



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

May 21, 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: Charlotte Leis - OSPCD, George Proakis - OSPCD, David Shapiro - Law, Hannah Pappenheim - Law, Eileen McGettigan - Law, Tom Galligani - OSPCD, Khushbu Webber - Legislative Liaison, Rositha Durham - Clerk of Committees, Peter Forcellese - Legislative Clerk.

The meeting took place virtually via GoToWebinar and was called to order at 6:03 PM by Chairman Davis and adjourned at 8:20 PM on a Roll Call vote of 5 in favor (Councilors Clingan, Ewen-Campen, McLaughlin, Niedergang and Davis) to none against.

Approval of the April 30, 2020 Minutes

The minutes were approved on a Roll Call vote of 4 in favor (Councilors Ewen-Campen, McLaughlin, Niedergang and Davis) to none against and 1 absent (Councilor Clingan).

RESULT:	ACCEPTED
----------------	-----------------

Approval of the May 7, 2020 Minutes

The minutes were amended on a Roll Call vote of 4 in favor (Councilors Ewen-Campen, McLaughlin, Niedergang and Davis) to none against and 1 absent (Councilor Clingan) by changing the second sentence in item #209763 from "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." to "Councilor Niedergang told members that he is troubled that 2 of the first 3 applicants are wealthy businessmen and Somerville residents, albeit, good people, rather than economic empowerment applicants."

The amended minutes were approved on a Roll Call vote of 4 in favor (Councilors Ewen-Campen, McLaughlin, Niedergang and Davis) to none against and 1 absent (Councilor Clingan).

RESULT:

ACCEPTED AS AMENDED

210136: Supporting Somerville restaurants by capping fees charged by third party delivery services during the COVID-19 State of Emergency.

Ms. McGettigan explained the Law Department's response to this item saying that a city can't interfere in a civil relationship as it would be an illegal use of the city's legislative powers. Councilor Ewen-Campen noted that there is a bill in the legislature (H5054) to address this issue and he was wondering if there was anything that would allow this under the emergency orders related to COVID-19. He's hopeful that the measure will moved quickly at the state level. Chair Davis feels that this is an important issue and would like to look into this further to determine if there is a way to accomplish this. Mr. Shapiro will pass this along to the Attorney General's Office to get clarity on what is an "incident to an exercise of an independent municipal power".

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 was recused from all discussion and votes on this item.

Mr. Proakis spoke about the amendments to the ordinance and explained their impact. Ms. Leis spoke about the meaning of "close associate" and said that the definition came from the state law. She also informed the members that information has been posted on the city's website, <https://www.somervillema.gov/departments/programs/adult-use-marijuana>

Chair Davis noted that the ultimate impact of this amendment is that this information will now have to be provided to the city when an application is filed. Councilor Niedergang stated that he thinks making information public should be stated in the ordinance.

Of the three applicants so far, one is an empowerment applicant who's space is in a prominent person's property. How can the city be sure it's getting information on all owners of 10% or more in a business? Mr. Proakis said it's difficult to say if a property owner is getting an interest in a business, but he will revisit the matter to see to what extent this information may be made public. Councilor Ewen-Campen pointed out that the Licensing Commission has subpoena power that might allow them to dig deeper into ownership. Mr. Shapiro will look into this.

Chair Davis would like a revision ready by the next committee meeting, saying that ownership will be made public.

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 was recused from all discussion and votes on this item.

Mr. Proakis explained the changes to Groups A and B and said that Somerville residents were moved from Group A to Group B and the preference period was changed from 2 years to 3 years. After that

time frame expires, Groups A and B will become one group. Councilor Niedergang and Chair Davis questioned whether the preference period should be 4 years rather than 3 and Mr. Proakis said he has no objection from a policy perspective, but he would like the Law Department to review the change.

Ms. Leis reported that there are 19 active applications and none have been received since early January. All of these applicants are in the second group.

Chair Davis stated his preference for having the exact cutoff date being reflective of the last date of applicants who the city doesn't want to be affected by this change. Councilor Niedergang stated that it wasn't his intent to have this change apply retroactively and he suggested that May 1st seems like a reasonable date and sees no need to go back to establish a retroactive date.

Mr. Proakis mentioned a problem encountered by the Licensing Commission and a way to rectify it by adding the words "at the time of issuance of the license", in the appropriate place. He explained that the issuance of a license happens when an entity opens its doors for business. Mr. Proakis also noted that changing "issuance" to "grant" throughout the ordinance would make the playing field uneven.

Chair Davis would like to revisit this issue on June 4th and asked that the language be made as precise as possible. Mr. Proakis will work with the Law Department to work out the language.

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

210003: That the City Solicitor draft an ordinance formally recognizing domestic partnerships.

