

City of Cambridge

November 19, 2015

TO: THE HONORABLE, THE CITY COUNCIL
FROM: DONNA P. LOPEZ, CITY CLERK 
SUBJECT: RESPONSE TO THE OPEN MEETING LAW COMPLAINT DATED OCTOBER 28, 2015

Attached you will find the response to the Open Meeting Law Complaint filed by Kim Courtney and Xavier Dietrich dated October 28, 2015 which has been placed on the City Council Agenda for November 23, 2015 under Communications and Reports from City Officers.

Upon the City Council's review and approval I will transmit this response to the Attorney General.

Thank you for your cooperation in this matter.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

(617) 349-4260

FAX: (617) 349-4269

DONNA P. LOPEZ
CITY CLERK

PAULA M. CRANE
DEPUTY CITY CLERK

November 25, 2015

Amy Nable, Assistant Attorney General
Director, Division of Open Government
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

***Re: Action taken by Cambridge City Council on Open Meeting Law complaint
of Kim Courtney and Xavier Dietrich dated October 28, 2015***

Dear Ms. Nable:

On behalf of the Cambridge City Council and City Clerk (collectively, the "City"), I am writing to advise you pursuant to 940 CMR 29.05(5) of the action taken by the City on the Open Meeting Law complaint of Kim Courtney and Xavier Dietrich. A copy of the complaint dated October 28, 2015 (the "Complaint") is attached as Exhibit A. You granted the City Council an extension of time to respond to the Complaint to November 25, 2015. Ms. Courtney and Mr. Dietrich allege that the City Council and City Clerk violated the Open Meeting Law because the minutes of the City Council's August 10, 2015 meeting are inaccurate inasmuch as they (1) "fail to include critically relevant statements made and actions taken by the public and members of the Council at the meeting" and (2) "falsely state that a majority voice vote was taken on a motion for recess." The City maintains that the minutes comply with the Open Meeting Law, and denies the minutes violate the Open Meeting Law.

FACTS

The Cambridge City Council met on August 10, 2015. The meeting began with a public comment period. During that public comment period, the complainants Kim

Courtney and Xavier Dietrich both spoke. Synopses of their verbal comments appear in the minutes of the August 10, 2015 meeting.

Courtney and Dietrich's verbal comments, in addition to commenting on several items before the City Council that evening, called for the replacement of the Chair of the Cambridge License Commission. Courtney stated that "[i]t is time to replace Chair Andrea Jackson with someone who is competent and qualified for that position." Dietrich went further, calling the City "to replace the Chair of the Cambridge License Commission Andrea Jackson with someone who is competent, ethical, and has a basic understanding of the licensing regulation to fairly enforce the law." Both during and after Courtney's verbal comments, Councilor Timothy Toomey called for a Point of Order pursuant to Robert's Rules of Order, Chapter VIII, §23, which provides that "when a member thinks that the rules of the assembly are being violated, he can make a *Point of Order*..." (emphasis in original) and noted that the City Council's rules prohibit personal attacks. See Rules of the City Council, Rule 37.6 ("all persons shall confine their remarks to the question under debate and avoid personalities"). Subsequently, during Dietrich's verbal comments, Councilor Denise Simmons moved for a recess; hearing no objection, Mayor David Maher then declared the Council in recess, and the microphone at the public podium was turned off. Following the recess, public comment continued. Like every other speaker during public comment, Courtney and Dietrich were invited to submit their written comments after speaking. Both Courtney and Dietrich did so, and their written comments were added as items 24 and 25 on the Communications portion of the agenda, with a link to their full written comments. A copy of that portion of the agenda is attached hereto as Exhibit B.

DISCUSSION

1. There was no Open Meeting Law violation.

a. The minutes correctly reflect that Councilor Simmons's motion for recess carried.

Ms. Courtney and Mr. Dietrich allege that the minutes falsely state that Councilor Simmons's motion for a recess carried "on a voice vote," stating that no such vote occurred, and that the Council failed to follow its rules and Robert's Rules of Order in voting on the motion. The minutes accurately reflect that Councilor Simmons made a motion for recess, which carried. The City Clerk, upon further review of the minutes, has determined that it would be most precise to revise that portion of the minutes from "on a voice vote the motion – carried" to "hearing no objections, the motion – carried" and will make that revision. However, the remaining allegations regarding whether the procedure followed complied with the City Council's Rules and/or Robert's Rules of Order are immaterial to the question of whether the minutes comply with the Open Meeting Law. Even if the Council were found to have violated its own rules or Robert's Rules of Order (which the City denies), those violations would not constitute violations of the Open Meeting Law as they are beyond the scope of the Law.

b. The minutes of the City Council's August 10, 2015 meeting comply with the Open Meeting Law.

The alleged violations in sections B-G of the complaint are variations on the same theme: they all pertain to an alleged insufficiency in the level of detail contained in the minutes. However, none of them rise to the level of an Open Meeting Law violation. The Open Meeting Law requires that “[a] public body shall create and maintain accurate minutes of all meetings...setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.” M.G.L. ch. 30A, §22(a). It does not, however, require that the minutes be a verbatim transcript of the meeting or record every comment made during the meeting. Open Meeting Law Guide, p. 15 (“While the minutes must include a summary of the discussions on each subject, a transcript is not required.”) “While public bodies must identify in the minutes all documents and exhibits used at a meeting and must retain them in accordance with the Secretary of State’s records retention schedule, these documents and exhibits needn’t be attached to or physically stored with the minutes.” Open Meeting Law Guide, p. 15.

Here, the minutes of the August 10, 2015 meeting contain synopses of the statements made during the public comment period, and the meeting agenda’s Communications section includes the full text of all written comments submitted by the public at the meeting – including those from Ms. Courtney and Mr. Dietrich – thereby incorporating those comments into the public record of the meeting. Moreover, the City Clerk posted the full text of those written comments online, going beyond the Open Meeting Law’s requirement that the documents need merely be retained in accordance with the Secretary of State’s records retention schedule. That the minutes themselves do not recite Ms. Courtney’s and Mr. Dietrich’s comments to their preferred level of detail does not render the minutes inaccurate or legally deficient. Moreover, any insinuation that the City Clerk purposely failed to recount Courtney and Dietrich’s comments in the same level of detail as other comments is completely unsupported and is belied by the inclusion of the full text of Courtney and Dietrich’s comments in the public record of the meeting.

