

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, SEPTEMBER 17, 2014

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

Also Present: Ald. Lennon and Danberg

City Staff Present: Robert Garrity (Sustainability Director), Alice Ingerson (Community Preservation Program Manager), Karyn Dean (Committee Clerk)

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#333-14 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of four hundred seventy-six thousand seven hundred eighty dollars (\$476,780) to the Parks and Recreation Department to preserve, restore, and rehabilitate historic Farlow Park, as described in the proposal and supplemental materials submitted to the Community Preservation Committee from November 2013 to April 2014. [08/06/14 @ 4:16 PM]

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

NOTE: This request is on behalf of the Friends of Farlow Park, to appropriate CPA funds to restore the historic pond and bridge in Farlow Park, which is in Newton Corner. The pond had been drained and the bridge is now just a concrete slab with a chain-link fence. The project scope with photos, design drawings and CPC recommendation was attached to the agenda and can be found online at <http://www.newtonma.gov/civicax/filebank/documents/61143/09-17-14%20Programs%20&%20Services%20Agenda.pdf>

Joel Feinberg, Chair of the Community Preservation Committee (CPC), addressed the Committee. He explained that this project has been in progress for about 10 years and feels that the time taken has allowed for careful consideration from the community with many questions and concerns resolved. The park is located on city land with money and maintenance to be the responsibility of city departments, so it was important to get the support of the city, but much of the effort has been spearheaded by a private group, The Friends of Farlow Park. It is a good model for a private/public partnership. The Parks & Recreation Department has committed to providing \$4K a year to do maintenance. This is the amount the city expects to save in MWRA assessments as the pond and irrigation system will draw water from a well.

The CPC recommends that money which has been earmarked in the budget for some planning and design drawings be released immediately. They usually do not release funds until all non-CPA funds are committed, but they feel that final design plans will significantly aid in the fundraising efforts of The Friends of Farlow Park.

Mr. Feinberg said the CPC tries to be thoughtful and frugal with relatively scarce CPA funds, so they ask that other sources of funding be combined to further projects. This also helps with garnering community support for projects when private funds are involved. To that end, The

Friends of Farlow Park committed to raise \$90K of funds to augment the CPA funds. There was also a concern regarding ongoing maintenance of the Park once the restoration is completed. The Friends of Farlow Park formed themselves into an ongoing 501(c)3 non-profit entity as a resource for that effort and the CPC recommends a \$30K operating reserve to be established. These funds could be for cost overruns, possible further enhancements, or other future needs in the park. Jim Robertson, Vice Chair of the CPC, said when the CPC approved this project, the understanding was that \$90K would be the minimum amount that the community would contribute through fundraising. Anything beyond that would be added to increase the \$30K reserve account. Ald. Lennon said he did not agree with this interpretation.

Ald. Lennon joined the Committee and said he has been a part of this project for about 10 years. This project has been on the radar of people in Newton Corner before the inception of the CPA in Newton, so when the CPA came to Newton, it was a way to help get this project underway. This is a beautiful historic restoration project. The Newton Corner community does not really have a focal gathering place and this could be it. There have been several community meetings and a study was done on how to restore the park. The project concept has been through many and various city and neighborhood organizations for comments, concerns and questions. Because some people expressed a safety concern, a Preservation Planner and the Law Department have looked at the project and found that the pond was not a safety hazard and will only be 18 inches deep. There are other examples of bodies of water in public areas such as Larz Anderson Park in Brookline, Auburndale Cove, Bulloughs Pond, and small ponds in the Newton Cemetery, and they are not considered safety hazards.

Ald. Lennon explained that the operational reserve of \$30K has been added to the project budget. Historically, when the Board has looked at projects, they look at the actual cost of the project budget, then CPA funds are determined and then the balance is to be made up with other funds. In this case, the operating reserve was added to the project budget. The Friends of Farlow Park have been extremely committed for 10 or more years to this project but have not been able to actively raise funds because it has only been a conceptual idea. He felt the added reserve account is an undue burden on the Friends. He noted this is one of the last citizen-driven CPA projects and that should be kept in mind. All the CPA projects are now city projects that are being deemed eligible for the funds. Ald. Sangiolo said that many community groups have been trying to get in applications for CPA projects but the competition against city projects is intense.

