

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, APRIL 7, 2004

Present: Ald. Johnson (Chair) Ald. Merrill, Hess-Mahan, Baker, Fischman, Parker, Sangiolo

Absent: Ald. Coletti

Other Aldermen Present: Ald. Linsky, Yates

Also Present: Kathy Glick-Weil (Library) Cathy Salchert (Law Dept.) Mike Kruse (Planning) Dan Funk (Law Dept.) Paul Berg (NewTV) Robert McReady (NewTV) Brooke Lipsitt, Maria Plati (NewTV)

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#160-04 HIS HONOR THE MAYOR requesting an appropriation in the amount of \$50,000 from Free Cash for the purpose of supplementing the overtime account in the Library for the remainder of FY04.

ACTION: **APPROVED 4-0 (Baker, Parker, Sangiolo not voting)**

NOTE: Kathy Glick-Weil was present for this discussion and told the Committee that \$50,000 more has been added to the overtime budget for next year. There were no questions and the Committee voted to approve 4-0.

#137-03(3) PROGRAMS AND SERVICES COMMITTEE requesting revisions to the "Smoke-Free Newton" ordinance to prohibit smoking in private clubs".

ACTION: **HELD 6-0 (Sangiolo not voting)**

NOTE: Cathy Salchert told the Committee there were two bills still pending at the state level. Ald. Merrill suggested that the item be held until the state makes their decision. That motion failed. Ald. Merrill asked if smoking would be allowed if Bingo were held. Chairman Johnson said that during a discussion with members of Post 440, they had been assured that it would be permitted at Bingo. In her opinion the item should be held until some of these final issues are clarified.

The Commander of Post 440 explained that their primary concern was the protection of employees. Post 440 was assured that smoking would be allowed because they sponsored the event and Post 440 volunteers are the people who work at the event, not employees.

Ald. Parker moved hold and the Committee voted 6-0 to hold.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#128-04 ALD. SALVUCCI proposing revocation of the Community Preservation act to be effective after the completion of the five-year term, as provided in MGL Ch. 44B, Sec.16.

ACTION: NAN 7-0

NOTE: Ald. Salvucci was present and explained it was his intention to give the citizens of this City the opportunity of keeping the CPA or not. He went on to say this issue involves money and that presents a hardship for some. Ald. Salvucci would like to see the revocation of the Community Preservation Act on the ballot.

Chairman Johnson explained that there can be no change for five years. The City Solicitor explained that until five years are up, there can be no consideration of removing the CPA. He further indicated that there is no positive answer as to when the five years expire. There are several dates involved. There is a two-step process as the Board used the two-step process to accept it and the statute states it must be revoked with the same process. Basically, it would be the Board's vote and the vote of the citizenry on the ballot. If the Board never votes to revoke it, it never gets to the ballot and would be over for that period of time. Anytime after the five years, it could be reconsidered. It was accepted in the middle of a fiscal year and the tax rate had not been set. The terms of the CPA were retroactive to July 1 or so. There is question whether the calendar is triggered by final date or acceptance or the date of its effectiveness. Solicitor Funk continued to say those questions have not yet been answered. Unless the Board decides on revocation, the question will not need to be answered. Solicitor Funk explained that to get on the ballot, the Board of Aldermen must first revoke it. Presently, there can be no consideration of revocation until the five years is up. The way to revoke it is the identical way that it was accepted; the same two-step process has to occur to revoke it that was used to accept it.

Ald. Linsky felt some wonderful things have been accomplished. He was not a member of the Board when this item was approved and would have voted for an exemption on certain levels of property taxes. At some point, he felt this should be revisited but presently it would be too premature.

Ald. Hess-Mahan asked Dan Funk if it could be brought up at all prior to the five years. Solicitor Funk responded that revocation cannot be effectuated until after five years.

Eric Greenspan, President of the Newton Conservators. He stated that, in his opinion, this Act is very much needed by the City of Newton. Members of the Conservators worked hard to have this Act enacted. He said if there had been a Community Preservation Act earlier, we could have saved "The Terraces". In his view, the money has been well distributed around the City geographically as well as the different interests represented under the Community Preservation Act

Eileen Frail, 640 Watertown Street - Ms. Frail stated we are receiving our fifth assessment. It will be five years July 2, 2005. From her viewpoint, this is not premature, as the taxpayers would have the opportunity in November of 2005 to vote on the issue again.

J:

Jim Broderick - Mr. Broderick spoke in favor of continuing this Act.

Paula Kay - She said she would like to see something in writing from the state level. As President of the Newton Taxpayers, Ms. Kay thanked Ald. Salvucci for bringing this item forward. She supported rescinding this Act.

Dan Funk said one struggle with this new law is trying to figure out what state agency is administering this. He continued to say that the act of revocation, will be revoked in the same manner as accepted and that the act of revocation has to happen after the five years as opposed to the suggestion that it be revoked in the year three but not effective until the year five. Mr. Funk said there does not seem to be an allowance for the initiative to come into place for revocation because we didn't act in that matter. The City Solicitor reiterated two steps; the Board of Aldermen and then the voters must act, but said he would look into this further.

