

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, MARCH 17, 2010

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

Also Present: Ald. Albright, Crossley, Fuller, Lappin and Swiston

Others Present: Donnalynn Kahn (Interim City Solicitor), Linda Walsh (Interim Commissioner, Health and Human Services), John McNally (Health and Human Services), Jayne Colino (Director, Senior Service), Bob DeRubeis (Interim Commissioner, Parks & Recreation Dept.), Chief Matthew Cummings (Newton Police Dept.), Art Cabral (Interim Commissioner, Public Buildings Dept.), Josh Morse (Facilities and Operations Supervisor, Public Buildings Dept.), Bob Rooney (Chief Operating Officer), Karyn Dean (Committee Clerk)

Chairman's Notes:

The Committee has requested that Department Heads with Departments under the jurisdiction of the Programs & Services Committee come in for brief informational discussions. Donnalynn Kahn, Interim City Solicitor, joined the Committee this evening.

LAW DEPARTMENT

Donnalynn Kahn, Interim City Solicitor, addressed the Committee. Ms. Kahn explained that the Law Department currently has 8 attorneys: 1 City Solicitor; 2 Associate City Solicitors; and 5 Assistant City Solicitors. There are also 2 support staff. Each has responsibility for 4 attorneys.

Current Activity

Ms. Kahn noted that there are about 25 ongoing pieces of litigation in the courts right now in various stages. She was not concerned about any of them in terms of liability. In the past 18 months they've tried 6 cases and won them all. She said the department knows which cases can be tried and which should be settled.

Currently the Law Department deals with all areas of law except Labor Law. This includes litigation, real estate, school, zoning and appearances before the Civil Service Commission, the BSEA, the Appellate Tax Board, and appearances in all courts including the Newton District Court, the Middlesex Superior Court and the Federal Court. They will also do any appellate work that comes up. Ms. Kahn said that saves the

City a lot of money when compared to outside counsel. She said the staff is hardworking, dedicated and experienced. The main problem is they have not had a Labor Law attorney in-house and labor law work has grown exponentially over the years. They have had to outsource that work to Morgan, Brown and Joy.

In-House Labor Law Attorney

She would like to see the structure of the department changed. One Associate City Solicitor will be eliminated. The department also has two openings but they can not be filled until the people formerly occupying those positions are offered severance agreements. She would be looking to fill those positions with a labor law attorney and an assistant labor law attorney/litigation expert. Ms. Kahn feels that will leave the department able to handle all matters in-house. Collective bargaining, however, would continue to go to outside counsel.

Ald. Hess-Mahan said he is concerned about hiring an in-house labor law attorney. He said that support comes from the staff of the entire firm when you outsource the work and he is not sure the Law Department has that same capacity. He said the School Committee would also probably hire their own labor law attorney. Ms. Kahn said the grievance and arbitration matters are costing about \$10K each. She currently handles the personnel and civil service matters and she knows that many communities contract that service out. Having these services in-house changes the dynamic of a case because she knows the people involved, whereas outside counsel would not. She also feels this will save a substantial amount of money. Morgan, Brown and Joy would not be eliminated entirely. They would use them for a larger, complicated case but she felt this should be the exception. Ms. Kahn said that \$220,000 has been spent so far on outside counsel and she will be asking for another \$100,000 before the end of the fiscal year. Ald. Baker said she should be mindful of the workload of the staff and explore other resources as necessary. He was concerned about the Board being served. Ms. Kahn felt the department could handle the Board, the Mayor and the citizens well. Ald. Sangiolo said she was also concerned about the Board being represented and looked forward to talking more about that after Ms. Kahn had the department fully staffed.

Customer Service

Ald. Merrill was concerned about customer service for the residents that may have some claim with the City. Ms. Kahn said she has reorganized the way the attorney's deal with claims to keep the contacts consistent. She will also be implementing a tracking system. She pointed out that even when the Law Department acts immediately on a claim, the investigation process can take a bit of time. Weather can also be an impediment but she is working with Tom Daley to get a better system in place.

Technology

Ms. Kahn said they were hoping to get more computer generated library rather than the books they currently deal with. She has been in discussions with Sara Ecker, Interim Chief Financial Officer, on this topic.

Ald. Linsky asked how much of the work was done electronically and how much is paper-based. Ms. Kahn said they are just getting into electronically backing up all their files. There is no off site storage. Original documents with signatures are kept in the Law Department. They periodically purge their files as allowed.

