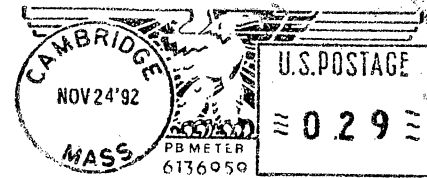


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City Hall • Cambridge, Mass. 02139



Richard Medeiros
167 Charles Street
Cambridge, MA

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NOT KNOWN
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CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

November 24, 1992

To Whom It May Concern:


Please be advised that Councillor Alice K. Wolf, Chair of the Ordinance Committee has scheduled a public hearing for Tuesday, December 8, 1992 at 4:30 P. M. in the Sullivan Chamber, City Hall, 795 Massachusetts Avenue, Cambridge, Massachusetts.

The hearing has been scheduled relative to a proposed amendment to the Municipal Code of the City of Cambridge to eliminate residency requirements on the appointment of constables in the City of Cambridge.

You are requested to attend this hearing and be heard.

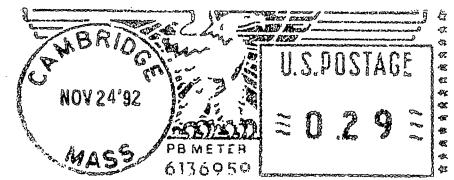
Thank you for your cooperation in this matter.

Very truly yours,


D. Margaret Drury
City Clerk

DMD/dl

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MASS. CONSTABLE ASSOC.
P.O. Box 266
Boston, MA ~~02114~~
02114

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Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

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City Hall • Cambridge, Mass. 02139

JM

~~Frederick M. MacDonald
14 [redacted] Street
Roslindale~~

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ROSLINDALE, MA 02131

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Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

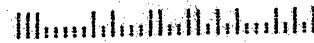
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Farris White
4 University Road
Cambridge, MA

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D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

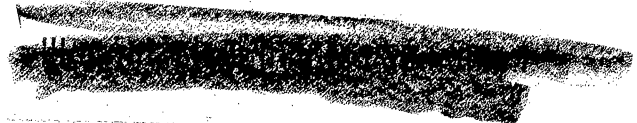
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22 MS-N

George Kessel
219 Cambridge Road
Burlington, MA

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CAMBRIDGE
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November 24, 1992

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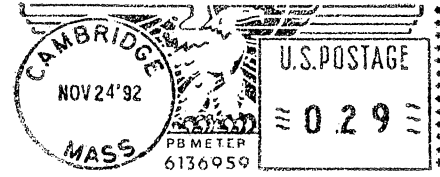
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Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

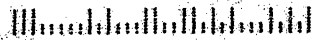
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City Hall • Cambridge, Mass. 02139



James E. Jones
25 Putnam Avenue
Cambridge, MA

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November 24, 1992

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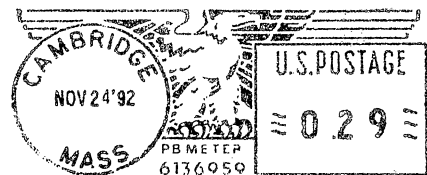
Thank you for your cooperation in this matter.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

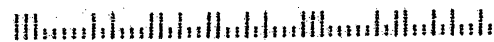
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Dean A. Moore
11 Walnut Street
Malden, MA

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D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

November 24, 1992

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You are requested to attend this hearing and be heard.

Thank you for your cooperation in this matter.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

The Ordinance Committee of held a public hearing on March 25, 1993, beginning at 8:15 p.m. in the Sullivan Chamber on a proposed amendment to Chapter 2.20 of the Municipal Code to eliminate the residency requirement for constables. Present at the hearing were C. Alice K. Wolf, Chair, C. Francis H. Dineen, C. Sheila S. Russell, and C. William H. Walsh.

C. Wolf convened the hearing and explained that this was ~~this~~ the second hearing on this issue, and its purpose was to receive information the Committee ~~it~~ had requested at its December 8, 1992 hearing on the matter.

Present: A. W.
W. W.
S. R.
F. D.

~~C. Wolf covered the hearing at~~

~~8:15 p.m. and explained the purpose of~~

~~the hearing.~~ She noted that the Ord Committee

had received additional information from the

Law Department and the City Clerk. ~~The City~~

C. Wolf said that the City Clerk had reported that

~~C. Wolf~~
~~noted~~
~~that~~

There are 135 constables with power

to serve civil service in Boston.

C. Woy ^{stated} ~~noted~~ that the City Solicitor ~~had~~ ^{of} has given his opinion that the residency requirement is legal in a letter which is attached to this report as Attachment A.

C. Dueby moved that the matter ~~be~~ ^{of the} proposed abolition of the residency requirement for constables be reported ~~to~~ with a recommendation that it to the City Council not be approved.

Allen Knib, 114 Oxford Street, ~~in Cambridge~~

stated that he supported C. Dueby's motion.

^{Domenic} ~~Domenic~~ Scalesse, 174 Holworthy Street

also spoke in support of the motion.

The motion passed upon a unanimous voice vote. 2-

(4)

Thereupon C. Wolf noted that the matter of the Arno Street Tunnel ~~is~~ ^{on the table} ~~the table~~ remains ~~in~~ the Ordinance Commission.

C. Russell moved that the matter be taken for the ~~table~~ table, and the motion passed on a unanimous voice vote.

C. Russell moved that the matter be referred to the C.C. for final decision, and the motion passed on a unanimous voice vote.

~~C. Russell moved that the hearing be adjourned~~

The hearing was adjourned at

8:15 p.m.

City of Cambridge

The Ordinance Committee held a public hearing on March 25, 1993, beginning at 8:15 p.m. in the Sullivan Chamber on a proposed amendment to Chapter 2.20 of the Municipal Code to eliminate the residency requirement for constables. Present at the hearing were: Councillor Alice K. Wolf, Chair of the Committee; Councillor Francis H. Duehay; Councillor Sheila T. Russell; and Councillor William H. Walsh.

Councillor Wolf convened the hearing and explained that this was the second hearing on this issue and its purpose was to receive information the Committee had requested at its December 8, 1993 hearing on the matter. She noted that the Ordinance Committee had received additional information from the Law Department and the City Clerk. Councillor Wolf said that the City Clerk had reported that there are 135 constables with power to service civil service in Boston.

Councillor Wolf stated that the City Solicitor has given his opinion that the residency requirement is legal in a letter which is attached to this report as Attachment A.