As to the statements made by Mayor Maher, Councilor Toomey, and Councilor Simmons at various points in Ms. Courtney and Mr. Dietrich’s public comments, those are all included in the minutes. The minutes note that “Councillor Toomey called for a Point of Order and stated that no personal attacks are allowed in the chamber”, that “Councillor Simmons moved for recess” and that the motion carried. There can therefore be no finding that the minutes are inaccurate with respect to those statements, even if Ms. Courtney and Mr. Dietrich would prefer that they be characterized differently or contain a different level of detail.

Nor is there an Open Meeting Law violation in the allegation that the minutes omit mentioning that after the City Council went into recess, the microphone at the podium where Mr. Dietrich was speaking was turned off. The minutes accurately reflect that the motion for recess carried, as well as what transpired when the meeting resumed. The minutes need not mention the status of the speaker’s microphone, or conversations that

occurred while the City Council was in recess, in order to be accurate minutes that comply with the requirements of the Open Meeting Law.

2. The remedies requested by Ms. Courtney and Mr. Dietrich are inappropriate.

For the reasons described above, there is no violation of the Open Meeting Law in the conduct of the City Council's August 10, 2015 meeting or in the minutes of that meeting. Because the alleged violations are not, in fact, violations, the remedies requested by Ms. Courtney and Mr. Dietrich are inappropriate and excessive. Aside from the one minor revision described in section (1)(a) above pertaining to whether there was a voice vote on the motion for recess or simply a motion that carried, no revisions to the minutes are necessary, since the minutes fully comply with the Open Meeting Law. Absent a violation of the Open Meeting Law, there is no cause to convene a hearing. Fines are only authorized by the Open Meeting Law upon a finding that the alleged violations were intentional; in addition to the fact that no violation occurred, the complaint contains absolutely no facts upon which such a finding would be justified even if there were a violation.

As required by 940 CMR 29.05(5), the City Council and City Clerk reviewed the allegations of this Open Meeting Law complaint within the time extension allowed by the Division of Open Government. At its meeting of November 23, 2015, the City Council voted to adopt this letter as its response and resolution. Ms. Courtney and Mr. Dietrich are being informed of the City's action by copy of this letter.

Very truly yours,

Donna P. Lopez
City Clerk

cc: Kim Courtney
Xavier Dietrich



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Kim Last Name: Courtney

Address: Xavier
955 Massachusetts Ave #259

City: Cambridge State: MA Zip Code: 02139

Phone Number: 6177974112 Ext. _____

Email: kim@kimcourtneylaw.com

Organization or Media Affiliation (if any): _____

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): Cambridge City Clerk
Cambridge City Council

Specific person(s), if any, you allege committed the violation: City Clerk Donna Lopez

Date of alleged violation: October 2015

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

Please see attached letter dated October 28, 2015 from Kim Courtney and Xavier Dietrich.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

1) Require City Clerk Donna Lopez to revise the Minutes from the August 10, 2015 meeting to make them accurate, including reference to all documents submitted at the meeting; and
2) Convene a public hearing to determine whether these acts were intentional; and
3) Impose a fine of \$1,000 for each act outlined in the attached letter.

Review, sign, and submit your complaint

Read this important notice and sign your complaint.

Under most circumstances your complaint will be considered a public record and be available to any member of the public upon request.

I understand that when I submit this complaint the Attorney General's Office cannot give me legal advice and cannot act as my personal lawyer.

I certify that the information contained on this form is true to the best of my knowledge.

Signed: *Kim Courtney*
Xavier Dietrich

Date: 10/28/15
28-OCT-2015

For Use By Public Body
Date Received by Public Body:

For Use By AGO
Date Received by AGO:

Open Meeting Law Complaint

To: Attorney General's Office, Division of Open Government
From: Kim Courtney & Xavier Dietrich
Re: Inaccurate Minutes from August 10, 2015 City Council meeting
Date: October 28, 2015

The Minutes from the August 10, 2015 City Council meeting ("Minutes") are not accurate as required by M.G.L. c. 30A, § 22(a), as outlined in detail below, because they fail to include critically relevant statements made and actions taken by the public and members of the Council at the meeting. Those Minutes are also not accurate because they falsely state that a majority voice vote was taken on a motion for recess, which did not occur. These acts by City Clerk Donna Lopez are in violation of the Open Meeting Law, among other laws.

Attached is an excerpt from the Minutes (Exhibit A, includes pages 1-5), and verbatim written copies of the public comments made by Kim Courtney and Xavier Dietrich, which are in the public record as submitted to the City Clerk during the August 10, 2015 City Council meeting, (Exhibits B and C, respectively). Video of the public comments of Kim Courtney and Xavier Dietrich is available at bitly.com/AugustCityCouncil (Exhibit D, available online), and the official version of the entire meeting is available on the City Council website view.earthchannel.com/PlayerController.aspx?&PGD=cambridgema&elD=577 (Exhibit E, available online), or at www.CambridgeMA.gov/ccouncil. This official video of the meeting was live streamed by the City Council with sound difficulties, and then curiously archived with perfect sound but difficulties with the video.

A. Minutes falsely state that a voice vote was held on a motion for recess, and that the vote passed by a majority of five City Councillors.

The Minutes contain false statements by City Clerk Donna Lopez, who stated in the Minutes that Mayor David Maher conducted a voice vote for a recess based on Councillor Denise Simmons' motion, and that the motion for a recess passed by a majority vote. The Minutes state, "on a voice vote the motion - carried". No such vote occurred at the meeting.

What actually happened at the meeting, which is well documented by audio and visual recordings (Exhibits D, E), is that Councillor Simmons moved for a recess, and then Mayor Maher banged the gavel and stated, "We are in recess". The manipulation of these events in the official Minutes by Clerk Lopez appears to be intentional for the purpose of covering up Mayor Maher's wrongful actions. According to the Rules of the City Council, the

procedure for calling a recess follows that outlined in Roberts' Rules. See Rules of the City Council, Rule 36 (available at www.CambridgeMA.gov/ccouncil).

According to Robert's Rules, when a member of the Council makes a motion, that motion must then be 1) seconded by another member of the Council, 2) the Chair must then state the question for the motion to the members, 3) members are permitted to debate the question, 4) the Chair puts the question up for a vote, 5) the Chair announces the results of the vote, and 6) the Chair would then order the recess. See Robert's Rules, Ch. 2, sec.4, lines 10-23 & 25.

Mayor Maher failed to perform at least 5 of the above required steps for a majority voice vote on the motion for a recess. There is no question that a vote regarding a recess must be put up for a majority vote, which did not occur. Robert's Rules, Ch. 2, sec. 4, lines 31-34; Ch. 2, sec. 20, line 33. It is also clear that Mayor Maher's action to stop the meeting during Mr. Dietrich's comments, while he had the floor and was within his allotted time, was a likely violation of his First Amendment Right to free speech in that meeting. It appears that Clerk Lopez altered the Minutes - the official public record of the meeting - to cover up this illegal act.

