



CITY OF SOMERVILLE, MASSACHUSETTS

CLERK OF COMMITTEES

May 7, 2020

REPORT OF THE LEGISLATIVE MATTERS COMMITTEE

Attendee Name	Title	Status	Arrived
Lance L. Davis	Chair	Present	
Mark Niedergang	Vice Chair	Present	
Ben Ewen-Campen	Ward Three City Councilor	Present	
Matthew McLaughlin	Ward One City Councilor	Present	
Jesse Clingan	Ward Four City Councilor	Present	

Others present: David Shapiro - Law, Rich Raiche - Capital Projects, Jessica Fosbrook - Engineering, Brian Postlewaite - Engineering, Hannah Carillo - OSPCD, Ellen Shachter - OSPCD, George Proakis - OSPCD, Sarah Lewis - OSPCD, Sarah White - OSPCD, Charlotte Leis - OSPCD, Khushbu Webber - Legislative Liaison, Peter Forcellese - Legislative Clerk.

The meeting took place virtually via GoToWebinar and was called to order at 6:00 PM by Chairman Davis and adjourned at 9:02 PM on a Roll Call vote of 5 in favor (Councilors Clingan, McLaughlin, Ewen-Campen, Niedergang and Davis) to none against.

205833: That the Directors of Capital Projects and Engineering work with the City Solicitor to craft a DEP-required Storm Water Ordinance as discussed at the April 16, 2015 meeting of the Legislative Matters Committee.

Ms. Fosbrook reviewed changes made to the draft since the committee's last meeting. She explained that small scale projects are not intended to overlap with small projects in the site construction guidelines, rather, they're to indicate that the project would have no, or a de minimis, impact. Questions were raised regarding Sec. 11-146 G (3) and Mr. Shapiro explained that a ticket must be given with 15 days of the violation and that language can be added to the ordinance to provide for a lookback period in order to start assessing the fines earlier, perhaps even several months earlier. A criminal complaint would have the option of looking back to impose fines. Ms. Fosbrook pointed out that there are two ways to violate this ordinance; 1) erosion and sediment control during construction not being met and, 2) other requirements not being met.

Chair Davis' motion to replace the document on file with the version before the committee tonight was approved on a Roll Call vote of 5 in favor (Councilors Clingan, McLaughlin, Ewen-Campen, Niedergang and Davis) to none against.

Mr. Shapiro suggested adding the following language to Sec. 11-146 G (3):

"Whoever violates any provision of this ordinance may be penalized by indictment or on complaint brought in the District Court. The penalty shall be \$300.00 for each offense. Each day on which any violation exists shall be deemed a separate offense.", and he further suggested changing the Enforcing Personnel to "City Engineer".

Chair Davis' motion to accept the changes suggested by Mr. Shapiro was approved on a Roll Call vote of 5 in favor (Councilors Clingan, McLaughlin, Ewen-Campen, Niedergang and Davis) to none against.

Chair Davis' motion to approve the ordinance, as amended, was approved on a Roll Call vote of 5 in favor (Councilors Clingan, McLaughlin, Ewen-Campen, Niedergang and Davis) to none against.

STORMWATER

Ms. Fosbrook reviewed the changes made to the Stormwater Ordinance since the last committee meeting. Chair Davis had several questions about Division 3., (New) Sec. 11- J. ENFORCEMENT, commenting that it seemed repetitive and he suggested alternative language. Chair Davis will work with Mr. Shapiro and Ms. Fosbrook to modify the language and prepare another version for presentation to the City Council. Mr. Shapiro will look into aspects of this section as they refer to such things as costs, appeals, etc.

The committee recessed at 8:48 PM and reconvened at 8:53 PM.

Chair Davis' motion to replace the document on file with the version before the committee tonight was approved on a Roll Call vote of 5 in favor (Councilors Clingan, McLaughlin, Ewen-Campen, Niedergang and Davis) to none against.

Chair Davis' motion to approve the ordinance, subject to the suggested changes that will be reviewed by Mr. Shapiro and Ms. Fosbrook, as well as any suggestions included by Mr. Shapiro, was approved on a Roll Call vote of 5 in favor (Councilors Clingan, McLaughlin, Ewen-Campen, Niedergang and Davis) to none against.

RESULT:	APPROVED AS AMENDED. [UNANIMOUS]
AYES:	Davis, Niedergang, Ewen-Campen, McLaughlin, Clingan

210067: Requesting approval of amendments to the Condominium/Cooperative Conversion Ordinance with the specific amended language attached.

