



ORDINANCE COMMITTEE

COMMITTEE MEETING

~ MINUTES ~

Wednesday, October 16, 2019

2:00 PM

Sullivan Chamber

Call to Order

Attendee Name	Present	Absent	Late	Arrived
Dennis J. Carlone	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Jan Devereux	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Craig A. Kelley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Alanna Mallon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Marc C. McGovern	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
E. Denise Simmons	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Sumbul Siddiqui	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2:08 PM
Timothy J. Toomey	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Quinton Zondervan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2:15 PM

The Ordinance Committee will conduct a public hearing an an amendment to the Municipal Ordinance of the City Of Cambridge regarding Taxicab use of E-Hail



CAMBRIDGE CITY COUNCIL ORDINANCE COMMITTEE

COUNCILLOR CRAIG A. KELLEY, CHAIR

COMMITTEE MEETING

TRANSCRIPT OF PROCEEDINGS

OCTOBER 16, 2019

2:00 PM, SULLIVAN CHAMBER

COUNCILLOR CRAIG A. KELLEY: Good afternoon, everyone. Thank you all for coming. My name is Craig Kelley. I'm the Chair of the City Council Ordinance Committee, along with my co-Chair, Dennis Carlone. Uh, we are joined by Vice Mayor Devereux and Councillor Mallon, along with various city staff.

The call of the meeting is to have a public hearing on an amendment, the Municipal Ordinance of the City of Cambridge regarding Taxicab use of E-Hail. And what the underlying order was, the proposed amendments to Title IV, Chapter 5.20, Article 1 of the Cambridge Municipal Code to allow the use of E-Hail applications by taxis be referred to the Ordinance Committee for further review, taxicab use of E-Hail applications for fares.

This meeting is being publicly and privately recorded, and we have some city staff in front of us. And I believe, Musgrave, you sent us something. So if the two of you, and Mr. Barr, if you would like, have something to share, we can do that. Then we'll have clarifying questions from council members. Then we'll go to public comment.

When public's comments closed, we'll come back to the council, and we can have a further discussion of where we

want to go with this ordinance proposal. So, on that.

CITY SOLICITOR NANCY GLOWA: Uh, thank you, Mr. Chair. Um, through you, I just wanted to note that we have provided a council order response with respect to, uh, the use of such a mobile application. And it is, um, our opinion after analyzing this issue, that there does not need to be any change to the ordinance or any home rule legislation that would need to be sought in order to use a mobile application as a taxi metering device, um, so long as it would be approved by the License Commission and by the Sealer of Weights and Measures.

So I've also given an opinion to, um, the Chair of the License Commission through the city manager. And my understanding, um, Chair--Chairwoman Murati Ferrer can address this issue, uh, but my understanding is that, uh, based upon the opinion, the License Commission may be taking that issue up shortly, but she can fill you in on that.

But I wanted to, uh, just let the council know about the fact that the License Commission has the authority to do this by regulation and can amend their regulations if they so choose. And, of course, I'm happy to answer any

questions. Thank you.

COUNCILLOR CRAIG A. KELLEY: Thank you. Madam License Commissioner.

COMMISSIONER NICOLE MURATI FERRER: Thank you. Through you. Uh, I'm Nicole Murati Ferrer, I'm the Chair for the License Commission. Uh, as you may know, the board has been working with the hackney industry for some time now to find ways that we can assist them, um, in this tough time for the, uh, industry.

We recently heard about, uh, an application called Waze--um, Waave, I'm sorry. And, um, the board voted that it was, um, inclined to accept such an application or similar applications to be used in Cambridge by our hackney licensed drivers. Uh, the only thing is that we didn't know whether we could adopt it based on the current, uh, form of the ordinance, and that's why we sought the legal opinion.

Uh, we also, uh, at that meeting voted that if the legal opinion was that we could not adopt it based on our current ordinance, uh, for us to get a process on how we can amend that ordinance.

Based on the legal opinion that I received, I don't foresee it being an issue. And it will be placed on the

agenda for October 23rd for the board's consideration to sort of reaffirm its vote to adopt, um, an application.

Thank you.

COUNCILLOR CRAIG A. KELLEY: Thank you. Uh, any clarifying questions from city councillors? I have one clarifying question, that there is nothing that says the city council can't adopt this proposed ordinance change.

CITY SOLICITOR NANCY GLOWA: Mr. Chair, that's a little bit difficult. The--the--the statute, uh, that creates the authority in the License Commission to regulate hackney licenses is exclusive, and therefore, uh, technically, uh, the License Commission has the exclusive authority.

I recognize that the ordinance is there. It has been there for some time. Um, but it is within the exclusive control of the License Commission to, um, promulgate rules and regulations related to the issuance of Taxicab licenses in Cambridge.

COUNCILLOR CRAIG A. KELLEY: Thank you. But as you say, the ordinance is here and it's very specific about various things. So as far as I can see, we either have authority or we don't. So unless you're telling me that we

have no authority to do any of these things, some of which are codified, it seems like by default the council does have the power if it wishes to pass such legislation. Um, am I incorrect?

CITY SOLICITOR NANCY GLOWA: Uh, respectfully, yes.

COUNCILLOR CRAIG A. KELLEY: Can you explain then why we have a Council Ordinance, if the council then can't amend the ordinance?

