



CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES

October 1, 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	

The meeting was held via GoToWebinar and was called to order by Chair Davis at 6:04pm and adjourned at 8:20pm

Others present: Khushbu Webber - Mayor's Office; David Shapiro - Law; Eileen McGettigan - Law; Julie McKenzie - Law; Hannah Pappenheim - Law; Oliver Sellers-Garcia - OSE; Vanesse Boukili - OSPCD

Approval of the September 17, 2020 Minutes

The minutes were approved on a roll call vote of 5 in favor (Clingan, Ewen-Campen, McLaughlin, Niedergang, Davis), and 0 opposed.

RESULT:	ACCEPTED
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Demo Review items to close

204422: Alan Bingham submitting comments re: #204278, the Demolition Review ordinance.

RESULT:	PLACED ON FILE. [UNANIMOUS]
AYES:	Davis, Niedergang, Ewen-Campen, McLaughlin, Clingan

205151: Alan Bingham submitting comments re: the draft Demolition Review Ordinance.

RESULT:	PLACED ON FILE. [UNANIMOUS]
AYES:	Davis, Niedergang, Ewen-Campen, McLaughlin, Clingan

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

RESULT:	PLACED ON FILE. [UNANIMOUS]
AYES:	Davis, Niedergang, Ewen-Campen, McLaughlin, Clingan

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

RESULT:	PLACED ON FILE. [UNANIMOUS]
AYES:	Davis, Niedergang, Ewen-Campen, McLaughlin, Clingan

206484: Justin Rank submitting comments re: #204278, the Demolition Review ordinance.

RESULT:	PLACED ON FILE. [UNANIMOUS]
AYES:	Davis, Niedergang, Ewen-Campen, McLaughlin, Clingan

210161: Chamber of Commerce submitting comments re: #204278, the Demolition Review ordinance.

RESULT:	PLACED ON FILE. [UNANIMOUS]
AYES:	Davis, Niedergang, Ewen-Campen, McLaughlin, Clingan

Other Items

210235: Calling upon this Council to create a Police Commission and a Community Police Review Agency.

Chair Davis updated the Committee that he has been working on this concept with Councilors Ewen-Campen, Mbah, and Scott, and they have drafted job descriptions for two temporary positions, reporting to the City Council President: a policy analyst and an organizer. The positions should be posted soon if they have not been already. There will also be a series of public meetings, and the community members most impacted will be included in the process. The Director of Racial and Social Justice should also be involved in this process once that role is hired.

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

Mr. Sellers-Garcia shared that the Office of Sustainability and Environment has studied standards that could be used for indoor air quality, and there are standards that regulate different things, which raised some issues. Indoor air quality cannot be sustained with just one design change during new construction, it is more about the maintenance of systems over time, the operations of the building and how it is used, as well as the standards that may be in place.

Mr. Deshpande, the Environmental Coordinator, has applied for an EPA grant to fund the development of tools that the City could pilot in its buildings, as well as work with the community on, for the maintenance, occupation, and use of buildings and systems. It could also enable development of expertise in where this could fit into legislation that extends beyond a one-time design standard, to have a long-term impact on indoor air quality. The grant awards should be determined in November.

Councilor McLaughlin asked for more information on the grant and Mr. Sellers-Garcia elaborated that it is a three-pronged approach that would include: questionnaires and community interviews to assess awareness of indoor air quality systems; information on how to manage air quality based on those findings; and exploring the potential legislation options and whether state or regional approaches are available. Chair Davis emphasized that the last piece is critical and he does not want to lose sight of the options available through the City Council and Board of Health.

RESULT:	KEPT IN COMMITTEE
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210561: That the City Solicitor prepare a Home Rule Petition to repeal Chapter 327 of the Acts of 2004, which follows up on the so-called anti-gang loitering ordinance.

Mr. Shapiro introduced a Home Rule Petition that repeals Chapter 327 of the Acts of 2004 in its entirety. Councilor Clingan was absent from the vote due to attendance at the Planning Board meeting.

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

210454: That the City Solicitor draft language to prohibit the use of prison labor of any kind for city projects, including the Middlesex Sheriff's Community Work Program.

