Paige Besse, applicant; Maureen Fisher, Assistant City Clerk

SUBJECT(S)

#221 Pedi Cab Application with Consumption of Alcohol

Ms Rennard begins by explaining that what is before the body is an application for a Pedicab license. The City Council is authorized to grant Pedicab licenses, pursuant to Chapter 44. The applicant needs to make an application, pay a fee, and if granted, get \$1 Million of insurance to cover bodily injury and damage to property. Each pedicab operator would also need to be licensed by the Police Department, which follows the path of taxicab operators, and includes a background check. If she is giving tours, she may need a tour guide license. Ms Besse has also requested brown bagging of beverages on the vehicle. The Director of the ABCC recommends that beverages not be for sale by the operator, and local authorities would need to approve the open containers on public ways. Ms. Rennard is looking for the Committee's input on this topic: whether we would want to allow open containers on streets, much like a limo and taxi cabs are allowed to have passengers with open containers.

Councilor Hapworth asks if our ordinances allow the consumption of alcohol in limousines. Lt. Tucker states that a vehicle for hire can have consumption. Councilor Sargent asks if this applies to taxi cabs as well. Lt. Tucker and Ms Rennard both think that this would be allowed under the law.

Ms Paige Besse presents her business plan to the Committee. She is proposing a business called Shift Drink. "Pedal Pubs" were invented in the Netherlands and are popular in Europe and in many states in the US. New Haven, Ct; New Orleans, Louisiana; Savannah, Georgia; Asbury Park, New Jersey are all historic cities much like Salem that enjoy these Pedal Pubs. Springfield and Easthampton are getting ready to launch and Boston is considering these vehicles. This concept is focused on a sightseeing tour with alcohol, not barhopping. She wants to show off Salem by being a different type of tour, to be enjoyed by locals and tourists alike. They will employ a "Can Opener" who will enforce the rules of the ride. Riders must be 21+ with a valid ID, all beverages will be turned over to the Can Opener, no nip bottles or glass bottles. Can Openers will act as bouncers and bartenders at the same time. The vehicle cannot move if the riders are not pedaling, so she has no incentive to overserve.

She wants to include Punto Urban Art Museum, Winter Island, Derby Street, The Willows, Hawthorne Blvd, Essex St Pedestrian Mall, and focus on local restaurants and other attractions. The bike seats 12 peddlers and 3 passengers on a bench in the back, a driver and "Can Opener". The vehicle has a pedal assist, 2 headlights, turn signals, brake lights, horn, and has grab bars and seat backs for each peddler. She would utilize the Creative Collective for promotion. Restaurant owners have written in support of the concept. She is looking for support and approval.

Councilor Dominguez thinks this is a great idea. He asks about the hours of operation. Also, is this expected to operate in the bike lanes? How many bikes? And finally, how fast does the vehicle go? Ms Besse states that tours begin at 11AM, and the last will finish by 8:30PM to respect noise ordinances and neighborhoods. They will be avoiding major intersections, so may not need the bike lane. Most streets do not have full bike lanes. The bikes can operate up to 20 MPH, but most operate between 12 and 18 MPH. She feels this works within the city speed limits and wants to avoid congestion on the streets. She is permitting for one vehicle and is open to adding more, especially in the October tourist season. She does not want more than three though.

Councilor Morsillo asks about the size of the vehicle compared to the Trolley. Ms Besse says it is comparable to a Chevy Tahoe Truck, much smaller than the Trolley.

Councilor Sargent thinks it looks like it would be fun. He questions the route, and whether Derby Street would cause congestion situations behind the bike. He wonders how backed up cars will be mitigated. Ms Besse thinks the use of the assist will help in some situations. Councilor Sargent thinks going 12 MPH down Derby Street will cause real frustration from drivers, especially during busy times. Ms Besse says that they can pull over into the House of Seven Gables for instance and is willing to work to find the best route for all.

Councilor Turiel does not think that one vehicle like this will create a lot of problems on the city streets. If we end up with a fleet of them, it could be an issue. He likes the general idea of it and likes the fact that we may be trying something new. The Tiki Hut boat is another example of a creative activity that required an alcohol license.

