

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, JANUARY 23, 2013

Present: Ald. Linsky, Hess-Mahan, Blazar, Baker and Fischman

Absent: Ald. Sangiolo, Rice and Merrill

Also Present: Ald. Salvucci, Lennon, Albright, Crossley, Danberg, Laredo, Lappin, Fuller and Johnson

Others Present: Robert Rooney (Chief Operating Officer), Candace Havens (Director, Planning and Development), David Turocy (Commissioner, Public Works), Bob DeRubeis (Commissioner, Parks & Recreation), Robert Waddick (Assistant City Solicitor), John Daglian (Associate City Engineer)

**REFERRED TO PUB.FAC, ZONING&PLANNING, PROG & SERV COMMITTEES**

#316-12 DEPARTMENT HEADS HAVENS, ZALEZNIK, LOJEK requesting amendments to **Sec. 26-30. Licenses for cafe furniture on sidewalks.** to streamline the procedure allowing businesses to place café furniture on public sidewalks. [09/24/12 @3:17 PM]

**ZONING & PLANNING TO MEET**

**PUBLIC FACILITIES APPROVED SUBJECT TO SECOND CALL 6-0 (Lennon not voting) 01/23/13**

**ACTION: APPROVED SUBJECT TO SECOND CALL 4-0-1 (Baker abstaining)**

**NOTE:** This item was discussed jointly with the Public Facilities Committee. Please refer to the January 23rd Public Facilities report for the note on this item.

**REFERRED TO PUBLIC FACILITIES AND PROG & SERV COMMITTEES**

#231-12 RECODIFICATION COMMITTEE recommending that **Sec. 11-11. Permit to cart trash and/or recyclable materials.** be deleted as G.L.c.111 §31A authorizes the Health Department to require registration. for “garbage,” which is addressed in Sec. 11-5.

**PUBLIC FACILITIES HELD 6-0 (Lennon not voting) on 01/23/13**

**ACTION: HELD 5-0**

**NOTE:** This item was discussed jointly with the Public Facilities Committee. Both Committees would like to hear from the Law Department on this item before voting to approve it. Both Committees voted to hold this item.

Appointment by His Honor the Mayor

#31-13 NANCY LEVINE, 379 Central Street, Auburndale, appointed as a member of the ELECTION COMMISSION for a term to expire March 31, 2015.  
(60 days 03/23/13) [01/07/13 @ 10:56 AM]

**ACTION:** **APPROVED 5-0**

**NOTE:** Ms. Levine joined the Committee. She explained has been a member of the Ward 4 Democratic Committee for about 15 years and has lived in Newton for over 30 years. She was also an elected member of the School Committee for several years. More recently, she has not been involved in City work and is pleased to be back to civic activities. The Election Commission is an important body in the City and she is very interested in working with them to oversee elections to see that they run smoothly and that census issues are handled adequately and efficiently. She was also concerned about the issue of advice given to candidates to avoid some difficulties of the past.

Ald. Hess-Mahan thanked Ms. Levine for her interest in serving. He explained the current discussion regarding the reorganization of the Elections Department and how it will work going forward. He wondered if she'd had any discussions with anyone regarding this and what her thoughts were. Ms. Levine explained that she has not had conversations with anyone thus far, but she felt the Elections Department should be kept separate and not combined with the City Clerk's office. She understands there are budgetary issues, however, she thinks the Clerk's office already has so much to do. And if all the current support staff is being retained in the Elections office, then she did not feel there was a reason to combine the departments. She said this would take some more thought on her part.

The Committee voted to approve Ms. Levine's appointment 5-0.

Appointment by His Honor the Mayor

#329-12 NANCY LEVINE, 379 Central Street, Auburndale, appointed as a member of the ELECTION COMMISSION for a term to expire March 31, 2015.  
(60 days 01/04/13) [10/22/12 @ 3:17 PM]

**ACTION:** **NO ACTION NECESSARY 5-0**

**NOTE:** The 60 day action period expired on this appointment letter, therefore, the Committee voted No Action Necessary.

