



HOUSING COMMITTEE

COMMITTEE MEETING

~ MINUTES ~

Thursday, June 3, 2021

10:00 AM

Sullivan Chamber

The Housing Committee will conduct a public hearing to discuss inclusionary zoning preference/eligibility, and how the new state-level Housing Choice law will affect zoning in Cambridge.

| Attendee Name | Present | Absent | Late | Arrived |
|------------------------|-------------------------------------|--------------------------|--------------------------|---------|
| E. Denise Simmons | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Jivan Sobrinho-Wheeler | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Alanna Mallon | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Marc C. McGovern | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Quinton Zondervan | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Sumbul Siddiqui | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Timothy J. Toomey | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

The Housing Committee held a public hearing on June 3, 2021 in the Sullivan Chamber to discuss inclusionary zoning preference/eligibility, and how the new state-level Housing Choice law will affect zoning in Cambridge.

Participating in the hearing via Zoom were Councillor Sobrinho-Wheeler, Councillor Simmons, Co-Chairs of the Committee, Vice Mayor Mallon, Councillor McGovern, Councillor Zondervan, Mayor Siddiqui, Councillor Toomey, Iram Farooq, Assistant City Manager for Community Development, Chris Cotter, Housing Director, Community Development Department (CDD), Maura Pensak, Housing Liaison to the City Manager, Nancy Glowa, City Solicitor, Megan Bayer, First Assistant City Solicitor, Naomie Stephen, Executive Assistant to the City Council, Paula M. Crane, Deputy City Clerk, and Neal Alpert, Aide to Councillor Simmons.

Also present were Suzanne Blier, Kavish Gandhi, Heather Hoffman, James Zall, Elizabeth Gombosi, John Hawkinson, Philip Wellons and Susan Hegel.

Councillor Sobrinho-Wheeler read the Governor's Executive Order regarding remote participation and requested that the Deputy City Clerk call the roll to indicate a quorum for the hearing.

The roll was called and resulted as follows:

PRESENT: Councillor Sobrinho-Wheeler, Councillor Simmons, Vice Mayor Mallon, and Councillor McGovern -4

ABSENT: Councillor Zondervan -1

A quorum was present.

Councillor Sobrinho read the Call of the Hearing and read from prepared Opening Remarks (ATTACHMENT A).

Councillor Simmons welcomed those present and read prepared Opening Remarks (**ATTACHMENT B**).

Iram Farooq stated that CDD will begin with the update on the Inclusionary Zoning preferences. She introduced City staff present. She said that in terms of the status of the Inclusionary Zoning preferences, they have been working on this for several years with the City Council's Housing Committee and the Affordable Housing Trust to frame what the changes to the preferences ought to be. She said that material was finalized earlier in the year and was posted for public comment in April and comments were due in May. She noted that the preference materials are not part of the Ordinance, they fall under standards and procedures so they can be administratively adopted. She said that they have received several comments which are currently being processed at CDD and the Law Department to figure out which of those changes can be incorporated which fit into preferences and which might be dealt with via other avenues.

Chris Cotter said that this is in some ways an unwinnable argument where we are bordering the line in terms of considering applicants and whatever changes will be made will push some people ahead and have a negative impact on others. He said that they have been moving forward with the changes that had been discussed with the Housing Committee at one of the last meetings. He said that over the last several months they have put the recommended policy changes into standards and procedures regarding selection of applicants for inclusionary housing. These are the written standards that will be used to screen applicants for the program to administer preferences. He said that included in the standards are changes in documentation requirements for Cambridge residency. He said that there were concerns and challenges with applicants who have had trouble establishing that they are a resident. They have added more flexibility in choice of documents to establish residency. He said that CDD has put the standards out for public comment to ensure that people saw what is being proposed. Every resident applicant in the program has been notified of these changes. He said that they received comments that have been discussed internally. He said that major changes recalibrate preferences so that applicants with an emergency housing need are considered before applicants without an emergency housing need. He said that this resets the hierarchy of preferences which to this point gave more of an advantage to households with children over households with emergency needs. The emergency housing preference will be promoted to be the most impactful preference after the preference for Cambridge residents. He explained that they are also expanding opportunities for households with children under 18 by eliminating additional preference for household with children under 6 for rental units. He said that they have expanded and modified criteria for emergency housing need. They have included in that an exclusive preference for victims of domestic violence. He said that they have expanded the definition of preference for Cambridge residency to include recently displaced households. Another key change in that regard is that they are being explicit in saying that if an applicant applies and is determined to be a Cambridge resident, they maintain that preference for as long as the application is active. Mr. Cotter stated that they have received comments and they are looking at them and having discussions. He said that comments include the way in which they are structuring the preference for domestic violent victims, emergency criteria for households facing eviction, the preservation of emergency status for residents in the current pool, veteran preferences, more flexible options for former residents, loosening of documentation for preliminary applications, emergency housing need and looking at lease end base as a potential emergency criterion, and preference for Cambridge-based workers. He noted that they will follow-up with some commenters to ask clarifying questions. Once that is done, CDD will issue final standards for tenant selection for inclusionary units and then implementation. He said that they are sending a mailing to every applicant in the rental and home ownership programs (approximately 4,000) applicants announcing the changes along with effective date and advising what the changes might mean and asking them to update their application if any of the changes are relevant to their application. He said that the pool will then be re-sorted. As it relates to preferences for families with young children, Mr. Cotter explained that as the pool is re-sorted, they will re-shift a number of applicants particularly in the 3-bedroom pool who have

