City of St. Petersburg
**Public Services & Infrastructure Committee**
Meeting of October 13, 2016 – 9:15 a.m.
City Hall, Room 100

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Members: Chair Steve Kornell, Vice-Chair Ed Montanari, Council Members Jim Kennedy, Jr., Charlie Gerdes

Alternate(s): Council Chair Amy Foster

Support Staff: John C. Norris, primary support staff; Nina Mahmoudi, backup support staff

1) Call to Order

2) Approval of Agenda

3) Approval of Minutes

   a) September 22, 2016

4) New Business -

   a) Continue discussion of Vehicle for Hire Ordinance - Legal – Judd
   b) A Recommendation to Strengthen Wage Theft Ordinance Enforceability. – Human Resources – Eve Epstein

5) Upcoming meetings –

   a) October 27, 2016

      i) Revision to sign ordinance to all advertisement on bus shelters that are constructed with private sector funds.- Legal – Mark Winn

6) Adjournment

Attachments: Minutes of September 22, 2016 Committee Meeting
Backup Material
Pending and Continuing Referral List

City of St. Petersburg
**Public Services & Infrastructure Committee**
Meeting of September 22, 2016 – 8:30 a.m.
City Hall, Room 100

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**Members and Alternates**: Chair Steve Kornell, Vice-Chair Ed Montanari, Councilmembers Charlie Gerdes and Jim Kennedy.

**Others present**: Support Staff : John C. Norris, Stormwater, Pavement and Traffic Operations Director, Jeannine Williams, Chief Assistant City Attorney, Heather Judd, Assistant City Attorney, Sally Everett, Government Affairs Director & Pat Beneby, City Clerk

1) Call to Order 8:30 A.M.

2) Approval of Agenda

   a) Motion for approval - Motion for approval by CM Kennedy. Unanimously Passed: 4-0.

3) Approval of Minutes

   a) September 8, 2016 – Motion for approval by CM Gerdes. Unanimously Passed: 4-0

4) New Business

   a) Continue discussion of Vehicle for Hire Ordinance - Legal - Judd

      i. Chair Kornell opened with stating that Mayor Kriseman could not attend the meeting and that Sally Everett was attending in place. He also stated that there will be a public hearing for citizens to speak on this issue before the ordinance can be passed.

      ii. Sally Everett began with explaining that the Mayor had scheduled an out of the office meeting before the PS&I meeting time was moved to earlier. She wanted to go over the previous comments made at the last meeting. The Mayor was looking for proof of insurance for the company of the driver, proof of the driver having a background check, a national sex offender check and a driver history check. The driver's company pays the business tax based on the current tax rate. The ordinance that has been created has an optional City of St Petersburg certification that any vehicle could obtain if it meets the list of requirements over and above the previous requirements. There would also be a cost associated with processing the paperwork. For all of the other kinds of vehicles for hire that the City currently has licensed, the ordinance would remain the same. Everett stated that there were comments made by stakeholders on version 18 of the ordinance and version 19 (the most up to date) shows the revision per the stakeholders comments.

iii. CM Kennedy commented that due to the late distribution of the most up to date ordinance, there was not enough time to be able to "digest" the information and be well prepared for the meeting because of it. He did want to ask Judd how people with disabilities were covered in the ordinance to be able to partake in the ride sharing as well.

iv. Heather Judd responded that on page 9, the new section 28-10 is not just for ride sharing but also for all public vehicles. CM Kennedy wants to know how that would actually operate in reality. He stated that his observation is that Uber does not provide handicap accessible vehicles. What are the ramifications for not being handicap accessible? Judd responded that currently the other types of transportation services available without wheelchair accessible vehicles carry a card that refers them to a company who is equipped with wheelchair accessible service. In the new ordinance in part D it is stated that they would have to direct the passenger to an alternate provider and if it needs to be more specifically articulated it can be. Jeannine Williams stated that in addition to our ordinance, if it is passed, the Americans with Disabilities Act does require private transportation services to make reasonable accommodation in some way. CM Kennedy wants to know if there is any indication whether the private ride share companies would abide by the ordinance. Judd deferred the question to Everett.

v. Sally Everett responded that the whole point of this exercise was to come up with an ordinance that all the stakeholders feel gives them a reasonable opportunity to operate in the city. CM Kennedy would like to understand what that response may be. Everett stated that Uber stated that they will comply with everything in the ordinance.

