

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, OCTOBER 17, 2007

Present: Ald. Hess-Mahan (Acting Chairman), Baker, Coletti, Merrill, Parker, Sangiolo
Absent: Ald. Johnson, Lipof

Also Present: Ald. Linsky, Weisbuch

Others Present: Dori Zaleznik (Chairman, School Committee) Jennifer Price (Principal, Newton North High School), Mayor David Cohen, David Naparstek (Commissioner, Health and Human Services), Linda Walsh (Director of Clinical Services, Health and Human Services), Alison Malkin (Prevention/Intervention Counselor, Newton North High School), Reenie Murphy (School Committee), Captain Howard Mintz (Newton Police Department), Tony Filipov (Student Governing Council at Student Central), Konstantin Dimov (Student Governing Council at Student Central) , Karyn Dean (Committee Clerk).

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#86-07 HIS HONOR THE MAYOR requesting an appropriation in the amount of \$2,300,000 from bonded indebtedness for the purpose of funding the construction of a new synthetic turf recreation complex at Newton South High School. [03-13-07 @ 7:04 PM]

ACTION: REFERRED TO 2007-2008 BOARD 5-0 (Ald. Baker not voting)

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

#276-06(2) HIS HONOR THE MAYOR requesting an appropriation in the amount of \$1,800,000 from bonded indebtedness for the purpose of funding the construction of a new synthetic turf recreation complex at Newton South High School.

ACTION: REFERRED TO 2007-2008 BOARD 5-0 (Ald. Baker not voting)

NOTE: At the last joint meeting of Programs and Services, Finance, and Public Facilities Committees, the chair of the Programs and Services Committee, Marcia Johnson, had requested some additional information about the impact of this turf project upon other capital needs for the schools and to the City as well. Mayor Cohen and Dori Zaleznik were present to address these issues.

City Financial Priorities

Mayor Cohen said that he was asked how the NEWTURF proposal fit in with the list of items that were being contemplated for the City. The Mayor presented the Committee

with a list of projects which are described as follows. A copy of the list is also attached to this report.

- *Debt Payments as a percentage of Operating Budget.* The Mayor said this was how much was being spent in debt service as a proportion of the overall budget. There was some indication that Newton had the capacity to be spending between 5% and 10% of its budget on capital and this spending plan shows that between 2008 and 2013, the percentage that the city was spending on capital in debt service will rise gradually from 2.9% to 3.6%.
- *Newton North High School.* The Mayor said this chart showed only the amounts that the City is bonding. He said there is also \$46M of state money that is coming to the city in FY08 and FY09, and around \$5M or \$6M which the Board had already approved and had been bonded in prior years. He said all of those figures added up to \$154M. Ald. Sangiolo said the board only approved \$141M. The Mayor said that when the construction manager and the city agree on a guaranteed maximum price, he would have to come back to the committee with any difference for further approval. The item for 2010 for \$15M was the low income interest loan the City is getting from the School Building Authority. The SBA had something like \$100M in low interest loans to give out statewide and Newton was the single largest recipient of that loan getting fully 15% of the state money that was available.
- *NEWTURF.* There was a suggestion by the Chair of the Finance Committee, Ald. Coletti, that the City use \$2.4M, which has come back to the City from the state, as a direct appropriation. The Mayor said he intended to do that and will be sending that to the Committee with a request that it be put into a capital reserve account so that it can be expended later in the year, after the drainage study is completed. That means there would be a total of approximately \$2M that would be needed to be bonded. He said he was listing that as something where the bonding would hopefully occur in 2008, which would mean that the first payment would be made in 2009.
- *Fire Stations.* The Mayor anticipated being able to renovate each fire station on an 18 month cycle through 2015. For the first one, the request for the appropriation has already been made and that fire station was already incorporated into the figures for the 2008 budget. There would be 4 more fire stations to be renovated during the life of this document. There were a total of 6 fire stations that would be renovated. The reason the 6th one was not shown on this chart was because it would be done in 2015 which was outside this document.
- *Other Capital – Municipal.* This was the \$1.75M in bonding that the City had set aside for municipal purposes. The Mayor said there would be a statement of his recommendations to the Board coming up in the Capital Improvement Plan that he would be filing with the Board on the 22nd.