Councillor Duehay moved that the matter of the proposed abolition of the residency requirement for constables be reported to the City Council with a recommendation that it not be approved.

Allen Korb, 114 Oxford Street, stated that he supported Councillor Duehay's motion.

Domenic Scalese, 174 Holworthy Street, also spoke in support of the motion.

The motion passed upon a unanimous voice vote.

Thereupon Councillor Wolf noted that the matter of the Ames Street Tunnel remains on the table in the Ordinance Committee.

Councillor Russell moved that the matter be taken off the table and the motion passed on a unanimous voice vote.

Councillor Russell moved that the matter be referred to the City Council for a final decision and the motion passed on a unanimous voice vote.

The hearing adjourned at 8:15 p.m.

For the Committee,

Councillor Alice K. Wolf
Chair



CITY OF CAMBRIDGE

Office of the City Solicitor
City Hall

795 Massachusetts Avenue
Cambridge, Massachusetts 02139

Tel. (617) 349-4121
Fax. (617) 349-4307 4134

Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Michael C. Costello
Assistant City Solicitor

Birge Albright
Legal Counsel

Gail S. Gabriel
Legal Counsel

Diane Wynshaw-Boris
Legal Counsel

Laura H. Yager
Legal Counsel

Linda A. Stamper
Legal Counsel

Arthur J. Goldberg
Legal Counsel

March 19, 1993

Robert W. Healy
City Manager
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Residency requirement for Constables

Dear Mr. Healy:

At the Ordinance Committee hearing on December 8, 1992, the Deputy City Solicitor agreed to furnish the City Council with a legal opinion regarding the residency requirement for Constables in Cambridge Municipal Code, § 2.20.010. My opinion follows.

QUESTION

The question, as I understand it, is whether Cambridge, by ordinance, may require that constables with the power to serve civil process must be Cambridge residents.

DISCUSSION

"The office of constable is an ancient one" Hartley v. Granville, 216 Mass. 38, 40 (1913). It existed in England under the common law before Massachusetts was settled. See 1 McQuillin,

Municipal Corporations, § 1.15 (1987). In 19th-Century Massachusetts, constables were "local officers of the peace elected by cities or towns". Leavitt v. Leavitt, 135 Mass. 191, 193 (1883). In Barre v. Greenwich, 18 Mass. (1 Pick.) 129 (1823), it was held that constables are town officers who must be inhabitants of the town in which they are chosen.

The law pertaining to constables has now been codified to some extent in G.L. c. 41, §§ 91-95. Section 91 provides that, in a city, constables shall be appointed by the Mayor (in Cambridge, the City Manager) for terms not exceeding three years. Section 91B states the qualifications for constables as follows:

Constables shall not be appointed ... except as hereinafter provided. A person desiring to be appointed as aforesaid shall make a written application therefor to the appointing authority stating his reasons for desiring such appointment and such information as may be reasonably required by said authority relative to his fitness for said office. Such application shall also contain a statement as to the moral character of the applicant signed by at least five reputable citizens of the city or town of his residence, one of whom shall be an attorney-at-law. The appointing authority shall also investigate the reputation and character of every applicant and his fitness for said office. The chief of police or other official having charge of the police shall upon request give the appointing authority all possible assistance in making such investigation. The office of constable shall be filled only by appointment of an applicant hereunder who is found by the appointing authority, after investigation as aforesaid, to be a person of good repute and character and qualified to hold said office.

General Laws, c. 41, § 109 provides, inter alia,

... Unless otherwise provided by general or special law, ordinance or by-law, a person need not, in order to accept appointment to a public office in a town (or city) ... be a resident of such town (or city) ...

The Cambridge Municipal Code, § 2.20.010, provides, in part:

The City Manager shall appoint Constables for the term of three years beginning with the first day of January in the year of appointment. Notwithstanding anything to the contrary, all such Constables with the power to serve civil process shall be residents of the City upon appointment and shall remain residents of the City during their tenure in office ...

Under the Home Rule Amendment, any city may, by the adoption of ordinances, exercise any power or function which is not inconsistent with the Constitution or laws enacted by the General Court. Mass. Const. Amend. Art. 2, §6.

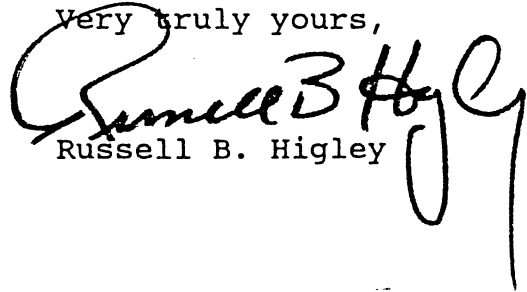
Thus, the question here is whether the residency requirement in Cambridge Code § 2.20.010 is inconsistent with state law. In my opinion, it is not.

The only reference to residence in G.L. c. 41, § 91B is in the following sentence:

... Such application (for the position of constable) shall also contain a statement as to the moral character of the applicant signed by at least five reputable citizens of the city or town of his residence, one of whom shall be an attorney-at-law.

I do not believe that the Cambridge ordinance is inconsistent with this sentence, especially when one takes into account the history of the position of constable and the fact that G.L. c. 41, § 109 specifically allows the imposition of a residency requirement by ordinance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Russell B. Higley". The signature is stylized with a large initial "R" and a long, sweeping tail that extends downwards and to the right.

Russell B. Higley

RBH/jab

OPIN#2\Constabl.Res

City of Cambridge

The Ordinance Committee held a public hearing on Tuesday, December 8, 1992 beginning at 4:30 p.m. for the purpose of considering a proposed amendment to Chapter 2.20 of the Municipal Code to eliminate the residency requirement for constables.

Present at the hearing were Councillor Alice K. Wolf, Chair of the Committee, Mayor Kenneth E. Reeves, Vice Mayor Edward N. Cyr, Councillor Francis H. Duehay, Councillor Jonathan S. Myers, Councillor Sheila T. Russell, Councillor Timothy J. Toomey, Jr. and Councillor William H. Walsh.

Councillor Wolf convened the meeting at 4:45 p.m. and explained the purpose of the hearing. She asked whether there was any discussion on the part of the Council.

Councillor Russell asked Councillor Walsh what was the rationale for the amendment. He explained that he had been approached by several former residents who had been appointed as residents but could not be reappointed.

