



CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

January 18, 2018

REPORT OF THE LEGISLATIVE MATTERS COMMITTEE

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

Others present: George Proakis - OSPCD, Michael Feloney - OSPCD, Michael Glavin - OSPCD, Sarah White - OSPCD, Shannon Philips - Law, David Shapiro - Law, Jason Grossfield - Law, Frank Wright - Law, Eileen McGettigan - Law, Dr. Vanessa Boukili - OSPCD, Tim Snyder - Mayor's Office, Annie Connor - Legislative Liaison, Peter Forcellese - Legislative Clerk.

The meeting took place in the Committee Room and was called to order at 6:33 PM by Chairman Niedergang and adjourned at 9:06 PM. This meeting was audio recorded.

Chairman Niedergang spoke briefly about the importance of this committee and what his expectations for the committee are. He welcomes comments and feedback from all Aldermen on what items to bring forward and on ways to improve these meetings. Chairman Niedergang asked the members to come to committee meetings prepared to discuss items on the agenda.

Approval of the December 7, 2017 Minutes

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

Chairman Niedergang gave update on this item and said that there are two outstanding issues to be resolved: 1) the exemption of city owned buildings and 2) whether the delay period should be the same for residential and commercial properties.

Mr. Proakis explained the purpose of a demolition review ordinance, saying that it's another tool in the box for historic preservation. He covered significant and/or preferentially preserved designations and mentioned various areas of the city that might be impacted by the proposed ordinance. The task at hand is how to make the ordinance work in the most efficient manner. In the long term, OSPCD tried to make the proposed ordinance match the goals of SomerVision.

Ms. White informed the committee that there is one small town in western MA that has adopted a 24 month review period, but since they have a different form of government, approval from the MA Attorney General is needed before it may be implemented. Mr. Shapiro will check with the MA Attorney General's Office regarding a timeline for ruling on the town's proposed bylaw. Ms. White also reported that, according to her research, no other community in MA has a different delay time for residential properties (vs. commercial properties). Chairman Niedersgang stated that a 24 vs. 9 month delay period would slow unwanted development. He asked if the Law Department had a problem with a 24 month period and Mr. Shapiro replied that he believes that a 24 month delay period is a defensible position, but he can't guarantee it.

Mr. Glavin stated that there are provisions to allow dangerous properties to be demolished and referred to Sec 9.2 of this proposal. Sec 6.1 and 6.4 address structural engineering reporting and peer review. The city would rely on a contracted structural engineer who has experience in historic buildings.

Alderman Ewen-Campen asked if the proposed ordinance would apply to all houses and if it would also increase the cost of development. Mr. Proakis said that there is an associated risk of higher cost and that all houses would be included, except those in historic districts. He explained that residential and commercial property have 24 and 12 month delays proposed, respectively, to incentivize commercial development. Alderman Ewen-Campen said that it seems that the decision rests with the Historic Preservation Commission and theoretically could present a problem, should said commission be against development.

Increasing the trigger to 75 years would affect 150 structures city-wide and Alderman Scott is concerned that the proposed longer delay might impact small development, e.g., in-law apts, dormers, small additions. He asked how this proposed ordinance dovetails with the proposed zoning overhaul. Mr. Proakis said that by-right additions should not trigger a demo review, adding that the goal is to make small additions to a home easier, e.g., adding a bedroom, while making larger projects more difficult. However, he acknowledged Alderman Scott's concern that serial demolitions by homeowners to add onto their homes could possibly cross the 25% threshold and could trigger review by the HPC.

Alderman Rossetti inquired about the amount of the fine and the length of the penalty (in years) for violation of sec 8.3 of the proposed ordinance. Alderman Ballantyne asked for the definition of "historic", in terms of years, and Ms. White said that it depends on the particular community and that demolition delay periods are set by communities to suit their needs. Alderman Ballantyne requested data for city owned property that would fall under the historic category.

In response to discussion and concern about the exemption of City-owned properties from the demolition delay, Mr. Proakis explained that OSPCD staff felt that exempting city buildings was wise, since the elected Board of Aldermen has the final decision and ultimate authority to demolish those properties, and that seems better than giving an appointed board, the HPC, authority to make these decisions.

RESULT:

KEPT IN COMMITTEE

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

RESULT:

KEPT IN COMMITTEE

204364: That the City Solicitor and the Director of SPCD submit to this Board, amendments to the Tree Preservation Ordinance with criteria for removal and notification to add safeguards for street reconstruction projects.

Ms. Phillips explained that the proposed ordinance extends public notice for the removal of public shade trees and trees on city-owned property. She reviewed the changes made since the last committee meeting. Alderman Scott asked about the removal of trees for the new high school, citing the specificity of the ordinance wording. Dr. Boukili said that when the high school plan was made, the entire area was included, not each individual tree and Alderman Rossetti added that a hearing was held last summer re: the removal of those trees. Ms. Phillips pointed out that the ordinance has no authority in terms of the BOA deciding what trees are removed or kept; that would rest with city staff.

