

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, APRIL 3, 2013

Present: Ald. Sangiolo (Chairman), Linsky, Hess-Mahan, Rice, Blazar, Baker and Fischman;  
One Vacancy

Also Present: Ald. Yates, Johnson, Lappin, Swiston, Albright, Harney and Crossley

Others Present: Dori Zaleznik (Commissioner, Health and Human Services), David Olson (City Clerk/Clerk of the Board), Robert Rooney (Chief Operating Officer), Ouida Young (Associate City Solicitor), Eve Tapper (Planning Dept.), Nancy Levine (Election Commissioner), Karyn Dean (Committee Clerk)

Re-appointment by His Honor the Mayor

#110-13 MARY PANAGGIO, 108A JFK Circle, Newton, re-appointed as a member of THE NEWTON HOUSING AUTHORITY for term to expire February 21, 2018. (60 days 05/17/13) [03/07/13 @ 11:24 AM]

**ACTION:** **RECOMMEND TO HOLD 3-0 (Ald. Rice, Fischman, Hess-Mahan and Baker not voting)**

**NOTE:** Ald. Yates requested that Ms. Panaggio be invited into the next Committee meeting as he had some questions regarding the Newton Housing Authority. Therefore, the Committee voted to hold this item.

Appointment by His Honor the Mayor

#109-13 GLORIA MASTROCOLA GAVRIS, 21 Monadnock Road, Chestnut Hill, appointed as a member of the LICENSING BOARD for a term to expire June 1, 2019. (60 days 05/17/13) [03/07/13 @ 11:24 AM]

**ACTION:** **APPROVED 5-0 (Ald. Fischman and Baker not voting)**

**NOTE:** Ms. Gavriss joined the Committee. She explained that she saw the Mayor's Office's article in The Tab about openings on Commissions and Boards and submitted her resume to Dori Zaleznik for the Licensing Board. She was able to meet with Commissioner Zaleznik and attend some Licensing Board meetings. She has always had an interest in the economic development of the City and she felt it was a good opportunity to balance the needs of growth and economic vitality with maintaining the uniqueness and integrity of the villages. It was an exciting time for the Licensing Board now as they are reviewing their processes and looking to streamline some of them. In addition to the resume she submitted, she noted that she just took on a position at UMass Boston as Director of Community and Corporate Development for their mentoring institute for youth. Her law practice has been pared down to doing some occasional residential closings for family and friends.

The Committee expressed their gratitude to Ms. Gavris for her willingness to serve and voted unanimously to approve her appointment.

#139-13      HIS HONOR THE MAYOR AND THE VICE PRESIDENT OF THE BOARD OF ALDERMEN requesting a discussion of reorganization plans to consolidate the Elections Department into the City Clerk/Clerk of the Board's Office.

**ACTION:**      **HELD 6-0 (Ald. Baker not voting)**

**NOTE:** Vice President of the Board, Cheryl Lappin, addressed the Committee. She explained that the Executive Office and members of the Board were interested in combining the Clerk's Office with the Elections Department. This was not being proposed as a cost savings measure, but an efficiency measure. The cross-training of both staffs would provide more consistent coverage for seasonal projects such as dog licenses and the census, as well as more responsive customer service on a day-to-day basis. The Board presented a Resolution to have David Olson be the interim Executive Secretary for Elections through the end of the fiscal year and this reorganization would make permanent his responsibility for the Elections Department in addition to his current role as City Clerk and Clerk of the Board of Aldermen.

Ald. Lappin noted that the City Clerk does handle Election in most of the communities in Massachusetts. There was some concern in the Committee that Newton has a larger than usual slate of legislators which probably takes considerably more of the Clerk's time than in other communities. Along with the responsibilities of City Clerk, adding Election could be a heavy workload. It was noted that Worcester has one person acting as City Clerk, Clerk of the Board and head of Elections. There was great confidence in Mr. Olson's ability to handle all three roles, but there was also concern about future Clerks taking on these roles and being able to find someone with the necessary skill set to do so. It was noted that it was actually a challenge to fill the role of Executive Secretary for Elections as a stand-alone position because most candidates were also looking for the dual role that most communities have in place. This reorganization will bring Newton in line with most communities, and the applicant pool will be much wider should Mr. Olson leave in the future.