CITY SOLICITOR NANCY GLOWA: I cannot. It--it predated my time with the city and, uh, my predecessor's time with the city. It has been on the books for some time, but the statute is clear on its face, and there's nothing in the charter that changes that, uh, having been vested in the License Commission. It's true that the city council originally sought, uh, the authority from the legislature to grant this exclusive authority in the License Commission.

So presumably the--I mean, I know that the council would have the authority to seek to, uh, amend that statute, but so long as that statute is on the books, that is in fact the law on this issue.

COUNCILLOR CRAIG A. KELLEY: When you say this

statute, you mean the state statute?

CITY SOLICITOR NANCY GLOWA: It's a Special Act pertaining to the City of Cambridge regarding hackney licensing.

COUNCILLOR CRAIG A. KELLEY: And it takes all the power of hackney licensing away from the council.

CITY SOLICITOR NANCY GLOWA: Mr. Chair, the--the City Council sought this legislative approval and it was granted to the city pursuant to the request of the Cambridge City Council.

COUNCILLOR CRAIG A. KELLEY: So the current ordinance that we have is what the state legislature said we could pass?

CITY SOLICITOR NANCY GLOWA: No, Mr. Chair, sorry. The Special Act of 1922 was sought by the Cambridge City Council, and it is a Special Act that vests exclusive authority in the Cambridge License Commission with respect to hackney carriage licenses. I believe that the ordinance was passed subsequently. I can't explain why, and I know it has been on the books for some time, but that is the--the legal answer is that the authority is in the License Commission.

COUNCILLOR CRAIG A. KELLEY: So independent of the taxis, I find this horrendously disturbing that we have a council ordinance on the council books that the council had no pa--no power to pass, um, and that is still there as current legislation. What other stuff is out there that we had no power to do?

CITY SOLICITOR NANCY GLOWA: I can't answer that question right now. Um, it is true that the, uh, any ordinance of the city, along with any other municipality, is presumed valid unless and until it is struck down by a court of competent jurisdiction.

So I believe that in the past, over the past many decades, the, uh, administration has worked with the city council to try to, uh, um, give credit to the ordinance and, uh, enforce, um, and give validity to the provisions of the ordinance and to do so harmoniously with the Special Act so that there is not in fact any actual conflict. So if this council chose to amend the ordinance, and it was something that the, uh, License Commission took note of and followed, then that would be consistent.

COUNCILLOR CRAIG A. KELLEY: So just to go over the first one, then there's a--some council long ago decided it

was worth its time to write these words. "The initial drop shall be \$1 and shall cover the cost of the first one eighth of a mile or fraction thereof, or the first two minutes of waiting time or a combination of both. Each one eighth of a mile thereafter, or fraction thereof, shall be at the rate of 25 cents." So what I'm understanding you to say is that the council did not have the authority to pass that fair language,

CITY SOLICITOR NANCY GLOWA: Mr. Chair, I'm telling you that my understanding is that the practice has always been to try to observe the will of the council and to give credit to the provisions of the ordinance.

COUNCILLOR CRAIG A. KELLEY: But--but we had no power to pass the ordinance, is what I'm understanding you to say. I'm--I'm--I'm truly confused and flabbergasted at this point. I'm understanding you to say that we can't change this ordinance because we never had the power to write the ordinance in the first place.

CITY SOLICITOR NANCY GLOWA: I didn't say that, Mr. Chair. That's not what I meant to say.

COUNCILLOR CRAIG A. KELLEY: So maybe we should start again from the beginning. What is the council's ability to

legislate for hackneys?

CITY SOLICITOR NANCY GLOWA: There is this ordinance that you just referred to that is on the books, meaning it is part of the municipal code for the City of Cambridge. It is therefore presumed valid unless struck down by a court of competent jurisdiction. Because it's an existing ordinance, like any other ordinance, the council could choose to amend it, uh, subject to its--its home rule powers, and, uh, that you can do that.

COUNCILLOR CRAIG A. KELLEY: So we can, in fact, amend this ordinance. We have the power to amend this ordinance and add the language that I earlier suggested.

COUNCILLOR ALANNA M. MALLON: Point of order, Mr. Chair.

COUNCILLOR CRAIG A. KELLEY: Yeah.

COUNCILLOR ALANNA M. MALLON: Can I ask a clarifying question?

COUNCILLOR CRAIG A. KELLEY: Sure. Absolutely, please.

COUNCILLOR ALANNA M. MALLON: So the way that I'm understanding, Ms. Glowa, is that the current legislation supersedes this ordinance. This ordinance was written sometime in the past, and then at some point after that was

written, we did a home rule petition to give that power to the License Commission. And that's where the--it currently sits. Is that what I'm understanding? I'm just getting--I want to make sure we are on the same page and I think we could go back and forth a bunch of times.

CITY SOLICITOR NANCY GLOWA: Uh, through you, Mr. Chair. The Special Act was passed in 1919. It was replaced in 1922, and then amended in 1949. I do not have in front of me, in the copy of the ordinance that I have here, the date that the ordinance was first enacted. So I am not sure which came first.

COUNCILLOR ALANNA M. MALLON: Okay. Thank you.

COUNCILLOR CRAIG A. KELLEY: Okay. And--

VICE MAYOR JAN DEVEREUX: Mr. Chair, may I--

COUNCILLOR CRAIG A. KELLEY: Yes. I just wanted to welcome councillor Siddiqui and councillors Zondervan.

