



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 498-9011

FAX. 868-8159

EXECUTIVE DEPARTMENT

ROBERT W. HEALY

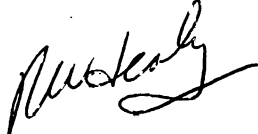
City Manager

RICHARD C. ROSSI

Deputy City Manager

September 20, 1990

To: The City Council

From: Robert W. Healy, City Manager 

Re: Law Department's availability to members of the City Council (Council Order #15, May 14, 1990)

I write in response to the above Council Order which asks that the City Manager

...provide a concise statement of the Law Department's availability to the members of the City Council for the purpose of reviewing the legal ramifications of issues presented before the Council and for the purpose of reviewing and/or drafting initiatives to be offered by council members...

This request appears to deal with two subjects, the giving of legal opinions and the drafting of ordinances. Regarding legal opinions, it has been traditional that during City Council meetings, individual Councillors may ask the City Solicitor (or his Deputy) for a legal opinion on any question germane to the debate. The Solicitor will answer the question immediately if he is able to do so, or he will provide the answer when he has had time to do some research. Also during Council meetings, the Council may vote to request an opinion from the Solicitor.

It has not been customary, nor do I think it appropriate, for

individual Councillors, when the Council is not in session to seek legal opinions from the Solicitor or any of his assistants. I do not believe that the Law Department has the capacity to handle the increased workload which this would entail.

Our custom in this regard is sanctioned by the Cambridge Municipal Code, s. 2.26.030, which states, in part,

... He (the City Solicitor) shall furnish legal opinions on matters submitted to him by the City Manager, Mayor, City Council, School Committee or head of department.

With regard to the drafting of ordinances, the same considerations apply. I do not believe that the Law Department has the capacity to draft ordinances at the request of individual Councillors, but only in response to a vote of the full Council. See Cambridge Municipal Code, s. 2.26.020:

The City Solicitor shall draft all legal instruments of whatever nature which may be required of him by any ordinance, the City Council, the Mayor or the City Manager.

Finally, I believe that the City Charter is relevant to this question. General Laws, Chapter 43, section 107 provides:

Neither the city council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the city manager or any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in that portion of the service of said city for whose administration the city manager is responsible. Except for the purpose of inquiry, the city council and its members shall deal with that portion of the service of the city as aforesaid solely through the city manager, and neither the city council nor any member thereof shall give orders to any subordinate of the city manager either publicly or privately. Any member of

the city council who violates, or participates in the violation of, any provision of this section shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both, and upon final conviction thereof his office in the city council shall thereby be vacated and he shall never again be eligible for any office or position, elective or otherwise, in the service of the city.

RWH\jml

CORR#3\CONCLADV



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 498-9C11

FAX. 868-8159

EXECUTIVE DEPARTMENT

ROBERT W. HEALY

City Manager

RICHARD C. ROSSI

Deputy City Manager

September 24, 1990

To The Honorable, The City Council:

Attached, please find a response to Awaiting Report Item No. 24,
relative to the Law Department's availability to members of the City
Council.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Robert W. Healy", is written over a horizontal line.

Robert W. Healy
City Manager

RWH/mev
enclosure

Agenda # 7

S-917

Awaiting Report Item No. 24, regarding
Law Department's availability to members
of the City Council.

In City Council,

Sept. 24, 1990

Placed on file