B. Minutes do not accurately reflect the statements made by Kim Courtney.

In reference to the public comments made by Kim Courtney during the meeting, the Minutes state:

"Kim Courtney spoke from a written statement, in support of Communication #20, regarding enforcement of unlicensed taxis operating in Cambridge. She also spoke in opposition to Policy Orders 15, 18 and 24. Ms. Courtney argued that Uber and Lyft are not legal with the current state of the law. She spoke to what she considered to be a systemic malfunction in Cambridge City Government."

Ex. A (City Council Minutes, Aug. 10, 2015, p. 4)

A verbatim written version of Ms. Courtney's comments at the meeting are attached hereto as Ex. B. That document was submitted to the public record during the meeting by Ms. Courtney to the City Clerk, yet was not listed in the Minutes as required by M.G.L. c. 30A, § 22(a)). Clerk Donna Lopez had the opportunity to review that document in the creation of the Minutes.

Although these statements are generally accurate, they are missing significant portions of Ms. Courtney's public comment. First, the summary of her comments is considerably briefer than the summaries of other speakers

who spoke for a comparable amount of time - including less detail and excluding significant points. For example, on pages 2 and 3 of the Minutes, the summaries of comments made by Richard Stallman, Dave Slaney, Tibor Hangyal and Lee Farris are significantly longer and more detailed than Ms. Courtney's summary. Exhibit A, p. 2-3. Those speakers were provided the same amount of time to speak as Ms. Courtney, and their summaries appear to be almost verbatim, while Ms. Courtney's summary is only 3 sentences. *Id.* In contrast, Mr. Stallman's summary was 20 lines long, going into extreme detail that even includes quotations and website URLs. *Id.*

Next, the Minutes fail to include the following topics that were commented on by Kim Courtney:

- Communication #20 was submitted by 24 people, including herself
 - City Council has no authority to fail to enforce the law against illegal taxis
 - City Council has no authority to place a moratorium on taxi fees
 - Failures of duties of City Manager and License Commission by not enforcing laws
 - Another example of failures to enforce law is City's refusal to close a liquor store that the License Commission declared 6 months ago has an invalid liquor license
 - Called to replace Chair of the License Commission, Andrea Jackson, with someone who is competent and qualified
 - Called for a new City Manager
 - Called for the City Council to uphold the law against illegal taxis
- Exhibit B (Comments of Kim Courtney).

These comments were omitted from the Minutes. The Minutes also did not state that Ms. Courtney's comments were interrupted by Councillor Tim Toomey, while she had the floor and was within her time limit. The Open Meeting Law requires these Minutes to be "accurate". M.G.L. c. 30A, § 22(a), and they should be revised accordingly.

C. Minutes do not accurately reflect statements made by Councillor Tim Toomey, who interrupted Kim Courtney's comments.

In reference to statements made by Councillor Tim Toomey, interrupting Kim Courtney's comments during the meeting, the Minutes state:

"Councillor Toomey called for a Point of Order and stated that no personal attacks are allowed in the chamber."
Ex. A (City Council Minutes, Aug. 10, 2015, p. 5).

This is not an "accurate" summary of his comments, which is required by the Open Meeting Law, M.G.L. c. 30A, § 22(a). The actual statements made by Councillor Toomey are as follow:

"Point of Order. There are no personal attacks allowed in this chamber, and as an attorney she should know better."
Id.

First, the Minutes fail to state that Councillor Toomey "interrupted" Ms. Courtney's comments while she had the floor and before her allotted time had expired. In fact, Councillor Toomey's statements follow Ms. Courtney's in the Minutes, as if she finished speaking before he made his statements, which is not accurate. Next, the Minutes fail to state Councillor Toomey's additional statement "as an attorney she should know better". It appears that this statement was excluded from the Minutes by the City Clerk because it may be considered a defamatory personal attack upon Ms. Courtney, and she was attempting to protect Councillor Toomey from liability.

D. Minutes do not accurately reflect the public comments made by Xavier Dietrich.

In reference to the public comments made by Xavier Dietrich during the meeting, the Minutes state:

"Xavier Dietrich, spoke from a written statement, in support of the taxicab industry. Mr. Dietrich argued that the current ordinance (5.20) is clear and the City is failing to enforce the laws."
Id.

The actual comments made by Mr. Dietrich at the meeting are attached hereto as Exhibit C. These written comments are verbatim, and were submitted to the public record during the meeting by Mr. Dietrich to the City Clerk, although this document was not listed in the Minutes as required by M.G.L. c. 30A, § 22(a). Clerk Donna Lopez had the opportunity to review that document in the creation of the Minutes.

First, this summary of his comments is considerably briefer than the summaries of other speakers, including less detail and excluding significant points. See Exhibit A, p. 2-3. Next, the Minutes fail to include the following topics that were commented on by Xavier Dietrich:

- Comments were related to Policy Orders 15, 18 and 24
- Refusal of License Commission to enforce existing laws

- City Manager duty under Plan E Charter to ensure that the laws are enforced
 - Long history of License Commission failure to enforce laws, an example of which is the Cellar Wine & Spirits that has operated with an invalid liquor license since 2005, yet the Commission refuses to close them down as required by law.
 - Called for the replacement of the Chair of the License Commission, Andrea Jackson, with someone who is competent and ethical.
 - Called on City Council and City Manager to enforce the laws.
- Exhibit C (Comments of Xavier Dietrich).

These comments were omitted from the Minutes. The Minutes also did not state that Mr. Dietrich's comments were interrupted by Mayor David Maher and Councillor Denise Simmons, while he had the floor and was within his time limit. The Open Meeting Law requires these Minutes to be "accurate". M.G.L. c. 30A, § 22(a), and they should be revised accordingly.

E. Minutes omit statements made by Mayor David Maher, which interrupted Xavier Dietrich's comments.

During Xavier Dietrich's comments, Mayor David Maher interrupted Mr. Dietrich while he had the floor and was within his time limit, stating the following:

"Stick to the topics on the agenda please."
Exhibits D, E.

This statement has been omitted from the Minutes, rendering the Minutes inaccurate.

F. Minutes omit Councillor Simmons' interruption of Mr. Dietrich's comments

In reference to the statements made by Councillor Denise Simmons, the Minutes merely state:

"At this time Councillor Simmons moved for recess and on a voice vote the motion - carried." (emphasis added)
Exhibit A, p. 5.