VICE MAYOR JAN DEVEREUX: Um, one other question. So the passage that you just read set the rate at the initial drop of \$1 and--and so forth. Those are prices that don't sound like they would've been, uh, made in 1922 or even 1949. That would be pretty expensive, right? So presumably

someone, maybe it's the License Commission has more recently adjusted the initial drop in the fare. How does that--how has that happened?

COMMISSIONER NICOLE MURATI FERRER: Uh, through you, Mr. Chair. We have a fare book, um, about flat rates and also about the, um, calculation of per mile and distance and--and whatnot. That, uh, fare has not been amended for some time. Officer Zito, do you know since when?

ZITO: No.

COMMISSIONER NICOLE MURATI FERRER: I'm sorry?

ZITO: About eight years.

COMMISSIONER NICOLE MURATI FERRER: About eight years. It certainly preceded to me, it was something that we discussed with the, uh, uh, hackney community when we amended the rules and regulations. Um, but it was something that the--that they did not, uh, want at the time. I can concur with City Solicitor Glowa that at least, uh, from my review of the old rules and regulations and the current rules and regulations, we did observe, uh, the ordinance, um, and respect it to the extent that, uh, it is enforced.

VICE MAYOR JAN DEVEREUX: Thank--thank you. So--so eight years ago there was an ordinance meeting that talked

about changing the fare, or is that something that just happened because you have the Special Act power to set that?

COMMISSIONER NICOLE MURATI FERRER: Uh, well, through you. Uh, I believe that the ordinance talks about the reduction, uh, the fare book and the calculation that was done, uh, from my understanding from the multiple, uh, meetings that were had with the industry at the time, at various meetings and upon board vote.

VICE MAYOR JAN DEVEREUX: And--and how, in--in broad terms, does one--does a council seek to amend something that was enacted under a Special Act? Does that require another home rule petition to the state legislature?

CITY SOLICITOR NANCY GLOWA: Through you, Mr. Chair. You don't amend it per se, like the way you would amend an ordinance, but the council would have the authority to seek different legislation. But as--as the Chair just noted, that I think there's always been an effort to, um, observe the ordinance passed by the council and to coordinate that with the, um, rules promulgated by the commission.

VICE MAYOR JAN DEVEREUX: And--and one final question. Was this series of Special Acts that were 1919, 1922, 1949,

would--does that also include all of the alcohol license or was that a different? Because I know that we've been talked--we've talked about a Special Act that relates to those as well.

CITY SOLICITOR NANCY GLOWA: Through you, Mr. Chair. The--um, I have to check on that. I believe--I believe--well, Common Victuallers in holders, let me check with the Chair. The Chair has reminded me that--so the initial legislation in 1922 has certain provisions, but some of the amendments addressed other functions of the License Commission. So they're different functions derived from different versions of the, um, Special Act.

COUNCILLOR CRAIG A. KELLEY: Any other clarifying questions? So hearing none, we'll open it up to public comment. Public comment. Members of the public can speak on the issue at hand, which is the ordinance change proposal.

Uh, you can speak for three minutes, and I will tell you when your time is done and you can wrap up. There's a signup. Is there a signup sheet there? There's a signup sheet by the podium. Um, I'll call your name and then at the end we'll see if anyone has not spoken and would like to speak.

Okay. No one has signed up to--Okay. So come to the podium and introduce yourself. Say where you live and you have five minutes. Five minutes just--

PUBLIC COMMENT

Nelson Hernandez, President of CTDOA. Cab number, Cambridge Cab 28. Lives in Somerville, 126 Pennsylvania Ave spoke on amendment to the Municipal Ordinance of the City Of Cambridge regarding Taxicab use of E-Hail. He supported the move to allow the use of the E-Hail applications, since it would benefit the cab drivers, and because of new technologies.

Daniel Iger, Founder and CEO spoke on amendment to the Municipal Ordinance of the City Of Cambridge regarding Taxicab use of E-Hail. He had a meeting with owners and drivers in Cambridge and main message is to bring new technology to the taxi industry that is competitive against the ride hailing companies. His vision is to promote the number of hybrid cars, as well as finding solutions to support the city with traffic data.

Mohamed Mallek, taxi number 55, who lives in Metro, Mass, spoke about the pre-price from hotels. He wanted to know if the law would need to be amended since there was an

existing flat rate. The flat rate is ordered by the city and it is in regulations from the city to the airports.

COUNCILLOR CRAIG A. KELLEY: Thank you very much. Is there anyone else who would like to speak and has not spoken? Seeing none, I'll entertain the motion to close public comment. Um, so councillors, any thoughts at this point?

VICE MAYOR JAN DEVEREUX: So I'm--I'm still a little bit confused about the process. So if--if we, as a council, say, "Yes, we like the suggestions that you're making to this ordinance." They go to the License Commission, or and board to--I heard something about the weights and--the Department of Weights and Measures, which is a mysterious--uh, what--what would--what are the steps? Walk me through, like if we today said, "Yes, we like this."

CITY SOLICITOR NANCY GLOWA: Through you, Mr. Chairs. So if the ordinance is amended, then it would be, uh, by vote of the council, by the vote of the full council at a regular or special council meeting. And then, uh, after the requisite period of time for a reconsideration, it would be passed, usually effective on the date of passage, and then it would be in the municipal code. And it would direct the

License Commission, with respect to actions taken by the License Commission.

