



BURLINGTON CITY COUNCIL ORDINANCE COMMITTEE

11/12/2015

City Council Ordinance Committee

Wednesday, November 12, 2015

Fletcher Free Community Room—5:00 p.m.

MINUTES

Attendance

Committee: Councilors Max Tracy (MT), Sharon Bushor (SB), & Chip Mason (CM) (chair).

Other City personnel: Gregg Meyer (GM) (Asst. City Attorney)

Committee Staff: Sr. Asst. City Attorney Gene Bergman (GB)

Public: Nicholas Schieldrop, John Bossange (JB), Councilor Adam Roof (AR), Chris Rice (chris@mmrvt.com), Sally Matson (BHS), Rachel Watson (BHS), Jill Nye (BHS), Owen Amsden (BHS), Michael Branch (BHS), Libby Branch (BHS), Rachel Horton (BHS), Hamdi Jabar (BHS), Hawa Adam (BHS)

CM convened the meeting at 5:07 pm

1. **Agenda:** SB moved to approve the agenda, MT 2d, and the agenda passed unanimously.
1. **Minutes of 10/21/15:** SB moved the adoption of the minutes, MT seconded, and the 10/21/15 minutes were adopted unanimously.
1. **Public Forum:** Rachel Watson, is here on behalf of START—a student club at BHS, to talk about the smoking prohibitions at the parks. She said smoke has always been a problem for her; she has asthma. She cited statistics regarding smoking related illnesses and the personal cost of smoking. She said smoking in the parks means she can't participate in activities in the parks. Owen Amsden, also of the Club, spoke about the problem with second hand smoke and the need to stop it. Michael Branch, also of START, spoke of the problems with second hand too, calling for designated smoking areas away from the parks; Libby Branch, also of BHS, said while smoking is a personal choice she should not have to compromise her own health by breathing the other person's second hand smoke. Sally Matson, student rep to the Parks, Recreation, & Waterfront Commission, supports the ban in the parks, saying allowing people to smoke in the parks excludes others from the park; Jill Nye-McKeown, a parent and prevention coordinator at BHS, said her first experience with second hand smoke in the parks was when she coached



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P&R soccer. It was not good for the kids playing around it. She said smoking in the parks was not fair to others who are also using the park and that smokers pose a health risk to those who don't smoke. She said the Church St. ban is working well. She also noted the costs related to discarded cigarette butts and said a ban would send a message to youth about the risk involved in smoking.

1. Ordinance Discussion

i. Health- Smoking prohibitions at city parks, sec. 17-8A

GB noted the technical changes to the definitions that are needed to clarify what is being banned.

Action: SB moved to approve the amended ordinance and refer it back to CC for second reading and adoption with a recommendation to adopt. MT 2d. MT recalled that the Church St. ban led to side street issues and asked if the committee can address this problem. CM noted that this was not discussed. John Bossange (JB) noted this will be an issue for the commission to discuss, especially as it relates to around park entrances. SB said it would be possible to better define a no smoking zone around sidewalks adjacent to parks if there is a park entrance gate but not if there is no gate; she's not sure how to prevent the congregating of smokers. CM noted dealing with this problem should be one for the Parks' commission and administration. JB agreed but said the commission couldn't do that yet and said they'd want to study how to do it for each park. SB noted that signage and education need to be left to the department to figure out. Councilor Roof added that education and cultural change, not enforcement, are the focus of this ordinance. CM noted the NYC experience where education is part of the Departmental website. SB said she was contacted by other councilors who are not as supportive, and although they are not present at the committee meeting, they may express their opinion when it goes to the full council. She also noted that she is trying to strike a balance between smokers and non-smokers and how everyone can utilize our open spaces and still be safe. Hawa Adams, another BHS students, said she is concerned for her nephew, a young soccer player, when she sees smokers in the parks. Our responsibility as a community is to keep people safe and health comes before the need of smokers. **The committee unanimously approved the motion.**

1. Vehicles for hire, chapter 30 (taxi ordinance rewrite)

GM said that the City Attorney's Office (CA's) made a revised, marked up draft based on the committee's last meeting. Chris Rice (CR) said Uber had accepted all of the CA's changes and added others. CM asked that a Uber rep be present at the next meeting and CR said Uber would try to accommodate.