Robert Rooney, Chief Operating Officer addressed the Committee. He explained that he was there to hear feedback from the Committee on this proposal. It would then be docketed with an appropriate budget so that a financial and personnel structure would go before the Board for approval at that time. This is an opportunity for efficiency that the Executive Office looked at a couple years ago. Mr. Rooney noted that this merger would improve coordination and execution of operations for both departments; centralize similar data collection across the departments; develop leadership and management opportunities within the staff; and improve staff productivity and performance in core functions.

The previous Executive Secretary position would be replaced with a high level manager to be called the Assistant Clerk for Election. This person would be an operations person who could run Election, allocate resources and make decisions throughout the day on an election day. The City Clerk would oversee that and be responsible for the overall operation but not necessarily run all the details of the day.

The Election Commission met the previous night to discuss this proposal and get their input. Their concern centered around how the relationship between the Board and the Commission would work. Ouida Young, Associate City Solicitor, drafted a Memorandum of Agreement (MOA) between the Board and the Commission to clarify the roles. There will also need to be an ordinance change to change the responsibilities of the City Clerk.

Nancy Levine from the Election Commission addressed the Committee. She noted that the only change in the Organizational Chart is that the Election Commission is not under the Board of Aldermen. Mr. Rooney felt that a dotted line instead of the solid line would more accurately demonstrate the relationship. She said there were a number of questions from the Commission because they were under the impression that this move was decided and was in the process of happening. They were relieved to hear that this was a plan in progress and their input was indeed being sought. There were other questions about whether this would trigger any labor or union issues for the clerks in the office because of work requirements. In the end, the Commissioners felt this would provide good coverage for the Election office in terms of personnel and efficiencies.

Ald. Hess-Mahan said he wanted the Election Commission to know he was very unhappy about their recommendation to forego the Special Election to fill the Ward 1 At-Large seat. He was also displeased that the Interim Executive Secretary, Peter Koutoujian, stated “voter fatigue” as one reason not to hold the election.

Ouida Young said that the Election Commission has to vote on the ordinance change and the portion of the MOA that relates to the Code of Massachusetts Regulations (CMR). That instructs Registrars, as well as Election Commissioners because they serve as Board of Registrars, that city or town clerk staff or the city or town clerk to do certifications of nomination papers and petitions. The ordinance is a key factor because that is going to establish clearly where the staff responsibilities for the Election Commission lie. There never was any statement in the ordinances as to who provided the staffing for the Election Commission. It is not referenced in the Charter either. The Charter simply says that the Election function of the City will be operated by the Election Commission but is silent on how the Election Commission would do that. The Executive Secretary has been appointed by the Mayor throughout the years using the Charter provision that says if there is an appointment of a Department Head, the Mayor does the appointment. And there is nothing contrary to this in the statutes. The statutes don't speak at all to how staffing is done by an Election Commission or Board of Registrars aside from poll workers, wardens, assistant registrars and assistant election commissioners. The City feels very comfortable with the ordinance change and the Election Commission does not have to vote on this, but they really should vote on it particularly for the delegation of responsibilities under CMR.

The next scheduled meeting of the Election Commission is May 9<sup>th</sup>. Mr. Rooney said they would docket the item with the budget after the Election Commission vote on May 9<sup>th</sup>. It is intended to take effect on July 1, 2013 as Mr. Olson has the interim appointment and the funding is already in place for the interim appointment. A public hearing needs to be held since this is a reorganization.

There was concern that the position for the Assistant Clerk for Election has been advertised and the reorganization has not yet been voted on by the Election Commission or the Board. Mr. Rooney said there are currently two full-time and one part-time person in the Election office. They made a conscious decision about whether to advertise for an Executive Secretary and then if the reorganization went through, demote that position to fit into the reorganization plan. Or the other hand, advertise for the Assistant Clerk position and promote that position if the reorganization did not go through. They did not want to keep the position unfilled for 6 months because there is an election coming up in April and two in June. The Election office needs the help.

Mr. Olson explained that they will not have a new person in place in time for the April election, but very much wanted someone in time for the June 25<sup>th</sup> election as they will be running two Election concurrently on that day.

There was concern whether this could present any conflict of interest particularly with aldermanic Election. Ms. Young explained this would allow for much closer monitoring than has been in place in the past. The Election Commission would be the body that would rule on contested Election or recounts, not the Board of Aldermen. She did not feel there would be any greater chance for bias under this proposal. The Board of Aldermen appoints the City Clerk and now the City Clerk will have the responsibility of doing the administrative task of the Election Commission.

