

The Civil and Human Rights Committee held a public hearing on Wednesday, September 25, 1996 beginning at 4:30 p.m. in the Sullivan Chamber for the purpose of discussing affirmative action and the Residency Ordinance. (copy attached)

Present at the hearing were Councillor Katherine Triantafillou, Chair of the Committee, Vice Mayor Kathleen L. Born, Councillor Henrietta Davis, Councillor Francis H. Duehay, Councillor Anthony D. Galluccio, Councillor Kenneth E. Reeves, Mayor Sheila T. Russell, Councillor Michael A. Sullivan, Councillor Timothy J. Toomey, Jr. and City Clerk D. Margaret Drury. Also present were City Manager Robert W. Healy; Michael Gardner, Personnel Director; Else Knopper, Deputy Personnel Director; William Gomes, Affirmative Action Director; Jill Herold, Assistant City Manager for Human Services; and Ralph Elwell, Personnel Department.

Councillor Triantafillou convened the hearing and explained the purpose. She invited Michael Gardner to discuss his memorandum on the Residency Ordinance. Mr. Gardner began by noting that the memo was prepared in response to a City Council request contained in Order Number Thirty-Three of May 20, 1996 (attached). He stated that the memo was fairly widely circulated among city department heads before it was finalized. Mr. Gardner stated that since enactment of the ordinance, the city has had relatively few cases which have been subject to Section (e) through (h) of the ordinance, but it has presented some difficulties. There have been instances where the best qualified candidate identified through the hiring process could not or would not move to Cambridge.

Regarding Affirmative Action, the positions of officials and administrators and professionals provided the biggest problem for affirmative action. Minorities over age 18 in Cambridge represented only 6% of an available pool of minority candidates in the 5 county area from Cambridge has tended to draw employees.

Councillor Toomey asked for clarification. Mr. Gardner said that in looking at the number of minorities in the city, there were only 5% of the pool of minorities in the five county area.

Councillor Toomey noted that these positions are available to any minority in the country, they are not restricted to just Cambridge.

Mr. Gardner stated that the problem is that a very high percentage of potential applicants who are not currently Cambridge residents have difficulty in changing their personal, social and financial circumstances to move to the city of Cambridge. Mr. Gardner stated that, in addition, Section a (1) the Residency Ordinance has an absolute preference for Cambridge residents where all other factors are equal. Because of union contracts in practice, this section applies to non-union jobs. It appears to give absolute preference to Cambridge resident non-employees over non-resident Cambridge employees. He stated that he and his staff were not aware of this difficulty before the ordinance was enacted. Mr. Gardner emphasized that the Personnel Office is enforcing the ordinance.

Councillor Toomey asked about the exact number of positions that have come under the ordinance since its existence. Mr. Gardner replied that all positions come under the ordinance. There are currently approximately 1950 city employees.

Councillor Toomey asked how many are in the over the \$50,000.00 compensation range. He noted that the report only cites four incidents. Mr. Gardner stated that there were four cases subject to Sections (e) through (h). However, there is no data about the hospital which was subject to the ordinance through June.

Councillor Toomey asked how many in the category of over \$50,000.00 were minorities. Michael Gardner stated that he can get these figures but he does not have that breakdown with him presently.

Councillor Toomey requested information as to how many city employees would have come under section (e) through (h) the last year and how many were minorities who would have been subject to these sections.

Michael Gardner stated that for the positions cited as problems, none of the candidates hired were minorities.

Councillor Toomey asked if the Police Commissioner was part of this report. Michael Gardner stated that he was not, he hadn't been hired at the time of the memo.

Michael Gardner said that he would like to exclude the hospital from the requested report and Councillor Toomey agreed.

Councillor Triantafillou asked about the total hires since January, 1996. Michael Gardner said that there have been 585. He noted that this figure includes Mayor Summer Youth but excludes the hospital. Mr. Gardner said that 80% were Cambridge residents; a total of 470 and 264 of these were minorities. The same breakdown for last year is available and Mr. Gardner agreed that he will get these figures for the City Council.

Councillor Triantafillou asked how many were minorities and Michael Gardner responded that 264 of the total Cambridge residents were minorities.

Councillor Toomey observed that kids who work for the Mayor's Program must be Cambridge residents, so this is not a very useful number. He asked for figures that exclude the Mayor's Program.

Mr. Gardner said that excluding the Mayor's Program, 240 people were hired since January 1, 1996 through September 24, 1996. Of these, 127 or 52.9% were Cambridge residents, 69 were minorities and 40 were both minorities and Cambridge residents.

Councillor Triantafillou asked for a report with the same numbers for 1995. Mr. Gardner agreed to provide these figures. He said that he believes the numbers will be roughly the same. For the great bulk of hiring, the ordinance states the policy that the City Manager and City Departments have been following: when at all possible, hire Cambridge residents.

Mr. Gardner said that the differences the Residency Ordinance created were: (1) to make that policy a mandate for jobs under \$50,000.00 to detriment of current employees who are not residents; (2) the changes it brings to union negotiations where it will very significantly offer seniority rights and is expected to be resisted; (3) regarding jobs in leadership positions, department heads have reported a perception of a marked reduction in candidates willing to take employment, because realistically, the labor pool is restricted to those already here and those whose personal, social and financial circumstances make it feasible for them to move to Cambridge.