vi. CM Gerdes stated that he was able to read the new up to date ordinance (version 19) and that he was extremely grateful of what he read. The old ordinance pertaining to taxi drivers only was established decades ago and now the new version of the ordinance is re-looking at the entire ordinance rather than "adding more" to the old existing ordinance. CM Gerdes stated he was very impressed and appreciates the new ordinance. CM Gerdes stated that on page 2 there is a definition of "Public Vehicle Company" and on page 3, section 28-3 in the last paragraph, it states, "Proof required under this section may be provided by an individual driver or the public vehicle company that contracts with or employs the driver by affidavit." He would like the definition on page 2 for "Public Vehicle Company" to be defined as any company that owns, contracts with or operates two or more public vehicles. He also had a question on his understanding of the way the ordinance operates. He stated his understanding is that it provides options for people who want to drive people for money. He stated that one of those options is that you can go through the certification process that the city approves and there's requirement for providing information, as well as doing an annual update and getting an optional certification. If you do that the benefit to you is your insurance limits are $100,000.00 per incident compared to $1,000,000.00 coverage.

vii. Heather Judd stated that is was contemplated that a specific difference between optional certification and the base minimum. Even though the base minimum has higher limits for companies, what is specific about the optional certification is what the City is actually getting. The limits are different because a company employing vehicles for hire would have a blanket coverage of the $1,000,000.00 for coverage on all vehicles under them and the $100,000.00 policy is for an individual person who wants to be a vehicle for hire independently. The individual driver would have to provide all vehicle information and go through the optional certification process. CM Gerdes would like to suggest a revision on page 3 section 28-2 "Public Vehicle Insurance Requirements." It currently reads, "A public vehicle company must be covered by a commercial general liability insurance policy of at least $1,000,000 per occurrence, automobile liability insurance policy of at least $1,000,000, and property insurance policy of at least $25,000." He would like to add "Such automobile liability insurance coverage to be in effect from the time the public service vehicle is traveling to a new fare and transporting any fare to its destination." Something that states the policy has to be in effect from this moment in time to another moment in time. CM Gerdes also pointed out that on Page 4, section 28-3, number 6, the wording "Transportation Network Company Service" needs to be corrected to "Public Vehicle for Hire".

viii. CM Gerdes made a motion for approval with this ordinance with his stated revisions.

ix. CM Kennedy asked to clarify the insurance policies aspect of the ordinance. He wants to know if the $100,000.00 policy is in addition to the $1,000,000.00 policy or in lieu of it. Judd explained that they would have to tie a $100,000.00 policy to a specific vehicle. CM Kennedy asked if that would be in "addition to" the $1,000,000.00 policy. Judd stated that there are some companies that don't want to provide vehicle numbers or vehicle VIN information. If you want to provide that vehicle information you would have to tie a $100,000.00 policy to that vehicle. CM Gerdes stated that he still needs clarification on whether it is in addition to the $1,000,000.00 policy or in lieu of. CM Kennedy agreed that it has to be one or the other. Judd stated that she did not think that was the Mayor's intention and that it was everyone meets the base minimum and the individuals have to have what the limits are per the Florida Statutes and all companies have to have the overlying policy of $1,000,000.00. CM Gerdes explained his understanding of the ordinance to CM Kennedy.

x. Chair Kornell explained that his understanding is that it's optional. Either the driver can have a policy of $100,000.00 or in lieu of that, the company can for the $1,000,000.00 policy. Jeannine Williams stated that all drivers have to have some sort of coverage, whether or not they are under the umbrella of a company. There was still confusion as to what direction the Mayor was going with the new ordinance in terms of the insurance policies.

xi. CM Gerdes states that his current understanding of the ordinance, he is in favor of, but if what is written is NOT what was intended then he is not in support of it. Judd stated that she thinks his understanding would be an option of a way to go. Everett

interjected that she agrees with Judd and Williams and she is unclear. The concept the Mayor had on an optional certification was to provide an opportunity for cars, driver and or companies to get an additional seal of approval from the City that would be above and beyond the minimum requirements of the first option. CM Gerdes stated that if it is "in addition to" the $1,000,000.00 policy, then at that point it would make no sense.

