



Finance Committee Report

City of Newton In City Council

Monday, September 11, 2017

Present: Councilors Gentile (Chair), Norton, Brousal-Glaser, Rice, Blazar, Fuller, and Lappin

Absent: Councilor Ciccone

Also present: Councilors Leary, Albright, Auchincloss, Hess-Mahan, Sangiolo, Crossley, Schwartz, and Baker

City staff present: Joshua Krintzman (Chair; Charter Commission), Rhanna Kidwell (Charter Commission), Bryan Barash (Charter Commission), Brooke Lipsitt (Charter Commission) Chris Steele (Charter Commission), David Olson (City Clerk/Clerk of the Council), Bruce Proia (Fire Chief), Greg Gentile (Fire Captain), Josh Morse (Commissioner of Public Buildings), Jim McGonagle (Commissioner of Public Works), Susan Dzikowski (Comptroller)

Referred to Programs & Services Committee

#138-17(2) Request to place question of new Charter on the November ballot

CITY CLERK requesting the City Council, as required by MGL 43B, Section 11, order the Newton Charter Commission's proposed new charter to be submitted to the voters of the City of Newton for their approval on the November 7, 2017 municipal ballot. The ballot question to read: "Shall the City of Newton approve the new home rule charter recommended by the Charter Commission as summarized below: Yes. No." [06/14/17 @ 2:42PM]

Action: Programs & Services Approved 7-0

Note: The Programs & Services and Finance Committee met jointly to discuss the above item. The Programs & Services Committee and the Finance Committee met on September 5, 2017 to discuss the item. At that meeting, the Programs & Services Committee held the item, as several Councilors requested that the Charter Commission meet again to review and possibly change the ballot question wording. The Charter Commission met and made changes to the ballot question. The redline version of the amended text is below:

Shall this city approve the new charter recommended by the charter commission, summarized below?

YES NO

SUMMARY

Effective with the 2019 municipal election the size of the city council will be reduced from 24 members to 12, with ~~8 members representing one councilor from each of the~~ 8 wards and 4 ~~members~~councilors who can live anywhere in the city. All ~~members~~councilors will be elected by the voters citywide for 2- year terms. Voters will continue to elect a mayor as the city's chief executive officer for a 4-year term and

the school committee will continue to be a 9-member body with ~~8 members representing one member from each of the 8~~ wards plus the mayor, all elected citywide. Term limits, which currently exist for the school committee, will be added for the mayor (3 consecutive terms/12 years) and councilors (8 consecutive terms/16 years).

Effective with the adoption of this charter, school committee responsibilities will be updated to reflect ~~changes in current practice and~~ state law. ~~Modern~~Current practices will be ~~adopted~~codified for financial reporting, including an annual financial audit, A newly required inventory of capital assets ~~and progress on~~will accompany the capital improvement plan. Voters' access to initiative petition and referendum will be maintained, ~~with~~adding a minimum of 20 per cent participation required in such votes. Public comment policies will be established by each city body. Charter review will be required every 10 years.

Councilor Baker expressed his appreciation to the Charter Commission members in attendance for their willingness to review the ballot language and make changes. Councilors Baker and Schwartz provided the attached memo to members of both Committees on the revisions to the Charter ballot language and questions pertaining to the proposed Charter amendments. In their opinion, the revised ballot language is an improvement but does not make it clear that the proposed changes eliminate all Ward Council seats and eliminate the second Councilor at-large seat from each Ward. They would suggest that the Law Department's summary of the proposed Charter, which will be included in the Election Commission mailing, further clarify what the proposed changes are and what is eliminated from the existing Charter. In addition, there is a question whether state law (attached) relating to new Charters would require a modified multi member body like the City Council to have an odd number of Councilors. The City's Law Department is not willing to give a formal legal opinion on this but informally indicated that the Charter Commission exempted the City Council in the definition of multi-member bodies in the proposed Charter and that Chapter 43B (attached) of state law "allows local Charters to have provisions that state law would not otherwise permit." It may make sense to contact the Attorney General's Office for a formal opinion on this matter. The memo also highlighted that there is a side-by-side comparison of the current Charter and proposed Charter available through the Clerk's Office, which, if the Election Commission approves, will be available to the public on the Election Commission website.

The Finance Chair spoke on the language in the ballot question related to financial reporting. The Chair thanked the Charter Commission for making amendments to the language, as he believe the revised ballot language addresses the concerns around the original financial reporting language. He pointed out that the current Charter has language specific to the Capital Improvement Program but understands that the Charter Commission believes that there is a specific need for a capital asset inventory.

Councilor Baker moved approval of the item with the understanding that the Council request that the Law Department consider clarifying what the proposed changes are and what is eliminated

from the existing Charter in its summary for the Election Commission mailing. The motion carried by a vote of seven in favor and none opposed in the Programs and Services Committee. As the item is only referred to the Programs and Services Committee, only those Committee members will vote on the motion.

