

LEGISLATIVE REVIEW COMMITTEE

Thursday, April 1, 2021

Committee Members Present:

Commissioner Allison Wright, Chair
Commissioner Jesse Houle
Commissioner Carol Myers
Commissioner Mariah Parker
Commissioner Ovita Thornton- **Joined meeting at 1:38 pm*

Committee Members Absent:

Staff:

Blaine Williams, Manager
Sherrie Hines, Chief Assistant Attorney
Steve Decker, Transportation & Public Works
Stephen Bailey, Transportation & Public Works
Tim Griffeth, Transportation & Public Works

Krystle Cobran, Inclusion Office
Sarah George, Recorder

Commissioner Wright called the meeting to order at 1:03 p.m.

A. **Approval of Minutes:**

Commissioner Myers requested to amend the March 4, 2021 minutes by modify “greenspace” to “roof space” on page 2.

Commissioner Houle made a motion to approve the March 4, 2021 minutes with the amendment requested by Commissioner Myers. Commissioner Myers seconded. The motion passed unanimously.

Commission Identified Items of Interest:

B. **Traffic calming/neighborhood traffic management for sub-standard streets, examine sliding-scale metrics regarding speed & frequency of vehicles vs. current requirements (Mayor Girtz assigned to LRC on January 8, 2019)**

Blaine Williams introduced the topic and requested Steve Decker contrast the proposed policy with the existing policy that was shared with the Committee in advance of the meeting. Steve Decker explained the existing policy was very bureaucratic and difficult to read. Decker noted the original policy required the roadway to have over 750 cars a day and a speed over 35 miles per hour. The policy was subsequently modified to reduce the minimum requirements to 32.5 miles per hour and 500 cars a day. While that was helpful, Decker explained the process was still difficult to follow and limited the ability of the traffic engineer to apply discretion when safety concerns were identified.

Steve Decker explained that he revised the policy to make it more practical, reduced the criteria, and provided the traffic engineer the ability to address safety issues on the roadway that are identified. The proposed policy reduces the minimum requirements to 30 miles an hour and a volume of 300 cars a day. It also provides flexibility to the traffic engineer to bring in the Roadway Safety Audit Team for further review and audit when a safety concern is identified on a roadway that does not meet the minimum criteria. He also noted that he believes the proposed

policy will open the door to many projects that were not able to be pursued due to the roadways not meeting the existing criteria.

Commissioner Wright requested confirmation on whether the formula 300 threshold and miles per hour can be changed but the 85th percentile was a set standard. Steve Decker confirmed that Commissioner Wright was correct, and he explained this was just the starting point, since the traffic engineer can bring in the Roadway Safety Audit Team to evaluate the roadways in a way that could not have been done before.

Commissioner Myers noted that the existing policy has a chart at the end with neighborhood cost sharing, and she had been under the impression that neighborhoods had not been paying for this. Stephen Bailey explained that they built the process because they realized there may be a time that funding may not be available to fund it at 100%, but it has not been used.

Commissioner Myers inquired if there were instances existing on the ground where there may be more speed bumps than we would put in now, because the neighborhood wanted them. She noted that she has observed that there are some areas in the county with a lot of speed bumps. Steve Decker advised that the standard that was used is the same standard that they use today. They typically are spaced about 300 feet apart, and it may have been several projects.

Commissioner Houle noted there are four sections that they would like to see edited, and then they would be happy with the policy. In reference to section 3e, Commissioner Houle noted that they would like to remove or modify the language; there neighborhoods that have mostly renters that experience speeding and cut-through traffic, and they would hate for those neighborhoods to not be eligible. Steve Decker explained they typically have not done that, because apartment complexes are typically owned by corporations or someone, and he would have concerns allowing each tenant in an apartment complex to have a vote when single-family residences would only receive one vote. Commissioner Houle inquired if, without worrying about the votes and the meeting aspect, they wondered if there was a way to still pursue traffic calming in these neighborhoods, and the decision-making process can be considered separately. Commissioner Houle explained that, where it is positioned in the document, this section makes it think that those neighborhoods would not be able to pursue traffic calming at all under this program.

Commissioner Wright asked staff how section 3e could be modified to make it so that they are describing a neighborhood that would include apartments but not include a commercial property where no one is living. Steve Decker suggested removing apartments out of that line, and, if we are approached by renters with a concern, the traffic engineer can review it and contact the Roadway Safety Audit Team to evaluate it and contact the property owners. Commissioner Wright also noted that the tenants could also contact their commissioner. Sherrie Hines noted that she recalled that this language was included because of a concern that a large developer may come in and not properly build the traffic calming devices that need to be installed and attempt to get ACC to pay for those devices. Steve Decker explained that the roadway would have to be an ACC-maintained road. Commissioner Houle requested confirmation that the Committee was in agreement with just striking the last clause stating "which typically includes apartments". The Committee and staff agreed.