Councillor Russell requested that the City Solicitor inform the Committee as to how many people applied to be constables each year and what their duties were. Deputy City Solicitor Donald Drisdell explained the duties of a constable and said that the Municipal Code presently requires constables who serve civil process to be residents although those who serve criminal process are not so required. In response to a question from Councillor Russell, he said that the residency requirement has not inconvenienced the Law Department.

Councillor Duehay said that he does not have any information at the moment that would cause him to believe that the ordinance should be changed.

Councillor Wolf said that the list of constables with power numbers 69; most of them live in the city and those who do not are mostly Cambridge employees.

In response to a question from Councillor Walsh, Mr. Drisdell said that the Law Department has investigated the legality of this residency requirement in the past and is confident that it is legal. He agreed to supply a copy of a legal opinion regarding the residency requirement and also agreed to look into the reason why non-residents, who are not Cambridge employees, appear on the list of constables with power.

The hearing was then opened to public testimony from those who wished to speak in favor of the proposed amendment to the ordinance.

✓ Herbert Alleyne, Sr., 374 Blue Hill Avenue, Boston, said that he was born and raised in Cambridge and raised his family in Cambridge. For personal marital reasons, he now lives in Boston, but really considers himself a Cantabrigian. The Committee should consider that there are non-residents who have contributed to the City. There should not be a residency requirement, but if there is one, there should be an exception for former residents. Under Rule 4C, non-residents can serve civil process in Cambridge.

Councillor Duehay asked whether the volume of his work kept him employed full-time. Mr. Alleyne said that he does work full-time and that he believes there are 107 active constables in Boston.

John Bangor, Constable in Saugus, spoke in favor of eliminating the residency requirement.

Councillor Wolf then requested public testimony from those opposed to the amendment to the ordinance.

✓ Allen Korb, 114 Oxford Street, said that he has been a constable since 1933. He instigated the residency requirement and sees no need for a change. He believes that there are already too many constables; five would be sufficient.

✓ Dominic R. Scalese, 74 Holworthy Street, retired Police Officer, said that he has been a constable for ten months and has not had any calls from the City. He is in favor of Cambridge residents having the first opportunity to be a constable. He is a private investigator and is willing to investigate applicants.

Councillor Duehay asked whether he gets a lot of work or whether there are so many constables that he doesn't get much work. Mr. Scalese said he has had 20 calls or about two per month since his appointment.

✓ John Hartnett, 700 Huron Avenue, said that he does not have a large established business; his business comes from a constable on the North Shore who cannot work in Cambridge without the residency requirement, this person could do it himself. In response to a question from Councillor Duehay, he explained that constables set their own fees.

Councillor Myers asked the Deputy City Solicitor what the current residency requirement applies to. Mr. Drisdell said that under the ordinance, the residency requirement only applies to constables appointed with the power to serve civil process. In addition, there is an exception for city employees, and by state statute some employees of the Commonwealth are required to be constables.

Councillor Duehay said that nothing he has heard has led him to want to change his mind that the residency requirement is appropriate. He would also like to know whether there really are only 107 constables in Boston, while Cambridge has 69.

Councillor Walsh moved that the matter be tabled in the Committee awaiting the additional information the Committee has requested. The motion passed unanimously on a voice vote.

The hearing was adjourned at 5:25 p.m.

For the Committee,

A handwritten signature in black ink, appearing to read "Alice K. Wolf". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Councillor Alice K. Wolf
Chair

COMMITTEE REPORTS

Ordinance Committee Report for a hearing held on December 8, 1992 on the proposed amendment to the Municipal Code to eliminate the residency requirement for constables.

IN City Council,

December 14, 1992

*Charter Right
Exercised by
Councillor Buckley
at the reconvened
meeting held on
12/16/92
12/21/92 Report accepted
Placed on file*



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHNE. FLYNN
DEPUTY CITY CLERK

March 17, 1993

Dear Constable:

Please be advised that Councillor Alice K. Wolf, Chair of the Ordinance Committee has scheduled a public hearing in the Sullivan Chamber, City Hall, Cambridge as follows:

Thursday, March 25, 1993

7:30 P. M. Proposed amendment to the Municipal Code to eliminate the residency requirement for constables.

You are invited to attend at this time and be heard.

Thank you for your cooperation in this matter.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

CONSTABLES

Herbert Alleyne, Sr.
374 Blue Hill Avenue
Boston, MA

Allen Korb
114 Oxford street
Cambridge, MA

Dominic R. Scalese
74 Holworthy Street
Cambridge, MA

John Hartnett
700 Huron Avenue
Cambridge, MA

Heavy
Notes

①

The Ordinance Committee held a

public hearing on Tuesday, December 8, 1992

beginning at 4:30 p.m. for the purpose of

considering a proposed amendment to ~~the~~ ^{to} eliminate

~~the~~ ^{and} Chapter 2.20 of the Municipal Code

to eliminate the residency requirement for Constables.

Present at the hearing were Councilor Alice K.

Wolf, Chair of the Committee, ~~Councilor~~ Mayor Kenneth E.

Reeves, Councilor Edward N. Cye, Councilor

Francis H. Dubeck, ^{Councilor Jonathan S. Myers} Councilor Sheila T. Russell,

Councilor Timothy J. Toomey, Jr, and

Councilor ^{William H. Walsh}

Councillor Wolf convened the meeting at 4:45 pm. and explained the purpose of the hearing.

She asked whether there was any discussion on the part of the Council.

Councillor Russell asked Councillor Walsh what was the rationale for the amendment. He explained that he had been approached by several former residents who had been appointed as residents but could not be ~~reappointed~~ reappointed.

Councillor Russell requested that the City Solicitor inform the Committee as to how many people applied to be constables each year, and what their duties were. Deputy Solicitor Donald Dussell explained the duties of a constable, and that the

Municipal Code presently requires constables who ~~serve~~ make civil service to be residents, although those who serve criminal justice are not so required. In response to a question for C. Russell, he said that the residency requirement has not inconvenienced the Law Department.

C. Dueby asked

Generally Dueby asked whether the fee schedule had to be approved by the City Board.

Councilman Dueby said that he does not have any information at the moment that would cause him to believe that the ordinance should be changed.

Councilman Wolf said that the list of constables with power numbers 69; most of them

live in the City and those who do not are Cambridge

residents. She asked why names of non-residents and non-employees are on the list.