Our legal opinion about, uh, what steps need to be taken in order to use the mobile application have to do with the, um, the--the validity of the app itself. So the Sealer of Weights and Measures is a position in the city administration.

A person or persons who are responsible for, um, going out into the field and looking at, investigating every single, you know, gas station, pump, and grocery store weight, um, wear, scale, um, and things like that, and certifying that those things are operating properly, measuring the material properly, and making the charge proper.

So, in this instance, because it's an electronic mobile application, uh, our suggestion was that the Sealer of Weights and Measures would work with the city's IT department to, to run some sort of analysis to make sure that the application on mobile devices, uh, is working properly and measuring the distance to be traveled and the fee to be charged for that distance, et cetera.

The same way the sealer of weights and measures has

to approve taxi meters that are in--fixed in taxicabs currently. So that would be an administrative review of the sealer of weights and measures to make sure that the application is valid if it's going to be used.

And in addition--in addition, the License Commission would have to approve the mobile application for use. But once those two things are done, whether it's pursuant to the ordinance or pursuant to the License Commission's authority, otherwise, it would be able to be put into effect.

VICE MAYOR JAN DEVEREUX: Thank you. And if--if there is only one of these apps, is the--is the License Commission obligated to look at more than one? I mean, we have this gentleman from Waave, and the taxi driver seem to want to use Waave. I have no idea what the ecosystem is. Is there any requirement that we, you know, put this out to a bid or something? Or can we just say we want to use Waave and do that?

COMMISSIONER NICOLE MURATI FERRER: Through you, Mr. Chair. Um, the way that the License Commission has approached this is when we have been contacted or we've learned of companies out there, uh, that provide this type

of service, we generally meet with them to ensure that they sort of comply with safety measures, um, and basic rules that are currently in place. And so that, for example, um, we can have communication, because obviously this is--this is a--we wouldn't be paying this, uh, service. Um, and I'm sure Mr. Iger can provide you with the presentation that he gave the community that--uh, hackney community this morning.

Um, but basically it's a service that both the driver and the passenger sign up on for free. It's an application that you download on your phone and then the drivers end up paying. Um, and this is something that would have to be sort of as they learn more about our community, they said that they would decide on how it would be done. Um, but basically the driver pays a percentage of what the ride cost, um, to Waave for the use of the app.

Uh, in terms of what we're looking for is to ensure that, um, the people that are, for lack of a better term, pitching these types of application to us, that they can actually comply with, for example, our meter rates, uh, to do time and distance. Not only time and not only distance, which is sort of the formula that's used currently through

our meters that, for example, our flat rate that if it continues to have a flat rate from the hotels to the airports that the flat rate can be done through the app and stuff like that.

Um, we have been approached by other companies. For example, we had a cab fare a few years back some of you might remember since you were in the council then. We allowed them to come in and they had promised our taxi drivers sort of the, not only hailing, but also the--the price prediction and payment. That never came. So it sort of fizzled out.

Um, and here we are now with an application that, for all intents and purposes, seems to sort of appease everyone and give some new features that our taxi industry has not had for a long time.

Just in terms of numbers, we sent out the invitations to all of our, uh, currently licensed drivers and medallion owner. That's 637 people. Um, we sent, not only the invitation for today's meeting of this morning, but also we sent them a ballot for them to fill out. Um, and so out of those, we got 99 responses, uh, for yes, for no, and we just haven't heard back from others.

CITY SOLICITOR NANCY GLOWA: Mr. Chair, if I could just add that before any application is actually approved for use, we would, um, make sure that if there are purchasing laws that need to be complied with, that they are complied with.

VICE MAYOR JAN DEVEREUX: May--may I ask a follow up? I mean, so obviously stepping back, the--the broader intent of this is to help taxi drivers compete in a market where they've taken a real beating from the TNCs, which offer all of these features that the app, um, can sort of help offer. But it's going, if I understand it correctly, there will be a fee associated with it.

So if the fare, you know, is X, they're gonna have to pay X minus a little bit in order for their passenger to use this app. Is that that right? And they're probably also paying a credit card fee because they're all--they all take credit cards, so they've already got that fee,

COMMISSIONER NICOLE MURATI FERRER: Uh, through you. Um, yes, uh, credit cards are required to be accepted, um, and they pay that processing fee to the credit card company directly. Uh, in terms of the private contract between the taxi driver and Waave, in terms of the percentage, uh,

again, um, based on Mr. Iger's presentation of earlier this morning, based on the size of Cambridge, the size of our fleet, the, uh, number of drivers, it would be something that they would have to sort of get more information in terms of our industry, um, and talk to them.

Uh, obviously our intent, and by our, I mean the Board of Licensed Commissioners, um, and I say this with confidence since it's something we've talked about in the past when it talks to, uh, taxis, is to help the industry. So of course, um, we wouldn't be allowing the use of an app that's just gonna gorge their eyes out. Um, but again, we don't--we don't set those fees. Uh, Mr. Iger has presented twice now in Cambridge, and both times he has said that the intent of his company, he's the CEO, the intent of his company is to help the taxi industry survive, um, and to assist them and to help them compete.

Um, the other thing, uh, that will be before the board, once this is befored again, um, is whether or not this would be something that we would require our taxi drivers to use. Um, based on the way that we had voted-- that we have voted, um, for similar matters in terms of taxis, I don't know that the board would require every taxi

driver and owner, um, to use this app. It would just be us providing them the ability to be able to use this tool if they choose to do so.