been in the queue for a long time and will advantage them while re-ordering some of the more recent applicants who no longer have that preference.

Councillor Simmons said that she was not clear if no fault evictions are part of the criteria or is that part of some of the questions that were received and need considering. Mr. Cotter said that they have always considered evictions that have been issued for no fault of the resident.

Councillor McGovern asked who is considered homeless or unhoused. He asked if that is something that can be done. He said that there are a lot of people who are staying with someone but technically they are unhoused. Mr. Cotter said that they are trying to expand the criteria that they would look at to be able to look at the homeless preference. He said that they look at letters from shelters or transitional facilities and they are being expanded to look at to include statements from professionals who are working with an applicant who is unhoused. Councillor McGovern stated that there has been a lot of conversation about no fault evictions and he asked if a letter of eviction from the landlord could qualify to get that process started sooner. He said that there are a lot of people who rent a room in a house and do not have utility bills in your name. He asked if a notarized affidavit from the landlord could be added to the list of acceptable documentation. Mr. Cotter said that they can look into this. He said that they are trying to create a list of documents that people will have access to without having to go to a landlord for a statement to apply for housing. Councillor McGovern said that the City has been flexible but there are still people that cannot get a lot of documentation. He said that as it relates to credit checks, what can the City do to aid in this process that could help an applicant. Mr. Cotter said that is outside of the scope of preferences. He said that CDD is working with the Law Department to prepare a response in this regard to outline what can and cannot be done and best approaches moving forward.

Vice Mayor Mallon asked about next steps and how to make these items actionable. She said that it is very important for domestic violence to be included in emergency status. She said that she is curious about the self-certification attestation. She said that it is a salient point. She said that many domestic violence victims are not willing to go to the Police so it is critical for self-attestation because this is a vulnerable population. She said that she supports the expanded documentation for recently displaced residents. She asked if it is 12 months. Mr. Cotter responded that the two separate components come together. The first one is for someone who has recently been displaced to file an application within 12 months of the displacement under the new criteria. For any applicant, including those who are recently displaced, if they are considered eligible for the preference for Cambridge residency, they can maintain that preference for as long as the application is active. Vice Mayor asked for confirmation that it must be a court-ordered eviction action. Mr. Cotter responded in the affirmative. Vice Mayor Mallon said that most common displacement is when someone buys an apartment building and tells the tenants that they need to leave because they are renovating them and then re-renting for a higher rate rather than a court-ordered eviction. She asked how to include those people as an emergency status. Mr. Cotter said that when those cases are being worked out after a sale, people should put in applications before they are displaced as resident and then no matter what happens, that application is in the queue when they get that preference.

In terms of the comments and the draft, Vice Mallon asked how the committee should transmit criteria to CDD that it feels should be included in the final draft. Mr. Cotter responded that the discussion is what CDD needs to hear. He said that these standards do not require action by the committee or the City Council as they are administrative standards that are developed by CDD. He said that as they look at, assess, and make changes to the draft based on the comments, the next step is to put the standards out in final form and begin to implement them. Ms. Farooq added that regarding self-certification for domestic violence victims, CDD is looking at aligning with other programs at the state and federal level. She said that there is a path for self-certification. She said that this point will be addressed in the revisions. Vice Mayor Mallon said that the committee should discuss preserving emergency status that already exists

moving forward. She asked about the timeline for implementation. Mr. Cotter responded that they are beginning to put together the material and the goal is to have the material out to applicants with implementation in July.

Councillor Sobrinho-Wheeler asked if there is a target date for implementation. Mr. Cotter responded that the goal is to have the process with reviewing of the comments conclude, prepare material, and have this operational next month. Councillor Sobrinho-Wheeler concurred with Vice Mayor around self-certification for domestic violence victims.

