

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, FEBRUARY 4, 2015

Present: Ald. Sangiolo (Chairman), Baker, Rice, Hess-Mahan, Blazar, Leary and Norton

Also Present: Ald. Fuller, Laredo, Crossley and Harney

City Staff Present: David Olson (City Clerk), Bob DeRubeis (Commissioner, Parks & Recreation Dept.), Alice Ingerson (Community Preservation Manager), Bob Waddick (Assistant City Solicitor), Carol Schein (Open Space Coordinator), Karyn Dean (Committee Clerk)

#30-15 NEWTON ELECTION COMMISSION recommending that the Board of Aldermen seek Home Rule Legislation to remove the restriction on holding Preliminary Elections on Tuesdays, and set the date of the 2015 Preliminary Election for Thursday, September 17, 2015. [01-22-15 @11:28AM]

NOTE: This item could not be taken up in Committee. It had been docketed for the February 2 Board of Aldermen meeting, however, that meeting was canceled due to a snowstorm so the item has not yet been accepted to the docket, or referred to Committee.

#9-15 SRDJAN S. NEDELJKOVIC et al. petitioning the Board of Aldermen to expand the area represented by the Newton Highlands Neighborhood Area Council to include areas immediately contiguous with the existing service area of the Newton Highlands Neighborhood Area Council pursuant to Article 9, Section 9-4, of the City of Newton Charter. [12/23/14 @ 12:20 PM]

ACTION: HELD 7-0-1 (Ald. Kalis abstaining); HEARING CONTINUED TO 3/4/15

NOTE: Ald. Sangiolo opened the public hearing and invited the docketer, Srdjan Nedeljkovic to present the item.

Mr. Nedeljkovic, President of the Newton Highlands Neighborhood Area Council (NHNAC) addressed the Committee. He noted that this petition requests that some streets that were inadvertently left out of the original borders of the area council be added, and are also requesting for expansion to a new area. A map was provided with the agenda.

He went on to explain that the Council was formed in 1974 in light of some general decline that residents of the neighborhood were feeling. At that time, the borders of the Council were consistent with the borders of the Hyde School district. It was discovered a few months ago that some streets within that original border were omitted. A resident of Richardson Road found out when he went to vote in the NHNAC election that he was not in the NHNAC, or any area council. This led to some research which revealed that Boylston Road, Richardson Road and several addresses on Route 9 were not included in the NHNAC. This petition requests that those be included in the NHNAC and signatures from those areas have been obtained and certified.

In 1978, several more streets around Four Corners petitioned to join and were admitted to the NHNAC; in 1979 some streets south of Route 9 also petitioned and joined the NHNAC; in 1984 at the time of the Hyde School closure, part of Plymouth Road, Kingston, Sagamore, Chatham, Vaughn, Puritan and Winslow all petitioned to join and become part of the NHNAC. Omitted at the time however, were about 15 addresses on Winslow Road.

In 2005, the NHNAC asked the City to develop a map of the borders, which was done by Doug Greenfield in the GIS department and that map included the omitted streets. As other area councils started to form, they looked at that map to determine their borders. In 2012, several people south of Route 9 came to the NHNAC to ask for some assistance with some development issues in the area. NHNAC then petitioned the Board of Aldermen to expand the NHNAC to that area, however, again, a couple of streets were inadvertently omitted (Curtis St.) or weren't registered (Andrews St.) Mr. Nedeljkovic said he made a typographical error. They did not get signatures for Andrews Street for this current request as they had done so with the original petition. Easy Street has no residents on it and was also omitted. They request inclusion of these three streets as well to make the area contiguous.

In addition, NHNAC would like to extend their borders to a new area which includes Four Corners and Crystal Lake. This would complete the NHNAC up to Beacon Street. Signatures have been collected and certified for this area as well.

Ald. Sangiolo invited public comment.

