

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, OCTOBER 6, 2010

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

Also Present: Ald. Yates, Johnson, Albright, Danberg, Freedman, Fuller, Salvucci  
City Staff: Marc Welch (Director of Urban Forestry), Bob DeRubeis(Commissioner of Parks and Recreation), Marie Lawlor (Assistant City Solicitor), David Olson (City Clerk), Rebecca Smith (Committee Clerk)

Appointment by His Honor the Mayor

#240-10 KAREN LISCHINSKY, 230 Walnut Street, Newtonville, appointed as a member of the YOUTH COMMISSION for a term of office to expire September 7, 2013 (60 days 10/6/10). [8/30/10 @5:14 PM]

**ACTION:** **NO ACTION NECESSARY 5-0 ( Linsky, Baker, Hess-Mahan not voting)**

**NOTE:** The Committee voted No Action Necessary on this item because the 60 day term to discuss it expired and Ms. Lischinsky has not yet been able to attend a meeting. Mayor Warren submitted a letter requesting the withdrawal of the appointment so that he may resubmit it, at which point the 60 days begins again, allowing the Committee to properly discuss and vote on the appointment. The Committee will take up this appointment again at their meeting on the 20<sup>th</sup> of October.

**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]

**ACTION:** **FINANCE VOTED NO ACTION NECESSARY ON 3/8/10 HELD 7-0 (Sangiolo not voting)**

Robert DeRubeis, Commissioner of Parks and Recreation, and Marie Lawlor, Assistant City Solicitor, joined the table to discuss the progress made on off-leash dog parks and the potential fee structure that will be associated with those parks. Fees are being proposed to offset the cost of maintenance to the parks; it is expected that the increased use of the parks will compact the turf and damage it over time, requiring the city to reseed those areas in the future. The use of the parks as off-leash areas will also require the installation of fences and signs, both of which will be significant costs to the City.

In order to use an off-leash area the dog owner must first obtain an off-leash license for their dog. A dog licensed off-leash would be given a different shaped

medallion than a dog receiving a standard license. These licenses would be issued through the City Clerk's Office. Mr. DeRubeis has discussed this with David Olson, City Clerk, who assured the Committee that the Clerk's Office would not have a problem handling this additional responsibility. The process of issuing an off-leash license would be streamlined so that both licenses could be obtained at the same time.

For non-professionals, the proposed licensing fees are as follows: \$50 per dog for residents, \$100 for non-residents, and a \$50 fine for non-compliance. Professional dog walkers would need to obtain licenses for themselves, in addition to the dog owners licensing the dogs. Fees for professionals to use the off-leash parks would be more substantial and would also vary depending on whether or not they are a Newton based dog walker. If they are Newton-based, they would be charged \$250 for the first dog and \$75 for each additional dog. If they are not Newton based they would be charged \$350 for the first dog and \$100 for each additional dog. Ald. Baker suggests that Mr. DeRubeis and the Working Group look into setting up different fee structures for small dog walking businesses opposed to larger ones. In exchange for payment, professional dog walkers would get a lanyard and placard that they would be required to wear. The Parks and Recreation Department would be responsible for creating these as the Clerk's office does not have the proper equipment to do so. The reason for licensing both the dog walker and the dog is to make the system easier to administer; not doing so would make it difficult to determine which dogs belong to dog walkers and which belong to people that are not complying with the dog licensing process.

The fees collected for off-leash dog licenses cannot be used to raise revenue; they can only be applied to the direct costs to the City for the program. Funds for standard dog licenses, though, go directly to the general fund. Because of this it has been requested that a separate revolving account be set up. This will be on the docket for the next full Board meeting.

Currently there are 4 sites given off leash status. Old Cold Spring Park is a permanent site, but the other three parks (McGrath park, Claflin park, and Hunnewell Park) are off-leash parks with contingencies. The contingencies are the establishment of a fee structure and the placement of fences and signage. Though Mr. DeRubeis and the Off-Leash Area Working Group have keyed their efforts on implementing a fee structure, there is still some question about whether or not we can charge fees.

