



**CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES**

September 30, 2020

**REPORT OF THE PUBLIC UTILITIES AND PUBLIC WORKS COMMITTEE
MEETING AS A COMMITTEE OF THE WHOLE**

Attendee Name	Title	Status	Arrived
Jesse Clingan	Chair	Present	
William A. White Jr.	Vice Chair	Present	
Katjana Ballantyne	Ward Seven City Councilor	Present	
Matthew McLaughlin	Ward One City Councilor	Present	
Wilfred N. Mbah	City Councilor at Large	Present	
Mary Jo Rossetti	City Councilor at Large	Present	
Kristen Strezo	City Councilor at Large	Present	
Mark Niedergang	Ward Five City Councilor	Present	
Lance L. Davis	Ward Six City Councilor	Present	
Jefferson Thomas ("J.T.") Scott	Ward Two City Councilor	Present	
Ben Ewen-Campen	Ward Three City Councilor	Present	

Others present: Nick Antanavica - ISD, David Shapiro - Law, Khushbu Webber - Director of Legislative Affairs, Peter Forcellese - Legislative Clerk.

The meeting took place virtually via GoToWebinar and was called to order at 6:00 PM by Chairman Clingan and adjourned at 8:12 PM on a roll call vote of 11 in favor (Councilors McLaughlin, Mbah, Rossetti, Ballantyne, Strezo, Niedergang, Davis, Scott, Ewen-Campen, White , Clingan), none against and none absent.

Approval of the February 3, 2020 Minutes

The minutes were accepted on a roll call vote of 10 in favor (Councilors McLaughlin, Mbah, Rossetti, Ballantyne, Strezo, Niedergang, Scott, Ewen-Campen, White , Clingan), none against, and 1 absent (Councilor Davis - due to technical difficulties).

RESULT:	ACCEPTED
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Public Hearing

210595: That the Director of Inspectional Services appear before the Committee on Public Utilities and Public Works to discuss ensuring that all conditions of a special permit are

met prior to the final signoff by the Inspectional Services Department and the issuance of a certificate of occupancy.

The public hearing was opened at 6:07. Thirteen individuals spoke on items 210595 and 210596, which were taken together. A summary of their comments follows:

- some developers are not following the law and are bypassing rules, therefore, taking advantage of the law and the residents of Somerville,
- developers with unpaid fines should not be allowed to get permits until all conditions are met,
- an ombudsman should be appointed to deal with developers/residents,
- the Planning Department needs to enforce regulations,
- it is up to the city to make sure properties are ready for occupancy, not the developer,
- an effective way is needed to communicate complaints on behalf of residents,
- projects must be built to approved plans,
- the city must ensure all conditions are met and fines enforced, as some developers feel they can do what they want once they get a permit,
- there seems to be two sets of laws - one that is strict and applied to residents and the other that is lax and applied to developers,
- the city should apply and collect fines and seize a property if necessary,
- this situation is the result of intimidation and rampant violations,
- names need to be named to make clear where and with who the problems exist,
- the playing field is uneven when everyone doesn't follow the rules,
- fines should be progressive and a bond should be produced when permits issued,
- a dog park was built without a special permit because a city official 'green lit' it,
- the developer of the Cherry Street property:
 - did not obtain a certificate of occupancy for the property,
 - employs practices that disrupt the lives people who live there,
 - does the least amount of work possible,
 - is greedy and should be made to pay their fines.
 - is not responsive to residents' requests to have damages repaired properly and to have mold issues remediated,
 - negotiated an agreement with neighbors then did not live up to the terms, and when complaints were made, the developer wasn't held to the conditions,
- what the developer of the Cherry Street property is being allowed to do, will affect the entire city in the future,
- developers should be held to the same standards as homeowners and should not have power to ignore the rules,
- by-laws, ordinances need to be enforced consistently to meet the standards of the city,

- compliance requires enforcement and the onus has been placed on the residents, not the city,
- there needs to be inter-departmental communication, e.g., ISD not available on the weekends and the police may not have all the particulars of a situation.

Chairman Clingan will leave the record open until the close of business on October 7, 2020, to submit additional testimony. The Public Hearing was closed.

Mr. Antanavica said that he understands the concerns expressed here tonight and pointed out that many are the same concerns that ISD has. ISD is looking at how conditions are approached and enforced and it appears that changes need to be made, but those changes need to have the desired effect. He has been watching how things take place and how issues are addressed. Mr. Antanavica told the committee that for the past several months, ISD has been meeting with the Planning and Zoning Departments weekly in an attempt to get on the same page regarding the interpretation of circumstances. He noted that the new zoning code has been enacted and includes enforcement. Inspections will be made more frequently to catch problems earlier. Condition reviews will be conducted with ISD, Planning and Zoning to make enforcement easier for all parties.

