



CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES

May 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	Present	
Matthew McLaughlin	Ward One Alderman	Present	
Katjana Ballantyne	Ward Seven Alderman	Present	

Others present: David Shapiro - Law, Shannon Phillips - Law, Rich Raiche - Engineering, Annie Connor - Legislative Liaison, Peter Forcellese - Legislative Clerk.

The meeting took place in the Committee Room and was called to order at 6:05 PM by Chairman Niedergang and adjourned at 8:20 PM.

Alderman Ballantyne updated the committee on the Clarendon Hill project and said that a request was made by both the developers and union representatives for the BOA to delay the public meetings until Tuesday, May 8th. Therefore, the Finance Committee and Legislative Matters Committee meetings scheduled for tomorrow, have been rescheduled to next Tuesday.

205043: Assistant City Solicitor responding to #204586 with a draft ordinance amending the Ordinances at Chapter 11 Article VII re: stormwater management and infiltration and inflow mitigation.

Mr. Shapiro reviewed the proposed ordinance and provided an answer to a previous inquiry regarding backwater valves by saying that, pursuant to the state plumbing code, backwater valves are required if the fixture “is subject to reverse flow or backpressure”. He also explained that the charge paid by someone connecting to the system has to be a fee and not a tax and that the fee must have a rational connection to the work and cost recovery. Alderman Davis suggested that the language should reflect that an addition is being made to the inflow. Mr. Shapiro and Mr. Raiche will discuss this concern and clarify the language. Mr. Raiche told the committee that the Infiltration and Inflow (II) Mitigation ordinance, currently before the committee, is required by the DEP and that it’s the city’s first version and gives the city the tools to implement the II policy. Mr. Shapiro defended the broad language of the II Mitigation section of the proposed ordinance by saying that it is based on a Supreme Judicial Court case and on what has been done by other communities.

The committee discuss various aspects of the policy, including calculations based on bedroom counts. Mr. Raiche estimated that a 3-bedroom building would generate 990 gal/day of discharge, which translates to a fee of roughly \$15,000. Mr. Raiche said that the trigger mechanism is through

the building permit process when the envelope of the building changes. Alderman McLaughlin had no problem with someone paying more for additional water use but he is concerned about exemptions given to big developers who choose to do major sewer work rather than pay to fulfill their obligations and he would like language included requiring BOA approval for exemptions. Mr. Raiche explained that the exemption is for interior renovations and that anyone doing a small project would most likely pay the fee. On a larger project, a large developer could self-perform, thereby saving themselves money. He suggested that perhaps there should be a fee for the engineer to review the developers' plans and provide project oversight, since that is a requirement to qualify for self-performance. Mr. Shapiro said he believes that this would be a service, therefore, a fee could be charged for the review and oversight. Alderman Davis recommended adding language to that end in the ordinance.

Only a handful of other communities charge a similar fee, e.g., Cambridge, Waltham and Saugus, mainly because most communities don't have combined sewer systems or are not under a DEP Administrative Consent Order (ACO). The discussed revisions will be incorporated into the proposed ordinance and sent to all members for review so that the item may be acted on at this week's BOA meeting on May 10th.

RESULT:	APPROVED AS AMENDED
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198398: That this Board's Committee on Legislative Matters review the current pervious surfaces ordinances for their effectiveness and sufficiency.

See discussion of #205701

RESULT:	KEPT IN COMMITTEE
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205701: That the Administration share enforcement mechanisms for Ordinance 11-33, Driveway Construction, as it relates to pervious surface area.

Chairman Niedergang stated that he wants to look at the ordinance and clarify how it's enforced. Alderman Rossetti gave some background information on the issue. Mr. Raiche told the members that, unlike drainlayers, the city does not have a list of approved driveway contractors and he is unaware of what lists Inspectional Services (ISD) might have. He explained the ordinance and permit procedure for installing a driveway, noting that the ordinance captures the landscaping process and involves the DPW, ISD and the Engineering Department. He also commented that the ordinance regarding driveways is zoning based and varies according to where the driveway is, adding that the issuance of a permit cannot be denied unless a change is involved, e.g., removing a tree. Alderman Ballantyne stated that the city has an ordinance that allows a tree to be cut down (see 204886 below) as long as it's replaced in proximity to the one removed. Chairman Niedergang read from an ordinance, Section 11-33, c., Driveway construction: Paving contractor registration. This section states that any construction on an impervious driveway must be done by someone who has registered with the City Engineer and execute a bond of no less than \$2,500 with the City. Chairman Niedergang stated that apparently nobody had informed Mr. Raiche that this is one of the responsibilities of the Director of Engineering.

RESULT:	KEPT IN COMMITTEE
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205421: Assistant City Solicitor submitting proposed amendments to Ordinances 11-31 and 11-40 re: household trash and rubbish collection and mandatory recycling.

Ms. Phillips reviewed the minor edits that were requested at the committee's April 5, 2018 meeting and Alderman Davis reported that his query regarding the contract termination was satisfactorily answered. Alderman Rossetti introduced a data sheet estimating a cost savings to the city of \$4,872 from the textile recycling program.

