



CITY OF SOMERVILLE, MASSACHUSETTS  
CLERK OF COMMITTEES

May 2, 2019

REPORT OF THE LEGISLATIVE MATTERS COMMITTEE

Attendee Name	Title	Status	Arrived
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	Absent	

Others present: Jason Grossfield - Law, Frank Wright - Law, Dr. Vanessa Boukili - OSPCD, George Proakis - OSPCD, Matthew Zaino - ISD, Ade Solarin - ISD, Nick Antanavica - ISD, Tim Snyder - Mayor's Office, Chris Dwan - resident, Peter Forcellese - Legislative Clerk.

Councilor Ballantyne was absent due to her attendance at a Somerville Bicycle Committee meeting where the controversial bike lanes proposal was being discussed.

The meeting took place in the Committee Room and was called to order at 6:06 PM by Chairman Niedergang and adjourned at 8:57 PM.

The Committee expressed its sincere gratitude to Mr. Grossfield for his diligent work and assistance and extended its congratulations to him as he leaves Somerville to begin a new position.

**Approval of the April 4, 2019 Minutes**

**RESULT: ACCEPTED**

**Approval of the April 4, 2019 Minutes**

**RESULT: ACCEPTED**

**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 began by saying that he has a number of concerns and would like to make some changes to the ordinance but first he asked for the Administration's thoughts. Mr. Snyder told the members that although this will help with contractors clear cutting lots, the Administration also has some concerns and doesn't want to place an undue hardship on residents, adding that some tree cutting concerns could be addressed through zoning. The Administration wants to understand the administrative burden of the proposal.

Mr. Grossfield spoke about the legal issues and said that the proposal essentially replaces Sec 12 of the current Tree Preservation Ordinance. The part of the ordinance that regulates public shade trees the revisions proposed are legally acceptable.

- Sec 12-108 and 12-109 (b) speak about both replanting and payment for replacing public shade trees. This raises the question of what a person is required to do, is it both, or one or the other? This needs to be clarified.
- Sec 12-109 (c) has vague language when referring to '*care and other tree-related needs*'. Chairman Niedergang stated that he thinks the language should be as broad as possible in terms of funds being allowed to be spent on public shade trees on streets or City trees in parks and other City properties. Dr. Boukili stated that there are a variety of costs for maintaining trees, such as mulch, tree bags, and others and all should be allowed.
- Sec 12-108 - Dr. Boukili explained that it's not the city's policy to remove healthy trees unless there is a problem. She noted that the replacement cost could be in the thousands of dollars, depending on the age, size, species, etc., of the tree and said that the average cost for replacing a 20" diameter tree is \$10,000. The City discourages having public hearings regarding public shade trees since this is covered under MGL. Chris Dwan, a resident who helped draft the proposed ordinance, thinks that removal for economic development (as in current ordinance) should be included here, or provisions should be made for a waiver. He said that the intent of this section is to replace trees at the rate they are removed whereas Sec 109's intent is to address the cost. Mr. Grossfield said that the scheduled cost for mitigation has to be a roughly proportionate to the damage done by the tree's removal.

Councilor Davis stated that it's hard to take action on this proposal without having the replacement cost numbers and Chairman Niedergang requested that the Administration work on that.

Chairman Niedergang said he would like to get this item finished before the Council's summer recess and would like a revised version of the proposal to come out of tonight's meeting.

Mr. Grossfield also spoke about the interaction of the Urban Forestry Committee with respect to its functions, decisions, waivers, etc. Another unanswered question is how costs would be established? Certain sections dealt with the tree warden and raised questions about how the actions of the tree warden might be affected should, for example, the Urban Forestry Committee not hold a meeting within the specified time frame. Chairman Niedergang proposed inserting an 'escape clause' to deal with that event.

- Sec 12-111 (e) (2) - Dr. Boukili prefers that this stay as a separate public meeting with an invitation to attend given to the Urban Forestry Committee so as not to separate discussion on a park or capital improvement project's trees into two different committees/meeting venues.

Councilor McLaughlin asked how the Administration feels about the proposal (fines and fees aside) and asked Dr. Boukili if her department has the capacity to do everything laid out in it. Dr. Boukili responded that there is not enough staff and suggested that starting smaller may be the way to proceed.

- Sec 12-112 2 b - Mr. Grossfield pointed out that the proposal doesn't address what happens if the Tree Warden fails to complete review of a tree permit within the required 20 business days.
- Sec 12-112 4 c does not address what happens if the tree specified in the replanting plan can't be obtained, is not available..
- Sec 12-112 4 d: this raises a question of how many times someone has to replant a tree that fails to survive for the required 18 months.
- Sec 12-112 6 b: Mr. Grossfield explained that it must be clear that a person/contractor is the one removing the tree. Additionally, the 2nd sentence of this section is in conflict with state law. This also applies to Sec 12-112 8 a. Mr. Grossfield explained that each day without a permit could incur a fine, but each inch of DBH could not.