The Minutes do not accurately reflect what transpired at the meeting. The Minutes indicate that Councillor Simmons' statements were made directly after Mr. Dietrich's public comment concluded, while in fact she interrupted Mr. Dietrich's comments while he had the floor and was well within his

allotted time period. This was a significant event at the meeting, and should have been included in the Minutes in order for them to be "accurate".

G. Minutes omit Sandra Albino's act of shutting off microphone while Mr. Dietrich was speaking.

The Minutes also omit reference to the fact that Mr. Dietrich's microphone was turned off by Lead Assistant to the City Council Sandra Albano, while he was speaking and well within his allotted time period. This act was a significant event at the meeting, and should have been included in the Minutes in order for them to be "accurate".

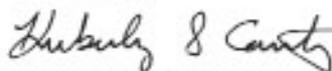
Conclusion

City Clerk Donna Lopez appears to have engaged in an intentional act of omitting from the official Minutes a significant portion of the statements made and actions taken by members of the public and the Council at the August 10, 2015 City Council meeting. Clerk Lopez also falsified the record by stating that a valid vote was taken for a recess, apparently in order to protect members of the Council from their wrongful acts at that meeting.

We ask the Attorney General's Office to provide the following remedies:

- 1) Require City Clerk Donna Lopez to revise the Minutes from the August 10, 2015 meeting to make them accurate, including reference to all documents submitted at the meeting; and
- 2) Convene a public hearing to determine whether these acts were intentional; and
- 3) Impose a fine of \$1,000 for each act outlined above.

Sincerely,



Kim Courtney
Xavier Dietrich



EXHIBIT A

D

MEETING Special City Council Meeting
Monday, August 10, 2015

TIME 5:37 PM

PRESIDING OFFICER Mayor David P. Maher

PRESENT Mayor Maher, Vice Mayor Benzan, Councillors
Carlone, Cheung, Kelley, Mazen, McGovern, Simmons
and Toomey

PRESENTATIONS

PLEDGE OF ALLEGIANCE

MOMENT OF MEDITATION Offered for Manny Martins, Kenneth N. "Boonie"
Moore, Anthony G. "Tony" Paolillo and Darleen
Bonislowski, former employees of the City of
Cambridge.

CALL OF THE MEETING Here insert the Call of the Meeting.

MAYOR ANNOUNCED THAT THE MEETING WAS BEING RECORDED WITH AUDIO
AND VISUAL DEVICES.

SUBMISSION OF THE RECORD

On motion of Councillor Carlone the submission of the minutes for the May 18, 2015, June 1,
2015 and the June 15, 2015 were accepted on a voice vote of five members.

PUBLIC COMMENT

Margaret Drury, 1 Dudley Court, spoke, as Vice Chair of the Cambridge Redevelopment
Authority, in favor of Applications and Petitions #9. Ms. Drury stated that the K2 Plan forms the
basis for the proposed amendments and that the CRA developed the KSURP with public
participation at more than fifteen meetings. She stated that the CRA followed K2
recommendations to build, "a truly mixed use" district.

Jessie English, 27 Corporal Burns Road, spoke on Applications and Petitions #5. She asked for
support for a curb cut application for her home. She is requesting a curb cut at this time because
of the ongoing sewer separation project. She has worked with the City to prepare her application.
She has significant neighborhood support appearing in a document in a previous communication.

Karen Meehan, Salvation Army, 402 Massachusetts Avenue spoke on Policy Order #16. She
stated that she has worked for the Salvation Army for eighteen years in the drug addiction and

emergency shelter. She has also been a Cambridge Resident for over sixty years. She spoke regarding the opiate addiction that is rampant throughout the Commonwealth, not only in Cambridge. She stated that we need education our children in the lower grades. When she reviews applications, she asks, "When was the first time you had a drink, the first time you smoked marijuana?" The response she hears is age 10, age 11. She made reference to a young man in the program from East Cambridge that has been sober for seven months. His mother and father had to use Narcan on him because he overdosed. Had they not used the Narcan, he would have been buried in Cambridge Cemetery. Ms. Meehan stated that there is a big problem and we cannot keep our eyes closed. It is our obligation as citizens of this city to educate the families and educate the city. She stated that she is not here, just to hold another meeting, but to see what it is we can do to address the issue.

Richard Stallman, 30 Third Street, spoke on Policy Order #15. Mr. Stallman spoke about services such as Uber and Lyft that, "threaten to replace existing systems of transport and attack our privacy rights." He is also concerned about Uber's effect on driver's wages. Because they pay their drivers peanuts, he calls them "Goober." He suggested that we not forget that these companies mistreat their users by making people identify themselves and making them run company controlled software, which he said you can never trust. Mr. Stallman stated that this software tends to have surveillance built in with malicious restrictions, and back doors built in. He referred to a list, found at: gnu.org/proprietary. Mr. Stallman stated that if you are wise, you will not run that software or accept a transport system that makes you say who you are. You will insist on something that lets you pay cash, as he always does – an ordinary taxi. Mr. Stallman stated that those who do not care about their rights, or are willing to give up their rights for a momentary convenience, they threaten to make the old system cease to be economically sustainable and one day they may be gone. He noted that when individuals try to influence a company, the company wins because they have the clout. That is why we need to organize and this is one of those systems, where we can collectively insist on rules. He asked the City Council to require such companies, Uber or Lyft, to provide their services without the need for special, company controlled software and anonymously pay cash for the ride. Mr. Stallman argued that if one city made them do this, it would solve the problem for the whole United States by its example. He urged the Council to, "please make Cambridge that example." He added the following URL: <http://www.gnu.org/philosophy/surveillance-vs-democracy.html>

Dave Slaney, 237 Norfolk Street, a member of the Living Wage Commission and has been since its inception in 2001 as well as a member of the Income Insecurity Commission, spoke on Committee Report #5. He stated his support for the proposed amendment to Committee Report #5, regarding linkage fees. He especially supports a provision in the proposal that would mandate the city to conduct a feasibility study, requiring developers covered by the linkage requirement to also abide by the provisions of the Living Wage Ordinance. Mr. Slaney stated that Cambridge has a very high cost of living, especially when it comes to housing. This particularly affects those who earn low wages. He stated that the living wage in Cambridge is currently a few cents short of fifteen dollars an hour. Very few private sector employees are covered by the Living Wage Ordinance, particularly food service, retail, custodial and security. He stated that one possible way to address this problem would be to require developers to pay the living wage to employees working on or in buildings covered by linkage. He is very happy that the city is going to undertake this study. He asked that the study be performed as expeditiously as possible and include public input.