- *Other Capital – Schools.* This is for School appropriations. The second appropriation in parentheses indicated that that would be for the next fiscal year. The Mayor noted that the School Committee had not yet officially voted on appropriations for the windows at Brown and another \$150,000 that they will have. He listed some of the possible future expenditures that the School Department might have coming down the road. His understanding was that none of those were being contemplated for this fiscal year.

Fire Stations

Ald. Parker asked about the \$2M listed in 2007 for the first fire station repair. The Mayor said that money was approved for the architecture and design phase. It was something that had been appropriated and they were assuming that the first bond payment would be made in 2008. If it happened on a different timeframe, the schedule would be changed.

Ald. Parker said that he recalled the engineering study for the fire stations and that they had done an all-at-once figure and an over-time figure for the renovations. He thought the whole thing was in current dollars and wondered if the City needed an inflation adjustment if the stations were not being done until 2015. The Mayor said that the numbers for the stations were very rough, so he wanted to see what number came back for the first fire station and then based on that, make whatever corrections, additions and modifications that are needed. The Mayor noted that the numbers of the fire stations on the chart referred only to chronological order and not to the numbers of the fire stations themselves.

Financial Priorities

Ald. Coletti said the City is waiting to get the results of the override of the governor's veto. He hoped the City would be able to use the money that already existed and noted that the Mayor could always borrow the money from general fund. He said that having it there because it has been asked for makes it encumbered in the plan. He said the Programs and Services Committee would look at the programmatic aspects, and when the money part came to the Finance Committee, they would deal with it, but he said there was flexibility because the Mayor had the other \$1.7M. Ald. Coletti said this was all the specificity he needed just to know these other priorities were in the plan. This way he felt they could put to rest the feeling that the public might have that the City does not have a plan for dealing with the other things that need to be taken care of in the City.

The Mayor said this was a snapshot and plans change as events and factors change. The plan will be updated on a regular basis. Ald. Coletti said he was very pleased that the Mayor docketed the request for the first phase of the Brown windows. He said if the City did not do that now, the windows would not have been ready to be installed during the summer. He said they were going to try and push that through as soon as possible. This list helped set some priorities.

School Budget

Ald. Sangiolo said she read an article that sounded as though the School Dept. was getting \$2M for capital, and she did not know whether that included the Brown windows or if it was separate from what the School Dept. was getting. The Mayor said he wasn't familiar with the article. The amount of the allocation was \$1.75M and there was no other \$2M earmarked for Capital for the schools. Ald. Coletti said that the Mayor had set aside \$3.5M to be divided up between the school and the city side for capital, but that's just one pocket of money. There's not another \$2M left in free cash.

Dori Zaleznik said the School Committee voted for 4 items to be priorities for this year:

- Half of the Brown window and door replacement project
- The Zervas boilers
- Newton South High School
 - Drainage
 - Fields
- Newton South
 - Any repairs that the commissioning led them to need to make so the building was fully functional from a heating/cooling perspective
 - Exterior lighting which was their one remaining safety item
 - Athletic storage

The School Committee needed to hear what the amounts would be for the Newton South items and figure out if there was some way to work them in, but those were the 4 items on the list for this year. She said it was her understanding that the Board was looking for what was in the immediate pipeline to be sure that the School Committee was not elevating the priority of the fields when they had other things sitting around needing to be done.

Chief of Operations Mike Cronin and Superintendent Jeff Young created a list of things that they would be likely to bring to them in the next year or two:

- They had talked about the Williams parking lot move, which they were prepared to vote on next time.
- The possibility that they might need some more modulars, but they hoped not.
- Adding elevators at Countryside and Horace Mann which were the two remaining multi-floor buildings where a lot of classrooms have to get moved around each year.
- Creation of some kind of swing space for whichever building of the long range facilities study comes up first. In terms of years of expenditures, the first thing they would do if the state approved one of these projects would be a feasibility study. They would need to have swing space sometime before they start on the first building and mostly likely that would be something that they would need to handle as a city.

Ms. Zaleznik said none of these things have yet been voted on by the School Committee and in fact none of them would come up in this FY08 discussion, it would be FY09.

