

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, JULY 14, 2010

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

Absent: Ald. Fischman

Also Present: Ald. Albright and Johnson

Others Present: Carol Stapleton (Parks & Recreation Dept.), Karyn Dean (Committee Clerk)

#185-10 PRESIDENT LENNON recommending the appointment of LLOYD DAVID, 107 Hobart Road, Newton Centre, as an Aldermanic appointee to the COMMUNITY EDUCATION COMMITTEE for a term to expire 12/31/11. (60 days 8/20/11) [06/11/10 @2:31 PM]

ACTION: **APPROVED 7-0**

NOTE: Mr. David addressed the Committee. He noted that he has lived in Newton for 19 years and has never really directly participated in local government. He feels this is a way to get involved. He has been an adult educator since 1968 and in 1977 he was appointed Director of Adult Education in Cambridge, MA. He then set up a nonprofit for adult basic education and a program for an alternative high school diploma program for adults. He also set up a GED program at Newton North and ran for a few years until the grant did not get re-funded. The program was very successful and now Community Education is running a GED program. Mr. David feels he can contribute his experience and be helpful to the City. One thing he would like to look into is the duplication of services in the City between other departments and Community Education. The Committee had an opportunity to review Mr. David's resume and were impressed. They thanked him for his willingness to serve and approved his appointment.

206-10 VETERANS' AGENT requesting a discussion and support for the replacement of the WWII Honor Roll on the grounds of City Hall at the intersection of Walnut Street and Commonwealth Avenue. [07/06/10 @ 4:41 PM]

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

NOTE: Ald. Merrill explained that he would like to see a memorial of some kind that included the veteran's of World War I and World War II that were killed in action or subsequently died of their wounds. He would like to docket an item that addressed that issue instead of the proposal in this docket item. He would also like to have a discussion regarding the use of Community Preservation Funds for this type of project.

John MacGillivray, Veterans' Agent, sent an email to the Chairman explaining that he would like to postpone the discussion of this item. He has met with the Mayor and they have decided this subject needs to be studied further with the possibility that it be integrated into an overall design and development that includes Honor Rolls for Newton residents who served in the military during the wars in Korea and Vietnam. At some point they would also like to develop an Honor Roll for those veterans who served during the Persian Gulf, Iraq, and Afghanistan.

The Committee voted to hold this item and await further input from the Veteran's Agent as well as Ald. Merrill on this issue. The Committee voted to form a parens (2) to address Ald. Merrill's proposal, but he said he will speak to Mr. MacGillivray about docketing an item.

#100-10 ALD. JOHNSON AND SANGIOLO requesting amendment of the Rules of the Board, **Section 6. Committee Reports, A.** to "It shall be the duty of any committee to whom a subject may be specifically referred to take this item up and report thereon within three weeks from the time said subject is referred to them, or at the next meeting thereafter, or to ask for further time. No committee and hence Board action (Approved, Denied, No Action Necessary) may be taken without a discussion with the primary docketer, at a minimum, with the substantive committee." [03/21/10 @ 9:12 PM]

ACTION: **APPROVED AS AMENDED 7-0**

NOTE: Ald. Baker reported that the Rules Subcommittee discussed this item and approved the following language for consideration:

"It shall be the duty of any committee to whom a subject may be specifically referred to take this item up and report thereon with one year from the time said subject is referred to them or to ask for further time. No committee and hence Board action (Approved, Denied, No Action Necessary) may be taken without a discussion with the primary docketer at a minimum, or with a report of the committee to which the item may have been jointly referred."

Ald. Johnson said she would like to remove "*or with a report of the committee to which the item may have been jointly referred.*" She feels this does not prevent the problem which prompted this item. She explained that she had a couple of item voted No Action Necessary despite the fact that a conversation never took place with her, and despite the fact that she asked the Chairman to schedule these items for discussion. She wanted to be sure that an item could not be acted upon unless at least one conversation takes place with the primary docketer. Ald. Baker felt that "at a minimum" was also unnecessary.

The Committee voted to approve the language as amended below:

“It shall be the duty of any committee to whom a subject may be specifically referred to take this item up and report thereon with one year from the time said subject is referred to them or to ask for further time. No committee and hence Board action (Approved, Denied, No Action Necessary) may be taken without a discussion with the primary docketer.