Iram Farooq stated that there is not a formal presentation on the matter of Housing Choice. She stated that City staff is available and ready to respond to questions and have discussions.

Councillor Sobrinho-Wheeler said that the main purpose of the topic is to explain how the law works and what types of zoning changes it applies to and what types of changes no longer need a super majority and only need a simple majority. He asked the Law Department to talk about the Cabot, Cabot, and Forbes petition. Ms. Glowa stated that she is happy to go through some of the provisions. She said that it is fairly complex, but she is happy to go through some of the main points. She said that the main changes of this law are to reduce the threshold of votes needed to adopt certain zoning measures that promote housing production from two-thirds to a simple majority. The goal is to make it easier for local governments to approve housing supportive zoning and development and the new law outlines a series of housing best practices that can be enacted by a simple majority vote. In addition, the law has some provisions that allow municipalities to enter into revenue-sharing agreements for sites affecting more than one local government by a simple majority vote. It provides that a Court may require a plaintiff appealing the decision to approve a Special Permit variance for site plan to post a surety or cash bond in the amount of up to \$50,000 to secure the payment costs if the Court finds that the harm to the defendant or to the public interest resulting in such delays caused by the appeal outweighs the financial burden of the surety or cash bond for the plaintiffs. With respect to MBTA communities, it provides that each community should have a zoning ordinance or bylaw that provides that at least one district of reasonable size in which multi-family housing is permitted as a right. She said that the Department of Housing and Community Development at the state has issued some preliminary guidance on this. She said that there are still efforts at the state to work through some of the details and the City of Cambridge has not fully analyzed what would need to take place. With respect to amendments that would allow for a majority vote, certain kinds of housing would be as-of-right: multi-family and mixed-use developments in an eligible location, accessory dwelling units and open space and residential developments. Ms. Glowa said that the Department of Housing and Community Development has said that with respect to some of these changes, the things that this law says area allowed as-of-right are allowed as-of-right whether we amend our Zoning Ordinance or not. She said that the better practice is to amend the Zoning Ordinance to conform to the state law requirements so that there is no ambiguity or confusion for people. This is something that the Law Department will work on with CDD in the future. With respect to the MBTA community issue, the new section 3A of Chapter 48 provides that each MBTA community shall have a zoning ordinance that provides for at least one district of reasonable size in which multi-family housing is permitted as-of-right. That housing should be without age restrictions and suitable for families with children and that each such district should have a minimum gross density of 15 units per acre and shall be located more than ½ mile from a commuter rail station, subway station, ferry terminal or bus station. She said that the City has not fully analyzed the issues that need to be addressed. She said that she is happy to answer any questions. Iram Farooq added that from a planner's perspective regarding the piece that relates to multi-family zoning for MBTA communities, CDD will do due diligence to confirm but in Cambridge many of the districts are multi-family districts that are within ½ mile of transit, she does not feel that changes will need to be made to address this issue, but legal review is appropriate to confirm that.

Councillor Sobrinho-Wheeler opened the hearing to Public Comment.

Suzanne Blier stated that she supports Vice Mayor Mallon's concern about the ending of leases. She wondered if there are other ways to do this such as requiring the owners of properties that are planning to do this must notify the city of the name of these individuals and/or create some kind of document that would go with whatever is being signed by new leasers for residential or small business kinds of contracts. She said that she debates about whether the first priority should be on people working in the City versus those living here. She said that this is largely about low income, but she is hearing about people within the City who will not be able to continue to live here.

Heather Hoffman, 213 Hurley Street, said that she would like to speak on the matter of eligibility. She said that this affects a lot of people. She said that she knows two people who have faced this. These are people in inclusionary units who have family members or longtime friends who are homeless, and they want to give these people a place to sleep. Both of the people she knows have been threatened with eviction for doing this. She said that she does not know if this is a matter of law or a matter of policy. She stated that with respect to housing choice, she asked whether it would allow a simple majority to downzone as long as the downzoning allows for multi-family development. She said that she would like to see this addressed as this is a way to get around what the intention is, and she hopes that the City will think about other ways to make sure that we don't pay for the sins of our neighbors.

Vice Mayor Mallon made a motion to close Public Comment.

The roll was called and resulted as follows:

PRESENT: Councillor Sobrinho-Wheeler, Councillor Simmons, Vice Mayor
Mallon, and Councillor McGovern, and Councillor Zondervan -5

ABSENT: -0

and Public Comment was closed.