Ald. Sangiolo said she felt that Ms. Kahn was doing an excellent job. The Committee thanked her for bringing them up to date.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#70-10 **HIS HONOR THE MAYOR** requesting authorization to appropriate and expend twenty-three thousand seventy-five dollars (\$23,075) from the Budget Reserve for the purpose of funding payments for mosquito control.
[02/23/10 @ 7:21 PM]

ACTION: **APPROVED 8-0**

NOTE: Linda Walsh addressed the Committee and introduced John McNally, an Environmental Inspector in the Health and Human Services Department. Ms. Walsh explained that this program is undertaken each year for mosquito control and is not included in their department's operating budget. Since mosquitoes carry a variety of illnesses, she feels this is an important public health initiative.

Chemicals

Mr. McNally said they will be using licensed pesticides that are less dangerous in their use and application than what they would use on adult mosquitoes. The theory is to hit the larvae before they hatch. The state believes in this as one of the major vector control parts of the state program. After the influx of the West Nile Virus in the early 2000s, they implemented this program because once a disease infiltrates an area it becomes endemic and has to be combated each year. There were 4 confirmed cases of West Nile Virus last year. The chemical they use prevents the mosquitoes from reaching adulthood. They also use a bacterium that affects the gut of the insects and kills them. This provides a residual affect that keeps on working for a period of time. They alternate the combination of chemicals about every three years to keep them effective. It is considered a very safe protocol. The chemicals are deposited in the catch basins by workers on bicycles. Mr. McNally said that the workers will have identification so that the public and police officers know who they are and what they are doing. There are other types of preventative measures that take place and are covered in their operating budget. They will also treat standing water in people's yards (pools, for example) if necessary.

Parent Concerns

Ald. Rice said that parents tend to get anxious about soccer games when the West Nile Virus is found in the City. Ms. Walsh said that the department sends out notices about preventative measures but they have never recommended canceling practice or not using the fields. She understands the worry as it is a very serious disease and all reasonable precautions should be taken. This catch basin work is an extremely important part of that. West Nile Virus tends to show up in late July and August.

Budget

Ms. Walsh said she spoke to Sara Ecker about putting this expense in the operating budget next year. Ald. Hess-Mahan agreed that it should be included. Ald. Linsky asked why the price had increased from last year (\$21,732). Ms. Walsh said she would get that answer in time for the Finance Committee meeting. Ald. Baker asked Mr. Rooney to communicate the Committee's desire to have this included in the department's operating budget.

Ald. Linsky moved to approve this item and the Committee voted in favor 8-0.

REFERRED TO PS&T AND PROGRAMS & SERVICES COMMITTEES

#391-08 HIS HONOR THE MAYOR requesting Board of Aldermen approval to
(#122-92(3)) petition the General Court for an amendment to the legislation that governs the appointment of a Police Chief in the City of Newton in order to add two members to the committee: an additional representative of the Newton Superior Officers Association and an additional citizen member.
[11/4/08 @12:31 PM]

PUBLIC SAFETY & TRANSPORTATION APPROVED 5-0 (Ald. Coletti, Danberg and Harney not voting) on 10/21/09

ACTION: APPROVED 8-0

NOTE: Ald. Linsky noted that during the last Police Chief selection process, it was noted that some changes needed to be made to the selection committee: the addition of two members including a citizen member and a representative from the Newton Superior Officers Association. An excerpt from the October 21, 2009 Public Safety and Transportation Committee report states:

“This item had been held in January when it was recognized that changes would be necessary for the enabling act that governs that process. Once work is done in this Committee, it would go on to the State Legislature. Chairman Linsky noted that it could take a long time to see this all the way through.

Ms. Lawlor reviewed with Committee members a draft corrected board order prepared by the Law Department and said an additional citizen member was added. There was another change of an offending comma which was confusing, but after checking Ms. Lawlor found it was a Scribner's error. The new Home Rule Petition deletes that comma. The Public Safety and Transportation Committee worked with the Law Department on the changes necessary to bring the language up to date.”

Chief Cummings said he was fine with the new language. He asked Ald. Linsky if he found having the union representative helpful in the selection process. Ald. Linsky said

he did. Mr. Rooney asked what the implication was to having an additional citizen member. Mr. Rooney said he wasn't sure why an additional citizen was added and said if the Committee felt it was cumbersome, he could speak to the Mayor about it. Ald. Hess-Mahan wasn't sure if the new citizen member was added to balance the additional representative from the Newton Superior Officers Association. Donnalynn Kahn felt that was probably correct but she wasn't sure.

