



CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

April 5, 2022

REPORT OF THE LEGISLATIVE MATTERS COMMITTEE

Attendee Name	Title	Status	Arrived
Lance L. Davis	Chair	Present	
Ben Ewen-Campen	Vice Chair	Present	
Willie Burnley Jr.	City Councilor At Large	Present	
Jefferson Thomas ("J.T.") Scott	Ward Two City Councilor	Present	
Jesse Clingan	Ward Four City Councilor	Present	

Others present: Aneesh Sahni - Mayor's Office, Hannah Carrillo - Mayor's Office, Charles Breen - Fire Department, Christopher Major - Fire Department, Ellen Shachter - OSPCD, Nick Antanavica - ISD, Anne Gill - Personnel, Jessica Pavao - Personnel, Brendan Salisbury - Legislative & Policy Analyst, Stephanie Widzowski - Assistant Clerk of Committees.

Councilor Ewen-Campen moved to adjourn and the motion was approved by unanimous roll call vote.

212807: That the City Solicitor prepare legislation revoking the enabling legislation for the Police Reserve List.

Items 1-4 were discussed together. Chair Davis explained that a reserve list is allowed by state law, and allows candidates applying for civil service positions to remain on a list until hired into permanent roles. He called attention to the long history of discussion on these items.

RESULT:	WORK COMPLETED
----------------	-----------------------

212808: That the City Solicitor prepare legislation revoking the enabling legislation for the Fire Reserve List.

RESULT:	WORK COMPLETED
----------------	-----------------------

212809: That the City Solicitor re-submit the request to rescind the adoption of MGL Chapter 48 Sections 59B, 59C and 59D relative to a Reserve Fire Force.

Items 1-4 were discussed together. Chair Davis explained that when the calendar year rolls over, any items in committee are cleared out and require resubmission to be considered. Many councilors had asked the previous Administration to cease using reserve lists for Police and Fire

positions, and Mayor Curtatone had sent a communication that he would stop using them. Civil Service has since expressed concerns that removing the reserve list would create complications for those still on the list, so the Council decided to wait until the reserve list is empty. Chair Davis said they were told this should have happened many months ago, but that the situation is still unclear. He said he was told there are two people still on the Police reserve list, but a request was put out for nine positions and two of those should be filled by those reserve members. This will be addressed at this week's Confirmation of Appointments and Personnel Matters committee meeting. Chair Davis said that the Committee can submit language to rescind adoption, but it requires a vote, and the language needs a separate submission.

Dir. Sahni said that the Administration wants a conversation with the Legislative Matters committee and the City Council on a decision for reserve lists. He referred to the new Assembly Square station that will likely be completed in the fall, and said that the reserve list could be used in a targeted way with internal controls. He said that the Administration thinks it could be a valuable tool for Fire and Police.

Councilor Scott expressed confusion on Mayor Ballantyne's stance, given that as a councilor, she voted for motions to dissolve reserve lists. He said that because this is an ordinance, it falls squarely under the Council's authority. Chair Davis added that the Mayor was not a member of the Legislative Matters committee, but this was the clear will of the entire Council in the past.

Ms. Pavao echoed Dir. Sahni's statement that the reserve list is a valuable tool in that it saves time and allows Personnel to proactively hire officers. She compared the reserve list to a sports bench in that all the people on the list have completed the same training and are ready to perform. They would go through the same process, including background checks, interviews and conditional offers, and physical and mental exams. She said that the reserve and permanent lists are the same, and in both cases disabled veterans, veterans, and Somerville residents are given priority.

Chief Breen said that the reserve list has been used since 2009, and up until 2016 - when the list was large and people had been on it for several years - there had not been issues. He explained that vacancies cost overtime to fill, and that filling vacancies with reserve list members is less costly and more efficient. He said with Assembly Square station coming online, the list is more necessary.

Asst. Chief Major described how the reserve list started with a grant in 2008/2009 and was used for expedited onboarding. He said that the largest problem is getting the candidates through the Fire Academy. He gave a presentation on the timeline for the Assembly Square station and staffing needs. With the reserve list scenario, if the process starts in June 2022, onboarding can start in February 2024. With the permanent list scenario, they could not start the process until July 2023. The permanent list was completed last year, and six or seven months passed before those members could get seats. He said that the number of people on the reserve list should reflect how many positions the station can hold. Dir. Sahni added that this timeline was created with 8-12 candidates in mind.