Ms. Pappenheim told the members that this is something that can be accomplished and she asked whether the committee is looking for a symbolic separation or something from city clerk's office, e.g., a certificate acknowledging the partnership. Councilor McLaughlin explained how this arose and said he's looking for something that recognizes domestic partnerships, therefore allowing people to secure benefits, etc. The cities of Boston and Cambridge already have this, but Somerville does not recognize domestic partnerships. Ms. Pappenheim will work on creating an ordinance and should have it done for the June 4th committee meeting.

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

209663: That the City Solicitor draft an ordinance requiring pollution mitigation for new housing built along high transit roads and highways.

Ms. Pappenheim reviewed her response with the committee and explained that M.G.L. c. 111, §31C gives the Board of Health the power to deal with air pollution, not the City Council. MA DEP has also extended regulatory power to local Boards of Health. She recommends that the City Council put in a resolution calling on the Board of Health to take up the matter. Chair Davis stated that his mindset is to write an ordinance to get it done and let someone argue the legality of it later. He recommended drafting a document as a suggestion of what the Board of Health might pass.

Councilor McLaughlin expressed disappointed with the answer that the City Council doesn't have the authority to codify this and he agrees with Chair Davis'd suggestion that the Council to do the leg work in advance for the Board of Health. Ms. Pappenheim stated that regulating this through zoning would not be optimal, however, the city could pass a regulation, but it must be from the Board of Health. Councilor Clingan asked if something might be done to designate an area as a justice area and if state could be asked to grant powers.

Chair Davis commented that he's happy to extend an invitation for the Board of Health to appear at the next Legislative Matters Committee meeting to discuss this and he asked Ms. Pappenheim to review the Open Meeting Law for any legalities in this respect. He also asked that the administration contact the Board of Health to ascertain their thoughts on this matter. Chair Davis would like to revisit this item on June 4th if possible.

RESULT:

KEPT IN COMMITTEE

209919: Requesting approval of an amendment to the Community Benefits Ordinance to create a Community Benefits Committee for the distribution of community benefits funds.

Chair Davis gave a brief background on this item and Ms. McGettigan reviewed the Community Benefits document with the committee. She explained that, previously, the Board of Aldermen had put together an ordinance and since that time, US2 has agreed to release funds from the escrow account. The concept here is to establish a Community Benefits Committee (CBC) based on the operation of the CPA. Neighborhood groups would have priority for neighborhood funds and city-wide groups would have priority for city-wide funds.

Chair Davis pointed out that passage of this ordinance has no bearing on the Union Square funds and that this ordinance would apply to future funds and sets up a committee between neighborhood groups and the mayor's allocation of funds. Councilor Ewen-Campen noted that, in the past, ward councilors negotiated on behalf of neighborhoods on smaller projects. He thinks that the ordinance before the committee should apply in cases where there is no active neighborhood council to negotiate with a developer. Councilor Niedergang stated that this topic had a lot of community input over the years and he had many questions during previous discussions. He feels that this is needed, but he doesn't want to move too quickly on this as he would like to allow time for public input.

Ms. McGettigan said that there is no immediate rush to pass this, but 1/3 of the funds has been paid out by US2 and remaining 2/3 will be paid out upon securing permits. Chair Davis anticipates passing this item by June. Councilor Niedergang mentioned 2 unresolved issues: 1) the roll of neighborhood councils and 2) the percentage of funds that would stay in the neighborhood affected by the development. He asked what roll neighborhood councils would have under this ordinance. Ms. McGettigan replied that this ordinance attempts to even the playing field for all groups so they may all apply for neighborhood funds as well as city-wide funds. It tries to eliminate the public/private issue that was problematic previously. Councilor Niedergang said he doesn't think ad-hoc groups should have same weight as neighborhood councils. Ms. McGettigan cautioned against 'going down the same rabbit hole'.

Councilor Ewen-Campen commented that the final decision rests with the mayor and he asked who will be advising the mayor? He will have some amendments ready for the next committee meeting.

Chair Davis asked members of public to provide input on this item. Councilor Clingan commented that he's not sure this is the way to proceed.

RESULT:

KEPT IN COMMITTEE

209592: Requesting approval of the Surveillance Technology General Use Policy.

Chair Davis explained that he included this item on the agenda for transparency. Ms. Webber said that the administration expected to have the information to the Council now, but the COVID-19 situation has delayed everything. She said that the Police Department has been the most impacted by the ordinance, but does not have the capacity to compile the data at this time. The administration may be asking for

another extension for an effective date. Ms. Webber asked that this item be revisited in late August or early September. Councilor Ewen-Campen asked that any COVID-19 technologies being used do not go against the spirit of the ordinance.

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

209639: That the Administration work with the Committee on Legislative Matters to consider revisions to the Surveillance Technology Ordinance.

See item #209592

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

Handouts:

- Email from Law Dept. (with 210136)
- Adult Use Marijuana Licensing Ordinance 2020 revision version 1 (with 209762, 209763)
- Ordinance requiring air pollution mitigation - 5-20-2020 (with 209663)
- CBO Amendment Draft 03.11 (with 209919)