In reference to section 4c, Commissioner Houle suggested adding the phrase "on the owner's behalf" in item number 1 to clarify that we want to welcome renters in the meeting whether they are present on their own accord or on behalf of the property owners. The Committee and staff agreed. In reference to section 5b, Commissioner Houle inquired whether it would be worthwhile adding language that notes any resident can contact their district commissioner in item i.

Manager Williams inquired if the language could be modified to say that a "district commissioner may also submit a work request through the Manager to the Traffic Engineer". Commissioner Wright noted that technically all work orders are supposed to go through the Clerk.

Commissioner Houle suggested modifying the phrase to say “through the appropriate channels”. Manager Williams and the Committee agreed. Commissioner Myers recommended modifying the language to note that any resident may contact their district commissioner, who can submit a work request. Commissioner Wright suggested leaving it as two sentences to leave the sentence that had been previously worked on, since the district commissioner can submit the work request without the resident initiating it, but she would still like to welcome residents to contact their district commissioner. Commissioner Myers recommended the language state, “Any residents may contact their district commissioner. A district commissioner may also submit a work request through the appropriate channels to the Traffic Engineer.”

In reference to section 5d, under iii, Commissioner Houle recommended modifying item c to state “renters present on behalf of homeowners” and adding another item d that states “renters present solely on their own accord”. The Committee and staff agreed. Commissioner Parker explained that she had some ideas that she had some ideas about what maximal inclusion of tenants might look like in a revised draft, but a lot of Commissioner Houle’s suggestions satisfy a lot of those desires.

Commissioner Wright explained that she would like to see this go before the full Mayor Commission in advance of the budget.

Commissioner Houle made a motion to approve the policy and send to the full Mayor and Commission for consideration with the following amendments:

- Removing the clause “which typically includes apartments” from section 3e
- Adding the phrase under i1 “on the homeowners behalf” in section 4c
- Modifying the latter part of the paragraph in item i under section 5b to state, “Any resident may contact their district commissioner. A district commissioner may also submit a work request through the appropriate channels to the Traffic Engineer.”
- Modifying item 1c under section 5d to say “present on behalf of homeowners”
- Adding item 1d under section 5d to say “renters present solely on their own accord”.

Commissioner Myers seconded. The motion passed unanimously.

C. **Examine opportunities for local civil rights legislation, modelled on the recent Brookhaven ordinance, and utilizing the Municipal Court and ACC Attorney’s Office as support for the prospective ordinance. (Mayor Girtz assigned to LRC on March 3, 2020)**

Commissioner Wright updated the Committee that the Mayor had approved splitting this topic, as was discussed in the February 4, 2021 meeting. Manager Blaine Williams summarized past discussion for the topic and explained the Committee had previously discussed the ordinance and referred to other communities in determining things they would like to see included in ACC’s ordinance. Krystle Cobran had previously shared that, in addition to having the ordinance in place, it is also important that people be able to access and understand it, as well as convey their concerns and complaints. During the February 4, 2021 meeting, the Committee discussed the need to possibly split the topic into examining opportunities related to the ordinance and adding a separate topic to explore an educational toolkit to increase resident access.

Commissioner Wright asked the Committee for their input on whether or not this captured their thoughts on how best to move forward, which would allow the ordinance to not be delayed by the discussion around the toolkit. Commissioner Thornton explained that she did not recall that; however, she believes it is a good idea.

Sherrie Hines summarized the history of the ordinance. She explained that the ordinance was drafted with the Committee's direction and is based mostly on the Brookhaven ordinance; however, it does have some pieces of the Decatur ordinance included as well. They sought to make the most defensible ordinance that they could. Hines explained that she was unaware of any concerns that the Committee has regarding the drafted language. Commissioner Wright noted the ordinance was last discussed in October 2020.

Commissioner Parker expressed interest in adding racial identity to exceptions listed under section 6-20-4 on item number 4. She explained there have been a number of cases where people, particularly African Americans with natural hairstyles like dreadlocks, have been discriminated against professionally or in schools saying that hairstyles, like dreadlocks, are unsanitary or inappropriate for the workplace. She also noted this has prompted introduction of the CROWN Act at the federal level, which barring discrimination based on hairstyle, as well as passage of similar pieces of legislation in eight states and eighteen municipalities, including Clayton County and Stockbridge, Georgia. Commissioner Wright inquired if Commissioner Parker had the language prepared from the other ordinance. Commissioner Parker explained that she welcomes feedback, but she believes the addition of racial to gender identity would capture this. Commissioner Wright inquired if modifying the language to "in a manner consistent with their gender and/or racial identity" would be sufficient. Commissioner Parker agreed.

