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City of Cambridge

ORDINANCE COMMITTEE MEMBERS

In City Council October 28, 2002

*Councillor David P. Maher, Co-Chair
Councillor Brian Murphy, Co-Chair
Vice Mayor Henrietta Davis
Councillor Marjorie C. Decker
Councillor Anthony D. Galluccio
Councillor Kenneth E. Reeves
Councillor E. Denise Simmons
Councillor Timothy J. Toomey
Mayor Michael A. Sullivan*

The Ordinance Committee held a public hearing on October 2, 2002, beginning at 4:20 P.M. in the Sullivan Chamber, to discuss a proposed amendment to Chapter 2.118 of the Municipal Code, Statements of Financial Interests by Certain Officials and Persons Conducting Business with the City, which would make available on the City of Cambridge website the list of municipal officials and statements of financial interests filed with the Election Commission pursuant to this chapter.

Present at the hearing were Councillor David P. Maher and Councillor Brian Murphy, Co-Chairs of the Committee, Vice-Mayor Henrietta Davis, Councillor Timothy Toomey, Councillor E. Denise Simmons, Mayor Michael A. Sullivan, City Clerk D. Margaret Drury and Elaine McGrath, City Clerk's office. Also present were Don Drisdell, Deputy City Solicitor, Attorney Arthur Goldberg, Law Department, Allison Crump, Vice-Chair, Historical Commission, Suzanne Green, Historical Commission, Wyllis Bibbins, Historical Commission, Jennifer Pinck, Vice-Chair, Zoning Board of Appeals, Wayne Drugan, Election Commissioner, Darleen Bonislawski, Election Commission, Artis B. Spears, Election Commission, Lynne Molnar, Election Commission, and Elie Yarden, 143 Pleasant St., Cambridge, and member of the Board of the Association of Cambridge Neighborhoods (ACN).

Councillor Maher convened the hearing and explained that the proposal to make the financial statements of city officials available on the web was the result of a City Council order by Councillor Toomey; he invited Councillor Toomey to give a brief overview of the proposal.

Councillor Toomey stated that it was a simple change. It would affect only those officials and members of boards and commissions who are required to file written reports now. To access this information now, a person has to request a Statement of Financial Interests from the Election Commission. Given the public access via computers, Councillor Toomey would like to make it easier for the public, especially elderly and physically challenged people, to get this information. Because public officials, including members of boards and commissions, shape city policy with lasting impacts, Councillor Toomey believes it is appropriate to let the public know who's making decisions in the city.

In response to the concerns raised about easy net access without identification, Councillor Toomey suggests that the city can create a mechanism which requires people to identify themselves before disclosure. Councillor Toomey noted that members of boards and commissions are currently subject to reporting and disclosure requirements under the Municipal Code. However, if the concern is about disclosure of information about the unpaid volunteers on boards and commissions, then the solution may be to exempt these personnel from this requirement.

Councillor Maher then acknowledged the city staff members present and invited the public to speak.

Ms. Crump, Vice-Chair of the Historical Commission, stated that web disclosure was discussed at the last board meeting of the Historical Commission. Chairman King and the members were uniformly concerned about the implications of the proposal. She accepts the nuisance factor of filing statements of financial interests, because they serve a public purpose. However, she believes there is a profound distinction between the current Election Commission process and unsupervised, unregulated access to sensitive information through the Web. Specific concerns are the potential for identity theft, and the chilling effect web disclosure could have on candidates for boards. She stated that this proposal is a step in the wrong direction in terms of privacy, and that it would limit the pool of applicants for positions on boards and commissions. Personally, she would have serious misgivings about continued participation on the Historical Commission if web disclosure is allowed.

Councillor Maher asked Ms. Crump what specific kinds of information are vulnerable to identity theft. According to Ms. Crump, information such as property ownership and home addresses on a financial statement can help people gain other information and construct an identity. In her experience, there have been members of the public who cross the line and approach members of boards at their homes or on a very personal basis about controversial issues. The accumulation of personal data from various sources, including a financial statement, can provide people with a great deal of information they can use for illegitimate, even criminal purposes.

Ms. Green from the Historical Commission spoke in opposition to the web posting. According to Ms. Green, there is already a proper way available to get the information now, with disclosure subject to monitoring and restrictions by the Election Commission. Putting the reports on the web is absolutely the wrong thing to do as far as she is concerned. With web disclosure, the city may lose commission members.

Ms. Pinck of the Zoning Board of Appeals supports disclosure of information about officials and the public's right to access information about board members and their backgrounds; the web is a useful tool to do this. At the same time, she seconds Ms. Crump's analysis of the threat to officials' privacy and identity. Disclosure of information on the web could cause a cascade of information to become available and lead to a loss of privacy. As an independent consultant, Ms. Pinck is happy for people to know about her business but she does not want everyone to know what she owns and who

may own it with her. The current system of gaining information is not a terrible burden to the public; perhaps the web should be used only to file a request.

Mr. Bibbins of the Historical Commission spoke in opposition to the proposal. For him, it raises a privacy issue, especially if it becomes another source of commercial junk mail. The public can access the information now. If there are problems with the Election Commission process, the Council could concentrate on improving that rather than adding web access.