Chair Davis asked why the permanent list scenario could not start until 2023. Mr. Major responded that with the permanent list, positions need to be open and budgeted for before anyone can be appointed. The city can appoint people to the reserve list even if there are no openings, but the Fire Department knows they will have new openings with the new station. Dir. Sahni

asked if they could not issue a conditional offer letter without appropriation, which Mr. Major confirmed. City Council must approve funding first.

Chair Davis asked what issues would arise if the Mayor allocated funding for the required positions in the FY 2023 budget by July, and the Fire Department could start the onboarding process in July 2022. Mr. Major said that the city would be funding positions that would not be filled until late in the fiscal year. Dir. Sahni asked why the positions would be funded in the FY 2023 budget if the new station comes online in 2024. Chair Davis said it was a question of whether to hire them or put them on the reserve list. The Mayor had said other municipalities have hired from Somerville's reserve lists. Chair Davis said he would be on board with staffing immediately, but does not understand why the process cannot start this summer. Dir. Sahni said that the Administration has not gone through the budget process with this Council yet and that he is thinking about current and future needs for the Fire Department, but can reflect more on that.

Chair Davis asked if the Academy runs one or multiple sessions at a time. Mr. Major replied that they do two classes at once, but the best current scenario would start roughly eight months from now. Chair Davis suggested a mid-year appropriation to make full-time positions.

Dir. Gill asked if Chair Davis was suggesting to allocate positions for firefighters in the budget for the new station and hire them before the station is completed. Chair Davis answered yes, for the purposes of staffing and preparing them for the new station. Dir. Gill said that the recruitment process is rigorous and lengthy, and depends on many schedules. She said that it is easier said than done to hire people permanently and that Personnel thinks the reserve list is advantageous for keeping people engaged. Without a reserve list, candidates might pursue other opportunities.

Chair Davis asked if someone on the reserve list would have an obligation to Somerville if Cambridge offered a full-time position. Dir. Gill said that there is no obligation, but a lot of reserve list members are Somerville residents or have a legacy in the city, and therefore have commitment to the community. Chair Davis wondered if hiring rather than placing on a reserve list would be a better approach for taxpayers. He spoke to his experience with confirmation of appointments, and also commented that they are trying to move away from legacy positions.

Councilor Ewen-Campen commented that his role as a councilor is not to micromanage the hiring process, but to oversee the big-picture budget between departments as well as confirmation of appointments. He said he could see the benefit to hiring and that if the delay in staffing is caused by approving and budgeting for positions, that it is better to make the positions clear to the public and get the process started earlier. He asked Dir. Sahni what commitments the Administration has made on the maximum list size or length of time for reserve lists. Dir. Sahni said the challenge is that a maximum list size depends on the number of positions needed. If it is set to five, for example, and then a new station is completed, that may cause problems. He suggested appearing before the Council if the city wants to use a reserve list. Councilor Ewen-Campen said that they should discuss those positions during the budgeting process. He thought that in the past, the reserve list was used for unexpected vacancies, and said that he would prefer a small number of members on the list for a very short amount of time.

Chief Breen said that the list is a reasonable size. He gave retirement as another example of a use for the reserve list. Without a reserve list, the city cannot start the recruitment process until someone retires, even when the retirement process can take a year or more. They would still have to justify adding someone to the reserve list and when to remove them. Councilor Ewen-Campen said that situation has merit, but is different from the station being discussed.

Councilor Burnley said that he has great respect for firefighters, and expressed concerns with the reserve list as a policy, stating that if a policy can be exploited, it is best to remove or replace it. He asked Chief Breen if reserve list members earn time for retirement or other benefits, to which the chief responded that they can, but not automatically. They have to pay into the system to accrue time - for example, if they are on the list for two years, they would be given the opportunity to pay two years' worth of deductions into the system. Councilor Burnley said that the reserve list has been called a loophole in that respect, as well as a waste of taxpayer money and a way to encourage nepotism. He cited that a vast majority of municipalities who can use reserve lists have chosen not to. He asked Chair Davis about procedural options for this item. Chair Davis said that the only requirement would be for the Council to vote on the item and then obtain the signature of the Mayor, subject to override and debate. Councilor Burnley said that he wants to move forward with rescinding reserve lists, and that working with the Administration makes opportunities for building rapport and discussing alternatives.