Commissioner Wright requested feedback from staff on whether this section was the most appropriate place to add this language. Sherrie Hines explained that, while she absolutely supports the sentiment behind this, it is her duty to point out that, although the CROWN Act is still pending, there is not anything that makes discrimination based on dreadlocks illegal at this time. She further noted that the 11th Circuit ruled in 2017's Catastrophe management solutions case that refusing to hire someone because of their dreadlocks is legal. She explained that this does not mean that we may not want to make a statement or change our own ordinance about how ACCGov hires people; however, she believes we would have difficulty including an ordinance that would try to litigate private relationships between other employers when there is that 11th Circuit precedent that is still good law. Hines explained that she has not had a chance to fully research this, but she is happy to look further into it to see if there is something else that has happened since 2017 that might help. Commissioner Parker explained she is not sure how recently the similar pieces of legislation were passed in Stockbridge and Clayton County, but they might be interesting points of reference for any developments that have emerged around that since 2017, and she noted she would appreciate any feedback Sherrie Hines can provide.

Commissioner Houle noted they fully support adding the section regarding racial identity that Commissioner Parker suggested, even if there is not case law elsewhere to support it yet. Commissioner Houle asked Commissioner Parker if it would make sense for the language to say consistent with "race, ethnicity, or gender identity", since ethnicity and race get treated differently legally at times. Commissioner Parker noted she would welcome that addition.

Commissioner Houle also noted there had been a modified version distributed to the Committee by Sherrie Hines in January that only modified references to "city" to "county". Sherrie Hines agreed to re-send that version to the Committee. In reference to section 6-20-2 covering definitions, Commissioner Houle inquired if "public accommodations" (item #10) covers schools or childcare facilities. Sherrie Hines explained that it would not cover schools, because our ordinances do not apply to UGA or the Clarke County School District. In regards to private childcare facilities, it would apply to them as much as it would to any other private entity. Commissioner Houle also inquired if it would apply to private schools without changing any of the language or if language would need to be added. Sherrie Hines explained that she would need to consider this further, as the ordinance captures employment or housing, and she is not sure if

the language is broad enough to capture the student-teacher or student-school relationship. She explained that she believes it would cover them, but she would need to research it further. Commissioner Houle inquired if it would at least apply to their staff and requested feedback from staff after it has been researched.

In reference to section 6-20-2, item #15, Commissioner Houle noted that language regarding sexual orientation currently reads as if there are only three identities, and, as conversations surrounding sexuality and gender are ever-evolving, they suggest modifying the language to note "including but not limited to". Commissioner Wright asked Krystle Cobran if she had any feedback to provide for this point. Krystle Cobran explained there one factor to consider is that the Supreme Court has identified specific protected classifications, and, as of this moment, there is a limited number of classifications. Cobran explained that she would recommend doing some more research on this, but she believes it may be a wise approach to use the language "including but not limited to" versus listing out identities or categories that might not constitute a protected classification.

Commissioner Houle explained that they had previously spoken with Sherrie Hines about adding immigration status and actual or perceived housing status. Commissioner Houle asked Sherrie Hines to clarify for the Committee why she does not recommend including those on the list. Sherrie Hines explained that there are very specific protected classes, and the further we go outside of what are recognized as protected classes, the more vulnerable it makes the ordinance. She explained it is the question of whether or not, by trying to add in different categories that are meaningful, important, and deserve protection, it may potentially undermine the entire ordinance. Commissioner Houle shared some examples of potential discrimination based on immigration status or actual or perceived housing status, which led them to suggest those categories be added. Commissioner Wright inquired if there are places in the "whereas" section that could be modified to capture the intent and, if that section may be more appropriate for that given they are not protected classes. Commissioner Houle explained they would rather add the protected classes, and if it does undermine the ordinance and have to be revisited again in a year then sobeit; they believe these are conversations that need to happen, and this may be an important opportunity to provide a protected class that defines these forms of discrimination that need to be addressed. Commissioner Wright explained that she is under the impression that, if it is not already an established protected class, we are not able to make a new protected class. Commissioner Thornton explained that she is of an opposite opinion, and she does not believe making written statements is as powerful as having a way to implement it; she would rather move forward with what we have, continue to research, and, when these protected classes change and open up, and there is the ability to have teeth, it can be modified.

