

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, DECEMBER 4, 2013

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

Also Present: Ald. Fuller, Lappin, Lennon and Crossley

Others Present: David Olson (City Clerk), Marc Welch (Director, Urban Forestry), Josh Morse (Commissioner, Public Buildings), Jonathan Yeo (School Committee), Howard Mintz (Chief of Police), Donnalyn Kahn (City Solicitor), Robert Rooney (Chief Operating Officer), Karyn Dean (Committee Clerk)

#396-13      ALD. LENNON & LAPPIN, pursuant to Section 2-7 of the City Charter recommending that the 2014 -2015 Board of Aldermen re-appoint David A. Olson as City Clerk/Clerk of the Board; said term will be two years or until a successor is duly qualified. [10/28/13 @ 3:09 pm]

**ACTION:**    **APPROVED 8-0**

**NOTE:** David Olson joined the discussion. He explained that the last year has been very interesting and eventful with the addition of the Elections Department and staff. He believes he has one of the best jobs in the City and enjoys all aspects of the position. There was some question relative to the cross-training of the Vital Statistics staff and the Elections staff. Mr. Olson explained that there are some union issues still to be settled but the work is going well nonetheless and the negotiations are ongoing with the union. As for staffing, one person will be retiring in January and Mr. Olson will be looking for a new hire to fill that position, and there is one person out on maternity leave at this time. A new person has been hired in the Elections Department. Ald. Lappin mentioned that having three departments in one room requires some sort of partitioning. A wall was taken down, but some other kind of separation needs to happen to improve the environment.

The Committee expressed their complete satisfaction with the work that has been done by Mr. Olson and they noted that the integration of the Elections Department has been seamless, efficient and has brought improvements as well. Two poll workers were in attendance and explained that the logistics at the polls were much improved and they felt their duties and responsibilities were explained to a much better degree than ever before. President Lennon and Vice President Lappin stated that Mr. Olson has been a pleasure to work with and his support to them and the Board has been incredible. The Committee felt that Mr. Olson has done wonderful work in all of his duties and enthusiastically supported his re-appointment

Ald. Blazar moved approval and the Committee voted in favor.

#397-13 ALD. SANGIOLO on behalf of the URBAN TREE COMMISSION, proposing amendments to the Tree Preservation Ordinance. [10/28/13 @ 2:46 PM]

**ACTION: REFER TO 2014-2015 BOARD OF ALDERMEN 8-0**

**NOTE:** Marc Welch, Director of Urban Forestry addressed the Committee. A draft ordinance was provided with the agenda and was also provided to the Economic Development Cluster (ISD, Planning and other staff). Mr. Welch explained that these other departments, as well as the Executive Department, felt that pertinent issues were being addressed but wanted to spend more time in review. Robert Rooney, Chief Operating Officer, noted that the administration was concerned with preventing egregious offenders from continuing to find loopholes in the current ordinance, and balancing that with preventing undue burden upon the average homeowners' needs.

Mr. Welch explained that the largest change in the ordinance is to eliminate the concept of an "exempt lot". It has been found that there have been too many ways in which developers and owners have tried to manipulate this loophole and eliminating it eliminates many of the issues that have come up in the past. The other significant change includes the creation of a set of numbers to assist those homeowners with valid reasons for removing trees: 5 or fewer trees; or an aggregate diameter of 80 inches or less. Within these parameters a homeowner would not require a tree removal permit or be required to replace the trees. Mr. Welch found that these numbers are generally consistent with non-development activity. The two big offenses have been the removal of trees immediately before the sale of a home, and the new owner (generally a developer) "occupying" the home and then removing the trees. The removal of trees before a sale is being written into purchase and sale agreements. Members of the Urban Tree Commission expressed their support for the proposed changes.

Some Committee members were concerned that homeowners who are allowed by-right to add a certain number of square feet to their homes, would incur additional cost due to tree replacement or contribution to the tree fund. This would probably be more prevalent on smaller lots. There were also concerns about enforcement. Mr. Welch said this is based primarily on the honor system, but also they do tend to hear from neighbors if they see a significant amount of trees coming down. In most cases, as the ordinance is currently written, it is not being violated. With the new ordinance which deletes the exemptions, they would be better able to control and monitor what is happening with the canopy in the City. Most violations come from developers who claim they are "occupying" the lot which is not the intent of the ordinance. The proposed ordinance would require that if you need to get an exterior work permit, you need to get a tree permit. A Committee member wondered if a notification process by the homeowner of any tree activity up to the allowed set of numbers would be helpful to the City.