Chair Davis shared that the determination was made that the preference is for a complete prohibition on the use of prison labor, and if there is a reason determined to allow prison labor for some reason in the future, it can be addressed at that time. Ms. McKenzie shared the following language: The City shall not procure, contract, hire, use or retain any labor or services performed, in part or in whole, by people who are serving a residential sentence in a jail, prison, house of correction or other facility operated by or under the jurisdiction of the Commonwealth of Massachusetts Department of Corrections, a Massachusetts county or municipality, the federal government, or a private correctional facility.

Chair Davis noted a concern about the specifics of the facility to avoid the inclusion of individuals on probation or part of another facility in the prohibition.

Chair Davis moved to amend the proposed ordinance to insert "like" in between "other" and "facility" in the third line. The motion was approved on a roll call vote of 4 in favor (Ewen-Campen, McLaughlin, Niedergang, Davis), 0 opposed, and 1 absent (Clingan). Councilor Clingan was absent from the vote due to attendance at the Planning Board meeting.

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

209190: Proposing an amendment to Tree Preservation Ordinance 12-102 - Definitions, to add to the definition of Invasive Plant the following sentence: “However, Norway Maples and other trees larger than 24" diameter at breast height shall not be considered Invasive Plants.”

Councilor Niedergang shared the background that there are many old trees that provide benefits, even if they are considered invasive species (for example, Norway maples). Many constituents have expressed dismay that trees in their neighborhood are removed. Additionally, there aren't enough trees in general and removing some of the City's largest trees is a major loss. He shared an openness to changing the amendment to address issues with particular invasive species, but in some cases the negatives do not outweigh the general benefits of having more large trees. Chair Davis noted an opposition to this, elaborating that the trees in question lead to many issues, are prohibited in the Commonwealth, and should not be protected.

Dr. Boukili shared that the Urban Forest Management Plan addresses the distribution of the sizes of trees. The City already has fewer large trees than is ideal. The plan notes that about 66% of the canopy cover is on private property. Further, Norway maples are the most common tree species in the City, and protecting those over 24" is important to maintaining the benefits. Dr. Boukili added the recommendation to exclude Tree of Heaven from protection, as they are a host to dangerous insect species and should not be retained in the City. In addition to Norway maples, the other species listed as invasive species by the Commonwealth, which the City does not have many of and do not carry the same negative issues that Tree of Heaven has, are the Sycamore maple, black locust, and Amur cork.

Councilor Niedergang moved to amend the proposed amendment to add "except for Tree of Heaven (Ailanthus altissima)" between "at breast height" and "shall not". The motion was approved on a roll call vote of 5 in favor (Clingan, Ewen-Campen, McLaughlin, Niedergang, Davis), and 0 opposed.

Councilor Niedergang asked if Dr. Boukili and the Urban Forestry Committee could make additional recommendations to strengthen this ordinance. Dr. Boukili expressed that this is a great step toward tree protection, but she will discuss with the Committee.

RESULT:	APPROVED AS AMENDED. [4 TO 1]
AYES:	Niedergang, Ewen-Campen, McLaughlin, Clingan
NAYS:	Davis

210555: That the City Solicitor draft an ordinance to require municipal licensing of rental car businesses, to address the issue of these businesses illegally parking their rental fleet on residential streets.

Councilor Ewen-Campen shared that there has been an ongoing issue with rental car facilities parking their fleet on the streets, and there are minimal tools available to address this. The intent was to create a licensing structure to address the issue more comprehensively. Mr. Shapiro added that recent case law in

Land Court on the intersection between zoning/parking and the purview of licensing has indicated that a licensing structure needs to supplement or add to an existing ordinance or structure. The court may find that this is essentially zoning or traffic and parking and thus invading the providence of those two bodies. Options that would reduce the legal risk would be to seek an injunction against an agency not following parking regulations, or to tow the vehicles. Councilor Ewen-Campen elaborated that there is not a way to measure how many tickets have been issued to a particular rental agency's vehicles, and wondered if a requirement could be instituted that these vehicles be labeled. Mr. Shapiro commented that this would be supplemental, and not overstepping another agency's regulations, and thus seems reasonable.