Chairman Niedergang spoke about his concerns and feels that there should be an exemption for owner-occupants of 1, 2 and 3 family properties, provided they continued to live in the property for at least 18 months after the tree were cut down, adding that the enforcement issue needs to be worked out. The exemption, however, would not apply to the requirement to pull a permit, because the only way to enforce someone who did not comply with the requirements for the exemption would be if there were a public record of the tree having been cut down. He also feels that the proposal should focus on significant and very significant size trees as opposed to smaller diameter trees. Alderman McLaughlin commented that if there's going to be such an exemption, it should include an exemption from doing the paperwork, as well.

<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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### **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.**

Chairman Niedergang noted that there are decisions that only the Building Commissioner can make relating to required upgrades to STRs to meet the building code, and that those decisions can't be overridden. Councilor McLaughlin stated that the process for registering an STR under the proposed ordinance is so onerous that nobody will do it. Since there is already a law on the books, why not enforce it rather than go through with this new legislation. Simply put, he said, just outlaw all entire-unit STRs by people who don't live in that unit. Mr. Proakis commented that taking short term rentals out of zoning and creating a registration system is a better way to shut down what the City doesn't want than relying on the zoning code. Councilor McLaughlin asked if there is a need for a better law, why not explicitly state what can't be done - and that becomes the law? He went on to say that although it may be difficult, there are ways to enforce such a restriction. . Registration won't happen if units have to be inspected, possibly leading to additional costs, e.g., installing a sprinkler system. Simpler is best. Mr. Antanavica told the Committee that Boston and Cambridge aren't having problems because they are not enforcing their ordinances, but that compliance is low in Cambridge and extremely low in Boston.

Chairman Niedergang asked if the city wants to go after the approximately 1,000 unregistered STRs currently operating in Somerville. Mr. Proakis spoke about companies that could compile data (at an approximate cost of \$26,000 per year) of existing STRs for the City to utilize and that the City should then go after the multiple units first, then the owner-adjacent units, then the bedroom rentals last. Tackling the first group would open up some much needed housing in the City. Chairman Niedergang asked who would decide what to enforce if the ordinance just has prohibitions.

Mr. Proakis noted that language in zoning is weak and pulling the regulations from zoning and making an ordinance is a better way to accomplish what the City is attempting to achieve. Councilor McLaughlin noted that there are already ways for people to register STRs.

Mr. Proakis stated that he thinks that most of what the Councilor is saying can be accomplished by removing Section 5 from the proposal. It would still need some more examination to see all of the implications, however. Mr. Snyder is in favor of this and said that he thinks the Administration can have a proposal ready for the next meeting of the Committee. Councilor Davis asked how enforcement would be funded and financially feasible if there are no registration fees. Mr. Antanavica explained that the proposal is not meant to be a revenue generator, rather, it's a safety issue and ISD doesn't know what the costs will be as yet.

Chairman Niedergang spoke about his concerns regarding medical situations, e.g., allowing an exception to the owner-adjacent unit STR prohibition for families who need to have relatives or caregivers stay in their adjacent unit to help care for an ill child, senior or other relative. It would be helpful for those families to allow that adjacent unit to be rented short-term to help with medical costs. Can such an exemption be constructed under this proposed ordinance? Mr. Proakis stated that since this isn't a zoning ordinance, the question becomes how do we allow such a 'carve out'? The challenge is what defines a medical situation? How is it evaluated? OSPCD hasn't figured out how to do this yet. Mr. Snyder cautioned everyone to be careful that exemptions are built around policy concerns. Mr. Wright added that if there is not enough specificity, it may end up in court.

Councilor McLaughlin's motion that the Administration draft language regarding medical hardship, was approved. Councilor Davis will forward sample language to solicitor. There was discussion and agreement that the exception should be for a maximum of 90 days, similar to the period that is allowed for an occupant to rent out their own unit under the proposed ordinance.

Chairman Niedergang suggested restricting the short-term rental period to fewer than 28 consecutive days rather than 30.

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

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

<b>RESULT:</b>	<b>KEPT IN COMMITTEE</b>
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**Length of Planning Board and Zoning Board of Appeals terms**

**207938: That the City Solicitor draft an ordinance to reflect a 3-year term for Planning Board members.**

Mr. Grossfield distributed a revised version of the ordinance and explained some minor changes to the language. Those changes were approved and the Law Department will submit a clean copy to the City Council for approval.

<b>RESULT:</b>	<b>WORK COMPLETED</b>
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**207939: That the City Solicitor draft a Home Rule Petition to change the Zoning Board of Appeals members' terms to 3 years.**

Mr. Grossfield distributed a draft of the requested Home Rule Petition and it was approved by the committee. The Law Department will submit a clean copy to the City Council for approval.

<b>RESULT:</b>	<b>WORK COMPLETED</b>
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**Voting rights in municipal elections for 16 & 17 year-old citizens**

**207393: Requesting approval of a Home Rule Petition to provide legal voting rights in municipal elections for residents aged 16 and 17 years old.**

Approved

<b>RESULT:</b>	<b>APPROVED</b>
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**207998: 4 residents submitting comments re: #207393, permitting 16-17 year-olds to vote in municipal elections.**

<b>RESULT:</b>	<b>WORK COMPLETED</b>
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**Handouts:**

- Ordinance re Planning Board Terms (with 207938)
- Home Rule Petition re Board of Appeals (with 207939)