The implementation of a fee structure is contingent on some key legal issues that Ms. Lawlor is researching. The first issue involves the Recreational Use Statute. The Recreational Use statute gives immunity to a land owner who opens that land to the public for recreational purposes and doesn't charge a fee. Once you charge a fee you lose that immunity for any incident that happens on the land. The City has to decide whether it is worthwhile to give up immunity to liability before deciding to impose fees. Donations, however, would not affect the Recreational Use Statute as the citizen is contributing on a completely voluntary basis. Another issue that Ms. Lawlor is looking into is whether or not we are legally allowed to charge a fee for use of public parks receiving public funds. Ms. Lawlor will be contacting the Department of the Interior to clarify this issue. Furthermore, Ms. Lawlor, Mr. DeRubeis, and the Working Group are still looking into whether or not dog walkers should be charged for licenses in addition to the dog owners being charged (since the dog walkers will pass the cost along to the dog owners).

Whether Newton will recognize licensed dogs from other communities is also still a question.

Ald. Baker raised the point that we don't want to create an unsafe situation by allowing dogs off-leash that aren't controllable. He asked if there is any educational program in place or certification to verify that the owner is in control of their dog. Mr. DeRubeis told the Committee that he and the Working Group have thought about an education component but that there is no proposal for certification at this time. Mr. DeRubeis noted that "control" is something that still needs to be determined for Newton. He shared that in some other communities dogs are required to be under voice control. That may become the case in Newton; Mr. DeRubeis, Ms. Lawlor, and the Working Group will determine this over time. Ald. Baker asks the Committee and the Working Group to consider having a dog owner certify that they are in control of their dog upon obtaining a license; if the owner cannot say with certainty that they are in control of the dog then an educational class could be suggested to them.

Given the number of outstanding issues yet to be resolved, the Committee voted to hold the item 7-0 (Sangiolo not voting)

#254-10      ALD. FREEDMAN, SANGIOLO, JOHNSON SWISTON, & RICE  
requesting a discussion with the Child Care Commission regarding  
changes which have been made, or are planned to be made, in light of a  
decreasing budget. [9/13/2010 @ 4:06pm]

**ACTION:**      **NO ACTION NECESSARY 7-0 (Merrill not voting)**

**NOTE:**      The Committee was joined by Stuart Cleinman and Wendy Protheroe from the Newton Child Care Commission to discuss their current budget challenges. The City has cut the Commission's budget by 44% for fiscal year 2011 and the Committee expects that the Commission will need to be self-sustaining by fiscal year 2012. The Commission is a very valuable asset to the community which provides many services to families that cannot be found at other organizations in the area; these services include scholarships for child care, professional training, and single parent support groups. Ms. Protheroe suggested that the recent addition of two new members to the Commission who are skilled in fundraising has been extremely helpful in crafting a plan to more actively raise funds for the Commission. They have prepared a draft of a plan and will submit it to the Programs and Services Committee as soon as it is finalized. The Committee and the Commission intend to work together to develop a structure to generate funding so that the Commission can continue their good work. Ald. Rice is a member of the Child Care Commission and will work as a liaison between the Commission and the Committee. He will keep the Committee updated on the Commission's progress in setting up a structure for funding.

The Committee voted No Action Necessary 7-0 (Merrill not voting)

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

#230-10      HIS HONOR THE MAYOR requesting an appropriation in the amount of  
eight hundred twenty- one thousand six hundred sixty-four dollars  
(\$821,664) from FY'11 Revenue for the purpose of supplementing the  
FY11 School Department budget. This sum represents a portion of the

state aid for the City of Newton in the Commonwealth's adopted FY'11 budget. [08/02/10 @ 4:59 PM]

**ACTION**      **APPROVED 8-0**

**NOTE:**      The Committee was joined by School Committee Chair Claire Sokoloff, School Committee Vice Chair Rennie Murphy and Deputy Superintendent/Chief Administrative Officer Sandy Guryan to the table to discuss the appropriation of the \$821,664 to the School Department. Ms. Guryan explained to the Committee that the funds will go towards the gap in the health insurance account. During budget discussions, the School Committee made it clear to the Board that there would be a gap but were anticipating state aid. At the time of budget approval, the School Committee presented a list of potential cuts and potential increases in fees in the event state aid did not come through. Ms. Guryan noted that if the appropriation of those funds not be granted to the School Department the School Committee would need to make up that money elsewhere, most likely by voting to cut funding for textbooks, supplies, and social workers, or by a possible increase in the bus fee as was indicated in their budget proposal.