Carr School

Ald. Coletti said that his assumption was the City has told the tenants in the Carr School that they had to be out. There was one boiler that needed to be replaced and there was no reason they shouldn't try to get that done soon in case the other boiler failed. His hope was that it was reflected somewhere in the document was that they were going to have to do windows and other work at the Carr School or purchase some additional space. He felt that around 2008/2009 the \$5M for the Carr School should be on the radar screen. He thought they should do the boiler earlier rather than later. Even if the City is considering buying Aquinas, there would still need to be money for that. The Mayor said he was not sure what year the City would need the new space. It would depend on enrollment. Ald. Coletti said the Horace Mann school needs some more work, but felt it made more sense putting the money into the Carr School. Ms. Zaleznik said that the only thing the School Committee put in for was elevators because Horace Mann would ultimately have to be made handicapped accessible as well. It's not one of the highest priority schools. Countryside is a little higher on the priority list and an elevator would be put in the main building. The expectation would be that the annex would be torn down and an addition built there. Both of those could be considered reasonable expenditures. Most of the other buildings that are not perfectly ADA compliant would be slated to come down or are single floor buildings.

Ald. Parker asked Ms. Zaleznik if she felt the \$1.75M allotment was enough to meet the School Department's needs. She said it is what they've traditionally had for the last few years. However, when they needed to buy the modular classrooms, they were not accommodated in that amount. The city paid extra for 6 of them and the School Department bought 2. The hope is if more money was needed, they could look for other sources as they did with the modulares. She said so much depends on which of the options they take – if Carr were used for pre-school it would not require \$5M. It's part of the active discussion that will be taking place in the School Department to weigh and balance what the needs are likely to be from 2009 on. The Mayor said that he and the Board were going to need to make a policy decision on what they think the appropriate percentage of the operating budget needs to go to capital. Ald. Parker said he thought that it should be a higher percentage and the only way to get there is with a debt exclusion because they can't take money out of their operating budget.

Ald. Sangiolo asked if the City was looking at Aquinas, and the Mayor said it was an option they would look at. She said that space at Lasell College was also available. Ald. Sangiolo noted that Williams and Memorial Spalding went to Carr School as swing space. She wondered if it had been changed so much when it became a cultural center that they needed to do a lot of work to convert it back. Ms. Zaleznik said that in 2001/2002 the boiler was limping along and now it is out. The roof needs work and the building probably needs new windows, doors and a lift. The long term facilities study lists a range for Carr which includes making it fit the educational specifications as an

elementary school. It's not entirely clear if its primary use were to be swing space, if all the same work would need to be done. Ms. Zaleznik said they needed to weigh the costs between Aquinas and the Carr School to see what was most cost effective.

Turf

Ald. Baker asked what the plan would be if the turf ended up costing more than the estimates. The Mayor responded that he would have to make an adjustment to the plan and come before the Committee to justify the numbers.

Unexpected Expenses

Ald. Hess-Mahan said he was pleased to see the fire stations on the capital spending plan. He asked if the Mayor anticipated additional emergency repairs that might need to be done for both the schools and the fire department. The Mayor said the City would have to deal with those. The school department did a study in terms of what they needed. There were a number of boilers and a number of roofs and windows that were already done. The School Committee is indicating that these items are the most important priorities. If something happens in 2009 to change that, then the plan can be revisited and changed if the unexpected happens. Ms. Zaleznik pointed out that the unexpected happens all the time and that the School Committee has tried to accommodate them within the maintenance budget, expect for the modulars. One of their initiatives this year was to add \$350,000 to the maintenance budget. That may still not ending up being enough but one of the possible directives that the budget guidelines subcommittee may come up with this year is to go back a few years to calculate how much they actually spent on maintenance, not what they budgeted, and make sure this year's budget covers what was spent before. She was concerned that the \$350,000 did not cover what they ended up spending last year. Ald. Hess-Mahan wanted to be able to assure the public that they were prepared to deal with unexpected expenses.

