

CITY OF NEWTON

BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE AGENDA

WEDNESDAY, APRIL 15, 2009

7:30PM – Room 222 – NOTE EARLY START

Chairman's Notes: The Committee will meet jointly with the Public Safety and Transportation Committee on items #101-09 and #273-04(3)

A Public Hearing will be held on item #64-09 in the Aldermanic Chamber at 7:45pm

ITEMS SCHEDULED FOR DISCUSSION:

REFERRED TO PUB. SAF. & TRANS. AND PROG & SERV. COMMITTEES

#101-09 ALD. LENNON, CICCONE, SALVUCCI, GENTILE & JOHNSON requesting discussion and possible City acceptance of the provision of MGL Chapter 31, Section 58A: Municipal police officers and firefighters; maximum age restrictions, which would allow candidates who are veterans to exceed the maximum age provision for original appointment by the number of years of their military services, to a maximum of 4 years. [03/31/09 @ 8:08 AM]

REFERRED TO PS&T. FINANCE AND PROG & SERV. COMMITTEES

#273-04(3) ALD. GENTILE requesting a re-vote of a previously submitted Home Rule Petition approved February 20, 2007 by the Board of Aldermen for special legislation to reclassify the two "dedicated fire apparatus mechanic" positions from Group 1 to Group 2 in the State Retirement System. [02/13/09 @ 4:11 pm]

#64-09 TOM SHEFF et al. filing on February 17, 2009, a group petition pursuant to Section 10-2 of the City Charter for a public hearing to discuss appointing a group of volunteers to: analyze the functions of the Board of Aldermen; analyze the functions of employees at City Hall; and to lay the groundwork for any Charter Commission that is elected by the citizens of Newton in the near future. ***NB: Board action shall be taken not later than three months from the date the petition was filed with the City Clerk.*** [02/17/09 @ 12:09 pm]

Re-appointment by His Honor the Mayor

#94-09 BRUCE HENDERSON, 42 Vaughn Avenue, Newton Highlands, re-appointed as a member of THE NEWTON COMMUNITY EDUCATION COMMISSION for a term to expire on June 30, 2011. (60 days: 6/05/09) [03/31/09 @10:47 AM]

REFERRED TO PROG & SERV AND FINANCE COMMITTEES

#98-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend twenty one thousand seven hundred thirty two dollars (\$21,732) from Free Cash for the purpose of funding payments to the East Middlesex Mosquito Control Project (EMMCP) to conduct mosquito larva control in catch basins to control the spread of West Nile Virus. [03/31/09 @6:11 PM]

#65-09 ALD. GENTILE, SALVUCCI, LENNON, CICCONE AND JOHNSON proposing a Resolution to His Honor the Mayor to reduce aldermanic salaries by 10% in the FY10 budget. [02/24/09 @ 9:31 AM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#87-09 ALD. SANGIOLO, BRANDEL, FREEDMAN AND HESS-MAHAN requesting a Home Rule Petition to allow the City of Newton to require elected officials to contribute a higher percentage rate for health insurance benefits than is required for other employee groups. [03-10-09 @ 9:17 AM]

#171-04(2) ALD. HESS-MAHAN requesting a re-vote of a previously submitted home rule petition approved February 20, 2007 by the Board of Aldermen for special legislation authorizing local voting rights for permanent resident aliens residing in Newton. [02/13/09 @ 4:11 pm]

ITEMS NOT SCHEDULED FOR DISCUSSION:

#95-09 TOM SHEFF requesting the Board of Aldermen appoint an advisory committee made of up persons who are not elected officials to review the daily processes of the Board of Aldermen and report recommended efficiency improvements to the Board of Aldermen. [03/26/09 @8:34 pm]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#70-09 HIS HONOR THE MAYOR submitting the FY10-14 Capital Improvement Program, totaling \$192,908,572, and the FY09 Supplemental Capital budget, which require Board of Aldermen approval to finance new capital projects over the next five years.

#50-09 CLERK OF THE BOARD requesting that Article IX, Section 2 of the Rules of the Board be updated to reflect the use of the most current

version of Robert's Rules Newly Revised 10th Edition (Cambridge, Mass; Perseus Publishing, 2000) [02/05/09 @ 12:21 PM]

- #33-09 ALD. LAPPIN requesting an amendment to the Rules of the Board of Aldermen so that appointments requiring confirmation to the Farm Commission be referred to the Committee on Community Preservation. [01/22/09 @ 9:03 AM]

REFERRED TO PUBLIC FACILITIES AND PROGRAMS & SERVICES

- #8-09 ALD. HESS-MAHAN, LINSKY, ALBRIGHT, FREEDMAN, MANSFIELD, JOHNSON, HARNEY & VANCE proposing an ordinance requiring that the installation of synthetic in-filled turf athletic fields on city-owned property shall use sustainable, recyclable, lead-free, non-toxic products to the maximum extent feasible. [12/30/08 @ 9:55 AM]

REFERRED TO LAND USE AND PROGRAMS & SERVICES COMMITTEES

- #474-08(2) ALD. HESS-MAHAN & VANCE proposing that Article X of the Rules & Orders of the Board of Aldermen be amended to conform with a proposed amendment to Chapter 30 re transfer of the special permit granting authority to the Zoning Board of Appeals and/or the Planning & Development Board for projects that are not classified as Major Projects pursuant to Article X.

REFERRED TO PS&T AND PROGRAMS & SERVICES COMMITTEES

- #391-08 HIS HONOR THE MAYOR requesting Board of Aldermen approval to 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]
- #306-08 ALD. BAKER, DANBERG, MANSFIELD & PARKER requesting discussion of how swimming at Crystal Lake might be lawfully and safely extended beyond mid-August. [08/26/08 @ 5:03 PM]
- #292-08(2) PROGRAMS AND SERVICES COMMITTEE requesting that His Honor the Mayor develop a written policy of standards and processes that could be uniformly followed by community groups for the use of the branch library buildings. [11/07/08 @ 11:11 AM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #274-08 ALD. JOHNSON AND SANGIOLO proposing a RESOLUTION to His Honor the Mayor requesting that he create a plan to move the Child Care Commission to a self-sustaining model for FY2010. [07/17/08 @ 9:53 AM]

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

- #273-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that the Executive and Human Resources Departments develop a comprehensive human capital strategy for the city to include: performance management, talent development, succession planning, and compensation. [07/17/08 @ 9:53 AM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #272-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor that he work with the Board of Aldermen, School Department, and School Committee in order to determine the most effective and efficient way to organize the Human Resources Departments. [07/17/08 @ 9:53 AM]