Ilan Levy, 148 Spring Street, spoke in favor of resolution #67, Mike Brown Day. Mr. Levy spoke on Application and Petition #9 and Policy Order #25. He stated that there are several development projects in Kendall Square and there does not seem to be a constructive, united plan

or vision. He argued that a vision for the area should be developed prior to voting on these issues. He also mentioned that the process is difficult to follow from the citizen's perspective. He urged restraint. He supported Policy Order #25, but would like to see a discussion before voting.

Tibor Hangyal, 700 Memorial Drive, spoke on Policy Order #15. He stated that Uber and Lyft drivers should be subject to criminal background checks and should be required to carry commercial insurance. He argued that customer transportation is a taxi service, not a ride-share. Mr. Hangyal stated that he has spoken with beat cops who complain that their hands are tied. He stated that rates for taxis are fixed while drivers for Lyft and Uber operate using a rate that changes depending on demand. He believes that this will be a disservice to the elderly and handicapped. On the question of inspections, Mr. Hangyal stated that Cambridge taxis are inspected twice a year by the city and once by the state. He believes that pick-ups performed by out of state drivers is ridiculous. He stated that there are handicapped accessible cabs and asked that the Council adopt program 3702 which would require companies like Uber and Lyft to have a certain number of handicapped accessible vehicles. He argued that for many taxi drivers, the medallion is their retirement plan. Mr. Hangyal stated that the City of Cambridge auctioned off medallions at a set price – those prices should be protected.

Lee Farris, 269 Norfolk Street, spoke on City Manager's Agenda #19. Ms. Farris referred to a letter sent on August 6th, 2015 from the Cambridge Residents Alliance, revised slightly. Ms. Farris stated that she would like to see the linkage rate raised from \$12 to \$24. She noted that Boston is considering raising its linkage rate to \$14.50. She stated that the Cambridge Residents Alliance would like to see a NEXUS study conducted and completed every three years, which probably means starting it two years in so that the Council can decide on a correct rate. She agreed with the Planning Board recommendation to raise the fee \$1 per year until the Council can vote on a new rate. The Cambridge Residents Alliance would like to see a specific maximum percentage of affordable units dedicated to middle income households and that the majority of funds would go to low and moderate income housing. They would like to see up to 50% of new linkage funds go preserving expiring use and at least 50% going to creating new low and moderate income housing. Ms. Farris stated that they would like to see an annual report for the public. She stated that the Cambridge Residents Alliance would like to see developments requiring extensive renovations tied to linkage as well.

Carol O'Hare, 172 Magazine Street, spoke on Policy Order #12, regarding noise from flight paths. She applauded the City's efforts to contact the FAA, but urged the Council to expand their efforts to include all forms for intrusive aircraft noise. She stated that this noise is not from transportation, but from corporate advertising by companies like Geico, flying banner planes over both sides of the Charles River. Ms. O'Hare stated that noise from non-emergency, non-security helicopters as well as small sightseeing and pilot training aircraft has increased over residential areas. She noted that the policy should be broadened to encompass all forms of aircraft noise and not limit it to planes flying through Logan.

Patricia Medeiros, 97 Brookline Street, spoke on Policy Order #16. Ms. Medeiros thanked Vice Mayor Benzan and Councillor McGovern for submitting the order. She stated that this issue is personal to her as her daughter had a twenty year addiction to heroin and died because of the disease. She has a son who is heroin addicted and an addicted grandson. She hopes that the City will wake up and realize that we have a problem. She runs a group at the Salvation Army on Wednesdays from 7-9 for families and friends of loved ones struggling with addiction. She concluded by encouraging the Council to endorse the Narcan program.

Ted Live, 17 Wendell Street, spoke on Policy Order #2. Mr. Live believes that when it comes to street cleaning, the punishment is so disproportionate to the crime. He stated that people who

forget to move their cars on street cleaning days do so accidentally and the loss of time associated with recovering their car is excessive. He has lived in cities where towing does not occur for street cleaning and the streets are not demonstrably dirtier than Cambridge streets. He urged the Council to consider the policy order, perhaps through a pilot program.

James Williamson, 1000 Jackson Place, spoke on City Manager's Agenda #19. Mr. Williamson associated himself with the comments of Richard Stallman. Speaking to the linkage rate, he asked if anyone thought there was a risk of losing commercial development. He did not think so. Mr. Williamson argued that the city should try raising the linkage rate to \$20 to see what happens. Speaking to Communications and Reports from City Officers # 1, Mr. Williamson stated that it is not clear who is paying for the trip. He wanted to know where the \$750 for Vice Mayor Benzan is coming from. He also wants to know where the money for additional city staff is coming from. He argued that there is a crisis of pedestrian safety in the city and a lot is being done already for bike infrastructure.

Sue Butler, 14 Clinton Street, spoke on Policy Order #13 and City Manager's Agenda #20. Ms. Butler spoke on City Manager Agenda #17, following up on a policy order regarding the dangers of neonicotinoid pesticides. Quoting Einstein, she stated that bees are vital because plants and animals are dependent on them. Speaking on City Manager Agenda #20, Ms. Butler noted that the Council faces a difficult situation where the needs to be a balance staying in motion and dealing with the details. She mentioned one idea that did not make it into the letter from Susanne Rasmussen, requiring all new building to be built solar ready. She stated that regarding Policy Order #10, she referenced a paper that suggested that electronic monitors be placed near the front door lead to increased energy savings. She urged the council to facilitate these improvements. Ms. Butler spoke in support of Policy Order #13. She would like to see more bike corrals at CRLS. She spoke in support of STEAM and encouraged a focus on MBTA improvements when it comes to transportation.

Renee Gray, 84 Columbia Street, spoke on Policy Order #23. Ms. Gray began by reminding everyone that Community Pride Day in the Port is taking place on September 12th. She noted that they have been using the term "The Port" in flyers to promote the event. She stated that this is the third time that the subject of renaming Area 4 has come up. The question of renaming the neighborhood to The Port has come up several times. She is looking to the City to start updating documents to reflect the change in name. Ms. Gray stated that she has never driven. She does not own a driver's license, so Union Taxi is her "best friend." She would like the City to support cab drivers.

Dave Shirzay, 14 Starling Square, South Boston, spoke Policy Order #15. Mr. Shirzay stated that he has driven a taxi for ten years in Cambridge. He supports Bill 3702. He would like to see all Uber drivers have livery plates and background checks performed by the City, not Uber. He would also like to see their rate set like taxis or higher than taxis as well as a limit on the number of Uber cars allowed in Cambridge. Mr. Shirzay argued that the Uber rating system should go through the hackney office, not through the company. Mr. Shirzay stated that Uber drivers are behaving like taxis. He would like to see an even playing field for taxis and Uber. He mentioned that there is an app that they have developed.