Referral to Next Year's Board

Ald. Coletti suggested that the Committee move to refer these two items to next year's Board. He said that if they are not resolved by December, they would then be removed from the agenda and he did not want that to happen. He said the Mayor accepted the premise that if they take the \$2.4M that was money that got back from the audit, it was a gift from the SBAB because they didn't have to add that in. Ald. Coletti stated that the Mayor and the Chair of the School Committee have graciously agreed that that money can be set aside for at least the drainage portion of the work that will be done at Newton South, and that they are going to design the project for the best possible top surface, whether that is synthetic or natural turf.

The Committee voted to refer these two items to the new Board by a vote of 5-0, with Ald. Baker not voting.

#263-07

ALD. LINSKY, JOHNSON, ALBRIGHT, GENTILE, SANGIOLO, DANBERG, BURG, HESS-MAHAN, HARNEY, PARKER, WEISBUCH AND SAMUELSON, along with the recommendation from

the smoke-free zone subcommittee of the Newton North High School Liaison Committee, Newton North High School Principal Jennifer Price, Chairman, requesting amendment of Newton ordinances to include, effective January 1, 2008, creation of a no-smoking zone on public properties extending from a set radius from the Newton North High School site boundaries for the purpose of assisting the cessation of smoking among Newton North High School students and staff as well as the protection of public health. [08-24-07 @ 9:38AM]

ACTION: **APPROVED 5-0 subject to a revised draft ordinance approved by the Law Dept. (Ald. Sangiolo not voting).**

NOTE: Ald. Linsky introduced this item. He noted that Jennifer Price has some experience from her previous high school with creating a no smoking zone. Ald. Linsky said he had been working with the Law Department earlier this week but didn't have anything final. He said he would have something for the Committee very soon. A map of the high school indicating the various zones in feet was presented to the Committee. He noted that the zones encompassed some private properties but they would not be included in this ordinance, only the public property would be. They wanted to extend a non smoking zone that would be large enough to have a positive effect on the incidence of smoking at the school. Ald. Linsky said they were proposing to amend the existing ordinance to include a cessation program as an alternative to a fine for those who were interested.

900 Ft. Zone

Ald. Hess-Mahan asked how they came up with a 900 foot zone. Principal Jennifer Price said that 300 yards was what they had done at Lincoln-Sudbury High School. They wanted an amount of space that was far enough away that 20 or 30 kids could not get to that space very easily. There would also not be enough time between classes to move that far away. The goal is to have it far enough away, but indicated she was not committee to this particular number. She felt that if they did 100 feet, however, it would be too easy for students to smoke off campus. They also didn't want to extend it as far as Newtonville as that could prove problematic for the businesses there.

Concerns about Contractors Smoking

Ald. Coletti said he was in support of this ban but had concerns about running up the price of NNHS by \$1M because of all the workers on the site who might be smoking. Ald. Sangiolo said that it was illegal for contractors to smoke on school grounds – it was a state law. Ms. Price said that she has been in constant contact with Dimeo on this and they are supportive of this. She said that at Lincoln-Sudbury, there was a construction project going on at the same time they were implementing their no smoking zone. She said it was not much of a problem until the steel went up and they were over the fence where they could be seen. She then went over to the construction site and they were completely cooperative. Ald. Coletti was concerned that it would be a problem on this construction site.

Target Population/Enforcement

Ms. Price said the point of this was not to “catch” everybody. The school administration just wanted to make a strong statement. Currently, if a student stepped one foot over school property and lit up a cigarette, the school staff was powerless to do anything about it. She said these were students who were not even old enough to be buying cigarettes. This was their target audience, not the person walking down Lowell Ave. smoking a cigarette. The message to the students was that a lot of money was being spent on educating them and the schools did not want to allow them to puff their lives away on a daily basis and allow 14 year olds who come into 9th grade to be pulled into this culture. She said that as far as enforcement, they really wanted it to be on school officials focusing on the student population. She said it would have a significant impact on their students. Ms. Price said that when parents showed up smoking, they would be able to enforce it if they wanted to under this new ordinance. Right now, they can’t do anything.

Alison Malkin said that by not doing anything now, it looked to the passerby as if the high school condoned smoking. It’s very easy for the students to walk outside, smoke, and make friends. With this smoke free zone, it would make it more difficult to get to the place where smoking was allowed. Students could still walk outside with their friends, but, hopefully, this may take away the smoking component. In lieu of a fine, cessation groups would be offered free of charge through the nurses office, through the Prevention and Intervention office, and also through Student Central, which is in West Newton. Ms. Malkin said they have 25-30 students who really have an addiction problem which was not a huge number, so they felt they would be able to help them out. By allowing smoking, they were not sending a good message.