REFERRED TO PROG. & SERV. AND PUBLIC FACILITIES COMMITTEES

- #271-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that he work with the Board of Aldermen, the Parks and Recreation Department, and the Department of Public Works in order to determine the most effective and efficient way to organize the work of managing our public resources. [07/17/08 @ 9:53 AM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #270-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that he work with the Board of Aldermen, School Department, and School Committee in order to determine the most effective and efficient way to organize the Information Technology Departments. [07/17/08 @ 9:53 AM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #261-08 ALD. SANGIOLO requesting discussion with the Executive Department regarding moving the Director of Arts in the Parks' salary to the Arts in the Parks revolving account. [07/08/08 @ 1:29 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #259-08 ALD. SANGIOLO requesting discussion with the Executive Department regarding moving the salaries of the Parks & Recreation Commissioner and the Recreation Programs Director to the revolving accounts for various programs. [07/08/08 @ 1:28 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #258-08 ALD. SANGIOLO requesting discussion with the Executive Department regarding reorganization of senior transportation services and establishment of intra-village transportation systems. [07/08/08 @ 1:29 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #207-08 ALD. BRANDEL AND SANGIOLO proposing that the following question be put before the Newton voters:
“Shall the City of Newton be allowed to exempt from the provisions of Proposition 2 ½ the amounts required to pay for the bond issuance in order to fund Newton North High School?” [05/21/08 @ 12:58 PM]
- #154-08 ALD. JOHNSON requesting to establish a definition and appropriate usage of the Committee of the Whole of the Board of Aldermen as are all committees of the Board. [4/10/08 @ 9:09 AM]
- #153-08 ALD. JOHNSON requesting to establish a definition and appropriate usage of the Long Range Planning Committee of the Board of Aldermen as are all committees of the Board. [4/10/08 @ 9:09AM]
- #130-08 ALD JOHNSON, SANGIOLO AND BRANDEL requesting establishment of a new Rule of Board of Aldermen requiring that referral of any and all new business, communications, petitions and orders docketed before the Board of Aldermen be restricted to one or more of the standing committees of the Board of Aldermen: Land Use, Programs and Services, Public Safety and Transportation, Zoning and Planning, Finance, Real Property Reuse, Post Audit and Oversight, Public Facilities and Committee on Community Preservation. [03/24/08 @ 9:11 AM]
- #129-08 ALD. JOHNSON, SANGIOLO AND BRANDEL requesting establishment of a new Rule of Board of Aldermen stating that any new item submitted but not yet approved or accepted by the Full Board of Aldermen is prohibited from any formal or informal discussion by any formal, informal or special committee of the Board. [03/24/08 @ 9:11 AM]
- #111-08(2) ALD. JOHNSON and PARKER requesting regularly scheduled updates and discussion each month in regard to the offering of a RESOLUTION to the Mayor, President of the Board of Aldermen, and Chair of the School Committee that they, during the budget development and review process, identify short term tactics to improve the City’s operational efficiency and effectiveness. In addition, they establish a citizen advisory group to assist in planning for additional tactics and strategies to improve the City’s operational efficiency and effectiveness in future fiscal years, and report progress to the Board of Aldermen, School Committee and the public before any vote is taken by the citizens of Newton for any operational override. [04/01/08 @ 11:22 AM]

REFERRED TO PROG. & SERV., PUB.FAC. AND FINANCE COMMITTEES

#89-08 ALD. PARKER requesting the following:
A) review of the maintenance practices for buildings, parks and other properties owned by the City (including School Department facilities and grounds)
B) development of a comprehensive maintenance plan that includes regular schedules for preventive maintenance for each specific site or facility
C) a RESOLUTION requesting that implementation of said maintenance plan be funded using operating budget funds.
[02/13/08 @ 12:07 PM]

#287-07(2) ALD. PARKER requesting a discussion with Parks and Recreation Department in regards to an appropriate marker or plaque to honor and recognize Olympic figure skater and Newton resident Tenley Albright and her skating exhibition at the Crystal Lake upon her return from the 1956 Olympic Games where she won a gold medal. [09/20/07 @ 1:22 PM]

#262-07 ALD. VANCE AND HESS-MAHAN seeking approval by the Board of Aldermen of a home rule petition to the General Court that would authorize an amendment to the charter of the City of Newton that would change the length of terms of the members of the Board of Aldermen to three years and would provide for electing one-third of the aldermen, one from each ward, every year. [08/22/07 @ 3:53 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#83-07 ALD. YATES requesting that the City of Newton take all possible steps to persuade the General Court to adopt the proportion of Governors Municipal Partnership that would allow the City to reduce employee health insurance costs by joining the Group Insurance Commission. [02/27/07 @ 10:21 PM]

#82-07 ALD. YATES requesting that the City of Newton take all possible steps to persuade the General Court to allow the cities and towns to tax all telecommunications facilities in the City (which would yield at least \$1.6 million per year for Newton). [02/27/07 @ 10:21 PM]

#52-07 ALD. PARKER, SANGIOLO, MANSFIELD, HARNEY, DANBERG, VANCE, LINSKY, HESS-MAHAN, BURG, ALBRIGHT & JOHNSON requesting an ordinance amendment to create a health care advisory committee whose function would be to recommend measures to control the rate of increase of health insurance costs, as recommended by the Newton Finance & Management Working Group in 2005 and the Blue Ribbon Commission on the Municipal Budget in 2007. [02/09/07 @ 12:36 PM]

#422-06(2) ALD. HESS-MAHAN requesting that a task force be established to meet and prepare a report and recommendations regarding the regulation of noise, air pollution and best practices with respect to the operation of power equipment used in landscaping, property and yard maintenance, including, without limitation, leaf blowers. [01/27/09 @ 3:47 PM]

#370-06 ALD. SANGIOLO, PARKER, MANSFIELD requesting home rule legislation to allow advisory questions to be asked in a Newton special election.

REFERRED TO PROGRAMS AND SERVICES AND FINANCE COMMITTEES

#267-06(3) ALD. PARKER, BURG, LINSKY, FISCHMAN, HESS-MAHAN, VANCE, HARNEY, JOHNSON, & DANBERG proposing Home Rule Legislation authorizing the City of Newton to apply the ordinance proposed in item #267-06(2) to assets held by the City's retirement system.

REFERRED TO FINANCE AND PROGRAMS AND SERVICES COMMITTEES

#245-06 ALD. JOHNSON AND HESS-MAHAN requesting an amendment to the City Charter to require the Mayor annually to prepare and submit to the Board of Aldermen a long-term financial forecast of anticipated revenue, expenditures and the general financial condition of the City, including, but not limited to identification of any factors which will affect the financial condition of the City; projected revenue and expenditure trends; potential sources of new or expanded revenues; anticipated municipal needs likely to require major expenditures; and a strategic plan for meeting anticipated municipal needs, to include, but not be limited to, any long or short-term actions that may be taken to enhance the financial condition of the City.

REFERRED TO PROGRAMS AND SERVICES AND FINANCE COMMITTEES

#264-03(3) ALD. JOHNSON AND BAKER requesting update on the work of the Taxation Aid Committee established by the Board of Aldermen in March 2004 in administering aid to the elderly taxation fund.

#346-99 ALD. SANGIOLO requesting creation of an ordinance that would prohibit dogs (leashed or unleashed) from all elementary school playgrounds.

**REFERRED TO PROGRAMS & SERVICES, PUBLIC FACILITIES
AND FINANCE COMMITTEES**

#309-01 ALD. PARKER requesting increase in the income eligibility level of the 30% water/sewer discount for low-income senior citizens.