Referred to Finance Committee

#220-17 **Transfer \$6,400 from Budget Reserve to mail Charter Commission Report**
HIS HONOR THE MAYOR requesting authorization to transfer the sum of six thousand four hundred dollars (\$6,400) from Budget Reserve to supplement funds previously appropriated to the Charter Commission in order to distribute a printed copy of the Charter Commission's final report to all voter households, as required by Massachusetts state law. [07/06/17 @ 9:03 AM]

Action: **Finance Approval Failed to Carry 1-5-1 (Norton, Brousal-Glaser, Rice, Blazar, Lappin opposed; Gentile abstaining)**

Note: The Programs & Service and Finance Committee met jointly to discuss the above item. The Programs & Services Committee and the Finance Committee met on September 5, 2017 to discuss the item along with Docket #138-17(2), which is a request to place the proposed Charter on the ballot . There was concern regarding the ballot question wording and Council members asked the Charter Commission to meet and possibly revise the ballot question language; therefore, the respective committees held the items until the Charter Commission could meet.

The above request is to authorize the transfer of \$6,400 from Budget Reserve to provide additional funding to the Charter Commission to mail out a printed copy of the Charter Commission's final report to all voter households, as required by state law.

Several Councilors voiced their opposition to the "yes" checkbox included in the final report. They believe it shows a clear bias about how to vote on the Charter. The City is funding the printing and mailing of the report and a number of Councilors were not comfortable using taxpayer funds to pay for something that gives direction on how to vote. It may not be clear to voters that the mailing is not from the City, as the City's address will be on the literature.

There was a suggestion that the report could have a disclaimer stating that it is a piece advocacy or that it is not from the City of Newton but the Charter Commission. City Clerk David Olson stated that the text inside of the report states that it is from the Charter Commission and the intent of the Commission to advocate for its recommendation.

Charter Commission members Brooke Lipsitt and Rhanna Kidwell explained that the Charter Commission is an elected body charged with reviewing the Charter, proposing changes, and advocating for their final recommendations. The checkbox in the report is part of advocating for the proposed changes. The report is on file with the State, which does not allow any change to the report once filed. In addition, the Charter Commission's consultants at the Collins Center, which is nationally recognized

for its expertise in Charter amendments, urged the Commission to include the checkbox in the report, as it is common practice.

A Councilor pointed out that the Charter Commission unanimously supported the proposed changes to the Charter. It is appropriate that they advocate for approval of their recommended changes. The City will be sending out a neutral summary of the changes with statements from the pro and con sides of the proposed Charter amendments.

There was a question regarding what would happen if the Council did not approve the requested transfer. The Administration would have to find the money for the mailing. With that Councilor Fuller moved approval of the item, which failed by a vote of one in favor, five opposed, and one abstention.

Referred to Programs & Services and Finance Committees

#259-17 Increase the number of years the City can lease Weeks House

HIS HONOR THE MAYOR requesting consideration of a request to petition the General Court for special legislation to increase the number of years the City of Newton is authorized to lease the Weeks House from the current period of sixty-five years, as authorized by the Acts of 1981, Chapter 330, to a period of up to ninety-nine years.
[08/07/17 @ 2:23 PM]

Programs & Services Held 6-0 (Schwartz not voting) on 09/11/17

Action: Finance Held 7-0

Note: The Committee met jointly with the Programs and Services Committee to discuss this item. Director of Newton Community Development Foundation (NCDF) Jeanne Strickland and Counsel for NCDF Alan Schlesinger joined the Committees for discussion of the request that the city petition the General Court for special legislation that authorizes the City to lease the Weeks School for a term not to exceed ninety-nine years and to grant a lease extension to NCDF. The City sought and received special legislation in 1981 to lease the Weeks House for a term of 65 years. In 1983, the City and NCDF signed a 65-year lease agreement.

Attorney Schlesinger went on to explain that an extension of the lease would require the City to go through the procurement process including soliciting requests for proposals for the additional 24 years added to the lease if the special legislation is approved. It is likely that the only bidder will be NCDF, as the additional 24 years would begin in 2048. Attorney Schlesinger pointed out that it makes sense for the City to request special legislation to authorize the City to grant the lease extension for Weeks House to NCDF.

NCDF is investigating all refinancing opportunities for the Weeks House. The 75-unit building needs significant capital improvements. HUD and other lenders require that leases extend at least 10 years beyond a 25-year term loan. If the General Court approves the special legislation, the request to extend the lease would come before the City Council for approval.

There was a question regarding whether NCDF has ever had to pay the City the additional 20% of the amount by which gross effective rent for any year exceeds the amount projected by the original lender as of the date of first occupancy, as required by the lease agreement. NCDF has paid the 20% payment every year except from 1996 to 2000 when the lease was amended to waive the 20% for five years.

Members of both Committees would like the Chief Procurement Officer's input before taking action on this item. Councilor Auchincloss moved hold in Programs & Services Committee and Councilor Lappin moved hold in the Finance Committee. The motions in both Committees were supported unanimously.