#242-03(6) ALD. ALBRIGHT requesting to amend Section 3-30 (as established by Ordinance Z-11) to create an off-leash dog areas ordinance. [04/26/10 @ 8:47 AM]

A. EXTEND ORDINANCE TO 9/30/10 APPROVED 6-1-0 (Ald. Sangiolo opposed; Ald. Merrill not voting) ON 5/3/10

ACTION: B. APPROVED 5-0-2 (Ald. Sangiolo and Merrill abstaining)

NOTE: Ald. Albright addressed the Committee and reviewed the latest changes. These changes were prompted by comments at the last discussion of this item. The primary changes are shown below and are indicated in **bold**. Other changes are simply labels of paragraphs and do not change content. *A draft board order is attached.*

(b) Selection and Designation of Sites for Off-Leash Areas

(1) Site selection criteria. The commissioner of parks and recreation, together with the director of planning and development, shall establish site selection criteria for the identification of appropriate sites for **consideration** as dogs off-leash areas on public land owned by the city, and shall identify **and list potential** sites for **consideration as an off-leash area in accordance with such criteria. Site selection criteria may include a preference for areas with natural topography or features that would confine dogs to the off leash area.** For any particular potential site or sites, the commissioner and director may recommend additional criteria for designation of the particular site **or sites.** Such **additional criteria may include, but are not limited to, seasonal or time restrictions, and the need for fencing, when the commissioner deems it necessary to confine the dogs to the off leash area. The commissioner and director may appoint a group of interested persons to advise or otherwise assist them in their duties.**

(2) Designation of Off-Leash Areas. Subject to the established site selection criteria, the commissioner of parks and recreation may designate specific off-leash areas on public land under the control of the city. If the identified area is under the jurisdiction of a municipal agency or commission other than the parks and recreation department, the commissioner shall obtain permission of that agency or commission prior to such designation. An agency or commission granting such permission may **delegate** operation and maintenance of the off-leash area to the commissioner. **Prior to designation of any off-leash area, the commissioner or other municipal agency or commission having jurisdiction of the potential site shall conduct a public hearing.**

Ald. Sangiolo asked if the Parks & Recreation Commission has added any new criteria since their last presentation. Ald. Albright said they have not added to the 13 they already presented. [The list is attached to this report.](#)

Marie Lawlor provided a memo, which was attached to the agenda that answered questions the Committee posed at their last discussion. The memo states that the City has no jurisdiction or authority to enact an ordinance involving land owned or controlled by the State or any non-municipal public agency; that no new areas of land to be excluded from consideration as an off leash area have been added; and the issue of fees is premature and needs further thought and discussion.

Public Comment

Lee McIntyre addressed the Committee. He said he was representing many dog owners in the room and some that could not be there as well. The off leash ordinance is a good and much needed ordinance that has already been held up twice by this Committee. He said if it is not voted on today, it would cause another unnecessary delay. The public meeting has been held and the aldermen have had a chance to provide input as well. He hopes the Committee will vote tonight and send it to the full Board. This ordinance is the lynchpin for the new off leash program in the City and can not move forward without it. The Parks & Recreation Commission is poised to hear new proposals for new off leash areas in the City and Cold Spring Park will close in September. The Parks & Recreation Commission said there would be no more extension of time for Cold Spring and the only way it can go forward is if the ordinance is in place. He understands there will be policy decisions along the way and they shouldn't endeavor to include everything in this ordinance. It needs to move forward.

Norman Wertz addressed the Committee. He said the perfect is the enemy of the good and in trying to craft an ordinance that is so precise, they would probably never get there. Parks & Recreation Commission won't go forward unless they have the ordinance from the Board so the logjam needs to be broken.

Harry Sanders addressed the Committee. He is in favor of the proposed ordinance. He noted that he is a member of the Newton Mass Animal Response Team. In emergency situations such as a lost elder or child, there is a delay before a state police dog can be brought in to pick up a scent. He is creating a tracking dog program that will be based in Newton. They would like to be able to use a designated area to train these kinds of dogs that are gentle and can assist in finding people.

