



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

November 1, 2018
REPORT OF THE LEGISLATIVE MATTERS COMMITTEE

Attendee Name	Title	Status	Arrived
Mark Niedergang	Chair	Present	
Lance L. Davis	Vice Chair	Present	
Mary Jo Rossetti	Alderman at Large	Present	
Matthew McLaughlin	Ward One Alderman	Present	
Katjana Ballantyne	Ward Seven Alderman	Present	
Jefferson Thomas ("J.T.") Scott	Ward Two Alderman	Present	
Ben Ewen-Campen	Ward Three Alderman	Present	
Jesse Clingan	Ward Four Alderman	Present	
William A. White Jr.	Alderman At Large	Present	
Stephanie Hirsch	Alderman At Large	Present	
Wilfred N. Mbah	Alderman at Large	Present	

Others present: Alex Mello - OSPCD, George Proakis - OSPCD, Frank Wright - Law, Shannon Phillips - Law, Joe Lynch - Licensing Commission, Ellen Schachter - OSPCD, Doug Kress - HHS, Annie Connor - Legislative Liaison, Peter Forcellese - Legislative Clerk.

The meeting took place in the Committee Room and was called to order at 6:02 PM by Chairman Niedergang and adjourned at 8:36 PM.

Approval of the October 2, 2018 Minutes

RESULT:	ACCEPTED
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Approval of the October 18, 2018 Minutes

RESULT:	ACCEPTED
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203965: That the City Solicitor draft an ordinance for review by this Board related to recreational marijuana.

RESULT:	WORK COMPLETED
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206284: City Solicitor submitting an Ordinance regarding Adult Use Marijuana Establishments.

The committee reviewed the latest revision to the draft, dated November 1, 2018, as prepared by Alderman Scott, Mr. Proakis and Mr. Mello. Alderman Scott explained the changes made and spoke about their intent. As it stands now, only priority applicants may be considered for the first two years, thereby providing them a ‘leg up’. This raises a question of whether this advantage would also extend to non-retail businesses, e.g., R&D. Alderman Rossetti recalled hearing a statement made at a community meeting that there was concern about allowing recreational sales in medical marijuana facilities. She said that Section 10 of the host community covenant signed by the medical marijuana facilities states that conversion to a dual-purpose facility requires the host agreement to be renegotiated. She would like a period of time to pass before medical businesses could apply. Mr. Wright stated that the medical licensees' opinion differs from Alderman Rossetti's and if they're not included in the priority group, the city could face possible litigation, which will tie up the whole process, possibly for years. Alderman Ewen-Campen stated that that was his understanding as well and he did not want litigation to tie up opening recreational marijuana sales for years. Alderman McLaughlin said that his recollection is the same as Alderman Rossetti's and he asked Mr. Wright if this latest language is litigation proof, to which Mr. Wright replied that he is comfortable that it would withstand a legal challenge and that it is compliant with state law. Alderman McLaughlin is in favor of empowerment applicants getting a head start but he doesn't want that to hold up the process.

Mr. Proakis explained that this new language allows medical facilities to apply at an earlier point in time. All applications would be starting at the same basic point. He noted that the previous public meetings dealt with only medical establishments and those businesses were told that if they wanted to convert to dual-purpose, they would have to re-apply. A question was raised asking: if 2 applicants file and propose to open next to each other, and if they both meet the requirements, how can one be denied? Mr. Proakis told the committee that there probably aren't more than 3 Group A establishments that could apply.

