



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

May 16, 2019  
REPORT OF THE LEGISLATIVE MATTERS COMMITTEE

<b>Attendee Name</b>	<b>Title</b>	<b>Status</b>	<b>Arrived</b>
Mark Niedergang	Chair	Present	
Lance L. Davis	Vice Chair	Present	
Matthew McLaughlin	Ward One City Councilor	Present	
Jesse Clingan	Ward Four City Councilor	Present	
Katjana Ballantyne	Ward Seven City Councilor	Present	

Others present: Eileen McGettigan - Law, Tom Galligani - OSPCD, Lauren Drago - OSPCD, Sunayana Thomas - OSPCD, Daniela Carrillo - OSPCD, Nicholas Antanavica - ISD, Matthew Zaino - ISD, Ade Solarin - ISD, residents Chris Dwan and Tori Antonino, Annie Connor - Legislative Liaison, Peter Forcellese - Legislative Clerk.

The meeting took place in the Committee Room and was called to order at 6:01 PM by Chairman Niedergang and adjourned at 9:19 PM.

**Approval of the May 2, 2019 Minutes**

<b>RESULT:</b>	<b>ACCEPTED</b>
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**Short-Term Rentals Ordinance**

(See [www.somervillema.gov/strs](http://www.somervillema.gov/strs) for revised draft ordinance and other documents.)

**206613: City Solicitor submitting an ordinance to require the registration of short term rental properties.**

Nicholas Antanavica, Matthew Zaino and Ade Solarin, all from ISD, addressed this issue and explained the changes that were made. Language regarding registration was removed and language regarding current violations was added. Chairman Niedergang pointed out that while the local contact requirement can't be enforced without a registration process, shouldn't be included even if it can't be enforced? Chairman Niedergang also requested that the section dealing with trash pickup and care, parking, and other City requirements for residents to comply with be put back into the ordinance. He also recommended increasing the penalty for 3 or more violations from 6 months to 1 year. Councilor McLaughlin spoke about the recent court ruling on the Boston ordinance and asked if it's something that might be contested. Solicitor Wright said, that from a legal viewpoint, 6 months or 1 year should not make a difference. Mr. Antanavica stated that he isn't sure how the City

could enforce it without a registration process in place. Chairman Niedergang withdrew his recommendation. Councilor Ballantyne inquired about the language in Sec 4 g and Councilor Davis suggested adding the word 'residential' to 'unit' in Sections 4 f and 4 g. Councilor Davis also requested that liability insurance be put back into Section 4 k and was informed that liability insurance is required under state law and that the only other insurance that can be required is workmen's compensation insurance. Solicitor Wright will look into this matter.

Mr. Antanavica asked the Committee to hold off on passing this item tonight to allow ISD time to review Councilor McLaughlin's amendments with the Law Department. Mr. Antanavica told the Committee that the timeframe for enactment is expected to be approximately 6 to 9 months. During that period the City would have to hire a vendor to collect and process the relevant data so as to identify the exact address of properties that are doing STRs contrary to the ordinance, send out notification letters and only then would begin to enforce the ordinance.

Councilor Davis raised some points and asked Mr. Zaino why some language was written the way it was. Mr. Zaino explained his thought process and Mr. Wright said that the Law Department would review the language. Councilor McLaughlin commented that the language has been upheld in three courts, therefore, he's fine with approving the item tonight. Chairman Niedergang would like to give the Law Department one week to review everything.

Councilor Davis's motion to replace the ordinance before the committee with the amended copy received tonight and include the 2 amendments approved tonight, as well as the booking agent language, was approved.

Chairman Niedergang's motion to set the ordinance's implementation date to January 1, 2020, was approved.

Councilor McLaughlin's motion to approve the ordinance, as amended, was approved.

<b>RESULT:</b>	<b>APPROVED AS AMENDED</b>
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**206892: Chris Dwan submitting comments re: #206613, a proposed Ordinance for short-term rental properties.**

<b>RESULT:</b>	<b>PLACED ON FILE</b>
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**207869: 3 residents submitting comments re: #206613, a proposed Ordinance for short-term rental properties.**

<b>RESULT:</b>	<b>PLACED ON FILE</b>
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### **Tree Preservation Ordinance**

(See <https://www.somervillema.gov/treeordinance> for draft ordinance and other documents.)

