

CITY OF NEWTON  
IN BOARD OF ALDERMEN  
FINANCE COMMITTEE REPORT  
MONDAY, SEPTEMBER 9, 2003

Present: Ald. Coletti (Chair), Gerst, Ciccone, Gentile, Stewart, Parker and Lipof

Absent: Ald. Schnipper

Also Present: Ald. Linsky; David Wilkinson (Comptroller), Dolores Hamilton (Director of Human Resources), Lori Berrett (Workers' Compensation Manager), Dan Funk (City Solicitor), Sandy Pooler (Chief Budget Officer), Fran Towle (Commissioner of Parks and Recreation)

#343-03      HIS HONOR THE MAYOR requesting an appropriation in the amount of \$3,500 from the Capital Stabilization Fund for the purpose of completing repairs to the sound system in the Aldermanic Chamber.

**ACTION:**      **APPROVED 7-0**

**NOTE:**      This item was reviewed briefly by the Committee. It relates to ongoing much needed repairs to the sound system in the Aldermanic Chamber. In order to make the microphone system work more effectively, it is necessary to make improvements to the main switch and the outdated electronics in the control panel for the system.

Ed English has worked with the Public Buildings Department and Jeff Knight from Fire Communications to address these issues and get estimates for these repairs.

Since Free Cash has not yet been certified, the funding source for this appropriation will be the Capital Stabilization fund. This is because these improvements need to be made during the fall months.

Without debate, the Committee voted 7-0 to approve this request.

#342-03      HIS HONOR THE MAYOR requesting authorization to appropriate the sum of \$50,000 from the Workers' Compensation School Department Lump Sum account for the purpose of funding full and final settlement of all Workers' Compensation claims filed by a former custodian at the Lincoln-Eliot School. This former custodian sustained a hernia while working at the school on June 1, 2000.

**ACTION:**      **APPROVED 6-0 (Gentile not voting)**

**NOTE:** Dolores Hamilton, Director of Human Resources, and Lori Berrett, Workers' Compensation Manager, were present this evening.

The Committee reviewed all backup information related to this case. This employee suffered a hernia while on the job, and then a recurrence of the same injury. Substantial surgery was necessary, and there was some permanent numbness as a result of these events. This employee has been out of work and is about 45 years old. Unfortunately, due to the numbing of his legs (as a result of the surgery), he applied for and received a permanent disability retirement from the City of Newton.

This particular settlement is to compensate this employee for some of his expenses and also for payment to his wife and for payment of his medical bills. After all related expenses are paid, the employee will net approximately \$5,000 from this settlement.

Ald. Stewart and Gerst wanted to ask some additional questions related to legal strategies. Therefore, the Committee voted 6-0, with Ald. Gentile not voting, to enter into Executive Session for that discussion. After discussion, the Committee voted 6-0, with Ald. Gentile not voting, to exit the Executive Session discussion.

The Committee then voted 6-0, with Ald. Gentile not voting, to authorize this expenditure for the settlement of this claim.

#378-03      HIS HONOR THE MAYOR requesting an appropriation in the amount of \$25,000 from Budget Reserve for the purpose of procuring the services of outside counsel to represent the City of Newton, the Zoning Board of Appeals, and the Commissioner of Inspectional Services in the suit brought against them by the Teddy Bear Club, Inc.

**ACTION:**      **APPROVED 6-0 (Gentile not voting)**

**NOTE:** Dan Funk, City Solicitor, was present this evening. He explained that the owners of the Teddy Bear Club had requested that the decision on the building permit be overturned by the courts. The City now finds itself in the position that we need to assign counsel for the Commissioner of Inspectional Services as well as various City agencies that have been involved with the Teddy Bear Club situation throughout this process. The Committee was advised by the City Solicitor that the neighbors have also retained their own counsel to protect the interests of the community where this case is concerned.

In discussions with Mr. Funk, the Committee understood that the building permit has been re-issued to the Teddy Bear Club to continue the work being done at the site. There are other issues related to the issuance of the building permit and controls that can be put into place regarding parking and traffic issues. Although it was clear to the Committee that the reconstruction and completion of this project will move forward under this building permit, it was the determination of the City Solicitor that the City needs to hire outside counsel to represent the ZBA and the Commissioner of Inspectional Services in

order to make sure that conditions placed on the ultimate use of this site are lawful and enforceable. Mr. Funk explained that outside counsel would be appropriate to eliminate possible conflicts of interest in this case.

The Committee agreed that it was necessary to retain outside counsel for this purpose, and voted 6-0, with Ald. Gentile not voting, to approve this item.

#377-03      NANCY PARRITZ, 54 Bonad Road, West Newton, in accordance with Sec. 24-31d of the Revised Ordinances of Newton, 2001, (*Control and curtailment of signals emitted by alarm systems*), requesting abatement of the assessed fee in the amount of \$149.60 paid to the Newton Fire Department.

**ACTION:**      **APPROVED 7-0**

**NOTE:**      The petitioner's husband was present this evening and presented a packet of information to the Committee. He explained that they, the owners of the home, were out of town when the house was struck by lightning. That strike triggered the house alarm. Unfortunately, there was no one home to turn the alarm off, and the lightning current fried the wires to the device that holds the timer to turn off the audible alarm.

The Police Department received complaints of noise disturbance from the alarm and followed proper procedures to silence the alarm. The Fire Department was called to respond to this location. They made an attempt to silence the alarm from outside the house, but that was not successful. Therefore, a member of the owners' family came to the home and opened the house to allow the Fire Department to enter. The Fire Department attempted to silence the alarm and could not do so. Ultimately, it was necessary to dismantle the alarm system to turn it off.

Under the local ordinances, Section 24-31(d), there is a service charge for curtailment of alarm systems. Under this ordinance, discretion is allowed to abate these charges. For instance, if the homeowner works with the City to try to shut off the alarm to no avail, or if the alarm system was not in violation of the noise ordinance (in terms of the amount of sound emitted) or if there was significant damage done in the process of curtailing the alarm. Under those circumstances, the City (through the Board of Aldermen) could make the determination that the fee is to be abated.

Committee members agreed that, in this instance, all three of the conditions regarding the assessment of the fee apply. Since the homeowner is a long time resident of Newton and this is the first time that an incident such as this has occurred, and this case matched all of the criteria for appeal, the Committee voted 7-0 to approve the abatement of this charge.

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

#303-03      ALD. PARKER requesting discussion of expenditure of funds from the Tree Ordinance revolving account.

**PROG. & SERV. APPROVED 8-0 ON 9/3/03**

**ACTION:      APPROVED 7-0 with FY04 expenditure limit of \$175,000**

**NOTE:**      Fran Towle, Commissioner of Parks and Recreation, and Mark Welch, Director of the Forestry Division, were present this evening.

The Committee reviewed the tree preservation ordinance and tree planting policies and how monies received by the City (under the tree ordinance) are to be spent. Much of this discussion also took place in Programs and Services Committee when this item was approved on 9/3. The job of the Finance Committee this evening was to look at the establishment and function of the revolving account and set a maximum spending limit for FY04.

After minor discussion regarding the tree ordinance and tree removal requirements (information that was attached to this evening's agenda), the Committee voted 7-0 to re-institute the revolving fund, with expenditures not to exceed \$175,000 for FY04.

The Committee adjourned at approximately 9:30 p.m.

Respectfully Submitted,

Paul E. Coletti, Chairman