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October 21, 2008

REPORT OF THE COMMITTEE OF THE WHOLE
ON LEGISLATIVE MATTERS

The Committee on Legislative Matters convened on October 21, 2008 with Chairman Thomas Taylor presiding and Committee Members Rebekah Gewirtz, Sean O'Donovan, Walter Pero, John Connolly, William Roche, Dennis Sullivan and William White also present and voting. Also present were Commissioner Stan Koty, Rick Willette and Steve McEachern from the DPW, Administrative Assistant Jesse Baker, Assistant City Solicitor David Shapiro and concerned members of the public.

Mr. Shapiro addressed the members regarding the proposed Tree Preservation Ordinance, summarizing its provisions and explaining the role of the proposed tree committee. Mr. McEachern explained the current process involved for removing public trees and stated that he, as the city's tree warden, works with an arborist in evaluating the condition of trees and noted that 90% of requests to remove trees originate with residents. Mr. McEachern stated that he does not believe that there is a problem with the current process. He further discussed various types of tree diseases and explained methods of saving trees wherever possible and noted that the city plants more trees than it removes.

Alderman White expressed concern that the proposed ordinance could hinder economic development in the city and Alderman Pero expressed concern that a tree committee may interfere with the work of the tree warden if it is given power to make policy. Aldermen O'Donovan and Pero stated that they feel the tree committee would be an impediment to the process. Alderman Sullivan stated he believes the tree committee is a good idea but that it should consist of only 3 members. There was some discussion about the notice requirements of the ordinance and Alderman O'Donovan feel that the 300 foot notice requirement is too burdensome on residents. Posting notices on the affected tree and at the end of the subject streets as well as leafletting the neighborhood were suggested as methods to inform neighbors.

Chairman Taylor stated his opinion that a tree committee would make the process more organized and noted that "public safety" issues are exempt from the proposed ordinance. Alderman White interjected that only "imminent danger" situations are exempt. Alderman Gewirtz explained that she was involved with a situation whereby a resident requested that a tree be removed because it caused severe property damage to his home. She feels that neighbors should have a say as to whether or not the tree comes down and said that old trees are more valuable than new trees because they sequester carbon. Alderman White explained that if one person at a hearing objects to the removal of a tree, the mayor has the final say on the matter.

Alderman White's motion to add a term of office to the ordinance for tree committee members and to require approval of their appointments by the Board of Aldermen's Committee on Confirmation of Appointments was approved.

Alderman Pero's motion to strike section 12-100 from the proposed ordinance failed on a roll call vote of 4 in favor, 4 against and 3 absent

Alderman White's motion to amend section 12-100 by making the following changes:

"A Somerville Tree Committee charged with developing policies and objectives for the management and maintenance of existing and new public shade trees shall be established, consisting of a representative selected by each of the following: the Board of Aldermen, Office of Strategic Planning and Community Development, Mayor's Office, Tree Warden, and one member of the Somerville Garden Club, or similar organization, to be appointed by the Mayor, to serve for a term of 3 years, subject to confirmation by the Board of Aldermen", was approved.

Alderman White's motion that the tree committee have no authority to interfere with the conduct of business of the tree warden and arborist, was approved.

Alderman Pero's motion to change the tree committee name to the Somerville Tree Advisory Committee and strike the words "policies and objectives" from section 12-100, was approved.

Alderman White's motion to strike from section 12-101, the following sentence: "Notwithstanding the above, no public hearing may be initiated at the request of a property owner, or agent thereof, to remove a healthy public shade tree under G. L. c. 87, s.3, unless the Tree Warden finds in writing the reasons why such public shade tree poses a threat to the health or safety of a resident.", was approved.

Alderman Taylor's motion to change the 300 foot requirement to 100 feet in section 12-102, failed on a roll call vote of 3 in favor, 4 against and 4 absent.

Alderman O'Donovan's motion that the City Solicitor draft the noticing requirements in section 12-102 to mirror the state statute, was approved on a roll call vote of 4 in favor, 3 against and 4 absent.

Alderman White's motion to add the word "healthy" in front of the words "public shade tree" in line one of section 12-103, was approved.

Alderman Roche's motion to strike section 12-104 (b) and have the City Solicitor draft new language to address payment for planting replacement trees, was approved.

The committee discussed matters before it and took action on the following 2 items:

186025: Communication - Asst. City Solicitor submitting a draft Ordinance for Tree Preservation.

RECOMMENDATION: Should be placed on file

VOTE: Unanimous, 8 - 0 in favor

186345: Communication - Asst. City Solicitor requesting an exemption under MGL c268A s20(d) for Cheri Ruane, a member of the Design Review Committee.

RECOMMENDATION: Should be approved

VOTE: Unanimous, 8 - 0 in favor

COMMITTEE REPORT

Report of the Committee of the Whole on
Legislative Matters, October 21, 2008

In Board of Aldermen

Clerk