



CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES

November 2, 2017
REPORT OF THE LEGISLATIVE MATTERS COMMITTEE

Attendee Name	Title	Status	Arrived
Mary Jo Rossetti	Chair	Present	
Mark Niedergang	Vice Chair	Present	
Katjana Ballantyne	Ward Seven Alderman	Present	
John M. Connolly	Alderman At Large	Present	
William A. White Jr.	Alderman At Large	Present	

Others present: Doug Kress - HHS, Jason Grossfield - Law, George Proakis - OSPCD, David Shapiro - Law, Frank Wright - Law, Sarah White - OSPCD, Abby Freedman - HCP, Annie Connor - Legislative Liaison, Peter Forcellese - Legislative Clerk.

The meeting took place in the Committee Room and was called to order at 6:00 PM by Chairman Rossetti and adjourned at 7:55 PM.

Approval of the October 19, 2017 Minutes

RESULT: ACCEPTED

204171: That the Director of Health and Human Services report to this Board whether smoking tobacco and marijuana is restricted to beyond a 50 foot radius around parks, playgrounds and athletic fields, and, if it is not, work with the City Solicitor's Office to change the regulations to prohibit such smoking on public property within 50 feet of parks, playgrounds and athletic fields.

See discussion of item 204492.

RESULT: WORK COMPLETED

204492: That the City Solicitor draft a revised version of Ordinance 6-3(b)(3), Smoking in Parks, to extend the smoking prohibition to 50 feet.

Mr. Grossfield reviewed the proposed amendments with the committee. Mr. Kress suggested that the Police Department be the main enforcing authority but that HHS and ISD also retain enforcing authority in the event that they detect violations.

Section 1-11(b) was amended by increasing the fine to \$100, making it consistent with the fine for having an open container of an alcoholic beverage in a public place. Members discussed allowing police officers to use their discretion when dealing with a violation.

Section 9-3 was amended by extending the prohibition to 50 feet.

Section 6-3(a) was amended by changing the definition of *Tobacco product*.

Mr. Grossfield noted that smoking marijuana in public places is covered by the state laws governing tobacco. The Law Department will submit a revised ordinance to the BOA at its next regular meeting (on November 9th) for approval.

RESULT:

WORK COMPLETED

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

Mr. Proakis spoke briefly about reasons for replacing the Demolition Review Ordinance. The committee discussed why city-owned buildings are dealt with differently than other buildings and Mr. Proakis explained that the key element is that the city's CEO and Board are elected by the public to act on their behalf, therefore the city is not a private entity. If the city is treated as others are, it could create a conflict with the actions of city officials. Alderman Connolly suggested letting the Historic Preservation Committee (HPC) have 30-60 days to weigh in on determinations, but leaving the final decision to the BOA. Alderman Niedergang said that having the same standard for the city and individuals is simpler and clearer and he favors striking the exemption for city owned buildings. The committee discussed different scenarios re: sales of city buildings and the timeframes involved, which could reach a maximum of 2 years and 4 months. The committee was informed that the Homan's building has already cleared the review process and has been designated as "not preferentially preserved".

Ms. Freedman said that it's not the HPC's intent to rigidly save every building in the city and she explained that a determination of "preferentially preserved" means that they will work with the owner to preserve a part of the building or the history of building if the physical structure can't be preserved. Alderman White spoke about what future HPC members or boards might do and asked what might have happened if the new high school project was held up in the review process and the city lost the opportunity for state funding. Ms. Freedman said that it's better to rely on the wording of the law than on a current or future board. Mr. Proakis said that, at this point, an advisory opinion is not included in the documentation. He is more concerned about an individual appealing a "not preferentially preserved" decision on a city building and said an advisory opinion eliminates one level of risk. Mr. Shapiro will research the right of legal appeal of a demolition review decision. Mr. Proakis will examine whether there could be a shortened time frame for city buildings.

Ms. White told members that that the City of Cambridge has a 6 month delay and has no appetite to increase it, since they work with neighborhood conservation districts made up of people who live in those neighborhoods. Cambridge does not have local historic districts as Somerville does.