VICE MAYOR JAN DEVEREUX: And has there been any consideration, because I know we've been looking for ways to actually proactively help the taxis? This is one way they can help themselves if we change the law and enable them to use this application that can make it more convenient for riders. Is there any thought to helping to subsidize whatever additional cost they would have for this convenience?

Because, I mean, I haven't--I haven't seen the--you know, I wasn't at the meeting, so I don't know the terms they're discussing and I don't want to, certainly if the taxi drivers want to do that, that's great, but at the same time, I'm also wary of--of adding to their costs when, you know, it's been widely reported that they are operating in a completely different pay scale economy cost structure than the TNCs, who are--have been, you know, putting them out of business. And so is there a way that the city can legally actually help them use something like this, rather than just give them permission to use it?

CITY SOLICITOR NANCY GLOWA: Um, through you, Mr. Chair. I'd have to research that, but the starting point would be that since these are for-profit businesses, it is not likely that the city would be legally permitted to subsidize their operations.

COMMISSIONER NICOLE MURATI FERRER: And if I may, uh, through you, Mr. Chair, I mean, I think, uh, the big picture here is, um, that this, whether it's Waave or any other app, is increasing the possibility of this industry getting more rides that they're not currently getting now. It's expanding a market that they are not, uh, privy to and they are not getting. Um, so they're going, hopefully, from five rides a day to maybe double or even more, uh, down the line, um, if this works.

So if--if there is some cost there, I'm sure it will be outweighed by the benefits, or at least that's what we're hoping. And, um, again, I don't, um, I don't have the final numbers, because, again, it's--it was a matter of us, "This is the legwork before, uh, you know, before we get there." But I don't foresee, um, it being an issue.

COUNCILLOR CRAIG A. KELLEY: Other questions?
Councillor Zondervan.

COUNCILLOR QUINTON Y. ZONDERVAN: Thank you Mr. Chair. I'm still not clear on whether we need to change the law in order for you to do this or not

CITY SOLICITOR NANCY GLOWA: Through you, Mr. Chair. I don't believe so. In my opinion, this could be accomplished through, um, an amendment to the License Commission's regulations pertaining to hackney carriage licenses.

COUNCILLOR QUINTON Y. ZONDERVAN: Thank you. And through you, Mr. Chair, who--who would make that amendment?

CITY SOLICITOR NANCY GLOWA: The License Commission.

COUNCILLOR QUINTON Y. ZONDERVAN: So is the License Commission prepared or are proposing to do so?

CITY SOLICITOR NANCY GLOWA: Uh, through you, Mr. Chair. Although the Chair addressed that, but we have provided a legal opinion to the Chair at the License Commission's request, um, indicating that, um, the permissible way to go about this, and, uh, I'll let her address the question if the board actions.

COMMISSIONER NICOLE MURATI FERRER: Thank you. Through you, um, yes. Um, and I think that's why we sought the legal opinion. It was our, um, our vote that we would accept, uh, Waave or any other similar application. And the

legal opinion we saw was just to make sure that we could do it with the current structure, and if not, what steps we needed to take to make sure that we could do it, um, legally.

So the October 23rd meeting, which is our regular meeting, um, we will have an item on our administrative agenda, where I'm bringing this back to the board along with City Solicitor Glowa's legal opinion. And we're--I foresee that we will be reaffirming the vote that we already took, which is, uh, to--to make it happen. Mr. Chair.

COUNCILLOR QUINTON Y. ZONDERVAN: Oh, sorry. Thank--thank you. And for what it's worth, I fully support that.

COUNCILLOR CRAIG A. KELLEY: Councillor Siddiqui.

COUNCILLOR SUMBUL SIDDIQUI: I wanted to thank you for the legal opinion. The paragraph makes it clear to me what your recommendation is. Um, you know, under the current statutory and regulatory framework, it would be legally permissible for Cambridge taxicabs to accept passengers and payments affairs through a mobile application, provided that the Cambridge Board of License Commissioners amends its hackney rules in order to include electronic meters on

mobile applications and its definition of meter or taxi meter, and provided further that the Sealer of Weights and Measures approve the mobile applications for such use. So I personally think that you laid it out, um, clear. So thank you.

COUNCILLOR CRAIG A. KELLEY: Other questions? Okay, so back to me then. I guess I have a bunch. For one, we have 11 pages of city council ordinance about taxicabs. We have taxicabs, people not paying, we have lost property, we have lamination. We have a whole host of things passed, apparently as late as 1988 and as recently as 1991. I don't know what else there might have been. And I'm understanding that somehow those are all invalid because we had no authority. And so maybe we could clarify that. What--what power does the city council have to legislate hackneys?

CITY SOLICITOR NANCY GLOWA: The city council had the authority to seek special legislation in order to vest that authority in the License Commission, which the council did in 1922 and by amendment, uh, in 1942, I believe in 1949. In addition, there is a, uh, an ordinance in the municipal code that governs hackney carriage licenses.

As I indicated previously, any ordinance of the city

is presumptively valid unless or until it is struck down by a court of competent jurisdiction, if challenged.

Therefore, the ordinance is presumed valid. And I believe that the License Commission is aware of the ordinance, and well, the License Chair can speak to that. Uh, with respect to--well, I think that's--that's my answer.