Ald. Fuller joined the Committee. She wondered if the proposed ordinance, by aiming to protect the City from offending developers, was burdening 100% of the population. Homeowners should be allowed to remove some trees from their private property to let in more light, or to satisfy whatever their need may be. She felt it was too wide a response to solve a narrow problem. Mr. Welch said it does apply to every property in the City, but there is an allowable number and aggregate diameter than can be removed without oversight or penalty. It does not stop the removal of trees it just imposes replacement of trees or fees if the amount is above and beyond

the allotted number. The fees that are imposed go into the Tree Preservation Fund. The trees that are counted are considered “protected” trees so the smaller, spindly trees or scrub would not be included. A Committee member suggested that working with tree removal companies might be helpful in keeping the City informed on the work they are doing. Mr. Welch reminded the Committee that this ordinance is a private tree ordinance and the public tree ordinance is separate but similar.

The Committee voted to refer this item to the next board in order to allow more review as requested.

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

#414-13 HIS HONOR THE MAYOR requesting authorization to petition the General Court for Home Rule Legislation to authorize the Mayor, upon recommendation of the Chief of Police, to appoint former Newton police officers who have retired for superannuation and who are under age 65 to serve as special police officers for the purpose of performing police details in the City of Newton. [11/25/13 @ 3:26 PM]

**ACTION:** **APPROVED 8-0**

**NOTE:** Chief Howard Mintz joined the Committee. He explained that there has been a shortage of detail officers. They have had a lot of requests for detail officers, in particular, on road construction that they have not been able to fill. Currently, the City goes to neighboring communities but those communities are experiencing the same kind of shortages. They have been working on finding a remedy for this problem for many years. Allowing retired officers up to the age of 65 to work details seems to be a fair and logical solution that will benefit the City financially as well as from a public safety standpoint. Private contractors/utilities make up 75% of the details and the City receives a 10% fee on all of those.

The retirees would be special police officers subject to mandatory CPR and first responder training and would have to comply with any requirements in training that would be determined. The regular officers would have right of first refusal and retirees would only be called when the regular roster of officers is depleted. The same system of rotation and sign-up would be used, and if there were any issues of performance, the officer could be terminated at the Chief’s discretion within 14 days. They would not be represented by a union. The special police officers can work no more than 960 hours a year and no more than 40 hours in any week. They would supply their own uniform, gun and pepper mace and would not be paid for any training. Captain Mintz was checking on the availability of radios for them to use. There is a pool of 15 retirees that are eligible and live in the local area and this will certainly ease the shortage but not eliminate it. It was pointed that it would also be beneficial to have experienced and trained detail officers on the street should a disaster strike as in the Boston Marathon incident. These special officers would not be dispatched for routine calls, however.

Donnalyn Kahn explained that the City had done an analysis of other communities utilizing HRL to allow retirees to come in for police details. They all have 111F benefits for any officer that might be injured while working a detail. (111F is the equivalent of workers compensation for safety officers.) There is a formula for calculating the 111F payment that it set forth in section 8

of the proposed HRL. The City also took a poll of different communities to find out how it has been working and there was not one that reported an injury of a retiree on detail. If there is an injury, payments would end when the injury is resolved or the retiree turns 65.

A Committee member asked if flagmen could be used. Chief Mintz explained that the City Ordinances require police officers to do intersectional traffic and do not allow for flagmen. In other instances where flagmen could be used, the rate would probably be equal to or higher than that of the police officer if it's a union job, which he believed most were. The auxiliary police are not used in paid details because they are not police officers and are not armed. They do some voluntary traffic functions but the Captain would prefer to use the special officers.

The Committee voted to approve this item.

**REFERRED TO PROG & SERV, PUB FACIL. AND FINANCE COMMITTEES**

#421-13 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of one million dollars (\$1,000,000) from bonded indebtedness for the purpose of funding the feasibility study and associated schematic design services for the renovation and/or replacement of the Cabot Elementary School. [11/25/13 @ 3:26 PM]

**ACTION: APPROVED 8-0**

**NOTE:** Commissioner of Public Buildings, Josh Morse, joined the Committee. He explained that the request is for \$1M for a feasibility study to get through site plan approval and schematic design for the Cabot School. If the full amount is not used, the remainder would be rolled into the next phase of design and construction documents. The Angier School study cost \$750K and the Zervas study was \$1M so this is in line with what has been previously done. Each site offers its own challenges and Cabot is no different. For instance, there is an MWRA aqueduct that runs beneath the modular units on the Cabot site, and it was also a 20E site and oil product was released 18 years ago due to a failed oil tank. It has since been cleaned up and cleared by DEP and the paperwork is complete but it is still something to keep in mind and requires further study to be sure there are no surprises. Traffic on the site is a challenge as well, including traffic flow and drop-off/pick-up issues. The same process would be used as was for the other schools, which includes a working group. That communication string has been very successful with the communities as well as with the Board and the School Committee. Mr. Morse also noted that they will do their best to preserve "Humpty Dumpty".

