

City of Cambridge

The Traffic and Transportation Committee held a public hearing on April 28, 1998, beginning at 6:45 P.M. in the Sullivan Chamber for the purpose of considering reports from the City Manager's Truck Traffic Advisory Committee.

Present at the hearing were Councillor Henrietta Davis, Chair of the Committee, Councillor Kathleen Leahy Born, Councillor Sheila T. Russell, Councillor Michael A. Sullivan, Councillor Timothy J. Toomey, Jr., Councillor Katherine Triantafillou, and City Clerk D. Margaret Drury. Also present were Richard Rossi, Deputy City Manager; Donald Drisdell, Deputy City Solicitor; Ronnie Watson, Police Commissioner; Loren Preston, Deputy Director, Traffic, Parking and Transportation; and Venita Matthias, Neighborhood Planner, Community Development Department.

Councillor Davis convened the hearing and explained the purpose and the procedures. She introduced Richard Rossi and requested that he introduce the City staff present.

Councillor Davis stated that this is a very complicated matter. This meeting is the first of a series. She thanked all of the participants of the Truck Committee for their hard work on this issue. She then invited a representative of Group A to make a presentation.

Paul Myers then made a presentation summarizing the recommendations contained in Report A. He began with discussion of the recommendations relating to nighttime truck traffic, where the problem is "through trucks," traffic that goes through Cambridge without a Cambridge destination. The group A recommendation is that the city increase in its efforts to implement night-time traffic restrictions to prevent through trucks from short cutting through residential streets. For daytime truck traffic, the information is not as complete. Thus there is a strong recommendation for truck studies and data analysis to identify problem streets where daytime truck traffic is most onerous and seek to implement appropriate restrictions.

Report A reflects a strong preference for the City to "mitigate not litigate." Thus they rejected the proposal for a citywide nighttime ban on truck traffic.

Mr. Myers then summarized the Report A recommendations which are in agreement with the Report B recommendations. There were many areas of agreement. The big area of difference relates to through truck traffic at night and during the day.

Councillor Davis then invited additional brief comments from Group A members of the Committee.

Geneva Malenfant, 75 Henry Street, stated that at a meeting 3 years ago there was much discussion about the disturbance caused by nighttime truck traffic and there was also discussion about the different problem presented by daytime truck traffic, which has much greater potential for personal injury. That is the place where enforcement must be much more rigorous.

Susan Miller Havens, 151 Brattle Street, then made a presentation for the Group B report. She began by introducing the Group A members of the Truck Committee, herself, Bob Travers, Doug Lee, Vici Cassana, Tom Bracken and Bob Johnson.

Ms. Havens stated that the Group A members have come to believe that the administration favors the status quo. She then read the seven recommendations:

1. Nighttime truck restrictions citywide. Zoning restrictions do not require Mass. Highway approval.
2. Evaluation of the impact of a designated daytime through truck route. This recommendation is also not included in Report A. The committee spent hours discussing possible alternative daytime routes. The committee recommends a trial periods with data analysis.
3. Truck traffic data and analysis by an independent consultant to help Traffic Parking and Transportation Department in developing a truck traffic database, to contain daily and peak hour volumes as well as truck configurations and identifying marks.
4. Challenge Boston's legal authority to direct through tankers carrying hazardous materials onto River Street and re-examine the ADL hazard material study.
5. Aggressive enforcement of existing regulations.
6. Use traffic calming where appropriate, but without unrealistic hopes for such measures as a major way to curtail truck traffic.
7. Face the reality that the MAPC regional truck study is floundering.

Councillor Davis then invited additional brief statements form the "B" group.

Doug Lee, 33 Lexington Avenue, stated that throughout the meetings the committee members were told by City staff that Somerville was uncooperative, were told by City staff to move to the suburbs if they didn't like trucks, that there is nothing that can be done without State approval, that federal regulations prevent Cambridge from dealing with its truck problems. Group B members believe the City should seize the initiative, not wait for someone to do something.