Respectfully Submitted,

Marcia Johnson, Chairman

101.09

The General Laws of Massachusetts

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PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE IV. CIVIL SERVICE, RETIREMENTS AND PENSIONS

CHAPTER 31. CIVIL SERVICE

Chapter 31: Section 58A. Municipal police officers and firefighters; maximum age restrictions

Section 58A. Notwithstanding the provisions of any general or special law to the contrary, in any city, town or district that accepts this section, no person shall be eligible to have his name certified for original appointment to the position of firefighter or police officer if such person has reached his thirty-second birthday on the date of the entrance examination. Any veteran shall be allowed to exceed the maximum age provision of this section by the number of years served on active military duty, but in no case shall said candidate for appointment be credited more than four years of active military duty.

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09 FEB 13 PM 4: | CITY OF NEWTON

CITY CLERK IN BOARD OF ALDERMEN
NEWTON, MA. 02 159

February 20, 2007

ORDERED:

That the Board of Aldermen hereby requests and authorizes His Honor the Mayor to submit a home rule petition to the General Court for Special Legislation as follows:

SECTION: 1. Notwithstanding any general or special law to the contrary, for purposes of group classification under the provisions of G.L.c.32, section 3(2)(g), the position of "Dedicated Fire Apparatus Mechanic" within the Newton Fire Department shall be included in *Group 2*. The Newton Retirement Board is hereby authorized to re-classify any member currently holding such position from *Group 1* to *Group 2*.

SECTION 2. This act shall take effect upon its passage.

Under Suspension of Rules
Readings Waived and Approved
18 yeas 6 nays (Ald. Burg, Danberg, Harney, Lappin, Linsky, and Vance)

(SGD) DAVID A. OLSON
City Clerk

(SGD) DAVID B. COHEN
Mayor

House, No. 4009

Presented by: Representative Peter J. Koutoujian

Petition of Ruth B. Balsler and others (with the approval of the mayor and board of aldermen) for legislation to reclassify the position of dedicated fire apparatus mechanic in the fire department of the city of Newton.

05/03/07 H Referred to the committee on Public Service -HJ 362

05/07/07 S Senate concurred -SJ 205

Public Hearing date Oct 11 am at 10:30 in Room B-2

03/27/08 H Accompanied a study order, see H4607

04/17/08 H Reported from the committee on House Rules

04/17/08 H Reported on a part of H4607

04/17/08 H Discharged from committee and recommitted to the committee on Public Service
-HJ 1273

01/06/09 H No further action taken

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Commonwealth of Massachusetts home page.

December 6, 2006

REFERRED TO PS&T, PROG &SERV & FINANCE COMMITTEES

#273-04(2) ALD. GENTILE requesting home rule legislation to reclassify the two "dedicated fire apparatus mechanic" positions from Group 1 to Group 2 in the State Retirement System.

ACTION: **HELD 8-0**

NOTE: Ald. Gentile joined the Committee for this item and wanted to add to the discussion that there have been conflicting reports. Finance voted in favor and Public Safety voted against the item. There was discussion on a particular case where an action was taken, similar to this in the town of Chicopee, and it was eventually struck down by the courts. It appears the reason why it was struck down by the courts was because the Retirement Board had actually taken the action and switched from one class to another. It seems that the Retirement Boards do not have the authority to make those switches and it is actually the Board of Aldermen or a City Council that has the authority to do so. When this was last discussed, Ald. Gentile did not speak up because he did not know the complete legal argument. He wanted to make sure that the aldermen know that they do have the authority to approve this. (Our Retirement Board does say they do not have the authority to do this.)

Ald. Coletti said that the substantive committees have taken action on the item. This Committee does need to draft a home rule petition and the problem is there is a moratorium on these types of classification changes because there are so many requests. There is a one year delay while new parameters are being established.

Chairman Johnson is going to check with the Law Department on language and this item will be scheduled at a future meeting.

The Committee agreed to hold the item.

February 7, 2007

REFERRED TO PS&T, FINANCE &PROG &SERV.

#273-04(2) ALD. GENTILE requesting home rule legislation to reclassify the two "dedicated fire apparatus mechanic" positions from Group 1 to Group 2 in the State Retirement System.

PST DENIED 5-1-1 (Ald. Lennon opposed; Ald. Samuelson abstaining) on 1/8/06)

FINANCE APPROVED 7-1 (Ald. Linsky opposed) on 10/23/06

ACTION: **APPROVED 6-0 (Lipof, Sangiolo not voting)**

NOTE: Ald. Gentile was present for this discussion. Ald. Johnson read the following into

the record:

SECTION 1. *Notwithstanding any general or special law to the contrary, for purposes of group classification under the provisions of G.L.c.32, section 3(2)(g), the position of “Dedicated Fire Apparatus Mechanic” within the Newton Fire Department shall be included in Group 2. The Newton Retirement Board is hereby authorized to re-classify any member currently holding such position from Group 1 to Group 2.*

Ald. Parker reiterated that when this was originally filed some thought the costs were too extreme. Therefore Ald. Gentile worked with the Law Department to adjust the wording to make it fair to the mechanics and realistic for the City. The mechanics are asked to do work on the engines at the actual scenes of fire. Ald. Gentile noted that Finance voted for it and Public Safety voted against it. Ald. Gentile said that one of the more persuasive arguments was one that Ald. Harney mentioned regarding how this was done in Chicopee that unfortunately ended in a lawsuit. It was found to have been done in error. What was not pointed out to Public Safety Committee members was that the reason this ended in a lawsuit was that the Retirement Board actually made the change and by statute they were not allowed to do that. In Newton, it is the Board of Aldermen that has the right to do it. When the Retirement Board in Newton was asked, they made it clear that they were aware that they did not have the authority to try and make the change. In Chicopee the reason there was a lawsuit and the lawsuit was upheld was because the Retirement Board took an inappropriate action that they did not have the authority to take. Ald. Gentile was not sure how much influence that lawsuit had on the Public Safety Committee.

Ald. Coletti said it is also important to note that all of these reclassifications are being held up in the legislature in a committee chaired by Rep. Jay Kaufman of Lexington. There is currently a proposal for a uniform method of doing this statewide. There is cost with this but Ald. Parker felt we should be fair to our people and treat them well. Please note the following information received in a memo received from David Wilkinson: *“The additional cost consists of two parts – a recurring normal cost, and a past service liability amortization cost. The annual normal cost differential between group 1 and group 2 status for the two mechanics is \$5,368. Under the terms of the funding schedule this cost will increase by 4.5% per year. In order to fund the new past service liability that will result from the change in classification, we will also have to make up payments of \$12,583 per year for each of the next twenty one years remaining on our funding schedule.”* (Please note attachments)

Ald. Coletti noted that there is a proposal for a uniform effort for doing this statewide. The Committee voted approval 6-0 (Sangiolo, Lipof not voting).

PRG
F



David B. Cohen
Mayor

City of Newton, Massachusetts
Office of the Mayor

#98-09

Telephone
(617) 796-1100

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(617) 796-1113

TDD
(617) 796-1089

E-mail
dcohen@newtonma.gov

March 31, 2009

Honorable Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to appropriate twenty-one thousand, seven hundred thirty-two dollars (\$21,732) from Free Cash for the purpose of funding payments to the East Middlesex Mosquito Control Project (EMMCP) to conduct mosquito larva control in catch basins in order to control the spread of West Nile Virus. The extent and cost of this treatment is determined annually. We do not know from year to year if a treatment will be necessary and what the type and scope of the treatment will be. The EMMCP has notified the City of Newton of the exact cost of mosquito control treatments for this summer, and the Health Department is requesting funding so it can move forward with this important health initiative. By attacking the mosquitoes in the larva stage, the Health Department has been able to minimize or eliminate the need to spray to control adult mosquitoes.

