



Burlington City Council Ordinance Committee

1/28/2016

City Council Ordinance Committee

Thursday, January 28, 2016

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: Zach Hughes, Chris Rice, Brian Sloan

CM convened the meeting at 5:07 pm

1. **Agenda:** MT moved to approve the agenda, SB 2d, and the agenda passed unanimously.
1. **Minutes of 11/12/15:** SB moved the adoption of the minutes, MT seconded, and the 11/12/15 minutes were adopted unanimously.
1. **Public Forum: no one spoke.**
1. **Ordinance Discussion**
 - i. **Vehicles for hire, chapter 30 (taxi ordinance rewrite) (file has a copy of the existing ordinance, the current draft revised ordinance, a redlined copy comparing the existing and current revised ordinance, and a copy of a draft MOU with Uber regarding future auditing procedures)**

CM said that for all present, the documents listed above can be found on board docs. CM asked GM to state the status of the ordinance. GM noted that Zach Hughes and Chris Rice are Uber representatives and Brian Sloan is a Zab Cab



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representative. GM said there have been additional revisions proposed since the last meeting to reflect the goals of the public process that was gone through previously. He said that the feeling is that it is improper to set forth a procedure in ordinance for just one company and it is written so any cab company can afford itself of the ordinance and then the administration can negotiate a MOU to deal specifically for companies, like Uber.

CM asked if there were questions from the committee. SB said she has a lot of questions regarding consistency within the ordinance and within the MOU and wondered how the committee was going to deal with questions. CM said if the inconsistencies are of a technical nature we might deal with it tonight.

CM asked Brian from Zab Cab to describe it. Brian said his App connects licensed cabs with riders, like an electronic dispatch service. There is no relationship regarding payment between Zab and the rider and no driver employees. They are affiliated with several cab companies. It is based on immediate pickups. The fare is not displayed or estimated but a rider can track the location of the cab in real time. The cab company can tell users that they can call or use the App.

CM first asked SB to go into her questions on the ordinance and then address the MOU as time permits but then asked her to address her questions with Uber. Zach said he's excited to be here. SB said she is supportive of trying to make Uber a part of the operations in Burlington. She still has issues.

In the MOU, page 1, 1A, SB questioned the sampling of drivers semi-annually when the ordinance doesn't so limit it and she questions if checking 25 drivers is sufficient. Why the restrictions?

GM said that § 30-20 currently says the audit would be "at least 2x /yr." The committee had previously said the proposal was inadequate. The MOU reflects that Uber was only willing to have 50 drivers per year and there are communities Burlington's size that require fewer audits. The administration was satisfied with that. SB asked why the ordinance's language was not ok, the "no more" language. SB said she wants to make a level playing field and it is about safety. CM noted that the ordinance can be changed too; SB agreed; CM felt that § 30-20 (a) could be changed to just 2/year. MT asked why all drivers can't be audited, especially if only the city will see the drivers. Zach said it was proprietary info as to the number of drivers on the road, that 25 or 50 is sufficient, and it is comparable to similarly sized community. MT asked how we would know if 25 is adequate if the total number isn't known.

GM was asked and answered how the audit works. He said you pick 25 from a list of those drivers who worked in the last period of time. Records would be kept. CM asked for an explanation of the proprietary info aspect. Zach said they have competitors who might want to get that number. SB said the list should be of drivers over the last 6 months instead of the last month; that would make it reflective of who drove. CM said we want to know who is on the road now and the larger group would mean that you're getting people who are not on the road. SB said we want the sampling pool to be right, 1 month is too narrow and 6 months might be too broad. GM said going beyond the month could get people who aren't driving. We presume the company has an interest in having safe drivers. SB is still concerned that 1 month is too narrow since we are trying to verify that the companies are complying with the ordinance. CM asked Uber what its position would be if there were a change to 3 months, and Zach said he'd have to check with legal before he committed.



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MT asked what causes Uber to reject someone. Zach said they look at a number of things but they need to look at the specifics for each person. Crimes against a person would keep a driver off Uber's list. GM said the ordinance lays out items on page 24 that we'd be disqualifying a person from driving for. CM asked if the check is tailored to Burlington and Zach said it was generally. GM said the standards in the proposed ordinance are what we do now. SB asked about section B1 in the MOU to see if it is consistent with the current city practice and GM said it was.

Zach said the most important thing for Uber is the safety of the riders and drivers. This is also based on the information shared on the App/platform.

SB asked what was included in the MOU and what wasn't. Why wasn't the passenger bill of rights referenced in the MOU. GM said the MOU is to set the terms with the company and the ordinance sets the rules for all vehicle for hire, including Uber.

SB said she'd wants to know who the background checking company is and thinks the company name should be kept on file. Is that in place? GM said § 30-10(b) requires a baseline for the companies that are used.