Public Comment

Ron Mauri, Bradford Road, said in his mind this is like wards and precincts and having borders that are easily understood provides cohesiveness.

Bob Burke said he does not want to see a rift between the Waban and the Highlands area councils. He would like to see it resolved amicably.

Steven Feinstein said he agrees with everything that has been said so far. It is important to have all the residents in the area belong to the area council and not leave anyone out. He knows of someone who would like to get involved politically in the NHNAC but he lives on Boylston Road is not currently in the area council.

Sallee Lipshutz, President of the Waban Area Council. She believes the area councils are a victim of their own success. She loves all the representatives of the Waban Area Council as much as she does the representatives of the Newton Highlands Area Council. She would like to keep this amicable and she understands some people have been caught in the middle and have very strong feelings. After the Waban election, she said they heard loud and angry voices from people who live on Warren Road and were unable to vote because they don't belong to an area council. It was also from people on "upper" Winslow Road which goes from Cold Spring Park to the aqueduct. The part that is south of the aqueduct is named in the original Board Order for Newton Highlands (addresses 172-24). This excludes the rest of the addresses on Winslow Road, by definition. Waban Area Council told those folks they would try to get them into their

area council. There is also an area on Puritan Road from upper Winslow to Beethoven. This is a straight and contiguous line.

She learned that the map doesn't matter. What matters for voting is whether your address is included in the board order and those addresses were not included. When she found that the Highlands had gone to upper Winslow to get signatures there, she found out from David Olson that 7 signatures had been collected. She went to NHNAC meeting as asked them if people on that road had been told they could join either Waban or Newton Highlands area councils and they said yes. However, after the meeting she discovered that many had not been given that explanation. She sent a letter to the 33 residences on upper Winslow Road and got 19 responses, 15 of whom said they would like to part of the Waban Area Council. The original petition from NHNAC lost 4 of the original 7 people when they heard they could join Waban. The neighbors of Puritan Road decided to gather signatures from the 5 houses that were in NHNAC to join the Waban Area Council.

There is no mechanism for area councils to follow a process for some guidance to determine borders. She asked that the Board help them determine how to best do this.

Patrick Maher, Winslow Road as has lived in Waban for 35 years. This process is significantly flawed. The City doesn't allow residents to pick which ward and precinct to be in or where you can vote, so it should not allow people to choose which area council to be in. He has served on the Waban Improvement Society which has been active for about 100 years. The entire country thinks he lives in Waban. If the City can't figure out where the borders are, perhaps the zip codes should determine that. He was approached at his home on a Saturday to join the NHNAC and he did not sign the petition because he lives in Waban. Winslow Road has always been identified as Waban. He noted that part of Puritan has a Waban zip code and part has a Highlands zip code.

Mr. and Mrs. Lapidés, 81 Puritan Road, has lived in the house for 30 years and has been in Waban for 30 years. They found out they were not in the Waban Area Council when they went to vote in the election. They said the post office returned mail in the past because it said Newton and not Waban. They want to stay in Waban.

Committee Questions and Comments

It was asked if NHNAC collected 20% of the residents' signatures as required. Mr. Nedeljkovic said that they did. Ald. Rice said that the Board of Aldermen has the authority to determine area council borders without the signatures and that the Law Department confirmed that with him. However, the practice has been to have the area councils gather 20% of signatures as is stated in the City of Newton Charter.

Ald. Sangiolo mentioned that there had been a docket item regarding area councils and determining borders which was voted No Action Necessary. Ald. Rice said there was a discussion about forming a committee to help area councils with a number of issues. He would be glad to chair that committee as he is currently on 3 of the 4 area councils.

Ald. Sangiolo explained that there is no docket item before the Committee asking for streets to be removed from the NHNAC and to join the Waban Area Council. They can only consider what is before them.