Ms. Carillo the document and explained the amendments to the following sections:

- SECTION 7-63 Definitions Condominium or cooperative conversion eviction
- SECTION 7-63 Definitions Housing accommodation, (iv)
- SECTION 7-67 Permitting Process 3) Conversion Permit Expiration
- SECTION 7-70 Annual Reporting
- SECTION 7-71 Penalties for Violation

Chair Davis asked that the Law Department review the document to ensure that it contains all appropriate language.

Chair Davis' motion to replace the document on file with the version before the committee tonight was approved on a Roll Call vote of 5 in favor (Councilors Clingan, McLaughlin, Ewen-Campen, Niedergang and Davis) to none against.

Chair Davis's motion to amend subsection (iv) of the definition of Housing Accommodation to read as follows: "except where additional units will be added to the same or adjacent property, whether the project adding such units is phased or not, and the existing single family dwelling or any portion thereof will be one or more of multiple condominium units governed by the same condominium association" was approved.

Chair Davis' motion to approve the item, as amended, was approved on a Roll Call vote of 5 in favor (Councilors Clingan, McLaughlin, Ewen-Campen, Niedergang and Davis) to none against.

RESULT:	APPROVED AS AMENDED. [UNANIMOUS]
AYES:	Davis, Niedergang, Ewen-Campen, McLaughlin, Clingan

204278: Requesting the replacement of Ordinance 7-28 with a new Demolition Review Ordinance. with relevant updates to Ordinance 1-11 for violations.

Councilor Ewen-Campen recused himself from all discussion and votes on this item.

Chair Davis gave a brief background on this item, which has been in effect since 2003. Several public meetings were held, and discussions continued in the Legislative Matters Committee. Previous documents and presentations are available on the city's website. Councilor Niedergang told the members that the length of the demo delay period has not yet been resolved. Ms. White stated that tonight's presentation was schedule to be made at the October 3, 2019 Legislative Matters Committee meeting but never occurred.

The current demo delay period is 9 months. Councilor Niedergang said that the Administration proposed different periods for residential/commercial properties, adding that he favors that both have a delay period of 24 months. He would like all councilors to have time to think about this before a vote is taken. Councilor McLaughlin commented that the delay period should be the amount of time needed for the Historical Preservation Commission (HPC) to conduct its review. He also believes that city-owned buildings should not be exempted from the ordinance. Ms. White informed the members that about 6 months would lapse from time of filing the application for demolition to completing the HPC review, not counting the ordinance's 9-month delay.

Chair Davis pointed out that neither the old nor new versions of the ordinance prevents an owner from tearing down a building. The delay period, he said, was instituted to slow down developers from simply tearing down and putting up another structure while also providing additional time for the HPC to find historical aspect of properties and preserve them. He feels that an 18-month timeframe, as suggested previously by Councilor Rossetti, is a good compromise. Chair Davis also agrees that city-owned buildings should not be exempt from the ordinance. He wants to make sure that this ordinance does not hinder the development of affordable housing.

Mr. Proakis commented on the exemption for city-owned buildings, saying that a process will be established so that those properties would be reviewed by the HCP prior to going to the City Council for any approvals and/or funding. When a city building is to be demolished, it would come before the City Council at some point in the process. Chair Davis requested that the actual language of the draft be ready for the next meeting of the Committee, scheduled for May 21st.

Councilor Clingan also believes that city-owned buildings should not be exempt, but is willing to accept a compromise if there is some process on the books. Councilor Niedergang stated that the longer the delay, the more leverage the HPC has over developers, since the 9-month delay is just considered as the cost of doing business. With respect to exempting city-owned buildings, he stated that City Councilors are elected and HPC members are appointed, therefore, councilors have a different set of concerns about city buildings thus, the City Council should be the authority making decisions. He added that the process mentioned by Mr. Proakis is acceptable to him.

Chair David asked that the ordinance be checked for any potential conflicts with the recently passed zoning ordinance.

RESULT:	KEPT IN COMMITTEE
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209020: Historic Preservation Planner responding to #204278 with a presentation regarding the draft Demolition Review Ordinance.

Councilor Ewen-Campen recused himself from all discussion and votes on this item.

See item# 204278

RESULT:	KEPT IN COMMITTEE
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204422: Alan Bingham submitting comments re: #204278, the Demolition Review ordinance.

Councilor Ewen-Campen recused himself from all discussion and votes on this item.