Dr. Dussell said that that is an

exception allowed by the ordinance. In response

to a question for C. Wash, he said that the

Law Department has investigated the legality of this

residency requirement in the past and is confident

that it is legal. He agreed to supply a copy

of a legal opinion regarding the residency requirement

and also agreed to look into the reason why

non-residents, ~~non-employees~~ who are not Cambridge employees

appear on the list of constables with power

(5)

The hearing was then opened to public testimony

from those who wished to speak in favor of

the proposed ^{amendment to the} ordinance.

~~There was no public~~

~~testimony in favor of the amendment~~ INSERT 1

Councilor Wey then requested public testimony

from those opposed to the amendment.

Aelen King, 114 Oxford Street, said that he

has been a constable since 1933. He criticized the

residency requirement and sees no need for ~~more~~

a change. He believes there are already too many

constables; five would be sufficient

Dominic K. Scalise, 74 Holworthy Street, retired

police officer, said that he has been a constable for ten months, and has not had any calls from the City

He is in favor of Cambridge residents having the first opportunity to be a constable. ~~Constable~~ He is a private

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comes from a constable or the Nuk phone who cannot work

↳ Cambridge. Without the residency requirement, this person could do it himself. In response to a question from

Councilor Ducey, he explained that constables set their own fees.

INSERT ①

Herbert Alleyne, Sr., 374 Blue Hill Avenue, Boston,

said that he was born and raised in Cambridge, and

~~was~~ raised his family in Cambridge. For personal

mailed reasons, he now lives in Boston, but really

considers himself a Cambridgean. The Committee should

consider that there are non-residents who have contributed to

the City. There should not be a residency requirement, but

if there is one, there should be an exception for former

residents. Under Rule 4C, non-residents can serve years in Cambridge. INSERT 2

Councilman Ducky asked whether the volume of his work kept him employed full time. Mr. Alleyne said that he does work full-time, and that he believes there are 107 ^{active} Constables in Boston.

Councilman Myers asked the Deputy City Solicitor

what the current residency requirement applies to. Mr.

Dusseau said that ^{under the ordinance} the residency requirement only applies

to constables appointed with the power to serve civil

process. In addition there is an exception for City

~~employees and by state statute some employees of the Commonwealth are required to be constables.~~

INSEKT 2
constable is

John Bangor, a Sergeant, spoke in favor

eliminating the residency requirement.

Councilman Duehay said that nothing that he

has heard has led him to want to change his mind

that the residency requirement is appropriate. He would

also like to know whether there really are only

107 constables in Bismarck, while Centerville has 69.

C. Walsh moved that the matter be tabled

to the Committee awaiting the additional information

the Committee has requested. ^{The motion passed unanimously} ~~only~~ a voice vote.

The hearing was adjourned at 5:25 pm.

For the Committee

Councilman Alue K. Wolf, Chair



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

November 24, 1992

To Whom It May Concern:

Please be advised that Councillor Alice K. Wolf, Chair of the Ordinance Committee has scheduled a public hearing for Tuesday, December 8, 1992 at 4:30 P. M. in the Sullivan Chamber, City Hall, 795 Massachusetts Avenue, Cambridge, Massachusetts.

The hearing has been scheduled relative to a proposed amendment to the Municipal Code of the City of Cambridge to eliminate residency requirements on the appointment of constables in the City of Cambridge.

You are requested to attend this hearing and be heard.

Thank you for your cooperation in this matter.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl



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D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

Constable Ordinance Hearing

Mass. Constable Assn.

P.O. Box 266

Boston MA 02114

Herbert N. Alleyne

Sivalle, Jodrey + Assn
One Devonshire Place, 24th fl
Boston MA 02109

C + C Constables + Associates

Box 220

Revere - Boston MA 02151

Yarker + Long Constables

295 Devonshire St.

Boston MA 02110

Mark L. Edwards

79 Brighton Ave

Suite 1-B

Allston MA 02134

Allen^{or} Knib

114 Oxford St

Camd. MA 02138

John L. Paglieroni + Assn.

579 Lincoln Ave

Saugus MA 01906

CONSTABLES WITH POWER

Akhtar, Hameed, 364 Rindge Avenue, Cambridge, EXP: 1994
Alleyne, Herbert N., Sr., 374 Blue Hill Avenue, Dorchester, EXP: 1994
Allosso, Paul A., Jr., 17 Warren Street, Cambridge, EXP: 1992
Angelo, Robert Paul, 6 Agassiz Street, Cambridge, EXP: 1993 (employed by City)
Bailey, James, 5 Ashburton Place, Cambridge, EXP: 1994
Baldasaro, Michael, 48 Porter Street, Cambridge, EXP: 1993
Billy, Karas, Sr., 258 Harvard Street, Cambridge, EXP: 1994
Bossarte, Dameian P., 4 Antrim Street, Cambridge, EXP: 1994
Branley, Kevin F., 402a Broadway, Cambridge, EXP: 1994
***Breen, Patricia, 31 Loomis Street, Cambridge EXP: 1992**
Brown, Hodges, Jr., 85 Bristol Street, Cambridge, EXP: 1994
Carrero, Salvador, 23 Hardwick Street, Cambridge, EXP: 1994
Carrington, Edric R., 42 Howard Street, Cambridge, EXP: 1992
***Cavallo, Ernest G., Jr., 273 High Street, Medford, EXP: 1992**
Connarton, John F., 44 Grant Street, Cambridge, EXP: 1993 (employed by City)
Conole, Francis, 22 Hunting Street, Cambridge, EXP: 1992
Crowley, James M., 26 Clay Street, Cambridge, EXP: 1993
Dailey, Kenneth P., 130 Garden Street, #1, Cambridge, EXP: 1994
Darling, Albert, 66 Fayette Street, Cambridge, EXP: 1993
Desrosiers, James, M., 35 Madison Avenue, Cambridge, EXP: 1993
DeVito, Joseph, 26 Porter Street, Cambridge, EXP: 1993
Dottin, Derrick E., 2 Walden Square Road, #107, Cambridge, EXP: 1992
Durrah, Charles M., 372 Concord Avenue, Cambridge, EXP: 1993
Edwards, Mark L., 79 Brighton Avenue, Allston, EXP: 1994
Evans, Daniel F., 70 Park Avenue, Hull, EXP: 1993 (employed by City)
Frammartino, Edward J., 70 Otis Street, Cambridge, EXP: 1993
Halloran, Sheila A., 130 Garden Street, Cambridge, EXP: 1994
Hartnett, John F., 700 Huron Avenue, Apt. 12d, Cambridge, EXP: 1993
Hayes, Alex, 8 Salem Street, Cambridge, EXP: 1992
Hewitt, George, 3 Chauncy Street, Cambridge, EXP: 1993 (employed by City)
Jones, James, E., 25 Putnam Avenue, Cambridge, EXP: 1992
Kelley, John J., 225 Walden Street, #J, Cambridge, EXP: 1994
Kessel, George, 219 Cambridge Road, Burlington, EXP: 1994 (employed by City)
Kinch, Robert S., 17 Dodge Street, Cambridge, EXP: 1994
Korb, Allan, 114 Oxford Street, Cambridge, EXP: 1992
Long, Daniel F., 33 Bateman Street, Roslindale, EXP: 1992
MacDonald, Frederick W., 14 Harrison Street, Roslindale, EXP: 1993
McCarthy, Lauren M., 4 Hosmer Street, Watertown, EXP: 1994 (employed by City)
McCree, Ramon, 311 Concord Avenue, Cambridge, EXP: 1992
McGowan, Robert J., 22 Brookfield Street, Cambridge, EXP: 1992
Medeiros, Richard, 167 Charles Street, Cambridge, EXP: 1992 (employed by City)
Micciche, Louis C., 46 Portsmouth Street, Cambridge, EXP: 1994
Montgomery, Kevin, 348 Franklin Street, Cambridge, EXP: 1994
Moore, Dean A., 11 Walnut Street, Malden, EXP: 1992
***Morris, Theodore, A., III, 31 Loomis Street, Cambridge, EXP: 1992**
Nardella, Joseph D., 413 Windsor Street, Cambridge, EXP: 1993 (employed by School)