David Olson explained that his office is now split between the Board of Aldermen staff and the City Clerk staff. The City Clerk staff and the Election Department staff will be merging. There is currently an Assistant Clerk of Vital Records. The new Assistant Clerk of Election will work with the Vital Records Assistant Clerk to run the daily flow of work with the new staff of seven, whether that is dog licenses or the census. In addition, the daily coverage for customer service will be improved and the staff will be cross-trained.

#### Follow Up

The Election Commission will take a vote on this proposal on May 9<sup>th</sup>. The Mayor's office will be docketing the reorganization item and will provide the Memorandum of Agreement for that meeting's agenda. There will also need to be a public hearing on the reorganization item as well.

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

#334-12      ALD. SWISTON AND LINSKY requesting a discussion with the Licensing Board regarding the licensing and permit requirements for non-profit organizations. [10/10/12 @ 3:52 PM]

**ACTION:**      **HELD 6-0 (Ald. Baker not voting)**

**NOTE:** Ald. Swiston addressed the Committee. She explained that she received a couple of complaints from organizations such as the PTO or the Tennis Club that their experience of applying for permits had changed over the past year or so. They were facing requirements that they had never had to deal with before and they were confused. This has caused some problems with events. For example, a citizen who had been running the same events for ten years or so

was suddenly given new requirements for the event permits. It was Ald. Swiston's understanding, however, that none of the licensing and permitting requirements had actually changed. Some clarification was needed on these issues. These were smaller events of 70-100 people or so for schools and they typically raise between \$500-\$2000 and provide an opportunity for community building. The wine, entertainment and gambling licenses were at issue. The fees for these events are between \$300-\$350 and that is a big portion of the possible profits. Raising ticket costs could draw fewer people to the events and puts the event at risk. A streamlined and "small event" process would be helpful.

Dori Zaleznik, Commissioner of Health and Human Services said that the Licensing Board is currently reviewing their rules and regulations which have not been reviewed since about 2004. In particular, the entertainment permitting process is being reviewed. The statutes from which this all has been drawn is actually rather confusing. Mass law is riddled with leftover Blue Law vestiges with contradictory language and the Law Dept has been researching to determine what is under local control and what is not. Licensing is attempting to streamline the process. There are a number of non-profits of all sizes and varieties in the City including everything from PTOs to Boston College. The non-profits are the only groups that can serve all types of alcohol. The for-profit groups can only serve wine and beer and that is state law. Even though alcohol is not "sold" or people aren't consuming that much alcohol at an event, state law proscribes that if alcohol is delivered to an event then it is considered a sale of alcohol at the event. The only way an event is allowed to have alcohol at an event is if it is delivered. Organizers cannot buy it at a liquor store and bring it in themselves. That is against statute. Events have the option to not serve alcohol but many want to have alcohol and that is fine and understandable, but the law says if alcohol is being served, a permit is necessary. Some of the confusion that has arisen over the past year is that it seems in years past, there was a good deal of one set of rules applying to one group, while another set of rules applied to others. This has been rectified and the rules and fees have been looked at and are being applied equally to all parties consistently. Subsequently, the revenues to the City have gone up considerably since then. The review of the rules and regulations should make things clearer.

On the Licensing website there is an instruction sheet which identifies who does and does not need to get a one-day permit. There is also a checklist which lists all the required documentation, and a simple application form. This is a newer, clearer approach than what was previously used. There was a comment that the documentation checklist was incomplete.

Ms. Zaleznik noted that one thing that bothers people the most is the need for liability insurance. The reason for that is the locations can get in trouble if someone gets drunk and drives away and there is an accident. A Committee member commented that it's a huge liability for a school or community center to have alcohol on the premises, especially with volunteer boards and workers. Another way to handle this is to hold an event at a venue that has a liquor license. In that case, a one-day permit is not necessary. There is a balance of paying for a venue but not a one-day permit, and avoiding a venue fee by holding the event in a school, for instance, and paying for the one-day permit. There was a comment that the insurance company told an organizer something different than what the City told her was necessary for liability insurance, which was confusing.

Sentiment from the Committee was that these sort of smaller non-profit events are what community is all about and a balance needs to be found. Barriers to having such events should be mitigated as much as possible. Commissioner Zaleznik said she welcomes anyone to come to

the Licensing Board meetings, the third Tuesday of every month, and agendas are posted. They would appreciate and consider all input from citizens and Aldermen to help in this process. Some Committee members felt there should be some consideration in the process for smaller non-profits and/or the size of the event. The smaller the event, the stronger the community building and the more valuable it is to the City. There was also a suggestion that one comprehensive permit would be simpler than having different applications for different licenses/permits. Commissioner Zaleznik said they are working on that and also with putting more things online. The Committee was pleased to hear that measures were being taken to demystify the process. Citizen comment was that it is now much easier to speak to someone in the Licensing office and receive assistance than it has been in the past.