CM asked for public comments. Bill Keogh (BK) said the CA's draft is well done and it will work well. The taxi board will weigh in on the specifics. CM asked BK to do that in front of the committee (OC) and BK said they would. SB asked BK if the airport commissioners wanted a representative on a newly created board. BK said one would be happy to serve temporarily but he did not think they would want to be on 2 boards. Nick Schieldrop said the airport and city should be separate and that it was a mistake to join them.



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CM said the OC would only be looking at the CA's rewrite and not Uber's tonight. SB suggested going page by page for non-substantive items. CM said that on page 2-3, in the definition of TNC driver, the last sentence is out of place and should not be in the definitions. MT said he'd remove it. MT had no problem with the first sentence of that definition. CM, on page 4, suggested staggering terms. On 30-4(b)(2), CM asked what impoundment would mean and the absence of spelling it out exposes the city to liability. On page 5, CM asked how to do a background check on a business; he wants a background check for a business license and noted the stripping out of the details causes him concerns. CR suggested holding that question as the OC goes through 30-8 and 30-9. CM said his issue is not changed by the draft of those sections. GM said he understands CM's issue. SB said she supports CM.

CM said that one of the requirements in 30-7(c) doesn't read well. GM said he'd make it clearer. On page 7, CM noted that there have been a lot of changes and suggested looking at what Uber proposed. CM said it would be helpful to know what Uber will do if Burlington requires regulatory checks. How are we protecting the public, is the question being posed. CR said CM's question is a good one. It is not easy to track, yet Uber doing a representative sample will show they've done a good job background checking. CM said he's heard of people falling through the cracks and have not been checked. CR said it would be good to hear from Uber reps directly. SB said she supports companies having the option to do their own background checks but if the companies have a constant revolving door of employees, she questioned how the city will know that checks have been done and done continuously on new people. SB's question is related to the audit of people on an ongoing basis. GM said the law as proposed imposes an obligation for a driver to go through a background check and pass it. SB suggested stating a percentage in the ordinance. MT said the existing system is working and he doesn't understand why Uber, with profits in the billions, can't do it. He won't support an ordinance that supports this proposed change.

CM moved to 30-10(a)(2). He wondered how the little operators would do a check and wondered why Uber doesn't support a certification which guarantees that a background check was done. SB said she thinks an annual check should be required. CM questioned how the city would know that the company did what it says it did. GM said that he's taken Uber's representation as being true. SB said, if there is no way to match something up with a person, that'd be a problem. GM said there are identifier numbers for drivers; SB said those numbers need to stay with the city.

CM moved to 30-20. He asked how the city would know who was checked. CM said it is one thing to allow a licensee to do the background check and another to assure that the city knows what checks have been done. AR said that they are dealing with a flawed process; he suggested coming up with a sample whereby Uber gives a randomized sample from a group of drivers who were driving over a particular period of time. CM asked for Uber to provide a list and GM said the number of drivers is a proprietary info. CM said without that number the random list is useless. CR said he suggested the city pick a sample from an entire list. CM said that is different than the proposal.

MT said that he thinks the normal background system is what he wants. He said he had to leave to go to his NPA and excused himself at 6:35 p.m. SB said that in the absence of knowing the actual number of drivers in the city she wants a large number to sample; if Uber is willing to show the list to the city from which to sample the background check that is a different thing. CM asked for confirmation from Uber. 30-10(a) had provided it and it is stricken out now. GM noted why and CM said he is rethinking his position from a public safety perspective.





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On 30-12, CM said the obligation to disclose should be in writing. CM, on (c), asked what is meant. GM said it was to disqualify a driver from driving. On inspections, GM clarified the requirement. On 30-20(a), CM noted it is missing the background check and GM said he'd look at that. On (c)(1), GM said the deletions were made to make it less burdensome to small companies.

CM raised the issue of surge pricing. He said that a parent had called him to complain about a charge on Halloween that was over \$60 because of a change in plans; the destinations were only several miles apart. CR said that Uber sent an email to users warning them of surge pricing, that users can request an estimated fare, and that users can also know the surge multiplier before the fare is booked. SB said that the point of CM's story was that a teen was left out on the street. She said she's taken a lot of cabs to the airport and she doesn't think anyone of them would have left her stranded. CM and SB wondered what happens when there is a change in plans and a new ride is needed.

1. **Other business. The next meeting was tentatively set for either Dec. 15-17 at 5:30 pm hopefully in CR 12.**

Adjournment: CM adjourned the meeting at 6:58 pm.