CONSTABLES WITH POWER

-2-

O'Brien, Austin, Jr., 11 Spring Street, Brockton, EXP: 1993
O'Connor, Kevin, 117a Otis Street, Cambridge, EXP: 1993
Pappas, Gregory, 28 Gerard Street, Dracut, EXP: 1994
Percoco, Richard M., 9 Old Stagecoach Road, Bedford, EXP: 1993
Pini, Anthony D., 159 Cambridge Street, Cambridge, EXP: 1993 (employed by City)
Pugliese, Marc, 26 Clay Street, Cambridge, EXP: 1993
St. Martin, Marcel, 203 Prospect Street, Cambridge, EXP: 1994
Saccoccio, Daniel, 55 Otis Street, Cambridge, EXP: 1994
Scalese, Dominic R., 74 Holworthy Street, Cambridge, EXP: 1994
Sciandra, Philip, 24 Amory Street, Cambridge, EXP: 1992 (employed by City)
Scott, Clinton, 401 Broadway, Cambridge, EXP: 1992
Smith, Leanders H., 14 Loomis Street, Cambridge, EXP: 1994
Smith, Paul David, 285 Windsor Street, Cambridge, EXP: 1992
Stone, Howard I, 30 Normandy Avenue, #204, Cambridge, EXP: 1993
Strazzullo, William M., 74 Otis Street, Cambridge, EXP: 1993
Sullivan, David, 72 Whitelock Drive, Marlboro, EXP: 1994
Turano, Rona B., 203 Appleton Street, Cambridge, EXP: 1994
Watson, Barry, 215 Allston Street, Cambridge, EXP: 1993
West, Joseph S., 210 Columbia Street, Cambridge, EXP: 1992
White, Christopher, 348 Franklin Street, Cambridge, EXP: 1994
White, Farris, 4 University Road, Cambridge, EXP: 1992
Wojakowski, Mary Ann, 45 Harborview Street, Dorchester, EXP: 1993 (employed by City)
Yearwood, Craig W., 29 Cameron Avenue, Cambridge, EXP: 1994

* RE-APPOINTMENT PAPERS FILED.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

November 4, 1992

Mr. Russell B. Higley
City Solicitor
City Hall
Cambridge, MA 02139

Dear Russ:

Please be advised that Councillor Alice K. Wolf, Chair of the Ordinance Committee, has scheduled a public hearing for December 8, 1992 in the Sullivan Chamber as follows:

- | | |
|------------|--|
| 4:30 P. M. | Proposed amendment to the Municipal Code regarding the residency requirement on the appointment of constables. |
| 5:30 P. M. | Proposed amendment to the Municipal Code to prohibit bicycle riding on Cambridge Common. |
| 6:30 P. M. | Proposed amendment to the Municipal Code to prohibit dogs from swimming in Fresh Pond. |

A representative from your office has been requested to attend this hearing.

Thank you for your cooperation in this regard.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl



25.

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

October 19, 1992

To The Honorable, The City Council:

With reference to Council Order No. 24, dated 8/3/92, regarding a proposed ordinance amendment to eliminate the Cambridge residency requirement for appointment as a Constable, please find attached a response from Russell B. Higley, City Solicitor.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev
attachment



CITY OF CAMBRIDGE

Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Michael C. Costello
Assistant City Solicitor

Birge Albright
Legal Counsel

Gail S. Gabriel
Legal Counsel

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Diane Wynshaw-Boris
Legal Counsel

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Arthur J. Goldberg
Legal Counsel

October 15, 1992

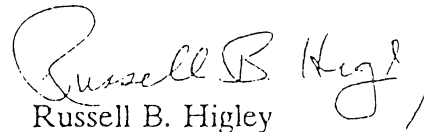
Mr. Robert W. Healy
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Cambridge, MA 02139

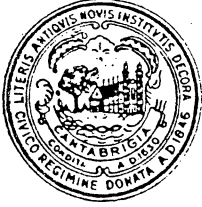
Re: *Council Order #24, dated 8/3/92*

Dear Mr. Healy:

In response to the request of the City Council, please find attached a proposed ordinance amendment to eliminate the Cambridge residency requirement for appointment as a Constable.

Very truly yours,


Russell B. Higley



City of Cambridge

In the Year One Thousand, Nine Hundred

AN ORDINANCE

In amendment to an ordinance entitled the "Cambridge Municipal Code"

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

Chapter 2.20 of the Code (Constables) is hereby amended so as to eliminate the Cambridge residency requirement for appointment as a Constable. Chapter 2.20, as amended, will read as follows:

Chapter 2.20

Constables

Sections:

2.20.010	Appointment
2.20.020	Bond required when
2.20.030	Fees

2.20.010 Appointment

The City Manager shall appoint Constables for the term of three years beginning with the first day of January in the year of appointment.

