

2

City of Cambridge

MASSACHUSETTS

In City Council

11/21

1982

E.D. Sullivan

	YEA	NAY	ABSENT	PRESENT
Mr. Daniel J. Clinton		✓		
Mr. Thomas W. Danehy		✓		
Mr. Francis H. Duehay	✓			
Ms. Sandra Graham	✓			
Mr. Leonard J. Russell		✓		
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan		✓		
Mr. Wylie	✓			
Mayor Vellucci		✓		

4 5 0

Amendment Carried - To July 1, 1983 For -

The effective date

Passing to 2nd Reading

Failed 4-5-0

#1

City of Cambridge

MASSACHUSETTS

In City Council

11/2

198 2

*MOTION OF COUNCILLOR DAVID SULLIVAN
TO TAKE CALENDAR #2 FROM THE TABLE*

	YEA	NAY	ABSENT	PRESENT
Mr. Daniel J. Clinton		✓		
Mr. Thomas W. Danehy	✓			
Mr. Francis H. Duehay	✓			
Ms. Sandra Graham	✓			
Mr. Leonard J. Russell		✓		
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan	✓			
Mr. Wylie	✓			
Mayor Vellucci	✓			

7 2 0

*Motion So Taken From The Table
Carried*



City of Cambridge

In the Year One Thousand, Nine Hundred

AN ORDINANCE

Be it ordained by the City Council of the City of Cambridge as follows:

Section 1. Section 2-35 of the Code of the City of Cambridge, as appearing in the 1970 edition, is amended by inserting after the second sentence the following sentence:

He shall devote full time to his duties during regular business hours and shall not otherwise at any time engage in the practice of law for compensation.

Section 2. Section 2-40 of the Code of the City of Cambridge, as so appearing, is amended by adding at the end the following sentence:

They shall devote full time to their duties during regular business hours and shall not otherwise at any time engage in the practice of law for compensation.

Section 3. Section 2-191 of the Code of the City of Cambridge, as appearing in Ordinance No. 903 of December 11, 1978, is amended by adding under "City Solicitor" the following line:

7-1-80	35,000	36,000	---
--------	--------	--------	-----

Section 4. This Ordinance shall take effect on July 1, 1980.

In City Council November 8, 1982.

Failed to pass to a second reading by a ye and nay vote:-

Yeas 4; Nays 5; Absent 0.

Attest:- Paul E. Healy, City Clerk.

A true copy;

ATTES

Paul E. Healy



City of Cambridge

In the Year One Thousand, Nine Hundred

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ATTEST

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Paul E. Healy



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

EDWARD A. CUNNINGHAM
ANDREW T. TRODDEN
MICHAEL C. COSTELLO
ROBERT F. SYDNEY
LEGAL COUNSEL

CHARLES A. WATSON
LEGISLATIVE AGENT

September 12, 1980

Mr. James L. Sullivan
City Manager
City Hall
Cambridge, MA

Re: Law Department's Annual Report for Fiscal
Year 1979/1980

Dear Mr. Sullivan:

In fiscal year 1979/1980, the Law Department's activities again primarily focused around litigation.

Approximately 120 civil law suits were commenced against the City in the Trial Courts of the Commonwealth and the U. S. District Court in which the Law Department filed appearances in defense of the City.

Since the Massachusetts Governmental Tort Claims Act became law, the City has been subjected to numerous claims to which it was immune in prior years. In fiscal year 79/80, this department handled approximately 160 separate claims which included participation in a hearing process involving individuals, attorneys and city officials.

The Law Department represented the City in approximately 125 claims which were heard by the Committee on Claims of the City Council.

The department is responsible for the handling of workmen's compensation claims brought by employees from all departments of the City. Workmen's compensation cases involve extensive administrative work as well as investigations and hearings at the Industrial Accident Board. Approximately 225 workmen's compensation claims were handled in fiscal 79/80.

September 12, 1980

The aforementioned enumeration of law suits include representation before the Appellate Tax Board, Contributory Retirement Appeal Board, Civil Service Commission, Massachusetts Commission Against Discrimination, Equal Employment Opportunity Commission, Massachusetts District Courts, Superior Court, Appellate Division of the District Court, Appeals Court, U. S. District Court, First Circuit Court of Appeals and the U. S. Supreme Court.

Since the case load is so numerous, it is impossible to identify all of the important pieces of litigation. However, a few should be identified.

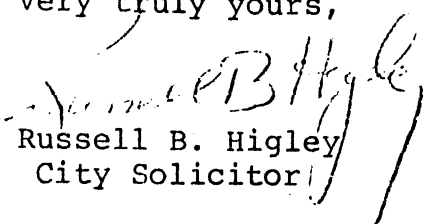
The Law Department was successful in obtaining an order from the Court placing 38 parcels of real property into receivership in order to remedy the outstanding building code and sanitary code violations. The owners of these properties incurred expenses in excess of \$600,000.

Several other suits involving claims in excess of \$500,000. were dismissed by the Courts without the payment of any funds by the City.