In reference to section 6-20-3, Commissioner Myers requested clarification on whether or not her assumption is correct that those listed are all protected classes. Sherrie Hines confirmed that they were all protected classes. Commissioner Myers noted that, in terms of the enforcement process, there is a process to file a complaint is a complaint but also a process for voluntary mediation. She inquired if the voluntary mediation come before there is any legal filing of a problem. Sherrie Hines explained that it can be organized however the Committee desires, but she had taken that from the Brookhaven ordinance. She also noted that mediation could potentially be expensive, so we may not want to encourage mediation if we do not have a low-income option to provide that. Hines explained that the way this is designed in such a way that a complaint would come in to the Attorney's Office, and they would review it. If it appears that there is an issue, proceedings and mediations can happen to resolve it before it goes to Municipal Court. Once it goes to Municipal Court, though, the judge has to make a determination about preemption and whether the case goes forward. Commissioner Myers inquired if there would be a problem with including actual or perceived housing status and immigration status in the

ordinance up to the mediation step, as it gives people in those classes who experience discrimination to bring the issue to the attention of the county. Sherrie Hines advised she believes there is a problem with it, as it is not recommended to pass something that you know is not viable. Krystle Cobran explained that there is a cultural component to societal change, and there is a legal policy component; there is a need to think through what the ultimate change is that the Committee is wanting to achieve and how to structure the legal policy piece and cultural piece to incentivize the change that is being sought. Commissioner Wright noted that she believed this is a good delineation.

In reference to section 6-20-2, Commissioner Houle noted they also wanted to look into if family structure or relationship status could be added to "familial status". They noted Somerville, Massachusetts legalized different family structures, polyamorous and otherwise, when they rewrote a law last year, and they would like to pursue something along those same lines. Additionally, in reference to section 6-20-5 under enforcement, Commissioner Houle noted they were under the impression that we were providing recourse under the county for certain claims in some cases. Sherrie Hines explained that the county could bring a charge like a normal prosecutor and pursue that, but if there would be a mediation or proceeding between the two parties directly or if the complainant wanted to have an attorney, this would just clarify that the county does not pay for anybody's attorney, because there is no right to an appointed attorney in most civil cases.

In reference to section 2, Commissioner Houle noted language that explain the ordinance shall take effect 30 days after passage and inquired why we could not have it take effect the day after it passes. Commissioner Houle also suggested modifying section 3 to state "the County Manager, in collaboration with the Office of Inclusion," if that is agreeable to the Manager's Office and Office of Inclusion. Krystle Cobran agreed that she would be more than happy to include that and noted that the Office of Inclusion works very closely with the Manager's Office.

Commissioner Wright requested clarification from staff on why the ordinance would take effect 30 days from passage and how long it typically takes to have a new ordinance entered into Municode. Manager Williams explained that his understanding is that the 30 days was included to allow time to notify the community that this would be going into place. He further noted there is no fixed date for the Clerk to enter new ordinances into Municode. Sherrie Hines advised that, in general, she does not see a concern with the ordinance going into effect immediately if that is desired, but there would just be less time to alert the community. Commissioner Wright inquired as to the desire of the Committee regarding when it should take effect. Commissioner Houle noted that they are not attached to it either way, but they thought having it take effect immediately might elevate the understanding within the community that this is passing. If the Committee is of the opinion that more time would be beneficial to help get the word out, they are open to that. Commissioner Wright inquired if the Committee was amenable to keeping it at 30 days. Commissioner Parker agreed. Commissioner Myers noted that the ordinance does seem fundamental about human rights and protection, and, for that reason, she noted that she would not be against putting it into effect immediately to draw attention to it; however, she inquired if there would be any negative impact with it going into effect immediately. Manager Williams explained that he agreed with Attorney Hines, and he does not see any sticking issue on the date other than timing of notifying the community. Commissioner Wright requested for the ordinance to be posted online after it passes, since it would not be added to Municode yet.

Commissioner Houle inquired if the next meeting could include discussion on the familial status question and if the Committee had settled on a timeframe for when the ordinance would take effect. Commissioner Wright explained that she does not believe there had been a consensus on that yet. Commissioner Parker requested clarification if complaints that occur while the ordinance

is in effect would be covered under the ordinance. Sherrie Hines confirmed that to be correct. Commissioner Parker explained that, for that reason, she recommends having it take effect immediately upon passage.

Krystle Cobran inquired if it the Committee would like to utilize the “whereas” section to frame the change that the Commission is hoping to see from the implementation of the ordinance. Commissioner Wright noted that she believes that is a good place for that. Krystle Cobran explained that she has had a number of conversations with Manager Williams and Attorney Hines about this, but there may be some opportunities to modify some language in the “whereas” section to drive home what the Commission is hoping to accomplish with the ordinance may help frame things out a bit more. One particular change would be to change “citizen” to resident”. Commissioner Thornton agreed that would be helpful. Commissioner Myers also requested further clarification on the reasoning to understand more why we cannot include actual or perceived housing status and immigration status, as well as what the risks are if we include that language.

D. **Schedule/Agenda Changes**

The next LRC meeting is scheduled for May 6, 2021 at 1:00 p.m. and will be held remotely via WebEx.

Commissioner Thornton made a motion to adjourn. Commissioner Myers seconded the motion. The motion passed by unanimous vote. The meeting adjourned at 2:34 p.m.