2.20.020 Bond required when

Appointments of Constables shall specify in each case whether the appointment is for a position connected with the City or County service to serve without bond, or for the service of civil process upon the filing of the bond required by law.

2.20.030 Fees

The fee for Constable appointed to serve civil process under this chapter shall be fifty dollars for each three-year term of office which shall be paid to the City Clerk prior to their assuming their duties.

ORD#3\Constabl\OrdRev

Chapter 2.20

CONSTABLES

Sections:

- 2.20.010 Appointment—Qualifications.
 2.20.020 Bond required when.
 2.20.030 Fees.
 2.20.040 Residency requirements—
 Exemptions.
 2.20.050 Residency requirements—
 Current appointees.

2.20.010 Appointment—Qualifications.

The City Manager shall appoint Constables for the term of three years beginning with the first day of January in the year of appointment. ~~Notwithstanding anything to the contrary, all such Constables with the power to serve civil process shall be residents of the City upon appointment and shall remain residents of the City during their tenure in office, except for Health Inspectors in the Health Department who need not reside, but who shall cease to act as Constables and shall be removed from such office immediately upon the termination of employment as a Health Inspector, unless they reside at that time in the City, as required of other Constables.~~ (Ord. 946 (part), 1980: prior code Ch. 2 Art. 38 (part))

2.20.020 Bond required when.

Appointments of Constables shall specify in

each case whether the appointment is for a position connected with the City or County service to serve without bond, or for the service of civil process upon the filing of the bond required by law. (Ord. 946 (part), 1980: prior code Ch. 2 Art. 38 (part))

2.20.030 Fees.

The fee for Constables appointed to serve civil process under this chapter shall be fifty dollars for each three-year term of office which shall be paid to the City Clerk prior to their assuming their duties. (Ord. 946 (part), 1980: prior code Ch. 2 Art. 38 (part))

2.20.040 Residency requirements—
Exemptions.

~~The residency required in this chapter shall apply to the appointment of Constables with the power to serve civil process, not to the appointment of Constables with power of arrest.~~ (Ord. 946 (part), 1980: prior code Ch. 2 Art. 38 (part))

2.20.050 Residency requirements—Current
appointees.

~~The residency required in this chapter shall not take effect for those Constables who hold appointments at the time of passage of the ordinance codified in this chapter nor affect their eligibility for reappointment.~~ (Ord. 946 (part), 1980: prior code Ch. 2 Art. 38 (part))



CITY OF CAMBRIDGE

Office of the City Solicitor
City Hall

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Cambridge, Massachusetts 02139

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Legal Counsel

Gail S. Gabriel
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Legal Counsel

Laura H. Yager
Legal Counsel

Linda A. Stamper
Legal Counsel

Arthur J. Goldberg
Legal Counsel

March 19, 1993

Robert W. Healy
City Manager
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Residency requirement for Constables

Dear Mr. Healy:

At the Ordinance Committee hearing on December 8, 1992, the Deputy City Solicitor agreed to furnish the City Council with a legal opinion regarding the residency requirement for Constables in Cambridge Municipal Code, § 2.20.010. My opinion follows.

QUESTION

The question, as I understand it, is whether Cambridge, by ordinance, may require that constables with the power to serve civil process must be Cambridge residents.

DISCUSSION

"The office of constable is an ancient one" Hartley v. Granville, 216 Mass. 38, 40 (1913). It existed in England under the common law before Massachusetts was settled. See 1 McQuillin,

Municipal Corporations, § 1.15 (1987). In 19th-Century Massachusetts, constables were "local officers of the peace elected by cities or towns". Leavitt v. Leavitt, 135 Mass. 191, 193 (1883). In Barre v. Greenwich, 18 Mass. (1 Pick.) 129 (1823), it was held that constables are town officers who must be inhabitants of the town in which they are chosen.

The law pertaining to constables has now been codified to some extent in G.L. c. 41, §§ 91-95. Section 91 provides that, in a city, constables shall be appointed by the Mayor (in Cambridge, the City Manager) for terms not exceeding three years. Section 91B states the qualifications for constables as follows:

Constables shall not be appointed ... except as hereinafter provided. A person desiring to be appointed as aforesaid shall make a written application therefor to the appointing authority stating his reasons for desiring such appointment and such information as may be reasonably required by said authority relative to his fitness for said office. Such application shall also contain a statement as to the moral character of the applicant signed by at least five reputable citizens of the city or town of his residence, one of whom shall be an attorney-at-law. The appointing authority shall also investigate the reputation and character of every applicant and his fitness for said office. The chief of police or other official having charge of the police shall upon request give the appointing authority all possible assistance in making such investigation. The office of constable shall be filled only by appointment of an applicant hereunder who is found by the appointing authority, after investigation as aforesaid, to be a person of good repute and character and qualified to hold said office.

General Laws, c. 41, § 109 provides, inter alia,

... Unless otherwise provided by general or special law, ordinance or by-law, a person need not, in order to accept appointment to a public office in a town (or city) ... be a resident of such town (or city) ...

The Cambridge Municipal Code, § 2.20.010, provides, in part:

The City Manager shall appoint Constables for the term of three years beginning with the first day of January in the year of appointment. Notwithstanding anything to the contrary, all such Constables with the power to serve civil process shall be residents of the City upon appointment and shall remain residents of the City during their tenure in office ...

Under the Home Rule Amendment, any city may, by the adoption of ordinances, exercise any power or function which is not inconsistent with the Constitution or laws enacted by the General Court. Mass. Const. Amend. Art. 2, §6.

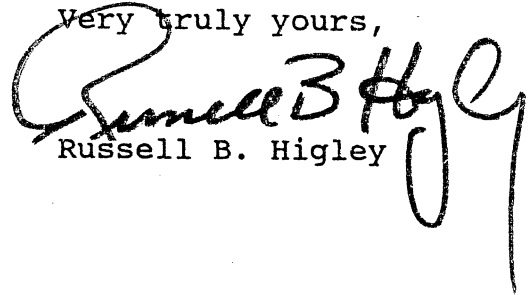
Thus, the question here is whether the residency requirement in Cambridge Code § 2.20.010 is inconsistent with state law. In my opinion, it is not.