**207498: Proposing a strengthened, comprehensive Tree Preservation Ordinance to protect trees on City and private property.**

Chairman Niedergang reviewed the revised draft and matrix of changes to the proposed ordinance that he had distributed and said that this was done with great help from Mr. Dwan. He pointed out the significant changes that were made to the proposed ordinance and noted that it

covers public shade trees, city trees, and trees on private property. Mr. Dwan was asked to comment on the revisions. He explained that the goal was to respond to all concerns previously heard and that there was enough of concern about exempting trees on owner-occupied property to at least take a look at it. The language in this proposal was borrowed heavily from Newton's ordinance in order to give homeowners freedom to deal with their property. In the ordinance before committee, the exemption is on the fees, not the permit. Councilor Ballantyne commented that tree management hasn't been discussed and noted that some trees need to be cut down, adding that owner-occupants are managing their property and taking care of their trees.

Councilor Davis stated that he does not like the idea of granting a waiver from replanting or payment into a tree fund and he's concerned that the ordinance takes away the public process when a property owner wants to cut down a healthy tree. Chairman Niedergang suggested having it apply only to very significant trees. i.e., trees having a 24 inch, or larger, diameter. Mr. Dwan commented that a hearing requirement could be added to address Councilor Davis' concern. Councilor Ballantyne asked about cutting trees to make a driveway and Mr. Dwan replied that if the person replanted or paid into the tree fund, there would be no problem, but if the person didn't replant or pay, then he thinks the Urban Forestry Committee would probably look unfavorably on the permit application. Councilor McLaughlin said that he has mixed feelings about owner-occupied exemptions adding that the Council has to choose between passing something that protects property owners or prioritizes trees. Chairman Niedergang clarified that under his proposal owners are able to cut trees as long as they get a permit, and that the question for the Council to determine is do they have to replant or pay into the tree fund like any other property owner. Any property owner would always have the right to apply for a waiver from paying or replanting, or are they exempt.

Solicitor Wright doesn't know if a municipality can prevent an owner from cutting a tree on his property and he will research this question. Chairman Niedergang said that he is willing to forgo an owner-occupant exemption but he thinks that there will be problems and non-compliance issues. He believes that Councilor Davis' concern would only affect a slight portion of the owner-occupied properties. Councilor Davis disagreed with the Chair's remarks.

Ms. Connor said that the Administration would like solicitor and the Urban Forestry Committee to review the proposal. Mr. Dwan told the committee that the Urban Forestry Committee had its first meeting today. He also said that he has copied Dr. Boukili on all drafts of this ordinance, adding that as of today, she has not had time to review them.

Chairman Niedergang suggested taking the Urban Forestry Committee out of the equation, for now. Ms. Antonino was asked to comment and she suggested that offering a public/private tree trimming service might encourage people to care for trees. Councilor Davis believes that the language "solely for economic development" in Sec 12-109- 2 is a potentially significant loophole. Chairman Niedergang explained that a public hearing is required for removing public shade trees and if just one person objects, it may not be cut down.

<b>RESULT:</b>	<b>KEPT IN COMMITTEE</b>
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**207646: Renee Scott submitting comments re: #207498, the Tree Protection Ordinance.**

<b>RESULT:</b>	<b>KEPT IN COMMITTEE</b>
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**207697: 16 residents submitting comments re: #207498, the Tree Protection Ordinance.**

<b>RESULT:</b>	<b>KEPT IN COMMITTEE</b>
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**207868: 5 residents submitting comments re: #207461 and #207498, Tree Protection Ordinances.**

<b>RESULT:</b>	<b>KEPT IN COMMITTEE</b>
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**208019: Anne Taylor submitting comments re: #207461 and #207498, Tree Protection Ordinance.**

<b>RESULT:</b>	<b>KEPT IN COMMITTEE</b>
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### **Vacant Commercial Properties Ordinance**

**206612: City Solicitor responding to #206046 re: an ordinance for the registration and maintenance of vacant commercial and industrial buildings.**

Chairman Niedergang informed the committee that this item has been reviewed by ISD. OSPCD staff explained the changes that were made and Ms. McGettigan summarized the focus of the ordinance and said that vacant residential properties are now included. Councilor McLaughlin commented that he is pleased with the work that was done on this ordinance.