Councilor Rossetti asked how many vacancies are in ISD and Mr. Antanavica said that there are 4 vacancies at the present time. She asked how enforcement will be stepped up if the department is understaffed and Mr. Antanavica said interviews are being held to fill those positions. Ms. Webber stated that there are 2 vacancies in the Planning/Zoning Department. Councilor Rossetti would like a response from the Administration on the number of vacancies that remain unfilled and an explanation of why that is the case. She asked if there is a better understanding with the Police Department relative to the permitted working hours on projects and Mr. Antanavica stated that those hours are now posted on the jobsites.

Councilor White references Sec 8.3 of the Code of Ordinances, which enables the city to deny a permit for unpaid fines. The current ordinance has a 12 month wait time and Councilor White will submit an amendment to lessen that timeframe.

Councilor Mbah asked if health and safety guidelines are being enforced and Mr. Antanavica explained that health inspectors follow up on complaints/violations once they are made known.

Chairman Clingan asked what tools are used to check enforcement during the construction period of a project and Mr. Antanavica said that inspectors utilize CitizenServe, albeit, as a digital filing cabinet. He doesn't know what other departments have access to that data.

Councilor Scott asked what would happen if a project was found to not be in compliance with an ordinance, e.g., the drainage ordinance. Mr. Antanavica explained the three options available to the builder. One option would be to appeal to the Director of Planning for a de minimis change. Councilor Scott spoke about a project underway where a massive stormwater system was to be installed, but wasn't, and something else was built where the system was to have been. He asked if this might have been a de minimis change, even though the special permit and building permits were not adhered to. Councilor Scott asked if the city has been lenient in granting certificates of occupancy in the last 6 months. Mr. Antanavica said that there has been no leniency on the city's part and all conditions need to be met before the certificate is issued. Councilor Scott asked if there are any properties that have temporary certificates of occupancy.

Mr. Shapiro told the members that there is a Board of Building Regulations and Standards (BBRS) case pending and said that once an appeal is filed, the issuance of fines must cease. Councilor White inquired about the administrative appeal process and asked if it only applied to building code violations. Mr. Shapiro said that the decision could be appealed to Superior Court. Councilor White asked for a list of BBRS cases over the past 5 years.

Councilor Niedergang commented that the city needs more inspectors and he believes that Mr. Antanavica needs the tools to do his job properly.

RESULT:

WORK COMPLETED

Public Hearing

210596: That the Committee on Public Utilities and Public Works hold a public hearing on developers' compliance with the conditions of special permits and the Inspectional Services Department's enforcement of those conditions.

Items 210595 and 210596 were taken together. See item # 210595.

RESULT:

WORK COMPLETED

210162: That the Director of Inspectional Services explain why Stop Work Orders are not accompanied by a fine.

Mr. Antanavica said it depends on the situation and what a fine is. When work stops, the proper permits must be secured, but those permits are charged at a triple rate as a penalty. If a permit exists and a stop work order is issued, the person is given time to correct the defect before any fine is assessed. Typically, a stop work order is lifted once the violation no longer exists. MJ referenced a case with many violations and work performed on Memorial Day. A stop work order was issued and work was allowed to continue the next day. She thinks that the procedures need to be re-examined. Mr. A said that notices of violations have been tightened up and now show a date by which compliance must be made.

RESULT:

WORK COMPLETED

210186: That the Director of Inspectional Services, the City Solicitor, and the Mayor appear before this Council to explain why a development at 21 Cherry Street was deemed essential and granted a temporary Certificate of Occupancy despite a history of building code violations and physical violations of the Special Permit granted by the Zoning Board of Appeals.

Mr. Antanavica informed the committee that no occupancy certificate has been issued for this address. The construction of this project was determined to be essential after meeting the essential criteria, which was the same for all projects. Those criteria have since been relaxed and replaced by having a safety plan in place for each project. There is currently an appeal before the Board of Building Regulations and Standards involving this property and Mr. Antanavica will supply the particulars, in writing, to Councilor Scott.

RESULT:

WORK COMPLETED

210187: That the Administration explain in writing to this Council, upon granting a permanent Certificate of Occupancy or extending a temporary Certificate of Occupancy to the 21 Cherry Street development, why het COO was granted given the many built violations of the Special Permit granted by the Zoning Board of Appeals.

See 210186

RESULT:

WORK COMPLETED

210219: That the Director of Inspectional Services provide the Committee on Public

Utilities and Public Works with the building jacket for the development project at 21 Cherry Street, prior to the Committee's June meeting.

Mr. Antanavica told the committee that the building jacket for this property is available in CitizenServe and will be provided.

RESULT:

WORK COMPLETED

HANDOUTS:

- Chamber of Commerce Letter (with 210595, 210596)
- Comments - M Rizkallah, (with 210595, 210596, 210186, 210187, 210219)
- Public Comments (with 210595, 210596)
- Comment - M Porter (with 210595, 210596)