The only reference to residence in G.L. c. 41, § 91B is in the following sentence:

... Such application (for the position of constable) shall also contain a statement as to the moral character of the applicant signed by at least five reputable citizens of the city or town of his residence, one of whom shall be an attorney-at-law.

I do not believe that the Cambridge ordinance is inconsistent with this sentence, especially when one takes into account the history of the position of constable and the fact that G.L. c. 41, § 109 specifically allows the imposition of a residency requirement by ordinance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Russell B. Higley". The signature is written in a cursive style with a large initial "R" and a long vertical stroke at the end.

Russell B. Higley

RBH/jab

OPIN#2\Constabl.Res



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

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(617) 349-4260

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D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

TO: Councillor Alice K. Wolf, Chair
Ordinance Committee

FROM: Margaret ^{MD} Drury, City Clerk

DATE: March 25, 1993

SUBJECT: Number of Constables Appointed in Boston

At its last meeting on the issue of the residency requirements for constables, the Ordinance Committee requested information regarding the number of constables appointed by and for the City of Boston.

Upon checking with the Office of the Mayor of Boston, I was referred to Frank Wilson, Workmen's Compensation Department, City of Boston. He informed me that there are 135 constables with power to serve civil process in Boston.



25.

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

October 19, 1992

To The Honorable, The City Council:

With reference to Council Order No. 24, dated 8/3/92, regarding a proposed ordinance amendment to eliminate the Cambridge residency requirement for appointment as a Constable, please find attached a response from Russell B. Higley, City Solicitor.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev
attachment



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October 15, 1992

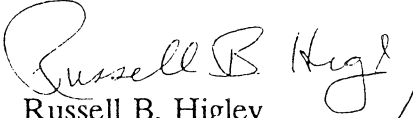
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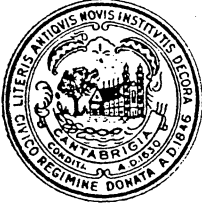
Re: *Council Order #24, dated 8/3/92*

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City of Cambridge

In the Year One Thousand, Nine Hundred

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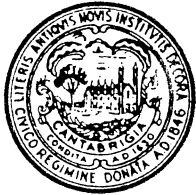
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ORD#3\Constabl\OrdRev



25.

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

October 19, 1992

To The Honorable, The City Council:

With reference to Council Order No. 24, dated 8/3/92, regarding a proposed ordinance amendment to eliminate the Cambridge residency requirement for appointment as a Constable, please find attached a response from Russell B. Higley, City Solicitor.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev
attachment



CITY OF CAMBRIDGE

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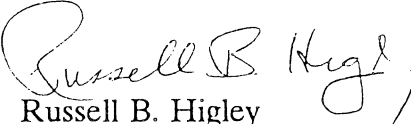
Mr. Robert W. Healy
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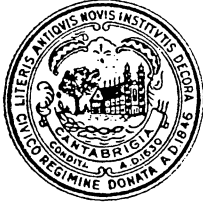
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City of Cambridge

In the Year One Thousand, Nine Hundred

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The fee for Constable appointed to serve civil process under this chapter shall be fifty dollars for each three-year term of office which shall be paid to the City Clerk prior to their assuming their duties.

ORD#3\Constabl\OrdRev



25.

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

October 19, 1992

To The Honorable, The City Council:

With reference to Council Order No. 24, dated 8/3/92, regarding a proposed ordinance amendment to eliminate the Cambridge residency requirement for appointment as a Constable, please find attached a response from Russell B. Higley, City Solicitor.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev
attachment



CITY OF CAMBRIDGE

Office of the City Solicitor
City Hall

795 Massachusetts Avenue
Cambridge, Massachusetts 02139

Tel. (617) 349-4121

Fax. (617) 349-4307

Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Michael C. Costello
Assistant City Solicitor

Birge Albright
Legal Counsel

Gail S. Gabriel
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Legal Counsel

Arthur J. Goldberg
Legal Counsel

October 15, 1992

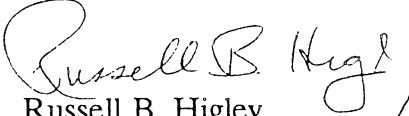
Mr. Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

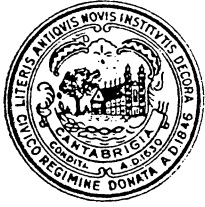
Re: *Council Order #24, dated 8/3/92*

Dear Mr. Healy:

In response to the request of the City Council, please find attached a proposed ordinance amendment to eliminate the Cambridge residency requirement for appointment as a Constable.

Very truly yours,


Russell B. Higley



City of Cambridge

In the Year One Thousand, Nine Hundred

AN ORDINANCE

In amendment to an ordinance entitled the "Cambridge Municipal Code"

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

Chapter 2.20 of the Code (Constables) is hereby amended so as to eliminate the Cambridge residency requirement for appointment as a Constable. Chapter 2.20, as amended, will read as follows:

Chapter 2.20

Constables

Sections:

2.20.010	Appointment
2.20.020	Bond required when
2.20.030	Fees

2.20.010 Appointment

The City Manager shall appoint Constables for the term of three years beginning with the first day of January in the year of appointment.

2.20.020 Bond required when

Appointments of Constables shall specify in each case whether the appointment is for a position connected with the City or County service to serve without bond, or for the service of civil process upon the filing of the bond required by law.

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RWH/mev
attachment



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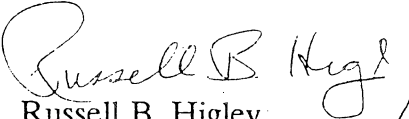
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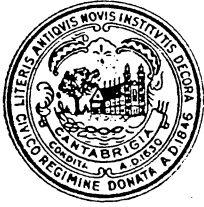
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City of Cambridge

In the Year One Thousand, Nine Hundred

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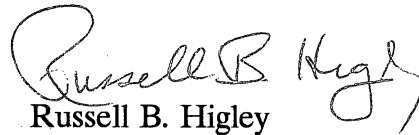
Mr. Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: *Council Order #24, dated 8/3/92*

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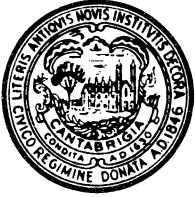
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EXECUTIVE DEPARTMENT
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October 19, 1992

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Very truly yours,

Robert W. Healy
City Manager

RWH/mev
attachment

Consent Agenda # 25

Proposed amendment to eliminate
the Cambridge residency require-
ment for appointment as a constable.