xii. CM Gerdes withdrew his motion to move the ordinance forward due to not having a clear understanding as to what was intended and what was actually written in the ordinance and how it reads.

xiii. Chair Kornell said that we need to get clarification on the ordinance and then have it come back to the next meeting on October 13, 2016 for motion of approval.

xiv. Jeannine Williams added that this draft ordinance is not ready to go to City Council at this very moment. Section 28-4 Business Tax Requirements is not complete. Depending on changes to the Business Tax Requirement, there may have to be a study.

xv. CM Montanari had some questions about when the insurance requirements actually go into effect. He would like some clarification as to when exactly the increase in insurance requirements actually starts and that all of his other questions are withheld until the revised ordinance comes back at the next PS&I meeting on October 13, 2016.

5) Upcoming Meetings

a) October 13, 2016

i. Continued discussion of Vehicle for Hire Ordinance – Heather Judd

ii. A revision to the sign ordinance to all advertisement on bus shelters that are constructed with private sector funds – Legal

iii. A recommendation to strengthen wage theft ordinance enforceability – Eve Epstein

b) October 27, 2016

i. To Be Determined

6) Adjournment 9:05 A.M.

AN ORDINANCE AMENDING CHAPTER 15, ARTICLE III OF THE ST. PETERSBURG CITY CODE; MODIFYING THE DEFINITIONS OF EMPLOYER AND INDEPENDENT CONTRACTOR; ADDING A NEW SECTION TO REQUIRE THAT EMPLOYERS PROVIDE EMPLOYEES WRITTEN NOTICE OF CERTAIN JOB-RELATED INFORMATION UPON HIRE; PROVIDING FOR A PRESUMPTION OF RETALIATION UNDER CERTAIN CIRCUMSTANCES AND INCREASING THE SCOPE OF ACTIVITIES DEEMED RETALIATORY; REVISING THE SCOPE OF CITY-FUNDED CONTRACTED SERVICES; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF ST. PETERSBURG, FLORIDA DOES ORDAIN:

Section one. The definitions of 'employee or complainant employee' and 'independent contractor' in Section 15-41 of the St. Petersburg City Code are hereby amended to read as follows:

**Sec. 15-41. – Definitions**

Employee or complainant employee shall mean a natural person who~~, while being employed by an employer,~~ performs work within the geographic boundaries of the City while being employed by an employer, ~~that benefits an employer located within the City even though the employee may have performed work outside the geographic boundaries of the City,~~ but shall not include any bona fide independent contractor. 'Employee' may also include a person who performs work that benefits an employer located within the City even though the employee may have performed work outside of the City.

Independent contractor shall have the same meaning as in the Internal Revenue Code, Fair Labor Standards Act, and implementing federal regulations, administrative interpretations and guidance.

Section two. The St. Petersburg City Code is hereby amended by adding a new section 15-44 to read as follows. The existing Sections 15-44, 15-45 and 15-46 shall be re-numbered to follow sequentially.

**Sec. 15-44. – Written notice provided to employees at time of hiring; contents; notification of changes to information.**

(a) At the time of hiring, an employer shall provide to each employee a written notice, to be signed and dated by the employer and employee, containing the following information:

(1) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable;
(2) Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances;
(3) The regular payday designated by the employer;
(4) The name of the employer, including any "doing business as" names used by the employer;
(5) The physical address of the employer's main office or principal place of business, and a mailing address, if different;
(6) The employer's telephone number; and
(7) A template summary, available from the City, summarizing the protections and rights of employees pursuant to this article.

(b) An employer must retain, for a period of three years following an employee's date of hire, a copy of the signed and dated written notice required by subsection (a).

(c) In addition to providing the written notice required by subsection (a), employers must place in a location accessible to all employees a poster, available from the City, summarizing the protections and rights of employees pursuant to this article.

(d) An employer shall notify his or her employees in writing of any changes to the information set forth in the notice required by subsection (a) within seven (7) calendar days after the time of the changes.

(e) An employer's failure to adhere to any part of this section shall be a municipal ordinance violation not to exceed $500.00 per violation.