Ald. Lennon noted that the project budget requests \$90K to be raised by the community. The Friends of Farlow Park, however, is hoping to put CDBG funds towards this total. The Newton Corner Advisory Committee over a number of years, along with city departments, have been able to carefully manage a number of their projects and now have surplus CDBG funds from those projects. They took a vote to transfer \$65K of those surplus funds to this park project that would assist them in meeting their \$90K goal. That transfer would have to be voted on and approved by the Planning and Development Board. The CPC is recommending that CDBG funds should not go towards that goal but Ald. Lennon thinks they should be allowed. The City Comptroller and the City Solicitor have told Ald. Lennon that the CPC cannot condition money that is not under their control, such as CDBG funds. They can recommend, but cannot require.

Mr. Feinberg agreed that they cannot make requirements on CDBG funds. However, he said the Friends said they would raise \$90K and the CPC took that as a given in their deliberations, and the CPC never thought that was to include CDBG funds toward that goal. The CPC was also interested in having a source of funds for the long haul and therefore, recommended the reserve fund. It is easier to raise capital to get a project up and running and much harder to raise funds to keep it going. Rather than try to worry about it after the fact, it seemed prudent to set up the reserve. The CPC felt that having the community's financial support was important to the ongoing preservation of this project and was a concern in the past when this came before the CPC.

Keith Jones, Chair of The Friends of Farlow Park, said he would like a clarification of when the Friends made a commitment of \$90K. In a meeting a year ago, he said he wouldn't be surprised if they could get \$50K in CDBG funds towards the project which would reduce the amount of money they would have to collect from the neighborhood. So all along, they felt CDBG funds would count towards donations.

Ald. Sangiolo asked if the CDBG funds were not approved by the Planning & Development Board, would the project be untenable. Ald. Lennon noted that the Friends of Farlow Park know that if that were to happen, they would be responsible for raising the funds. Mr. Jones agreed but feels it would be fair to use the CDBG funds and hopes that is the outcome.

Mr. Jones explained that a small group of individuals looked at what was once one of the most beautiful parks in the country and felt strongly about restoring it to its original state. It was designed by the same man who designed the Boston Public Gardens and is worthy of restoration.

Ald. Leary was very impressed by the commitment and advocacy of the individuals involved in this project. She is very supportive of the project and looks forward to the restoration of the park. She wanted to point out that she was at a CDBG meeting and the Committee voted to approve the CDBG funds for this project. Ald. Hess-Mahan supports the project as well and he agrees with the policy of leveraging resources, however, this neighborhood is eligible for CDBG funds and they should be allowed to use them. Other more affluent parts of the City can raise significant funds for projects, but that is more challenging for this neighborhood.

The Committee would like to recommend that The Friends of Farlow Park may use the \$65K in CDBG funds toward their fundraising goal, if approved by the Planning and Development Board, and that the \$30K reserve be eliminated.

Ald. Leary moved to approve this item and the Committee voted in favor.

#254-12(2) THE PROGRAMS & SERVICES COMMITTEE recommending an ordinance to ban single-use plastic bags at certain retail establishments in the City of Newton. [01/10/14 @ 3:36 PM]

ACTION: **APPROVED 8-0**
REFERRED TO FINANCE COMMITTEE

NOTE: The Committee received an updated draft ordinance which incorporated the few changes proposed at the last meeting. **The approved draft is attached to this report.**

Ald. Leary explained that the working group decided to use the 6-month phase-in period for education and community out-reach. The process of informing the affected retailers is already underway.

The Committee voted to refer this item to Finance Committee to review the fines.

Ald. Norton moved approval and the Committee voted in favor with congratulations to Ald. Leary, Norton and Hess-Mahan and the working group for their efforts on this issue.