Thank you for your consideration of this matter.

Very truly yours,

David B. Cohen
Mayor

DBC: srb

09 MAR 31 PM 6:11
NEWTON, MA. 02159
CITY CLERK



#98-09

City of Newton



David B. Cohen
Mayor

HEALTH AND HUMAN SERVICES DEPARTMENT

J. David Naparstek, Commissioner

1294 Centre Street

Newton, MA 02459-1544

Telephone 617.796.1420 Fax 617.552.7063
TDD/TTY 617.796.1089



Public Health
Prevent. Promote. Protect.

March 30, 2009

Honorable David B. Cohen, Mayor
City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Dear Mayor Cohen

I hereby request an appropriation of \$21, 732.00 for West Nile virus control for 2009.

West Nile virus is well established in the bird and mosquito populations in Newton and its surrounding communities. While there were no human cases in Newton last year, there was a high peak in Newton and its surrounding communities because of the high numbers of positive birds and mosquitoes. Each year, the department works with the Massachusetts Department of Public Health and the East Middlesex Mosquito Control Project (EMMCP) to determine if the city needs to continue the program of treating catch basins for the larva of the mosquito that transmits the disease. That need continues through 2009.

Last year, the EMMCP used a product called Altosid. Altosid disrupts the development cycle of mosquitoes, preventing them from becoming adults. It was used in order to prevent mosquitoes building up resistance to the preferred product, Vectolex. Vectolex uses a bacteria that specifically targets the mosquito species that transmits the West Nile virus. In addition to it being more targeted, Vectolex is now more economical to use than Altosid.

We will continue our community education program focusing on eliminating standing water around houses along with mosquito-proofing them. We also will promote the safe use of repellents to reduce mosquito exposure. We collect and transmit dead birds to the State Laboratory Institute for testing. The EMMCP monitors mosquito density in Newton and submits mosquito samples to the state laboratory for virus testing.

I am attaching a proposal from the East Middlesex Mosquito Control Project that details this important public health program along with surveillance data from 2009. Thank you for considering my request.

Very truly yours

J. David Naparstek
Commissioner of Health

Enclosures

Email: dnaparstek@newtonma.gov

09 MAR 31 PM 1:52
CITY CLERK
NEWTON, MA 02459

#98-09

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THE COMMONWEALTH OF MASSACHUSETTS
 STATE RECLAMATION & MOSQUITO CONTROL BOARD

EAST MIDDLESEX MOSQUITO CONTROL PROJECT

11 Sun Street, Waltham, MA 02453-4101
 Phone: 781-899-5730 Fax: 781-647-4988
www.town.sudbury.ma.us/services/health/emmcp
emmcp.ma@verizon.net

Melrose
 Newton
 North Reading
 Reading
 Sudbury
 Wakefield
 Waltham
 Watertown
 Wayland
 Wellesley
 Weston
 Winchester

December 15, 2008

David Naparstek
 Newton Health Dept.
 1294 Centre St.
 Newton, MA 02459

David,

The East Middlesex Mosquito Control Project proposes to control *Culex* mosquitoes in catchbasins as part of a West Nile Virus prevention plan. The cost to apply VectoLex WSP to 9,480 catchbasins will be \$21,732.00.

For this proposal the East Middlesex Mosquito Control Project will employ seasonal workers who have obtained West Nile Virus Larvicide Permits from the Massachusetts Pesticide Bureau that allows for mosquito larvicide applications to catchbasins. Bicycles will be the primary mode of transportation for these applications. Each worker will carry a photo identification that indicates the individual is an employee of the East Middlesex Mosquito Control Project.

Subject to funding, the application will be scheduled to start in July 2009. The Newton Public Works Department will be contacted to prevent conflicts between the catchbasin cleaning program and the application of mosquito larvicides. The East Middlesex Mosquito Control Project staff will provide oversight to the application and determine the efficacy of the treatment.

Should you require any additional information concerning this proposal, let me know.

Yours truly,

David M. Henley
 Superintendent

cc. John McNally

09 MAR 31 PM 01
 CITY CLERK
 NEWTON, MA. 02

#98-09

**Massachusetts Department of Public Health
Arbovirus Surveillance Program Report
Report Date: October 6, 2008**

WNV and EEE Virus Surveillance Summary	
Results contained in this report reflect data through MMWR Week 40 (Sunday, 9/28/08 - Saturday, 10/4/08)	
Avian Surveillance	
Number of Dead Bird Reports	2517
Number of Birds Tested	142
Number of WNV Positive Birds	63
Mosquito Surveillance	
Number of Mosquito Pools Tested	4397
Number of WNV Positive Pools	131
Number of EEE Positive Pools	13
Equine/Mammal Surveillance	
Number of Mammal Specimens Tested	14
Number of WNV Positive Horses	0
Number of EEE Positive Horses	1
Human Surveillance	
Number of Human Specimens Tested	385
Number of Human WNV Cases	0
Number of Human EEE Cases	0

09 MAR 31 PM 6:11
CITY CLERK
NEWTON, MA 02459

I. AVIAN WNV SURVEILLANCE

**Table 1. WNV Avian Surveillance: Top Towns Reporting WNV Susceptible Birds (Blue Jays, Crows)
Cumulative as of 9/26/08 (date of WNV hotline close)**

	Town	Birds Reported					Positive	Species Tested
		Blue Jays	Crows	Gulls	Other	Tested		
1	Newton	15	9	58	82	3	1	Blue Jay (x3)
2	Framingham	10	11	51	73	3	1	Blue Jay, Crow (x2)
2	Boston	12	11	87	110	4	2	Blue Jay (x2), Hawk, Owl
3	Springfield	13	8	22	43	3	1	Blue Jay (x2), Crow
4	Fall River	8	8	68	84	2	2	Blue Jay (x2)
5	Chicopee	7	10	32	49	1	1	Blue Jay

Draft ACT:

AN ACT AUTHORIZING THE CITY OF NEWTON BOARD OF ALDERMEN TO SET A HIGHER HEALTH INSURANCE CONTRIBUTION RATE FOR ELECTED OFFICIALS OF THE CITY OF NEWTON THAN IS SET FOR OTHER EMPLOYEE GROUPS

SECTION 1. Notwithstanding any general or special law to the contrary, the City of Newton, acting by and through its Board of Aldermen, is hereby authorized to set, for elected officials of the City of Newton, a percentage rate of employee contribution for total monthly health insurance premium costs to be paid by such elected officials that is higher than such percentage rate set by the City under the provisions of G.L. c. 32B for eligible non-elected active employees. Such higher rate of contribution shall be uniform for all elected officials, and shall in no event be greater than fifty percent of the total monthly health insurance premium costs, the maximum active employee contribution rate allowable under the provisions of said G.L. c. 32B.”

SECTION 2. This act shall take effect upon its passage.

