

Memorandum

To: Cambridge Public Safety Committee Chair Craig Kelley;
City Clerk Donna Lopez

From: Kim Courtney and Xavier Dietrich

Date: June 30, 2015

Re: Public Safety Committee Meeting June 30, 2015 Re: License Commission

This Memorandum is for submission regarding the June 30, 2015 Meeting of the Public Safety Committee of the Cambridge City Council. Attached is email correspondence from the Chair of the Public Safety Committee, City Councillor Craig Kelley, explaining the purpose of the meeting.

It appears from the attached that the purpose of the June 30, 2015 meeting is to discuss: 1) how the License Commission works; 2) permitting; and 3) the shared economy. We would like to thank Councillor Craig Kelley for bringing forward these important topics, and we hope that this will be only the beginning of a series of productive discussions to improve the functionality of the License Commission.

We have done extensive research on how the License Commission functions. We have also attended 39 hearings since March of 2014 (more than Executive Director Elizabeth Lint, Police Commissioner Robert Haas and Fire Chief Gerald Reardon), and have read the transcripts of most of the hearings since 2009. We are founding Members of the Food Business Association, based in Cambridge, with a Membership of over 400 local food businesses. We have quite a bit of knowledge about how the License Commission is currently functioning, what the issues are that are negatively impacting local businesses and residents, and how the system could function better. We are happy to assist the City Council in these matters.

There appears to be an ambitious agenda for this two hour meeting. The first topic, how the License Commission "works", deserves a series of meetings alone in order for the Council to adequately understand the Commission's operations. We will address this topic below with questions and concerns that we hope will initiate a series of discussions regarding a number of issues.

In regards to the second topic, "permitting" and possible improvement of the "coordination between the Commission and Inspectional Services", there is already a system in place where certain applications before the Commission require additional approvals from various departments, including Inspectional Services and the Fire Department. For example, in order to open a restaurant, in addition to License Commission approval you need approvals from the Zoning, Building, Health and Fire Departments. The problem that exists, however, is that the License Commission regularly interferes with or ignores the approvals that are given by

other departments, by overriding or amending approvals that are not within its jurisdiction. Again, this is a topic that on its own deserves much attention.

The third topic, the shared economy, appears to be a zoning question that would not relate to the License Commission, and even if it did, it would be premature to discuss expanding the authority and responsibilities of that Commission when there are so many problems that would first need to be addressed.

Although we feel that extensive discussions are due on these topics, we would like to provide the Council with a list of questions and concerns in order to initiate a discussion at this hearing between the Council and License Commission staff.

Questions:

1. Does the License Commission have a list of the status of all liquor licenses in Cambridge, including, for example, whether the license is "for-value" or "transferrable", and the hours of operation?
2. Does the License Commission write the conditions that apply to each liquor license on the license itself?
3. What procedures are used for implementing new laws, regulations and policies?
4. What is the meaning of the statement at the bottom of all liquor licenses that says that they are not transferrable? This was noted on licenses that are transferrable, and have been transferred by the License Commission.
5. What is the appeal process for violations issued to taxi owners and drivers?
6. Does the License Commission perform yearly inspections of each establishment in Cambridge holding a liquor license, and if so, what are the criteria and are those inspections placed in each file?
7. How many liquor license violations by licensees were recorded in 2014, and of those, how many resulted in disciplinary actions?
8. How many applicants for liquor licenses were not issued a license in 2014?
9. What percentage of time does the Chief Inspector Andrea Boyer spend on liquor license matters, noise complaint matters, etc.
10. What would the License Commission recommend to ease the process of providing public records to the public, and how can electronic documents be made available?

11. If a member of the License Commission or its staff needs assistance with a technical aspect of one of the industries that the Commission covers, what process do they go through to obtain correct information?
12. Is it possible for the Commission to be more timely and consistent in providing official hearing Minutes to the public, so that applicants can adequately prepare for a second hearing, which is common?
13. Can the Commission provide the public with agendas for all meetings, rather than just for the "general" hearings?

Concerns:

1. It appears from their background, and from some of their own statements on record at hearings, that the Commissioners lack the qualifications to handle matters involving the restaurant industry.
2. It appears from actions taken and statements made by License Commission members and staff on record at hearings that they are not knowledgeable about Massachusetts liquor license laws.
3. The License Commission members and staff appear to regularly violate the Massachusetts Open Meeting Law in regards to notice, publication, agenda and meeting minutes requirements.
4. The License Commission has engaged in inappropriate and retaliatory actions towards members of the public who audio/video record public meetings.
5. Liquor license regulations that the License Commission applies are outdated, and contain unreasonable requirements.
6. The License Commission regularly changes its policies without public process, without City Council approval, and without notice to license holders. This arbitrary application of policies is harmful to licensees and the public.
7. The License Commission has an outdated approach to the restaurant industry, which is harmful to applicants and licensees.
8. The Commission appears to create a number of exceptions to state liquor license laws for particular applicants and licensees, which are not available to others.
9. There have been numerous complaints from the public that the room where License Commission hearings are currently held has problems with acoustics. An audio/visual system which provides amplification and

recording possibilities for these hearings would resolve this problem. It is not fair to the public to hold public meetings in a room where the discussion can not be heard from the seating area.

We would like to ask the City Council to submit these questions and concerns to the License Commission for written responses.

Sincerely,

Kim Courtney
Xavier Dietrich

Subject: RE: Tomorrows Public Safety Committee Meeting
From: Kelley, Craig (ckelley@cambridgema.gov)
To: kim@kimcourtneylaw.com;
Date: Monday, June 29, 2015 7:45 PM

This is what I sent to my list. I do not know who from the City will be there.

Craig

FYI, folks:

I am having a meeting of the Public Safety Committee to discuss the License Commission. I am hoping for an overview of how the Commission works, what its responsibilities and jurisdictional limits are (for example, they enforce both the leaf blower ordinance and food storage rules- that seems like a challengingly broad range to me), and a discussion of how coordination between the Commission and Inspectional Services might be improved to give people a smoother experience in trying to figure out how to open a candy store or an ice cream shop, for example.

I would also like to explore how the License Commission can help lead the City' discussion around what people call the "shared" or "disruptive" economy. While various committees have had meetings to talk about Uber-like services, the shared economy is much great than that and is morphing regularly. Should we license AirB&B or VRBO apartment rentals and if so, how? Would Relay Rides or Zipcar be things we want to license (I think that may have come up during the recent Ordinance Committee meeting on car share services). Can we think about ways that allow people to use a roomzilla-type reservation program to allow them to share expensive home-based specialty equipment like table saws or (in my case) bike stands and so forth. If I could rent out my tools and work space in my garage, it might make sense for me to keep it organized enough so that locals could come by and do their own tuneups. Same thing for using a neighbors wood shop- you could simply sign up on-line for a couple of hours and the rental fee could pay for the extra insurance, wear and tear and so forth. But the guy who wants to do that for small engine repair or auto maintenance presents a different set of impacts so how might one design a regulatory program that takes advantage of the ability to share tools in an effective manner but does not give every property the possibility of becoming a small industrial zone? We may never get there, or course, but I think it's worth talking about and thinking about how the City might want to develop robust systems for dealing with such emerging regulatory issues.

There will be public comment at the start of the meeting but the meeting will not be a discussion between the public and City staff. Emails may be sent to the City Clerk at DLopez@Cambridgema.gov if you'd like to comment that way.

You can visit the License Commission online at: <http://www.cambridgema.gov/license>

Thanks a lot.

Craig

-----Original Message-----

From: Kim Courtney [mailto:kim@kimcourtnelaw.com]

Sent: Monday, June 29, 2015 6:21 PM

To: Kelley, Craig

Cc: Dietrich Xavier

Subject: Tomorrows Public Safety Committee Meeting

Hi Craig

I was checking online in the calendar and I don't see an agenda for tomorrow's meeting. Do you have one you can send me?

Also can you tell me who will be attending from the license commission?

Thank you

Kim Courtney