Councillor Toomey asked whether the job posting lists the residency requirement. Mr. Gardner stated that it does not list the residency requirement.

Councillor Toomey asked how then would the Residency Ordinance restrict the labor pool of applicants. Mr. Gardner stated that this perception comes from experience in interviews.

Councillor Reeves stated that he read the memo as a statement that there was a decision to not give full faith and effort to the Ordinance and that this is in effect a failure to enforce the ordinance.

Robert Healy stated that he has expressed his concern about the impact of the ordinance on the city from the earliest discussions of the proposal. Mr. Healy stated that despite huge salary increases and having to bargain for it in collective bargaining, it will not impact police, fire or Local 195 and although the ordinance will not have much impact, it will cost the city more and it will tie the hands of the appointing authority.

Mr. Healy said that, nevertheless, the ordinance is being enforced.

Mr. Gardner cited the example where a person was hired as a less than full time position.

Mr. Healy stated that will not seek waivers even though he has a department head who is requesting that. He does not know that anyone would accept a job for a one year waiver, at any rate.

Mr. Healy stated that the goal of those who voted for that ordinance is being carried out.

Councillor Reeves asked Mr. Healy whether the memo represented his sentiments or those of Mr. Gardner. Mr. Healy replied that Michael Gardner is closer to the facts but that he would not have submitted the memo to the City Council if it did not reflect his overall view.

Councillor Reeves asked whether Mr. Healy stands behind this now. Mr. Healy stated that he agrees with the recommendation of the memo and overall it reflects the view of the administration, although in hindsight he should have modified some of the language.

Councillor Sullivan asked Mr. Gardner whether the document was circulated prior to finalization and Mr. Gardner said that it was circulated.

Councillor Sullivan expressed some surprise and concern that it still made it to this body, with its tone.

Mr. Gardner stated that he believes that it is a serious misreading of the memo to conclude that the city is not enforcing the ordinance. The June 20th memo was not intended as a policy document but rather as a response to a series of specific questions.

Councillor Triantafillou asked Mr. Gardner if, of the 240 hires, there are additional examples where he found a minority person who would not take the job if he or she had to move into Cambridge, other than the hospital. Mr. Gardner said that he does not have any other examples presently.

Councillor Triantafillou asked what would lead him to believe that the ordinance makes it hard to attract minorities. Mr. Gardner said that the majority of minority candidates the city has attracted to the difficult-to-fill jobs have not lived in the city, and like most non-minority candidates, they would experience significant difficulty in moving here.

Councillor Triantafillou requested information broken down along EEO categories with names and addresses. Mr. Gardner agreed to provide this information.

Councillor Triantafillou asked for an explanation of hiring a part-time employee for the Personnel Deputy Director position. Isn't that circumvention of the ordinance? Mr. Gardner stated that the best qualified person for the position far and away was the person to whom the job was offered. She was only available part-time in the beginning. This city has a history of accommodating employee needs to work part-time. To comply with the requirements of the ordinance, the position was restructured so it did not fall under Section (e) through (h). By far the easiest thing to do would have been to hire a Cambridge resident, but he believed it to be his duty to the City Manager, the City Council and the city to hire the best qualified person. She is a person who has many strengths that he does not have and she thus complimented the office.

Mr. Healy said that he and Richard Rossi, Deputy City Manager, interviewed the finalist and the candidate was far more qualified than any other candidate.

Councillor Henrietta Davis stated that she was late due to a prior scheduled medical appointment for her son. She stated that the School Committee got frequent reports on EOC goals and asked what kind of monitoring and reporting there is. Mr. Gardner said the last comprehensive report to the City Council was in May, 1996. The Affirmative Action Director William Gomes reports quarterly to Massachusetts Commission Against Discrimination and frequently to the City Manager. The reports are available at any time through the Personnel Office. The City is currently at or above goals for most categories. There is underrepresentation of Hispanics and Asian employees without the hospital statistics. Without the hospital, the city reports are better in officials and administrator categories and worse in the technicians, but overall, the results are relatively the same.

Councillor Davis asked when was the last time that goals were adjusted. Mr. Gardner stated that as part of the FY97 budget, the goals were reported to the City Council. The Affirmative Action Director is looking at a re-evaluating of the goals.

Councillor Davis asked how the City's minority and resident hiring compares with what we ask of other business through the Cambridge Employment Plan and the Cambridge First Economic Development Agreements. Mr. Healy said that the city far exceeds what these other programs ask of businesses.

Councillor Davis stated that she was not impressed by the report about the constraints placed by the ordinance in hiring. She asked what are the three top restrictions. Mr. Gardner stated that the issue did not arise in the Police Commissioner hiring because Commissioner Watson lived in Chicago and had to move. If the finalist from Greater Boston, it could have been a big problem.

Councillor Toomey objected that this hearing is to deal with facts. Mr. Gardner's answers have made no sense at all.