09 FEB 13 PM 4: 11

CITY CLERK
NEWTON, MA. 02159

CITY OF NEWTON
IN BOARD OF ALDERMEN

February 20, 2007

ORDERED:

That the Board of Aldermen hereby requests and authorizes His Honor the Mayor to submit a home rule petition to the General Court for Special Legislation as follows:

Section 1

Notwithstanding the provisions of section one of chapter fifty-one of the general laws, or any other general or special law to the contrary, residents of the city of Newton who are aliens lawfully admitted for permanent residence in the United States and who meet all qualifications for registering to vote except U.S. citizenship, may, upon application, have their names entered on a register of qualified permanent resident alien voters and may thereafter vote in any election for local offices and local ballot questions.

Section 2

The Election Commission of the city of Newton is authorized to create a register of qualified permanent resident alien voters and to adopt rules and to carry out the purposes of this act. The voter registration forms shall include a declaration to be signed under pains and penalties of perjury by the permanent resident alien voter that: 1) s/he is residing in the city of Newton; 2) s/he is an alien lawfully admitted for permanent residence in the United States and meets all qualifications for registering to vote except U.S. citizenship; and (3) s/he intends in good faith to become a U.S. citizen and has begun that process, if eligible.

Section 3

Nothing in this act shall be construed to confer upon non-citizens the right to vote for any state or federal office or any state or federal ballot question.

Under Suspension of Rules
Readings Waived and Approved
20 yeas 4 nays (Ald. Harney, Lennon, Salvucci, and Yates)

(SGD) DAVID A. OLSON
City Clerk

(SGD) DAVID B. COHEN
Mayor

House, No. 3992

Presented by: Representative Kay Khan

Petition of Kay Khan and others (with the approval of the mayor and board of aldermen) that certain resident aliens of the city of Newton be authorized to vote in local elections of said city.

04/30/07 H Referred to the committee on Election Laws -HJ 355

05/01/07 S Senate concurred -SJ 194

Public Hearing date Oct 22 pm at 1:00 in Room A-2

04/01/08 H Accompanied a study order, see H4625

Return to:

Bill inquiry screen,

General Court home page, or

Commonwealth of Massachusetts home page.

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JUNE 9, 2004

#171-04 ALD. HESS-MAHAN requesting home rule legislation authorizing local voting rights for permanent resident aliens residing in Newton.

ACTION: **HELD 6-0**

NOTE: Ald. Hess-Mahn explained to the Committee that this item would allow permanent resident aliens who legally live in this country to vote in local elections for aldermen, school committee, ballot issues, and neighborhood council. Ald. Hess-Mahan said that during the campaign he had talked to a number of people who were interested in the campaign but were unable to vote because they were not citizens. Many had applied but there is a long waiting list for them to obtain citizenship. Many own their own homes, pay taxes, can serve and be drafted into the military, support our schools and city departments but the one thing they can't do is vote because under Massachusetts law you have to be a citizen. He explained that there are other communities with large immigrant populations that are now seeking the right to vote for their non-citizen residents. There is precedent for this and both New York and Chicago do allow immigrants to vote in their local elections. Between 1999 and 2000 the number of immigrants in Newton increased by 5,000.

Ms. Smalley explained that Newton has a unified system of voting. The Newton charter uses the same standard as Massachusetts law which requires that you are a citizen of the United States and 18 years of age or older. Ms. Smalley has looked at the special legislation from Cambridge and Amherst and noted that it does legally see that it is very possible to write an understandable piece of legislation to create a supplemental list. The Election Commission could have an extra list that would be used in addition to the main list for local elections only. If this goes forward, Ms. Smalley suggested that the special legislation give the Election Commission the authority to craft the rules and procedures that they would need to carry this out and noted this would be quite possible. Rep. Khan said, in her view, this would be worth putting forward and suggested that the Board take action on this issue in order to be filed for the next session.

Ald. Sangiolo mentioned that Lowell is also interested. Ald. Merrill wondered if in some way this proposal might discourage some to seek citizenship. Ald. Hess-Mahan said this has not been an issue in Chicago and New York.

Ald. Gerst said he could not imagine, in any circumstances, supporting this item. Ald. Sangiolo asked Kay Kahn to explore the possibility of a local option.

The Committee voted to hold 6-0

OCTOBER 20, 2004

#171-04 ALD. HESS-MAHAN requesting home rule legislation authorizing local voting rights for permanent resident aliens residing in Newton.

ACTION: **HELD 5-0 (Baker, Sangiolo not voting)**

NOTE: This item was last discussed in June and it was agreed to hold until Assistant City Solicitor Smalley had some draft language. The rules were suspended to allow Ald. Hess-Mahan to submit a memo from Harvard Immigration and Refugee Clinic of Greater Boston Legal

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Services, Inc. and Harvard Law School for home rule legislation seeking local voting rights for non-citizens. A case study time line was compiled for various different types of immigrants. Some think there are only legal immigrants and illegal immigrants, but the status can vary with many in between. Ald. Hess-Mahan said a green card is necessary to work in this country. This means you can live and work here and within five years after receiving a green card, application can first be made for citizenship. In a number of cities such as Chicago and New York where they do allow voting for non-citizens, the waiting period has gone way up. The primary reason appears to be that more people are moving to this country and seeking citizenship making a greater and greater backlog. The second reason is post 911; the Homeland Security Department incorporated what was the INS and now called the CIS. Basically there is a much more thorough vetting of every single application that comes through. In the past it was 18 months to 2 years after you apply for citizenship, it is now anywhere up to 5 years before it is processed and in some instances people have been waiting even longer, depending on their nationality. There are many different quotas and requirements based on nationality, where you came from and why you are here, etc. The attached memo shows how long one can live in this country, work here and finally get their citizenship. This can range from 5+ years and in one case almost 30 years. Often, that person might be living here legally, paying taxes, working and employing other people and not even able to get their citizenship. The other issue, in terms of proposed language for home rule petition that would comply with state and federal laws as the home rule requirement. (Ald. Hess-Mahan noted that a Public Hearing on this item has been scheduled for November 17th)

Ald. Fischman asked if a memo could be available explaining approximately how many people in Newton could be affected. Ald. Hess-Mahan said he would have information available at the Public Hearing. Ald. Hess-Mahan further explained that a permanent resident alien would be someone who is lawfully admitted for permanent residence in the United States. A copy was distributed that included a long definition section from the statute defining terms. (Copy attached)

Gayle Smalley said at present the state law does not allow any aliens to vote and it would take a home rule act in order to modify that for local elections. The version Ms. Smalley had for the Committee would provide for voting for resident aliens and now the discussion seems to be if they were permanent resident aliens. The green card people would come under either version. She added that it would be a policy decision on how far the law would extend.

Ald. Parker felt the proposal should pertain only to permanent resident aliens. First of all, if there would be any chance to have this approved, it would need to be a more limited version. As a supporter, Ald. Parker would like to see it applied to the permanent resident aliens. Ald. Hess-Mahan also pointed out that if you were a college student, you could come with no intention of staying and if you were a citizen you could register to vote.

Ald. Hess-Mahan said part of the justification for docketing the item initially was to benefit people who are living here legally, can work here, own property, pay taxes, employ people, send children to public schools, participate in the community in every other way and voting would give them a voice. (Copy of draft attached) He went on to say that the compelling reason he docketed this item was when he was campaigning for alderman last year, he noted a number of

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people who came from other countries living here for five, ten , or fifteen years. Some had applied for citizenship, others, for various reasons, are not able to get it. They all wanted to know why they couldn't vote. They indicated they pay their taxes, kids go to the public school and said what the Board of Aldermen and School Committee decide does affect their life and would really like to vote. Ms. Smalley noted that redistricting is based on census figures.