David Olson, City Clerk, stated that on average, a Newton voting precinct includes 2,200 residents on average. With the addition of these residences into the NHNAC, it would bring their membership to over 4,400. He asked that as discussions move forward, that all parties consider what a “neighborhood” is and how big is too big. With the numbers doubling a voting precinct, is that still a “neighborhood”. Are the Area Councils meant to encompass an entire village. He did not have the membership numbers of Upper Falls or Waban, but Ald. Rice said the Upper Falls Council is a smaller number.

Ald. Rice said he has not had a joint meeting with the Waban and Newton Highlands area councils and that is something that should happen. He would work on getting that together with the neighbors as well to work out some of these issues.

Proposed Amendment

Mr. Nedeljkovic stated that people should be able to affiliate themselves with whichever area council they feel connected to. He would like to complete the area council as suggested, except he will amend the request to exclude Winslow Road. The other areas under debate can be decided at another time.

Follow Up

Ald. Hess-Mahan would like clarification from the Law Department on what the authority the Board has in deciding borders to area councils and what the criteria might be. He is also feeling like the point of the area councils was to draw neighborhoods together, and this conversation is pointing out the divisions that are occurring. He felt Mr. Olson’s point was valid and there needs to be some consideration of what a neighborhood and/or a village is in this context.

Ald. Sangiolo felt the Public Hearing should be continued so these issues can be addressed. In the meantime, she asked Ald. Rice to meet with area councils and bring that feedback to Committee. This item will be taken up at the March 4th meeting. Any information that comes from the Law Department will be sent to the area councils through Ald. Rice.

The Committee voted to hold this item with Ald. Kalis abstaining. He felt they could vote for this item, with the amendment, and with the understanding that there will be ongoing discussions on how to determine these issues going forward and that a policy will be put in place.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#15-15 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of nine hundred eighty thousand dollars (\$980,000) from the Community Preservation Fund’s general fund balance and reserve to the Parks and Recreation Department for the Waban Hill Reservoir at Manet Road and Reservoir Drive in Chestnut Hill, including: real property acquisition; a grant to the Newton Conservators for monitoring and enforcing a conservation restriction; initial dam safety compliance, public safety and accessibility improvements; and a

master plan, as described in the proposal submitted November 13, 2013.
[12/22/14 @ 8:57 AM]

ACTION: **APPROVED 7-0-1 (Ald. Hess-Mahan abstaining)**

NOTE: Ald. Baker reminded the Committee that the Board already voted the home rule petition to authorize this acquisition.

The budgets for this proposal were provided with the agenda for this meeting and can be found online as well.

Joel Feinberg, Chairman of the Community Preservation Committee (CPC) addressed the Committee. He explained that this project is a unique opportunity to do exactly what the Community Preservation Act was intended to do. There are not many opportunities in a highly developed city like Newton to find a piece of empty land available for acquisition and recreational use. At the public hearing they held on this project, there was quite a bit of discussion on the budget. After these extended discussions, it was determined the property should be acquired and made safe for use as soon as possible, and then a study undertaken to determine the best longer term use.

Ald. Hess-Mahan said that it seemed out of the ordinary for the CPC to approve funds without the exact plan for use in hand. Mr. Feinberg said it was a bit of a leap for them, and even though the big picture is not yet known, the smaller picture gets this land safe and usable. There were a few things they cut back on, for example, some maintenance needs as CPA funds cannot be used for maintenance. They also felt the large contingency could be trimmed as it included the figure for the purchase of the land, which is a known amount and therefore does not need a contingency. The correct funding, therefore, is \$980K instead of the original request for \$1.1M.

Ald. Baker noted that the Newton Conservators will be holding and maintaining the conservation restriction. The conservation restriction is what makes the cost of the acquisition so reasonable. Ald. Leary asked if the purchase price had been negotiated. Ms. Ingerson said that the legislation mandates that the appraisal price is the purchase price and is not subject to negotiation.