Councillor Davis noted a case in Boston with the Hospital Commissioner who had to leave because she could not accommodate the Residency Ordinance. Where there are other family members, the situation can be very difficult.

Mr. Healy said that the management intern position has been widely advertised. There were 90 applicants; but only 8 are Cambridge residents. This position is not subject to the ordinance, but as a matter of policy, he has felt that the City Manager's intern should be a Cambridge resident. This has significantly limited the applicant pool. Mr. Healy also noted the arborist position.

Mr. Gardner said that the hospital would not have been able to survive under this ordinance. The City has many jobs which are as competitive and almost as technical as the hospital. He cited the example of MIS. He added that Cambridge has an unemployment rate of 2.7%, the second lowest in the state. The current state rate is 4.8%. Cambridge is an employee's job market and a very tight housing market. Mr. Gardner also noted the human relations job at the School Department. If the experience is like the City's regarding the Deputy Director, it will be a big challenge.

Councillor Davis asked if there are vacant positions that will be impacted. Mr. Gardner said there are some. The Office of Workforce Development is one.

Vice Mayor Born asked whether the Residency Ordinance has affected the ability to meet Affirmative Action goals. Mr. Gardner said that the overall goal is not significantly hampered, but for the most difficult to fill jobs (professionals and administrators and technicians) for which the City Council has asked for particular Affirmative Action attention, it increases difficulty for Affirmative Action hiring as well as for all hiring.

In response to a question from Vice Mayor Born, Mr. Gardner said that the city will make the Residency Ordinance a provision in all units we bargain with, but it will be a very difficult sell. He said that it took Boston 18 or 19 years to get contract provisions for all unions.

Vice Mayor Born asked of the 1950 employees, how many are union employees. Mr. Gardner said that 43% of positions are non-union. A little over 21% are non-positioned (i.e. temporary or grant-funded).

Vice Mayor Born asked, of the approximately 800 positions, how many positions paying over \$50,000.00 are over 50%. Mr. Gardner stated that he would have to do the calculations, it could be perhaps 85 positions in all.

Vice Mayor Born asked about other cities with Residency Ordinances. Mr. Gardner said that he is only aware of Boston and Somerville.

In response to a question by Vice Mayor Born, Councillor Toomey said that Somerville has union commitments.

Vice Mayor Born asked how Mr. Gardner would change the ordinance if it were to stay in place. Mr. Gardner stated that he would prefer to treat residency like Affirmative Action and set goals and time tables. The Affirmative Action Plan allows more flexibility. In addition, the provision for supervisors of three employees to become residents is problematic because there are many such jobs that are fairly modestly compensated. Another problem is a waiver process that placed the City Council in the middle of a hiring process. This may be a charter issue.

Vice Mayor Born stated that the ordinance is weighted heavily towards having the greatest impact on jobs paying over \$50,000.00. What if this were revised? Mr. Gardner said that it would improve the Ordinance and the city would not stop its efforts to hire city residents for all jobs. There would be some problems with Civil Service.

Vice Mayor Born asked how this Civil Service problem could be alleviated. Mr. Gardner stated that the safest way is through a home rule petition. It is also possible to accomplish by declaration for new hires and these defend the lawsuit that would follow. Then he would do jobs lottery for labor force positions.

Vice Mayor Born observed that the City Council appears to be sitting here arguing about 10 jobs a year. It might be better to focus on the other 600 jobs.

Councillor Toomey noted that the call of this meeting was to hear effects of the Residency Ordinance on Affirmative Action. He asked how the pay of Cambridge City employees compares with the rest of the state. Mr. Gardner said that Cambridge is among the highest paying municipalities in the state.

Councillor Toomey asked about the salary for the Human Resources job at the School Department. Mr. Gardner said that he believes that the last incumbent was paid in the mid 70's.

Councillor Toomey said that he understands the pay was mid-70's to mid-80's. He queried why someone making in the mid 40's would not apply.

Councillor Reeves returned to the issue of whether the memo demonstrates a lack of intent to enforce the ordinance. Mr. Gardner said that the Personnel Deputy Director job was restructured to fit under paragraph (a) of the ordinance and not paragraph (e) through (h).

Councillor Reeves stated that he sees this situation as a manipulation to hire a particular person. He, himself, urged about 20 people to apply for this job; he had no particular candidate, but there were qualified minority candidates among these 20. He does not see this as carrying out the ordinance. This is a situation where there should have been a waiver request to the City Council.

Councillor Reeves stated that this points out an interesting issue. If the administrators do not carry out the policy, who is to enforce it? He stated that the administrators work for the City Council. Councillor Reeves asked of the 43 departments, how many are headed by minorities. Mr. Gardner stated that the last three department heads hired have been minorities.

Councillor Reeves asked if they are the only three minority department heads. Mr. Healy said he would have to check the records, however, he noted minority appointments to the Board of Assessors, (Chair), the Election Commission and the Planning Board.

Councillor Reeves asked if the last three department heads were minorities, what is the barrier presented by the ordinance. Mr. Gardner stated that the ordinance creates additional barriers for already difficult hires.