Councilor Davis' motion *to replace the item before the committee with the version presented at this meeting*, was approved. The committee suggested some minor language changes for clarity and Councilor Davis' motion *to revise the draft document by making those changes*, was approved.

Members were informed that the fees and fines section was still being worked on by SomerStat and that Section 11-111 D (e) is being used as a catch-all for others things, e.g., shoveling snow. Councilor McLaughlin would like to find a way to back-charge property owners for snow shoveling performed by the city. Ms. McGettigan will review the options.

Councilor McLaughlin's motion *to approve the item, as amended*, was approved.

<b>RESULT:</b>	<b>APPROVED AS AMENDED</b>
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### **Food Trucks**

**206308: That the City Solicitor draft a food truck ordinance amendment to permit food trucks with minimal disruption to current businesses.**

OSPCD staff presented the Committee with their proposal and said that food trucks are an avenue for businesses to come into Somerville by allowing for rapid prototyping and customer feedback. A

pilot program giving special consideration to minority/women-owned businesses, and other businesses meeting a variety of other criteria, is being proposed for 8 locations, with the most marketable location being next to the dog park at InnerBelt Road. Approval is needed from the City Council to begin the pilot program and the Council would approve the initial locations and operating hours, only. The estimated timeline to get the pilot operational is expected to be 3 to 4 months, due to a streamlined process. Once approved, the City would advertise for applicants, hopefully in time for the summer market. The ordinance, itself does not include locations, since that is an administrative function, however, Ms. Thomas assured Committee members that OSPCD would discuss moving locations with the Council even though that it not formally required in the ordinance.

Fines and the appeal process were discussed. In response to Councilor McLaughlin's suggestion, Mr. Galligani commented that he thinks that a Cobble Hill location would work best for special events rather than a regular food truck. Federal Realty selected the location on Revolution Drive and Councilor McLaughlin doesn't think that the existing food truck should be relocated there.

Questions were raised about the market demand for food trucks and OSPCD doesn't have an exhaustive set of data on the topic yet, but hopes to gather information through the pilot. Area restaurants almost universally said that they do not want food trucks, therefore, OSPCD selected 'safe' locations so as to not infringe on restaurants. Councilor Davis expressed concerns about some locations, e.g., 3 trucks in Davis Square during lunch hour, hurting local businesses. The hours of operation raise the biggest flag for him. He is also concerned that Councilors won't have the opportunity to oppose an application and/or a location if they think it will hurt local businesses or not work well. Staff said they could eliminate the listed locations or keep them for the pilot and see how they work out. Councilor McLaughlin commented that this is capitalism and that the Council shouldn't be getting in the way of competition. He also said that he wants the food truck already in Assembly Square to be grandfathered in at its current location, which had been worked out by many parties with great effort.

Chairman Niedergang said that he has many questions and that he would not vote for this as is and prefers to have time for all Councilors to weigh in. Councilor Davis wants to see a pre-approved list of locations and suggested that maybe adding a sign-off requirement by the ward Councilor would suffice for location changes. Mr. Galligani will submit a proposal to the full Council.

<b>RESULT:</b>	<b>KEPT IN COMMITTEE</b>
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**Housekeeping - Items to be Marked Completed**

**207062: That the Mayor update this Board in writing by January 10, 2019 on all Home Rule Petitions pending at the Statehouse, with an assessment of likely progress in 2019.**

<b>RESULT:</b>	<b>WORK COMPLETED</b>
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**207698: Greater Boston Real Estate Board submitting comments re: #205420, the proposed condominium review ordinance.**

**Handouts:**

- DRAFT Short-Term Rental Ord taking out registration 5.15 (with 206613)
- DRAFT Short-Term Rental Ord with Booking Agent fines 5.16 (with 206613)
- Proposed Amendments (with 206613)
- Matrix -- Tree Protection Ordinance Amendments May 15, 2019 w v7 (with 207498)
- Tree Ordinance v7 with markup (with 207498)
- Tree Ordinance v7 clean (with 207498)
- Vacant Property Ordinance 05.14 (with 206612)
- Food Truck Application (with 206308)
- Food trucks ordinance (with 206308)
- PILOT (DRAFT) (with 206308)
- 2019 Food Trucks Chart (with 206308)