Ald. Johnson said she has long supported an off leash program in the City. She feels there has been a lot of work done to improve the ordinance and would like to encourage her colleagues to vote this out and pass it onto the full Board for consideration. She said the parks are for everyone and the right mix needs to be found to fulfill everyone's needs as much as possible. Ald. Albright said that she thinks the Parks & Recreation Commission was willing to have an August meeting to hear more proposals and keep the process moving. She would like to see this move forward.

Charter Possibility

Ald. Sangiolo said she was concerned about voting out something that has had such wide interest in the middle of the summer. She noted that Ald. Johnson has warned about that in the past as well. She wanted to let the public know that there could be a chance that someone on the Board might charter this item for that reason. Ald. Johnson said that the Committee already provided an opportunity for the public to weigh in so this is not being done in a stealthy way whatsoever. She agreed, however, that they are running the risk of a charter to postpone the vote until September. Ald. Hess-Mahan would like to see this approved and said this issue has been given a thorough airing with ample opportunity for public input. He noted that they did extend the current pilot program through the end of September in anticipation of this sort of timing issue.

Ald. Hess-Mahan moved approval of this item and the Committee voted to approve by a vote of 5-0-2 with Ald. Sangiolo and Merrill abstaining.

Respectfully Submitted,

Amy Sangiolo, Chairman

CITY OF NEWTON

IN BOARD OF ALDERMEN

ORDINANCE NO.

August , 2010

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

That the Revised Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby further amended with respect to Section 3-30 as follows:

Delete Sec. 3-30 Dogs Off-Leash Pilot Program in its entirety and insert in place thereof the following section:

Sec. 3-30 Dogs Off-Leash Program

(a) Notwithstanding the provisions of Sec. 3-26(a) *Restraint of Dogs*, in areas officially designated as a “Designated Off –Leash Area” by the commissioner of parks and recreation, a dog may be permitted off-leash under the following minimum conditions, and subject to any additional rules, regulations, and restrictions that may from time to time be in effect for an off-leash area.

- (1) The dog shall at all times be accompanied by and under the control of a person, who shall ensure that the animal does not disturb the surrounding area by excessive barking, and shall ensure that it does not disturb or threaten other dogs or persons using the designated off-leash area or surrounding area;
- (2) The dog shall be leashed prior to entering and upon exiting the designated off-leash area.
- (3) Any dog left unattended is subject to impoundment by the Newton police;
- (4) The person in charge of a dog inside a designated off-leash area shall, in accordance with Section 3-29, immediately remove and as soon as practicable properly dispose of any fecal waste deposited by that dog.
- (5) The dog shall wear a collar with identification at all times, be licensed and vaccinated, healthy and parasite free.

- (6) Dogs must be at least four months old to be allowed off-leash.
- (7) The number of dogs per person in a designated off-leash area is limited to three, unless otherwise specified in the rules and regulations pertaining to a particular off-leash area.
- (8) The person in charge of a dog or dogs must at all times carry a leash for each dog under that person's supervision.
- (9) The dog owner and/or person in charge of a dog are responsible to ensure that the dog's activity conforms to all rules and regulations pertaining to the off-leash area, as well as for any injury to persons or animals, or damage to public or private property caused by the dog.
- (10) No person shall bring a female dog in heat into any designated off-leash area.
- (11) Any dog which is the subject of a complaint, investigation, order or proceeding under Section 3-25 or Section 3-27 of this ordinance, and/or under General Laws Chapter 140, section 157 shall be banned from designated off-leash areas.

(b) Selection and Designation of Sites for Off-Leash Areas.

- (1) *Site selection criteria.* The commissioner of parks and recreation, together with the director of planning and development, shall establish site selection criteria for the identification of appropriate sites for consideration as dogs off-leash areas on public land owned by the city, and shall identify and list potential sites for consideration as an off-leash area in accordance with such criteria. Site selection criteria may include a preference for areas with natural topography or features that would confine dogs to the off leash area. For any particular potential site or sites, the commissioner and director may recommend additional criteria for designation of the particular site or sites. Such additional criteria may include, but are not limited to, seasonal or time restrictions, and the need for fencing, when the commissioner deems it necessary to confine the dogs to the off leash area. The commissioner and director may appoint a group of interested persons to advise or otherwise assist them in their duties.
- (2) *Designation of Off-Leash Areas.* Subject to the established site selection criteria, the commissioner of parks and recreation may designate specific off-leash areas on public land under the control of the city. If the identified area is under the jurisdiction of a municipal agency or commission other than the parks and recreation department, the commissioner shall obtain permission of that agency or commission prior to such designation. An agency or commission granting such permission may delegate operation and maintenance of the off-leash area to the commissioner. Prior to designation of any off-leash area, the commissioner or

other municipal agency or commission having jurisdiction of the potential site shall conduct a public hearing.