Councillor Reeves stated that the City should consider new ways of doing outreach to the population, including perhaps devoting someone solely to Cambridge recruitment. After a significant time, evaluate. If the efforts are not successful, then improve them. The City could also use search firms.

Councillor Reeves asked whether anyone focused in Cambridge recruitment. Mr. Gardner responded that no one was assigned full time. They have strengthened relationships with other employment organizations to do Cambridge recruiting.

Councillor Reeves asked whether the new Deputy Director was related to or known to anyone in the room. Mr. Gardner said she was not. Her application was a blind response to a bona fide advertisement.

Councillor Reeves stated that he knows many under-employed or unemployed Cambridge residents. He suggested making a clear poster and putting ads on Cable television.

Councillor Reeves asked how a Newton resident could be hired for the Arts Council job. Mr. Gardner stated that the ordinance only applies to persons first hired after effective date in 1996; and it does not apply to persons who worked for the City in the past.

Councillor Reeves stated that he finds the discussion uncomfortable because he is not sure the Mr. Gardner is on the same team in terms of embracing the people of the city. Most recruitment efforts seemed to involve talking to other city agencies. He knows many unemployed people who are certainly as qualified as the people who are here today. He encouraged additional efforts to do all possible to carry out the policy of the city. This memo suggests a problem in government with where policy comes from. It is most unsettling.

Councillor Davis stated that as the maker of the motion that generated the report, she wanted information about the opinion of the management staff. She does not want to squelch the best advice and she expects to get the truth, not what someone thinks the Council wants to hear.

Councillor Triantafillou then invited public comment.

Mr. Robert Winters, 366 Broadway, stated that if you really want a well managed city, you should not tie the hands of the administration. Hiring Cambridge residents should be a policy of the city, not an ordinance. He contrasted Cambridge with Boston, which had major problems with urban decay that Cambridge does not face. He urged taking "Chapter 2.120" off the document and change to "Residency Policy".

Mr. Charles Walker chaired the Affirmative Action Advisory Committee in 1991 and 1992. The Committee recommended a training program and institutional six month progress reports.

William Gomes, Director of Affirmative Action, stated that such a survey was sent. The response was not good. Responses that were received were turned over to the City Manager. Mr. Gomes said that Mr. Gardner neglected to tell this committee that the separation rate is the same as the hire rate. Regarding the Deputy Personnel position, he stated that there were several minority candidates who were well qualified, but not interviewed. Furthermore, two people within the Personnel Office who were Cambridge residents were qualified. Also, a black female from the Department of Public Works applied. There is a market, the numbers are there. Mr. Gomes stated that he was totally unaware of Councillor Toomey's requests for information. He stated that he believes that the Residency Ordinance is a good tool. He said that all we are asking for from the City is decent recruitment.

Representative Alvin Thompson, NAACP, stated that the NAACP has voted to support the Residency Ordinance. Mr. Gardner has been Personnel Director for 15 years. He has had sufficient opportunity to recruit minorities. It is a disgrace for the Personnel Director to continue to bypass minority candidates for department head positions. The Personnel Department is lily-white. He asked whether all the other applicants were offered the opportunity to work part-time. Mr. Gardner said no. Mr. Thompson said that the position was rigged for one person. It was false advertising. Daniel Phillips from Harvard Street did not even make the cutoff. He was hired by Harvard as a Vice President. The Personnel Department must be revamped to meet the needs of the minority community. It should recruit in the churches of Cambridge and other community centers of the minority communities.

Mr. George Despotes, Winthrop and Dunster Street, noted the contributions of former Mayor Reeves' staff person in saving money for the city. The City should use Harvard University students. He does not agree with the unemployment figures cited. They do not count discouraged workers. There are a lot of reasons besides just knowledge of the community to hire Cambridge residents. Employees do the best work where their families work.

Councillor Triantafillou noted that Mr. Gardner has been asked for additional data. She requested that he submit it by the next meeting. After consulting the committee members, she announced that the next hearing will be scheduled for October 10th at 4:30 p.m.

Councillor Davis requested a description of what effort is made to include minority applicants in the hiring process.

Councillor Reeves asked for an explanation of workforce utilization statistics by EEO codes. He would like the EEO definitions, especially for official and administration and technical and professional. He asked whether it includes people who head teen centers? Jill Herold said that she does not believe so.

Councillor Reeves said that he would like to know that the positions are.

The hearing was adjourned at 9:00 p.m.

For the Committee,

Katherine Triantafillou

Councillor Katherine Triantafillou
Chair

**Chapter 2.120 CAMBRIDGE FIRST -
HIRING AND
RESIDENCY
REQUIREMENT.**

2.120.010 Preamble.

**2.120.020 Cambridge First - Hiring and
Residency Requirement.**

2.120.010 Preamble.

The City of Cambridge's top priority is to hire the most qualified person for each position. The City of Cambridge is committed to the hiring and training of a first-class work force to serve the interests of the residents of the City. The commitment of the City is to provide a priority for the hiring and training of Cambridge residents, including those of all nationalities, races, classes, genders, sexual preferences and ages. It is the policy of the city to promote a work force that is diverse and representative of the people of the City, with the view in mind of preserving municipal jobs for residents of Cambridge.