The draft board order is attached. The Committee voted to approve this item 8-0.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#360-09(2) **PROGRAM & SERVICES COMMITTEE** requesting a discussion to explore possible sources of revenue to fund an off leash dog park system in the City. [11/06/09 @ 10:44 AM]

FINANCE VOTED NO ACTION NECESSARY ON 3/8/10

ACTION: **HELD 8-0**

NOTE: Bob DeRubeis, Interim Commissioner of the Parks & Recreation Dept., updated the Committee on the dogs off leash pilot program. He said that it was determined in December that the Dogs Off Leash Advisory Committee and the Department needed to reassess the process of the off leash dog parks. They wanted to make it a more transparent and open process and formed a Dogs Off Leash Advisory Working Group. The working group has been meeting every Friday since January and the process has opened up. Minutes and agendas can be found on their webpage and any updated materials are posted there as well. The next step is to take the criteria they formed and match them to green spaces throughout the City. He feels the process is going well. At the last Parks & Recreation Commission meeting, the off leash dog park pilot program was extended through April, 2010. The Cold Spring Park off leash area is also extended for one month. He feels they can start to bring forward some potential sites for new off leash dog areas within the extension period.

Mr. DeRubeis said that finding funding options would be an ongoing discussion on his end of things. Right now they are just focused on getting more sites up and running. They will then need to assess the sites to find what is necessary to make them ongoing, viable areas. He sees the issue of finding sources of revenue to assist in that process as a phase 2 step.

New Fee Ideas

Ald. Hess-Mahan wondered if there could be a process by which the users of the off leash dog areas could be licensed to use them and charged a fee. He noted that dog walkers may be using the areas and it would be useful to have them licensed as well. Ald. Albright agreed and was going to docket an item related specifically to dog walkers. She felt this fee could be directly allocated to an off leash dog area fund. Ald. Baker suggested that the question about dog ownership be added back to the census so the City knows where they stand on licensing. Mr. DeRubeis said that there is a dog survey on the Parks & Recreation webpage. It includes questions regarding licensing and fees.

Current Fees/Fines

Ald. Linsky noted that City Clerk, David Olson, reported an increase in the number of licensed dogs in the past year. Ald. Linsky thought that the City might raise the fee for dog licenses. The fee is currently \$10 for spayed/neutered dogs and \$15 for unaltered dogs. Ald. Sangiolo noted that the license fees go into the City's general fund. All dog related fines were just raised to \$50.

Vote and Follow Up

The Committee voted to hold this item pending establishment of other off leash areas. The Committee would like to explore the idea of licensing dog walkers and also requiring any other users of the off leash dog areas to be licensed.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#358-09 **HIS HONOR THE MAYOR** requesting authorization to appropriate and expend fifty five thousand dollars (\$55,000) from tax revenue from the local option meals tax to restore funding to the Senior Transportation Program. [10/09/09 @ 5:25 PM]

FINANCE VOTED NO ACTION NECESSARY ON 3/8/10

ACTION: NO ACTION NECESSARY 7-0-1 (Ald. Merrill abstaining)

NOTE: Jayne Colino, Director of Senior Services addressed the Committee. She explained that some previously provided trips had to be deleted from Senior Transportation services due to budget cuts. They had hoped to restore some funding through the local option meals tax, but the money from that source was no longer available. The Committee had decided to hold this item at their last discussion and asked the Executive Department to work with Ms. Colino to find an alternate source of funding.

Source of Funds

Mr. Rooney said it was the Mayor's desire to restore Senior Transportation services. He explained that Ms. Colino has found a way to fund the services through the Senior Transportation revolving account and with the available budget. The revolving account continues to grow through the collection of trip vouchers and has averaged about \$34,000 per year over the past three years. There is currently about \$100,000 in the revolving account. Through budget discussions with the Mayor, Senior Services has decided to restore the long-term care facility transportation and the house of worship transportation services using these funds. Ms. Colino said they had previously reinstituted the top 10 demanded medical destination trips within a 2-mile limit outside the City. Given the balance in the revolving account and the projected revenue for the next year, Ms. Colino thinks they could continue these services through FY11. This is all dependent on demand, however, which is impossible to project. Ms. Colino said they will be getting the word out to the public and can restore the services immediately.