Police Department Comment on Enforcement

Captain Howard Mintz said that it was his understanding that the Police Department would not be involved in the enforcement of the ordinance at all. Ald. Parker said the ordinance was not written that way. The general idea, however, is that the school officials would be the primary enforcers of the ordinance. The school staff would be deputized for enforcement. Captain Mintz said that there is not support in the police department for it. He did not do a formal poll, but his conversations led him to believe that was the case. If the police were not expected to enforce it, that would be a different matter.

He said he has been involved in a lot of the security measures at the high school, so he was uneasy taking a contrary position because he respected what Ms. Price was doing at the school. The police were concerned about things like homeowners lighting up within the 900 foot limit. They also didn’t want to see students smoking but he felt it would be hard to think that a police officer would want to issue a citation if they found a student smoking. It would likely be handled with a conversation. He was also concerned about construction workers smoking as well. There was a worry that homeowners might end up with students in their yards smoking and calling the police. The addiction to nicotine is a concern and just putting in a no smoking zone, he felt would not help those people.

He said that the police department was working on a minimal staff. Getting involved in enforcing this would be very difficult. Ald. Linsky noted that the City was already putting an added burden on the police with the construction site and the parking problems it has caused. He said this no smoking zone was never intended to add a further burden to the police department. He said that legally the City cannot draft an ordinance that excludes the police department, but the plan was to allow the health department to authorize school officials to be the primary enforcers.

Ms. Price said that right now, she might get a call from a homeowner about students on their property smoking. As it stands, she is powerless to do anything other than call the Police Department, or just ask the student to come onto “public property”. If this ordinance were in place, she or one of her deputized staff could go out and issue a ticket. She says this would help reduce the burden on the police.

Captain Mintz said that there was the issue of officer discretion in terms of issuing a ticket and/or the option of attending a cessation program. The officers might be more receptive if there was some training about the option of the cessation program, but he wasn't entirely sure how receptive they would be. Certainly having the School Department be the first line of enforcement would make it more persuasive. Another concern was having an officer approach a student who was violating the ordinance and asking their name. He asked what the police would do if a student refused to give his or her name. It would not be an arrestable offense under Massachusetts Law, not that they would arrest someone for that, but it would leave them with a problem. Ms. Price said that if school personnel could not get a name, that was a suspendable offense under the law, so they did have a little more authority in that sort of case.

Faculty Support

Ms. Price said that the faculty was in support of this. Particularly the faculty who smoke, understand this completely. Most of them said they were willing to walk that extra distance to get out of the smoke free zone if they continued smoking. Some faculty members have been working with Ms. Malkin to quit.

Student Support

Two students from Newton North, Tony Filipov and Konstantin Dimov, spoke on this issue. Both students are seniors and officers of the Student Governing Council at Student Central, a community organization. They didn't want to send the message that the rest of the Newton North student population was condoning smoking by the 25-30 students they found doing it on a consistent basis. They were concerned that the number would keep growing with the influx of new, younger students that come into the school who might get pulled into this culture. They didn't like that kids miss classes to run out for cigarettes. Some friends of theirs hang out in “smoker's alley” and they have seen students start their smoking experience there. They liked this proposal because they are not just giving fines to students who violate the rules, they are offering help in quitting smoking.

Health Dept. Support

David Naparstek said that Department of Health and Human Services supported this type of ordinance for the Boys and Girls Club when they wanted to do this. It has been very successful for them. Ald. Hess-Mahan noted that the detritus from cigarettes in that area was drastically reduced since the passing of the ordinance. Mr. Naparstek supported this item.

Neighborhood Support

Ms. Price said that the neighbors surrounding the school were very supportive of this ordinance. Their concerns included the construction workers smoking and leaving debris as well. The school officials noted that their big message was to show that they cared about the health of the students and they want to do what they can to help them do better.

Ald. Merrill related his own personal history of smoking and the negative effects it has had on his health. He felt they should do all they could to discourage students from smoking and helping them quit.