(Ord. No. 1175, Enacted, 12/18/95)

**2.120.020 Cambridge First - Hiring and
Residency Requirement.**

(a) The City of Cambridge shall establish a "Cambridge First" hiring preference which shall apply to all salaried or hourly rate municipal positions with an annual compensation of less than fifty thousand dollars (\$50,000.00). The "Cambridge First" hiring preference shall include:

(1) With regard to job applicants, the City shall establish an absolute priority for current city residents when other employment factors are approximately equal.

(2) The City of Cambridge shall, through the utilization of the resources of the City Manager's office, personnel Office and the office of Work Force Development,

actively recruit and maintain lists of Cambridge residents for hiring in city positions.

(3) The City of Cambridge shall, through the utilization of the resources of the City Manager's Office, Personnel Office and the Office of Work Force Development, establish and operate classes and training programs in preparation for civil service exams for Cambridge residents. Said classes and programs shall be held at centrally located, accessible municipal buildings or schools on a rotating basis.

(4) The City Manager shall be requested to report to the City Council on an annual basis, the number of Cambridge residents employed by the City, with an eventual goal of sixty (60%) of city employees being Cambridge residents within the next ten (10) years.

(5) That in order to receive the full benefit of residency preferences already afforded to Cambridge residents under State Civil Service Law and in order to bring Police Officers, Fire Officials and Teachers into the neighborhoods of Cambridge, the City manager be and hereby is requested to take the necessary steps to negotiate with the appropriate collective bargaining units and provide reasonable incentives thereto with the view in mind of requiring Police Officers, Fire officials and Teachers who are hired on or after January 1, 1996, to reside within the City of Cambridge.

(b) The City Manager shall be requested not to decrease any funding for the Office of Work Force Development during the effective periods of this act. Funding for the Office of Work Force Development should remain constant or be increased during the operation of this act.

(c) The City of Cambridge, through the resources of the office of Work Force Development shall establish a visible and accessible location for Cambridge residents to gain information, job listings, and intake services for job opportunities in city government, as well as within private industry conducting business within the city.

(d) Every employee as defined in subsection (e) of this section, first employed by the City of Cambridge on or after January 1, 1996 shall, within six (6) months of the effective date of employment, become a resident of the city and shall not cease to be a resident of the city during his or her employment by the city.

(e) The term "employee" as used in this chapter shall mean any person performing services for or holding an office, position or employment in any city department or agency, whether by election or appointment, contract of hire or engagement, serving with a compensation of fifty thousand dollars (\$50,000.00) or more annually by salary or hourly rate, on a full, regular, part-time, intermittent or consultant basis. Notwithstanding the above, the term "employee" as used in this section shall apply to all persons serving in the capacity as head of a city department or agency, and to any person who maintains supervisory authority over three (3) or more full-time city employees, regardless of compensation.

(f) Upon taking employment with the City, and annually by February first thereafter, every person subject to this chapter shall file with the Personnel Director, or like officer or officers, a certificate signed under the pains and penalties of perjury, stating his or her own name, and place of residence. Upon receipt of a certificate indicating a place of residence not within the city, or if no such certificate is filed, the Personnel Director or like officer(s) shall forthwith arrange a hearing to be held within thirty (30) days before the personnel Director or officer(s) to show reasons why said employee is no longer a legal resident of the city. The Personnel Director or officer(s) shall notify the individual in writing one (1) week in advance of said hearing.

(g) If the finding of the hearing is that the individual is no longer a legal resident, that person shall cease to be employed by the city, and that persons shall be terminated by the City Manager and notice of that action shall be forwarded to the City Clerk, who shall transmit

the same to the City Council and City Auditor.

(h) No person so stricken from a payroll as a result of this chapter shall be re-employed by the city for a period of one (1) year following the cessation of his or her employment.

(i) To the extent permitted by Chapter Thirty-One of the General Laws, every examination held to establish a civil service list for employment by the city shall be restricted to city residents.

(j) If this chapter shall be deemed by a court of competent jurisdiction to be in conflict with a provision of any general or special law, the provision of that general or special law shall govern, and shall not defeat the application of this chapter with respect to any provision not governed by law.

(k) If the City Manager, with the two-thirds (2/3) approval of the City Council, determines it to be in the best interest of the city to do so, the provisions of this chapter may be waived with respect to a particular person or position and said waiver shall be reviewed annually by the Council.

(l) The provisions hereof are severable, and the action of any court of competent jurisdiction in declaring any part or portion hereof invalid, shall not act to defeat any remaining part or portion thereof, and any such action invalid with respect to any person or position shall not be held to apply to any other person or position.