Councilor Morsillo asks Lt. Tucker about the route and where his concerns are. He does have some concerns with Derby Street, which is narrow, but the speed limit is 20 MPH there. Fort Ave in the travel lane could be tricky, and the vehicle may be too large for the bike lane. The route shows use of the pedestrian mall, which is tricky. The turn onto Central street is steep. The question is how long cars will be stuck behind the vehicle. He spoke to police in Minnesota and New Haven, Ct. They have had mixed success. Minnesota had some noise complaints, though New Haven did not. This may be an issue in Salem. They want to make sure passengers on the vehicle are safe from drivers and are uninjured if the vehicle is hit.

Councilor Prosniewski is pondering the liquor issues. He wants to make sure this business does not get special treatment. You cannot walk down the street with an open container, but this vehicle could allow it. This is a minor concern. He asked why these streets were chosen for the route. Ms Besse states that she wanted to highlight the restaurant experiences in the downtown area, close to other attractions. Councilor Prosniewski thinks the traffic issues could be mitigated by adding cut-outs like pulling into Blaney Street, and the House of Seven Gables lot, and use Forrester Street instead of Essex Street to approach the Common. The route can be worked out. We need to codify the liquor issues.

Councilor McCarthy states concerns with the route, and that it is the first time he is seeing it. Fort Ave has the highest speed limit in the city and the vehicle would really slow down traffic. The route to Winter Island would run into trucks with trailers for boats. Memorial Drive is very narrow and if people park on the road, it is a real problem. Essex Street will not be able to handle the vehicle. He is not averse to the concept and avoiding major intersections but has real concerns about the Derby Street to Winter Island and the Willows part of the route. Pulling into Pickering Wharf and the House of Seven Gables would require permission because it is private property. Ms Besse wants to clarify that it is much smaller than the trolley, more narrow and shorter than the trolley. It is 18 feet long, 7.5 feet wide and 9 feet tall. The trolley operates in all these places with no issues, though it does go faster, with a motor. She is open to discussing the route further.

Councilor McCarthy asks what kind of amplification is being used. Ms Besse states that this will not be a tour like other tours in Salem. They are not teaching history. The Can Openers will be trained to know some fun facts about different locations. There will be music from a small stereo. Essentially a low car stereo.

Councilor Hapworth thinks this is an interesting idea and provides another activity that is not a ghost tour. He shares the concerns about Fort Ave, and encourages keeping the vehicle closer to downtown, and possibly include Chestnut Street, which is very wide. He asks what Ms Rennard thinks about the consumption of alcohol, since this is a vehicle for hire. Ms Rennard says that she spoke to the ABCC and that this is a local issue to be considered as a special condition. If it is the will of the committee to support the idea, they will go back and work on the route and the alcohol issues. Councilor Hapworth doesn't want people standing on a street corner drinking, but this is people contained on a vehicle.

Councilor Sargent asks Ms Rennard about the special condition for this vehicle and whether it would mean everyone would be granted the special condition. She states that this is only for a vehicle for hire. He asks about the traditional pedicabs, liveries, taxis, golf carts. She states that if they get a vehicle for hire license, open containers would be allowed. He does not think limousines have permission from the City council for open containers. Once we give someone an official license, we will run into issues of equal opportunity, which may not be what we want. How will we deal with this? He is worried about too much open container allowances. He thinks this is a fun idea though. He also thinks that if the vehicle goes down the pedestrian mall, every other type of vehicle for hire would get permission to use the pedestrian mall. Once we open it up, we would have a lot of applications.

Councilor Morsillo states that pedicabs are not allowed on the Essex Street Mall in Section 44-66(c). Ms Rennard agrees that the route will need to take this into consideration. Councilor Morsillo asks about the need for seatbelts in pedicabs. Ms Besse states that seatbelts are cumbersome on these vehicles because it can hinder you when you try to adjust your weight or right yourself. The grab bars are a better for leverage and safety. There is also a running track board, so there is no falling onto the street. Ms Rennard advises that if this is approved the seatbelt mechanism would need to be approved by the Police Department, in this unique situation, to keep passengers safe. The current ordinance was written for the traditional pedicabs and may not be pertinent for these vehicles.

Councilor Dominguez asks if the City is liable in an accident. Ms. Rennard states that the Ordinance requires that the City be named additionally insured in the policy for any injury. Road defect claims would be subject to the \$5,000 cap for municipalities, and that it would be subject to notification of the defect. If someone fell off the vehicle, we are requiring that the City be additionally insured for these cases.

Councilor Dominguez asks what the cost will be. Ms. Besse thinks it will be \$25/ticket. In addition, there will be industry days for restaurant staff to rent the whole vehicle, for instance. To book the whole bike, it would be about \$300.

Public Comment

Lev McClain, 22 Albion St. He thinks this is a good idea and has used them in other cities. He likes the idea of a Salem resident launching a business like this, instead of an outside corporate entity. He is less concerned about the impact on traffic. The city can help small businesses thrive. He hopes it moves forward.

Jennifer Lajoie, 25 Beckett Street. Jennifer thinks this is a great idea.

End of Public Comment

Councilor Dominguez moves to keep this in committee to hear from the City Solicitor about clarification of outstanding issues. He thinks the route needs to be redesigned. Seconded by Councilor Prosniewski.

Councilor Sargent can support a tour like this with the right route, a route that the Ward 1 Councilor can support. He also needs to understand more about the implications of the liquor license.

Councilor Prosniewski thinks this just needs fine tuning, there are not major hurdles here.

Councilor Hapworth wonders whether we should pre-define routes and areas to avoid. Ms Simons stated that it has been quite some time since an issue like this has come up. It could be a discussion for the Council to close off streets for future vehicles for hire. She thinks that taking it on a case-by-case basis may be enough. To have a complete application, there needs to be a set, approved route.

Councilor Morsillo strongly urges Ms Besse to work with Councilors Madore and McCarthy as well as Lt. Tucker to come up with an acceptable route.

Councilor McCarthy states that there is precedence for setting routes, for Segways and scooters.

Councilor Sargent wants to know if this needs to go before the licensing board. Ms Rennard states that this is being looked into. The ABCC says that it does not because there is no set location. The licensing board permits an address.

Ms Simons states that she can pull up the routes that have been approved in the past for other vehicles for hire and distribute them to the Committee.

Motion passes 5-0. The item remains in Committee.

#532 Amending Resident Sticker Parking Program

Councilor Morsillo begins by reviewing the items that the Committee came to consensus on at the April 29, 2021 meeting.

(Note: OLLA agreed to keep the number of guest passes at 2 during this meeting.)

- Allow a parking permit for every car, not limit resident permit parking to 2 per dwelling unit.
- Create more control over guest passes, decreasing the number to 1 per dwelling unit and limiting the period of use to 4 - 6 days.
- Rethink the parking zones to better control parking issues.
- Approve the gender-neutral language, removing the Collectors Office from the process, adding language for students at any institution as well as active military, and the language that the Planning Department "recommends" to the Council, while the Council approves changes.
- Special cases for parking permits will be considered by the Parking Department and Police Department in consultation with the Ward Councilor.

Mr. Kucharsky explains that the Traffic and Parking Department has submitted new language to reflect the items above: 1 guest pass per dwelling unit, at \$30 per year, valid for 6 consecutive days. The ordinance already included that the address of the owner will be written on the guest pass. He also pointed out that there are two new areas of Permit Parking at the end of the proposal.

Councilor McCarthy asks about the price of the guest pass (\$30) and the enforcement period. Mr Kucharsky states that the 6-day period came from the Committee but is still not a guarantee that enforcement will be done regularly. He explains that Resident Permits will be \$5/year instead of \$10/2 years. This is to keep better control over the permits.

Councilor McCarthy asks how close we are to a technology solution to parking, using a plate reader for enforcement. It will make enforcement by the department so much easier and doable. There needs to be a non-technology solution as well for those who do not have a smart phone to sign up for a guest pass. No matter what we do, it comes down to enforcement of the ordinance. Mr. Kucharsky states that they have reached out to a few vendors to research their systems and how they tie into the ticket system for citations. He is hoping to look at this more earnestly during this year and it will involve multiple departments. It will assist with the visitor passes, which can be purchased for a few days use and will be tied to the license plate for enforcement. There is a lot of flexibility for special cases that may result in lower or no cost for the guest passes in the case of end-of-life care, etc.