Re-appointment by His Honor the Mayor

#407-12 LANE SOFMAN, 336 Lexington Street, Newton, re-appointed as a member of the BOARD OF TRUSTEES OF THE HORACE COUSENS INDUSTRIAL FUND for a term to expire November 9, 2015 (60 days 02/04/13) [11/19/12 @ 9:51 AM]

**ACTION:** **APPROVED 4-0 (Baker not voting)**

**NOTE:** The Committee voted to approve this re-appointment.

Re-appointment by His Honor the Mayor

#32-13 JULIA MALAKIE, 50 Murray Road, Newton, re-appointed as a member of the URBAN TREE COMMISSION for a term to expire December 13, 2015. (60 days 03/23/13) [01/04/13 @ 2:24 PM]

**ACTION:** **APPROVED 5-0**

**NOTE:** The Committee voted to approve this re-appointment.

Re-appointment by His Honor the Mayor

#33-13 KATHLEEN McCARTHY, 524 California Street, Newton, re-appointed as a member of the LICENSING BOARD for a term to expire June 8, 2019. (60 days 03/23/13) [01/11/13 @ 12:47 PM]

**ACTION:** **HELD 5-0**

**NOTE:** Ald. Hess-Mahan said he attended a couple of Licensing Commission meetings involving constituents and in particular, members of the Neighborhood Club in West Newton. He understands that the Licensing Commission is planning on coming up with some proposed amendments to their rules. One of the concerns that his constituents have is that private clubs in the City that have private parties, not held by the club itself and not paid for out of their dues, have to go to the Licensing Commission in order to do that, and it is unique to just the private clubs in the City. He said that Ms. McCarthy expressed some thoughts about that at a Licensing Commission meeting and he would like to have her come in to hear what the update was on the proposed amendments. The Committee voted to hold this appointment and invite Ms. McCarthy to attend the next meeting.

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

#43-13 HIS HONOR THE MAYOR requesting authorization to transfer the sum of sixty two thousand dollars (\$62,000) from Free Cash to Parks & Recreation Forestry Tree Services for the purpose of removing defective trees. [01/14/13 @ 5:34 PM]

**ACTION:** **APPROVED 5-0**

**NOTE:** Bob DeRubeis, Commissioner of Public Works addressed the Committee. He explained that the three-person in-house crew is in place and working. Marc Welch has worked with the US Forestry Service to rank trees based on certain criteria. The scale goes from 1-12 with 12 being a tree in dire need of attention. They rated about 120 trees at an “11” after Hurricane Sandy. They decided to get some contractual services to help in this effort as they did not want any further damage from these trees and asked the Mayor’s office for funding. They brought in 2 contracted bucket trucks and a log truck and from the time of the storm until now, 240 trees have been dealt with, which included the 120 “11” rated trees. There is still a backlog of 50 trees left of the original list that has been compiled over the years, and another 60 have been added but they are making very good progress. They hope to finish up the backlog of 50 by the end of February then move on to the 60 and keep up with any new complaints that come in.

The Committee voted to approve this item 5-0.

#34-13 ALD. DANBERG, ALBRIGHT, BLAZAR, RICE, LINSKY AND CROSSLEY 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 within the City. [01/03/13 @ 11:01 AM]

**ACTION:** **HELD 5-0**

**NOTE:** Ald. Danberg was unavailable for this discussion, therefore, the Committee voted to hold the item.

#7-13 HIS HONOR THE MAYOR seeking Home Rule Legislation relative to the acquisition from the Commonwealth of the Waban Hill Reservoir located on Manet Road. [12/31/12 @ 12:50 PM]

**ACTION:** **HELD 5-0**

**NOTE:** Bob Rooney, Chief Operating Officer, reminded the Committee that there had been a discussion a few weeks ago about the possibility of acquiring this parcel of land. Last Wednesday, the MWRA officially voted to surplus this property and they would like to start the lengthy process of moving towards being able to acquire this land if that's what the City decides to do. The first step would be to file special legislation to transfer the property to the City and the state legislature would need to vote on that. The special legislation would document the possible intended uses for the parcel in order to have that recorded in perpetuity. While that process was ongoing, the property would be assessed and a price would be determined. The draft language that was provided to the Committee is preliminary and came out of discussions with the Ward Aldermen and the local community. They expect the language will not change very much but the Director of Planning is hosting an ongoing series of joint advisory meetings for input and final recommendations. The plan is to bring any changes in the language back to Committee.