(m) In construing this chapter, residence shall be the actual principal residence of the individual, where he or she eats, sleeps and maintains his or her normal personal and household effects. This section shall be deemed to affect both civil service and non-civil service employees of the city, including all appointments of the City Council. (Ordinance enacted 12/18/95 by Ordinance # 1175)

(Ord. No. 1175, Enacted, 12/18/95)




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PERSONNEL DEPARTMENT
MICHAEL P. GARDNER
Director

MEMORANDUM

TO: Robert W. Healy
City Manager

FROM: Michael P. Gardner
Personnel Director 

DATE: June 20, 1996

RE: Council Order #033 dated 5/20/96 RE: Effects of the Residency Ordinance on Hiring

SUMMARY

The residency ordinance has not increased the percentage of new City employees who are Cambridge residents. It has however put constraints on the hiring process which negatively impact our ability to attract and hire the best qualified candidates. The intent of the ordinance -- "To hire the most qualified person...[to hire] a first class work force...to promote diversity...with the view in mind of preserving municipal jobs for residents of Cambridge" -- is not supported by the ordinance. The extremely low unemployment rate in the City and the generally low unemployment rate in the region exacerbate the difficulty of attracting highly qualified job applicants willing to be told where they must live.

Statistical Impact

From one perspective, the residency ordinance has had little impact on City hiring.

The residency ordinance has been in effect since January 1, 1996. Since that time the City (exclusive of the Hospital and Neville Manor) has maintained a hiring rate for residents of 55 %. The Hospital/Neville hiring rate for residents has been 30 %. For the corresponding time period last year the numbers were virtually the same-- 57 % City exclusive of Hospital and Neville and 34 % for the Hospital and Neville Manor. Thus, to date, the ordinance has had insignificant impact on resident hiring percentages.

There has however been significantly less hiring in FY 96 than for the comparable

period in FY 95.

As required by the ordinance, the City has requested that the Department of Personnel Administration (Civil Service) restrict eligibility for all civil service examinations to then current Cambridge residents. Predictably, the Personnel Administrator (head of DPA) has said no. Such a restriction is inconsistent with Massachusetts law.

The Office of Workforce Development and the DHSP have worked cooperatively with the Affirmative Action Director and the Personnel Department to hold classes in test taking skills for Cambridge residents applying for the 1996 state wide fire fighter examination--just as has been done with other major civil service examinations held in the past, prior to enactment of the ordinance.

One of the reasons the ordinance has had as little impact as it has is because its terms currently do not apply to nearly 60% of our workforce--unionized employees.

The terms of the ordinance do not apply to unionized positions in the City, absent bargaining to agreement, or, for some purposes, impasse. Because virtually all of our contracts were settled (or the submission of new proposals prohibited by agreement) before the enactment of the ordinance, there has been little bargaining over its terms. For those unions with whom we are bargaining over it, we have not yet been successful in reaching agreement. Some of the provisions of the ordinance (particularly as apply to the filling of positions for non supervisors making under \$50,000) so fundamentally change hiring rules that it is unlikely we will obtain agreement easily or any time soon.

This demonstrates the important paradox. From another perspective, the ordinance has had a profound and fundamental impact on City hiring.

Impact on Hiring Rules and Dynamics

The ordinance has had dramatic impact on the rules and procedures involved in some of our most important and complicated hiring. The requirement that certain new employees move into the City within six months of hire has fundamentally changed our hiring rules and the pool of candidates we can realistically consider. Although hiring for positions paying over \$50,000 does not occur that often, when it does, the ordinance has the effect of dramatically limiting the potential pool of candidates to be considered--to those who are current residents, active in the job market, and willing to accept employment that will foreclose the option of moving out in the future, and to those whose life situations make it attractive or acceptable for them to move here with the same future restrictions. This same limitation applies to the other positions covered by this provision of the ordinance--those employees who supervise three or more employees. Vacancies for these positions occur much more frequently than for jobs paying over \$50,000, and the pool of possible candidates for those jobs is also significantly restricted. Because salaries in these positions often start in the low \$30's, the flexibility to move in may be very limited.

Affirmative Action

In my view, there is no question but that the residency ordinance seriously interferes with the City's capacity to effectively recruit and hire minority candidates in senior positions of all kinds, most particularly Officials and Administrators and Professionals, the categories where we continue to experience under utilization. That is because the ordinance artificially restricts the number of minority candidates who might consider a senior level position with the City. Gross numbers illustrate the problem. According to the 1990 census data, there are approximately 21,026 minorities age 18 and over living in Cambridge, a rough approximation (slightly inflated) of the labor market. In contrast, there were 165,987 minorities age 18 and over living in Boston. And in the five counties proximate to Cambridge from which we could reasonably expect to draw commuting employees, there were (exclusive of Cambridge), 357,736 minorities age 18 and over. Thus Cambridge has less than 6% of the total potential minorities who might conceivably consider employment with the City without being required to move.

The current residency ordinance, as it requires those new hires making \$50,000 or more or supervising three or more to establish residency within the community, seriously impedes nonresident minority (and other) potential candidates for senior management positions from considering employment in Cambridge. Although there are always exceptions, persons interested in and qualified for senior positions are likely to be settled in communities with significant social ties, including school, church, and neighborhood. They may be homeowners or interested in home ownership. The prospect of disrupting those ties to take employment with the City may be very problematic, especially given the recent marked increase in the cost of housing (and how much housing each \$100,000 buys) in Cambridge compared to other communities.

