



## CITY OF SOMERVILLE, MASSACHUSETTS LAW DEPARTMENT

August 2, 2021

Matthew McLaughlin, President  
City Council  
93 Highland Avenue  
Somerville, MA 02143

RE: Issuance of City Councilor Badges

Dear President McLaughlin:

You have requested an opinion as to the practice of issuing badges to City Council members. It is my understanding that there is no established reason for members of the City Council to carry a badge. In my opinion, for the reasons set forth below, it is not advisable for City Council members to carry badges.

Having reviewed the code of ordinances, city charter, state statutes and city records, we find no statutory or other legal authority in connection with the issuance of badges to City Council members. Rather, it appears to be a Board of Aldermen decision made more than a century ago<sup>1</sup> without a stated reason.

Enforcement roles in Somerville are exclusively performed by those city officers who fall under the executive branch. Somerville Charter, Title 1, Section 2. City Council members are not authorized to perform enforcement related functions.<sup>2</sup> Badges are generally perceived as signs of authority, see *Commonwealth v. Chavis*, 415 Mass. 703, 704 (1993) (badge as sign of police authority).

State law does establish it is a violation for one “without being duly authorized thereto[,] with intent to assume an official character which he does not possess, . . . [to have] in his

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<sup>1</sup> Board of Aldermen Item 130060, January 27, 1914.

<sup>2</sup> Enforcement related functions would be characterized as an executive act because it involves the execution of a law already in existence and the administration of municipal affairs. That role is distinguished from the role of members of the legislative body. *Moore v. School Committee*, 375 Mass. 443 (1978).

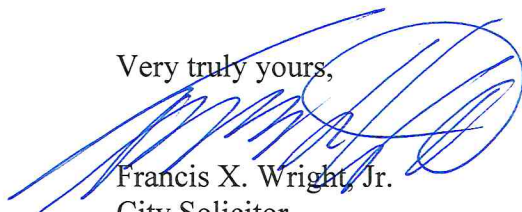


possession a badge or thing in the likeness of an official badge of a police officer, member of a fire department, or other officer appointed by a town in the commonwealth, or by any department of such town . . .” M.G.L. c. 268, s. 35. The City Council members are neither *appointed* officers nor members of a city department, yet currently carry a badge which arguably bears a likeness to a police badge or a badge of one or more other enforcing authorities.<sup>3</sup> While arguably this statute is not meant to apply to City Councilors, depending on the facts alleged, I cannot assure you that it would not.

In conclusion, it is my opinion the carrying of badges creates the potential for unnecessary blurring of lines between your roles as elected members of a legislative body and those city officers with lawful enforcement powers and duties. Therefore, as a potential misunderstanding, or even unintentional misuse, as to why a badge is shown could result in an allegation of violations of civil rights or other alleged violations of law, in my opinion, it is not advisable that badges be issued to City Council members. To the extent members may intend to only display a badge to identify themselves as being a member of the City Council, I respectfully recommend that a business card or City of Somerville identification card may serve the same purpose.

Please let me know if you have any questions. Thank you.

Very truly yours,



Francis X. Wright, Jr.  
City Solicitor

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<sup>3</sup> For example, it is a violation of state law to represent one has certain enforcement authority one does not possess. M.G.L. c. 268, s. 33.