RESULT:

APPROVED AS AMENDED

205487: That the Director of Sustainability and Environment update this Board on the city's textile recycling program in mid-September, 2018, identifying the concerns raised by the Committee on Legislative Matters at its meeting on April, 5, 2018.

RESULT:

KEPT IN COMMITTEE

204364: That the City Solicitor and the Director of SPCD submit to this Board, amendments to the Tree Preservation Ordinance with criteria for removal and notification to add safeguards for street reconstruction projects.

Ms. Phillips reviewed the changes made to the ordinance in Sec. 12-106 d) and e). Ms. Connor informed the members that Dr. Boukili suggested that the industry is moving to 3" diameter tree and recommended that the city follow suit. Alderman Davis noted that the state statute is 1 ½", therefore, his motion to change "three inches" to "one and one-half inches" in the first paragraph of Sec. 12-106 e) was unanimously approved.

Alderman Davis' motion to include language in Sec. 12-106 e)(2)(a) stating that the public hearings would include discussions of the cutting down or removal of trees was unanimously approved.

Chairman Niedergang commented that the threshold for Capital Improvement Projects in Sec. 12-106 b) Definitions: should be more than \$50,000. Ms. Connor explained that those projects are exempted because they already have an exemption. Chairman Niedergang requested to see the relevant language and Ms. Phillips stated that she has not seen any written policy on this.

Alderman Rossetti noted that there was a prior request to have the 48-hour notice printed on colored paper. That change was omitted due to an oversight, therefore, Alderman Rossetti's motion to add the words "on brightly colored paper" to the 3rd paragraph of Sec. 12-106 d) was unanimously approved.

Asked why the notification period for capital projects was longer than others, Ms. Connor explained that the scheduling is different for capital projects. Written objections to cutting down a tree may be submitted and after a public hearing and upon recommendation of the tree warden, the mayor or the BOA may order that the tree be cut down, despite any written objections.

The committee was satisfied with the draft ordinance and completed its work on the matter. The ordinance will be submitted to the BOA at its May 10, 2018 meeting for approval.

RESULT:

WORK COMPLETED

204782: Green and Open Somerville submitting comments re: #204364, proposed revisions to the Tree Preservation ordinance.

RESULT:**WORK COMPLETED****204886: That the City Solicitor and the City Arborist clarify the ordinance requiring tree removal for a new driveway or other construction project.**

Ms. Phillips discussed the ordinance and told the committee that Dr. Boukili thought it better that person cutting down a tree pay into a tree replacement fund. Alderman Davis was concerned that the ordinance doesn't address the location of the replacement tree and he's hesitant to draw an inference that it's O.K. to cut down public shade trees. He questioned whether the interest of the neighborhood is being addressed and suggested that perhaps if the tree can't be replaced near the original location, then a request for a driveway should not be allowed. Ms. Phillips explained that's why the payment should be made to the tree fund, in case the replacement tree can't go in a proximate place.

RESULT:**KEPT IN COMMITTEE****204750: That the City Solicitor prepare a draft ordinance to address Airbnb rentals, including owner occupied properties, as discussed at the November 29, 2017 meeting of the Committee on Public Health and Public Safety.**

Ms. Connor discussed the issue saying that a building of 3 or more units would have to be reclassified from R3 to R1 for use as a hotel. The concern is that if a 3-unit facility does not have a fire suppression sprinkler system, it would be rejected as an Airbnb. There is a possibility of the building code being amended at the state board, however this needs to be resolved before Airbnbs may be licensed. There is no sprinkler requirement for single or 2-family houses. The Administration wants to hold 2 neighborhood meetings, one in the eastern and one in the western part of the City, to communicate information to residents and to inform them that even if the building code issue is resolved, there would still be other requirements that need to be met. Ms. Connor said that there will be extensive discussion and public process around requirements for Airbnbs.

Alderman Ballantyne asked if there a distinction between a 3-family house with 3 units for rent vs. a condo situated in a 3-family house. Alderman McLaughlin commented that the City of Cambridge allows adjacent units to be rented out.

Ms. Connor told members that the Administration is considering imposing registration and licensing fees to expand enforcement capabilities. Alderman McLaughlin suggested that perhaps fines, rather than fees, might be assessed to crack down on the problem and pay for enforcement. He plans on submitting a resolution at this week's BOA meeting urging the state board to resolve the code issue.

Ms. Connor said that there is no timetable for the code issue to be resolved, so there is really no formal action that the Administration wants to take until that's addressed. Alderman Davis recommended that the Administration keep moving the issue forward and Ms. Connor noted that the Administration intends to do so while making it clear that legal registration for short-term rentals like Airbnb will not be officially permitted until the state building code issue is resolved.

RESULT:**WORK COMPLETED****Handouts:**

- Backwater Valve Code (with 205043)

- Sewer, Drain, II Policy DRAFT 4-27-18 (with 205043)
- Sewer, Drain, II Policy DRAFT 4-27-18 Red Lined (with 205043)
- Sec 11-33 Driveway Construction (with 205701)
- Sec 11-31 Household Trash (with 205421)
- Solid Waste Costs (with 205487)
- Sec 12-106 Trees on city property (with 204364)
- Sec 12-103 Tree Replacement (with 204886)