Dr. Boukili explained her reasons for including, or not, recommendations from a letter submitted by Green and Open Somerville. Tori Antonino was allowed to speak on the matter of tree trunk size, not cutting smaller, younger saplings (1.5" vs. 3") and said that it's about sustainability and that instead of planting larger trees, smaller trees have a better chance of surviving. She spoke about a planting done on City Hall property (with the Growing Center) and said that planting smaller trees also saves money. Alderman Ballantyne noted that some younger trees have been snapped by youth and if the city decides to move forward with the 1.5" suggestion, some sort of tree protection would need to be installed. The Committee got about half-way through the Green and Open Somerville letter, and Chairman Niedergang suggested that due to time constraints, the remainder of the letter be gone through at a future meeting.

RESULT:

KEPT IN COMMITTEE

204954: Requesting approval of a Home Rule Petition to authorize the City to impose a Real Estate Transfer Fee.

Mr. Snyder explained that this proposal was a recommendation of the Sustainable Neighborhoods Working Group and the main question is how to pursue a home rule petition (HRP) authorizing the city to impose this tax. The first step is to secure BOA approval to move forward with the petition to the legislature, and if it is approved, then the second step would be to develop a local ordinance to put in place exactly what would happen. Having specificity in the HRP is helpful, he said, but if there is an unanticipated problem or issue down the road after a local ordinance is passed, the proposal would need to come back to this committee to be resolved and then put forth in another HRP to the state legislature. Although the city's state delegation is supportive of the proposal, the anticipation is that securing legislative approval won't be an easy task. The legislature's current 2-year session ends in July, and after that, any member can stop a bill by simply objecting to it. If the city wants this proposal considered this year, the HRP should be submitted by April.

Alderman Rossetti suggested inviting the delegation to be present during the committee's deliberations of this item, to offer any advice on how to best draft the HRP.

Mr. Snyder informed the committee that the city anticipates submitting additional HRP's and noted that Somerville probably has more HRP's before the legislature than any other community. He told members that the city needs to be aware of the time, effort and political capital expended by its delegation to support HRP's.

Mr. Feloney spoke about how the recommendations came about and reviewed highlights of the memo. He told the committee that some Task Force members thought that it was appropriate for the sellers to pay the tax, while others felt that the burden should be on the buyer. Alderman White inquired how the fees would be collected and asked how this is handles for the Cape Cod Land Bank. Chairman Niedergang reported that the task force had discussions about a variety of key issues, including whether there should be varying fees, if a preamble should be included explaining why the tax is needed, who should be responsible for the payment and where would the funds go. Alderman Hirsch added that the task force had questions about who would be exempted. She said that the tax would contribute to more stabilized neighborhoods. Alderman Ballantyne thinks that if the burden is on the seller, it discriminates against the elderly. She said there needs to be a discussion regarding the impact on seniors' financial well-being.

Alderman Scott asked if this item could be recommended for approval tonight and several members objected citing the need to have additional discussions and time to schedule a public hearing, in order to make a better case. Chairman Niedergang voiced his agreement for scheduling a public hearing A.S.A.P., but wants to develop a revised version of the HRP language for a transfer fee that reflects input from Aldermen.

Alderman Ewen-Campen went on the record in support of a transfer fee and said that it should be a top priority for the City.

RESULT:	KEPT IN COMMITTEE
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204875: That the City Solicitor prepare a Home Rule Petition regarding a Right of First Refusal to allow tenants to have the first option to purchase their homes if they are going to be sold.

RESULT:	KEPT IN COMMITTEE
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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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203098: Assistant City Solicitor submitting an Ordinance to create a Community Benefits Committee.

The committee discussed a letter, received today, from the Union Square Neighborhood Council (USNC) asking that the Mayor and the Board of Aldermen officially recognize the USNC so that it can begin negotiations with the Master Developer of Union Square, US2, for a Community Benefits Agreement. The question was raised whether the city could recognize them and Ms. McGettigan said that she was not prepared to offer a legal opinion on that question since the letter had just been received that afternoon. Alderman Scott suggested submitting a resolution congratulating the USNC on the Council's formation and election. Mr. Snyder reminded the committee to understand the

legalities involved in the public vs. private issue regarding neighborhood councils and their relationship to the City that the Committee discussed at length last year and referred to a document explaining this that Ms. McGettigan had prepared last year. Ms. McGettigan said that she had a number of documents relating to the Community Benefits Ordinance that she wanted to walk Committee members through and discuss in detail, and was prepared to do so when the Committee so wished.

RESULT:	KEPT IN COMMITTEE
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203555: The Chamber of Commerce, Union Square Main Streets, and Somerville Local First submitting comments re: the Union Sq proposed zoning, the US2 Covenant, and the Community Benefits Ordinance.

RESULT:	KEPT IN COMMITTEE
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203556: The Maurice and Jane Sugar Law Center for Economic and Social Justice submitting comments re: #203098, the Community Benefits Ordinance.

RESULT:	KEPT IN COMMITTEE
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Handouts:

- Letter from USNC (with 203098)
- Draft Tree Ordinance (with 204364)