Councilor Ewen-Campen moved that the Solicitor's office work with the Council to draft an ordinance requiring identification of a rental agency's vehicles. The motion was approved on a roll call vote of 5 in favor (Clingan, Ewen-Campen, McLaughlin, Niedergang, Davis) and 0 opposed.

Councilor Niedergang asked if the Traffic Commission has any tools to address this issue and Mr. Shapiro noted that the evidence of the violators is needed first, but if an injunction was pursued, the Law Department would work with the Traffic Commission.

RESULT:	WORK COMPLETED. [UNANIMOUS]
AYES:	Davis, Niedergang, Ewen-Campen, McLaughlin, Clingan

210557: Congratulating the Administration on a very successful rehabilitation and re-opening of Prospect Hill Park, and requesting a reduction in the excessively bright lighting from the new lamp posts.

See 210605.

RESULT:	KEPT IN COMMITTEE
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210605: That the City Solicitor draft an ordinance prohibiting the installation of public lighting in excess of a temperature level to be determined.

Chair Davis shared the background that the new LED lights are known to have some adverse health impacts on animals and people. The intent is to address neighborhood residents' concerns and make smarter choices going forward. Councilor Ewen-Campen added that in Prospect Hill, there were many concerns. He clarified that what has been installed is compliant with the Dark Sky policy, but there are potential issues with how they are directed. Councilor Ewen-Campen also added that there are many differing opinions in various neighborhoods and locations, but making the lighting less intrusive, while remaining energy efficient and policy compliant, is a goal. Chair Davis will also work with Chair Ballantyne of the Committee on Open Space, Environment and Energy to focus the efforts on this issue. Ms. Pappenheim clarified that the temperature language relates to the Kelvin temperature (observed in how blue vs yellow the light is), which is the source of health issues.

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

Ms. McGettigan shared that the Community Benefits ordinance relates to the community benefits payments by large developers, paid to the City to offset the negative impacts that these developments may have on the City. The ordinance is designed to distribute these benefits effectively. Councilor Ewen-

Campen expressed concerns about the agreement that was already reached, after years of process, between US2 and the Union Square Neighborhood Council, and requested that they should be exempt from having to repeat that process.

Ms. McGettigan added the following language to the ordinance to address this: The provisions of this Article shall not apply to any disbursement or grant of community benefits funds negotiated between a developer and a neighborhood council designated by the city council under Sec. 7-222 which have been memorialized in a community benefits agreement prior to the effective date of this amendment.

Councilor Niedergang asked why future community benefits agreements would not be exempt as well and Ms. McGettigan added that 60% of the community benefits funds are designated for the particular community, with the additional 40% allowed to be distributed citywide. If all community benefits agreements were exempt, other City residents may be excluded from the benefits even if adversely affected by the development. Chair Davis added that future community benefits will be addressed through this ordinance, as there are no other neighborhood councils currently active. Ms. McGettigan clarified that if there is a Neighborhood Council, they can submit for funding from both the community-specific and general pool of funds. Councilor Niedergang elaborated that this seems to undercut the power of neighborhood organizations.

Councilor Ewen-Campen expressed that the larger issue is to better distribute the determination of how money that is given by developers is spent. The qualifications to become a Neighborhood Council are significant, and they are not easily formed. Thus, he agreed that their power to negotiate should not be curtailed. Chair Davis elaborated that both the Neighborhood Council and City should be able to negotiate, and the money should be distributed throughout the City, as the impact of projects is also dispersed. The ordinance does not include discussion of negotiating the amount of the benefits, but solely the use of whatever funds are determined by the Mayor and the developer.

Councilor Niedergang also shared a few other concerns, highlighting that operational costs for small nonprofits are an issue, and often grants cannot be spent toward operating. He suggested removing the limitation of using funds for general operational expenses. He also suggested that the 60% distribution to the neighborhoods is worth considering, as 75% may be a better distribution. Further, the requirement for a needs assessment every 5 years may be too stringent. Ms. McGettigan clarified that the operating expenses are excluded due to a legal requirement.

RESULT:

KEPT IN COMMITTEE

Handouts:

- Home Rule Petition- Repeal c 327 of Acts of 2004 (with 210561)
- 2020-prison labor prohibition (with 210454)
- CBO Amendment Draft 06.02.20 (with 209919)