Ald. Hess-Mahan asked what users of the services were contributing for the vouchers. Most people are making the \$3 suggested contribution but the number of people asking for and getting exemptions has grown. Ms. Colino said that brings the average

contribution to \$2. She feels the money that has accumulated in the revolving account is finally usable, and the riders are now actually subsidizing the service.

Other Solutions

Ald. Linsky asked how people have managed without the services since they were cut. Ms. Colino said she has no data on that. The Greater Boston Interfaith Organization did contact the City and ask that the trips to houses of worship be re-established. Ald. Linsky said it should be possible to find out from houses of worship what has happened with their congregation. He feels that members of certain congregations could be helping each other. Ms. Colino said they have been working with houses of worship to find out what their congregations' needs are. The Senior Citizen Fund of Newton is the private 501 3c organization that is supplementing the transportation needs of seniors and reaching out to the houses of worships. The houses of worship are reporting that they are stretched to the limit with their resources and the city's service supplements the work they are doing.

Ms. Colino said she has been in discussions with the Law Department to explore the Mabel Louise Riley Fund for possible supplemental support. It is a fund that was established in the 1970s and its principle has grown. The definition for the use of funds is very limited. The funds are to be used to provide "treats" for people in homes for the aged on holidays, so they are working with the Attorney General's office to see if they might be able to use the funds for long-term care facility visit transportation. The fund is currently not being utilized at all.

Vote and Follow Up

Since the money requested in this docket item is no longer available and the Senior Service Dept. will be funding the services with money in the revolving account, the committee voted No Action Necessary with Ald. Merrill abstaining and voted to create a parens (2) for a resolution to restore senior transportation services and keep it in the budget.

REFERRED TO PROG & SERV AND PUBLIC FACILITES COMMITTEES

#68-10 ALD. FULLER, CROSSLEY, SCHNIPPER, DANBERG, FREEDMAN, JOHNSON, LAPPIN, SWISTON, BAKER, LINSKY, ALBRIGHT & YATES requesting a Resolution to His Honor the Mayor to conduct a comprehensive survey of the physical condition, maintenance and renovation/replacement needs of municipal buildings, roads, sidewalks, recreational, utility and other infrastructure elements throughout the city, resulting in a database for prioritizing, maintaining and tracking of maintenance, and capital projects. [02/23/10 @ 2:04 PM]

ACTION: **APPROVED 8-0**

NOTE: Ald. Baker explained that this docket item was the first step in developing a long term capital budget. He said the School Department had done a similar inventory and that the Municipal side needed to do the same thing.

Ald. Fuller said it was the sponsors' intent to be very comprehensive in this docket item. They did not want to limit it to just buildings, but went on to include many more assets throughout the City. They also did not want to limit this to just a survey of physical conditions but wanted to go farther and include maintenance, renovation and replacement needs as well. They also want to put the information in a database so that it can be prioritized and monitored. She said she understands this is an enormous project and will probably need to happen in phases, over a period of years. The information is necessary to responsibly plan for the capital needs of the City. Currently, the information resides with the departments heads in charge of the assets and needs tend to be met as problems arise rather than through a working plan. Ald. Crossley agreed. She said any other institution would have this kind of plan. She understands that the list will probably be overwhelming but they do need to know where they stand. This inventory will help the Board make the day to day determinations regarding allocation of resources with a bigger picture in mind as well.

Ald. Lappin supports this item. She said that many have been asking for years what the priorities are when the Board is making allocation decisions. Ald. Fuller said that once the document is prepared, it would need to be updated continuously. Ald. Linsky agreed and supported this as did Ald. Fischman. Ald. Fischman noted that some projects may be subsidized through the MWRA or other state or federal agencies. It will be important to identify those and prioritize them.

Bob Rooney said that the Mayor supports this and finds it essential. Someone would need to manage this project to have consistency with the prioritization and work with the Chief Financial Officer. This is the essence of managing the City's infrastructure. He noted that the Public Works Department has done a road inventory and they have condition reports. The road report will help them determine what roads need attention and when and is the basis for the allocation of resources. He said that DPW has commissioned a study called "Computerized Maintenance Management System" that information can be entered into. And as mentioned, the Schools have also done their study. He said once the city wide study of resources is complete, it will be staggering, but it is information that is essential. He said the City owes it to the residents to give them this information - they can then see what it costs to keep the city safe, secure and functioning and they can be part of the decision making process.