Kim Courtney spoke from a written statement, in support of Communication #20, regarding enforcement of unlicensed taxis operating in Cambridge. She also spoke in opposition to Policy Orders 15, 18 and 24. Ms. Courtney argued that Uber and Lyft are not legal with the current state of the law. She spoke to what she considered to be a systemic malfunction in Cambridge City Government.

Councillor Toomey called for a Point of Order and stated that no personal attacks are allowed in the chamber.

Xavier Dietrich, spoke from a written statement, in support of the taxicab industry. Mr. Dietrich argued that the current ordinance (5.20) is clear and the City is failing to enforce the laws.

At this time Councillor Simmons moved for recess and on a voice vote the motion – carried.

Following the recess, Councillor Kelly reminded speakers to refrain from clapping.

Paula Phipps, 227 Hurley Street stated that she is impressed with the City Council's ideas. She spoke in favor of creating an office for the commissioner of the STEAM initiative. She thanked Vice Mayor Benzan and Councillor Mazen for their work on this issue. She also spoke in favor of Awaiting Reports Item 14-51, creating a program for bilingual high school students to learn language interpretation skills. Ms. Phipps also spoke in favor of renaming the Area IV Youth Center the "Dr. Robert and Janet Moses Youth Center" (Awaiting Reports 15-18). Ms. Phipps voiced her concern for the environment, the ecosystem that we are part of. She stated that there is an incredible need to think of environmental concerns when planning for the future. She spoke in favor of open space and mentioned a program that converts playgrounds into mini-ecosystems.

Eugene Dorvil spoke on behalf of the BTA, Boston Taxi Advisory Group, as a taxi driver for twenty years. He argued that what Cambridge is going through, Boston is going through. He referred to the recent financial crisis and the suffering it caused. Mr. Dorvil argued that the taxi industry is suffering today because of lack of leadership. He called for real leadership and thanked the Council for their consideration. Mr. Dorvil stated that taxi drivers come from all over the world, to America, the land of opportunity. He is proud to be a part of this tradition and proud to be an American citizen. He argued that the current problem with the taxi industry requires leadership from the city.

Gill Barwinder, 41 Malden Street, Everett, argued that the taxi industry is in trouble. He stated that for many years, taxi drivers have followed the tough regulations of the city and they love it because of public safety. Mr. Barwinder noted that the regulations already exist. If Uber and Lyft want to operate in the City of Cambridge, they should be expected to follow the same regulations. He stated that private cars should not operate as a taxi or limo, drivers should have background checks and be licensed. Otherwise, you cannot guarantee public safety. He urged the Councillors to endorse the adopt policy Order #15.

Chando Sufran urged the council to support the bill before the state legislature. He stated that he thinks that the taxi industry is in deep crisis and that one set of rules should be enforced for everyone. He would like the Council to call the banks to refinance the existing loans. He called for leadership from the City to enforce the existing rules.

Donna Blythe-Shaw, representing the Boston Taxi Drivers Association, stated that her organization has approximately 1,400 members, including Cambridge Taxi drivers that also own Boston medallions. She spoke to the suffering experienced by taxi drivers over the past few years due to lack of enforcement by municipalities as well as the State. Ms. Blythe-Shaw stated that Cambridge is a city of progressive leaders and innovation, yet a solution to the problem has not been found. Many drivers have lost their homes and banks will not refinance their existing loans. She urged the Council for their support and argued that fair enforcement is the answer, not deregulation.

EXHIBIT B

Presentation to City Council, August 10, 2015

By: Kim Courtney

My name is Kim Courtney, and I am an attorney and resident in Cambridge.

Thank you for the opportunity to speak this evening.

I am here to speak in support of a proposed Policy Order that was submitted to the Council through Correspondence from myself and 23 others, asking the Council to enforce the law against un-licensed taxis that are currently operating in Cambridge.

I also speak in opposition to proposed resolutions 15 and 24, and proposed order 18, relating to this issue, which are filled with incorrect factual and legal references.

Companies like Uber and Lyft, and their drivers, are engaging in City supported Civil Disobedience in Cambridge by intentionally violating laws that apply to them.

The City government has failed the people and businesses of Cambridge by actively permitting those companies and their drivers to knowingly violate the law, which to many is seen as corrupt.

The issue before you has nothing to do with whether the Council likes Uber and Lyft, or believes that the People of Cambridge want them in operation.

The current state of the law is that they are not legal.

The Council has no authority to allow government officials to fail to enforce the law while it waits for the State legislature to legalize Uber and Lyft. Nor does the Council have the authority to place a "moratorium" on fees paid by the taxi industry.

It's simple. The City has to enforce existing laws until they are changed.

This issue exemplifies what I consider to be a systemic malfunction in Cambridge city government.

Our City Manager Richard Rossi refuses to perform his duty to oversee the License Commission, declaring it to be “independent”. This failure has resulted in the Commission engaging in gross violations of the laws, as we see here with the taxi industry.

This has also been seen recently with the License Commission’s unfair and illegal taking of the value of certain liquor licenses, without a law in place permitting that act.

Similarly, the Commission has failed for 6 months to close down a liquor store that has been operating for 10 years with what the Commission and ABCC declared is an invalid liquor license.

The License Commission simply has no authority to make its own laws, or to pick and choose to whom to apply the laws.

The powers given to our City government are those derived from the people through the Constitution of the Commonwealth of Massachusetts. The Council is vested with authority only as agents of the people, and are at all times accountable to them.

The people of Cambridge have the right to an “impartial interpretation and a faithful execution” of the law, and the right to “reform, alter or totally change” the government when it fails them.

It is time to replace License Commission Chair Andrea Jackson with someone who is competent and qualified for that position.

It is time for the Council to begin a search for a new City Manager.

And, it’s time for the Council to uphold its duty to the People of Cambridge and enforce the law against Uber and Lyft.

EXHIBIT C

Public Comment to Cambridge City Council 10-Aug-2015
Xavier Dietrich

My name is Xavier Dietrich and I am a Cambridge resident. I thank the Council for the opportunity to speak in support of the Taxicab Industry tonight regarding a few items on tonight's agenda.

Two of these items appear as resolutions (numbers 15 and 24), the third item is a policy order (number 18) requesting a moratorium on fees, but not fines, that would otherwise be imposed on Cambridge Taxicab Drivers.

The merits of the various bills before the House regarding regulation of transit network companies mentioned in these policy orders and resolutions will be debated and decided upon elsewhere.

It is my purpose tonight to raise awareness of a real and disturbing issue within the City - specifically the Cambridge License Commission - and that is one of refusal to enforce existing laws.