Ald. Sangiolo stated that she would like the Ward 2 representative from Programs & Services to be part of the Cabot Working Group. Some Committee members asked about the size and shape of the school building. Commissioner Morse said that Cabot is going to be the first project that is much closer to residents and more urban than the other schools and he expects and welcomes quite a bit of involvement by the neighbors. This is an MSBA project and the City has to work within their guidelines in terms of the ultimate square footage of the school. That is in part determined by projected enrollment, but they do not expect that it will be much higher than the current enrollment. They will also work creatively to make the building blend in with the environment of the community. The feasibility study will determine all these factors and they will be looking at as many options as possible to make this a successful project.

Committee members asked if the City could use the same people who did the design for the other schools since they are now have a familiar working relationship. Commissioner Morse said that they have to go through the MSBA process and they select the designer that will be used. The City has some input but the MSBA has the majority vote and will have to look at the workload of each firm. The MSBA will look at the feasibility study to determine whether renovation and addition model makes more sense or reconstruction. There was a question relative to asbestos in the building. Commissioner Morse stated that study will also identify and quantify the City's exposure when it comes to any hazardous materials, including asbestos. They would have an environmentalist following the process and documenting cost and necessary action. Committee members asked about the park next to the building and the impact on it. Commissioner Morse stated that outcome remains to be seen and will also be part of the study.

There was a question of where to put the students while three schools were being worked on. Commissioner Morse said that Angier students will be going into the Carr School and the feasibility study of Zervas and Cabot will help determine what the options might be for swing space. After Angier students are gone, one of the other two schools will use the Carr School and the other will need to be determined. There was a question about whether students from one school might be put into more than one space and Commissioner Morse said that would be unlikely but he wasn't sure at this point.

**Clerk's Note:** A joint meeting was to take place with the Public Facilities Committee on this item, but the timing did not allow for that. Please refer to the Public Facilities Report as well for more details on this item.

Ald. Linsky moved approval of this item and the Committee voted in favor.

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

#36-12      **ALD. CROSSLEY & FULLER** requesting Home Rule legislation or an ordinance to require inspections of private sewer lines and storm water drainage connections prior to settling a change in property ownership, to assure that private sewer lines are functioning properly and that there are no illegal storm water connections to the city sewer mains.

- A) Sewer lines found to be compromised or of inferior construction would have to be repaired or replaced as a condition of sale;
- B) Illegal connections would have to be removed, corrected, and re-inspected in accordance with current city ordinances and codes, as a condition of sale.

[01/24/12 @ 8:07 AM]

**ACTION:**      **REFER TO 2014-2015 BOARD OF ALDERMEN 5-2-1 (Ald. Sangiolo and Rice opposed; Ald. Leary abstaining)**

**NOTE:** Ald. Crossley joined the Committee. She explained that the Public Facilities Committee has referred this item to next year's board. The Law Department's opinion was that Home Rule Legislation (HRL) was not necessary for this item. The opinion also stated that although the City could not assess fees and impose liens on properties for noncompliance without a home rule petition, that would not be an advisable path to take anyway. Since HRL is

not necessary, Ald. Crossley and Ald. Fuller felt comfortable recommending No Action Necessary on this item.

Some Committee members felt that there may be some solution that includes a mix of public investment of private property instead of relying on the private owners making repairs as sales of homes are made. It was felt that perhaps keeping this in Committee made more sense. Ald. Crossley explained that expanding the work in the City sewer restoration program is possible in that the pipe liner could continue to capture the connection to the property line, and perhaps further, as part of the process. That was priced at one point and it was prohibitively expensive for the City. Ald. Fuller said as the City was working on the sewer pipes and noticed a problem in a private section of the pipe, they could alert the homeowner and be paid to do the corrective work. This would be less expensive for the homeowner in the long run. This is something they are still exploring as a possibility. Some Committee members felt it was best to refer this to the next board and see what comes of the continued work that will be done on the issue, as there may be some legislative authority needed for a financing mechanism.

The Committee voted to refer this item to the 2015-2015 Board of Aldermen.

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

#402-13 ALD. FULLER, GENTILE, RICE and LINSKY requesting a Home Rule Petition to amend Article 9 of the Charter to clarify that Neighborhood Area Councils shall maintain and control their own financial accounts and records, independent of City finances; and to further clarify that such independent financial accounts and records shall remain subject to City audit. [10/28/13 @ 10:18 AM]

**ACTION:** **REFER TO 2014-2015 BOARD OF ALDERMEN 8-0**

**NOTE:** This item was referred to 2014-2015 Board of Aldermen without discussion.

**.REFERRED TO PROG. & SERV. AND PUBLIC SAFETY & TRANS COMMITTEES**

#410-13 ALD. JOHNSON, ALBRIGHT AND LINSKY requesting discussion with the Parks & Recreation, Police, Fire and Law Departments regarding options to decrease vandalism at the Albemarle Park (Halloran Recreation Complex) before April, 2014 [11/12/13 @ 4:15 PM]

**ACTION:** **REFER TO 2014-2015 BOARD OF ALDERMEN 8-0**

**NOTE:** This item was referred to 2014-2015 Board of Aldermen without discussion.

Respectfully Submitted,

Amy Mah Sangiolo