Vici Casana, River Street, stated that she has lived on a truck route for 21 years. It was very exciting to work on this committee. These are concrete proposals. She noted that the MAPC truck study is now taking a new direction that will provide useful information.

Rob Johnson, 326 Concord Avenue, stated that he has lived there for almost 50 years and has observed the change in truck traffic over the years. For seven years he had his own interstate trucking business. If the City makes its streets as inconvenient and uninviting as possible, trucks will avoid it. In view of Cambridge's position as a link in the chain of through truck traffic, a step by Cambridge can help the bordering towns. He requested that the committee take a long hard slow look at the recommendations from Boston groups.

Robert Travers, Sr., 54 Fulkerson Street stated that he has lived in Cambridge for 60 years and has lived with trucks all his life. Since has been on this committee, two people have been killed by trucks. Cambridge must stop the cut-through trucks.

Tom Bracken, 89 Irving Street, stated that he has looked into the legal implications and believes that Cambridge would be a firm ground in implementing a nighttime through truck ban by means of zoning.

Councillor Davis then thanked all of the committee members for their hard work and invited Deputy Solicitor Donald Drisdell to introduce Law Professor Richard Fallon, who has provided a legal opinion based on an analysis of the Plaistow case.

Professor Fallon then summarized his legal opinion. The City of Cambridge might prevail in a citywide nighttime truck ban, but such a ban would certainly be appealed and it would face very serious legal arguments with no guarantee of success. A more limited ban of nighttime truck traffic on residential streets would have a much greater likelihood of success. He noted the argument that under its zoning power, Cambridge can avoid the state law requirement for approval of commercial vehicles by the Massachusetts Highway Department. Professor Fallon stated that it is an ingenious argument and there are not cases with a contrary holding, however there are serious legal arguments in opposition.

Councillor Russell asked how "residential" would be defined in a city like Cambridge. Professor Fallon stated that the firmest legal ground would be provided by specific findings that specific streets are residential and are experiencing significant disruption by truck traffic.

Councillor Triantafillou asked how is it that trucks can be banned from Memorial Drive. Professor Fallon stated that he assumes it is because there is reasonable alternate access and permission of the state. He noted that the federal system of regulation is based on a policy of free flow of transportation on reasonable routes.

Councillor Triantafillou asked what is the risk to the City. Professor Fallon stated that under federal law it is very unlikely that the private party would be awarded damages. Under state law, the City's penalty could be a cutoff of highway funds. A reasonably cautious approach would be to enact the proposal and then sue for a declaration that the regulation is not prohibited under Massachusetts law.

Councillor Sullivan thanked all the committee members for their work. Councillor Sullivan asked whether if Cambridge is a cut through over and above other cities, then does not Cambridge have more reason than other localities to enact a ban.

Professor Fallon described the federal policy against "balkanization." The Plaistow court noted specifically that a citywide ban would present a different question. He noted that an exception of local deliveries from a ban is a two-edged sword that may be a factor in leading a court to decide that this is impermissible under federal law promoting free interstate commerce.

Councillor Sullivan asked whether Cambridge would have standing to challenge a Boston regulation. Professor Fallon stated that if Cambridge believes that Boston's regulation is the cause of a significant part of Cambridge's nighttime truck traffic, then such a suit should be seriously investigated.

Councillor Sullivan asked Rob Johnson whether removal of tolls from the Mass. Pike would affect Cambridge truck traffic. Mr. Johnson stated that inconvenience is a bigger factor. The full-time truck ban on Prospect Street had a big effect.

Councillor Toomey thanked all the committee members for their work. Legal decisions are never a certainty. The citizens deserve to have the City take a legal risk to deal with this problem. Truck traffic is an enormous threat to the quality of life of Cambridge citizens. He encouraged the staff to start drafting regulations and devising a legal strategy.

Councillor Born thanked the members of both committees. Councillor Born noted that she requested the truck hearing that resulted in this Truck Committee. She stated that she is encouraged by this hearing.