The law regarding "conveyance of person for hire" is clear as stated in the City of Cambridge's Code of Ordinances 5.20.

The ordinance is clear and yet it appears that the position of the City, including Council Members, the City Manager and the License Commission is that it is appropriate to not enforce these ordinances.

I believe this position is wrong.

Until such time as these ordinances are modified they must be enforced - as it is the duty of the city manager in accordance with the Plan E Charter "to see that within the City the laws of the Commonwealth and the ordinances, resolutions and regulations of the city council are faithfully executed."

It should come as no surprise to city officials if citizens view them as corrupt and express contempt for them as a result of the failures and inappropriate actions of these city officials.

The Cambridge License Commission has a long history of failing to enforce existing laws, including the failure to enforce the aforementioned law regarding conveyance of persons for hire.

Another recent example is the failure to enforce a liquor license violation where the License Commission itself has acknowledged that the Cellar Wine and Spirits is in clear violation of M.G.L. Chapter 138 section 17 and has been since 2005. The only remedy for this violation is revocation of the license.

The License Commission has made it public six months ago that it has been aware of this violation, yet the establishment remains open and currently remains licensed with no disciplinary action taken toward it.

I am here tonight to support those, and in particular the taxi drivers, who are being harmed by the failure of the city to enforce its own laws.

The action that I propose to remedy this situation is to replace the Chair of the Cambridge License Commission Andrea Jackson with someone who is competent, ethical, and has a basic understanding of the licensing regulation to fairly enforce the law.

I call upon the city council to order the city manager to enforce the law and to that end do a proper and thorough search to replace the License Commission Chair.

Thank you.



CITY COUNCIL

Printer-friendly version

Communications for Monday, August 10, 2015

- [Back to Table of Contents](#)
 - [Hearing Schedule](#)
 - [Reconsiderations](#)
 - [City Manager's Agenda](#)
 - [Calendar](#)
 - [Awaiting Report List](#)
 - [Applications and Petitions](#)
 - [Communications](#)
 - [Resolution List](#)
 - [Policy Order and Resolution List](#)
 - [Committee Reports](#)
 - [Communications and Reports from City Officers](#)
1. A communication was received from Mary Murphy, supporting Carsharing in Cambridge.
View attached file
COM 2015 #551 **1. PLACED ON FILE**
 2. A communication was received from Jan Devereux, 255 Lakeview Avenue, supports safety improvements on Huron Avenue and the Net Zero plan.
View attached file
COM 2015 #552 **2. PLACED ON FILE**
 3. A communication was received from Sylvia Barnes, Harvey Street, supports sidewalks for pedestrians and protected lanes for bicyclist along Huron Avenue and the walkway at Fresh Pond.
View attached file
COM 2015 #553 **3. PLACED ON FILE**
 4. A communication was received from Molly Moore, in support of keeping Zipcar available in Cambridge.
View attached file
COM 2015 #554 **4. PLACED ON FILE**
 5. A communication was received from Stephen Kaiser, regarding the Introduction to the MBTA Red Line Capacity.
View attached file
COM 2015 #555 **5. PLACED ON FILE**
 6. A communication was received from Carol Lynn Alpert, Charles Teague and Kenneth Taylor regarding contribution to the Net Zero Discussion.
View attached file
COM 2015 #556 **6. PLACED ON FILE**
 7. A communication was received from Quinton Zondervan, regarding contribution to the Net Zero Discussion.
View attached file
COM 2015 #557 **7. PLACED ON FILE**
 8. A communication was received from Kim Courtney and Xavier Dietrich, regarding Awaiting Report 15-30 and 15-41 regarding License Commission Fees and CAP Areas dated June 2, 2015 from Andrea Jackson, Chair of the Cambridge License Commission.
View attached file
COM 2015 #558 **8. PLACED ON FILE**
 9. A communication was received from Mary Ann Donofrio, 120 Gore Street, regarding Upzoning for the Volpe Site.
View attached file
COM 2015 #559 **9. PLACED ON FILE**
 10. A communication was received from Althea Buckley, regarding Animal **10. PLACED ON FILE**

Control Regulations.

View attached file

COM 2015 #560

- | | |
|---|--|
| <p>11. A communication was received from Rosemary Booth and Jerry O'Leary, 303 Third Street, transmitting concerns about PUD-KS (Volpe site) rezoning proposal and process.
<i>View attached file</i>
COM 2015 #561</p> | <p>11. PLACED ON FILE</p> |
| <p>12. A communication was received from Kenneth E. Taylor, regarding the Volpe Site.
<i>View attached file</i>
COM 2015 #562</p> | <p>12. PLACED ON FILE</p> |
| <p>13. A communication was received from Rafael Jaramillo, 63 Reservoir Street, regarding Volpe and public space in Kendall Square.
<i>View attached file</i>
COM 2015 #563</p> | <p>13. PLACED ON FILE</p> |
| <p>14. A communication was received from Rachel Wyon, 283 Sidney Street, regarding Volpe up-zoning.
<i>View attached file</i>
COM 2015 #564</p> | <p>14. PLACED ON FILE</p> |
| <p>15. A communication was received from Martin G. Evans, regarding the Public Records Bill.
<i>View attached file</i>
COM 2015 #565</p> | <p>15. PLACED ON FILE</p> |
| <p>16. A communication was received from Jessie M. English, PhD, 27 Corporal Burns Road, regarding an application for a curb cut at 27 Corporal Burns Road.
<i>View attached file</i>
COM 2015 #566</p> | <p>16. REFER TO APPLICATIONS AND PETITIONS #5</p> |
| <p>17. A communication was received from Denise Jillson, Executive Director, Harvard Square Business Association, transmitting support for the Night Market sign at 48 JFK Street.
<i>View attached file</i>
COM 2015 #567</p> | <p>17. PLACED ON FILE</p> |
| <p>18. A communication was received from Saul Tannenbaum, 16 Cottage Street, regarding amending and passing the Open Data Ordinance.
<i>View attached file</i>
COM 2015 #568</p> | <p>18. PLACED ON FILE</p> |
| <p>19. A communication was received from John A. Hawkinson, in support of four amendments to the Open Data Ordinance.
<i>View attached file</i>
COM 2015 #569</p> | <p>19. PLACED ON FILE</p> |
| <p>20. A communication was received from Kim Courtney and Xavier Dietrich, regarding taxi laws.
<i>View attached file</i>
COM 2015 #570</p> | <p>20. PLACED ON FILE</p> |
| <p>21. A communication was received from D. Margaret Drury, Vice President of the CRA Board, 1 Dudley Court, regarding a zoning petition filed by the CRA together with an amendment to the Kendall Square Urban Renewal Plan.
<i>View attached file</i>
COM 2015 #571</p> | <p>21. REFERRED TO THE PETITION</p> |
| <p>22. A communication was received from Dave Slaney, 237 Norfolk Street, supporting the amendment to the Incentive zoning.</p> | <p>22. PLACED ON FILE</p> |