#### Next Steps and Process

In the next couple of weeks, the Mayor will be meeting with the Division of Capital Asset Management and Maintenance (DCAMM), the Secretary of Administration and Finance, the state delegation and the Ward aldermen to again to make the City's intention's known so that the City obtains right of first refusal on this parcel. Bob Waddick from the Law Department has been working on the language and has been looking to a similar special legislation that took place in Brookline. Planning Department Director Havens is leading the effort on the ultimate re-use of the property and Bob DeRubeis, Commissioner of Parks & Recreation, would have the responsibility of maintaining it in the future.

Ald. Fischman asked if there was a time constraint on declaring interest. Mr. Waddick said that once the MWRA has declared it surplus, they make a determination as to whether any other state agency has a use for the property. He did not know how long that might take. If there is no other state use, then they move into determining the re-use. It would require a public hearing in Newton and the City does not currently have the legal right of first refusal. Nothing obligates the state to sell it to the local community. If they opt to establish a re-use study committee they would have to include the local legislators on that committee. There is always the chance that the fiscal situation in the state may encourage them to look for a higher bidder. In the Brookline situation, DCAMM worked with Brookline from the beginning and crafted the re-use legislation

together. Brookline knew how they wanted to use the parcel and they had a plan. Ald. Baker said that the language presented to the Committee closely tracks the Brookline model. He suggested that the best way to handle this might be to reference the Brookline model when speaking with DCAMM. Ald. Baker asked if the Committee is not formally acting on this petition tonight because the language is not complete, that it would at least convey support for the City to pursue this further. He felt this would be important in their discussions with DCAMM.

#### Pricing/Funding

Ald. Linsky asked how the price for the parcel would be determined. Bob Waddick said that the way this process happened in Brookline, the legislation stipulates that the property will be sold at fair market value based on an appraisal. The appraisal would take place before the conveyance to the City and that would be the purchase price. In Brookline, the 10-acre site was assessed at \$7.9M. However, the special legislation restricted the re-use of that property to passive or active recreation and there was also a conservation restriction. That brought the appraisal down to \$800K. The price can be manipulated by the stipulated use. The City has appraised the Waban Hill Reservoir parcel at about \$3M. If Newton followed the Brookline model, then they could presume a similar reduction in price. Ald. Linsky asked if the Executive Office had an idea of what they might budget for this purchase. Mr. Rooney said they have been looking at sources of funding including Community Preservation Act funds, but they have not determined a budget so far. Ald. Hess-Mahan said that funding sources are also an issue and each ward is probably looking for CPA funding for some project or another. He wanted to hear why this would be a priority in terms of land acquisition in the City and how it would benefit the entire City. Ald. Fischman noted that Kessler Woods was acquired and all of the recreational advantages that were planned for have never taken place. That cost the City \$5M and things just never panned out

#### Planned Uses

Ald. Hess-Mahan was concerned about not knowing what the planned use would be. Ald. Baker said passive or active recreational use of some kind and there are many suggestions for this. The equivalent of a Joint Advisory Planning Group has been convened by Ms. Havens with a number of community members. They have elected a chairman and there will be a series of meetings to discuss preferred use that will feed back into the language. Ald. Fuller said the citizen group has 90 days to come up with recommendations. She was impressed with the skill level and expertise of this 14 member group. There were some potential uses demonstrated to the group by the Planning Department just to show what might fit on the site but the possibilities are still being discussed. The group will come back with a number of suggestions with price tags to implement each use. Ms. Havens said that the advisory group is very diverse and members are from both in and out of the neighborhood. There is a concern on their part about budget as well. They wondered if they should shape this to match funds available, or think outside the box and then think about how to fund it. There will ultimately be a subcommittee of this group to explore funding sources and budgeting. Ald. Laredo has asked the group to think broadly in the area of recreational use and he felt there was wide support in the neighborhood for this.