The Committee agreed to hold the item.

NOVEMBER 17, 2004

#171-04 ALD. HESS-MAHAN requesting home rule legislation authorizing local voting rights for permanent resident aliens residing in Newton.

ACTION: **HELD 5-0 (Sangiolo, Parker not voting)**

NOTE: **Background:** Ald. Hess-Mahan explained this is a proposal requesting Home Rule legislation authorizing local voting rights for permanent resident aliens residing in Newton and allowing the right to vote in local elections to people who are lawfully admitted to this country on a permanent basis but are not yet citizens. In order to be able to vote in the state of Massachusetts you need to be 18 years of age, a resident of the municipality in which you are seeking to vote and also a United States citizen. However, since this a home rule state, it is possible through home rule legislation to seek an exception for Newton to allow non-citizens to vote in local elections.

At the last meeting, the Programs and Services Committee came up with language that tried to effectuate what it was that Ald. Hess-Mahan was proposing and it was made very clear that what we were seeking was local voting rights for those who had been lawfully admitted for permanent residence in the United States and who meet all qualifications except for United States citizenship and those residents may have their names entered on a register of qualified permanent resident alien voters.

It seemed to Ald. Hess-Mahan that if a person owns property in Newton, lives here, works and pays income taxes and is affected in their every day lives by the decisions that local elected officials make, they would have a stake in how the community is run. Newton is a community that is intentionally inclusive and prides itself on its diversity and it seems unfair as far as elections go. Ald. Hess-Mahan wanted to make perfectly clear that this would only be for **local voting rights** such as Board of Aldermen, Mayor's office election, School Committee and the Newton Highland Neighborhood Council. Ballot questions such as an override would be included. The number of people affected would be between 2500 and 3000. One out of five people living in Newton are immigrants from other countries. Most of them do become citizens, but it is a long and arduous process.

Why is this being proposed? Ald. Hess-Mahan said he proposed this item because when he was running for election last year, many of his friends who happened to be immigrants asked if they could vote for him. Some came back to him and said they found they could not vote because they were not United States citizens. In a number of other cities around the country, including municipalities in Maryland, New York and Chicago, non-citizens have been allowed to vote. They all had slightly different rules regarding residency, etc. but the bottom line was if you

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wanted to vote for the local School Board, School Committee, City Council, Board of Aldermen, Board of Selectmen, in those particular places you were able to vote.

What is home rule legislation? President Baker explained that the Massachusetts Constitution has a “home rule” provision that gives cities and towns independent authority over certain matters unless the state legislature has taken away that authority in a particular area. The legislature has passed election laws that apply to voting rights in local elections; however, a city or town can seek an exception through a home rule petition, which is a request to the legislature to pass a “special act.” Ald. Parker added that a home rule petition is really “special legislation” asking for an exemption from what would ordinarily be allowed under state law.

What is a permanent resident alien? For these purposes, a permanent resident alien means the same thing as someone who is lawfully admitted for permanent residence in the United States. It is the understanding of Ald. Hess-Mahan that you can come to this country legally without being lawfully admitted for permanent residence. In order to become a permanent resident alien, a person would have to meet certain qualifications, including, among other things, being lawfully admitted and showing intent to stay. Immigration Attorney Rodney Barker addressed the question regarding the issuance of green cards. He said the only people who get green cards are permanent resident aliens and those who marry United States citizens.

Opinions of Members of the Public

Kathleen Coll, 20 Fairmont Ave. Cambridge She is Director of Women Studies at Harvard, and the parent of two children in the Cambridge Public Schools. Ms. Coll has only lived in Cambridge for six years, but immediately after arriving in town was eligible to vote in local elections. Her daughters go to school in a city where one in three is from an immigrant home. She wanted to share the fact that Amherst was the first town to introduce Home Rule Petitions similar to Newton. Cambridge introduced their bill two full legislative cycles ago and is now ready to enter their third. The election laws committee and the state house have passed almost no laws out of their committee. There presently is in the House Council’s Office enabling legislation being drafted that would allow cities and towns to decide whether to permit non-citizens to vote in local elections. Greater Boston Legal Services compiled a list of the status of 22 different kinds of legal immigrants that are not legal permanent residency status. One reason that more than 22 states at one time or another allowed non-citizens to vote was they thought this was the best way to promote citizenship. If you get people who are immigrants engaged in local politics, that is the best way to make people feel like it actually matters to participate in local politics in this country. One thing to keep in mind, Ms. Coll said that historically there isn’t a privileged link between citizenship and voting, not here and not in other liberal democratic societies. Ireland will let any immigrant who settles in their country vote as soon as they settle in the municipality regardless of whether they are citizen or not; the same is true in Australia and New Zealand. Ms. Koll noted that the first member of the U.S. military to die in Iraq in the line of duty was not a United States citizen. He was a Latin-American who had permanent residency but was not yet a United States citizen.

Rodney Barker of 49 Woodcliff Road. He said he was interested in this for many years as he was a lawful permanent resident but not a citizen. He lived in Newton for many years paying taxes, sending

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his children to Newton Schools, etc. but couldn't vote. He felt he was basically disenfranchised. Eventually he became a citizen. The nature of the lawful permanent resident is partly intent. You have to show when you get the card or visa that you **intend** to remain and live in the United States. If you leave the United States for more than six years, you have to prove that you are still permanent. If you leave for twelve months, the government can take your card away. If someone is a lawful, permanent resident, they are by their nature and by law a resident and permanent. He stressed that this bill before the board is only for lawful permanent residents. Usually it is a five year wait to become a citizen unless you marry a U.S. citizen. To become a citizen, there is a simple test consisting of ten questions and six must be answered correctly. Ald. Fischman questioned if it would be easy for the Election Commission to recognize an eligible person. Mr. Barker explained it would be quite clear. President Baker asked about the percentage of permanent resident aliens and Ald. Hess-Mahan responded that there are between 2500 and 3000 Newton residents who are permanent resident aliens who are otherwise eligible.

Tom Sheff, 454 Dudley Road. Mr. Sheff read the first eight words of the 15th, 19th and 25th amendment, "The right of citizens of the United States." He continued to say that it specifies citizens of the United States and also says a right which is a privilege, a privilege that the American citizens have that others do not have. In his opinion, we lose that right if we let this go. If this passes he feels that possibly in 30 years, it could be agreed to make non-citizens vote in national elections. He said he does have sympathy for the immigrants, but when voting rights are considered, he felt we have to take a look at the ramifications of our decisions. In his opinion non-citizen voting is a bad concept because it would remove an incentive for becoming a U.S. citizen. He continued to say that the essence of citizenship is the right to vote and extending voting rights to non-citizens eliminates the last distinction between people who have accepted permanent citizenship and those who haven't.

