

CITY OF NEWTON

IN BOARD OF ALDERMEN

FINANCE COMMITTEE REPORT

MONDAY, OCTOBER 23, 2006

Present: Ald. Coletti (Chair), Lennon, Linsky, Salvucci, Gentile, Parker, Schnipper and Lipof

Also Present: Ald. Merrill, Weisbuch, Harney and Sangiolo; David Wilkinson (Comptroller), Dolores Hamilton (Director of Human Resources), Lori Burke (Workers' Comp. Manager, Human Resources), Donnalyn Kahn (Assistant City Solicitor), Gayle Smalley (Associate City Solicitor), Sally Pellegrom (Cousens Fund Administrator), Susan Burstein (Chief Budget Officer), Robert Rooney (DPW Commissioner), Nick Parnell (Public Buildings Commissioner)

#353-06 HIS HONOR THE MAYOR requesting authorization to expend the sum of \$35,000 from the Workers' Compensation Lump Sum account for the purpose of settling a Workers' Compensation claim from Mr. David Melanson, a former DPW employee.

ACTION: **APPROVED 8-0**

NOTE: Dolores Hamilton, Director of Human Resources, and Lori Burke, Workers' Compensation Manager, were present this evening. They presented a letter dated October 10, 2006 from the Mayor indicating that the City is ready to settle this Workers' Compensation claim filed by David Melanson. This is a lump sum settlement based on backup submitted by the Human Resources Director. MGL Sections 34, 34a, 35, and 36 and attorney fees are covered by this case and proposed settlement. This claim has been ongoing since the mid 1990's as a result of an injury that Mr. Melanson suffered on the job. Although he has not had any surgery to correct this problem, the injury is recurrent (with the most recent being in March of 2000). It has been determined that Mr. Melanson is no longer able to perform duties as a motor vehicle repairman as a result of his injuries; he needs to consider a new type of employment at this point. He has agreed to settle this case for this amount. Therefore, the Mayor, the Director of Human Resources and the City Solicitor's office recommend that this settlement in the amount of \$35,000 be made at this time; this will be full and final payment for all appropriate Workers' Compensation payments. Mr. Melanson will be on a disability retirement, but will have ongoing medical expenses. This settlement will offset that.

After discussing this settlement with Dolores Hamilton and Lori Burke, the Committee voted 8-0 to approve this request. Please refer to attached memo from Comptroller David Wilkinson regarding the Workers Compensation Self Insurance Fund.

#354-06 HIS HONOR THE MAYOR requesting an appropriation in the amount of \$40,000 for the purpose of settling a sexual harassment claim filed against the City by Officer Kim Coney.

ACTION: **APPROVED 5-0-3 (Ald. Linsky, Salvucci, Gentile abstaining)**

NOTE: The Committee was joined this evening by City Solicitor Dan Funk and Assistant City Solicitor Donnalyn Kahn. The Committee voted 8-0 to enter into Executive Session for the purpose of discussing the details related to this case. During Executive Session, the Committee reviewed legal strategy and the facts of the case and then completed the Executive Session. It was understood that Officer Coney has agreed to the settlement of this case in the amount of \$40,000. She is still employed by the Police Department.

Ultimately, the Committee voted 5-0-3, with Ald. Linsky, Salvucci and Gentile abstaining, to approve this item.

#355-06 HIS HONOR THE MAYOR requesting an appropriation in the amount of \$10,000 from Budget Reserve for the purpose of settling a (MCAD) claim filed against the City by Matthew MacNevin, a former DPW Utilities Division employee.

ACTION: **APPROVED 7-0-1 (Ald. Linsky not abstaining) WITH AMENDED FUNDING SOURCE TO BE WATER SURPLUS**

NOTE: Similar to the last item, the Committee voted 8-0 to enter into Executive Session in order to discuss the details and legal implications of this case. A letter dated September 7, 2006 was filed by Dan Funk. This claim was originally filed by Mr. MacNevin filed this complaint on April 9, 2001. Subsequently, on September 23, 2005, the MCAD found probable cause for the case to go forward on the issue of reasonable accommodation. This requested appropriation represents full and final settlement of this MCAD case and is recommended by the City Solicitor and the Mayor.

