CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES

October 17, 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	Present	

Others present: John Long - City Clerk, David Shapiro - Law, Shannon Phillips - Law, Ellen Shachter - OSPCD, Hannah Carrillo - OSPCD, Heidi Burbidge - OSPCD, Khushbu Webber - Legislative Liaison, Annie Connor - Mayor's Office, Peter Forcellese - Legislative Clerk.

The meeting took place in the Committee Room and was called to order at 6:01 PM by Chairman Niedergang and adjourned at 8:28 PM.

Approval of the September 17, 2019 Minutes

RESULT:	**ACCEPTED**

Deployment 5G Small Wireless Facilities

208862: Assistant City Solicitor submitting an Ordinance to regulate Small Wireless Facilities in the Public Right of Way.

Mr. Shapiro distributed a revised ordinance and reviewed the changes with the Committee. He asked that the Council provide feedback for section **(d) (1)** and section **(h)**. Ms. Connor stated that the design standards are online now, but some changes may still be forthcoming. With this in mind, she suggested that the Committee proceed with passage of the ordinance and not wait until all of the revisions are completed. She noted that there are some applications, under time constraints, for minor changes to permits, that could be approved by staff upon passage of the ordinance.

Chairman Niedergang said he would like to get an ordinance in place to maximize the discretion of the City over applications and revisit the issue at a later date, should any Councilor desire to make a change.

Councilor Ballantyne inquired about the location of equipment on the poles and about the amount of flexibility available through the design standards to situate equipment so as not to bother residents. Ms. Phillips and Ms. Connor spoke about there being a code requirement that equipment must be placed a minimum of 10 feet away from windows. Chairman Niedergang stated that he would like to increase the minimum distance and Councilor Davis suggested drafting more stringent design standards to deal with the distance issue. He also commented that he previously requested that the ordinance include a provision requiring that the design standards be approved by the Council. Chairman Niedergang stated that he isn't in favor of the Council approving the design standards since they will be changing frequently due to technological changes and increased knowledge and experience with the impacts, and then the Council will need to constantly be amending the ordinance.

Mr. Shapiro spoke about the legality of the standards and said that he needs the input of a technical person to determine if increasing the minimum distance creates an effective prohibition for the wireless companies, something that the City is not allowed to do due to the FCC's decision. Councilor Davis disagreed and said that he would like the ordinance worded so that if, for example, a 25 feet distance is ruled not to be legal, then a less stringent condition would be applied, e.g., 20 feet, and so on. He feels that the wireless companies should have to prove why an increased distance is an effective prohibition. Councilor McLaughlin said that he was ready to support the ordinance, as is, and if the Council wants to increase the minimum distance later, that would be fine. He believes that changing the minimum distance now would open the City to lawsuits.

Ms. Connor told the Committee that the Administration is happy to come back to the Council to work on the design standards and said that passing the ordinance tonight wouldn't interfere with the design standards. Chairman Niedergang commented that he isn't comfortable passing the ordinance without having some critical elements in the design standards in place, such as the distance of the installation from residents' living space. Councilor Davis said that he doesn't understand why, after months of discussion, there have been no changes to the design standards. Chairman Niedergang asked the Administration to add provisions regarding 1) distance from residential windows and 2) noise, to the ordinance. He would like the Committee to vote on this item after reviewing the requested changes.

Mr. Shapiro spoke about section **(d) (1)** and asked if the Council wants to have public hearings for all changes or just for new installations? Councilor Davis commented that if the standards are done correctly, there would be no need for public hearings. The committee members agreed that public hearings should only be held for pole installations. Mr. Long pointed out that if all changes were to have public hearings, the notification process would get burdensome very quickly.

With regard to section **(D) (7)**, Mr. Shapiro clarified that it would be the City Council denying applications. The Administration was asked to clarify who, within the DPW, would be approving the applications. During a discussion about installing poles in spaces that could be used for trees, Councilor Davis suggested adding language about "future planting sites".

RESULT:	**KEPT IN COMMITTEE**

208668: That the Legislative Matters Committee prepare an ordinance to regulate the

placement of wireless facilities to the maximum extent permitted by state law.

RESULT:	**KEPT IN COMMITTEE**

208883: 2 residents submitting comments re: the deployment of 5G small wireless facilities.

RESULT:	**KEPT IN COMMITTEE**

Tenant Right to Purchase/Right of First Refusal

209041: Requesting approval of a Home Rule Petition that would authorize the City to provide tenants the right to purchase the residential property in which they reside when that property is being offered for sale.