RESULT:	KEPT IN COMMITTEE
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205151: Alan Bingham submitting comments re: the draft Demolition Review Ordinance.

Councilor Ewen-Campen recused himself from all discussion and votes on this item.

RESULT:	KEPT IN COMMITTEE
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205791: Chamber of Commerce submitting comments re: #204278, the proposed demolition review ordinance.

Councilor Ewen-Campen recused himself from all discussion and votes on this item.

RESULT:	KEPT IN COMMITTEE
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206483: Somerville YIMBY Committee submitting comments re: #204278, the Demolition Review ordinance.

Councilor Ewen-Campen recused himself from all discussion and votes on this item.

RESULT:	KEPT IN COMMITTEE
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206484: Justin Rank submitting comments re: #204278, the Demolition Review ordinance.

Councilor Ewen-Campen recused himself from all discussion and votes on this item.

RESULT:

KEPT IN COMMITTEE

209762: That the City Solicitor draft language to amend the Adult Use Marijuana Ordinance to require full disclosure of all ownership interests, including names and percentage interest of all owners or shareholders.

Councilor McLaughlin, as acting mayor on marijuana policy, recused himself from all discussion and votes on this item.

Councilor Niedergang stated that it's difficult to know who is behind applications for the sale of marijuana and he would like better transparency to determine who has a stake in a particular business and at what percentage as well as where stakeholders live. He would like the ordinance to require that information, to the extent allowed by law. Mr. Proakis said that the goal is to make the information available and he has no objection to collecting it if it can be obtained. Chair Davis noted that the application requires the information, but it goes into a 'black box' where it's shielded from public view. He believes that a better job needs to be done to make the information available to the public at the earliest possible phase in the process.

Ms. Leis told the members that so far, information received has not been published but staff can set it up so that information is published as it comes in, with the exception of some data, e.g., account numbers, SSN, etc.. Mr. Proakis thinks it best to redact and publish information prior to the application reaching the Licensing Commission and noted that there is much concern in the industry about where funds are coming from to ensure that economic empowerments get fair treatment. Chair Davis responded that the city should make application information available to the public as a matter of policy because it's the right thing to do in the interest of transparency, not because people are likely to submit Freedom of Information Act Requests anyway.

Councilor Niedergang would also like the city to use whatever legal power it has to unwrap the ownership of businesses applying for licenses to sell marijuana. Ms. Leis noted that all individuals owning a certain minimum percentage of a business must be disclosed on the application to the state Cannabis Control Commission (CCC) and that the city's ordinance references those CCC requirements. Chair Davis requested that Mr. Shapiro determine to what extent, (in the ordinance), the city may directly require disclosure of certain information and whether an individual ownership provision is something that may be codified in the city's ordinance, rather than relying on the CCC requirements.

RESULT:

KEPT IN COMMITTEE

209763: That this Council consider amending the Adult Use Marijuana Ordinance to remove Somerville residency as a qualifier for being a priority applicant in Group A, in order to prioritize Economic Empowerment applicants.

Councilor McLaughlin, as acting mayor on marijuana policy, recused himself from all discussion and votes on this item.

Councilor Niedergang told members that he is troubled that 2 of the first 3 first applicants are Somerville residents, albeit, good people, rather than economic empowerment applicants. His understanding of the ordinance was that licenses were to be awarded to economic empowerment applicants and it seems that

this isn't the case here. He thinks that any applications already submitted should be left alone, but any new application should only provide preference to economic empowerment applicants. Chair Davis agreed and noted that he raised concerns about including Somerville residents at the same preference level as economic empowerment applicants when the ordinance was initially debated. Councilor Ewen-Campen shares Councilor Niedergang's sentiments and Councilor Clingan supports making empowerment the priority over residency.

Mr. Proakis spoke about the preference period, saying that the 2-year preference period will end this fall. He suggested that the Council might consider extending the preference period and also that perhaps a separate preference category could be created for Somerville residents if the Council still wanted to provide some preference over the industry at large. Councilor Niedergang is in favor of stretching out the 2-year period and he asked that councilors and staff give some thought as to what category Somerville residents should be placed into.

RESULT:

KEPT IN COMMITTEE

Handouts:

- 20200506 Proposed Revisions to Engineering Ordinance (with 205833)
- 20200506 Proposed Revisions to Sewer Ordinance (with 205833)
- 20200506 Site Construction Permit Guidance - DRAFT (with 205833)
- Demo summary - (October 3, 2019) (with 204278, 209020)