Alderman Niedergang asked why redevelopment areas are exempted in Section 2.12 and Mr. Proakis explained the rationale and spoke about the D block parcels in the Union Square redevelopment. Mr. Proakis also said that he would like to take some listed parcels out of this section.

Ms. Freedman asked if the delay period could be changed to 24 months in Section 7.1.

Chairman Rossetti commented that community members have inquired why commercial properties get a shorter delay than residential properties. Mr. Proakis said that the time period is 6 months longer than any other community and Ms. White said that she is not aware of any other community having separation between residential/commercial, and that she would look into it. Alderman Niedergang favors a 24 month period for commercial properties because it gives the HPC more leveraging power and Mr. Proakis said that he looked at transformative areas and didn't want to delay commercial redevelopment in those areas. Alderman White suggested defining "commercial" as to not include churches and Alderman Ballantyne noted that some churches are located in office buildings or store fronts.

Ms. Freedman said the 2-year period is an impetus to get developers to work with the HPC. Mr. Proakis mentioned an option of "not preferentially preserved with conditions". Chairman Rossetti prefers to hold off on the 12 month vs. 24 month discussion until Ms. White has completed her research of other communities. Ms. Freedman will forward a suggested language change for **Section 7.2 Alternatives to Demolition** to Mr. Proakis.

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

RESULT:	KEPT IN COMMITTEE
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203839: That the City Solicitor draft an amendment to Ordinance 11-38(d)(2) to strengthen the language regarding rodent eradication prior to developments being constructed.

Chairman Rossetti submitted a suggested language change offered by Alderman McLaughlin. Mr. Shapiro had no legal concerns with the proposed language but asked what the scope of "renovation" would include. Alderman White said that the committee needs to figure out what to do with the current language in light of the new language. Mr. Shapiro will consult with ISD regarding the definition of "renovation" and return to the committee. Alderman Connolly noted that anytime earth is excavated around a building there could be problems and he asked Mr. Shapiro to incorporate language to deal with that possibility.

RESULT:	KEPT IN COMMITTEE
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204238: That the City Solicitor draft an amendment to the ordinance regarding construction, so that rodent eradication is required on all construction, not just demolition.

See discussion of 203839.

RESULT:	KEPT IN COMMITTEE
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203868: That the City Solicitor provide an opinion to this Board no later than August 1, 2017 on the legality of #203789, a proposed amendment to Ordinance 2-24 regarding the terms of city officers.

Chairman Rossetti recused herself from all discussion of this item. Alderman Niedergang chaired this portion of the meeting.

Mr. Wright told the committee that some positions have clear guidance and others are silent about how they are treated and in those cases where clear guidance is not provided, an individual's term would **not** continue until a successor is appointed. Should a situation arise where there is no duly authorized zoning board, as an example, a constructive grant could be sought by and issued to a developer. Alderman White noted that the city could also deal with the term issue via a Home Rule Petition or an ordinance. The basic opinion of the Law Department is that it can be done, but by a Home Rule Petition. Mr. Wright isn't aware of any precedents, but he will try to research it. Mr. Proakis will also check with other planning directors. Ms. Connor asked the committee to consider the difficulty the city has in finding qualified people to fill positions. Mr. Proakis said that the Planning Department is usually successful in replacing people but he is concerned about sending someone who is just ok rather than someone who would be a good fit for the city.

RESULT:	KEPT IN COMMITTEE
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203789: Proposing an amendment to Ordinance 2-24 regarding the terms of city officers.

Chairman Rossetti recused herself from all discussion of this item. Alderman Niedergang chaired this portion of the meeting.

See discussion of 203868.

RESULT:	KEPT IN COMMITTEE
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204026: City Solicitor responding to #203868 re: an ordinance to limit the "holdover" period of officers and boards specified in Ordinance 2-24(c).

Chairman Rossetti recused herself from all discussion of this item. Alderman Niedergang chaired this portion of the meeting.

See discussion of 203868.

RESULT:	KEPT IN COMMITTEE
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Handouts:

- Proposed Ordinance (with 204171, 204492)
- Demo Review Data (with 204278)
- Email – Ald. McLaughlin (with 203839, 204238)
- Ordinance Excerpt (with 203839, 204238)