COUNCILLOR CRAIG A. KELLEY: Okay. So the memo that we--we got moments ago, dated 16 October, says that the License Commission has the authority to do it, which I don't think anyone disputes for whatever reason, even though E-Hails have been in business for something like a decade, the License Commission hasn't thought to do this. I don't know why. Um, this is all a new world to me.

But I feel, well, if the License Commission has not done it, then the city council should do it, if we have that authority. And I'm understanding that the License Commission may be moving now on something that hasn't not moved on for the past several years. So--so maybe the ordinance is not necessary.

But at the beginning of the meeting, I asked you if we had the authority, and my memory is you point blank said no. And now I'm understanding you to say that well, we do.

And I get back to the, we either have the authority for this stuff or we don't. And if we don't, then--then let's get it off the book so we don't tease ourselves into thinking we have this power. So what power do we have here?

COMMISSIONER NICOLE MURATI FERRER: If I may, Mr. Chair, really quickly before, uh, City Solicitor Glowa speaks on the--on the legal issue. Um, the Board of License Commissioner has accepted E-Hail before. What has not been available to taxis before is the type of application that is currently available, which is an independent application to which they don't have to be tied to a TNC like Uber and Lyft that they can use for license hackney drivers.

And not only E-Hail, because E-Hail, uh, was accepted by the License Commission in 2017 when it came to Massachusetts, um, and the taxi drivers were allowed to use it, and some of them did. Um, and from them, we heard that it didn't work because the system just wasn't supporting what they needed.

What wasn't available before and what is available for the first time to our knowledge, uh, in the state of Massachusetts, in the City of Cambridge, is an application not only that does E-Hail, but does upfront pricing, um,

and works like a TNC, but it's exclusively for cabs and it's tied to the municipalities rules and regulations and fares. Um, so I think we're moving on this as we're getting it.

COUNCILLOR CRAIG A. KELLEY: Do--do you have any comments, Ms. Glowa?

CITY SOLICITOR NANCY GLOWA: Um, Mr. Chair, I--I think I may have, um, gone off in a--in a--the wrong direction. I--what I intended to do was to say that the License Commission has the authority to do this by amendment to its regulations pertaining to hack--taxi, sorry, hackney carriage licenses.

It is true that because the city council sought legislative approval to vest this authority in the License Commission, that that is technically considered to be the exclusive jurisdiction of the License Commission. However, all ordinances are intended to be given effect and, um, validity unless, uh, a court strikes it down, which has not occurred here. And as I said, my anecdotal understanding over the years is that the License Commission has always sought to, uh, be consistent with both the provisions in the ordinance as well as regulations that they promulgate.

So I don't think that there needs to be, uh, a conflict--I don't think there is a conflict that needs to be resolved at this point.

COUNCILLOR CRAIG A. KELLEY: Thank you, ma'am. So I think we're all on the same boat where the taxi, uh, drivers will be able to use E-Hail. I'm a little confused as to, just looking through the ordinance. The ordinance talks about the taxi meter, it doesn't say anything about an E-Hail application. So where do we get the requirement that the Weights and Measures staff need to review the app?

CITY SOLICITOR NANCY GLOWA: Uh, through you, Mr. Chair. The Sealer of Weights and Measures has statutory responsibility to, uh, um, analyze or review taxi meters and to certify that they're working properly and--and reading out the correct fare in relation to the distance traveled, or whatever the other rules are that they must adhere to. So this is not a new requirement. This would simply be that because that requirement exists now, then the Sealer of Weights and Measures would also be required to certify that the mobile application is suitable for use as a taxi meter.

COUNCILLOR CRAIG A. KELLEY: So, we are saying that a

mobile application is the same thing as a taxi meter? I think this is, uh, uh, almost an arcane, but still very important thing to discuss, because if--if every time a new app comes out that taxi meters realize, or sorry, taxi drivers say, "Hey, wow, this would be better for me.

I can custom manage my drivers and my rider." And whatever. If every time something like that comes out, they got to go back through the License Commission and have the sealer of weights and measures review it, and so on and so forth, rather than being able to move and adapt quickly, I don't know that I understand that that's a legal requirement as the law is currently written. Because this is a completely new thing, which is how Uber got here in the first place. So where do we draw that parallel where somehow the E-Hail became a taxi meter?

CITY SOLICITOR NANCY GLOWA: So Mr. Chair, there are a number of different issues there. First of all, when the TNCs came on the scene, this License Commission asserted that the iPhone that, at least one of those companies uses, which transmits information via satellite to the corporate offices in San Francisco was a taxi meter. And that

company, uh, sued us in court, and we actually prevailed at one stage and then were overturned. And the court determined that the TNCs' use of an iPhone was not use of a taxi meter and that we did not have the authority to regulate TNCs. So that was very early on in the advent of the use of TNCs in Cambridge.

There has always been a great, uh, effort expended by the License Commission staff and interest expressed commitment by the commission to, uh, seek to treat, uh, the TNCs in a way that would be considered fair and uniform in relation to the existing taxicab industry. And, uh, the state legislature and courts have not been as favorable to the city, um, in that regard. So with respect to the TNCs, that's sort of the history of that.

With respect to use of such an application, we have done a lot of research looking at other municipalities that have struggled with this issue of how to address technological changes in the world and to adapt, and found that a couple of other municipalities in the country have done--undergone an analysis where they approved use of a ride-hailing application--mobile application, um, as a so-called soft taxi meter. I assume that means not, uh,

affixed to the actual taxicab.

