



# Programs & Services Committee Report

## City of Newton In City Council

**Wednesday, March 6, 2019**

Present: Councilors Rice (Chair), Brousal-Glaser, Kalis, Baker, Albright and Greenberg

Absent: Councilors Krintzman and Schwartz

Also present: Councilors Crossley, Norton, Kelley, Gentile, Laredo and Danberg

City Staff Present: Jonathan Yeo (Chief Operating Officer), Maura O'Keefe (Assistant City Solicitor), Karyn Dean (Committee Clerk)

### Referred to Programs & Services, Public Facilities, and Finance Committees

**#101-19**      **Authorization to submit an SOI to the MSBA for Countryside School**  
SUPERINTENDENT OF SCHOOLS requesting authorization to submit a Statement of Interest (SOI) – Core Program to the Massachusetts School Building Authority (MSBA) for consideration of funding for a renovation/addition of Countryside Elementary School, designated as the highest priority for a major project after Cabot Elementary School and Lincoln–Eliot Elementary School and Newton Early Childhood Program.

**Finance to meet**

**Public Facilities Approved 6-0**

**Action:**      **Programs & Services Approved 6-0**

**Note:** The Programs & Services Committee met jointly with the Public Facilities Committee to discuss the request to authorize the submission of a Statement of Interest (SOI) to the Massachusetts School Building Authority (MSBA) for the purpose of renovating Countryside Elementary School. Please refer to the March 6<sup>th</sup> Public Facilities Committee report for details of the discussion.

**#92-19**      **Reappointment of Brooke Foucault Welles to the Human Rights Commission**  
HER HONOR THE MAYOR reappointing BROOKE FOUCAULT WELLES, 9 Williams Street, West Newton, as a member of the HUMAN RIGHTS COMMISSION for a term to expire February 25, 2021. (60 days: 05/03/19)

**Action:**      **Programs & Services Approved 6-0**

**Note:** The Committee approved Ms. Foucault Welles' reappointment to the Human Rights Commission unanimously, without discussion.

**#76-19 Home Rule Legislation to amend City Charter**

PROGRAMS & SERVICES COMMITTEE requesting that the City Council seek Home Rule Legislation to amend the City Charter based on a review of the 2019 recommendations of the Charter Subcommittee of the Programs & Services Committee except for those relating to City Council composition and term limits for the Council and the Mayor.

**Action:** Programs & Services Held 6-0

**Note:** The Chair explained that the Programs & Services Committee formed a subcommittee to review the recommendations of the Charter Commission and propose possible amendments based on those recommendations because some felt that while the wholesale proposal failed in the election, there were some very worthy individual recommendations. The first phase of this review did not include the composition of the City Council or term limits. Instead, the full Committee will take up those issues later in the year.

In order to make changes to the Charter outside of the Charter Commission process, the City Council and Mayor would have to approve any changes through a Home Rule petition which would then be sent to the state legislature. If the petition were approved there and signed by the Governor, it would be enacted. State law requires that changes to the composition of the City Council or a change in term limits would additionally require a vote by the residents of the City and any recommended changes on these issues would be submitted in a second home rule petition.

Councilor Baker, Chair of the subcommittee noted that he and Councilor Kalis were not in favor of the Charter changes when they were submitted for a vote by the City, but Councilor Albright and Councilor Krintzman had been in favor of the proposed Charter. Therefore, the subcommittee members represented both sides of the issue. The stated goal of the subcommittee was to review the Charter Commission recommendations and decide which should be brought forward for home rule legislation. The subcommittee did not intend to make changes to the Charter independent of the Charter Commission recommendations, although some small changes of that kind are being proposed.

The subcommittee felt that the structural changes proposed by the Commission provided clarity by bringing related provisions closer together, and otherwise making the document easier to navigate and understand. The subcommittee then went through the Charter line-by-line and reviewed each Article in conjunction with Assistant City Solicitor, Maura O'Keefe's guidance and advice. Redlined and clean versions of the subcommittee's recommendations were provided to the City Council and were posted online as well. The current Charter and the Charter Commission recommendations are also available online on the Programs & Services 2019 Committee page. Councilor Baker provided a few additional clarifying edits.

Councilor Kalis pointed out that the subcommittee approved of the Charter Commission's recommendations for Article 9 which addresses Neighborhood Area Councils. He noted that the subcommittee did not have an extensive discussion of that Article and there had been no input at

the subcommittee meetings that indicated these were controversial changes. There have since been some concerns brought to Councilors attention, so the Committee is looking forward to hearing from people at this meeting.