The Committee voted to approve the item 8-0.

#125-09      THE POST AUDIT & OVERSIGHT COMMITTEE requesting creation of a public tree protection ordinance and amendment of the current tree ordinance as recommended in the Tree Preservation Ordinance Report. [04/17/09 @ 9:14 PM]

**ACTION**      **APPROVED AS AMENDED 7-0 (Merrill not voting)**  
**REFERRED TO FINANCE COMMITTEE 7-0 (Merrill not voting)**

**NOTE:**      Marc Welch, Director of Urban Forestry, Marie Lawlor, Assistant City Solicitor, and Robert DeRubeis, Commissioner of Parks and Recreation joined the table to discuss the proposed tree ordinance which has been edited since the last Committee meeting. One significant change to the proposed ordinance is the addition of a "catch all" sentence to waive the permit fee for City departments and to allow the Tree Warden the authority to waive the fee for an activity that would "benefit the health of the tree or the wellbeing of the public". Per Ald. Baker's request, Ms. Lawlor will rework this sentence slightly to convey that the Tree Warden must document, in writing, his reasons for waiving the permit fee.

Ms. Lawlor shared that it is unclear how much we are able to regulate public utilities. Should it not be possible to charge a permit fee to the utility companies then the Tree Warden may use his authority to waive the fee by citing the "catch-all" sentence mentioned in the above paragraph. Ald. Hess-Mahan questioned the permit process, as it relates to utility companies, should there be an emergency. If there is an emergency then the permit process could be waived pursuant to section (n) *Emergencies* in the ordinance, but ideally Mr. Welch would like to issue 2 year-long permits to the utility companies: one permit for emergencies and routine maintenance, and one permit for line clearance.

At our previous meeting there was a question about enforcement. Enforcement would be the responsibility of the Tree Warden. Ms. Lawlor explained that the enforcement of this ordinance would follow the structure of other ordinances in this city, most of which revolve around the date of notice. Should someone violate the ordinance

the Tree Warden would issue a written notice of violation with a specific time frame for compliance. Should that person not comply within the time frame given, the \$300 per day and per tree fine would accrue from the date the original notice was issued.

The Committee voted 7-0 to approve this item as amended and refer the item to the Finance Committee. Ms. Lawlor will provide the final ordinance to the Committee, and to the Finance Committee, at her earliest convenience.

#207-10      ALD. SANGIOLO, YATES, FISCHMAN, JOHNSON requesting a discussion with the Newton Housing Authority regarding the various housing programs offered and the process and procedures in (1) selection of appropriate housing for tenants with special needs (2) any special services offered to tenants with disabilities (3) resolution of tenant disputes and possible eviction procedures and (4) tenant resources and recourse in the event of tenant complaints. [7/7/10 @8:53 AM]

**ACTION:**      **NO ACTION NECESSARY 8-0**

**NOTE** The Committee welcomed Jonathan Hacker, Executive Director of the Housing Authority, to the table to discuss their concerns about communicating with residents, and residents' ability to communicate with the Commissioners of the Housing Authority. The Committee and Mr. Hacker agreed that it would be beneficial to the residents to post contact sheets in the common areas of the properties so that they may easily connect with their Commissioner should they have a problem with a neighbor or a concern about any other element of their living situation. Mr. Hacker will make sure this is accomplished.

The Committee and the Housing Authority are looking to communicate in a more collaborative manner in order to properly handle contact with residents. The Committee would like Mr. Hacker to provide them, and the other Aldermen, with a protocol for answering calls from residents with complaints or questions that the Aldermen themselves are unable to answer without guidance of the Housing Authority. Furthermore, the Committee requests that Mr. Hacker provide the Committee with a list of circumstances that warrants eviction, as well as a copy of the grievance procedures. The Committee also requests that the Housing Authority set up an e-mail account so that there is an alternate way for residents to be in touch with them. Mr. Hacker sees the benefit in this and will look into creating an account.

The Committee voted No Action Necessary 8-0.

Respectfully Submitted,

Amy Sangiolo, Chairman