### Priorities

Ald. Hess-Mahan said that he was concerned that there is an upcoming override vote to fund things in the City that have been neglected for years. And while this acquisition may be a huge priority for that neighborhood, he did not know if the City as a whole would be as interested in this expenditure. Ald. Linsky noted that the override vote will happen before this acquisition comes to any kind of final vote. Ald. Laredo said it would benefit the whole City but Ald. Hess-Mahan said that it was still located in just one neighborhood. He wanted to be able to justify why this project is a priority for the City and he was not comfortable with it until he understood the other needs of the City and where this project fit in.

Ald. Hess-Mahan said the Capital Management Plan thoroughly inventoried all the public resources and prioritized what needed to be done. There is also an Open Space Plan which has identified parcels for acquisition. He just wants to understand where this falls in the broader picture and what might have to be compromised to accomplish this. The Ward 7 Aldermen were concerned about the negative impact of not acquiring this land. They stated the City would lose control of the parcel and one could imagine Boston College purchasing the land for dormitories, or a developer putting in a number of houses, or Mt. Alvernia building there, along with other alternatives.

Ald. Fuller said another way to frame this issue, is that it's a very rare opportunity to acquire a 5-acre parcel of land. She might also like to separate the acquisition with the implementation of the re-use as there may be a significant lag time between the two. She noted that there is important work to be done in determining all of these open issues and would really like to have the support of the Committee to keep exploring all the possibilities. Ald. Baker and Ald. Laredo agreed. Support now does not necessarily mean anyone could not change their mind as more is learned as the process continues.

### Follow up

Ald. Linsky said that they will have much more information by the beginning of April. The advisory group will have their recommendations, some work can be done to determine where this project ranks in priority when compared with other projects in the Capital Management Plan and the Open Space Plan, and funding sources such as CPA funds could be further explored. Ald. Baker would like the Committee to hold the item but endorse the idea of carrying forward with the planning process to determine what uses might be desirable. He would also like support in following the Brookline model including using the home rule legislation when the time was appropriate to do so. Ald. Blazar said he would like to see all recommendations from the advisory group even if they don't include active or passive recreation.

Ald. Laredo he said he feels comfortable telling the state delegation and presenting the caveat that the City does not have a firm plan yet or a firm funding source yet, but there is interest in exploring this through the next steps. Ald. Hess-Mahan said he was fine with more exploration but really wants his questions answered. He has had constituents tell him they want to repeal the Community Preservation Act and he really wants to be able to answer their questions. Mr. Rooney said this is a tactical effort right now just to get right of first refusal. If that does not happen, then there may well be nothing to consider here at all. In the end, the City can take no action on this, but they want the opportunity to at least have the chance by showing a united front

of support at least through this step. The state needs money and he's not sure they would favor the City of Newton equivocating on this when they could sell to a higher bidder.

The Committee asked for a list of the members of the advisory group. They are as follows: Steven Bader, Madelyn Bell, Peter Clote, Sharon Cushing, Novelle DuPen-Meyerhoff, Cathy Eaton, Muriel Esdale, Jean Fulkerson, Andrew Hargens, Ted Kuklinski, Ben Ostrow, Susan Servais, Gail Silverstein and Dan Von Kohorn.

The Committee voted to hold this item 5-0

#336-12      HIS HONOR THE MAYOR, ALD. BAKER, FULLER AND LAREDO,  
requesting a discussion to include possible uses, process, timeline, opportunity for community input and funding sources, with the affected neighborhood community and with members of the Board of Aldermen, on the potential acquisition for passive or active recreational uses of the five acre parcel in Ward 7 on Manet Road currently held by the MWRA as an obsolete open water reservoir.  
[10/3/12 @ 6:57PM]

**ACTION:**      **HELD 5-0**

**NOTE:** Please see above note. The Committee voted to hold this item.

Respectfully Submitted,

Stephen M. Linsky, Acting Chairman