#218-17 Acceptance and expenditure of the Assistance to Firefighters' Grant

HIS HONOR THE MAYOR requesting authorization to accept and expend the Assistance to Firefighters' grant, which is a 90/10 reimbursable grant in the amount of seventy-six thousand ninety-one dollars (\$76,091) for the purchase of Personal Safety/Bailout systems. [07/03/17 @ 12:28 PM]

Action: **Finance Approved 7-0**

Note: Fire Chief Bruce Proia and Fire Captain Greg Gentile presented the request to authorize the acceptance and expenditure of a \$76,091 grant as part of the Assistance to Firefighters Grant Program provided by the Federal Emergency Management Agency (FEMA). The grant is a 90/10 reimbursable grant; therefore, the City is responsible for providing \$7,609 in matching funds.

Personal bailouts systems allow firefighters to escape through a window from a multi-story building. It is an effective piece of safety equipment that can save a firefighters life. The system is self-braking, fast, and hands free. Every firefighter will carry the bailout system attached to their safety harness. Firefighters will train on the device at the training fort located at Station 7 on Elliot Street. Captain Gentile provided the Committee with a demonstration of how the bailout kit works.

Chief Proia acknowledged all of Captain Gentile's hard work in getting this grant, creating the training fort, and developing training ideas. The Chief is also happy that the Fire Department has now received this grant for the third consecutive year.

A Councilor asked how long the personal bailout systems last before they need replacement. Captain Gentile responded that it is 10 years before the equipment needs to be tested and serviced. With that, Councilor Lappin moved approval, which carried unanimously.

#260-17 5-year contract for ambulance services

HIS HONOR THE MAYOR requesting authorization to enter into an up to 5-year contract for ambulance services. [08-07-17 @ 2:23 PM]

Action: **Finance Approved 7-0**

Note: Chief Proia joined the Committee for the discussion of the item. The Mayor is requesting authorization to enter into a three-year contract with an option for two one-year extensions for ambulance services. The ability to enter into what is essentially a five-year contract for ambulance service is beneficial to Newton residents as it provides continuity, familiarity with the City's emergency responders and City streets.

The City's contract with the current ambulance service provider is expiring at the end of the year. The City issued a Request for Proposals and the City has received responses from Armstrong, Cataldo, and Fallon. The Ambulance Contract Committee will interview the three ambulance companies and make a recommendation to the Mayor.

The Chief pointed out that the bid for services is a zero-based bid, as the City does not pay for the ambulance services. Ambulance companies charge their service fee to individuals either personally or through their insurance carrier. The ambulance service provider does pay a rent fee for use of space in the City's fire stations. The current contract includes requirements that the ambulance company provides two basic life support ambulances and two advanced life support ambulances at all times and make daily reports to the Fire Chief. There is also response time criteria that the ambulance service provider is required to meet 85% of the time. If the provider fails to respond in the required time, it must submit a report to the Fire Chief within 24 hours of the incident.

A Committee member asked if the double street names were still an issue for emergency responders in the City. Chief Proia stated that it has not been an issue lately but it could be in the future. The emergency dispatchers are trained to give the nearest fire call box for an emergency call. The call box identifies the area of the City the call is coming from helping to identify which double named street it is. The City tests emergency responders including the employees of the ambulance company on call box numbers. There were no further questions and Councilor Fuller moved approval, which carried unanimously.

#219-17 Acceptance and expenditure of the Green Communities Grant

HIS HONOR THE MAYOR requesting authorization to accept and expend the Green Communities Grant in the amount of one hundred ninety-six thousand one hundred fifty-seven dollars (\$196,157) for energy efficiency improvements to the Franklin, Underwood, Williams, and Memorial Spaulding Elementary Schools. [07/03/17 @ 12:28 PM]

Action: **Finance Approved 7-0**

Note: Commissioner of Public Buildings Josh Morse presented the request to authorize and expend a \$196,157 Green Communities Grant from the Department of Energy Resources to retrofit lights at four elementary schools for LED bulbs. The conversions at the four schools will save \$55,000 and will have a 3.5-year payback. The conversion to LED lighting at the schools is a very successful program. Retrofits for LED bulbs are complete at a number of schools but there are still some schools

awaiting conversion. It is difficult to complete a large school within one year because the City cannot spend more than \$100,000 of the grant funds at one school per year. The Commissioner expects completion of the LED retrofits within five years.

The school populations at previously converted schools have provided very positive feedback on the quality of light and the City reduced its carbon footprint and saved acres of forest. Commissioner Morse informed the Committee that the Public Buildings Department repurposed a number of lights at Newton North High School for use in the basement of the Ed Center on Walnut Street. Councilor Rice moved approval of the item and the Committee voted unanimously to support the motion.