#### Follow Up

Ald. Linsky would like to hold the item and hear back from the Licensing Board when they have finished their update of the rules and regulations, before they get enacted. Commissioner Zaleznik hopes to have this done by the fall. The Entertainment license was discussed at the last Licensing Board meeting. The Committee asked for minutes or a recording of that meeting to be put online. Commissioner Zaleznik said a draft of proposed revisions will be put out and before it gets voted on, there will be a review meeting.

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

#230-12      ALD. SANGIOLO requesting the establishment of guidelines and policies regarding the creation of Neighborhood Area Councils particularly with respect to (1) boundary delineations and (2) description of area council authority. [08/06/12 @ 4:39PM]

**ACTION:**      **HELD 7-0**

**NOTE:** Ald. Rice said he and Ald. Linsky have had some discussions regarding the Board of Aldermen setting up a village area councils framework across the City, like a ward system, with boundaries. They kept running into scenarios where the area councils themselves have wanted to set up their own boundaries based on where they believed they were for the villages. The Charter says the Board has to approve the boundaries of any particular area, however. The Newton Highlands Area Council was started 30 years ago and has changed the boundaries 4 times. Ald. Rice said he did not think they went through the Board of Aldermen at all, even at their conception. Chris Steele has been working with Ald. Rice with boundaries of the Waban Area Council to make it contiguous with Newton Highlands Area Council. With the Newton Centre area council, there have been disputes about where the boundaries are and separate area councils have been proposed. The Mayor's office said they did not want several different area councils for one village. Ald. Rice went on to say that there may be areas of the City that never have an Area Council and boundaries are being made and expanded on a case-by-case basis.

Ald. Linsky noted that since there is activity and interest in the City for area councils, the role of the Board needs to be clarified. He wondered if they should be looking at creating a comprehensive ordinance that fills in the gaps of the very broad guidelines the City Charter proscribes. For instance, should there be uniformity in the area councils, or should they be reflective of their local constituencies and be unique; and how should Election be handled. Ald. Sangiolo noted there was a group from Newton Centre that followed what was laid out in the

Charter but they were denied because the Board did not like the boundaries that were set. It was pointed out that the reason it was denied was because there was contention around that group. There were other factions that wanted to be included and there was no cohesiveness in that neighborhood around the council. Ald. Blazar felt the originating group was not working in a transparent manner.

Ald. Linsky wondered if the Board wanted to be in the business of making determinations about boundaries at the street by street level. They may well not want to. Ald. Johnson said the focus should be on the purpose of the area council and not as much on the boundaries. Most organizations are based on what they want to accomplish and then the organizational structure comes from that. The Charter states that the neighborhood council may exercise any power and perform any functions within the neighborhood service area expressly authorized by the Board of Aldermen. Ald. Johnson wondered when they authorized those powers and functions. If the functions and purposes are not clearly stated, how can the Board authorize them? Their purpose needs to be stated, the boundaries decided and then the powers and functions approved. She is not sure whether the Board should be the body to do that or not and that has to be determined as well.

Ald. Sangiolo said the guidelines in the Charter have been open to differing interpretations which is why she wanted to try to clarify them. Ald. Albright said that Ken Fortney who is a Professor at Tufts University and studies these sorts of issues, referred her to another person who would be able to give the City guidance. (She said she would find out his name because she could not remember it at this moment.) She felt this would be a productive to look at what is happening in other communities and find out what the experts say on this issue. She said she would contact him and talk about strategy.

Ald. Hess-Mahan said area councils don't really have "power"; they are a voice for the City, and that is important. They only get the powers the Board grants them, and the Board doesn't know what powers to grant them. The idea for a City like Boston with varied and various neighborhoods was to give people a conduit to their government for their issues. He felt if people wanted to form area councils and do the work for them, that is great. Making the guidelines too stringent might make it difficult for them to organize and he felt they should be what they want to be. Every single area council is not going to want the same things and some people will want to be in it and some will not. The needs of those at one part of the area might be different from those at another part. He feels this issue should be studied to see how these should be handled. The way things have been working may not be what was envisioned by the Charter in the '70s. Ald. Rice said area councils can provide a different point of view on issues different from the Administration and different from the Aldermen and that can be a good thing. The Mayor has been encouraging area councils but it has been unclear what their role should be. Ald. Hess-Mahan wants the expectations to be known and not to change as the process moves along. Ald. Johnson felt that the people who are currently in the process of forming an area council should get some guidance from the Mayor's office from Ana Gonzalez, the Law Department and the Board of Aldermen. An outline of steps and options would be helpful.

