

CITY OF NEWTON

IN BOARD OF ALDERMEN

JOINT MEETING

FINANCE AND  
ZONING & PLANNING COMMITTEES  
REPORT

MONDAY, JANUARY 25, 2010

Finance Committee members present: Ald. Gentile (Chairman), Linsky, Salvucci, Rice, Danberg, Fuller, and Freedman; absent: Ald. Ciccone  
Zoning and Planning Committee members present: Ald. Johnson (Chairman), Lennon, Swiston, Sangiolo, Yates, Shapiro, Baker and Lappin  
Also present: Ald. Crossley and Hess-Mahan  
Planning Board members present: Tabetha McCartney (Chair), David Banash, Leslie Burg, Rev. Howard Haywood, Joyce Moss, and Doug Sweet  
City staff present: Elizabeth Dromey (Director of Assessing), Trisha Guditz (Housing Development Coordinator), and Eileen McGettigan (Assistant City Solicitor)

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

#412-09 **HIS HONOR THE MAYOR** requesting approval of an amended 121A Tax Agreement between the City of Newton and the New Falls Associates Limited Partnership ('the owner'), dated November 13, 2009, whereby the City will receive \$2,537,500 in deferred taxes upon the completion of refinancing by the owner and 41 affordable housing units will be extended for an additional 22 years, until 2040.

**ZONING & PLANNING APPROVED 8-0**

**ACTION: FINANCE APPROVED 7-0**

**NOTE:** The Committee met jointly with the Zoning & Planning Committee and the Planning Board to hold a public hearing on the item. Director of Assessing Elizabeth Dromey and Assistant City Solicitor Eileen McGettigan provided an overview of the request to amend a 121A tax agreement for property located at 2251-2311 Washington Street. In November of 2007, New Falls Associates approached the city with a request to amend the 121A agreement that they had entered into with the city. The original agreement was reached in 1978 and approved by the Board of Aldermen and the Planning and Development Board. The agreement exempted New Falls Associates from real estate taxes, as 41 of the 60 units on the property were to be maintained as affordable units until 2018. Instead of real estate taxes, New Falls agreed to pay state excise, which is determined by Chapter 121A of the Massachusetts General Laws. The state excise payment is returned to the city each year. In addition, the agreement required a Payment in Lieu of Taxes (PILOT) to the city each year, which could be deferred at a 14% simple interest rate.

In 1978, the agreement was financially beneficial to New Falls Associates; however, since approximately 1982 the total payments due to the city annually have exceeded what would

have been the ad valorem real estate tax rate. New Falls Associates has made annual excise tax payments to the state and a portion of the PILOT payment to the city each year. The remainder of the PILOT payment was deferred each year and as of December 31, 2009, New Falls Associates owes the City of Newton nearly \$5 million.

The owners of the property were unable refinance to fund deferred capital improvements and maintenance of the property due to the city's nearly \$5 million lien on the property. In order to obtain financing New Falls Associates is seeking to amend the original 121A agreement. In the amended agreement, the city would subordinate its lien in order to allow New Falls to pay off its existing mortgage. The proposed agreement would allow New Falls Associates to refinance the property and pay the city over half of the money owed in deferred payments. The remaining deferred taxes would be rolled into a note with a 3% compound interest rate per year, which would be payable in thirty years. In addition, the refinancing will allow New Falls Associates to apply \$1.5 million for capital maintenance and needed improvements to the property. The amended agreement also provides that if the refinancing occurs before or on June 30, 2010, the affordability of 41 units would be extended from 2018 until 2040. The terms of the amended agreement also address the inequity of the PILOT payments. The city would now calculate the PILOT payments for the property, as the taxes for other apartments are calculated and the PILOT payments could no longer be deferred by New Falls Associates.

Trisha Guditz of the Planning Department spoke on the extension of the affordability of the units until 2040. The Planning Department staff worked on the agreement and is in favor of the terms of the amended agreement regarding the affordable housing piece. Members of the Assessing Department and Law Department also worked on the amended agreement and are in favor of it. The Mayor submitted a letter expressing his support of the amended agreement, which was attached to the agenda.

The public hearing was opened for comment and no one spoke for or against the item. Finance and Zoning & Planning Committees and Planning and Development Board opted to continue further discussion, as individual committees.

Respectfully submitted,

Leonard J. Gentile, Chair, Finance Committee

Marcia T. Johnson, Chair, Zoning & Planning Committee