#257-17 Approval of various sidewalk/curb betterments

COMMISSIONER OF PUBLIC WORKS requesting approval of the following mentioned sidewalk/driveway apron and/or curb betterments; said betterments to be levied under the provisions of MGL Chapter 83, Sec. 26, authorizing the assessment of betterments for construction: [08-07-17 @ 2:23 PM]

Address	Owner Name	Book/Page	Sec/Block/Lot	Total Cost
193 Ward Street	OCONNOR PETER ALBERT & OCONNOR SARA VICTORIA	66267/302	73038 0015	\$3,187.50
1445 Commonwealth Ave	BC EAGLES 79 TRUST, OROURKE STACEY S TR	56555/507	32033 0009	\$6,312.50
2 Newbury Terrace	KAUFMAN HOWARD & BOGUSLAW JANET	28587/246	62006 0003	\$2,372.50
69 SouthGate Park	BENES RICHARD H & SUSAN J	28704/327	33031 0018	\$2,307.50
77 FairOaks Ave	FAIR OAKS AVE 77 RLTY TRST, FREEDMAN DONALD N TR	59923/267	21019 0023	\$3,550.00
				\$17,730.00

Action: **Finance Approved 7-0**

Note: Commissioner of Public Works Jim McGonagle presented the request to authorize the assessment of sidewalks and/or curb betterments at five locations. The betterments are not installed and are current requests from individual property owners. Property owners pay 50% of the betterment costs.

A Committee member asked if property owners pay for a betterment if the City opts to install new sidewalk and curbing. Commissioner McGonagle explained that the City installs sidewalk and curbing on school routes or in locations where there is a safety issue at no cost to the property owner. There was concern that property owners that request a betterment are charged and others receive betterments at no cost. Commissioner McGonagle stated that he has never received a complaint regarding that issue. With that, Councilor Brousal-Glaser moved approval of the item, which carried unanimously.

#258-17 Acceptance of a grant from Mass DOT for Complete Streets Program

HIS HONOR THE MAYOR requesting authorization to accept and expend a grant of up to one hundred forty seven thousand five hundred dollars (\$147,500) from the Massachusetts Department of Transportation offered as part of their Complete Streets Program. [08-07-17 @ 2:23 PM]

Action: **Finance Approved 7-0**

Note: Commissioner of Public Works Jim McGonagle presented the request to authorize and expend a grant of \$147,500 from the Massachusetts Department of Transportation as part of their Complete Streets Program. The grant funds will fund the upgrade traffic signals with Accessible Pedestrian Signals (APS) and pedestrian push buttons. APS signals and push buttons devices that communicate information about when the Walk and Don't Walk lights are activated through audible sounds and vibrating surfaces. The grant will fund 100% of the APS upgrades at seven intersections that have a large number of pedestrian lights.

The Committee asked if there was any guidance on what to set the volume level at for the APS devices. Commissioner McGonagle stated that there are recommended settings and there have never been issues when the volume is set at that level. The Public Works Department has received complaints from residents in the area of existing APS signals when the device volume increased at the request of a user. There was no further discussion and Councilor Rice moved approval. The Committee voted unanimously in favor of approval.

Referred to Land Use and Finance Committees

#221-17 \$977,000 for CAN-DO to create 8-units of affordable housing at 236 Auburn Street

COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of three hundred thousand dollars (\$300,000) for historic rehabilitation and six hundred seventy-seven thousand seven hundred dollars (\$677,700) for affordable housing for a total of nine hundred seventy-seven thousand dollars (\$977,000) from the Community

Preservation Fund, to the Planning & Development in Newton (CAN-DO), to create 8 units of permanently affordable rental housing at 236 Auburn Street, Auburndale, including 5 units in a congregate home to be owned and operated by the Barry L. Price Rehabilitation Center, as described in CAN-DO's proposal submitted to the Community Preservation Committee in May 2017. [06/19/17 @ 5:19 PM]

Land Use Approved 6-0 on 09/07/17

Action: Finance Approved 6-0 (Lappin not voting)

Note: Vice-chair of the Community Preservation Committee Peter Sargent and Jennifer Van Campen, Executive Director of CAN-DO presented the recommendation from the Community Preservation Committee to appropriate \$977,000 from the Community Preservation Fund to create eight units of permanently affordable rental housing at 236 Auburn Street. The project includes the renovation of a three bedroom historic house, a new modular townhouse building with a 3-bedroom unit and a 2-bedroom unit. In addition, the project includes the construction of a new fully accessible 5-bedrooms congregate living facility that the Barry L. Price Rehabilitation Center will own and operate. The congregate living facility provides congregate housing for people with intellectual disabilities and medical issues. CAN-DO will petition for a Comprehensive Permit for the project and if they receive the permit, it will guarantee that all units are included on the State's Housing Inventory List. If the project remains on track, construction will begin in early spring 2018 and end in spring 2019. Further details on the project are available on the City's website at: <http://www.newtonma.gov/gov/planning/cpa/projects/auburn.asp>

The anticipated total project cost is \$3,555,595. The appraisal for the property came in at \$925,000 and it purchased for \$925,000. In addition to the requested \$977,700 in CPA funds, the project is receiving \$1,467,900 from CDBG funds, \$659,995 from state funds for the congregate home only, and \$450,000 from the sale of the congregate home to the Price Center. The project leverages a number of sources and only seeks to fund 27.5% of the project from the Community Preservation Fund.