David Guberman, 185 Oliver Road. Mr. Guberman said he was broadly sympathetic to the proposal. He felt that an oath of allegiance to the United States really doesn't speak to whether someone does or doesn't have a stake in what happens in Newton and perhaps an interest in the common welfare of the community. With respect to the specific proposal that in one sense it is too restrictive and in another sense felt it was not restrictive enough. Simply by right of citizenship, Mr. Guberman said he could move to another community and in a few weeks be entitled to vote without having any particular stake even if he knew he would be leaving shortly. It seemed with respect to non-citizens that are not able to enjoy that right to vote that it is legitimate to limit an imposition of one or two year residency requirement so that would be clear that we are talking about people who have a stake in the community on a continuing basis. Mr. Guberman felt the proposal in its current formulation is not restrictive enough. On the other hand, it is too restrictive in requiring that the non-citizen be a permanent lawful resident alien.

Ald. Hess-Mahan asked for clarification if his suggestion was for two-year residency for all registered voters; citizen or non-citizen or just for non-citizens. Mr. Guberman responded that the constitution doesn't allow the imposition of a residency requirement of that length for citizens, but where we are talking about people who don't have a constitutional right to vote, they don't have a constitutional right to vote in the same terms as citizens who may be transiently in the city.

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Rudy Riedl, 34 Waterston Road. He had concern that if this passes, the same would apply to national elections.

Tim Snyder, 25 Alden Place. Mr. Snyder wanted to speak in favor of the proposal. He noted that when he tried to encourage people to register to vote, they couldn't register because they were not citizens. It is very difficult to build the fabric of a democratic community if large portions have no stake in participating in that process.

Keith Hatfield, 29 Allen Avenue. Mr. Hatfield wanted to clarify that permanent resident aliens over 18 have to register for selective service and that they would be subject to a draft.

JANUARY 19, 2005

#171-04 ALD. HESS-MAHAN requesting home rule legislation authorizing local voting rights for permanent resident aliens residing in Newton.

ACTION: **APPROVED 3-0-1 (Baker abstaining)**

NOTE: The Committee was joined for this discussion by Gayle Smalley of the Law Department and Peter Karg of Elections.

Background: At the time of our last discussion there were two major areas for discussion that Ald. Hess-Mahan needed to address. They were

1. a discussion of this item with the Election Commission
2. the question of whether this would enable permanent resident aliens who can vote to run for local election as well.

Election Commission: Ald. Hess-Mahan reported that he spoke with the Election Commission concerning the logistics of a special list for this type of election.

Mr. Karg said that Ald. Hess-Mahan came in and spoke to the Election Commissioners on January 6th and took many questions as to how the process would work procedurally. There was also discussion regarding the type of process to be set up which would include registration and some type of manual list system. Presently there is a central voter registry maintained by the state. At the end of each election, lists are scanned in (each name has a respective bar code) to record voter activity. Because non-citizens are not included on the central registry, lists of permanent resident aliens voting in local elections would have to be compiled manually. Ald. Sangiolo noted that after the first list, couldn't each voter be assigned a bar code. Mr. Karg said that every community in the Commonwealth uses the central voter registry which does not include non-citizens. Ald. Sangiolo further asked why couldn't communities who were adopting this permanent resident alien voting develop their own system. Mr. Karg responded that the state would not allow us to enter non-citizen voters in their system. Ald. Sangiolo felt it would be simple to develop a system for Newton. Chairman Johnson noted that resident aliens are included in the annual city census and felt that from a technology perspective, it would not be a big problem to set up a system.

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Chairman Johnson concluded that there was no vehement objection by the Election Commissioners and Mr. Karg agreed. President Baker clarified that the policy question is strictly in our court.

Eligibility of permanent resident aliens to run for local office if they are given the right to vote in local elections: Ald. Hess-Mahan noted that Ald. Baker had questioned if someone could vote would be eligible to run for office. The response was yes. Part 1, Article 9 of The Massachusetts Constitution requires that “all elections ought to be free; and all the inhabitants of this Commonwealth having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.” Decisions interpreting this constitutional provision were pretty clear that if you can vote in an election, you can run for office. The other issue was the meaning of “inhabitant.” Inhabitants include all people residing in Massachusetts cities and towns, not just citizens. The Massachusetts Constitution requires that all inhabitants of cities and towns, including non-citizens, be counted in the census. Ald. Hess-Mahan noted that with respect to the policy debate about fairness, if you think back to pre Civil War, there were African-Americans that were not allowed to be citizens but they were counted as three-fifths of a person for purposes of representation in Congress. Similarly, today, in Massachusetts, resident non-citizens cannot vote in local elections but are counted for purposes of representation in the state legislature which he thinks is unfair.

Chairman Johnson asked if there was any risk in comparison to a citizen who was elected and lost his/her voting privilege versus a permanent resident alien and has his or her voting privileges taken away if they are gone for a period of time. Ms. Smalley said there was no provision in our charter to get rid of elected officials during their term of office. Ald Hess-Mahan said he felt the answer was in the section that stated that all inhabitants shall have the equal right to elect and hold office so if someone who is a citizen loses their voting rights the same rule would apply to permanent resident aliens

Voting rights at the state and national level: Another concern people may have is that allowing local voting rights for non-citizens now would mean that the next thing would be to allow non-citizens to vote in state and national elections. In the State Constitution, there is a specific provision which requires that you must be a citizen to vote for a state or national office. Accordingly, granting non-citizens voting rights in a state or federal election in Massachusetts, would require a state constitutional amendment. .

Home Rule Legislation Wording (see attached): The Committee reviewed prior language and Chairman Johnson noted in Section 2 that rules were referred to and she was looking for clarification for the type of “rules.” Ms. Smalley said one issue would be that permanent status can change and might require voters to come in and bring a copy of the documentation every so many years. There would be many practical arrangements in order to implement this as well as authority to say the right to vote is still contingent to registering this far in advance. In our usual registration, we are using a comprehensive set of state rules. The Election Commission would have to put some procedure in place.

Committee Member’s Opinions

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President Baker feels that citizenship is the best qualification and is cautious about considering this docket item.

Since it often takes so long for citizenship, Chairman Johnson said that it would be encouraging to permanent resident aliens rather than discourage them if they could have some impact on elections. She continued to say that this item is worthy of discussion at board level and moved approval.

Ald. Baker noted that people pay taxes to all levels of government and that by itself does not give the right to vote. He agrees that there are good arguments for this but was not ready to join his colleagues and voted to abstain.

Ald. Hess-Mahan added the following information: according to the 2000 Census, there are approximately 15,120 people who are foreign born and live in Newton; there were 6,051 foreign born who are still not citizens either because they haven't lived here long enough or had not completed the citizenship process. Thus, a little over 9,000 foreign-born residents did become citizens. Statistics show that the vast majority of permanent resident aliens who come to this country become citizens eventually.

MARCH 9, 2005

#171-04 ALD. HESS-MAHAN requesting home rule legislation authorizing local voting rights for permanent resident aliens residing in Newton.
Item recommitted by Full Board on February 7, 2005

ACTION: **HELD 8-0**

NOTE: Ald. Vance proposed two amendments:

1. The first would limit the applicability to people who had already applied for citizenship. In Ald. Vance's opinion this would be an important first step and at least resolves a part of the problem. Permanent alien residents would have revealed by beginning the process of seeking citizenship that they are making the necessary indication of allegiance to this country and the desire to have their allegiance to this country rather than some other country. .
2. The second would be to clarify the regulatory authority of the Election Commission relating to this specific item. It would be helpful if the Commission could issue some regulations to clarify the issue of demonstrating adequately that citizenship has been applied for.

