



Programs & Services Committee Report

City of Newton In City Council

Wednesday, October 17, 2018

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

Absent: Councilors Schwartz and Kalis

Also present: Councilors Danberg, Leary and Downs

City Staff Present: Jonathan Yeo (Chief Operating Officer), Ouida Young (Acting City Solicitor), Waneta Trabert (Director, Environmental Affairs), Karyn Dean (Committee Clerk)

#519-18 Appointment of Alissa Ocasio Giuliani as City Solicitor

HER HONOR THE MAYOR appointing ALISSA OCASIO GIULIANI as City Solicitor, pursuant to Section 3-4 of the Newton City Charter, to be effective November 19, 2018. (30 days 11/14/18)

Action: Programs & Services Approved 6-0

Note: Alissa Ocasio Giuliani joined the Committee. She said she has great respect for the staff in the Law Department and understands that it has been a very well-run department. Her plans are to build on the ongoing strengths and to bring some of her management experience in to play. She has spent quite a bit of time talking to Acting City Solicitor, Ouida Young about current staffing, cases, hot topics and issue as well as approaches to them and any controversies, to understand what is going on in the City and in the office. She noted that she has been paying particular attention to the staff and what they are working on. There will be a little bit of a learning curve, but she feels confident that she can fit in well and determine new approaches, if they are necessary and build on the strengths.

The Chair of the Zoning & Planning Committee noted that there is quite a bit of work ongoing and upcoming on the new zoning ordinance and vision plans in several areas around the City. Land Use is also a very important function of the City Council. She asked Ms. Giuliani how she planned on managing and supporting these projects. Ms. Giuliani said she did not work solely on land use issue while she worked for the City of Boston, but she does have some good experience to bring to the table. She will rely on those in the office who have been working with the land use issues to determine how to best support the upcoming work for both Committees. She understands these are priority areas.

A Councilor noted that the City Council and the Mayor rely on the Law Department and asked if Ms. Giuliani had any thoughts on how that is a different model than what she has been used to with the City of Boston. She said the School Committee was an appointed authority in Boston, but that did not mean they were always in agreement with the Mayor. It is not unfamiliar for her to hold a role

wherein she might be providing support and advice to two different bodies that might have conflicting ideas. In her years working in Boston, she handled that with great care in representing Councilors, School Committee members, and the Mayor. She understands that will come into play here in Newton, she feels she can approach what could be an uncomfortable situation in the most comfortable way possible for all involved. She said that she was sure there will be many times when the Mayor's and the City Council's opinions and goals will be in harmony, she understands there may be moments of disagreement, or times that the City Council may want advice independent from the Mayor. She understands and respects the confidence she takes when advising a client.

A Committee member asked if she would see herself as more of a manager of a department or more involved in the day to day work of the office. She responded that while she has managerial experience and will bring that to bear, she does like to be deeply involved and has found herself, in the past, to become the expert on various issues and cases and to do research on case law to support those issues. She likes to be as involved in other lawyer's cases so she can talk with them about those cases substantively and be as useful as possible.

Ms. Giuliani said she is excited to learn more about Newton and to working with the City Council. She hopes to live up to the expectations for the role of City Solicitor.

Committee members offered their support and encouraged Ms. Giuliani to use them as a resource as she is getting familiar with the important topics and issues in the City.

Councilor Albright moved approval and the Committee voted in favor unanimously, 6-0.

#520-18 Appointment of Lori Yarvis to the Farm Commission

HER HONOR THE MAYOR appointing LORI YARVIS, 1469 Centre Street, #1, Newton, as a member of the FARM COMMISSION for a term to expire October 31, 2021.
(60 days: 12/14/18)

Action: Programs & Services Approved 6-0

Note: Ms. Yaris joined the Committee. She explained that she feels very strongly about green aspects of Newton. She and her husband are recent empty-nesters and started to look outside of Newton for a new home. They decided that Newton was the best place for them because it offered an urban and a green environment which was important to them. She has a demanding job, but she feels she would really like to give back to her community. She does some pro bono legal work for the Conservation Law Foundation which has a program called the Legal Services Food Hub. This program matches lawyers with farmers and food producers who cannot afford legal services, to help them hold onto their farms and farm in a way that is affordable and maintain their businesses. It has been a wonderful learning experience for her. Her office is on Wells Avenue and she lives in Newton Centre so passes the Farm twice a day. She finds it beautiful and feels it is a gem in the City and she would love to work with the Farm Commission.