(3) *Revocation.* A designation of any off-leash area may be revoked at any time by the commissioner or by the municipal agency or commission with jurisdiction of the off-leash area.

(4) *Areas not eligible for designation.* Notwithstanding anything to the contrary contained herein or hereafter, the following areas shall not be designated under any circumstances as designated off-leash areas: the little league baseball fields on (i) Lyons Playground; (ii) James E. Murphy Field at the Halloran Sports Complex; (iii) Leo H. Riley Field at Cabot Park; (iv) Jay Gordon Field at Newton Centre Playground; and (v) Richardson Field.

(c) *Rules and Regulations.* In addition to the minimum conditions listed in section (a) applicable to all designated off-leash areas, the commissioner may from time to time promulgate rules and regulations for the general operation and use of all off-leash areas, as well as rules and regulations specific to the use and operation of an individual site. The commissioner may impose time, seasonal, or other restrictions for the use of any area. In the case of off-leash areas on sites under the jurisdiction of another agency or commission, that agency or commission shall approve such rules, regulations and restrictions, and may make such additional rules, regulations, and restrictions it deems necessary.

(d) *Signs.* All conditions, rules and regulations, and other restrictions applicable to a designated off-leash area, as well as the boundaries of such area, shall be conspicuously posted.

(e) *Penalties.* The owner and/or the person in charge of a dog in a designated off-leash area who fails to control said dog or who violates any of the rules, regulations or restrictions pertaining to the designated off-leash area shall be subject to a fine of fifty dollars (\$50.00) for each offense.

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

Criteria used for Evaluating Green Space Areas

1. **ADA Compliance**—For off-leash areas that require new construction, assure availability of handicapped access parking and an ADA compliant route into the park, in compliance with the Americans with Disabilities Act of 1990. The goal is to have accessible off-leash areas to the maximum extent feasible.
2. **Aesthetic Impact**—Due consideration should be given to the visual impact that an off-leash area might have on the character of a park (e.g., fences, signs, etc.).
3. **Conservation Impact**—Due consideration should be given to the impact that an off-leash area might have on wildlife, habitats, and plants in the proposed and surrounding areas, with special consideration given to possible negative impact on environmentally sensitive areas.
4. **Consideration of Abutters**—Due consideration should be given to the potential impact on abutters to the off-leash site, for things like noise, parking, waste removal, and access to the park.
5. **Cost**—Due consideration should be given to the amount of funding (if any) that might be needed or available to create an off-leash area.
6. **Current Off-Leash Status**—The question of whether a site is already being used for off-leash activity should be noted. If it is not already being used, potential barriers to the creation of off-leash space should be identified and considered. If it is already being used, any problems related to current off-leash activity should be identified and the potential impact of increased usage should be determined.
7. **Distribution of Parks**—Due consideration should be given to the distribution of off-leash areas throughout the city, so that their impact on any single neighborhood can be mitigated and relatively close access to off-leash areas can be afforded to those who wish to use them.
8. **Enforcement**—Due consideration should be given to whether a proposed off-leash area will facilitate the Newton Animal Control in their responsibilities to oversee both off-leash and non-off-leash areas, and whether a proposed site would create any special enforcement issues.
9. **Impact on Other Usage**—Due consideration should be given to the potential impact that an off-leash area might have on other activities in adjacent or shared space.
10. **Park Access**—Due consideration should be given as to how dog owners will reach the off-leash area and how maintenance (such as emptying waste receptacles) will be conducted.
11. **Parking**—Consideration must be given to the availability of adequate and appropriate parking, based on anticipated usage.
12. **Site Characteristics**—Due consideration should be given to the topography of a potential site. For example, drainage, slope, the absence of ticks, the presence of trees or bushes as a natural buffer or for shade, etc., should be considered. Where fencing is proposed, the presence of an existing fence is a plus.
13. **Size**—An off-leash area should be of adequate size for its intended use.