Looking at where our current senior minority employees reside clearly illustrates the problem. Currently, only 34% of the minorities in the Officials and Administrators and Professionals EEO categories reside in the City. Thus whatever success we have had in these crucial areas has been in large part due to our ability to attract and retain non resident minority employees. This capacity is taken away by the ordinance.

Two of the most recent significant minority hires in the City were the Chief Public Health Officer and the Vice President for Human Resources at the Hospital. Neither candidate likely would have been interested in the position for which they applied and were ultimately accepted had they been affected by the residency ordinance. They have established community ties elsewhere and moving would have presented such life changes as to make accepting the position in Cambridge with move in requirements very unlikely. One of the hires took place after the residency ordinance was in effect. The only way that was possible was because the Hospital expected to be exempt from the ordinance before the six month deadline for moving into the City took effect.

Thus, had the ordinance been effectively in place we would most likely have missed out on two very important hires and been unable to attract these outstanding candidates.

The Ordinance Makes Hard to Fill Jobs Harder to Fill

The Hospital provides clear example of the problems with the ordinance. In the view of the Hospital Administrator and those involved in recruiting and hiring, the ordinance is completely unworkable. Even with a depressed health care labor market, restricting the department to Cambridge residents and those with the flexibility to move to Cambridge for the hundreds of jobs that supervise three or more or pay over \$50,000 is impossible. Nurses, nurse managers, physicians, technicians, supervisors of technicians, and administrators with hospital experience remain scarce enough that the Hospital simply can not recruit for competent help from such a narrow base.

Although the City's labor market is not as specialized as that of the Hospital, the problem is the same and very real. The filling of one recent senior position illustrates the case. There was extensive advertising and network recruiting done. Every effort was made to attract Cambridge residents. A much larger than average pool of candidates was interviewed to be sure that no possibly plausible resident was overlooked. This slowed the process considerably. In the end the clearly best qualified candidates were persons who lived outside the City and for whom moving in was not a viable option. The City ended up hiring the person who was determined by the interviewing team (including the City Manager) to be the best qualified candidate (by far), but, in order to do that we had to restructure the job to make it part time and non supervisory, a clearly unsatisfactory solution.

Similar adjustments have had to be made in other departments, in order to hire the best qualified candidate available. The problem can arise frequently with positions which pay under \$50,000 but supervise three or more. There is currently a highly visible leadership position being filled which does not pay \$50,000 but supervises more than three. The screening committee has determined there are no current Cambridge residents who applied who are thought worthy of being considered as finalists. The prospects of persuading any of the qualified non resident candidates to move into the City after securing the position are slim. Thus, by default, we may be required to select a current City employee not required to move in, whether or not that person is in fact the best qualified, or to readvertise and recruit again, at considerable expense and delay, with uncertain results.

Another department was successful earlier this year in hiring the best qualified candidate (non resident) for a supervisory position paying under \$50,000. The person hired understood the requirements of the ordinance and agreed to move into the City within the proscribed time period. That person is now "frantically" searching for affordable housing within the City, and the department is facing the prospect of losing the employee to other employment that does not regulate where he lives if he is unsuccessful in his search.

Specialized positions are also very difficult. The Finance Department is currently attempting to recruit and hire a Network Engineer to manage the substantial investment

we are making in hardware and fiber optic cable wiring for our local area network and other data processing and technology needs. City salary scales already diminish the attractiveness of the position for experienced private sector professionals, including employed persons currently residing in the City. The requirement to move here imposes a burden that to date has been impossible to overcome, jeopardizing the entire technology initiative including efforts to upgrade classroom based technology in the School Department.

Unemployment in Cambridge

If we were hiring current Cambridge residents for jobs we would not have to deal with the difficulty of asking non residents to move in. But there are not a large number of Cambridge residents actively seeking work in the kinds of positions for which the "move in" requirements apply. Cambridge has one of the lowest unemployment rates in the Greater Boston area. According to the most recent figures available from the Department of Employment and Training (April, 1996), the unemployment rate in Cambridge is only 2.7%. Only 1,521 Cambridge residents were unemployed and looking for work at that time. This compares to a statewide unemployment rate of 4.8% for the same time period. Looking again at the same five counties from which we could conceivably draw commuting employees, the unemployment rate (excluding Cambridge) was 4.3%, with nearly 85,000 persons unemployed and looking for work.

Although most of the employees we would be hiring for supervisory and high salary positions would likely be employed at the time of hire, the low unemployment rate for Cambridge (and the metropolitan area--where 4.3% is virtually full employment) indicates a strong local job market, where prospective experienced candidates for positions may have many career opportunity alternatives that present attractive salaries, portable pension plans, and no residency regulations.

The Impact of the Ordinance Is Broader Than Many Realize

The problems with the residency ordinance are not just limited to high salary and supervisory positions. One of the less well understood provisions affecting non supervisors making less than \$50,000 requires that, when other employment factors are relatively equal, the position must be offered to a current Cambridge resident.