Suggested Changes/Questions

Ald. Parker said he supported the subject matter but felt the drafting needed work. The reference in the ordinance is to the existing section and the existing section is enforced by 3 departments: health commissioner, police, and the Board of License Commissioners (because part of the smoke free Newton ordinance had to do with smoking in restaurants). There is nothing in there about allowing the schools to write tickets. Mr. Naparstek said he could deputize members of the school department to have the authority to write tickets. Ald. Parker said that a former member of Newton's Law Dept had said that any city staff that would be enforcing an ordinance had to be listed in the non-criminal disposition ticketing section. He said that would have to be added. He also said that the Police would still get calls even if they weren't expected to be the primary enforcers, and they would be required to answer those calls. He didn't think it would be an undue burden but felt it would be disingenuous to suggest they wouldn't be called.

Ald. Parker said that a minor change that needed to be made was to the reference of "900 foot radius of the site boundaries". He said that radius refers to a circle from a point and therefore should be changed to "900 feet from the site boundaries" to make it technically correct. He suggested consulting with the Law Department before taking a vote. Ald. Linsky said they will have another draft coming shortly. President Baker suggested having a draft ordinance that was reviewed by the Law Department that was very clear on the enforcing power of members of the School Department.

Signage

Ald. Linsky said that the ordinance regarding the Boys and Girls Club had a signage requirement. The question was should this ordinance also require signage. Ald. Parker argued that signs would have to be required. Ald. Baker said there was value to thinking about how the signage would be done as you couldn't hold people accountable if they were unaware of what's going on. He wanted to avoid a problem with having too many signs in neighborhoods or on any particular utility pole. Ald. Coletti was concerned \

about construction workers smoking and felt they would need signs to know where they were allowed to smoke.

Newton South

Ald. Sangiolo pointed out that the draft ordinance only mentions Newton North but the map that was handed out shows Newton South as well. Ms. Price said this was completely coming from the Newton North community right now. She could not speak for Newton South.

Points of Clarification Required

- Signage
- Responsibility for enforcement primarily with school staff.
- Technical correction about “radius”

The Committee voted to approve this item subject to changes as mentioned above, by a vote of 5-0 with Ald. Sangiolo not voting.

#114-07 ALD. LINSKY requesting to evaluate whether the present location of the Johnny Kelley statue represents the best possible location for achieving the established purpose when it was erected. [04-10-07 @ 7:39PM]

ACTION: **HELD 5-0 (Ald. Baker not voting).**

NOTE: Carol Stapleton of the Parks and Recreation Department asked that this item be postponed for a short period of time to allow her to compose a plan to recommend to the Committee. The Committee voted to hold this item.

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

#357-06 ALD. COLETTI, PARKER, ALBRIGHT, LINSKY, JOHNSON, MANSFIELD, SANGIOLO, & HARNEY requesting discussion with School Building Assistance Bureau representatives regarding factors affecting state reimbursement for Newton school projects, including Newton North High School
PUBLIC FACILITIES NAN 7-0 (Weisbuch not voting) on 3/21/07
FINANCE NAN 6-0 on 09-24-07

ACTION: **NO ACTION NECESSARY 5-0 (Ald. Baker not voting)**

NOTE: The Committee voted no action necessary by a vote of 5-0 with Ald. Baker not voting.

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

#379-06 ALD. BAKER, SCHNIPPER, HESS-MAHAN & VANCE requesting a report from the Executive Department and City Comptroller on state reimbursement and loan subsidies available for Newton School projects,

including Newton North High School, as well as how best to ask for further clarification, as desired, from staff of the Massachusetts School Building Authority as to such issues as timing, amount and conditions of such funding.

PUBLIC FACILITIES NAN 7-0 (Weisbuch not voting) on 3/21/07

FINANCE NAN 6-0 on 09-24-07

ACTION: NO ACTION NECESSARY 5-0 (Ald. Baker not voting)

NOTE: The Committee voted no action necessary by a vote of 5-0 with Ald. Baker not voting.

Ald. Hess-Mahan moved to adjourn the Committee and all members voted approval.

Respectfully Submitted,

Ted Hess-Mahan, Acting Chairman