Commissioner DeRubeis joined the Committee. He explained that the plan is to do enough work to secure the site and make it safe for passive recreational use. One issue is that even though the state decommissioned this parcel, it is still a reservoir and has to be treated as such. The City would have to incur some costs associated with inspection and evaluation reports on a bi-yearly basis to keep up with dam safety regulatory compliance. An emergency action plan has to be in place as well. Lou Taverna, the City Engineer, has quite a bit of experience with dams and will be the point person for the dam portion of this project. The water in the dam is down to 9 feet and was at a higher level when it was functioning. However, because it is in a residential neighborhood, failure still poses a risk. The inlet pipe was disconnected, therefore, the only water that enters the reservoir is rain water. There is an outlet pipe which is beneficial in case it needs to be drained a bit after extensive rain.

As for site restoration, the City would have to go in to do vegetation clearing. There is also rip rap with scrub growth in between and this compromises the integrity of the dam. It needs to be removed. Removal of the trees is expensive because the embankment is quite steep and requires specialized equipment.

The gatehouse has to remain because there are mechanics in there that need to be protected such as the sluice gate that opens up the outlet pipe. The costs associated with that include replacing the roof and installing a new slide gate and the electrical work required for that as well. The steps need to be repaired as they are a point of access and need to be made secure and safe for public accessibility. An aerator is also necessary to prevent stagnation and mosquito breeding.

An accessible site route needs to be paved and the pathway on the top of the dam will be made of stone dust. Some fencing needs to be replaced and they will try to restore and save as much of the original ornamental fencing as possible.

Committee Questions and Comments

Some members wondered what other amenities could be placed on the site. Commissioner DeRubeis said the Waban Hill Advisory Group did an extensive report and they have some suggestions, but a master plan has not been created yet.

There was concern in Committee that spending money on short-term fixes may prove wasteful once a master plan is created. They would not like to see this amount of money spent only to have the features ripped out when a plan is created.

Commissioner DeRubeis said that even if other amenities (amphitheater, tot lot, Boston Marathon feature, for example) are added to this site in the long-term, the vision has always been to have the top of the dam as a walking path and he felt that would be incorporated into the master plan.

Ald. Laredo agreed that the proposed improvements of fencing and accessibility will be a permanent part of this project. Further improvements may be added through the master plan but he said nothing will be taken away. Ald. Fuller, however, said she is not sure what the master plan might include and she is not willing to take anything off the table at this point. She felt that a master plan would not be put in place for several years, so the investment at this point is valid and makes the parcel useful until then.

Ald. Crossley looked at the two consecutive engineering reports, done two years apart. She has no problem with acquiring the parcel, keeping it for open space and conserving it. She does have a problem with assuming that it will be preserved as it is – a man-made reservoir. It is not a natural feature and water is a lovely thing to have but this particular structure will cost over \$400,000 to secure. She feels it is a lot of money to maintain this parcel. She doesn't feel the gatehouse has a useful purpose at this point. The water takes up most of the site and the berm is an imposing structure – not much of this parcel is left available for the public to use. So far the conversations have centered on the assumption that the land will be left pretty much the way it is. She thought perhaps the height of the berm could be taken down to make the site more accessible overall. She thought taking a different look at the project would be beneficial.

Ald. Baker said the neighborhood and the Planning Department spent significant time looking at the best way to utilize the parcel. Any alternative to this general plan will be much more costly. If the water is going to stay in the parcel, then the associated structures need to be there as well, such as fencing. The basic decision that the board is being asked to make is that the CPC sees this parcel, as it is currently configured, as an amenity to the City. He would not advocate buying this land with the assumption that some alternative use is going to come along that is more attractive than this. It is an extraordinary opportunity.

Ald. Laredo agreed with Ald. Baker. Every option was on the table at the beginning of this process and certain alternative had to be excluded and the open space recreation option was the most viable. Even though this water feature is not “natural”, he feels it adds a tremendous benefit to this land. He has a huge comfort level with the safety of the dam. It’s never possible to eliminate all risk but the costs associated with monitoring the safety of this parcel are very reasonable. They need to look at what they can do right now, for the least amount of money, to acquire, preserve and maintain open space which can be used very soon. It doesn’t make sense to deprive the community of this asset while waiting for a master plan. This proposal is fair, reasonable, cost-effective and good for the City.