Councilor Clingan expressed his frustration at the fact that this conversation has been ongoing for years. He said he would consider a small list specifically for the Fire Department. He said that reserve list members do accrue time, costing taxpayer money, and cited a 2010 incident of no appointment for Marine veteran Sean O'Brien. He said that the city allows people to stay on the reserve list, while veterans come home from war and cannot get on the list.

Chair Davis acknowledged that the members on a reserve list are committing to the city by completing trainings and onboarding, and that that is a reason they can get benefits.

Councilor Scott said that the problems with the reserve list go beyond 2016, and said that the timelines for the new station in reserve list and permanent list scenarios do not represent the reality of municipalities that do without. He described how the Administration can take other actions to address staffing issues, such as creating 1-month positions in SPD to hold them open. On the topic of reserve lists keeping people engaged, he said that he has seen candidates move on from their intent to serve the city because they had been on the list for too long. He called the list a way to create shadow jobs and echoed Councilor Clingan's frustration that disabled veterans who take the exam never get a chance at the position. He said that he does not believe the Council can provide a sufficient check on the size of a reserve list, and with upcoming retirements and the completion of the new station, the Administration should start the hiring process as soon as possible.

Chair Davis talked about past discussions and actions on these items. He said that existing legislation here must be revoked and replaced with new legislation to enact change, as per Solicitor Wright's previous advice. However, the request for resubmission has not been filled yet, so there is no official language here to take action on.

Dir. Sahni said that there is no intent to obstruct or use a smokescreen here, and that they would use a reserve list with integrity. He added that enabling legislation requires the signature of the Mayor and that they should ask the Law Office about it. He expressed a desire to have an earnest conversation and asked the Council for a chance to work together with the Administration.

Councilor Burnley asked what would happen if an item was recommended for adoption and received approval from the Council, but did not get a signature from Mayor Ballantyne. Chair Davis and Dir. Sahni said that this is new territory and the Law Office should be consulted.

Councilor Ewen-Campen said that he wants to move forward with rescinding the reserve lists and encouraged the city to come forward with any appointments for the Fire Department. He expressed skepticism of a revised reserve list, but would still have that conversation.

Councilor Scott made a motion for an order: **“That the City of Somerville hereby rescinds its acceptance of the provisions of Sections 59B, 59C, and 59D of Chapter 48 of the Massachusetts General Laws, originally accepted by the Somerville Board of Aldermen on March 13, 2008.”** This motion was passed via unanimous roll call vote.

Councilor Scott made a motion for another order: **“That the City of Somerville hereby rescinds its acceptance of the provisions of Sections 11, 12, and 13 of Chapter 147 of the Massachusetts General Laws, originally accepted by the Somerville Board of Aldermen on April 10, 2008.”** The motion was laid on the table so that the meeting could go into recess until Councilor Burnley’s technical issues were resolved, from 8:06 pm to 8:10 pm. A quorum was established by roll call, and this motion was passed via unanimous roll call vote. Councilor Burnley asked to co-sign the order.

RESULT:	PLACED ON FILE
----------------	-----------------------

212810: That the City Solicitor re-submit the request to rescind of the adoption of MGL Chapter 147 Sections 11, 12 and 13 relative to a Reserve Police Force.

RESULT:	PLACED ON FILE
----------------	-----------------------

213074: That the City Solicitor draft language to amend the Housing Stability Notification Act to proactively meet the needs of residents.

Chair Davis said that there were a few more points to address with this item. Councilor Burnley said he has been working with Dir. Shachter, the City Solicitor, and the Administration on this item. He gave an overview of the ordinance and discussed the changes drafted for the Housing Stability Notification Act. Email has been added as a way for tenants to receive notice of rights. He noted potential problems with email, such as if tenants do not have one or if messages are filtered or blocked. The language for the translation provision has also been changed, such that landlords are required to provide a notice in their tenants’ primary language if they are aware that the primary language is not English. This was changed from landlords providing translation if they should have known of a tenant’s primary language.