CAN-DO and the Price Center held a community meeting on the project. Neighbors are supportive of the project and they raised no issues related to the density on the site. The density is not obvious because the historic home is at the front of the property, the townhouses are at a lower grade than the house, and the congregate living facility is at a lower grade than the townhouses.

The Committee discussed how CAN-DO is addressing the retirement of its Executive Director Josephine McNeil. CAN-DO and Metro West Collaborative are now affiliates, which allows CAN-DO to remain an independent non-profit organization. Both organizations are separate legal entities sharing a single board of directors. As part of a management contract Metro West Collaborative Development is providing staff for CAN-DO. Staff includes Ms. Van Campen who serves as Executive Director for both CAN-DO and Metro West Collaborative Development, project management staff, and property management staff. Ms. Van Campen is confident that the staff can manage this project along with the property management responsibilities.

Committee Members asked why the two organizations are not merging. Ms. Van Campen explained that there is not a precise plan in place in terms of the relationship of the two organizations. For the short-term, it seemed to make sense to continue with CAN-DO's goal of providing affordable housing specifically in Newton. CAN-DO is a recognizable name in Newton fundraising, which the organization relies on for projects. Metro West Collaborative Development services a number of communities and does not have affordable units in Newton. In addition, if the entities merge, it would result in a number of legal transactions that would not add value to either organization.

A Committee member inquired if the decision to remain separate entities had anything to do with CAN-DO's finances. Ms. Van Campen responded that CAN-Dos overall financial situation is unknown but the organizations are undertaking a capital assessment of all 41 CAN-DO properties. Once the capital assessment is complete, Ms. Van Campen agreed to share it with the City Council. Ms. Van Campen pointed out that a merger may have significant financial risk for Metro West Collaborative Development. The affiliation between the organizations gives Metro West Collaborative Development time to figure out the best way to move forward for both organizations. A committee member felt that Ms. Van Campen should consult an attorney to determine the best way for both organizations to move forward in a legal sense.

A Committee member inquired if there was a plan to subdivide the two CAN-DO properties from the congregate living facilities, as there will be two different owners. The current plan is to have joint ownership of the site with a condominium association consisting of CAN-DO and the Price Center. The Councilor pointed out that this could lead to property maintenance issues in the future. If the properties are not subdivided, it is important that all the details of property management be captured in writing to avoid future conflicts.

There were no further questions. Committee members were pleased with the proposed use of Community Preservation funds for this project. Councilor Fuller moved approval, which carried unanimously. Note: The attached e-mail was provided to the Committee members on September 11, 2017.

#255-17 **Mayor's re-appointment of Rosemary Larking to the Taxation Aid Committee**
ROSEMARY LARKING, 1600 Washington Street, West Newton re-appointed as a member of the NEWTON TAXATION AID COMMITTEE for a term of office to expire April 30, 2018 (60 days 10/13/17) [07/28/17 @ 10:54 AM]

Action: **Finance Approved 6-0 (Lappin not voting)**

Note: The Mayor is reappointing Ms. Rosemary Larking for a three-year term of office to the Newton Taxation Aid Committee. The Committee did not feel it was necessary for Ms. Larking to be present for the reappointment discussion, as most members of the Committee know Ms. Larking. Ms. Larking provided a detailed resume to the Committee, which was attached to the agenda. The resume

details Ms. Larking's experiences and qualifications to serve on the Taxation Aid Committee and Councilor Fuller moved approval, which carried unanimously.

#256-17 Mayor's re-appointment of Doris F. Breay as Cousens Fund Trustee

DORIS F. BREAY, 19 Blake Street, Newton, re-appointed as a Trustee of the Horace Cousens Industrial Fund for a term to expire June 1, 2020. (60 days 10/13/17) [07/12/17 @ 2:25 PM]

Action: Finance Approved 6-0 (Lappin not voting)

Note: The Mayor is reappointing Doris Breay as a trustee of the Newton Cousens Fund for a three-year term of office. Ms. Breay has served as a trustee since 2006 and provided a detailed resume to the Committee, which was attached to the agenda. The resume details Ms. Breay's experiences and qualifications to serve as a trustee. The Committee did not feel it was necessary for Ms. Breay to be present for the reappointment discussion, as most Committee members know her. Councilor Rice moved approval of the reappointment, which carried unanimously.

All other items before the Committee were held without discussion and the Committee adjourned at 9:20 PM. Draft Council Orders for the above items that are recommended for City Council action are attached.