After the Executive Session discussion was complete, the Committee looked at the proposed funding source for this item. Because this employee worked for the Water/Sewer Division of DPW, the Comptroller suggested that the funding source be changed to Water Surplus. On October 18, 2006 the Mayor indicated that this would be an appropriate funding source (see attached memo).

With that understanding, the Committee voted 7-0, with Ald. Linsky abstaining, to approve this request with the funding source change to Water Surplus.

Re-appointment by His Honor the Mayor

#344-06 DR. LANE SOFMAN, 336 Lexington Street, Auburndale, re-appointed as a Trustee of the HORACE COUSENS INDUSTRIAL FUND for a term to expire June 1, 2009. (60 days 12-02-06)

ACTION: **APPROVED 8-0**

NOTE: Dr. Sofman has served the City in this capacity for many years. The Committee indicated its appreciation of his dedication to this fund and, without debate, voted 8-0 to approve his re-appointment as Trustee of the Horace Cousens Industrial Fund.

#356-06 HIS HONOR THE MAYOR requesting that the sum of \$1,558,051 be appropriated from FY07 estimated revenue (specifically School Building Assistance Program reimbursements from previous projects) for the purpose of adding funds to the debt reserve fund in the Capital Stabilization Fund.

ACTION: **APPROVED 7-0 (Ald. Linsky not voting)**

NOTE: This item was discussed with Susan Burstein, the new Chief Budget Officer. A letter dated October 10, 2006 was presented indicating that the Mayor is requesting to appropriate and expend the sum of \$1,558,051 for the purpose of adding funds to the debt reserve fund in the Capital Stabilization Fund. The source of these funds is School Building Assistance Program reimbursements from previous projects. This allocation, according to the Mayor, is consistent with the city's long-term capital financing plan; it does not include the additional \$250,000 in new bonds that was part of the capital financing plan earlier this year.

The Committee briefly discussed this item, which will increase the debt reserve fund to an excess of \$10 million. These funds will be set aside for the bond interest payments that will have accumulated when the Newton North project starts.

Ald. Sangiolo was also present this evening. She asked whether these funds could be used for alternate purposes.

It was pointed out that the action on this item is to place these funds into the Capital Stabilization Fund. Within that fund, this amount will not be specifically labeled for any particular use, and future appropriation for expenditure of these funds will be required to be docketed before the Board of Aldermen for approval.

After discussing the policy being used to put these types of funds aside, the Committee was in support of this item. The Committee voted 7-0 to approve this item.

REFERRED TO PROGRAMS AND SERVICES AND FINANCE COMMITTEES

#224-06(4) **HIS HONOR THE MAYOR** requesting an appropriation in the amount of \$30,000 from Budget Reserve for the purpose of supplementing the salary account of the Election Department to compensate Mr. Peter Koutoujian for his service as temporary Acting Department Head.

PROG. AND SERV. A) APPROVED \$15,000 6-0 (Sangiolo, Lipof not voting) and B) HELD \$15,000 6-0 (Sangiolo, Lipof not voting) ON 10/18/06

ACTION: A) APPROVED \$15,000 6-1-1 (Ald. Gentile opposed; Lennon abstaining); B) HELD \$15,000 6-1-1 (Ald. Gentile opposed; Lennon abstaining)

NOTE: The Committee reviewed a letter dated October 10, 2006 from the Mayor (which was attached to this evening's agenda) indicating that these funds are being requested to cover the interim appointment of Peter Koutoujian as temporary Acting Department Head of the Election department. This is necessary due to the investigation surrounding the initiative petition filed relative to the Newton North Site Plan Approval. Under the Charter, the Mayor has the authority to make a 30-day appointment to such a position; beyond that time, appointments must be approved by the Board of Aldermen.

Peter Karg is currently out on paid administrative leave pending the results of the investigation. Due to the fact that the Election Department would, in effect, be paying two Department Heads at the same time to cover the needs of that department, the Mayor has filed this request to fund the salary of Mr. Koutoujian.

Mr. Koutoujian was present this evening and went over the facts surrounding his role (over the next couple of months) relating to the November 7th state and national election and the subsequent certification process (which will extend to November 17th). Beyond that time, there will be a need for planning for the anticipated January 23rd special election for the referendum vote; Mr. Koutoujian will continue to work on putting the proper process into place for that expected election.