So in trying to address this issue, and particularly at the request of the taxicab industry, uh, in our legal analysis, we--we pushed at the boundaries to make sure that we were looking, you know, exploring every avenue to see if there was a way of doing this. We determined that this could be approved as a so-called soft taxi meter, and that is in our legal opinion.

However, that does not obviate the need for License Commission approval or for the statutory, uh, certification process required of the city's Sealer of weights and Measures. So the process that I laid out in the council order response, which is very similar to, uh, what I laid out in the legal opinion to the License Commission, is that the License Commission would have to vote to approve the use of such an application, and then the--the application itself would have to be approved, the specific application both by the License Commission and the Sealer of Weights and Measures.

So it is not permissible for, uh, taxi drivers or TNC drivers or any other, um, business to simply start using some e-hailing application that has not been approved by

the License Commission, because they do have the authority to regulate the use of taxicab hackney carriage licenses and that industry in Cambridge. I don't know if I've answered all of your questions. Please let me know if there are any ones I omitted to answer.

COUNCILLOR CRAIG A. KELLEY: Thanks. I could talk about this all day, but I--I think we're at a point, yes, and please don't, I think we're at a point we're all on the same page. Um, so Councillor Zondervan.

COUNCILLOR QUINTON Y. ZONDERVAN: Thank you, Mr. Chair, and through you. Um, as a software engineer, I certainly, um, agree with the need to verify that the application does what it, uh, purports to do as--as a simple matter of protecting our consumers so that they are paying a fare, um, fare for the ride.

Um, however, I do share the Chair's concern that it does introduce an inefficiency, and in particular, um, if multiple municipalities were to agree to allow the same application, it does seem unnecessary for each individual municipality to verify this application. So is--is there any way that we could have a state level verification or--or some kind of single point where we verify the

application and then individual municipalities accept that verification, and--and then accept the application for use in their municipality.

COMMISSIONER NICOLE MURATI FERRER: Uh, through you, Mr. Chair. I mean, this is something that the, um, Weights and Measures, uh, people in the industry can talk to more, uh, stuff meters and how they, uh, are checking them is a big deal for them. They are coming up every time, uh, with new ways on how to do that. In terms of doing it statewide, um, I would say that the challenge there, uh, part is that, uh, taxis, at least in the state of Massachusetts, are regulated by each municipality individually, and they all have different rules and regulations.

For example, Boston, um, has a different type of fare, uh, calculation, um, and charge than we do. So, for example, the way that our, uh, Weights and Measures, uh, people will have to check the meter to make sure that, um, it's charging at a minimum what our meter or hard meter would charge for a particular, uh, ride is very different from the way that Boston will have to, uh, verify.

COUNCILLOR QUINTON Y. ZONDERVAN: Thank you. That-- that makes sense to me. So I guess the next question is

how--how involved is that process? Is that months of--of testing? Is it--is it a couple of days? How--how much effort is involved here?

COMMISSIONER NICOLE MURATI FERRER: Uh, through you, Mr. Chair. I don't want to speak for, for example, this particular application, but based on the representations that Mr. Iger made at our previous, uh, presentation, as well as today, uh, they would need a minimum of four weeks to make sure, um, that they build accordingly to what is the need and--and what Cambridge needs.

And in terms of our rules and regulations, I would assume that during that time, or it is my intent that if we go forward with this, um, during that time, we will also be working closely with them as well as with people in the police department and Weights and measures to make sure that we are getting everything that we need in terms of, uh, verifying that this, uh, we have access to information, for example, for public safety issues in terms of where drivers are or where the passengers are, um, and stuff like that, which is already the way that the police department works with TNCs. We'd also, obviously, they have the ability to provide this information to us and they have

said that they would. So, uh, we would be working in tangent along with them.

CITY SOLICITOR NANCY GLOWA: Mr. Chair, if I could just add that once--if such an application is approved for use by the License Commission, we then still need to explore whether there would need to be a public bidding process or not. And if there were, that would be another several weeks or few months. But, um, we would need to analyze that.

COUNCILLOR QUINTON Y. ZONDERVAN: Thank you. I didn't understand the public bidding process for the verification process or for--for which app to use.

CITY SOLICITOR NANCY GLOWA: Not the verification process. Uh, through you, Mr. Chair. If there's a particular app that the License Commission is adopting as approved for use in Cambridge, we have to investigate to make sure that that doesn't require a public bidding process.

COUNCILLOR ALANNA M. MALLON: Mr. Chair, through you, I thought that--I thought that was the question I was trying to ask before and I thought you had said that since the city isn't paying for this app, then it wouldn't--I

mean I understand you--you may need to double check that, but that was the question I was trying to ask before. I thought maybe I was asking it poorly,

CITY SOLICITOR NANCY GLOWA: Mr. Chair. I think that Ms. Murati Ferrer answered a question about that issue. I don't think that I said that. I didn't mean to if I did. And I'm not saying we definitely have to go through a bidding process, we just haven't looked at that. So now that this is--the opinion has been issued, the council order has been responded to and the License Commission is gonna take that up at their meeting later in October, we can certainly be looking into that in the meantime so that if it is approved, we can try to move it as quickly as possible.

