



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

October 2, 2018
REPORT OF THE LEGISLATIVE MATTERS COMMITTEE

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

Others present: Doug Kress - HHS, George Proakis - OSPCD, Alex Melo - OSPCD, Ellen Shachter - OSPCD, David Shapiro - Law, Annie Connor - Legislative Liaison, Peter Forcellese - Legislative Clerk.

The meeting took place in the Aldermen's Chamber and was called to order at 6:05 PM by Chairman Niedergang and adjourned at 8:20 PM.

1. Approval of the September 20, 2018 Minutes

RESULT:	ACCEPTED
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203965: That the City Solicitor draft an ordinance for review by this Board related to recreational marijuana.

RESULT:	KEPT IN COMMITTEE
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206284: City Solicitor submitting an Ordinance regarding Adult Use Marijuana Establishments.

Mr. Melo stated that setting a maximum number of marijuana facilities is a policy decision. He said that the City does not have a maximum on the number of liquor licenses. Chairman Niedergang commented that he isn't comfortable with leaving it open ended. It was pointed out that if a maximum number of licenses isn't specified, the Licensing Commission would probably

not be able to deny licenses on a numerical basis. Alderman White suggested that the City Solicitor weigh in on this matter and Chairman Niedergang asked Ms. Connor to have the Law Department forward a written response addressing this concern. Alderman Hirsch asked that language be included to limit the number of establishments in particular areas, to protect the feel of neighborhoods. Mr. Melo replied that the Planning Board is in the process of drafting recommendations for the BOA on the proposed recreational marijuana zoning ordinance and he thinks it's more appropriate for zoning to deal with this location issue.

Alderman Scott noted that, as the ordinance is written, the minimum of six licenses to be granted and any maximum the BOA might enact would apply to all establishments. However, Mr. Proakis replied and said that this would only apply to retail establishments. Mr. Proakis is comfortable with setting a cap, but only on retail outlets, so other aspects of the industry can grow, e.g., research/testing facilities. He will take a closer look at the language in the proposed ordinance and might have to change it to reflect state law. Chairman Niedergang asked that all aldermen be sent an email when this is sorted out.

Mr. Proakis said that six months was recommended for the priority application process because Somerville is more focused and ready to proceed than most other communities, but that time frame could be extended if aldermen think it is too quick. He spoke about the 3 medical marijuana retail facilities that are or soon will be operating in the City and again explained why they were included as applicants in the early application process. Alderman Davis stated that at the community meetings that were held on this issue, people were told that the medical marijuana facilities would not switch over to recreational use and he believes that people will be upset, (if the switch is made), because it goes against what they were told. Alderman Scott said he's not interested in fast-tracking medical use establishments and not concerned about their profit margins. He would like to have a 2-year priority application process. Alderman Hirsch asked if the time period was extended to 2 years, would the medicals possibly sue under the state guidelines which place them higher on the priority ladder. Alderman Ewen-Campen said that the purpose of priority applications is to right a wrong and Mr. Proakis pointed out that the way the state set things up, medical facilities have a step up on priority applicants, therefore, the City is essentially copying what the state has done by grouping them with priority applicants. Aldermen asked about the likelihood of a lawsuit and expressed interest in more specific information regarding whether the three existing medical marijuana facilities are required by the state to be considered priority applicants for recreational retail licenses.

Alderman Mbah expressed concern that there may be problems since marijuana is still illegal under federal law. Alderman Ballantyne asked for information on square footage, jobs and hourly rates for the retail establishments and Alderman Hirsch requested an estimate of tax revenue expected from them. Alderman White pointed out that state guidelines suggest that communities should grant priority applications and he asked that the City Solicitor pay close attention to recommendations of the Cannabis Control Commission (CCC).

Mr. Kress spoke about enforcement, saying that ISD does food related inspections for restaurants and HHS is responsible for code compliance. He will provide the committee with an explanation of how the actual inspections related to marijuana will be dealt with in the near future.

Mr. Proakis told the committee that the licensing process is complicated and that the CCC wants to be the body that approves the final step in the process. Being a priority candidate does not ensure that a license would be granted, and no license will be granted until a host community

agreement is in place. Mr. Melo noted that the state has provisional and final licenses and would work with communities in granting provisional licenses. Mr. Proakis will prepare a flowchart of the licensing process in time for the next meeting on this matter.

Chairman Niedergang told members that this will be discussed again at the committee's October 18, 2018 meeting and that he would like members to have amendments ready to begin the markup.

RESULT:

KEPT IN COMMITTEE

202523: That the City Solicitor prepare a draft ordinance to amend or replace the current Condominium Conversion Ordinance, and incorporate the strongest parts of relevant state law.

RESULT:

KEPT IN COMMITTEE

205420: Assistant City Solicitor submitting an updated Condominium/Cooperative Conversion Ordinance.

Ms. Shachter spoke on this item saying that money for services, by themselves, are not enough to provide the housing that's needed and that this proposed ordinance is one of the few things that the city can do without going to the state legislature. Condo conversions have slowly eroded the city's rental stock and this ordinance is an important piece of the puzzle to solving the housing problem. Ms. Shachter reviewed the data presented in the Condominium Review Board's FY-18 Annual Report, (with the committee).

Mr. Shapiro previously rendered a legal opinion that said there was a 50/50 chance of this ordinance withstanding a legal challenge. Actions taken by the city since 1970 were summarized and included the enabling legislation for rent control and its nullification upon the passage of condo conversion laws. In 1985, Somerville received authority to govern condo conversions and the ordinance hasn't been changed since. In the 1990's, some specific local legislation was struck down by the courts, but Somerville's language wasn't expressly stricken from the statute, so therein lies the question of its legality, i.e., does the city still have the authority to regulate condo conversions?

Ms. Shachter noted that Somerville's current ordinance requires a 2-year notice period, while many other communities require a 5-year notice. With regard to moving costs she said that when all things are considered, it costs \$10,000 to move. Alderman Hirsch is concerned that a 5, or possibly 7, year notice period might cause owners to not rent to specific groups. Alderman Ewen-Campen has no problem with a long notification period and said that he thinks the housing laws need to be enforced and that "undercover" prospective tenants should be utilized to ensure that certain groups are not discriminated against.

Mr. Shapiro reviewed the key points of the proposal. Chairman Niedergang expressed concern that many properties are being purchased unoccupied now and he suspects that buyers and sellers might be sharing information to make that happen, so he would like to discuss a look back period. Alderman White cautioned that the closer this gets to rent control, the greater the chance it will be struck down by the courts.

Chairman Niedergang told the committee that he will likely schedule 2 public hearings on this matter, adding that there is no deadline to complete it. Information regarding current and

proposed condo conversion ordinances is available on the city's website at the following locations:

www.somervillema.gov/cco

www.somervillema.gov/condo-conversion

www.somervillema.gov/condoconversion

RESULT:

KEPT IN COMMITTEE

Handouts:

- Condo conversion comparison table final (with 202523, 205420)
- Draft FY2018 Condo Review Report (with 202523, 205420)
- FY17 Condo Review Board Summary (with 202523, 205420)
- Timeline draft ordinance final (with 202523, 205420)
- Proposed CCO Process Timeline (with 202523, 205420)