#340-14 ALD. NORTON requesting to amend the City of Newton Charter to also include the term “Alderman” in text that refers to individuals who serve on the Board of Aldermen as “Aldermen”. [09/08/14 @ 4:10PM]

ACTION: **HELD 8-0**

NOTE: Ald. Norton said that when she was campaigning for Aldermen, people would often ask her if, in fact, she should be called Alderwoman. This brought to the fore how anachronistic the term “Alderman” sounded. She stated that it would be ridiculous to refer to a male Alderman as an Alderwoman, and it was just as ridiculous in the reverse. The default human is not a man and it makes sense to distinguish between the two.

Ald. Danberg did not agree. She felt the term “Alderman” was gender neutral and to distinguish and be gender specific was not necessary. She would prefer to leave things as they are. Ald. Norton said that “Alderman” is not gender neutral. Ald. Hess-Mahan felt that words were important and noted that terms such as policeman and fireman aren’t used any more. Instead, the common usage is police officer and fire fighter, etc. People should be called whatever they like and he thinks this change would be just fine. Ald. Baker said he conducted an informal poll of his wife and daughter on this matter. They both said that the trend has been to move away from gender specific terms and toward more neutral terms. He believes that people should be called what they prefer to be called and is sympathetic to the motivation for this proposal, and while he does not oppose it, he does not support it. There is a tradition that is part of the City and he finds value in that. Ald. Ruthanne Fuller reported to Ald. Baker that “Aldermen” was a general neutral term itself and was fine leaving it as is. Ald. Blazar explained that as a male member of the Board, it would be difficult to weigh in on this and Ald. Rice agreed. He would vote in the affirmative in support of his colleagues. Ald. Kalis thinks making the change is warranted and supports this item. It’s a matter of respect. Ald. Sangiolo noted that people outside the community generally call her Alderwoman and she supports the change as well. Ald. Leary also supports the change.

Ald. Norton noted that term “Board of Aldermen” would not change, just the ability for any individual alderman to be called alderwoman if they would prefer. They could use either term.

There was some concern about how names might appear on a ballot and if that might cause some confusion. Ald. Danberg said that if she prefers to use Alderman and other female candidates

use Alderwoman, it would be confusing to the voter. Ald. Norton noted that there are other communities that use both terms so there must be a way to deal with the ballot issue.

There were several suggestions from Committee to change the name to City Council and use the neutral term "Councilor". Ald. Norton said she felt her proposal would be less challenging to the tradition and history of the name of the legislative body, but she is certainly open to changing to City Council and Councilor.

Ald. Baker noted this would require a change to the City Charter and would require Home Rule Legislation. The Committee would like to confirm what would be required to make this change to the City Charter. Ald. Sangiolo also noted that since there was discussion of gender neutral terms, any suggestions in that direction would be welcome.

Ald. Kalis moved to hold this item and the Committee voted in favor.

Meeting adjourned.

Respectfully Submitted,

Amy Mah Sangiolo

CITY OF NEWTON

IN BOARD OF ALDERMEN

ORDINANCE NO. ____

September ____, 2014

BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton Massachusetts, 2012, as amended, be and hereby are further amended as follows:

Add a new **ARTICLE IX.** to Chapter 12 as follows:

Section 12-71 Plastic Bag Reduction Ordinance.

(a) **Short Title.** This Section may be cited as the "Plastic Bag Reduction Ordinance" of the City of Newton.

(b) **Declaration of findings and policy—Scope.**

(1) The Board of Aldermen hereby finds that the reduction in the use of plastic bags by commercial entities in the City of Newton (the "City") is a public purpose that protects the marine environment, advances solid waste reduction and protects waterways. This Ordinance seeks to reduce the number of plastic bags that are being used, discarded and littered, and to promote the use of reusable checkout bags by retail stores located in the City. Further, this Ordinance seeks to reduce the use of paper bags, due to their greater use of natural resources and higher cost impacts on retailers.