The Chair explained that he will be inviting public comment on the Charter amendments. The Committee will meet again on March 20<sup>th</sup> and continue the opportunity for people to speak. After that meeting, the Committee will determine if more time is needed or if this can be voted out of Committee for discussion at the following City Council meeting. The Chair reminded everyone that this current recommendation may be changed based on public feedback and discussion in the full Committee.

#### Public Comment

*Anil Adyanthaya*, noted that he provided written comments that were previously distributed to the City Council. He expressed concern that the Neighborhood Area Councils would be removed as legal entities in the Charter and be reduced to creations of the City Council by ordinance. This change in status will negatively affect the view of area councils are more transient or temporary and this could also affect the number of people who want to be involved in them. Area councils have been running successfully and smoothly and changing their status in the Charter is unnecessary.

*Betsy Huett, 1 Winthrop Street* said she was curious why the subcommittee would support taking area councils out of the Charter. When the Charter was on the ballot, she heard from voters that people were in favor of more local representation and this change is counterintuitive to that. The voters rejected the Charter changes.

*Nelson Lipshutz, 24 Radcliffe Road* said that Charters live forever. Ordinances can change easily and rapidly. Some future city council may not have the same opinion of area councils as the current city council and they could be done away with. He did not think that much volatility would be helpful in an organization that is very effective in mobilizing public opinion.

*Pat Maher, 81 Winslow Road* said the emotional point of the Charter vote was the size of the City Council. It was turned down primarily because people were uncomfortable with reducing the size of the Council at least in the way that was being proposed. There is a segment of people in the city that are concerned with the consolidation of power in Newton. Taking the area councils out of the Charter and having them be at the whim of the City Council and reducing their status will further exacerbate and separate people living in Newton.

*Helen Nayer, 75 Grove Hill Avenue* said Newton residents voted to reject the Charter Commissions attempt to eliminate ward representation of the City Council. Local representation is very important to the residents of the City and this is now another attempt to weaken that. Area Councils are important vehicles for communication and education on local issues. There is no other that has been as effective. The Newtonville Area Council did a survey and received 2500 responses on the Washington Street issue and yet these responses were ignored by the City Council, the

administration and the Planning Board. These proposed changes are controversial and are not entirely well understood by the public. An effort to educate the public needs to be made and until then this should go back to the drawing board. While she is focused on the area councils, there are other issues that need further discussion.

*Peter Bruce, 11 Claflin Place*, said he is president of the Newtonville Area Council. He shares many of the same concerns already expressed. The Planning Dept is recommending many times more residential units on Washington Street than the survey results recommended. He is unsure why the area councils are under such scrutiny and if this is a drive to limit local representation. The area councils have done many good things and have village days, surveys, provide streetscape advice and supervision among other things. They are popular and get a lot of votes and sometimes more than ward councilors get. The area councils should be allowed to exist as is. Checks and balances are crucial - the City Council has only one non-democrat and voices need to be heard.

*Rena Getz*, said she is supportive of area councils. They are on the ground and provide the local debate. Many of them have brought in proponents for different projects and it provides an opportunity for projects to be discussed in the planning stages. On a higher level, she feels the vote on the Charter should be respected. We can't second guess why people turned down the Charter proposal and this is an attempt to do that. It is not appropriate. Any changes to the charter should be evaluated individually and maybe cluster some that are similar. Some of the higher-level issues need to be separated out. She said she would submit further comments.

*Liz Marabele*, Lower Falls said she is new to the political scene in Newton. She is part of the Riverside Committee and the Lower Falls Improvement Association. She is concerned about the area council changes. In Article 10 she is also concerned about the 20% threshold voter participation for initiatives and referenda. If area councils are under fire and individuals cannot come to polls, 20% seems very high and she would like to know the rationale.

Councilor Baker said the Charter Commission recommended this threshold and the City Clerk reported that no municipal elections in recent history have not gone below 20%. He clarified that 20% of registered voters must participate in the election – this does not apply to just the question itself. The Charter Commission's rationale was that if something were being overturned that was approved by the City Council, it should have a certain amount of interest in it in order for that to happen. Councilor Kalis reported the subcommittee did not want the threshold to be too low or too high and this seemed to be an attainable number historically. Jane Franz said that a robust campaign should be undertaken in order to make changes to the laws. It could be in the interest of a particular group to down play a campaign so this threshold would guarantee a robust campaign and turnout.

Peter Bruce said the numbers were off and there were lower percentages at elections. Councilor Baker said he would check with the City Clerk on the election numbers.

*Name inaudible*, also a member of the Riverside Group. She said that there is a sense of disenfranchisement and there is a lot of feelings and anger. This sounds like more things under attack with the Council by making it harder to vote.