The committee discussed how Somerville residency is defined for purposes of the ordinance and Mr. Proakis replied that there isn't a definition included, but he defines it as a person who lives here, adding that there are many things that may be used to verify residency. Alderman McLaughlin would like preference given to empowerment applicants. Mr. Proakis told the committee that if the language in the ordinance isn't tightened up, he would work with the Licensing Commission to assign that preference. Alderman Scott noted that the Licensing Commission has authority to set its own regulations and, therefore, should be able to deal with the residency issue on its own. Alderman Ballantyne wants more guidelines on how “Somerville resident” might be defined and Mr. Proakis said that an easy edit would be to put today's date into the ordinance and require that a person live in the city for the entire duration of his license. The strategy of how to do this should be shared by the BOA and the Licensing Commission. Members discussed possibly eliminating the Somerville residency language and asked if that might limit the pool of applicants and slow the process. Mr. Proakis stated that he is aware of at least 1 Somerville resident who is considering applying. Aldermen Mbah, Hirsch and Rossetti are opposed to eliminating residential preference.

Section 2-221, B (i)

Alderman Rossetti would prefer that the number of licenses granted be more than 6 but less than 9. Alderman Hirsch said that it doesn't matter how many licenses there are city-wide, rather, it matters how many are in one neighborhood because it changes the feel of the neighborhood. Chairman

Niedergang told the members that the issue of buffers - the required distance between retail marijuana establishments -- is currently before the Land Use Committee and Mr. Proakis noted that distances between retail shops should be done in zoning. He said limiting the number of retail shops in a neighborhood or a ward might be doable, but he recommended consulting with the City Solicitor first. Chairman Niedergang explained his proposed amendment [*There shall be a temporary cap of no more than 12 adult marijuana retail establishments, which cap shall expire after 24 months. This cap may be lifted or modified at any time, or extended, through amendment of this ordinance*] as a kind of a safety valve, saying that he is concerned about unintended consequences, since the Licensing Commission cannot legally restrict the number of retail licenses they grant to a specific number, they have to consider each application separately on its own merits.

Chairman Niedergang's **motion** to add the following language: "**There shall be a temporary cap of no more than 12 adult marijuana retail establishments, which cap shall expire after 24 months. This cap may be lifted or modified at any time, or extended, through amendment of this ordinance.**" to Section 2-221, B (i), was approved unanimously on a voice vote.

Mr. Proakis stated that this means that the 2nd round of six applicants would have to be Group A applicants. Alderman Scott referenced the last sentence Section 2-221, B (ii) saying that, even after sunset clause takes effect, there would be a hard number that could be allowed.

Chairman Niedergang proposed an amendment, as follows: *A neighborhood/community meeting shall be held before the applicant appears before the Licensing Commission for any retail adult marijuana establishment* and said that this would create comfort in the neighborhoods. Alderman White offered an amendment to place the responsibility for hold said meeting on the applicant. Mr. Proakis stated that he doesn't want an applicant to have a neighborhood meeting prior to (that applicant's) meeting with the Licensing Commission in case the recommendation is to deny the application. Alderman Ballantyne questioned the intent or benefit from holding a community meeting.

Mr. Proakis explained that any community agreement would be based upon what the state allows the city to do, e.g., what the city may ask for and how funds used. He noted that it would be inappropriate to sell licenses to the highest bidder in some shape or form, adding that the agreements will be standardized to protect what the city is trying to accomplish. Alderman McLaughlin wants marijuana licenses handled the way liquor licenses are, and neighborhood meetings aren't held for liquor licenses, however, this is a new business and neighborhood meetings are valuable, therefore he intends on holding neighborhood meetings whether required, or not.. Chairman Niedergang maintained that his proposal gives neighbors chance to get information and become empowered.

The committee discussed how notice of meetings would be provided and Mr. Mello told the committee that the state will have a follow-up meeting before granting a license and that a notice must be mailed to abutters within 300 feet, so the proposed neighborhood meetings could be held at same time if desired. Alderman Ballantyne would like language added requiring any applicant to contact the ward alderman after the applicant has been vetted by the Planning/Zoning Departments. Chairman Niedergang asked the Planning Department's staff to write the language requested by Alderman Ballantyne.