View attached file
COM 2015 #572

- | | |
|---|---------------------------|
| 23. A communication was received from Lee Farris, on behalf of the Cambridge Residents Alliance, relating to the Incentive zoning increase.
<i>View attached file</i>
COM 2015 #573 | 23. PLACED ON FILE |
| 24. A communication was received from Kim Courtney, Ware Street, in opposition to Policy Orders #15, #18 and #24 relating to Uber and Lyft.
<i>View attached file</i>
COM 2015 #574 | 24. PLACED ON FILE |
| 25. A communication was received from Xavier Dietrich, Ware Street, in support of the taxicab industry and relating to Policy Orders #15, #18 and #24 relating to Uber and Lyft.
<i>View attached file</i>
COM 2015 #575 | 25. PLACED ON FILE |
| 26. A communication was received from Emily Dexter, 9 Fenno Street, regarding Order #22 relating to STEAM.
<i>View attached file</i>
COM 2015 #576 | 26. PLACED ON FILE |
| 27. A communication was received from Robert and Lisa Camacho, 24 & 26 Corporal Burns Road, in support of a curb cut at the premises numbered 27 Corporal Burns Road.
<i>View attached file</i>
COM 2015 #577 | 27. PLACED ON FILE |
| 28. A communication was received from Carol O'Hare, 172 Magazine Street, relating to Policy Order #12 regarding airplane noise.
<i>View attached file</i>
COM 2015 #578 | 28. PLACED ON FILE |

Presentation to City Council, August 10, 2015
By: Kim Courtney

My name is Kim Courtney, and I am an attorney and resident in Cambridge.

Thank you for the opportunity to speak this evening.

I am here to speak in support of a proposed Policy Order that was submitted to the Council through Correspondence from myself and 23 others, asking the Council to enforce the law against un-licensed taxis that are currently operating in Cambridge.

I also speak in opposition to proposed resolutions 15 and 24, and proposed order 18, relating to this issue, which are filled with incorrect factual and legal references.

Companies like Uber and Lyft, and their drivers, are engaging in City supported Civil Disobedience in Cambridge by intentionally violating laws that apply to them.

The City government has failed the people and businesses of Cambridge by actively permitting those companies and their drivers to knowingly violate the law, which to many is seen as corrupt.

The issue before you has nothing to do with whether the Council likes Uber and Lyft, or believes that the People of Cambridge want them in operation.

The current state of the law is that they are not legal.

The Council has no authority to allow government officials to fail to enforce the law while it waits for the State legislature to legalize Uber and Lyft. Nor does the Council have the authority to place a "moratorium" on fees paid by the taxi industry.

It's simple. The City has to enforce existing laws until they are changed.

This issue exemplifies what I consider to be a systemic malfunction in Cambridge city government.

Our City Manager Richard Rossi refuses to perform his duty to oversee the License Commission, declaring it to be "independent". This failure has resulted in the Commission engaging in gross violations of the laws, as we see here with the taxi industry.

This has also been seen recently with the License Commission's unfair and illegal taking of the value of certain liquor licenses, without a law in place permitting that act.

Similarly, the Commission has failed for 6 months to close down a liquor store that has been operating for 10 years with what the Commission and ABCC declared is an invalid liquor license.

The License Commission simply has no authority to make its own laws, or to pick and choose to whom to apply the laws.

The powers given to our City government are those derived from the people through the Constitution of the Commonwealth of Massachusetts. The Council is vested with authority only as agents of the people, and are at all times accountable to them.

The people of Cambridge have the right to an "impartial interpretation and a faithful execution" of the law, and the right to "reform, alter or totally change" the government when it fails them.

It is time to replace License Commission Chair Andrea Jackson with someone who is competent and qualified for that position.

It is time for the Council to begin a search for a new City Manager.

And, it's time for the Council to uphold its duty to the People of Cambridge and enforce the law against Uber and Lyft.

Public Comment to Cambridge City Council 10-Aug-2015
Xavier Dietrich

25

My name is Xavier Dietrich and I am a Cambridge resident. I thank the Council for the opportunity to speak in support of the Taxicab Industry tonight regarding a few items on tonight's agenda.

Two of these items appear as resolutions (numbers 15 and 24), the third item is a policy order (number 18) requesting a moratorium on fees, but not fines, that would otherwise be imposed on Cambridge Taxicab Drivers.

The merits of the various bills before the House regarding regulation of transit network companies mentioned in these policy orders and resolutions will be debated and decided upon elsewhere. ~~XXXXXXXXXXXXXXXXXXXX~~

It is my purpose tonight to raise awareness of a real and disturbing issue within the City - specifically the Cambridge License Commission - and that is one of refusal to enforce existing laws.

The law regarding "conveyance of person for hire" is clear as stated in the City of Cambridge's Code of Ordinances 5.20.

The ordinance is clear and yet it appears that the position of the City, including Council Members, the City Manager and the License Commission is that it is appropriate to not enforce these ordinances.

I believe this position is wrong.

Until such time as these ordinances are modified they must be enforced - as it is the duty of the city manager in accordance with the Plan E Charter "to see that within the City the laws of the Commonwealth and the ordinances, resolutions and regulations of the city council are faithfully executed."

It should come as no surprise to city officials if citizens view them as corrupt and express contempt for them as a result of the failures and inappropriate actions of these city officials.

Xavier Dietrich Page 2 of 2

The Cambridge License Commission has a long history of failing to enforce existing laws, including the failure to enforce the aforementioned law regarding conveyance of persons for hire.

Another recent example is the failure to enforce a liquor license violation where the License Commission itself has acknowledged that the Cellar Wine and Spirits is in clear violation of M.G.L. Chapter 138 section 17 and has been since 2005. The only remedy for this violation is revocation of the license.

The License Commission has made it public, six months ago that it has been aware of this violation, yet the ~~establishment~~ remains open and currently remains licensed with no disciplinary action taken toward it.

I am here tonight to support those, and in particular the taxi drivers, who are being harmed by the failure of the city to enforce its own laws.

The action that I propose to remedy this situation is to replace the Chair of the Cambridge License Commission Andrea Jackson with someone who is competent, ethical, and has a basic understanding of the licensing regulation to fairly enforce the law.

I call upon the city council to order the city manager to enforce the law and to that end do a proper and thorough search to replace the License Commission Chair.

Thank you.