Art Cabral noted that there was a request for a similar study in 2007 but the Board did not approve it. He said that his department had been pushing even earlier than that to get it done. The Public Buildings Department is completely on board with this item and welcomes it. Josh Morse said that the Citizen Advisory Group estimated the City's buildings value at just shy of \$1B. He feels it is common sense to establish a baseline of the assets. Prioritizing is difficult but essential as is a commitment to adhere to the plan. Mr. Morse said a short and long term plans are necessary. He did not want to commit resources to a building that might be torn down in a few years, for example.

Bob DeRubeis also supported this study. He agreed that it is essential to have a comprehensive survey and establish a baseline in order to properly prioritize and address issues.

Ald. Hess-Mahan said the Mayor-elect and his transition team started to look at this issue. There were many citizen volunteers and he would like to see that resource utilized.

Ald. Fuller urged Mr. Rooney to have a hefty line item in the FY11 budget to get this work started. In 2007, \$300,000 was requested to do a partial inventory. She understands that money would have to be taken from other worthy projects in order to get this funded, but she said she would be supportive and expected other Board members to be as well.

Ald. Merrill moved approval of this item. He felt it would be money well spent for the future of the City. The Committee voted in favor 8-0.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#130-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend from Cable Receipts the sum of twenty-four thousand nine hundred eighteen dollars (\$24,918) for the purpose of purchasing equipment to provide for archived web casting of the Board of Aldermen and School Committee meetings. [4/28/09 @ 6:02 PM]

FINANCE VOTED NO ACTION NECESSARY ON 3/8/10

ACTION: NO ACTION NECESSARY 8-0

NOTE: David Olson informed the Chairman that he would like this item voted No Action Necessary. Ald. Hess-Mahan said he was very disappointed that they were not able to work out an agreement with NewTV. It would have been a great tool towards greater transparency. He said that David Olson was exploring other options and will docket an item when that happens.

Ald. Sangiolo asked the Committee to review any items on the agenda and let her know when they might be ready for discussion.

The Committee voted No Action Necessary 8-0.

Motion to adjourn.

Respectfully Submitted,

Amy Sangiolo, Chairman

CITY OF NEWTON
IN BOARD OF ALDERMEN

March , 2010

ORDERED:

The request for approval of Home Rule legislation for enactment by the General Court be and is hereby approved by the Honorable Board of Aldermen:

AN ACT FURTHER AMENDING THE PROVISIONS OF SECTION 5 OF CHAPTER 279 OF THE ACTS OF 1992 IN ORDER TO ADD TO THE POLICE CHIEF SELECTION COMMITTEE A MEMBER OF THE NEWTON POLICE SUPERIOR OFFICERS ASSOCIATION AND AN ADDITIONAL CITIZEN MEMBER

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Notwithstanding any general or special law to the contrary, the provisions of SECTION 5 of Chapter 279 of the Acts of 1992 are hereby further amended by deleting, in its entirety, the language contained in said SECTION 5, and inserting in its place the following language:

“SECTION 5. For all subsequent appointments, a selection committee of eleven persons shall be established to assist in the selection process. The committee will be made up as follows:

(1) One member of the board of aldermen, appointed by the president and subject to the approval of said board of aldermen.

(2) One Newton citizen appointed by the board of aldermen under the same process as clause (1).

(3) One representative of the Newton Police Association, appointed by said association.

(4) One representative of the Newton Police Superior Officers Association, appointed by said association.

(5) One business executive of the city of Newton.

(6) One attorney.

(7) One member of the judiciary, active or retired.

(8) One member of the Massachusetts Police Chief’s Association, except a former police chief from the city of Newton.

(9) Three citizens of the city of Newton.

Committee members appointed in clauses (5) to (9), inclusive, shall be appointed by the mayor and approved by the board of aldermen in accordance with the procedures set forth in section 3-3 of the charter of the city of Newton. Every effort shall be made to include not less than four women on the selection committee.”

Section 2. This Act shall take effect upon its passage.

Approved as to legal form and character:

DONNALYN B. LYNCH KAHN
City Solicitor

Under Suspension of Rules
Readings Waived and Adopted

EXECUTIVE DEPARTMENT
Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor