

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 June 23, 2021 at 7:00 P.M.

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

June 21, 2021 at 3:53 P.M.

(This meeting is being recorded)

ATTENDANCE

ABSENT WERE: None

In attendance from COW: Councilor McCarthy

Also in Attendance: Beth Rennard, City Solicitor; Chief Miller; Lt. Tucker; Paige Besse, applicant

SUBJECT(S)

#221 Pedicab application for Sightseeing and Consumption of Alcohol 21+

Paige Besse distributes a new map of the route for the pedicab. It no longer goes to Winter Island or the Willows. A loop from Essex St and Chestnut Street is added, bypassing the construction area at Chestnut and Summer Streets.

Councilor McCarthy asks about the hours of operation. Ms Besse states that the business will be run from Wednesday through Sunday, 11:00 AM – 9:00 PM

Councilor McCarthy asks about safety equipment on the bike and inspections. Lt. Tucker states that inspections will be performed by Officer Troncoso, who does pedicab inspections. Inspections verify working lights, signals, brakes, etc. Ms Besse explains that the bike has two LED headlights, directional, disc brakes, brake lights, grab bars, seat backs and seat belts, though the manufacturer discourages seat belts because it could be more dangerous for the peddler.

Councilor McCarthy asks what happens if the riders are unruly. Ms Rennard states that the Police Department is in charge.

Councilor Dominguez asks if the vehicle will use the bike lanes. Ms Besse explains that it will operate in a travel lane, and can reach a maximum speed of 25 MPH, but mostly operates at about 18 MPH. Both Pickering Wharf and the House of 7 Gables have given permission to turn off into their property to allow traffic to pass if there are too many cars backed up.

Councilor Dominguez asks if there will be music. Ms Besse states that there will be a small Bluetooth speaker on the vehicle, and they will abide by the noise ordinance.

Lt. Tucker explains that the Police Department will enforce pedicab ordinances for the vehicle.

Councilor Hapworth verifies that beverages can have a maximum of 12% alcohol by volume, and can not be in glass containers. Ms. Besse states that riders can purchase a plastic growler before the ride for beverages that may be in glass.

Councilor Sargent states his concern about the business, that it seems like a very fun activity, but our streets are very narrow, and we are setting a precedent for public drinking.

Councilor Prosniewski asks how many tours each day. Ms Besse explains that there are 5 tours per day, each lasting about 1.5 hours, with 30 minutes in between for a break. And the route is flexible if there are any street closures or other problems.

Councilor Morsillo asks Lt. Tucker if the Police Department has any outstanding concerns. Lt. Tucker states that Ms Besse is eager to work with the PD to resolve any issues. He does say that there are a few spots where traffic may be a problem. This is a concern for the safety of the riders and the impact on traffic.

Ms Besse states that there will be 4 employees, two shifts, two employees each.

Ms Rennard states that she has drawn up conditions for approval that the Committee can discuss. Some are related to Councilor McCarthy's concerns that the PD be able to deal with issues related to the vehicle directly from day to day.

Chief Miller verifies with Ms. Besse that the vehicle has an electric motor, which can be used to finish the route if there is a problem along the way.

Councilor Dominguez asks Ms Rennard if the city is responsible if something happens. Ms Rennard explains that the Pedicab ordinances requires an insurance policy. Before Ms. Besse gets onto the street, she must have insurance.

Councilor McCarthy verifies that no stops at package stores can be made along the way. The cannot.

Councilor Prosniewski asks if there is a trash can on board. There is.

Councilor Morsillo reads the conditions suggested by Ms. Rennard:

Pedicab tour operator shall:

- Strictly adhere to the requirements of Article III of City Ordinance Chapter 44 Vehicle for Hire
- Strictly adhere to the Public Guide requirements set forth in Article II of City Ordinance Chapter 40 Public Guides
- Operate daily from 11am to 9 pm. Last tour must end by 9pm
- Prohibit stepping off the Pedicab once the wheels are in motion
- Make only emergency stops and one planned stop per tour
- As a vehicle for hire, may allow alcoholic beverages on the Pedicab so long as the beverages are in their original, unopened aluminum container (no glass containers allowed). Alcoholic beverages shall be limited to items such as beer, wine or cider containing not more than twelve per cent of alcohol by weight. Limit of X (Three proposed by applicant) twelve ounce containers of alcohol per person per tour
- Assign no less than one employee to monitor and control on-board consumption of alcohol
- Prohibit the sale of alcoholic beverages on the tour
- As a Vehicle for Hire, open containers of alcoholic beverages must be emptied at end of tour. Open containers of alcohol are NOT allowed on public property without a license.
- Comply with all requirements of the Salem Police Department and Registry of Motor Vehicles
- Require all riders must be 21+ and have a valid ID, those without ID will not be allowed onto the bike. Acceptable forms of ID include: US driver's license, US liquor identification, US military card, and all U.S. and international passports recognized by the US

Rights of the City:

- Approval is granted on a trial basis to expire November 1, 2021 unless terminated earlier.
- Police Officers have the authority to stop or redirect any Pedicab tour if it creates a safety concern for passengers or residents/visitors
- The Police Chief or his designee has the right to temporarily alter the approved route, so long as it is upon the streets previously approved, if it is determined there is an identified safety concern for passengers or residents/visitors. Such alteration shall be submitted to the City Council for approval.
- In the event of a significant public safety concern, the Police Chief or his designee has the right to immediately, temporarily suspend the license of an operator or owner of the Pedicab and require the

owner to make alterations to the hours, route or other aspects of the operation that are within the Chief's power. The Chief may request a hearing for suspension or revocation of the license before the City Council in accordance with City Ordinance Chapter 44

Committee agrees to add paper and plastic containers to the list of allowable containers, in addition to aluminum.

The committee agrees to add language to allow the Police Department to decrease the number of alcoholic beverages allowed per person, from 3 to 2, in the event that it becomes clear that 3 drinks per person is too much.

The Committee agrees to add a valid Visa to the acceptable forms of ID.

The Committee agrees to add language prohibiting amplified music after 8:00 PM, or in designated neighborhoods, or at the request of the Police Department.

A motion is made by Councilor Dominguez to refer this to the Council, with these Conditions, with a recommendation for approval. Seconded by Councilor Hapworth. Motion passes 5-0.

#147 Home Rule Petition to install video camera speed detection systems in school zones

Councilor Dominguez asks how the PD feels about speed cameras. Lt. Tucker states that they are generally supportive. Chief Miller, when asked by Councilor Dominguez, states that speed cameras are used in NYC, where he was a member of the PD, and were found more effective in school zones than general speed cameras. He states that some cameras have been vandalized but not necessarily related to privacy concerns. NYC uses many cameras throughout the city for many purposes.

Councilor Sargent asks why cameras are in use when school is not in session, as stated in the Home Rule Petition. He states that last time this petition was passed, in 2019, he got questions about this topic. Councilor Morsillo states that these cameras are used in Maryland, and they found that consistency in school zones was very important, even when school is not in session. Schools attract kids, even when school isn't open, because of the open spaces, the playgrounds, extracurricular activities. Some school activities happen 7 days per week and run very late at night. It would be extremely difficult to have daily programmable cameras synched to afterschool activities.

Lt. Tucker explains the different types of school zones. One is during drop-off and pickup hours, one is consistent at all times, and one is while children are present. The City has all different types of zones, which means the camera would need to be programmable to check for one speed during school hours and another after hours.

Councilor McCarthy asks if we can earmark profits to school safety programs. We can use cameras as a deterrent to slow down, and any money from tickets can go to school related safety programs. The City isn't trying to make money off this program, but rather to slow speeds in school zones.

Councilor Prosniowski asks if there will be signs to warn about the cameras? Yes, there is language included about posting signs in the camera zones.

Lt. Tucker explains that his research has shown there are three different ways to run this program: Salem can buy the cameras and run it in-house through the PD; the City can buy the cameras, but the tickets can be processed by another company, and revenue is shared; or there can be no cost and the cameras and work can be done by another company in which case the City would receive 60% of revenue and the company would receive 40% of the revenue.

Ms Rennard explains that the Home Rule Petition describes a process whereby nonpayment of 5 speeding tickets via video camera would result in information being sent to the Registry, and the car owner would not be able to register their car unless the fines are paid.

Lt. Tucker lists stats from a traffic study in front of Bates School in 2019: in one week in June 2019, between 7AM and 8AM, the number of cars traveling at 30 MPH or higher (in a 20 MPH school zone) was 1021 cars. Between 1PM and 2PM, 1289 cars traveled at speeds over 30 MPH. The average was 33 MPH in a 20 MPH zone.

Councilor Sargent asks if there is an appeal process. The Home Rule Petition includes a detailed appeal process. He asks if any money goes to the State. It does not. Also, will there be signs warning of the video enforcement? The HRP states that signs will go up 30 days before enforcement, and the City will announce the program.

Councilor Dominguez asks who is responsible if the owner is not the driver. Chief Miller explains that this is not ground for appeal. The owner is responsible. Councilor Prosniowski explains that the owner is responsible for the use of the car. The photos are timestamped as well.

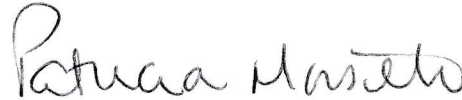
Councilor Sargent moves to change Section 5 to state "No speed limit violation shall be issued unless the vehicle exceeds the speed limit by at least ten miles per hour", instead of five miles per hour. Seconded by Councilor Dominguez. Motion passes 5-0.

Councilor Dominguez moves to Create a revolving fund for the purpose of implementing traffic and safety enhancements and driver safety education. Seconded by Councilor Hapworth. Motion passes 5-0.

The committee agrees that we need more information on the different ways of managing the program, either in-house, through a third party, or in combination. This directly affects Section 7. Chief Miller explains that the degree to which we would like to be involved in the running of a program like this involved the salary of an officer plus a civilian, and would use up the revenue.

Councilor Prosniowski moves to keep this in committee to get more information pertinent to Section 7. Seconded by Councilor Dominguez. Motion carries 5-0.

On the motion of C. Sargent the meeting adjourned at 8:40 P.M.

A handwritten signature in cursive script, reading "Patricia Masto", is written above a horizontal line.

(Chairperson)