Section three. The re-numbered Section 15-46 of the St. Petersburg City Code is hereby amended to read as follows:

**Sec. 15-46. – Retaliation Prohibited**

(a) Employers are prohibited from threatening, intimidating, or taking other adverse action against ~~employees in retaliation for asserting any claim to wages pursuant to this article, and any such actions are violations of this article.~~ <u>any employee or person because the employee or person has:</u>

(1) <u>Made a complaint to his or her employer that the employer has engaged in conduct that the employee, reasonably and in good faith, believes violates any provision of this article;</u>
(2) <u>Initiated a proceeding under this article;</u>
(3) <u>Provided information to the POD or any other person regarding a violation, investigation, or proceeding under this article;</u>
(4) <u>Testified in an investigation or proceeding under this article; or</u>
(5) <u>Otherwise exercised rights protected under this article.</u>

Adverse actions include, but are not limited to, communicating to the employee, whether directly or indirectly, explicitly or implicitly, the willingness to inform a government employee that the employee is not lawfully in the United States.

(b) Where such retaliation resulted in any loss of the employee's wages, upon a finding by a hearing officer that an employer retaliated against an employee in violation of this article, the employee is entitled to receive quantifiable wages and liquidated damages.

(c) An employee complaint or other communication need not make explicit reference to this article or to any other provision of law to trigger the protections of this article. The employer, or any person acting on behalf of the employer, taking adverse action against an employee within ninety (90) days of an employee or other person's engagement in the activities set forth in subsection (a) of this section shall raise a presumption that such action is retaliation, which may be rebutted by clear and convincing evidence that such action was taken for other permissible reasons.

(d) Violations of the retaliation prohibition shall be determined under the same procedures as wage theft complaints, and in the same proceeding as any related wage theft complaint. The City shall order any employer who has been found to have violated the retaliation prohibition to pay to the City the actual administrative processing costs and costs of the hearing, regardless of the findings on any related wage theft claim.

Section four. The re-numbered section 15-47(a) of the St. Petersburg City Code is hereby amended to read as follows:

**Sec. 15-47 Community engagement and proactive investigation.**

(a) It is the policy of the City to engage community-based organizations to implement the purposes of this article. The POD may coordinate implementation of City-funded community outreach efforts, including developing appropriate guidelines or rules, and contracting with community-based organizations to provide such services. Contracted services may include, but are not limited to, educating employers regarding their obligations under this article, assisting employers with compliance, educating employees on their rights~~,~~ assisting employees who wish to file complaints, and assisting employees who wish to record as a lien or otherwise pursue enforcement of any order issued by a hearing officer.

Section five. As used in this ordinance, language appearing in struck-through type is language to be deleted from the City Code, and underlined language is language to be added to the City Code, in the section, subsection, or other location where indicated. Language in the City Code not appearing in this ordinance continues in full force and effect unless the context clearly indicates otherwise. Sections of this ordinance that amend the City Code to add new sections or subsections are generally not underlined.

Section six. The provisions of this Ordinance shall be deemed severable. The unconstitutionality or invalidity of any word, sentence or portion of this ordinance shall not affect the validity of the remaining portions.

Section seven. In the event that this ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective after the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto the ordinance, in which case the ordinance shall take effect immediately upon filing such written notice with the City Clerk. In the event this ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

Approved as to form and content:

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City Attorney or designee

| PUBLIC SERVICES & INFRASTRUCTURE COMMITTEE<br>PENDING/CONTINUING REFERRALS | | | | | October 13, 2016 | |
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| **Topic** | **Return Date** | **Date of Referral** | **Prior Meeting Dates** | **Referred by** | **Staff** | **Notes** |
| Mechanical Noise/Downtown Noise | | 6/16/16 | 7/28/16 | Kornell | Dave Goodwin | Direct request to CM Kornell Dave Goodwin |
| Continue discussion of Vehicle for Hire Ordinance | 10/13/16 | 4/21/16 | 8/25/2016<br>9/22/16 | Kennedy | Legal - Judd | Discussion of Vehicle for Hire Ordinance with focus on Transportation Network Companies, including background checks, insurance and handicap accessibility requirements;<br>**5/26/16** - Mayor's office is working with legal on draft ordinance, expect something within next month. |
| Urban Construction (Mechanical Noise Concerns) | | 10/13/15 | 11/19/2015<br>6/16/2016 | Nurse | | **6/16/16** Urban Construction Task Force report by Co Chair Tami Sims. Claude Tankersly to return with a report on cooling systems;<br>Rick Dunn to return with a report on how other cities handle noise/recommended changes |
| Revision to sign ordinance to all advertisement on bus shelters that are constructed with private sector funds | 10/27/16 | 4/21/16 | 5/26/16 | | Legal | Discussion on revising sign ordinance to allow advertisement on bus shelters constructed with private sector funds<br>**5/5/16 -** legal is ready to proceed<br>**5/26/16** - Gerdes made motion for legal to meet with LEMA Construction for the purpose of putting together a document that would comply with the written authorization requirement in the Florida Statutes including discussions with PSTA. Legal said, on 6/16/16, they will bring back to PSI in July. **10/03/16 -** Mark Winn is still waiting to hear back from PSTA. |