It was asked if the Farm Commission needs legal help. Ms. Yaris said she was not sure, but she would be willing to help out in any way necessary. She has analytical skills as well as gardening skills.

Councilor Baker moved approval and the Committee voted in favor, unanimously, with thanks.

#521-18 Appointment of Charles Reilly to the Farm Commission

HER HONOR THE MAYOR appointing CHARLES REILLY, 158 Upland Road, Waban, as a member of the FARM COMMISSION for a term to expire October 31, 2021.

(60 days: 12/14/18)

Action: Programs & Services Approved 6-0

Note: Mr. Reilly joined the Committee. He explained that he considers himself an urban gardener and has gardened since he was a child. He has three gardens, tends bees, taps the maple trees and has been an educator for many years. The Farm Commission seemed an excellent place to combine his skills and contribute to the farm. He looks forward to learning more about the Commission and its work. He has not yet attended any meetings.

Councilor Rice moved approval and the Committee voted in favor, unanimously, with thanks for his willingness to serve.

#522-18 Re-appointment of James Harper to the Farm Commission

HER HONOR THE MAYOR re-appointing JAMES HARPER, 59 Westminster Road, Newton Centre, as a member of the FARM COMMISSION for a term to expire March 31, 2020. (60 days: 12/14/18)

Action: Programs & Services Approved 6-0

Note: The Committee voted unanimously to approve this re-appointment with no discussion.

#523-18 Re-appointment of Michael Goldman to the Farm Commission

HER HONOR THE MAYOR re-appointing MICHAEL GOLDMAN, 14 Saxon Terrace, Newton Highlands, as a member of the FARM COMMISSION for a term to expire July 31, 2020. (60 days: 12/14/18)

Action: Programs & Services Approved 6-0

Note: The Committee voted unanimously to approve this re-appointment with no discussion.

#524-18 Re-appointment of Vaunita Schnell to the Farm Commission

HER HONOR THE MAYOR re-appointing VAUNITA SCHNELL, 68 Stearns Street, Newton Centre, as a member of the FARM COMMISSION for a term to expire March 31, 2020. (60 days: 12/14/18)

Action: Programs & Services Approved 6-0

Note: The Committee voted unanimously to approve this re-appointment with no discussion.

#503-18 Discussion of handling of trash and recyclables by private haulers

COUNCILORS LEARY, CROSSLEY, GREENBERG AND DOWNS requesting discussion and adoption of best practices, including a mandate to separate recyclables from trash and include recycling pick up to meet Massachusetts Waste Ban regulations, 310CMR 19.017, for private haulers doing business in the City of Newton.

Action: **Programs & Services Held 5-0 (Councilor Baker not voting)**

Note: Councilor Leary reported that the Solid Waste Commission has been meeting for 2 years and it identified that the City does not require private haulers to do recycling. It is easy to spot the businesses around the City that do not recycle because there is just one bin. Currently, there is a state law that prohibits recyclable items from going into the trash. There are a significant number of businesses and condo associations that are not part of the City's Waste Management pick-up that are not following the recycling rules. In order to have an even playing field, the docketers wanted to work with the Law Department to make the ordinance stricter. This would also require consultation with area businesses along with an education component.

Greg Reibman of the Newton Needham Chamber of Commerce was consulted because there is interest in finding out what the barriers to recycling might be. Recycling fees are still significantly lower than trash-tipping fees so it is odd that it is not utilized more. Mr. Reibman suggested the docketers speak to the decision makers at area businesses and condos to find out what is happening. Councilor Leary would like some staff time from the City to put together a survey and to help identify the decision makers and ask these questions. She feels this could be a lengthy process, perhaps a year, so she would like to get started as soon as possible. She would also like to consider putting together a working group, which was very helpful in the plastic bag ban process, to work with the Mayor's office and other City stakeholders to determine what can be done. There is a very unstable recycling market, but the City should still be moving in this direction. She would like some feedback from the Committee.

The Chair said that many of the commercial businesses use dumpsters, so two different dumpsters would be necessary. This should be factored into the cost, space involved. Councilor Leary noted that smaller dumpsters are available, and it should be cost effective to separate recycling from other solid waste materials.

Councilor Leary said the onus would be on the private haulers to offer this service. If businesses recycle, but there are no haulers to handle the recycling, then it will not matter. The ordinance needs to require any hauler who does business in the City to pick up recycling. Waneta Trabert, the Director of Environmental Affairs, referred to the DEP guidance on best practices for municipalities developing private haulers regulations, which was provided in the packet. It does include a recommendation to require mandatory recycling in an ordinance. It would require everyone within City limits to recycle and to even the playing field on who offers the recycling and who picks up the

recycling, to enforce it at the private hauler level. In order for a private hauler to be licensed through Newton's Health Department to operate in the City, they would have to provide a bundled service requirement for both trash and recycling pickup. Other municipalities have adopted these best practices, which were developed in March of 2017. Other communities have older ordinances that were trying to get to this issue but were not entirely successful.

It was asked if this ordinance could drive some haulers away from doing business in Newton. Ms. Trabert said that there were more than enough haulers doing business in the area to take care of Newton's needs, even if a few decided not to comply and work in the City. Every entity creates recyclable materials and if they are not recycling they are violating the state waste ban. The hauler not providing that service, is enabling that.

A Councilor noted that she has heard quite a bit from condo associations that recycling is not being offered and residents there are frustrated by that. Ms. Trabert said the condo board or the management company may not vote to spend money on recycling, which is out of compliance with state law. If this ordinance were put in place in Newton, the condo board would no longer be able to withhold the service and the hauler would be required to provide the recycling dumpster.

Some Committee members wondered why the City does not offer their recycling services to condo developments. Ms. Trabert said this is a separate issue, altogether.

The Chair felt that having a working group would be beneficial. He asked Councilor Greenberg to represent Programs & Services on the working group and to provide updates to the Committee. Councilor Leary would like some kind of agreement from the Mayor's office to provide resources towards this effort starting with a survey.

Ms. Rambelle of the Solid Waste Commission said a survey was done of 39 businesses which provides some information on barriers to recycling. This information can be helpful to the new working group.

The Committee voted to hold this item, unanimously.

Referred to Programs & Services and Finance Committees

#127-18 **Prohibition on polystyrene-based disposable food or beverage containers**
COUNCILORS DANBERG, ALBRIGHT, NORTON, CROSSLEY, LEARY AND KALIS
 requesting a prohibition on polystyrene-based disposable food or beverage containers in the City of Newton if that packaging takes place on the premises of food establishments with in the City.

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

Note: Councilor Rice explained that the Mayor's office and the Commissioner of Health and Human Services would both like to have an opportunity to review the draft ordinance on polystyrene and other materials and consider the implications of the recommendations. They did

not receive drafts of the ordinance until it was provided in this past Friday's Packet. Commissioner Youngblood provided a memo, which is attached to this report. Councilor Danberg introduced members of the Working Group, Brita Lundberg, Marcia Cooper and Sunwoo Khang. Waneta Trabert, the City's Director of Environmental Affairs was also present and has been working with the group on this ordinance as well. Marian Rambelle, Chairman of the Solid Waste Commission was also present.

A draft ordinance was provided to the Committee and was attached to the agenda. Councilor Danberg explained that since the inception of this docket item, there have been some changes to the scope of what the Working Group would like to recommend. In particular, they would like to add some other materials to the ban. Packing peanuts, Styrofoam coolers, plastic straws, stirrers, lids and cutlery were added to the ban as well as PVC wrap and clear rigid plastic containers that have become ubiquitous. A Committee member noted that this ordinance has been in discussions for several years, however, the updated ordinance was not seen by the Mayor or the Commissioner until a few days ago.

Ms. Khang explained that she is a member of Green Newton, the Solid Waste Commission and the working group. Last June, they started to do some research on other plastics, foam peanuts and coolers. The Sierra Club's "toxic 3" are PETE, PVC and polystyrene (in foam and hard form usually as cutlery). The working group decided to target those toxic 3 and add them to the proposed ordinance. The ordinance also bans plastic straws and stirrers as they cannot be recycled in any effective way. This section asks retailers to find alternatives and prohibits all retailers from selling foam food service ware or packing materials. They also added that if suitable alternatives are not available for some products, exemptions can be granted, with the hope they will be available in the future. A variety of examples of products were presented to the Committee. The working group has been consulting with Clint Richmond in Brookline who created their ordinance and has used it as a model. It is also easier in general for retailers if contiguous communities are doing the same thing.

These bans apply to food preparation in establishments in Newton. A Committee member asked if this might encourage stores to have their foods packaged outside the City and delivered. Councilor Danberg said she was not sure how they could prevent that or if that might happen.

Ms. Khang said she did a survey of restaurants in Newton and about half had eliminated the use of foam take out containers. Most restaurant owners have become aware of the toxicity of many of these products. She said perhaps they should do more outreach to establishments about these additional items. Dunkin' Donuts has banned certain products as well and this is becoming a trend as these products are bad for human health and the environment.

It was noted that many communities are banning drinking straws. Councilor Danberg said that pediatric dentists and pediatricians have been trying to get them banned because they cause injury to smaller children who fall with them in their mouths causing damage to their soft palates.

Ms. Khang said she has done a review of alternatives to most of the packaging and provided a list which is attached.

The Chair noted that Commissioner Youngblood's memo was concerned that her current resources were not adequate to enforce the ordinance as written. Councilor Danberg said that Brookline has implemented an ordinance without bringing on any additional personnel. She is not sure why the Commissioner thinks additional personnel would be needed. Somerville and Boston have bans in place as well, so Newton really needs to get something in place soon. The School Department should be consulted as well due to their contract with food suppliers.

One of the objectives is to make this understandable to the restaurant owners, as well as the residents. There is an enormous opportunity for confusion because there are so many products and the requirements will keep changing as products change. It was pointed out that the City does not have the option for composting. So if an ordinance requires businesses to use compostable products, such as certain cutlery products, the City should have the capacity to process those items. A small pilot program of 200 households has been done in Ward 1, but the working group would like to see a wider composting program. The program involved a 5-gallon bucket to collect organic materials that would go to an industrial composting facility. Voluntary programs do not work that well, so there should be an ordinance, but there are still too many unanswered questions.

The Committee voted to hold this item and meet with Commissioner Youngblood and the Executive Office and return to Committee when the work has advanced a bit further.

Meeting adjourned.

Respectfully Submitted,

John B. Rice, Chair

City of Newton



Ruthanne Fuller
Mayor

HEALTH AND HUMAN SERVICES DEPARTMENT

Deborah Youngblood, PhD, Commissioner

1000 Commonwealth Avenue
Newton, MA 02459-1544

#127-18

Telephone
(617) 796-1420
Fax
(617) 552-7063

October 15, 2018

To: Programs and Services Committee

Re: Draft Proposed Sustainable Food Containers and Packaging Ordinance

From: Deborah Youngblood, Commissioner of Health and Human Services

Dear Councilors,

On October 12th Councilor Danberg emailed me a draft of the above referenced proposed ordinance. The ordinance effectively prohibits the use or sale of polystyrene, polyvinyl chloride or polyethylene terephthalate food and packaging containers in all businesses in Newton. This far reaching proposal has a laudable premise of reducing non-recyclable garbage, an important goal for Newton and beyond.

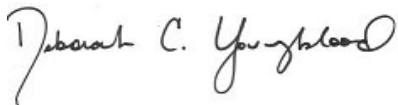
The work of the HHS environmental health division centers on public health and safety and is governed by State and Federal food and safety codes. The enforcement of a local ordinance, such as the one proposed, would require extensive compliance management, administrative duties, on-going research into alternative sustainable materials, penalties and hearings regarding non-compliance, hardship and exemptions. Please consider the following:

- Health inspectors currently inspect restaurants for food safety. This includes hundreds of businesses and is a time- consuming task that is vital for public safety but one we are always stretched to perform in a timely manner with all of our other duties. To add the inspections of many different types of food container products, inspections which would require detailed assessment of types and sources for each product would add significant time to every inspection and is not something we could do with our current staffing. It is also not something that is directly aligned with the goal that health inspectors have when they are in restaurants which is to ensure that food safety practices are being employed effectively to protect against food borne illness.
- The addition of all businesses that sell materials listed above would include an unknown but very significant number of businesses that the health department currently has no jurisdiction over. This would include places such as hardware stores, party supply stores, shipping and packing stores, arts and crafts supply stores, drug stores, convenience markets, as well as any building that has a vending machine. This duty does not fit the role of our current health inspector and would need to be a different position, one that would not fit well within our HHS departmental structure.
- The administrative tasks associated with exemptions, all of which are designated as 6-12 months and all of which need frequent renewals, as well as the tasks associated with managing the

ticketing of businesses, the tracking of violations, managing appeals and the expertise and on-going research that would be required to assess and determine whether a business has a legitimate alternative material and/or a legitimate hardship are not functions that the HHS department currently plays in other contexts nor has the expertise or bandwidth to play in this one. This would also require additional administrative and managerial bandwidth while not aligning well with the current work of the department.

While I am personally supportive of the goals of this ordinance, I'm concerned that such an ordinance was drafted and submitted for approval with clear implications for the HHS staff. Such a proposal would require extensive dialogue and information gathering from myself and the executive office prior to it being positioned for feasible implementation.

Sincerely,

A handwritten signature in black ink that reads "Deborah C. Youngblood". The signature is written in a cursive style with a large, looped 'D' at the beginning.

Deborah C. Youngblood
Commissioner of HHS

Polystyrene (#6) and PETE (#1) Disposable Packaging & Price With Comparable Sustainable Alternatives					
ITEM	POLYSTYRENE (#6) & PETE (#1)	UNIT COST	ALTERNATIVES	UNIT COST	COST DIFFERENCE
12oz hot cup	Dart White Customizable Foam (polystyrene #6) - 1000/Case \$25.49	\$0.03	EcoChoice 12 oz. Kraft Compostable and Biodegradable Paper Hot Cup - 1000/Case \$69.99	\$0.07	\$0.04
16oz hot cup	White Customizable Foam (polystyrene #6) - 1000/Case \$46.99	\$0.05	EcoChoice 16 oz. Kraft Compostable and Biodegradable Paper Hot Cup - 1000/Case \$76.99	\$0.08	\$0.03
16oz clear cold cup	Choice 16 oz. Clear PET Plastic Cold Cup - 1000/Case \$47.99	\$0.05	Dart Solo Bare Eco-Forward Wax Treated Paper (compostable) - 1000/Case \$74.99	\$0.07	\$0.02
			Fabri-Kal Greenware GC16S 16 oz. Customizable Compostable Clear Plastic Cold Cup - 1000/Case \$84.99	\$0.08	\$0.03
10in plate	Dart Quiet Classic White Laminated Foam (polystyrene #6) - 500/Case \$38.49	\$0.07	EcoChoice Biodegradable, Compostable - 500/Case \$42.99	\$0.08	\$0.01
7in plate	Dart Quiet Classic White Laminated Foam (polystyrene #6) - 1000/Case \$52.99	\$0.05	EcoChoice Biodegradable, Compostable - 1000/Case \$33.99	\$0.03	-\$0.02
9x9x3 hinged container	Dart White Foam (polystyrene #6) - 200/Case \$19.99	\$0.10	EcoChoice Biodegradable, Compostable - 200/Case \$38.49	\$0.19	\$0.09
			Rectangular Foil Pan with Board Lid - 250/Case \$56.99	\$0.23	\$0.13
6x6x3 hinged container	Dart White Foam (polystyrene #6) - 500/Case \$22.99	\$0.04	EcoChoice Biodegradable, Compostable - 500/Case \$54.99	\$0.11	\$0.07
8 oz clear container with lid	Genpak AD08 8 oz. Clear Hinged Deli Container (PETE #1)- 200/Case \$28.99	\$0.14	Dart Solo MicroGourmet MN8-0100 8 oz. Contact Clear Polypropylene Deli Container (polypropylene #5) - 500/Case \$35.99	\$0.07	-\$0.07
32 oz square container with lid	Genpak AD32 32 oz. Clear Hinged Deli Container (PETE #1) - 200/Case \$47.99	\$0.24	Choice 32 oz. Black 7 1/4" Round Microwavable Heavy Weight Container with Lid (polypropylene #5) - 150/Case \$26.99	\$0.18	-\$0.06
			Fabri-Kal Greenware GS6-1 32 oz. 1-Compartment Clear PLA Plastic Compostable Container (compostable) - 300/Case \$66.99	\$0.22	-\$0.02
56 oz clear container with lid	Dart C90PST1 8 5/16" x 8 5/16" x 3" ClearSeal Hinged Lid Plastic Container - 250/Case (polystyrene #6) \$43.99	\$0.18	Bio-Plus View 03BPVWERTM 8" x 6" x 2 1/2" Kraft Microwavable Paper #3 Take-Out Container (56 oz.) - 160/Case \$44.99	\$0.28	\$0.10
Fork	Visions White 7 1/8" Heavy Weight Plastic Fork (polystyrene #6)- 1000/Case \$16.99	\$0.17	7 1/8" Cornstarch Fork, Heavy Weight (compostable) - 1000/Case \$30.99	\$0.31	\$0.14
			6" Medium Weight Cornstarch Fork (compostable) - 1000/Case \$17.99	\$0.18	\$0.01
			Choice Medium Weight White Plastic Fork (polypropylene #5) - 1000/Case \$5.49	\$0.05	-\$0.12
Stirrer	Choice 5" Red and White Unwrapped Coffee Stirrer (plastic) - 10000/Case \$9.19	\$0.09 per 100	Royal Paper R810 5 1/2" Eco-Friendly Wood Coffee Stirrer - 10000/Case \$13.49	\$0.13 per 100	\$0.04 per 100
Straw	Choice 7 3/4" Jumbo Clear Wrapped Straw (plastic)- 12000/Case \$32.99	\$0.03 per 10	Creative Converting 090410 7 3/4" Jumbo Assorted Paper Straws - 144/Case \$12.99	\$0.07 per 10	\$0.04 per 10
			Eco-Products EP-ST772 7 3/4" Jumbo Green Renewable and Compostable Wrapped Straw - 9600/Case - \$155.99	\$0.16 per 10	\$0.13 per 10
			All prices from The WEBstaurant Store (www.webstaurantstore.com), October 2018.		
			Lower prices (up to 25% less) may be obtainable through cooperative purchasing.		
			Compiled by Green Newton.		

RECEIVED
 NEWTON CITY CLERK
 2018 OCT 18 PM 2:13
 DAVID A. OLSON, CMO