Alderman Scott's motion to amend **Section 2-221, B (ii)** by replacing all words after "Commission shall only issue" in the second sentence, and the entirety of the third sentence, with the following language: "**a license to an applicant in Group B if, after issuance, there will be an equal or greater number of currently active licenses held by entities that were licensed as applicants from Group A**" was unanimously approved on a voice vote.

Mr. Kress, responding to a question, explained that even though the HHS Dept. signs citations, the issuing department is Inspectional Services. For the marijuana establishments, HHS will be doing inspections, but ISD will handle the enforcement. Mr. Proakis suggested changing the language in **Section 2-221, J** to add the Director of HHS as an enforcement authority. Chairman Niedergang made the motion, which was unanimously approved.

Mr. Proakis read a standard severability clause that was copied from the City's street performers ordinance and Alderman White's motion to add the following text: "*The provisions of this ordinance are severable and if any part of this ordinance should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the ordinance and the remainder of the ordinance shall stay in full force and effect.*" to a new section in the proposed ordinance was unanimously approved on a voice vote.

Chairman Niedergang's motion to replace the word "*granting*" with the word "*issuing*" in **Section 2-221, K**, was unanimously approved.

The meeting was recessed at 7:45 PM and called back to order at 7:57 PM.

Alderman Davis and Mr. Proakis commented that the amendment proposed by Chairman Niedergang regarding community meetings would be better placed in Zoning and will be discussed by the Land Use Committee. Mr. Proakis also said that any outright prohibitions should be dealt with in Zoning.

Alderman Ewen-Campen's motion to approve the proposed ordinance, as amended, was unanimously approved on a voice vote.

RESULT:	APPROVED AS AMENDED
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202523: That the City Solicitor prepare a draft ordinance to amend or replace the current Condominium Conversion Ordinance, and incorporate the strongest parts of relevant state law.

RESULT:	KEPT IN COMMITTEE
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205420: Assistant City Solicitor submitting an updated Condominium/Cooperative Conversion Ordinance.

RESULT:	KEPT IN COMMITTEE
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206901: That the Tree Preservation Ordinance be amended to expand the membership of the Urban Forestry Committee by adding one or two members between the ages of 14 and 17 who express an interest in urban forestry and landscape design.

Alderman Ballantyne explained the proposed amendment and said that there is no legal reason not to include youths on the Urban Forestry Committee. Ms. Phillips is still researching any legal aspects of the proposal. Alderman Rossetti stated that the student on the SHS Building Committee was a freshman when appointed and has voting rights. Alderman Scott objected to the language "*one or two*" in Sec. 12-100 c) 3) and Alderman Ballantyne suggested changing the language to "*two*". Alderman Davis suggested changing the language to "*at least one but preferably two*".

Ms. Phillips clarified the current makeup of the committee, which has 9 members, as follows: urban forestry/landscape planner, tree warden and 7 members of the public. The proposed amendment would increase the membership of the committee to 11 members, as follows: urban forestry/landscape planner, tree warden, and 9 members of the public (2 of whom will be youths).

Alderman Ballantyne made a motion to strike the words "one or" from her proposed amendment.

Alderman Ewen-Campen inquired if adding these extra members might make it more difficult for the committee to attain quorums for meetings. He also stated that he needs more convincing to give the youth members voting rights. Alderman Clingan stated that he, too, was unsure about granting the voting rights. Chairman Niedergang believes that if students sit on a committee, they should be allowed to vote.

Alderman Ballantyne's motion to strike the words "one or" from Sec. 12-100 c) 3) in her proposed amendment, was approved.

RESULT:	APPROVED AS AMENDED
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205807: That the City Solicitor draft an ordinance to establish the city's current green space as a minimum allowed amount, as described within.

Alderman Ballantyne requested that this item remain in the committee.

RESULT:	KEPT IN COMMITTEE
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Handouts:

Email from M Niedergang (with 206284)

SCO License update 2 (with 206284)

Proposed Urban Forestry Amendment (with 206901)

Draft Green Space Min Ordinance (with 205807)

Proposed Green Space Amendments (with 205807)