This item will be placed on Second Call at the November 6th meeting. Therefore, the Chairman expects to give a more detailed oral report at that time. The Committee made a recommendation to support the action of the Programs and Services Committee to appropriate part A (\$15,000) of this item at this time. Therefore, the vote was 6-1-1 with Ald. Gentile opposed and Ald. Lennon abstaining, to approve the appropriation of \$15,000 at this time. The Committee then voted 6-1-1, with Ald. Gentile opposed and Ald. Lennon abstaining, to hold the remaining requested \$15,000 until a later date (after November 17th at which time it is hoped that there will be a clearer estimate as to how long Mr. Koutoujian will need to be here to assist with administration needs of the Election Commission.

REFERRED TO PROGRAMS AND SERVICES AND FINANCE COMMITTEES

#224-06(5) **HIS HONOR THE MAYOR** requesting an appropriation in the amount of \$70,000 from Budget Reserve for the purpose of funding the costs of holding a special election for the referendum considering the site plan for Newton North High School.

PROG. AND SERV. APPROVED AS AMENDED @ \$81,000 6-0

(Sangiolo, Lipof not voting) ON 10/18/06

ACTION: APPROVED AS AMENDED @ \$50,000 8-0

NOTE: When the Programs and Services Committee reviewed this item on October 18th, the Mayor had made a subsequent request that this appropriation be increased to the amount of \$81,000. The Programs and Services Committee voted to approve that amended request.

This evening, the Committee reviewed this information with Susan Burstein regarding the request for specific use of these funds. There were some questions regarding initial mailing costs associated with sending a complete text of the wording of this item to every household via US mail in preparation for the election. There was also a question regarding Police Department overtime for a special election and some of the other costs associated with this election.

The Committee reviewed the letter received from Peter Koutoujian (see attached for details). The Committee was concerned that, over the past few years, the Election Department has turned back funds to the General Fund in the area of approximately \$30,000 per year from its operating budget. It was anticipated that this fiscal year would be no different than previous years in terms of overall budget expenses. Therefore, the Committee determined that it would be prudent to support the appropriation of an amended amount of \$50,000 at this time, with the understanding that, in the future, if the Department budget spending pattern changes during the latter months of FY07, there will be a subsequent request for supplemental appropriation of that budget. The Committee also wanted to ensure that, in the event that Mr. Karg leaves the city's employ, active review of any separation agreement could be made by the Finance Committee and the Board. Therefore, by reducing the amount of this appropriation, it would be necessary for a supplemental appropriation request to be filed with the Board in order to make any separation agreement with Mr. Karg.

With that understanding, and the understanding that this item will be placed on Second Call at the November 6th Full Board meeting (due to conflicting Committee reports), the Committee voted 8-0 to approve the appropriation of \$50,000 for this item.

REFERRED TO PUB. SAFETY/TRANS. AND FINANCE COMMITTEES

#343-06(2) HIS HONOR THE MAYOR requesting an appropriation of up to \$15,000 from the Traffic Mitigation Fund (provided in accordance with Board Order #40-97(2) for the Riverside Project on Grove Street, Auburndale) for the purpose of conducting a street lighting and traffic study of Woodland Road, including pedestrian counts, from Washington Street to Grove Street.

**PS&T APPROVED 8-0 ON 10/18/06 WITH RESOLUTION TO
MAYOR**

ACTION: **APPROVED 8-0**

NOTE: The Committee discussed the action taken by the Public Safety/Transportation Committee on 10/18/06. There was a recent pedestrian fatality (involving a college student) on Woodland Road. There is neighborhood, college and aldermanic concern for this item, therefore, the expenditure of these traffic mitigation funds seems appropriate for this purpose. There was an expressed concern that this study should include the entire length of Woodland Road (which was included in the Resolution to the Mayor that the PS&T Committee approved at its meeting on October 18th. However, this evening, the Finance Committee was prepared to vote to approve the original request of \$15,000 from the Riverside Traffic Mitigation Fund for this purpose, with the understanding that the scope of this work will be determined at a later time by the Executive Department (the Aldermen from Ward 4 will consult with the Mayor's office and other City Departments as needed for this purpose), and if additional appropriation is required, there will be a supplemental request for funds as necessary.