Mr. Yarden of 143 Pleasant Street, Cambridge, and of the ACN, spoke as a citizen who has devoted a great deal of time over the last six to seven years to civic matters and who has served on commissions. Citing his experience before some boards when he felt that members did not understand the issues, he stated that disclosure could help the public to find out members' backgrounds and competency in board matters, and avoid bad appointments. Personally, he would be willing to serve on boards and to disclose his interests and financial information on the web; his position is that by serving as an elected or appointed official, a person gives up his privacy.

Councillor Maher raised several questions about the current ordinance. First, he asked Mr. Drisdell, the Deputy City Solicitor, if the requirement of a written request for a financial statement is legal. Attorney Drisdell explained that in 1995, there was a legal challenge to this provision. The supervisor of public records analyzed the provision and ruled that it was invalid and inconsistent with public records law; the Council was advised of this. Although the language of the Municipal Code continues to require a written request, this is not enforceable or required in practice. The current "requirement" of a written request is simply not relevant; requests do not need to be in writing.

Councillor Maher then asked if individuals are currently notified of requests; Ms. Bonislowski stated that they are not, because written requests cannot be legally required. Mr. Drisdell noted that, as public records, financial statements are available without any notification to officials. In response to his question of how many requests the Election Commission receives in a year, Ms. Bonislowski stated that there are fewer requests than when the financial statements were first required. Even though early requests had to be in writing, there are fewer now, maybe a handful a year.

Mayor Sullivan and Councillor Toomey noted that some information about officials, such as square footage of homes and assessed value, is available through other means such as assessors' records, which are currently accessible on the web.

Councillor Maher expressed his support for the effort to make public information accessible, which is the intent behind the proposal. As an elected official, he has no problem with disclosing his financial information. At the same time, he is concerned about possible abuse of the privacy of volunteer board members and their uneasiness about disclosure. If the committee does not take action on the proposal today, he suggests leaving the issue in committee in order to consider the concerns of board volunteers. Councillor Toomey stated that he would welcome the opportunity to consider

changes to the proposal that would address the concerns of members of boards and commissions.

Councillor Simmons also appreciates the intent of the proposal to make information more accessible, but cautions that the Council must consider the concerns raised today. She raised two specific issues: the effect of disclosure on youth representatives on the Kids' Council, and possible discouragement of volunteers from boards. While she favors the proposal, she notes that web disclosure could put people off from participating.

Because it is easy to pull information off the web, Vice-Mayor Davis noted that identity theft is a real risk with serious consequences for innocent people, including possible criminal charges, damage to credit rating, and inability to make contracts. Her perspective is that elected officials put themselves at this risk, but not volunteers. Vice-Mayor Davis thanked the Historical Commission for bringing the issues of privacy and criminal use of information to the committee's attention.

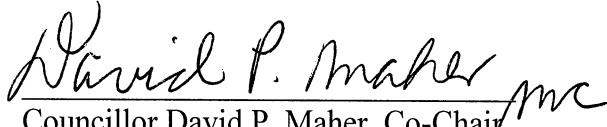
Mayor Sullivan is familiar with the problems of identity theft, having prosecuted violators, and does not want to add to the problem by making such theft easier. He agrees that elected and paid officials such as councillors have assumed this risk, but board members have not. His position is that members of boards and commissions should still have to file financial statements, but should not be subject to web searches.

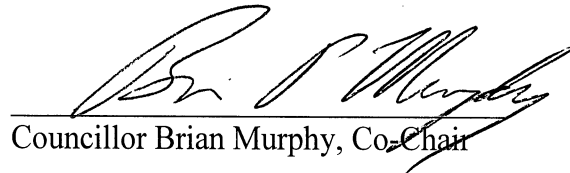
In response to Councillor Toomey's question about whether Social Security numbers are listed on the financial statement, Ms. Bonislowski stated they are not. However, Mayor Sullivan pointed out that a person could use information on the financial statement such as property ownership, loans, and family names to access other sources, which would add to the risk of eventually acquiring a Social Security number. According to Councillor Toomey, a lot of information is available through the Election Commission and other departments already. The Council needs to consider whether the current disclosure process exposes board members to the risk of criminal information-gathering, and to consider how to protect these volunteers. He looks forward to working with board members to provide this protection, including the options of changing the current disclosure requirements and modifying this proposal.

Mayor Sullivan made a motion to hold the proposal in committee, and to inform people of the next steps, including a working meeting of the committee. The motion passed on a voice vote, without objection.

Councillor Maher thanked all present for attending. The meeting was adjourned at 5:00 P.M.

For the Committee,


Councillor David P. Maher, Co-Chair


Councillor Brian Murphy, Co-Chair

S-315

Committee Report #2

Committee Report from Councillor David P. Maher and Councillor Brian Murphy, Co-Chairs of the Ordinance Committee, for a meeting held on October 2, 2002 to discuss a proposed amendment to Chapter 2.118 of the Municipal Code, Statements of Financial Interests by Certain Officials and Persons Conducting Business with the City, which would make available on the City of Cambridge website the list of municipal officials and statements of financial interests filed with the Election Commission pursuant to this chapter.

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**REPORT ACCEPTED.
REMAINS IN COMMITTEE.**