Respectfully submitted,

Leonard J. Gentile, Chair



Memorandum

To: Members of the Programs and Services and Finance Committees
From: Councilors Baker and Schwartz
Date: September 8, 2017
Subject: Report about Charter ballot language and other questions related to #138-17(2)

Several questions were raised related to 138-17(2) relating to putting the Charter adoption on the Ballot in November which we discussed at our last meeting. This memorandum reports our understanding of those responses.

Charter Commission ballot question summary. The first question involved the accuracy of the Charter Commission Ballot Question summary where the term “representing” was used to describe Councilors and School Committee members residing in each ward but elected citywide. There were also questions raised about the description of financial language.

Several of us clarified those concerns in a letter to the Commission, attached. The Charter Commission has now offered a revised summary which removes “representing” and clarifies some financial language. The revised summary does not yet make explicit, however, the elimination of Ward Councilors or the loss of an additional Councilor at large from each ward, as major changes from the current Charter.

Even versus odd numbered new City Council. A provision of state law relating to new charters appended to this report, General Law c. 43B, sec. 20 (c) (3) appears to require “multi-member bodies,” such as a modified City Council, to have an odd number of members. (Indeed, the same chapter 43B requires a Charter Commission itself to have nine members). The Newton Law Department was not willing to give a formal legal opinion about this language, deferring to the Attorney General. Informally, the response was that the Charter Commission had in the Charter exempted the City Council from its definition of “multi-member bodies,” and that this was controlling over the state law because of the general purpose of chapter 43B was to allow local charters to have provisions that state law would not otherwise permit. Left unanswered, however, is how that would apply to a limitation which appears in the same law purporting to give Charter Commissions that authority, which means a definitive answer may ultimately require judicial interpretation.

Redlined changes from the current Charter. We had asked if there is a redlined version of the current charter showing the specific changes made by the proposed new language. City Clerk David Olson responded that there is no redlined version, but a side by side comparison of the two is available through his office, and may be placed on the Election Commission web site.

Conclusion. While the Charter Commission has improved its ballot question summary, we believe that Newton voters may still not be clear on what is being changed from the current Charter as well as what is being proposed. Therefore, we hope that the City Solicitor’s own summary, which will accompany the Charter Commission ballot summary in the Election Commission mailing, can help further clarify what is being changed as well as what is being proposed.

Cc: City Council; Newton Charter Commission; Newton Law Department

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617-796-1210 www.newtonma.gov

Part I	ADMINISTRATION OF THE GOVERNMENT
Title VII	CITIES, TOWNS AND DISTRICTS
Chapter 43B	HOME RULE PROCEDURES
Section 14	ENFORCEMENT OF THIS CHAPTER; DECLARATORY RELIEF; JUDICIAL REVIEW

Section 14. (1) The superior court shall, upon petition of ten or more registered voters or of the attorney general, have jurisdiction in equity to enforce the provisions of this chapter.

(2) The provisions of chapter two hundred and thirty-one A applicable to municipal by-laws or ordinances shall apply to charters, charter revisions, charter amendments, by-laws and ordinances of a city or town adopted under this chapter. In addition, a petition for declaratory relief under chapter two hundred and thirty-one A may be brought on behalf of the public by the attorney general or, by leave of the court, by ten or more registered voters of the city or town. In the case of a petition brought by ten registered voters, the attorney general shall be served with notice of the preliminary petition for leave, and may intervene as a party at any stage of the proceedings; and the petitioners shall be liable for, but may in the court's discretion also be awarded, costs, which may include reasonable counsel fees.

(3) Judicial review to determine the validity of the procedures whereby any charter is adopted, revised or amended may be had by petition of ten or more registered voters of the city or town brought within thirty days after the election at which such charter, revision, or amendment is approved. If no such petition is filed within such period, compliance with all the procedures required by this act and the validity of the manner in which such charter, revision or amendment was approved shall be conclusively presumed. No charter adoption, revision or amendment shall be deemed invalid on account of any procedural error or omission unless it is shown that the error or omission materially and substantially affected such adoption, revision or amendment.

Part I	ADMINISTRATION OF THE GOVERNMENT
Title VII	CITIES, TOWNS AND DISTRICTS
Chapter 43B	HOME RULE PROCEDURES
Section 20	PROVISIONS OF CHARTER OR AMENDMENT DEEMED CONSISTENT WITH CERTAIN OTHER LAWS

Section 20. The provisions of any charter or charter amendment adopted pursuant to the provisions of this chapter shall be deemed consistent with the provisions of any law relating to the structure of city and town government, the creation of local offices, the term of office or mode of selection of local offices, and the distribution of powers, duties and responsibilities among local offices. Such provisions may provide:

