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September 26, 2006

**REPORT OF THE COMMITTEE OF THE WHOLE**  
**ON LEGISLATIVE MATTERS**

The Committee on Legislative Matters convened on September 26, 2006 with Chairman Thomas Taylor presiding and Committee Members Aldermen Bruce Desmond, Rebekah Gewirtz, Maryann Heuston, Sean O'Donovan, Denise Provost, William Roche, Dennis Sullivan, Robert Trane and William White also present and voting. Also present were Mayor Joe Curtatone, City Solicitor John Gannon, Michael Lambert from the Mayor's Office, Health Director Noreen Burke, School Committeewoman Teresa Cardoso, George Landers from ISD and Representative Carl Sciortino.

**Trash Ordinance:**

Alderman Gewirtz explained that the trash ordinance was returned to committee to resolve some unanswered questions and Alderman Heuston stated that the rodent problem is affecting all areas of the city. The committee reviewed the proposed ordinance, section-by-section, with the City Solicitor present to answer any legal questions, and made changes as necessary.

Alderman Provost requested that the City Solicitor provide the committee with a copy of the applicable section of the State fire code that requires that someone be designated as the responsible person for particular properties.

Alderman Desmond asked that Mr. Gannon find out what the State Fire code determines to be a multi-family dwelling.

Amendments were offered by Aldermen Heuston, O'Donovan, Trane, White, Provost, Taylor and Gewirtz and will be reflected in the document presented to the Board of Aldermen on September 28<sup>th</sup>. The City Solicitor will provide both a clean copy, incorporating the changes, and a red-lined copy, detailing the changes, to the Board of Aldermen on the 28<sup>th</sup>.

A motion by Alderman Provost to remove the words "and the adjoining gutter to the center of the street free of litter" from Section 11-31-(d) (3) was passed on a roll call vote of 6 in favor, 4 against and 1 absent.

**Municipal Hearing Officer:**

Alderman Gewirtz told the members that she had requested information from Representative Sciortino's office and from the District Court regarding the number of tickets appealed to the courts and that her

information does not agree with what was told to the committee during an earlier meeting, i.e., that 100% of appealed tickets are dismissed by the courts. She said that the information she received indicates that from January of this year to the present, 286 cases were appealed with 179, or 63%, being dismissed. Alderman Gewirtz expressed her belief that the proposed position would place an additional cost on the city at taxpayer expense and said that the city should work with the courts, not by-pass them.

Mayor Curtatone addressed the members and stated that if it the Board's intention to make ordinances and have them enforced, then the members should consider the best way to accomplish this. He explained that the cited violations are not a priority with the courts. He further told the members that this was the city's best option but that he would be willing to listen to better ideas, if someone has one. Mayor Curtatone believes that by having a first run in the city, many citations would not proceed to the court system and he noted that the city budget is being strained by the man-hours spent in court under the present system.

Mr. Gannon stated that an in-house person would have technical knowledge of the city and its ordinances and that the city could have local control over its ordinances. He also noted that a hearing officer could perform a site visit, whereas a clerk magistrate would not and has not. He also told the members that the MMA has endorsed this concept and the Home Rule Petition and that they will forward some information. Mr. Gannon further stated that Mr. Tomisonni, of the District Court, had no problem with city taking over the task.

Alderman O'Donovan asked Representative Sciortino to provide the committee with the figures for Medford's tickets and appeals.

Representative Sciortino addressed the committee about his support of local home rule petitions and said that many home rule petitions have a precedent setting effect on the rest of the state. He presented a communication in which he detailed several question that he believes need to be answered.

Alderman Roche responded to Representative Sciortino's remarks and expressed his hope that the representative would carry the wishes of the Board to the legislature. He also stated that the hearing officer position would streamline the process, as a local official would be familiar with the city. He also noted that, using the representative's figures, the number of dismissed cases is nearly 90%, not 63%, as indicated.

Alderman Heuston expressed doubt about the accuracy of the information provided by Representative Sciortino with respect to the 95% of dismissals being for long-term residents and Alderman Desmond stated that 1 individual had been cited 28 times for snow removal issues and that the court dismissed the case 24 times.

Alderman Sullivan asked Representative Sciortino to inquire at the courts whether any clerk magistrate has made site visits with respect to an appeal.

Alderman Provost requested additional information regarding the number of in-house abatements as noted in the handout prepared by Somerstat. She also stated that the process of passing home rule petitions that involve a deviation from state law is more stringent than others and her concern is that this petition would be a difficult one to advocate for because it leaves so much unsaid. This ordinance has no standard of proof and she believes that the questions of procedures and standard of proof need to be answered before the petition is forwarded to the legislature.

Alderman White requested information regarding the 599 abated cases, i.e., how many were abated in-house vs in court? He also requested the same information for the years 2004 and 2005. Alderman Provost requested that the figures for 2006 be included, as well.

Alderman O'Donovan's motion *that Assistant Clerk of the District Court, (Mr. Riley), be invited to the next meeting of the committee to comment on this matter,* was approved.

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

**181573:** Ordinance - By Ald. Heuston, Sullivan and Gewirtz, Proposing that trash ordinances 11-31, 11-34 and 11-35 be replaced and new ordinances 11-36, 11-37, 11-38 and 11-39 be established, as attached.

**RECOMMENDATION:** Should be approved as amended

**VOTE:** Unanimous, 8 - 0 in favor

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Alderman Thomas F. Taylor, Chairman  
Committee on Legislative Matters

**COMMITTEE REPORT**

Report of the Committee of the Whole on  
Legislative Matters, September 26, 2006

In Board of Aldermen

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Clerk