This provision applies to both entry level and promotional positions. Shortly after the ordinance went into effect, a non union technical position opened in one of the departments. The position was posted internally and externally advertised. A twenty year City employee with strong ties to the city but with residence in Somerville applied, as well as a number of city residents who were not employees. The nature of the position was such that the extensive City service of the current employee was not a significant employment factor giving him a clear advantage. The job was different enough from his prior position that his prior City service did not, in itself make him a better candidate. Under the circumstances, it was very likely that the external resident applicants would be, in relevant employment factors, relatively equal to the twenty year

employee, who was perfectly qualified to do the work. Ultimately, because the external resident candidates were determined to be a particularly weak group, the position was awarded to the long time City employee, but that is not likely to be the case for most such positions in the future.

In this case and conceivably many others in the future, a person who had grown up and lived in Cambridge for many years but who moved out in order to buy housing he could afford for his family once he was ready to become a homeowner, almost lost out to individuals with no particular local ties, who had moved into Cambridge within three months of the date we advertised to fill the vacancy. This absolute preference provision will likely cause significant inequity in the future.

This provision (granting absolute preference to residents over relatively equally qualified current employees) currently has limited applicability because most union contracts provide some preference for current members in promotional situations. It is a very real issue for non union positions however. The protection that union contracts may be thought to provide may in the future generate more interest in unionization among some of our non union employees, even though we are attempting to persuade unions to accept the provisions of the residency ordinance, as contracts are reopened for bargaining.

CONCLUSION

Although in effect for less than six months, the residency ordinance has already caused significant disruption and distortion in the hiring process for several important and difficult to fill positions. As more and more positions become affected by it in the future (as vacancies occur and positions turn over), the disruption will be predictably greater. Both Affirmative Action and quality in hiring will suffer because of the artificial limitations placed on the recruitment pool. The only reasons we are not yet in crisis are 1) relatively few critical vacancies that have occurred during the time of the operation of the ordinance and 2) the Hospital has operated as if the ordinance would not apply by the time any new employees would be required to move into the City.

The residency ordinance is the most drastic alteration in the rules governing City hiring since the adoption of the Plan E Charter. The ordinance is undermining City efforts to improve in crucial areas of Affirmative Action and in hiring the best candidates for positions. It should be repealed.

City of Cambridge

The Civil and Human Rights Committee held a public hearing on Wednesday, September 25, 1996 beginning at 4:30 p.m. in the Sullivan Chamber for the purpose of discussing affirmative action and the Residency Ordinance. (copy attached)

Present at the hearing were Councillor Katherine Triantafillou, Chair of the Committee, Vice Mayor Kathleen L. Born, Councillor Henrietta Davis, Councillor Francis H. Duehay, Councillor Anthony D. Galluccio, Councillor Kenneth E. Reeves, Mayor Sheila T. Russell, Councillor Michael A. Sullivan, Councillor Timothy J. Toomey, Jr. and City Clerk D. Margaret Drury. Also present were City Manager Robert W. Healy; Michael Gardner, Personnel Director; Else Knopper, Deputy Personnel Director; William Gomes, Affirmative Action Director; Jill Herold, Assistant City Manager for Human Services; and Ralph Elwell, Personnel Department.

Councillor Triantafillou convened the hearing and explained the purpose. She invited Michael Gardner to discuss his memorandum on the Residency Ordinance. Mr. Gardner began by noting that the memo was prepared in response to a City Council request contained in Order Number Thirty-Three of May 20, 1996 (attached). He stated that the memo was fairly widely circulated among city department heads before it was finalized. Mr. Gardner stated that since enactment of the ordinance, the city has had relatively few cases which have been subject to Section (e) through (h) of the ordinance, but it has presented some difficulties. There have been instances where the best qualified candidate identified through the hiring process could not or would not move to Cambridge.

Regarding Affirmative Action, the positions of officials and administrators and professionals provided the biggest problem for affirmative action. Minorities over age 18 in Cambridge represented only 6% of an available pool of minority candidates in the 5 county area from Cambridge has tended to draw employees.

Councillor Toomey asked for clarification. Mr. Gardner said that in looking at the number of minorities in the city, there were only 5% of the pool of minorities in the five county area.

Councillor Toomey noted that these positions are available to any minority in the country, they are not restricted to just Cambridge.

Mr. Gardner stated that the problem is that a very high percentage of potential applicants who are not currently Cambridge residents have difficulty in changing their personal, social and financial circumstances to move to the city of Cambridge. Mr. Gardner stated that, in addition, Section a (1) the Residency Ordinance has an absolute preference for Cambridge residents where all other factors are equal. Because of union contracts in practice, this section applies to non-union jobs. It appears to give absolute preference to Cambridge resident non-employees over non-resident Cambridge employees. He stated that he and his staff were not aware of this difficulty before the ordinance was enacted. Mr. Gardner emphasized that the Personnel Office is enforcing the ordinance.

Committee Report #2

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5-541

A report from Councillor Katherine Triantafillou, Chair of the Civil and Human Rights Committee meeting held on September 25, 1996 for the purpose of discussing affirmative action and the Residency Ordinance.

In City Council October 7, 1996

10-21-96 No Action taken
10-28-96 No Action taken
11-4-96 Report Accepted.
Placed on File.