



CAMBRIDGE CITY COUNCIL

Jan Devereux
City Councillor

May 18, 2016

City Clerk Donna Lopez,

Please include the attached letter with the Communications and Reports from City Officers for the May 23, 2016 City Council meeting.

Thank you,

A handwritten signature in dark ink, appearing to read "Jan Devereux". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jan Devereux
City Councillor



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May 18, 2016

Dear Fellow City Councillors,

I would like to explain why I filed for reconsideration of the order we adopted on May 9th pertaining to proposed changes to the city's liquor licensing regulations.

The order, which we amended on the floor, reads:

WHEREAS: The Licenses Commission is proposing changes to the current liquor license regulations; and

WHEREAS: The City Council has a policy regarding building community effort (sic) and street activation; now therefore be it

ORDERED: That the Public Safety Committee schedule a public hearing with the License Commission to discuss the proposed changes to the current liquor license regulations and the City Council policy goals on liquor licenses, economic development, the impact on neighborhoods and local businesses; and be it further

ORDERED: That the City Manager be and hereby is requested to instruct the License Commission to refrain from any liquor license regulation changes until the hearing is held by the Public Safety Committee.

ORDERED: That this is referred to the Public Safety Committee.

Two concerns prompted me to file for reconsideration.

The first lies with the legal implications of the second "ORDERED." The License Commission has publicly acknowledged that some of our current regulations contradict state law, and has proposed changes to bring our regulations into compliance. In instructing the License Commission not to make any changes prior to a council committee hearing, are we perpetuating, even condoning, the Commission's non-compliant practices? I think that it is the Commission's duty and obligation to bring our liquor licensing regulations back into compliance with state law as soon as possible, and that further delay only compounds a longstanding problem.

Thus, I would like us to consider amending the adopted order to strike the second "ORDERED" and to replace it with this:

ORDERED: That the License Commission immediately cease enforcing any liquor licensing regulations that do not comply with state law, and that it continue to meet and to hear public comment on any other proposed changes, as planned.

Among the current regulations that do not comply with state law and which the License Commission seeks to change are the enforcement of “cap” areas and the issuance of “no-value, non-transferrable” licenses. Since 1982 Cambridge has not been subject to a liquor license quota and the creation of cap areas, in 1986, and a two-tier value system, in 2006, have served to create a licensing process that may, in fact, undermine the Council’s economic development and street activation goals — and one whose fee structure and lack of transparency has not always served the public good. For example, the fees for “no-value, non-transferable” licenses are significantly higher than the fees for licenses that may be sold and transferred with a restaurant business, and the Commission acknowledges that its enforcement of the caps has been inconsistent. These non-compliant practices have produced a licensing system that is financially disadvantageous for about half of the 256 current liquor license holders and difficult to navigate for the uninitiated.

Further, I would like us to consider amending the order to add this:

ORDERED: That the City Manager be and hereby is requested to conduct a full review of the License Commission’s legal authority to approve changes to liquor licensing regulations.

Specifically, I would like us all to understand whether the City Council, as the city’s sole legislative body under our Plan E Charter, ever voted to cede its power to the License Commission to *approve* changes to the city’s liquor licensing regulations, or if it is even within our power to delegate this authority. It is within the Commission’s power to *recommend* changes to the Council, but it appears to have been the practice, up to now, for the Licenses Commission to assert a legislative authority that goes beyond regulatory enforcement. In light of the Commission’s acknowledged history of non-compliant practices, I feel that knowing with legal certainty which body has final *approval* over substantive changes to the city’s liquor licensing regulations is essential to informing our discussion at the coming Public Safety Committee hearing and beyond.

I encourage you all to carefully read the License Commission’s detailed summary and rationale for its proposed changes. It is posted on the Commission’s webpage, and I attach a copy here for your convenience. I make these suggestion in the interest of promoting greater transparency and accountability as our discussion continues on how best to achieve the Council’s policy goals and serve the public good with regard to liquor licensing.

Sincerely,



Jan Devereux
City Councillor