Ald. Rice felt the water feature and recreation area is very important as there are not many in the City. In past conversations about Crystal Lake, something that came up often was the desire for passive recreation, having the opportunity to walk around the lake and take in nature. Ald. Kalis really liked this proposal and would very much like to maintain it as it is as a peaceful, natural setting for the residents of Newton.

Carol Schein, Open Space Coordinator, addressed the Committee at the request of Ald. Fuller. She said she is a big believer in master plans. The CPC has over the years funded a number of master plans that have been incredibly helpful. It allows them to focus on different parts of major projects to do piece by piece. It would be her preference, if the money were available, to do a master plan/feasibility study. She doesn’t know enough about the parcel and she would like to know more about the existing conditions and what everyone would like to see. The improvements proposed are for keeping the site safe. Ald. Hess-Mahan asked how long it would take to do a master plan. Ms. Schein said that it would take about 3-6 months to get someone in place and then another 4 months or so to have it completed.

Ald. Sangiolo said that historically the CPC has asked that some community funds are contributed to projects. Mr. Feinberg said this is step one and then step two will be the master plan. When the plan is in place, they can start asking for private funding. They did not feel it was appropriate to ask the neighbors to fund the purchase of a city property. Ald. Sangiolo said that there could be some cost-sharing for something like the ornamental fencing, but she understands there will be a second step in this process.

Gail Silberstein, co-chair of the advisory group, said the issue of whether or not this is the highest and best use, is important. The group spent months having meetings with residents from all over the City, asking for every and all possible suggestion with no limitations. They took input from anyone who offered it. All of that data was documented and prioritized and the report is the culmination of all that feedback. She said it is a parcel that people gravitate to – they love to be on the property. She said it cannot always be about the kids in the City – she lives here too and would like a peaceful place to go and enjoy, take a walk, meet a friend. If there were millions of dollars to spend on this, then maybe there could be a bigger, better plan, but that is

not the reality. It was pointed out that some money has been pledged from residents all over the city, but not collected. The citizen proponents started talking to residents two years ago about this project. There are amenities in the future that residents would love to be a part of supporting both financially and with sweat equity. She wants to be able to finally tell all the people that have been calling her for two years that things are moving forward and this parcel will be usable in the near future.

Beth Wilkinson, President of the Newton Conservators said that it would be amazing to preserve this open space in that part of the City. They all love water and want the water to be there as do the neighbors. They are not wholeheartedly behind having just passive recreation and were split on having active and passive. One thing to consider is that right now, people are sneaking in and using the property through holes in the fences. Right now that risk is the states but as soon as the City takes ownership, the City will own the risk. It has to be secured and she feels the costs in the proposal are reasonable for that purpose. The Conservators would like to acquire the property and secure it now. These opinions were mainly the Conservators and partly her own.

Bob Waddick, Assistant City Solicitor said the state is preparing a release and will be in touch with the City when it is ready. The City is keeping the state apprised of the conservation restriction progress and will be able to provide that to them in short order. From a legal perspective, they are doing what needs to be done to move on this acquisition if approved by the Board.

Ald. Sangiolo said she is very much in favor of the acquisition. She thinks the property needs to be secured but she is not sure about the lack of a plan. She is also very disappointed that the CPC has not requested community funding up front as they have for other projects. Creating a pocket park on Crescent Street is something that should be looked at and there is no acquisition costs there.

Ald. Baker moved approval and the Committee voted in favor, with Ald. Hess-Mahan abstaining. He supports acquiring the property but he has concerns that the master planning should really come before any funds are expended on improvements.

Respectfully Submitted,

Amy Mah Sangiolo