| PUBLIC SERVICES & INFRASTRUCTURE COMMITTEE<br>PENDING/CONTINUING REFERRALS | | | | | October 13, 2016 | |
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| **Topic** | **Return Date** | **Date of Referral** | **Prior Meeting Dates** | **Referred by** | **Staff** | **Notes** |
| St. Petersburg Downtown Partnership Looper Funding and Possible Expansion | | 3/10/16 | | Kennedy<br>Nurse | Parking &<br>Transportation<br>Evan Mory | discussion on Looper funding and possible expansion<br>**5/05/16** - waiting on PSTA for a downtown circulation study<br>**5/25/16** - PSTA is doing a study for the downtown transportation now that the grid system is in place. Report due by before end of year - November |
| Potential for expanding reclaimed water system | | 5/12/16 | | Gerdes | Water Resources<br>Steve Leavitt | Report from staff regarding reclaimed water system |
| Enhancing the SPPD Enforcement Traffic Unit | | 5/19/16 | | Foster | Police<br>Chief Holloway | Increasing Police budget to have more traffic enforcement<br>**5/26/16 -** CM Nurse requested what the fiscal impact of enforcement is. |
| Green Cart Initiative Amendment to Regulations for Pushcart Vending | | 6/16/16 | | Rice | | |
| A Recommendation to Strengthen Wage Theft Ordinance Enforceability | 10/13/16 | 7/14/16 | 8/25/2016<br>9/8/16 | Rice | Eve Epstein | **9/8/16** - CM Gerdes – A motion for Legal to draft an Ordinance to bring back and include Proposed Modifications with the addition of outreach providing protection to potential victims of wage theft and the business's. **9/14/16-** The draft ordinance will be ready in about a week (Kyle Lindskog). |
| Discussion of Brownfields & the incentives for developers | | 8/4/16 | | Kornell | Legal - Kovilartich | legal to provide a report reguarding fl statues and how to app the state reg brownfield area |
| Report on Propesed South St. Petersburg Master Plan with a Potential 20/50 plan | | 8/4/16 | | Kornell | Cornwell | |

| PUBLIC SERVICES & INFRASTRUCTURE COMMITTEE<br>PENDING/CONTINUING REFERRALS | | | | | October 13, 2016 | |
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| **Topic** | **Return Date** | **Date of Referral** | **Prior Meeting Dates** | **Referred by** | **Staff** | **Notes** |
| A presentation in regard to the Best Management Practices (BMP) concerning reduction of nitrogen loading to Tampa Bay from community gardening activities. | | 9/8/16 | | Kornell | Pinellas County Cooperative Extension | |
| A discussion of the first quarterly report in regard to the diversion program for several misdemeanor crimes which is being implemented by the Sheriff's department. | | 9/8/16 | | Kornell | Sheriff's Department | |
| A presentation implementation and installation of a proposed Brittany Gordon Veterans Memorial at Dell Holmes Park | | 9/8/16 | | Gerdes | Claybaker Foundation and the Parks and Recreation Department | |
| A report on flooding in specified areas and along Dr. M.L. King, Jr. Street S. near Lake Maggiore | | 9/22/16 | | Kornell | | |
| A report on utilization of the Hard-to-Hire and Apprenticeship Ordinance. | | 9/22/16 | | Foster | | |
| To discuss establishing annual reviews on the City's hurricane and tropical storm preparedness and maintenance of our infrastructure. | | 9/22/16 | | Kennedy | | |