- (a) that any particular local office shall be either elected or appointed; provided, however, that in any town having a board of selectmen the members of such board shall always be elected; provided, further, that in any city or town having a school committee the members of such committee shall always be elected; and provided, further, that in any town having a form of town meeting open to all of its registered voters the town moderator shall always be elected and in every other case all of the members of the legislative body shall always be elected;
- (b) that any particular local officer or employee shall be appointed by any particular local officer;
- (c) for the number of persons to serve as members of any multiple member body; provided, however, that all such multiple member bodies shall always consist of an odd number of members;
- (d) for the term of office to be served by any local elected officer; provided, however, that no term of office of a local elected officer shall be for more than five years, and the members of multiple member bodies shall serve for terms which, as nearly as possible, expire in different years;
- (e) for the merger or consolidation of two or more local offices into a single office;
- (f) that the powers, duties and responsibilities of one local office be divided and exercised by two or more local offices;
- (g) for the confirmation of any appointment by another municipal agency.

CITY OF NEWTON

IN CITY COUNCIL

2017

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chairman Leonard J. Gentile, the transfer of the sum of six thousand four hundred dollars (\$6,400) from Budget Reserve for the purpose of providing funding to the Charter Commission for printing and mailing expenses.

From: Budget Reserve
(0110498-5790).....\$6,400

To: Printing
(C108004-5342)\$6,400

Under Suspension of Rules
Readings Waived and

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor

Date _____

CITY OF NEWTON

IN CITY COUNCIL

2017

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chair Leonard J. Gentile, the City Council hereby authorizes His Honor the Mayor to accept and expend a 90/10 reimbursable grant from the Federal Emergency Management Agency (FEMA) FY2017 Assistance to Firefighters Grant Program in the amount of seventy-six thousand ninety-one dollars (\$76,091) to be used for the purchase of Personal Safety/Bailout Systems.

Under Suspension of Rules
Readings Waived and Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor

Date: _____

CITY OF NEWTON

IN CITY COUNCIL

2017

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chair Leonard J. Gentile, the City Council hereby authorizes the His Honor the Mayor to enter into a three-year contract with two one-year extension options for ambulance services.

Under Suspension of Rules
Readings Waived and Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor

Date: _____

CITY OF NEWTON

IN CITY COUNCIL

2017

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chair Leonard J. Gentile, the City Council hereby authorizes His Honor the Mayor to accept and expend a grant in the amount one hundred ninety-six thousand one hundred fifty-seven dollars (\$196,157) from the Department of Energy Resources awarded as part of the Green Communities Competitive Grant Program for energy efficiency improvements to the Franklin, Underwood, Williams, and Memorial Spaulding Elementary Schools.

Under Suspension of Rules
Readings Waived and Item Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor

Date_____

CITY OF NEWTON

IN CITY COUNCIL

2017

ORDERED:

That, in accordance with the recommendation of the Commissioner of Public Works and the Finance Committee, the following mentioned sidewalk/driveway apron and/or curb betterments to be graded and constructed and assessments to be levied under the provisions of MGL Chapter 83, Sec. 26, be and are hereby authorized:

Address	Owner Name	Book/Page	Sec/Block/Lot	Total Cost
193 Ward Street	OCONNOR PETER ALBERT & OCONNOR SARA VICTORIA	66267/302	73038 0015	\$3,187.50
1445 Commonwealth Ave	BC EAGLES 79 TRUST, OROURKE STACEY S TR	56555/507	32033 0009	\$6,312.50
2 Newbury Terrace	KAUFMAN HOWARD & BOGUSLAW JANET	28587/246	62006 0003	\$2,372.50
69 SouthGate Park	BENES RICHARD H & SUSAN J	28704/327	33031 0018	\$2,307.50
77 FairOaks Ave	FAIR OAKS AVE 77 RLTY TRST, FREEDMAN DONALD N TR	59923/267	21019 0023	\$3,550.00
				\$17,730.00

Under Suspension of Rules

Readings Waived and Approved by Voice Vote

22 yeas 0 nays 1 absent (Councilor Brousal-Glaser) 1 recused (Councilor Laredo)

(SGD) DAVID A. OLSON

City Clerk

(SGD) SETTI D. WARREN

Mayor

Date: _____

CITY OF NEWTON

IN CITY COUNCIL

2017

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chair Leonard J. Gentile, His Honor the Mayor is hereby authorized to accept and expend up to one hundred forty-seven thousand five hundred dollars (\$147,500) from the Massachusetts Department of Transportation (MassDOT) as part of their Complete Streets Program Grant to be used by the Department of Public Works for construction projects included in the prioritization plan and approved by MassDOT.