*Stas, inaudible*, said he spends most of time in Newton Centre at his physical therapist practice. A year ago he wanted to renovate a building in Newton Highlands and he was a total loss as to how to move forward. He got a recommendation to go to the area council for a sense of what people in the area think about the project. His contact with them was extremely helpful and pleasant.

*Isabelle Albeck*, 240 Windsor Road said area councils are very important for communication between the city and the resident. She wanted to know who decides if the area council question should go in front of voters. The composition of the City Council must go but why not the area councils. Maura O'Keefe, Assistant City Solicitor, responded that MGL requires City Council composition to go before the voter and term limits as well, however, area councils would not. Area councils are a creature of the Charter alone. There are only a handful of area councils statewide.

*Deb Dubotin*, Newton Lower Falls said area councils function very well in the City. They are very organized and it's a great way to get feedback and is an essential part of democracy. She is in favor of the way they run and they let local residents participate in city government.

*Martina Jackson*, 115 Lowell Avenue said many years ago, Newton was designated an all American city because of the participatory aspect of living here. While other communities might not have area councils, a cornerstone of Newton is participation. Area councils represent first amendment rights for speaking out about what is happening locally. The vote against the Charter was a margin of 1604 votes. There were those on the side of the charter that those who did not vote for it simply did not understand, but we did understand very well. That was an offensive comment. Democracy might be messy, but what is better?

*Tariq Lucas*, 36 Central Ave, VP Newtonville Area Council said he hopes the Committee meets with all four area councils to understand what they do and if they are following the rules or not. That would be a way to determine what to recommend.

*Amy Sangiolo*, said she was concerned about the 20% threshold as well. She was also concerned about putting area councils into an ordinance as it makes them subject to changes with the City Council and/or the Mayor. The last administration strongly encouraged having more area councils and 3 more were added. This was a resurgence in interest in local government. Some areas have neighborhood groups that provide strong representation but the fear of area councils going away is a strong sentiment. She would like to see area councils stay in the Charter as they currently are.

*Dinah Bodkin*, 39 Waban Ave said she is secretary of the Waban Area Council and she agreed with all the other speakers about the importance of area councils. Diverse tasks are accomplished to the benefit of residents that could not be achieved otherwise.

*Pat Irwin*, 115 West Street said she also agreed with all the comments on area councils.

*Barbara Smyley*, Walnut Street said she also agreed with all the comments on area councils.

*Nathaniel*, 53 Pinecrest Road said the Highlands Area Council will be discussing the Charter at its next meeting. 2003 was the last time a non-Mayoral general city election broke 21%. 2015 was 20%, 2011 and 2007 were both under 20%. This is according to the election website data. There has to be a concern about boycotting an election as well. Be careful about increasing the number of signatures to get on a ballot. We should be open and not creating larger hurdles. He was actively involved in the Charter Commission process. Community events are an important part of area councils. The City Council would have to create an ordinance to allow this going forward for new area councils. The deadline surrounding the creation of the rules for area councils could result in no action being taken. Changing the rules makes much of the rules around area councils very unclear and a clear rule about when the city council acts needs to be added.

*Jane Franz*, 12 Glastonbury Oval said she worked on this article while on the Charter Commission and it was the most problematic. It took weeks to get this settled. Because there are so few area councils in the states that had to look at California and other states that are not appropriate fits for Newton just to get some sense on how to deal with them. She asks the Committee to look at how area councils grow, within the current Charter, in terms of adding streets. The concern expressed is that there could be a "mega-Council" and that is why they added the proposal that the City Council would establish boundaries to prevent that from happening. She also expressed support for retaining the recommendation of the subcommittee to list the powers of the school committee and not have just a reference to the state law. There is a substantial amount of misunderstanding about the role and powers of the school committee. She also wanted other recommended language about school buildings and facilities in Article 4 to remain.

*Sallee Lipshutz*, 24 Radcliffe Road said she is a member of the Waban Area Council, which covers most of the village of Waban. She has been involved in the area council since its formation and she is passionate about area councils. They provide residents a legitimate extra ear at City Hall and an extra venue in which their voices can be heard. Private neighborhood associations can meet at will, without notice and do not answer to constituencies. Area councils must abide by open meeting law and their financial records and meeting minutes are available to the public. Area councils under the Charter are a legitimate extension of city government that opens communication channels for residents to get their concerns heard and responded to. Area councils are intended to encourage citizen involvement at the neighborhood level by permitting limited self government as legal entities of the city government. Revisionists want to delegitimize the voice of area councils. They also want to remove ward councilors from local responsibilities in the failed Charter proposal that went before the voters. This changes to the area councils in this proposal are major and should not be made in this way. A transparent city government would not delay the formation of new area councils but would encourage them until they cover every neighborhood.

*Chris Steele*, Elliot Street said he has been following the work of the subcommittee and appreciates the conversations. One thing the Charter Commission found was that there was no guidance on how to review the Charter. There was not much institutional knowledge to learn how to debate the questions. He would like to recommend a 10-year charter review because at that point, people who were involved in the last review might be gone. He said he has also been very involved in area councils and found them very helpful when he served on the Economic Development Commission. Area councils do not cover every household in the City and this is an equity issue to be considered.

*Kathleen Kouril Greiser*, 258 Mill Street said this meeting reminds her of being at the Newtonville Area Council. Speaking to the City Council is often limited to a few minutes but at the area council everyone is allowed to speak and it is grassroots democracy at work. She does not understand the rush to make these changes to the Charter. She does not understand why it is being reviewed at all because the voters rejected the Charter. The subcommittee was supposed to review minor changes but changing area councils is a major change. The subcommittee did not take the advice of the Law Department about wordsmithing or state law references that could have unintended consequences. Jack Prior said that were 1700 changes made by the subcommittee, and some were minor, but its daunting to review. People rejected the Charter in order to save the ward representation. Having a lively democracy extends to making the referenda and initiatives accessible and it also extends to area councils. Area councils are the finest example of grassroots democracy and there should be more. The idea to make it harder to have more is the wrong way to go. Three of the four councilors on the subcommittee come from wards without area councils so they do not have experience with them. Waban and Newtonville have done surveys that are unbiased surveys and different from the consultants that the City hires. Area councils are not hotbeds of resistance and there are many viewpoints. There is a power elite in the City and they dominate the Council, the administration and are friends of developers. The rest of the residents are unrepresented. Looking to other states to find ways to deal with area councils is not necessary. Newton is a leader and is doing the right thing already. Requiring 20% voter participation on referenda is not reasonable. The Charter Commission tried to make Newton less democratic and it failed so do not try to accomplish that through a backdoor method.

*Elain Rush Arruda*, Commonwealth Ave said she supports the comments relative to area councils. She would like to have one in her neighborhood and has seen how effective they are. They should not be changed in any way.

*Jack Prior*, Newtonville thanked the subcommittee for its work and all that were involved. He helped lead the No on Charter effort and it was a lot of work explaining the Charter to people. Changing area councils is not something that should be considered one of the lesser changes. If people write to the legislature it may end up on a ballot and should be handled separately. The 20% participation rule seems well intentioned but there are ways that it could be gamed. A provision of saying 10% must approve and it must win could get around that. Many of the revisions are complex and some are updated language and so forth, but it is hard for citizens to know what is substantial and what is not. It might be helpful to further explain the changes. There is some risk of opening up the Charter to unintended consequences with these changes. Summarizing some of

the school committee requirements to post elsewhere and take them out of the Charter might be useful.

Committee Comments/Questions

Councilor Baker, Chair of the Subcommittee explained that the subcommittee followed the recommendations of the Charter Commission on Article 9, Neighborhood Area Councils. Frankly, the subcommittee did not have the kind of commentary on the subject that is being heard here. It was not the intent of anybody on the subcommittee to diminish local representation and he opposed the Charter because that was one of his concerns. It was felt the changes here were clarifying a somewhat murky process. He fully understands the concern that an ordinance is much easier to change than a Charter.

The Charter says the City Council is supposed to develop rules for Area Councils, which they had not, and the Charter Commissions intent was to sort that out and put some rules into an ordinance in order to get that done. Jane Franz, former Charter Commission member, said that the intent was to make the area councils nimbler over time considering that a Charter will be in place 20 years from now. The current structure may not be suitable for the City 20 years from now, so the ordinance would allow more flexibility to make changes as necessary and as needed. The notion was never to remove area councils from the Charter or undermine their authority or good works they do.

A Committee member felt that it is not easy enough to form area councils and there is an equity issue. This is just not an association of people. If area councils are an arm of government, it is not fair that not all households are involved. She felt that the entire city should be covered by area councils.

It was noted that the intent of the subcommittee was not to make independent changes to the Charter and to just review the recommendations of the Charter Commission and to make a recommendation to accept them or not. Based on that and on the opinions expressed at this meeting, the Committee felt it was appropriate to take Article 9 out of the conversation at this time. The Committee will review the other changes recommended by the Charter Commission and take up the issue of Area Councils when the Committee is considering City Council composition and term limits. There may need to be some structural changes in form to match the other Articles, but no substantive changes will be made.

The Committee will meet on March 20<sup>th</sup> and will continue to take public comment on the proposed changes in the remaining Articles of the Charter. The Committee voted to hold this item.

Meeting adjourned.

Respectfully Submitted,

John B. Rice, Chair