During fiscal 79/80, the department also represented the City in several unusual and complicated real estate transactions. The City sold several properties and was involved in the subdivision and sale of house lots on the site of the former Russell School. The department was also involved in the negotiations and drafting of several leases involving various City properties.

The department also services all department heads of the City by providing written and oral opinions and advise.

Very truly yours,


Russell B. Higley
City Solicitor

RBH:jl

City of Cambridge

In City Council..... January 19, 1981

The Ordinance Committee

to which

comprised of the entire membership of the City Council

was referred a proposed amendment to the General Ordinances of the City of Cambridge in Chapter Two entitled "Administration" in section 2-35, 2-40 and 2-191 relative to the duties and the work schedule and the salary schedule of the City Solicitor's Office met at 7:35 p.m. on September 25, 1980.

Chairman, Councillor David A. Wylie, presided.

Present: Councillors Crane, Russell, David Sullivan, Walter Sullivan and Vellucci, City Solicitor, Russell Higley, attorneys David O'Connor, Sevelin Singleton, Edward Cunningham and Michael Costello.

In answer to the Call of the Chair for the proponents to present their case, Councillor David Sullivan, the proponent of the amendment, stated that there was a trend to full time attorneys at all levels of government and that it is time for Cambridge to follow this trend; that the city would be represented on a full time basis on all litigation; that the City Solicitor's office would be able to provide full time legal counsel to all departments of the City thereby allowing other city departments to perform more efficiently; that a full time City Solicitor would devote his entire time during business hours to the business of the city and no private practice would be allowed by the City Solicitor and his assistants; that a full time City Solicitor would prevent litigation and the assistants would develop a level of expertise in the Law Department in certain branches of law; and that the effective date of the ordinance would be January 1, 1981.

The City Council heard from James Ward, Attorney, resident of Norfolk Street who appeared in favor of the proposed amendment and objected to the expenditure of city funds for attorneys for special cases or suits against the city.

Councillor David Sullivan referred to a memo dated September 25, 1980 from Mr. William Lannon, Superintendent of the School Department, in which he outlined the problems facing the School Department in the field of litigation, civil rights, bilingual education, racial desegregation and negotiations in general in personnel issues. Mr. Lannon stated in his letter the general issues concerning the schools today and that the intent of his letter was to make known certain information which may help the committee in their deliberations; that he felt the City Council would address the problem in its best thinking.

Mr. Lannon stated that he took no position on the proposed amendment to the General Ordinance but stressed the fact that the schools today are caught in a network of federal and state laws by the use of pressures that impact local decisions and budgets; that these suits often instituted by advocacy agencies could result in large damage suits against the City of Cambridge.

Councillor David Sullivan presented a letter from Attorney George O. Goverman, 148 State Street, Boston, who regretted his inability to attend the hearing and stressed the advantage of having in house expertise on municipal law subjects and having access to legal counsel. In his experience as Election Commission he found a formal request for an opinion came too late and did not satisfactorily address the concern of the commissioners; that a Law Department employee sitting on an Election Commission hearing might be better resolved and it might also eliminate the many requests for opinions. Mr. Goverman stated that he did not intend his communication to be a criticism of the present City Solicitor since in any event the City Solicitor would have to allocate his departments time in accordance with priorities which he would have to set; that he felt a full time department might be able to overcome the problem that he cited in the case of Twomey vs. Samp which would have obviated the need for outside counsel.

The Committee now heard from Harold Kistakowsky, Attorney, who appeared in favor of the proposed amendment and recorded the Cambridge Civic Association in favor. He stated that the presence of three full time attorneys in the City Solicitors Office would result in filling in the present service gaps existing and cited the necessity of the School Department needing advise on a continuing scale.

The Committee heard from Gary Blav, Assistant City Solicitor of the City of Newton, who appeared and stated that he had no position on this ordinance; that the City of Newton had a full time City Solicitor and seven Assistant City Solicitors that handle 90% of the work; that each one handles certain municipal functions. Mr. Blav indicated that some funding was applied through Community Development and that the City of Newton used outside counsel in certain fields of law; and that the City Solicitor is appointed by the mayor and the assistants are hired by the City Solicitor after consultation with the Personnel Director; that the eight solicitors required a budget of \$159,000 with the salary of the City Solicitor being \$27,000 and the maximum salary being \$22,000 and the minimum being \$17,000 on an entry salary level for the assistants that the office had three full time secretaries. Mr. Blav further stated that the full time staff had access to several opinions and had compiled a set of opinions which deal with reoccurring problems presented to the office.

Councillor David Sullivan stated that there was nothing in the ordinance to negate outside counsel.

The Committee heard from Michael Costello, Attorney, who stated that sometimes an attorney would spend three days in the Workmen's Compensation Board in preparing briefs; that the problem in the City of Cambridge are different than in many other areas.