Under Suspension of Rules
Readings Waived and Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor

Date _____

From: Michael Lepie
To: [Shawna Sullivan](mailto:Shawna.Sullivan)
Cc: bikerml@aol.com
Subject: Fwd: Can-Do 236 Auburn St. #221-17
Date: Tuesday, September 12, 2017 5:34:18 PM

Shawna,
Please add this to #221-17
Can- Do Auburn St Project
Finance Committee Meeting 9/11/17
Thank You,
Michael Lepie

Sent from my iPad

Begin forwarded message:

From: Michael Lepie <bikerml@aol.com>
Date: September 11, 2017 at 7:30:33 AM EDT
To: lgentile@newtonma.gov
Cc: swarren@newtonma.gov, dkahn@newtonma.gov, bheath@newtonma.gov,
jfreas@newtonma.gov, mlemieux@newtonma.gov, dzaleznik@newtonma.gov,
agoldman@newtonma.gov, aingerson@newtonma.gov, bikerml@aol.com
Subject: Re: Can-Do 236 Auburn St. #221-17

Councilor Gentile,

I write to you once again about the entitled Can-Do

They once again are looking for tax payer's CPA funds of \$977,000.

Can-Do still has two unfinished projects years old, funds spent, Taft Ave
and Cambria Rd.

Shouldn't this be investigated before you allow more tax payers funds to be
wasted ?

Can-Do has produced 7 units of "affordable housing " since 2009 that can not be
added to the city's SHI inventory.

At a great cost to the tax payers.

These projects run on negative cash flow.

Shouldn't this fact be looked into before more tax payers funds are lost ?

Shouldn't survivable of Can-Do be looked into before more tax payers funds are
lost ?

Can-Do lost almost 1 million dollars of tax payers funds last time they tried to be
a developer in 2009.

Can-Do has a proven failed business plan.

Yet you allow tax payers cash to continue flow to them.

Can-Do is running a Ponzi Scheme .

They need new projects with large developer fees to pay old bills.

This project puts \$ 321,872 of CPA funds developer fees into Can-Do's pocket to pay off old bills.

The Barry L. Price Rehabilitation Center 5 units of housing will be a stand alone entity with positive cash flow to ensure it will continue on.

Can-Do's three units will have large debt that will turn their part of the project into another negative cash flow project.

Can-Do now has more debt than assets.

That means when Can-Do fails the tax payers will get stuck with Can-Do's debt.

As you told me no one else asks for this money so Can-Do automatically gets it . Why do you continue to allow a corporation with no leaders, large debt and a proven failed business plan continue to get tax payers funds ?

You wouldn't give Can-Do a mortgage, then why would continue to allow tax payers funds to continue flowing to the entitled Can-Do ?

Maybe the city could do this development, they do not get a developer fee and maybe they will end up with a project with positive cash flow, I hope.

Isn't part of the Councilors job to protect the tax payers money ?

Can-Do's project at 236 Auburn St should be fenced off it is a danger to the public.

Any real developer would have to fence in their project why doesn't the entitled Can-Do have the same rules ?

Do your job and protect tax payers funds, stop the entitled Can-Do, please.

Thank You,
Michael Lepie
Senior Citizen & Tax Payer

from my iPad

CITY OF NEWTON

IN CITY COUNCIL

2017

ORDERED:

That, in accordance with the recommendations of the Land Use Committee through its Chair Marc C. Laredo; and the Finance Committee through its Chair Leonard J. Gentile, three hundred thousand for historic rehabilitation and six hundred seventy-seven thousand seven hundred dollars (\$677,700) for affordable housing be hereby appropriated from the Community Preservation Fund as shown below to the Planning and Development Department for a grant to Citizens for Affordable Housing Development in Newton (CAN-DO) to create eight units of permanently affordable rental housing at 236 Auburn Street, Auburndale, including five units in a congregate home to be owned and operated by the Barry L. Price Rehabilitation Center, as described in CAN-DO’s proposal submitted to the Community Preservation Committee in May 2017.

From: Community Preservation Budget Reserve (21R10498-5790)	\$331,597
Community Preservation Housing Reserve (21R10498-5790C)	\$346,103
Community Preservation Historic Resources Reserve (21R10498-5790B)	\$300,000
To: Auburn Street Housing (21C11423-5795)	\$977,700

Under Suspension of Rules
Readings Waived and Adopted

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor

Date _____

CITY OF NEWTON

IN CITY COUNCIL

2017

ORDERED:

That in accordance with the recommendation of His Honor the Mayor and with the confirmation of the City Council, be it known that ROSEMARY LARKING is hereby re-appointed as a member of the NEWTON TAXATION AID COMMITTEE for a term to expire April 30, 2018.

Under Suspension of Rules

Readings Waived and Approved

21 yeas 0 nays 3 absent (Councilors Ciccone, Norton, and Sangiolo)

(SGD) DAVID A. OLSON

City Clerk

CITY OF NEWTON

IN CITY COUNCIL

2017

ORDERED:

That in accordance with the recommendation of His Honor the Mayor and with the confirmation of the City Council, be it known that DORIS BREAY is hereby re-appointed as a trustee of Horace Cousens Industrial Fund for a term to expire June 1, 2020.

Under Suspension of Rules
Readings Waived and Approved
21 yeas 0 nays 3 absent (Councilors Ciccone, Norton, and Sangiolo)

(SGD) DAVID A. OLSON
City Clerk