SB said besides these questions that the MOU is ok.

CM asked what commitments Uber is making to accessibility and those who don't have technical connections. Zach said the experience in Boston is that the service is more accessible and cost effective than other forms of transportation. Their website, Uber.com, allows access. Uber's worked hard to make the software accessible to those who have visual or auditory disabilities, including hard of hearing drivers.

On wheel chair accessible vehicles, Uber is open to partnering with the city. They are doing that in Boston. CM said the community with disabilities is one that heavily uses taxis.

SB, getting the floor to ask questions on the ordinance from CM, pointed to § 30-2 (applicability) and asked what the first sentence means. GM said the language comes from the original ordinance and means that if you act like a licensed driver you can't use the lack of a license as a defense.

SB asked, in § 30-4(b)(1), who determines when a vehicle is acceptable again? GM recalled that before Uber came there were issues with the existing regulatory system. SB said it isn't clear what the process is? GM said he'd look at it.





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SB asked, in the application, § 30-7(c), about the registered agent. GM and CM explained.

SB asked if the whole ordinance applies to Uber and CM said yes. SB, for § 30-13, driver identification, asked if it is adequate without the photo in the car. GM said he thought so. The possibility for an impersonator is virtually zero. The App says who you are, where you are going, license plate, make and model of vehicle, first name of the driver, shows the car coming, picture of the driver and other things. This applies to not just Uber. CM asked GM to tighten the language to accomplish what we are trying to accomplish.

SB asked why a person who impersonates another is only barred for 5 years. GM said he'd look at it. SB and MT say it should be forever.

SB asked, on § 30-18, insurance, if the city is liable if there is a lapse in insurance. GM said no. CM asked about the TNC licensee reference; GM said it is the company and it reflects a spectrum of coverage.

SB asked, on § 30-18(d), what the bodily insurance coverage is. GM said there is a higher level for the TNC, \$1m. On records, § 30-19(a)(3), SB asked if it was realistic. GM said we want the company to hold on to information for 2 years. SB asked if it is talking about maintaining the records and not the car and GM said yes.

MT asked how long Uber keeps the GPS records. Zach said it was a significant period of time although he doesn't know the exact amount of time. GM said there was an incident where Uber was asked for the information by BPD and the company was helpful.

SB, on § 30-20, reporting and audits, asked for it to be modified as discussed before. GM said ok and said he'd add a sentence allowing the council to approve MOUs. MT asked what limits are to the information that would be shared. GM said the companies are very protective of what they feel is proprietary information. In conversations with the companies, we could get into data sharing agreements. This is important for planning purposes. It'd go through the council.

SB, on § 30-22(b), for non-TNCs, asked if quotes over the phone should be disclosed. CM, on surge pricing, asked how § 30-22 works. Zach said it would be disclosed before and as people are requesting rides. The app asks for confirmation. He said surprise is not a good thing and full disclosure is a good business model. MT asked if there is a minimum fare that is displayed. Zach said the minimum would be displayed plus the surge multiplier. CM asked how it works if the rider can tell the driver where to go. Zach said the initial estimate wouldn't apply. If you change your mind and go elsewhere, then only the company would know the ride rate (minute/miles).

SB asked if there is an inaccurate meter, is there a fine? GM said there's a general obligation to follow the rules and a procedure for when the rules are not followed.



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SB asked how dynamic pricing is validated? CM said it can happen whenever the company wants. GM said that when a need for more drivers exists there needs to be an incentive to bring drivers out on the road. SB said her concern is that only the more affluent will be able to access a cab. She asked what the cap is? She doesn't want people who don't have the means to not be able to access this vital transportation.

Zach said Uber wants to make itself affordable and give people more affordable options. Uber doesn't have driver schedules and the dynamic pricing is to encourage people to come out to drive. He thinks Uber is close or lower than current pricing.

Chris said that the other part of dynamic pricing is to suppress demand when there are other options. SB asked if there was dynamic pricing before Uber came to time. GM said no but sometimes people were getting overcharged.

SB asked, on § 30-34, suspension and revocation, why the provisions aren't the same. GM said there are some times when the licensee and driver are one and the same. He said, however, that he'd look at it. MT said that one time is enough, not two. CM said he's fine with that.

CM said, on § 30-31(a), that the language is overly broad, referring to "law performing duties."

CM asked about next steps. There is a meeting on the second of February, at 5:15 p.m. and he'd like to add this to the agenda with the intent of moving it along.

1. **Other business. The committee decided that next meeting, set for Feb. 2 at 5:15 p.m., would be to discuss the taxi ordinance and the following zoning amendments proposed by the Planning Commission: CDO ## 16-01, thresholds for major impact review, 16-02, mobile home parks, and 16-03 App A-Use Table-grocery in enterprise-light manufacturing.**

Adjournment: CM adjourned the meeting at 7:01 pm.