(c) **Definitions.**

(1) The following words shall, unless the context clearly requires otherwise, have the following meanings:

(a) "Department" means the City's Department of Health and Human Services.

(b) "Commissioner" means the City's Commissioner of Health and Human Services.

(c) "Checkout Bag" means a carryout bag provided or sold by a Retail Establishment to a customer at the point of sale. A Checkout Bag shall not include:

(i) bags, whether plastic or not, in which loose produce or products are placed by a consumer to deliver such items to the point of sale or check-out area of a Retail Establishment;

(ii) laundry or dry-cleaner bags; or

(iii) newspaper bags.

(d) "Recyclable Paper Bag" means a paper bag that is 100 percent recyclable and contains at least 40% post-consumer recycled content, and displays the words "Recyclable" and "made from 40% post-consumer recycled content" in a visible manner on the outside of the bag.

(e) "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 3.0 Mills in thickness.

(f) "Retail Establishment" means any commercial entity with retail space of 3500 square feet or larger or with at least two (2) locations under the same name within the City of Newton with retail space that totals 3500 square feet or larger, whether for or not for profit, including, but not limited to retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.

(d) **Requirements.**

(1) If a Retail Establishment provides or sells Checkout Bags to customers, such bags shall be either a Recyclable Paper Bag or a Reusable Bag.

(2) The Commissioner shall have the authority to promulgate regulations to accomplish any of the provisions of this Section.

(3) Each Retail Establishment as defined herein shall comply with this Section.

(e) **Effective Date.**

This Section shall take effect one hundred and eighty (180) days from the date of enactment.

(f) **Exemption.**

(1) The Commissioner may exempt a Retail Establishment from the requirements of this Section for a period of up to six (6) months, upon a finding by the Commissioner that the requirements of this Section would cause undue hardship to a Retail Establishment. An "undue hardship" shall only be found in circumstances where a Retail Establishment requires additional time in order to draw down an existing inventory of single-use plastic check out bags or paper bags which do not meet the definition of recyclable paper bag. Any Retail Establishment receiving an exemption shall file with the Commissioner monthly reports on inventory reduction and remaining stocks.

(2) Any Retail Establishment shall apply for an exemption to the Commissioner using forms provided by the Department, and shall allow the Commissioner or his or her designee, access to all information supporting its application.

(3) The Commissioner may approve the exemption request, in whole or in part, with or without conditions

(4) The Commissioner, by regulation, may establish a fee for exemption requests.

(g) **Enforcement.**

(1) **Fine.** Any Retail Establishment which violates any provision of this Section or any regulation established by the Commissioner shall be liable for a fine as follows: First offense, warning; second offense, \$100.00; third offense, \$200.00; fourth and subsequent offenses, \$300.00. Each day a violation occurs shall constitute a separate offense.

(2) Whoever violates any provision of this Section or any regulation established by the Commissioner may be penalized by a noncriminal disposition as provided in G.L. c. 40, §21D. For purposes of this section, the Commissioner of the Health and Human Services, or his or her designee, shall be enforcing persons.

(h) **Severability.**

Each separate provision of this Section shall be deemed independent of all other provisions herein, and if any provision of this Section be declared to be invalid by a court of competent jurisdiction, the remaining provisions of this Section shall remain valid and enforceable.

In Sec. 20-21. Enforcing persons and revised ordinances subject to civil fine.

Amend paragraph (b), HEALTH AND HUMAN SERVICES DEPARTMENT, by adding after CITY ORDINANCES, Any offense, the following:

.....PENALTY

Section 12-71. Plastic Bag Reduction Ordinance

- () First offense..... Warning
- () Second offense.....\$100.00
- () Third offense.....\$200.00
- () Fourth or subsequent offenses.....\$300.00

Approved as to legal form and character:

(SGD) _____
City Solicitor

Under suspension of Rules
Readings Waived and Adopted
___ yeas and ___ nays

(SGD) _____
City Clerk

(SGD) _____
Mayor