Ultimately, the Committee voted 8-0 to approve this request for appropriation of \$15,000 for the described study.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#371-05(2) HIS HONOR THE MAYOR requesting an appropriation in the amount of \$35,847.56 from the Federal Grant Fund (FEMA reimbursement account) to account 13D40109 (Silver Lake revolving account) for the purpose of bringing a section of Silver Lake Avenue, a private way, up to City standards to be accepted as a public way.

PUB. FACILITIES APPROVED 7-0 ON 10/18/06

ACTION: **APPROVED 8-0**

NOTE: This item was approved by the Public Facilities Committee on October 18th. This project has actually already been completed, and this item seeks to use the FEMA funds to replenish monies to the budget. Betterments will be assessed against the affected properties, which will return the rest of the monies to the budget.

With that understanding, the Committee voted 8-0 to approve this item.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#358-06 HIS HONOR THE MAYOR requesting an appropriation in the amount of \$50,000 from FY07 estimated revenue (New Growth) for the purpose of funding the salary and benefits for a new position in the Public Buildings Department of a Heating Ventilation and Air Conditioning (HVAC) Controls Technologist.

PUB. FACILITIES APPROVED 7-0 ON 10/18/06

ACTION: APPROVED 8-0

NOTE: Before the Board votes to set the FY07 tax rate, the Mayor is requesting that an additional \$50,000 be raised by tax revenue in order to fund the salary and benefits for a new position within the Public Buildings Department. Since the FY07 operating budget was discussed and approved, the Board of Aldermen has been in support of the creation of this position. The Committee was pleased to see that the Mayor was coming forward with this request and voted 8-0 to approve this item.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#358-06(2) HIS HONOR THE MAYOR requesting an appropriation in the amount of \$77,500 from FY07 Estimated Revenue for Public Buildings Department energy accounts to cover increases in fuel oil prices.

PUB. FACILITIES APPROVED 6-0 (Lappin not voting) ON 10/18/06

ACTION: APPROVED AS AMENDED 8-0 FOR FUNDS TO BE APPROPRIATED TO BUDGET RESERVE

NOTE: The Committee has agreed to support this concept, however, it was requested that the funds be placed into Budget Reserve (instead of the energy accounts in the Public Buildings Department) for future appropriation. The Committee and the Board would like to see this done so that it will have the opportunity to review the specifics of energy costs before final appropriations of these funds are made. The Mayor agreed to make that change and submitted the attached letter dated October 20, 2006. The Committee voted 8-0 to approve this item, as amended, for the funds to be appropriated to Budget Reserve. Because this change of appropriating the funds to Budget Reserve was made subsequent to the Public Facilities Committee vote, this item will be placed on Second Call on November 6th.

#332-06 HIS HONOR THE MAYOR requesting that Chapter 18 of the Revised Ordinances of Newton, 2001 as amended be further amended by adding a new article to establish a new Arnold S. Daniels, Jr. Fund. The monies in this fund will come from a gift from the estate of Arnold S. Daniels, Jr. and will be used to assist needy residents of Newton for food, shelter and clothing; said fund will be administered by the Cousens Fund.

ACTION: APPROVED 7-0 (Ald. Linsky not voting) SUBJECT TO SECOND CALL

NOTE: Associate City Solicitor Gayle Smalley was present this evening. She provided the draft language for the Ordinance to establish this fund. The City has received a donation in the amount of \$50,000 for the establishment of this fund. It has been specified as to how these funds are to be used.

Please review the attached information relative to the establishment of this fund. The Committee had requested that this language be modified to indicate that it is the interest of the Board of Aldermen that the original principal of \$50,000 be preserved in order to perpetuate this fund (this was not specified in the original language).

With that amendment, the Committee voted 7-0, with Ald. Linsky not voting, to approve this item, subject to Second Call, pending receipt of final language from the Law Department.