Councilor Hapworth thinks this is a great way to take care of the commonsense items. He would like to see visitor passes amended in the future to get them only when needed, and not simply have them by default.

Mr Kucharsky explains that the \$30 price for the guest pass was based on the cost of parking in the garage downtown, where most of the passes are used. At the Museum Place garage, to park for 24 hours, the price is \$30. In the South Harbor garage, it is \$36 on the weekend.

Councilor Sargent is concerned about going from \$1 to \$30 for a guest pass. Mr. Kucharsky states that they are trying to stop the abuse of the visitor passes and make residents think more about using guest passes. He also states that the current passes are valid until they expire then the new prices would be in effect.

Councilor Prosniewski asks how a street can be removed from the list if they no longer want resident parking restrictions. Mr. Kucharsky points out the section on modifying resident parking. He also states that there are some streets designated as resident only, where no residents have purchased a permit, because they have driveways. There are probably other ways to regulate parking on those streets. The Department would require the majority of the street to support reverting back to non-resident parking.

Councilor McCarthy asks what percentage of residents is required to get resident only parking and what percentage to remove it. He has heard 90% used.

Councilor Madore states the need to make changes and move this forward. This has been in Committee for a few years now. Putting the guest pass price in perspective, \$30 over a year is a few cents per day. Parking in a garage for 24 hours is \$30. That makes the guest pass valuable, even at \$30.

Councilor Sargent thinks we need more enforcement of the guest passes instead of penalizing the residents who are using them properly. Councilor Prosniewski thinks the price will help with more careful use of the guest pass. He is open to a second guest pass being available for a price.

Councilor Hapworth states that this is a good way forward and will positively impact the parking issues. We should not assume people are doing the wrong thing, but this has been pointed to by residents as an issue.

Councilor McCarthy asks how enforcement determines whether a car is in the general vicinity of the address on the guest pass.

Lt. Tucker states that the Police do enforcement differently than the Traffic Department. He says they are reactive to parking complaints, not proactive. The police will need to make a determination if the car is within a reasonable area or is on the other side of the city. The guest pass uses an antiquated system that has holes in it which may be leading to more abuse.

Mr. Kucharsky states that the zones need to be updated to make more sense, by neighborhood instead of Ward boundaries. This will be addressed after these amendments are passed.

Councilor Sargent agrees the zones are too large. He wonders if just the street can be printed on the guest pass instead of the address. This is to avoid conflict with neighbors. Councilor Morsillo likes the address on the guest pass for accountability. We are trying something new to address the issues of enforcement of guest passes.

Councilor Prosniewski agrees with the address on the guest pass, for enforcement purposes as well as accountability.

Councilor Sargent agrees to keep the full address on the guest pass.

Councilor Dominguez thinks the price should be \$30 for the first guest pass and a reduced price of \$20 or \$25 for the second. His argument is that in business, when you buy in quantity, you pay less.

Councilor McCarthy thinks it should be cheaper for the first pass and more expensive for the second, maybe \$10 and \$20.

Councilors Hapworth and Prosniewski agree that the price should increase with additional guest passes. Councilor Prosniewski states that we are trying to discourage increased parking in these areas, no one should be getting a bargain for more cars on the street. The Committee agrees on a higher cost for the second guest pass.

The Committee agrees on allowing 2 guest passes.

Public Comment.

Lev McClain, 22 Albion St. He wonders if issuing passes on shorter terms, like quarterly or half year basis, can be done.

Councilor Morsillo states that this is an interim phase until we have a technology-based solution, which will allow guest passes to be purchased for a set number of days, as needed. Mr. Kucharsky adds that from a staffing point of view this approach of a quarterly or half year pass would be too much.

End of Public Comment

The Committee agrees to \$10 for the first guest pass and \$20 for the second guest pass per year.

Councilor Hapworth moves to have 2 guest passes per year at a price of \$10 for the first and \$20 for the second guest pass per year, seconded by Councilor Dominguez. Passes 5-0.

The Committee goes through the changes page by page, for approval.