Councilors Davis and McLaughlin indicated that they are prepared to approve this item this evening; however, Chairman Niedergang said he is not comfortable voting for this tonight as he has a number of questions and wants to give all Councilors notice before holding a vote. He also feels that the public should be able to provide input on the matter. Councilor McLaughlin pointed out that this subject has been discussed for the last 2 years and that the public has been aware of it. Councilor Davis suggested reviewing the changes that have been made to the draft and holding a public hearing later, if and when the Home Rule Petition gets approved and the Council has the opportunity to implement it with an ordinance. Ms. Shachter said that provisions could be added at a later date provided they are not inconsistent with the scope of the legislation. She then reviewed the history of the proposal and various drafts and highlighted the changes made. Ms. Carrillo told the committee that she contacted 2 title companies and one said that the proposed legislation would not affect their providing title insurance, while the second company said it would. She will revisit this question in light of the shortened version of the proposal,

Chairman Niedergang said that he wants to be sure that things that have been cut from the previous draft, e.g., the exemption for grandchildren, could be added back at a later date, and wants to know why it was taken out in the first place. Ms. Shachter noted that the condo conversion ordinance should be considered and reviewed in the context of the right to purchase so as to avoid any conflicts with this Home Rule Petition.

When asked about the receipt and acceptance of a bonafide offer being the event trigger, Ms. Shachter explained that the thinking is that it would be a conditional acceptance. Members discussed whether a bonafide offer that is received after a reduction in price should be considered as a new bonafide offer. The Committee asked that definitions of "bonafide offer" and "purchase contract" be added. Councilor Ballantyne would like to know what was removed from the previous version of the proposal. She also asked how information about this issue will be shared with the public.

RESULT:	**KEPT IN COMMITTEE**

205118: Requesting approval of a Home Rule Petition to preserve affordable housing through a tenant's right to purchase.

RESULT:	**KEPT IN COMMITTEE**

205343: That the Director of SPCD contact local mortgage lenders to determine how the proposed "Tenants Right to Purchase" policy might affect the ability of home-buyers to secure financing, and report back to this Board in writing.

RESULT:	**KEPT IN COMMITTEE**

205344: That the Director of SPCD contact several Title Insurance brokers and ascertain their views on whether the proposed "Tenants Right to Purchase" policy would affect their ability to provide title insurance, and report back to this Board in writing.

RESULT:	**KEPT IN COMMITTEE**

Other Items

205918: That the Administration submit a Home Rule Petition similar to Boston's "Jim Brooks Act," but with less rigid language, to encourage passage by the State.

Ms. Shachter told the Committee that she doesn't have the bandwidth to work on this item now, as her department is involved in too many other matters. Councilor McLaughlin commented that his intention was to use the language from Boston's ordinance and to make it less contentious. Chairman Niedergang asked Ms. Shachter and other Committee members if they could try to find someone, not necessarily a City staff person, as there are several knowledgeable residents who are knowledgeable about housing issues, to work on this item.

RESULT:	**KEPT IN COMMITTEE**

208958: Requesting approval of a Home Rule Petition to expand the funding scope of the Affordable Housing Trust Fund.

Ms. Burbidge explained that this Home Rule Petition (HRP) would allow for the expansion of the purpose of the trust to support housing related programs and to allow the Trust to fund start-up costs for new affordable housing initiatives. The Department of Revenue has taken a limited view of what is allowed and this HRP would remedy that situation by allowing broader funding options. Councilor Ballantyne wants to know how the funds would be distributed, who could apply and if City departments as well as non-profits were eligible to participate. Chairman Niedergang explained that this is not a change in the way the Trust operates, but rather it's simply a mechanism to satisfy the state's requirements, so that the Trust may continue to operate the way it has been.

Councilor McLaughlin's motion ***to include language stating that no City Department may receive funding from the Somerville Affordable Housing Trust, pursuant to this Act***, was approved.

RESULT:	**APPROVED AS AMENDED**

208806: That the City Solicitor draft a Home Rule Petition to establish Broadway as a 25 mph roadway, and include any other municipal roadways within the city which currently

exceed 25 mph.

Ms. Connor informed the members that Hannah Pappenheim has been working on this and that she is currently away.

RESULT:	**KEPT IN COMMITTEE**

208909: That the City Solicitor advise this Council on the process to request the lowering of speed limits on state roadways within the city.

RESULT:	**KEPT IN COMMITTEE**

Handouts:

- Small Wireless Facilities - 10-17-19 (with 208862)
- 3 29 18 TRP (with 209041, 205118, 205343)
- Memo to LM for 10 17 19 Final (with 209041, 205118, 205343)
- Right to Purchase (with 209041, 205118, 205343)
- Right to Purchase Short 6 25 19 FINAL (with 209041, 205118, 205343)
- RTP Flow Chart Short version (with 209041, 205118, 205343)