4/12/93 Report accepted -
NOT TO APPROVE
on a voice vote of 8
members.

In City Council,

Oct. 19, 1992

Referred to the
Ordinance
Committee
Copy sent to Ordinance
Committee 10/22/92 (d)



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Arthur J. Goldberg
Legal Counsel

March 19, 1993

Robert W. Healy
City Manager
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Residency requirement for Constables

Dear Mr. Healy:

At the Ordinance Committee hearing on December 8, 1992, the Deputy City Solicitor agreed to furnish the City Council with a legal opinion regarding the residency requirement for Constables in Cambridge Municipal Code, § 2.20.010. My opinion follows.

QUESTION

The question, as I understand it, is whether Cambridge, by ordinance, may require that constables with the power to serve civil process must be Cambridge residents.

DISCUSSION

"The office of constable is an ancient one" Hartley v. Granville, 216 Mass. 38, 40 (1913). It existed in England under the common law before Massachusetts was settled. See 1 McQuillin,

Municipal Corporations, § 1.15 (1987). In 19th-Century Massachusetts, constables were "local officers of the peace elected by cities or towns". Leavitt v. Leavitt, 135 Mass. 191, 193 (1883). In Barre v. Greenwich, 18 Mass. (1 Pick.) 129 (1823), it was held that constables are town officers who must be inhabitants of the town in which they are chosen.

The law pertaining to constables has now been codified to some extent in G.L. c. 41, §§ 91-95. Section 91 provides that, in a city, constables shall be appointed by the Mayor (in Cambridge, the City Manager) for terms not exceeding three years. Section 91B states the qualifications for constables as follows:

Constables shall not be appointed ... except as hereinafter provided. A person desiring to be appointed as aforesaid shall make a written application therefor to the appointing authority stating his reasons for desiring such appointment and such information as may be reasonably required by said authority relative to his fitness for said office. Such application shall also contain a statement as to the moral character of the applicant signed by at least five reputable citizens of the city or town of his residence, one of whom shall be an attorney-at-law. The appointing authority shall also investigate the reputation and character of every applicant and his fitness for said office. The chief of police or other official having charge of the police shall upon request give the appointing authority all possible assistance in making such investigation. The office of constable shall be filled only by appointment of an applicant hereunder who is found by the appointing authority, after investigation as aforesaid, to be a person of good repute and character and qualified to hold said office.

General Laws, c. 41, § 109 provides, inter alia,

... Unless otherwise provided by general or special law, ordinance or by-law, a person need not, in order to accept appointment to a public office in a town (or city) ... be a resident of such town (or city) ...

The Cambridge Municipal Code, § 2.20.010, provides, in part:

The City Manager shall appoint Constables for the term of three years beginning with the first day of January in the year of appointment. Notwithstanding anything to the contrary, all such Constables with the power to serve civil process shall be residents of the City upon appointment and shall remain residents of the City during their tenure in office ...

Under the Home Rule Amendment, any city may, by the adoption of ordinances, exercise any power or function which is not inconsistent with the Constitution or laws enacted by the General Court. Mass. Const. Amend. Art. 2, §6.

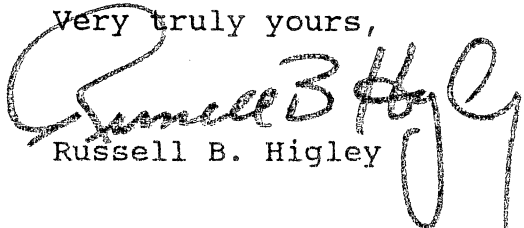
Thus, the question here is whether the residency requirement in Cambridge Code § 2.20.010 is inconsistent with state law. In my opinion, it is not.

The only reference to residence in G.L. c. 41, § 91B is in the following sentence:

... Such application (for the position of constable) shall also contain a statement as to the moral character of the applicant signed by at least five reputable citizens of the city or town of his residence, one of whom shall be an attorney-at-law.

I do not believe that the Cambridge ordinance is inconsistent with this sentence, especially when one takes into account the history of the position of constable and the fact that G.L. c. 41, § 109 specifically allows the imposition of a residency requirement by ordinance.

Very truly yours,



Russell B. Higley

RBH/jab

OPIN#2\Constabl.Res

City of Cambridge

The Ordinance Committee held a public hearing on March 25, 1993, beginning at 8:15 p.m. in the Sullivan Chamber on a proposed amendment to Chapter 2.20 of the Municipal Code to eliminate the residency requirement for constables. Present at the hearing were: Councillor Alice K. Wolf, Chair of the Committee; Councillor Francis H. Duehay; Councillor Sheila T. Russell; and Councillor William H. Walsh.

Councillor Wolf convened the hearing and explained that this was the second hearing on this issue and its purpose was to receive information the Committee had requested at its December 8, 1993 hearing on the matter. She noted that the Ordinance Committee had received additional information from the Law Department and the City Clerk. Councillor Wolf said that the City Clerk had reported that there are 135 constables with power to service civil service in Boston.

Councillor Wolf stated that the City Solicitor has given his opinion that the residency requirement is legal in a letter which is attached to this report as Attachment A.

Councillor Duehay moved that the matter of the proposed abolition of the residency requirement for constables be reported to the City Council with a recommendation that it not be approved.

Allen Korb, 114 Oxford Street, stated that he supported Councillor Duehay's motion.

Domenic Scalese, 174 Holworthy Street, also spoke in support of the motion.

The motion passed upon a unanimous voice vote.

Thereupon Councillor Wolf noted that the matter of the Ames Street Tunnel remains on the table in the Ordinance Committee.

Councillor Russell moved that the matter be taken off the table and the motion passed on a unanimous voice vote.

Councillor Russell moved that the matter be referred to the City Council for a final decision and the motion passed on a unanimous voice vote.

The hearing adjourned at 8:15 p.m.

For the Committee,


Councillor Alice K. Wolf
Chair

2.

COMMITTEE REPORTS

0-6

Ordinance Committee Report for a hearing held on March 25, 1993 relative to a proposed amendment to the Municipal Code to eliminate the residency requirement for constables.

In City Council,

April 12, 1993

2A - Constable - report accepted that it not be approved

2B - Ames Street - report accepted 7-1-1. Referred to the City Manager.