Ald. Baker said part of the challenge is that the Charter has within it the opportunity to do this. Some people have organized what are natural constituencies in neighborhoods, but in some parts

of the City that doesn't work very well. He felt that people interested in this should be in touch with their Aldermen and then determine if it's necessary to have all these people to organize to do this, as opposed to talking to the Aldermen. Members of the Board are supposed to sit at area council meetings each month. There is representative government in place and are extra players really necessary.

Ald. Sangiolo asked for a report back from Ald. Albright from the expert and take this item up again after budget. The Committee voted to hold this item.

#144-12      ALD. HESS-MAHAN proposing to repeal the time restrictions for filing special permit applications/site plan reviews for Major Projects during July and August in Article X Section 5 of the Rules and Orders of the Board of Aldermen.

**ACTION:**      **HELD 7-0**

**NOTE:** The reason for this Rule was to avoid scheduling public hearings for Major Projects during the months of July and August, or in November or December in the last year of the board's term.

Ald. Hess-Mahan explained that just before and just after the blackout periods, the Land Use Committee gets inundated with special permit applications. These include projects of all sizes and some that can generate quite a bit of neighborhood interest. If there are not enough Tuesdays in a month, that could bring projects into December before they get to a working session. He didn't think this was fair to staff or petitioners. He did not have an issue with the end of term blackout period, this was particular to the summer blackout period. The budget discussions take up time in the spring and that makes June a very busy month and September as well. He was looking for some relief for the Committee and is looking for an outright repeal of the summer blackout period. There are also holidays and religious observances that block out time as well. He noted that if there was a controversial project, the Aldermen would know that and could hold it, or they could not refer it to Committee until later in the year. All the information is available in a much easier fashion than in the past because documents are posted online and people are very aware of upcoming projects. It is now required that the 60-day clock on holding a public hearing does not start until the application is complete so all the information is there. The Zoning memorandums are available as well that explain what relief is being requested. He feels the Committee is getting overburdened by this Rule.

Some members noted that before this Rule was enacted, developers chose to have their projects heard in the summer when no one would be around to oppose them. That was the problem that led to this Rule and it only applies to Major Projects. Suspension of the Rules could be utilized if something really needed to be heard during the blackout period. Even though documentation is available online, it was felt that participation in the Public Hearing could not be replaced by just seeing the materials. Once the application is complete, and is filed with the Clerk's office, the 60-day clock must start. A board member cannot request that it be delayed.

The Land Use chair noted that when people are interested in a project, they show up and it doesn't matter if it is during the summer. People can also contact the Committee by phone or email to express their concerns. The Committee also has no problem holding open a public hearing if more input is needed and that provides a safeguard as well. Ald. Hess-Mahan said he



would like everyone's project to get the attention it deserves and allow the public, the aldermen, the developers or property owners to have ample opportunity to be heard. Having five public hearings on two different nights in June including some Major Projects, requires the Committee to be there until midnight and that is a problem. People get tired and their attention is not as sharp as it should be and it does not seem fair to anyone involved.

Eve Tapper from the Planning Department suggested that perhaps the definition of "Major Projects" should be changed. Right now a Major Project is any project that waives 5 parking spaces. There have been many of those projects and some are even more than 5 and are not worthy of extensive discussion. She noted that August meetings have been well attended and agreed that when people are interested in an item, they show up. Last June 10 public hearings needed to be scheduled because everyone was trying to beat the deadline. There were also multiple public hearings in July and August. There is also the problem of turning around reports for so many public hearings. There was a suggestion that the definition only be changed for the summer, not fall projects.

Ald. Sangiolo said she did not hear any concerns from developers that the blackout dates were problematic. Ald. Hess-Mahan explained that he cared about the neighbors and petitioners and most of all the process about jamming all these public hearings in in a couple of nights. His concern was not with the developers.

Ald. Sangiolo asked for some information as to what kind of petitions have come in around these blackout dates. Eve Tapper said they have that information as well as how long each petition took for at least the past five or six years. She will provide that information and thought will be given to re-defining "Major Projects" as well.

Ald. Hess-Mahan moved to hold this item and the Committee voted in favor.

Respectfully Submitted,

Amy Mah Sangiolo, Chairman