The Committee heard from Scott Harshbarger from the General Counsel of the State Ethic Commission, 14 Sacramento Street who was in favor of the concept of a full time Law Department; and that he had the highest regard for all Cambridge Solicitors; that he believed in full time counsel for the city; that some agencies in the state are full time which resulted in the agency being more professional; and that the district attorney is required by statute to be full time; that the Ethic Commission, the State Defenders Office and the Attorney General's offices are full time attorneys; that the fact that you have professional and municipal law does not eliminate the necessity for outside counsel in certain cases such as rate cases before the DPU and constitutional question.

The City Council heard from Anna Ricardo of 244 Prospect Street who outlined her experience with the Board of Zoning Appeals case and stated that a full time City Solicitor would have brought the case to a quicker conclusion; that she had to spend \$500 to have a lawyer and that she felt she did not receive the support that she required in her law case.

The Committee heard from Russell Higley, City Solicitor, who submitted a letter dated September 12, 1980 outlining the activities of his department; that the office handled approximately 120 law suits against the City; that in fiscal year 79-80 approximately 160 separate claims were handled which included participation in the hearing process involving individuals, attorney and city officials in addition to 125 claims which were heard by the Committee on Claims before the City Council. That approximately 225 workmen's compensation claims were handled in fiscal year 79-80 involving extensive administrative work as well as investigations and hearings before the Industrial Accident Board; that the activities by the department which included representation before the Superior Court, Appeals Court, and the District Court; that the Law Department was successful in obtaining an order from the court to place 38 parcels of real property into receivership in order to remedy the the outstanding building code and sanitary code violations; that several other suits involving claims in excess of \$500,000 were dismissed by the court without the payment of funds by the City; that during fiscal year 79-80 the department represented the city in several unusual and complicated real estate transactions; the department was also involved in the negotiations and drafting of several leases involving various city properties and the department also provides department heads of the city with written and oral opinions and advise on matters relating to their jurisdiction.

Councillor David Sullivan stated that no answer had been received from the Law Department on Board of Zoning Appeal cases.

The Committee heard from John Acoula, Esquire, 5 Forest Street who was in favor of a full time City Solicitor and stated that the School Department needs more legal advise; that Cambridge pays little for legal assistance compared to other corporations; that the real issue is that people expect more from government attorneys than other attorneys; the city will need outside counsel in the future and that Cambridge should consider going to outside counsel.

The Committee heard from Russell Higley, City Solicitor, who outlined the staff of the City Solicitors Office which included one City Solicitor, one Assistant City Solicitor and the remainder of the attorneys are on contracts on a year to year basis by agreement of the City Solicitor and the City Manager; that one attorney, Edward Cunningham, had been with the department for six years; and that Michael Costello, Assistant City Solicitor had been assistant for five years and the you can always use all the part-time assistants you can get; that all the assistants were paid approximately the same; that the salary of the City Solicitor was \$27,000 and that the assistants were paid approximately \$18,000.

Councillor David Sullivan stated that he had no problem with the group of attorneys working in the office and stated that the case load presented by the City Solicitor argues for a full time staff.

Russell Higley, City Solicitor stated that any lawyer who enters government has no job security whatsoever; that he was always happy when people stayed on after learning the operation of the office and did not leave after 2 or 3 years; that the office was continually concerned with court schedules.

A discussion arose as to the amount of time each attorney spend on city matters and the number of hours spent by each attorney on city matters and private matters.

Michael Costello, Assistant City Solicitor stated that we should have more part time attorneys if you wish more services out of the office; that specialists are welcome.

Russell Higley, City Solicitor stated that the office could use more facilities in order to handle the work load.

Councillor Walter Sullivan made a motion to reject the ordinance.

Councillor Wylie stated that the committee would need a vote.

Councillor Russell moved to leave the proposed ordinance in committee - and on a voice vote the motion carried - and the proposed amendment - remained in committee.

The Committee reports, that on January 14, 1981 on motion of Councillor David Sullivan that the proposed ordinance amendment be taken from the files of the Committee on Ordinance and submitted to the City Council for its meeting of January 19, 1981, without recommendation - and on a voice vote the motion -

Carried.

Councillor Vellucci requested to be recorded as Present.

For the Committee,

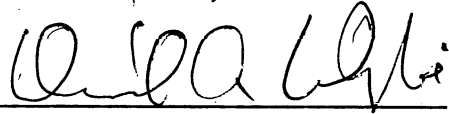
Councillor David A. Wylie
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Councillor David A. Wylie
Chairman.

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City of Cambridge

In City Council..... January 19, 1981

The Ordinance **Committee**

comprised of the entire membership of the City Council

to which

was referred a proposed amendment to the General Ordinances of the City of Cambridge in Chapter Two entitled "Administration" in section 2-35, 2-40 and 2-191 relative to the duties and the work schedule and the salary schedule of the City Solicitor's Office met at 7:35 p.m. on September 25, 1980.

Chairman, Councillor David A. Wylie, presided.

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#2 Latendae 11/2/82
REPORT 034

Committee on Ordinance

Re: duties and salary of the position
of the City Solicitor.

November 8, 1982
Motion to End Reading
Failed on Roll Call
4-5-0

In City Council,
January 19, 1981

Tabled by C.
Vallucci