Vice Mayor Mallon stated that it does seem that there should be another meeting with staff who can put together a presentation on next steps. She said that this is an important and urgent issue. She said that until the City crafts the zoning amendment, if there is a zoning petition before the City Council, is there just a simple majority needed until it is determined how it will affect our own zoning laws. She said that the City Council was surprised the evening of the vote of the Cabot, Cabot and Forbes zoning amendment that it was just going to be a simple majority. She said that there are some big zoning amendments in front of the City Council that may come before the City Council before the zoning amendment language will be crafted. She asked how these will be handled. Ms. Glowa said that unless the City has developed amendments that would spell out every situation, it would be determined on a case-by-case basis. She said that it is not unusual to have an extra layer of scrutiny in any case.

Vice Mayor Mallon said that the Missing Middle Housing Petition will be before the City Council next week and she urged the Law Department to put together a memo if that petition needs a simple or super majority. She said that the Council should have this information when reviewing the zoning amendment. She said that if the City is crafting a zoning amendment around Housing Choice, how many votes would it take to pass such an amendment. Ms. Glowa said that it depends on what the amendment is for. She explained that we would have to look at each proposed amendment to see what the vote would be and there could be different votes required on different aspects in one petition. Each item would have to be looked at separately to determine what the vote would be. Vice Mayor Mallon said that she finds it odd that there would be a statewide change to ensure a simple majority for zoning that would require a super

majority to amend their own municipal ordinances to allow that to happen. She said that she is struggling with the mechanics of this. She said that further conversation with more clarity is needed. Ms. Glowa said that if we are making an amendment that involves something that would require only a simple majority, then that would most undoubtedly require a simple majority to amend that ordinance. She explained that there may be other portions of the ordinance that are not things that would require a simple majority in which case those things might require a super majority. She said that she is happy to provide further guidance on these issues.

Councillor Zondervan stated that he finds this discussion on the Housing Choice confusing. He said that he read the law himself as a non-lawyer and he found it very confusing and unclear in terms of trying to figure out when you need a supermajority or not. He said that he would appreciate clear guidance on this issue.

Mayor Siddiqui stated that when buildings are sold and there are rent increases, the process is murky. She said that we have made strides on how we inform people about assistance, but it is not codified. She said that how we are tracking these issues is unclear.

Councillor Simmons stated that she hears what her colleagues are saying. She said that because the meeting scheduled is so cramped, an early morning or late afternoon meeting may be necessary.

Councillor Sobrinho-Wheeler stated that as it relates to the City Council making a zoning amendment, it is his understanding that State law overrides municipal law. He asked for an analysis of the State law and what it says. He asked if a zoning amendment just clarifies that. Ms. Glowa said that the guidance from the State is that State law would apply so if the Housing Choice law provides for things as-of-right, we do not need to amend our ordinance. She added that it might be helpful to amend our ordinance to be consistent with the State law to avoid ambiguity or confusion. Councillor Zondervan asked if the City could talk about the CCF petition analysis and why it applied to help understand how the Housing Choices law works. He said that the CCF wasn't primarily housing, but the Housing Choice Law applied in that proposal. He asked for clarification. Ms. Glowa stated that she does not recall that analysis. Councillor Sobrinho-Wheeler said that it is his understanding that Housing Choice applies to zoning changes only if they result would result in more housing and not less. He asked if this is Ms. Glowa's understanding. Ms. Glowa responded that she has not analyzed that question. Councillor Sobrinho-Wheeler said that the broader goal is to understand how this law applies. Regarding additional committee meetings, he is happy to work with his co-chair. He said that given the tight schedule, if the City Council could get the City Manager item as a communication with that analysis as soon as possible, it could be sent to the Committee for further discussion.

Councillor Simmons asked for clarification from the Deputy City Clerk regarding the passage of a motion that is made in a committee hearing. Ms. Crane responded that the motion does not go before the City Council until the meeting minutes are before the City Council for acceptance. The Deputy City Clerk suggested the option of submitting a Policy Order to the City Council if a subject is time-sensitive so that it can be acted upon at the next regular City Council meeting. Councillor Simmons recommended that a Policy Order be submitted to the full City Council. Councillor Sobrinho-Wheeler stated that this makes sense, and a Policy Order will be submitted.

The Deputy City Clerk received a written communication from Kavish Gandhi (**ATTACHMENT C**) to be made part of the permanent record of the hearing.

Councillor Sobrinho-Wheeler and Councillor Simmons thanked all those present.

Councillor Simmons made a motion to adjourn the hearing.

The roll was called and resulted as follows:

PRESENT: Councillor Simmons, Councillor Sobrinho-Wheeler, Vice Mayor
Mallon, and Councillor McGovern, and Councillor Zondervan -5

ABSENT: -0

and the hearing adjourned at 11:24 a.m.

For the Committee,

Councillor Jivan Sobrinho-Wheeler, Co-Chair
Councillor E. Denise Simmons, Co-Chair