Discussion Ald. Parker asked if we were talking about letting people vote in local elections or are we talking about letting people run for local office. Could a non-citizen serve on the School Committee or Board of Aldermen or as Mayor? Ald. Hess-Mahan said the definitive answer was yes. Ald. Merrill questioned how long it actually takes to become a citizen. In answer to this question, Ald. Hess-Mahan said the minimum is five years and can take up to as long as ten years. Ald. Hess-Mahan noted that the first two marines who died in Iraq were both permanent resident aliens. In fact permanent resident aliens would be the first to be recruited and are assigned to the front line positions.

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Concerns about the first amendment One of principal concerns of Ald. Hess-Mahan was the fact that currently the citizenship process takes so much longer than it used to and there are people who have indicated their commitment. Another argument in support of Ald. Hess-Mahan's position is that there are many people who live in the community and pay taxes. Ald. Sangiolo was not pleased with the amendment but if it gets the vote, it would be a step in the right direction.

Chairman Johnson questioned how someone would prove that steps had been taken to acquire citizenship and would it have to be done every year. Ald. Vance said it was his understanding that there is a formal process for filing an application for citizenship. It was his understanding that there is a formal process of filing for citizenship. An affidavit would be filed with a copy of the application for citizenship or confirmation from the local INS office that citizenship has been applied for. Ald. Vance said that it is probably not something that would have to be done every year.

Support for the Amendment Ald. Vance said that was not the length of time it takes to secure citizenship, in his opinion, was not sufficient reason to not having this step as a criterion for securing voting rights. The importance of making the significant commitment to allegiance to this country through commencing the citizenship process seemed to Ald. Vance to be a significant step forward and one that he would support.

Decision Ald. Hess-Mahan asked if the item could be held until he could have discussions with both the Legal and Election Departments. Ald. Merrill made a motion to hold and the Committee voted 8-0 in favor of holding the item.

JULY 13, 2005

#171-04 ALD. HESS-MAHAN requesting home rule legislation authorizing local voting rights for permanent resident aliens residing in Newton.
Item recommitted by Full Board on February 7, 2005

ACTION: **HELD 4-0 (Sangiolo, Johnson not voting)**

NOTE: Ald. Hess-Mahan reminded the committee that this item had been held pending a discussion of the feasibility of implementing a proposed amendment by Ald. Vance that would allow local voting rights to permanent resident aliens who had already applied for citizenship. He said that the Election Commission had agreed to take this item up at their next meeting in September. Ald. Hess-Mahan noted that he had a discussion with immigration Attorney Rodney Barker regarding the proposed amendment. Mr. Barker expressed the opinion that the proposed amendment would not really help very many people since the average applicant only has to wait an additional 9-12 months to obtain citizenship after the application has been filed. The Committee voted to hold this item 4-0.

FEBRUARY 8, 2006

#171-04 ALD. HESS-MAHAN requesting home rule legislation authorizing local voting rights for permanent resident aliens residing in Newton.
Item recommitted by Full Board on February 7, 2005

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ACTION: HELD 5-0

NOTE: Ald. Hess-Mahan has spoken to Election Commissioner Peter Karg and Associate Solicitor Gayle Smalley at length regarding Ald. Vance's proposed amendment. Neither Mr. Karg nor Ms. Smalley were present at the meeting. The proposed amendment would limit local voting rights to resident legal aliens who have applied for citizenship.. When Ald. Hess-Mahan went before the Election Commission there were several concerns. The first one was how many people would this involve. The rough numbers used were 2500 non citizens, who are permanent resident aliens in Newton who are of voting age. Presuming they have lived here for five years, roughly one-sixth of those would be eligible even to apply for citizenship and not all of them would. This would result in only a small amount of people being able to vote and would involve a large amount of paper work.

Ald. Hess-Mahan said there is a piece of enabling legislation that is presently before the House of Representatives which would allow cities and towns to opt in for local voting rights for non-citizens. At this point, the Secretary of State's Office provides all the support and voter lists, etc. for cities and towns and is based on people who are citizens. Information for non-citizens is also available. When state senate and state rep seats are apportioned, it is based not on the number of citizens but the number of resident included in the census (including non-citizens). The Secretary of State's Office has the information to create non-citizen voter lists but is not required to do so. A main concern is the burden imposed on the Election Commission staff and volunteers at each polling place if the proposed amendment were approved, given the additional paperwork and the relatively small number of voters who would be involved.

Ms. Smalley told Ald. Hess-Mahan that the Secretary of State, which oversees local elections, were unlikely to approve a separate polling place for all eligible non-citizens to vote in local elections because it runs counter to the intention of state election laws that all voters can vote in the polling place for their ward and precinct. In discussion with Ms. Smalley it was noted that the structure of the election laws was not to create a special for class of voters with different voting rights. For example, the Secretary of State's office would not be willing to do create a separate polling place only for disabled people. The smaller group of people that would benefit from this, the more cumbersome it becomes for the City to handle. Another issue is proving that you have applied for citizenship. To prove that you are a permanent resident alien, you can show your green card. Proving you have applied for citizenship is somewhat more difficult. Another issue is voter fraud. If you are a permanent resident alien or if you are applying for citizenship, if a non-citizen tries to vote when he or she is not legally allowed to vote, deportation can occur. President Baker said he could not support the item as it is currently framed. Chairman Johnson noted that she does support this as written.

The Committee voted to hold.

FEBRUARY 7, 2007

#171-04 ALD. HESS-MAHAN requesting home rule legislation authorizing local voting rights for permanent resident aliens residing in Newton.
Item recommitted by Full Board on February 7, 2005

#171-04
REPORT EXCERPTS

ACTION: **APPROVED 6-1-1 (Johnson, opposed Coletti abstaining)**

NOTE:

Background This item was recommitted to the Board on February 7, 2005. Ald. Hess-Mahan said he had met several times with the former Executive Secretary of the Election Commission and the Election Commission to go over the concerns the Board expressed when the item was recommitted. A number of aldermen proposed amending the item to require that an application had been made to apply for citizenship.

Alternatives Ald. Hess-Mahan presented two alternatives, see attached. Most committee members preferred alternative #2. The primary change in alternate #2) tries to address the concern of Ald. Vance and others regarding allowing immigrants to vote who had not yet sought citizenship. This change would require that any permanent resident alien meet all other requirements to register to vote except for US citizenship and was more in line with what Ald. Hess-Mahan's original idea had been. Alternative #2 is modeled on the enabling act. The preferred wording requires a declaration that the individual resides in the city, is lawfully admitted and intends in good faith to become a U.S. citizen and begin that process, if eligible.

Concerns There was concern about how it could be determined that people were in the process of obtaining citizenship. That is the major reason to ask for a declaration signed under pain and penalty of perjury. If you commit perjury, you may be deported.

Ald. Johnson has a problem with Alternate #2. She said you are assuming that everybody who is a resident alien has a desire to become a U.S. citizen and there could be reasons why some can't or don't want to.

There was a motion by Ald. Parker to approve alternative 2 with the amendment, "s/he intends in good faith to become a U.S. citizen and has begun that process, if eligible."

There was reconsideration to clarify. The motion was to approve alternative. 2 with the amendment to recommend to full Board.