The first change is to change all instances of City Collector to Director of Traffic and Parking. Motion by Councilor Dominguez, seconded by Councilor Prosniewski. Passes: 4-1 (Sargent against)

The second change is all of the gender-neutral language. Motion by Councilor Hapworth, seconded by Councilor Sargent. Passes 5-0.

“Procedures for Designating or Modifying a Street within a Resident Parking Zone The Traffic and Parking Commission shall recommend policies for designating and modifying resident sticker parking zones. These shall include accepting petitions from residents and in coordination with the Ward Councillor, making recommendations to the City Council for approval.” Motion by Councilor Prosniewski, seconded by Councilor Hapworth. Passes 5-0.

Change of eligibility from Salem State College Students to College and University students. Motion by Councilor Dominguez, seconded by Councilor Hapworth. Passes 5-0.

“Eligibility of Active Duty Military Personnel: A resident sticker permit shall be issued to active duty military personnel living in Salem with proof of a residential lease and/or utility bill in the individual’s name for a residence in one of the zones aforementioned and street hereinafter mentioned, verification of active duty military status, and vehicle registration, regardless of where the vehicle is registered.” Motion by Councilor Dominguez, seconded by Councilor Sargent. Passes 5-0.

“The City’s Police Department and Traffic and Parking Department shall be responsible for enforcement of the ordinance.” Motion by Councilor Hapworth, seconded by Councilor Dominguez. Passes 5-0.

“Visitor Parking Permits: The Traffic and Parking Department shall also be in charge of issuing no more than 2 portable visitor Parking Permits per dwelling unit, as defined in Section 10 of the City’s Zoning Ordinance, excluding College and University Student Resident Parking permit holders as defined in sub-section A above, that shall be used for visitors of the residents of the area.” Motion by Councilor Dominguez, seconded by Councilor Hapworth. Passes 5-0.

“Fees: The fee for each resident Parking Sticker shall be \$5.00 and shall be valid for one year. ... The fee for the first Visitor Parking Permit shall be \$10 and the second shall be \$20 and shall be valid for one year. Motion by Councilor Dominguez, seconded by Councilor Hapworth. Passes 5-0.

Councilor Prosniewski moves to waive the fee for Active Duty Military Personnel with non-Salem vehicle registration. Seconded by Councilor Sargent. “Fees for Active Duty Military Personnel with non-Salem vehicle registration: the fee for each Resident Parking Sticker issued to active duty military personnel living in Salem with non-Sale vehicle registration and eligible for such a Permit shall be waived and shall be valid for a period of one year, provided that the owner of the vehicle continues to be domiciled within the zone indicated on the resident parking permit. In the event the owner of the vehicle is domiciled outside the zone indicated, the resident parking permit shall be considered null and void.” Passes 5-0.

Street List Additions

“Essex Street – Parking Prohibitions Towing Zone (Resident Sticker) – Zone C – Color Green – From a point beginning fifty feet east on Orange Street to Carlton Street, 7:00am to 9:30am, but no visitor passes shall be issued.”

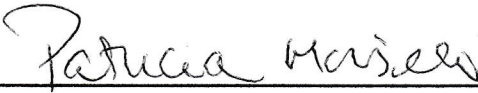
Councilor McCarthy asks about the Essex Street parking prohibition, which is only from 7:00 AM – 9:30 AM. He points out that the streets referenced are in Ward 1, but this only allows parking on the Ward 2 side of the street. Mr. Kucharsky states that the intent is to keep employees of downtown businesses from parking in this area for the whole day. Councilor McCarthy thinks this really needs to include both zones, as residents who live across the street would not be able to park here.

Councilor Sargent moves to remove the Essex Street parking prohibition from this group of amendments, seconded by Councilor Hapworth. Passes 5-0.

"Derby Street – Parking Prohibitions Towing Zone (resident Sticker) – Zone A – Color Blue – From India Street to Webb Street, 6:00pm to 8:00am, but no visitor passes shall be issued." Motion by Councilor Hapworth, seconded by Councilor Prosniewski. Passes 5-0.

Councilor Hapworth moves to refer this to the Council, as amended, with a positive recommendation for approval, seconded by Councilor Dominguez. Passes 5-0.

On the motion of C. Sargent the meeting adjourned at 9:12 P.M.



(Chairperson)