COUNCILLOR QUINTON Y. ZONDERVAN: Thank you. And I'm-- I'm assuming that if tomorrow a different vendor came forward and said we can do the same thing or similar thing, we would just go through the whole process with that vendor as well to verify their application, or--or are we saying that it would be an exclusive, "We've already approved this app so now we can't consider a different one."?

COMMISSIONER NICOLE MURATI FERRER: Through you, Mr.

Chair. No, it is our intent, um, based on the last time that we talked about this, that it would be too allow taxi drivers to sign up for these services. Um, we would be, um, licensing them, for lack of a better term as dispatchers, uh, within our rules and regulations and--and the current ordinance. Um, and so we wouldn't say you only can use this application.

Um, again, like I think I previously stated, there have been other services that have come, um, and based on the fact that they cannot change their algorithm to calculate based on our, uh, fees and whatnot, we've said, "No, you cannot come into the City of Cambridge." And then we've had ones that like, for example, cab fare that said that they could do the E-Hail. And we accepted that one but they didn't have a soft meter type of application. Um, so no, it wouldn't be an exclusivity, uh, factor.

COUNCILLOR QUINTON Y. ZONDERVAN: Okay. Thank you, Mr. Chair.

COUNCILLOR CRAIG A. KELLEY: Councillor Mallon.

COUNCILLOR ALANNA M. MALLON: Thank you, Mr. Chair. So I just want to make sure I understand. So regardless of whether or not we take action on voting on any of this

ordinance language, the License Commission is going to proceed with a meeting with the commissioners on the 23rd to make these changes and move forward. Is that correct, whether or not we take any action here today on this ordinance?

COMMISSIONER NICOLE MURATI FERRER: Uh, through you, Mr. Chair. Yes, that's correct.

COUNCILLOR ALANNA M. MALLON: Okay. So we can take no action on this ordinance today and everything will move forward. So--okay. So if, Mr. Chair, through you, I'm not sure what your intention is gonna be at the end of this meeting, but if you are going to be moving this forward just as we should change the ordinance because we're here and it's written and maybe we need this language.

I think I would just be concerned about, um, 5.20.210 A, which calls out a fare that is not in existence and we may not want to pass changes and amend an ordinance with that in it. So I don't know what the will is of--of the Chair to do--to move this forward or not, but I just thought I would call that out.

COUNCILLOR CRAIG A. KELLEY: The will of the Chair is simply to reflect the will of the body. Um, I get the sense

that the body, myself included, feels that we should wait and see what happens. But--but this whole discussion has opened up a whole separate can of worms. I think that we can continue at some other point outside this meeting, but councillor, or sorry, vice mayor.

VICE MAYOR JAN DEVEREUX: Yeah, I guess, just to Councillor Mallon's question, if I'm reading, the A is the initial drop of \$1, why do you think that? I thought that was what we have. Is that--is that the A paragraph you were talking about, or are you looking at a different thing that I'm not looking at?

COUNCILLOR ALANNA M. MALLON: Through you, Mr. Chair. This--that is what I was talking about, but I'm not sure that that's our actual rate right now.

VICE MAYOR JAN DEVEREUX: It isn't? Oh, well, I thought this--I thought, I don't know who made this copy, but I assumed that whatever was on this page came from whatever the--the current--

COUNCILLOR CRAIG A. KELLEY: So I made that from our online. Give me a moment and I'll look up, but what--what is then the initial drop? Does anyone know? I'll bet there are a bunch of people in the audience that do.

COMMISSIONER NICOLE MURATI FERRER: 195.

COUNCILLOR CRAIG A. KELLEY: All right. So the initial drop is \$1.95. Okay, hang on just one sec.

VICE MAYOR JAN DEVEREUX: Does it say that? So does it say that someplace in--in your book then?

COUNCILLOR CRAIG A. KELLEY: So, online and in this, uh, hard copy of the Municipal Code Section 5.20.210 reads "Designated meter required, blah, blah, blah. Section A, "The initial drop shall be \$1 and shall cover the cost of the first eighth of a mile."

Um, so--so this is just underscoring some super confusion between what the Council does, what the License Commission does. And my recommendation is we stop the conversation here, let the License Commission do whatever it does.

And then if we feel, as I do, that this deserves more investigation, we can either have an ordinance talk here or we can put it into another committee. But, you know, arguably what's in our ordinance should reflect reality, and the council should understand what a regulatory authority is, and so on and so forth.

So with that soapbox stepped off of, I'll entertain a

motion to adjourn. Adjourn or adjourned?

CITY CLERK ANTHONY WILSON: Adjourned.

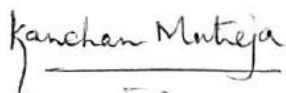
COUNCILLOR CRAIG A. KELLEY: Adjourned. Keep the meeting--keep the matter in committee and adjourn. So moved. Thank you very much.

**The Cambridge City Council Ordinance Committee
adjourned at approximately 03:02 p.m.**

C E R T I F I C A T E

I, **Kanchan Mutreja**, a transcriber for Datagain, do hereby certify: That said proceedings were listened to and transcribed by me and were prepared using standard electronic transcription equipment under my direction and supervision; and I hereby certify that the foregoing transcript of the proceedings is a full, true, and accurate transcript to the best of my ability.

In witness whereof, I have hereunto subscribed my name this 20th day of December 2022.

A handwritten signature in cursive script that reads "Kanchan Mutreja". The signature is written in black ink and is positioned above a horizontal line.

Signature of Transcriber