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April 30, 2009

REPORT OF THE COMMITTEE
ON PUBLIC HEALTH AND PUBLIC SAFETY

The Committee on Public Health and Public Safety convened on April 30, 2009, with Chairman William White presiding and Committee Members Aldermen John Connolly and Rebekah Gewirtz also present and voting. Also present were Aldermen Sean O'Donovan, Walter Pero, Maryann Heuston and William Roche as well as Administrative Assistant Jessie Baker, Solicitor John Gannon, Police Chief Anthony Holloway, ISD Director George Landers and interested members of the public.

187209 - a resolution in support of the Police Department:

Chairman White offered an amendment to paragraph #5, as follows: WHEREAS, The Somerville Police Department strives to display high moral and ethical standards while enforcing the law, investigating crime and preserving the peace; and...The amendment was passed.

Alderman Gewirtz asked that the entire resolution be reviewed at this time and Chairman White explained that the resolution had been sent to committee for the specific purpose of reviewing language that might infringe upon an individual's civil liberties. Alderman Roche stated that he would not object to discussing other possible amendments.

Alderman Gewirtz asked for an explanation of paragraph #8, (WHEREAS, It is recognized it is often difficult for the police to distinguish between illegal gang members, actual gang members, and gang member wannabees). Alderman Roche explained that the intent is to recognize that it is difficult for police officers to distinguish between the stated groups and Chief Holloway stated that the language was fine, as written. He explained that the term wannabees is used nationwide by law enforcement personnel and he explained that an illegal gang member is an individual who has not been accepted by a gang. The Chief also stated that individuals are not put into the gang book until they are identified as gang members.

Alderman Gewirtz asked if paragraph #9, (WHEREAS, This Board of Aldermen passed and enacted Public Safety ordinances for the protection of all Somerville residents and visitors and to provide the Police the tools they need to effectively combat illegal activity), referred to the knife and gang ordinances. Alderman Roche stated that it referred to those ordinances and to several others as well. Alderman Gewirtz stated that it was her understanding that the gang ordinance has never been enforced.

Alderman Gewirtz voiced objection with the wording of paragraph #10, (WHEREAS, The Somerville Police Department has kept illegal activity to a minimum in Somerville by utilizing these laws and at the same time respecting and protecting the constitutional rights of all residents and visitors efficiently and effectively while treating them fairly and equitably with courtesy, compassion, dignity and respect), stating that she doesn't know that this is always the case. Alderman Gewirtz offered the following amendment to

the language, which was passed: (**WHEREAS**, The Somerville Police Department has kept illegal activity to a minimum in Somerville by utilizing these laws and at the same time striving to respect and protect the constitutional rights of all residents and visitors efficiently and effectively while striving to treat them fairly and equitably with courtesy, compassion, dignity and respect)

Alderman Gewirtz stated that she had a problem with the language “showing full support” in paragraph #12, (**RESOLVED**, That this Board of Aldermen goes on record on this date April 23, 2009 showing its full support for our Police Department to continue performing at the level that residents and visitors expect in the city of Somerville), and asked that an acceptable caveat be inserted. Alderman Gewirtz offered an amendment to the language which, after some discussion, was withdrawn. Chief Holloway stated that he has full confidence in his police officers.

Alderman Gewirtz offered another amendment to paragraph #12, which was approved. The amended language follows: **RESOLVED**, That this Board of Aldermen goes on record on this date April 23, 2009 showing its full support for our Police Department to continue performing at the high professional standards that residents and visitors expect in the city of Somerville.

Alderman Roche stated that he views the amendment as semantics and an attempt to become an author of the resolution. Alderman Connolly stated that a high level of performance is expected for all facets of the job and that the amendment lessens the strength of the resolution. Chairman White stated his agreement with Alderman Connolly. Alderman Pero inquired if an alderman could remove his or her name as a sponsor of the resolution and said that he would reconsider his support of this resolution. Alderman Roche stated, for the record, that he spoke to many members of the police department before authoring the resolution. Alderman Gewirtz stated, for the record, that the tonight’s discussion is helpful.

Wilton Street sober house:

Chairman White told those present that this matter has been going on for some time and that a resolution needs to be found. Chairman White stated that the Board of Aldermen doesn’t have the authority to set the number of people who can occupy a dwelling.

Solicitor Gannon was asked to check if the request of the owner for occupancy of 5 residents per unit was appropriate. Mr. Gannon stated that if the facts, as reported by the owner, are correct then the city would be obligated to provide reasonable accommodation, since the residents would be classified as disabled. The city’s zoning ordinances permit up to four unrelated individuals to occupy a dwelling unit as a single housekeeping unit, however, the Fair Housing Act makes it unlawful to discriminate because of a handicap and it also makes it unlawful to refuse to make a reasonable accommodation for occupancy. Mr. Gannon informed the members that in his opinion, “...*provided that the particular accommodation requested is reasonable, the City must allow five (5) individuals to occupy each unit as a single housekeeping unit.*”. Mr. Landers verified the claims, as reported, and told the members that he would make a site inspection. He would like the NIT to make an unannounced site visit to check for any violations.

Alderman O’Donovan stated that the solicitor’s opinion is assuming facts that might not be true, noting that it missed the point of testimony received by the committee from residents. Alderman O’Donovan said that the building is not just a sober house, since not everyone there is suffering from drug/alcohol problems. It is believed that the Sheriff’s department is taking people there and verification needs to be made that all

residents are in fact suffering from drug or alcohol problems. Alderman O'Donovan said that the proponent for Sober Surroundings is relying on a statement made relative to sprinkler systems.

Chairman White inquired if there might be the possibility of seeking a declaratory judgement? Mr. Gannon stated that, since the owner asked for reasonable accommodation, the city has the right to ask questions about the individuals living in the building. Alderman Connolly asked if the city would be able to test the residents for drug/alcohol problems. Mr. Gannon said that the city could inquire if an applicant qualifies for accommodation for a person with disabilities.

Alderman Heuston said the issue is the behavior, not the medical status, of the people living in the house that is adversely affecting the neighborhood and she asked what recourse the city has.

Chairman White suggested that those present take the solicitor's opinion home for review. A follow up meeting will be scheduled at which resident will be allowed to comment. Chairman White will ask Chief Holloway to inquire if the building is being used to house for parolees.

Ms. Baker suggested inviting the Director of Health to the meeting and Alderman Heuston suggested asking a representative from the Sheriff's Department to attend.

Resident, Joe Lynch, said that the Sheriff's Department said they were not dropping people off at the residence and he asked that the NIT make an unannounced visit to the property within 10 days. Mr. Lynch also asked for increase directed patrols of the area.

No papers were acted on.

Alderman William A. White, Jr., Chairman
Committee on Public Health and Public Safety