Councillor Born then asked about strategies. Professor Fallon stated that in light of the serious state penalties it would be prudent to enact a regulation prospectively and then to seek Massachusetts Highway Department approval by an anticipatory law suit against the Highway Department before the regulation went into effect so that there is no danger of loss of highway funds.

Councillor Born observed that there is no route through Cambridge that does not require trucks to navigate very difficult turns that end up with large trucks driving on sidewalks.

Councillor Davis then invited public testimony.

Chuck Swartz, 1707 Cambridge Street, stated his concern with the amount of truck traffic, the noise it creates and the shaking of his house. His wife and six-year old daughter frequently awaken in the early morning hours. He is also concerned with the early morning speeds of trucks. He strongly urges additional enforcement. He would not like to see the City be afraid of litigation. He sees no reason for nighttime deliveries in Cambridge. He also expressed concern about road construction and its effect on truck noise.

Councillor Davis noted that she received a phone call from Karen Carmean on Cambridge Street trucks.

Tom Bracken, 89 Irving Street, stated that there are no exclusively "residential" streets in Cambridge. However, that term was not used in the Plaistow case. The court referred to residential neighborhoods and to the impacts of truck traffic on residential neighborhoods.

Mr. Bracken stated that Professor Fallon also misreads the Massachusetts law. Signs are not needed to enforce zoning. Moreover a nine hour curfew is not an overall prohibition. He agrees that a ban will be challenged. Mitigation without litigation gets you nowhere.

Ellie Yarden, 143 Pleasant Street, thanked Mr. Drisdell for bringing Professor Fallon, who has pointed out the pitfalls to be avoided in crafting an ordinance and who has revealed the federal policy that cities are open thoroughfares for commerce and are not supposed to have the power to protect themselves. Mr. Yarden stated that Cambridge is very dense. The night-time population is 100,000; the daytime population of Cambridge is 250,000.

Mr. Yarden stated that the whole issue must be looked at from the perspective of quality of life. A city can protect itself if it has the political will. Two of the main routes for trucks are almost totally residential: Western Avenue and River Street.

Brian Pfeffer, 147 Brattle Street, member of the Harvard Square Defense Fund stated that he has been working on this issue on various truck committees for the last five years. He noted the recent gas leak from a truck in Harvard Square which closed down Harvard Square. He encouraged the City Council to use the legal opinion to craft a reasonable response.

Craig Kelley, 6 St. Gerard Street, thanked all the committee members for their participation and noted that it was a bad, painful process. The big problem is that there is no real data despite the fact that this was requested over two years ago. Enforcement in this city is just a wish. He supports the test re-routing of traffic recommended by Group B. What we have now is unworkable and deadly. He supports whole-heartedly the night-time ban. He is a lawyer. He doesn't practice law. He is not sure Professor Fallon practices law. He is not sure Professor Fallon has any expertise in interstate law. His opinion doesn't mean that much. It is wishy-washy. Anyone could have told the Council that the area is wishy-washy.

Stash Horowitz, 12 Florence Street, stated that it seems to him that the will of the people is clear; the will of the bureaucrats is unclear. The law department will never tell the City Council what to do. The City Council must direct the bureaucrats to take appropriate action to carry out the will of the people, and if that involves litigation, so be it.

Robert Winters, 366 Broadway, noted the argument made in connection with the desire to use part of Memorial Drive for trucks that the Mass. Highway Department would like to get control of Memorial Drive. He questioned whether restrictions in Cambridge would endanger Memorial Drive.

It was agreed that the matter will stay in committee and that the next meeting on this issue will take place in three or four weeks.

Councillor Davis thanked all those present for their attendance. The meeting was adjourned at 9:37 p.m.

For the Committee,

Henrietta Davis
Councillor Henrietta Davis
Chair

Committee Reports #1

3755

Communication was received from Donna P. Lopez, Deputy City Clerk, transmitting a report from Councillor Henrietta Davis, Chair of the Traffic and Transportation Committee, for a meeting held on April 28, 1998 for the purpose of considering reports from the City Manager's Truck Traffic Advisory Committee.

In City Council May 18, 1998

Report Accepted

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