Chair Davis explained that this ordinance already exists and is enforced, and that Councilor Burnley’s revisions include a notice of rights for tenants and the inception of a lease. Echoing the challenges that can happen with email, Chair Davis suggested sending the notice by certified mail or mail in hand as well as via email. He said that the intent with these changes is to get information to as many people as possible, despite the challenges that come with enforcement. Councilor Clingan added that he thought email would be more convenient for tenants who are already in communication with their landlords.

Mr. Antanavica shared concerns about email because of the burden of proof it creates. He said that these changes do not prevent evictions, but provide paperwork to be able to bring repeat offenders into compliance. Councilor Burnley asked if the city currently has a database for non-compliances, to which Mr. Antanavica answered no, because this is a relatively new ordinance.

He said that there are few instances where this ordinance would apply, especially with the pandemic and moratorium. There were two instances within a month of the passing of the ordinance, and both were resolved by distributing the required information to tenants. However, spreadsheets of non-compliances and addresses can be generated through the complaint system.

Councilor Burnley moved to replace the draft text discussed in this meeting with the text in the agenda; that motion was passed by unanimous roll call vote, but Chair Davis thought the motion may have been unnecessary, seeing as a draft was not up for approval at this meeting. He said that if the Committee vote to recommend text to the Council in this meeting, that text would be sent in a separate submission. He called for any text recommended for approval here to require a notice be sent by certified mail and via email where appropriate.

Councilor Burnley moved to recommend for approval the Housing Stability Notification Act consistent with the changes discussed in this committee meeting. That motion was passed by unanimous roll call vote.

RESULT:

WORK COMPLETED

213429: Requiring mid-year fiscal reports provided to this Council.

Chair Davis said that this item was originally submitted by Councilor White around 2016. This was discussed at length in the Finance committee, and the Solicitor's Office sent a communication that they accept the text of the new ordinance. Councilor Scott moved to approve the item.

RESULT:

APPROVED. [UNANIMOUS]

AYES:

Davis, Ewen-Campen, Burnley Jr., Scott, Clingan

212814: Proposing an ordinance that would require the Mayor to annually submit to this Council a report on the status of housing.

Chair Davis explained that he reintroduced this item originally from Councilor White. He said a great deal of information would be required, and that the Administration is trying to determine what information they have already. He discussed similarities between this item, the rental registry ordinance, and the housing needs assessment. He said that he did not want to move forward with this item immediately to keep focus on the rental registry ordinance, but he expressed desire for those working on the rental registry to incorporate concepts from this item into their work.

RESULT:

KEPT IN COMMITTEE

212956: That the Director of Housing provide a written update on the current status of compliance with the Short-Term Rental Ordinance.

Chair Davis said that this item was flagged for the Administration and asked Dir. Sahni if a written update could be provided for the Committee's meeting in May. Dir. Sahni said that he reached out to Housing, and they said that the issue might be better directed to ISD. He has not reached out to them yet, so he cannot speak to a timeline, but offered to discuss offline.

Chair Davis asked Councilor Ewen-Campen if there is a specific reporting requirement in the Short-Term Rental Ordinance. Councilor Ewen-Campen said that he was not sure, but noted that Councilor

McLaughlin submitted a similar order before him. He provided context on the topic - the city now has software that allows for the identification of short-term rentals and enforcement. Airbnbs might be compliant with the ordinance, but he is not sure. Councilor Scott said that the right person to consult would be Mr. Antanavica. He added that he did not see an annual reporting requirement in the ordinance.

RESULT:	KEPT IN COMMITTEE
----------------	--------------------------

213171: Submitting proposed amendments to modernize the Biotechnology Ordinance.

Chair Davis said that the amendments were adopted by full Council two weeks ago.

RESULT:	PLACED ON FILE
----------------	-----------------------

Reference Material:

- HSNA Redraft 4_5_22 Tracked Changes (with 213074)
- 04.05.22_Leg Matters Handout Reserve Lists_Final