CLERK'S NOTE: *The requested amended language was received by the Clerk's office on October 27th and distributed to Finance Committee members in their weekly packets at that time. That language is attached to this Committee Report.*

REFERRED TO PROG. & SERVICES AND FINANCE COMMITTEES

#267-06(2) ALD. PARKER, BURG, LINSKY, FISCHMAN, HESS-MAHAN, VANCE, HARNEY, JOHNSON, & DANBERG proposing an ordinance paralleling the state legislation that would require the divestiture of City of Newton funds from those companies that aid and abet the Sudanese government in its genocide.

PROG. & SERV. APPROVED 5-0 (Ald. Parker not voting) Subject to Second Call on 10/4/06

ACTION: APPROVED 7-0-1 (Ald. Gentile abstaining)

NOTE: The Committee held very brief discussion on this item. It reviewed the proposed language and voted 7-0-1, with Ald. Gentile abstaining, to approve this item.

REFERRED TO PS&T, PF., FINANCE AND PROG. & SERV. COMMITTEES

#246-06 ALD. LINSKY, PARKER AND DANBERG requesting discussion of placement of debt exclusion questions on the November 2006 state election ballot in Newton that would ask voters whether they wish to finance repairs, renovations and improvements to Newton Fire Stations as well as other high-priority capital and infrastructure needs through debt exclusions. Said questions would be written as binding debt exclusion in accordance with the provisions of Proposition 2 ½.

PROG. & SERV. APPROVED 2-1-3 (Baker opposed; Merrill, Johnson, Hess-Mahan abstaining) on 6/21/06

PUB. FACILITIES NO ACTION NECESSARY ON 10/4/06

PUB. SAFETY/TRANSPORTATION TO MEET

ACTION: NO ACTION NECESSARY 7-0-1 (Ald. Parker abstaining)

NOTE: Because this item specifically references placing a question on the November ballot, this item is now a moot point. Therefore, the Committee voted NO ACTION NECESSARY on this item by a vote of 7-0-1, with Ald. Parker abstaining.

REFERRED TO PUB. FAC., FINANCE AND PROG. & SERV. COMMITTEES

#247-06 ALD. PARKER, LINSKY, SANGIOLO, VANCE, MANSFIELD, DANBERG, & HARNEY proposing placement of a question on the November 2006 state election ballot in Newton that would ask voters whether they wish to finance the construction of the proposed new Newton North High School project through debt exclusion. Said question would be written as a binding debt exclusion in accordance with the provision of Proposition 2 ½.

PROG. & SERV. APPROVED 2-1-3 (Baker opposed; Merrill, Johnson, Hess-Mahan abstaining) on 6/21/06

PUB. FACILITIES NO ACTION NECESSARY ON 10/4/06

ACTION: NO ACTION NECESSARY 7-0-1 (Ald. Parker abstaining)

NOTE: This item also references placing a question on the November ballot, therefore, the Committee voted No Action Necessary on this item by a vote of 7-0-1, with Ald. Parker abstaining.

REFERRED TO PUB. SAFETY/TRANS. PROG.& SERVICES & FINANCE

#273-04(2) ALD. GENTILE requesting home rule legislation to reclassify the two "dedicated fire apparatus mechanic" positions from Group 1 to Group 2 in the State Retirement System.

PS&T DENIED 5-1-1 (Lennon opposed; Samuelson abstaining) on 2/8/06

ACTION: APPROVED 7-1 (Ald. Linsky opposed)

NOTE: This item is a complex item. It is clear that the State Legislature has enacted a moratorium on these types of special legislation. It is expected that next year a new classification system for the Massachusetts Retirement system will be implemented to address this problem as it relates to all 351 cities and towns. The state Committee has requested that cities and towns refrain from filing special legislation until the new guidelines are established.

This does not preclude the City of Newton from preparing and forwarding a request for Home Rule Legislation to accomplish this. Ald. Gentile explained that, while he is aware that there is a very small possibility that such a request would progress before the final guidelines are established, he would still ask for Home Rule Legislation be presented to the January 2007 Legislature for consideration to implement the proposed change.

In order to move this item forward towards the drafting of the Home Rule Petition, the Committee voted 7-1, with Ald. Linsky opposed, to approve this item. Because there are conflicting Committee reports on this item, it will automatically be placed on Second Call on November 6th.

All other items were held. The Committee adjourned at approximately 10:15 p.m.

Respectfully Submitted,

Paul E. Coletti, Chairman