Ald. Baker noted that the Community Preservation Fund was created because open space funds and affordable housing funds compete in the same capital market for the budget against the needs of police, fire, and public works. He continued to say that bringing this forward is significantly premature.

Chairman Johnson asked for more information from Dan Funk regarding Eileen Frail's question on when the five years would be up and clarity around the process options of the Board as well as citizens.

Ald. Linsky explained the questions raised will eventually be made by the state body for all the communities adopting this type of statute.

President Baker moved NAN. The Committee voted 7-0 in favor of NAN.

#56-04

ALD. YATES requesting an amendment to the Rules of the Board to eliminate the requirement that Home Rule petitions be referred to the Programs & Services Committee.

ACTION:

REFERRED TO RULES COMMITTEE 7-0

NOTE:

Ald. Yates noted that in the past there were substantive issues passed by other committees that had to go through Programs and Services as they were home rule petitions. He went on to say that he has seen a few petitions that seem to have no reason to have been sent to Programs and Services and this change could relieve some of the burden.

Ald. Parker moved to refer to the Rules Sub-Committee. The Committee voted in favor 7-0.

#90-04

ALD. GERST seeking review of new TV responsibilities and obligations pursuant to Newton Cable TV Agreement between City of Newton and Newton Communications Access Center Inc.

ACTION:

NAN 7-0

NOTE:

Ald. Gerst addressed the Committee and said that there is a great deal of concern regarding Al-Manar across the world because television is a particularly powerful and influential force. Ald. Gerst noted there is more and more concern regarding Hezbollah. There was a recent article stating that Hezbollah has expressed outrage of American activities in Iraq. Ald. Gerst said he became involved in this issue after becoming alarmed when **900 people signed a petition (included in packet)** asking for something to be done. Many members of the community would like to help NewTV regain its local community service focus. Ald. Gerst suggested three provisions that he thought would be useful and proposed the Programs and Services Committee send a resolution (attached) to the Mayor. Rules were suspended to accept document not distributed to the Committee 48 hours in advance of meeting.

Chairman Johnson noted that the docket item used the words, "seeking review of the NewTV responsibilities and obligations." There isn't anything in the current docket item regarding a resolution to the Mayor to either edit the agreement or seek an advisory ruling. Ald. Johnson noted that since Programs and Services had spent approximately 2 1/2 hours reviewing this item, the Committee's task is done. It should now be up to

the Committee to either discuss this item or move it as it presently is written.

Ald. Fischman had expected responses to certain questions. Ald. Gerst stated he had no further guidance from the Law Department.

President Baker questioned if the attached proposed resolution was in the scope of what could be discussed or would a new docket item be needed. He felt that there is the question of whether this was in the scope of the original item or a new item that would need to be independently docketed. There would be two elements; one would be the reference to the NewTV Agreement and the other is reference to the U.S. Treasury Department. Since this was the first time the committee had seen this document, President Baker was troubled about taking action.

It was suggested that Ald. Gerst could docket (2) or (3) and those items would go before the Board. Ald. Gerst would like this item to move along as quickly as possible.

Ald. Hess-Mahan could not support this under the first amendment.

Ald. Fischman felt the comments taken at the Public Hearing were broad based. The idea of seeking words that would have NewTV not provide services to foreign terrorists and foreign terrorist organizations would not be a problem for Ald. Fischman. He continued to say he would like to hear comments directed at those specific points. He wondered if either the Mayor or the organization has looked at and failed to accept these conditions. He felt those parties should look at it before the aldermen. He concluded that there were too many questions still to be resolved before any action should be taken.

Ald. Merrill would like to see that NewTV provide no services to foreign terrorist organizations. He would like to see the Mayor or the Law Department check with the U.S. Treasury Department on the legality of the broadcast. Ald. Merrill noted that these questions are important. He would like to add that based on the information given to the Committee on the number of individuals that signed a petition, there is great concern about the quality of the news items referred to. He would have no problem sending a resolution to the Mayor.

Ald. Sangiolo felt the item should be separated.

Chairman Johnson concluded that it was the right of Ald. Gerst to docket a new item. She suggested that two items be docketed as the resolution and the other text for the agreement.

The Chair, in her opinion, said she was uncomfortable with the actions that were requested to be added to the agreement.

Ald. Gerst said he would re-docket two new items including the resolution.

The Committee voted NAN 7-0 on this item.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#432-02 ALD. PARKER, JOHNSON, LINSKY, LIPSITT, LAPPIN, BAKER requesting ordinance change and home rule legislation to implement a policy of indexing automobile excise tax to emissions and/or fuel economy, so low-pollution vehicles have lower taxes than those that pollute more.

ACTION: **HELD 7-0**

NOTE: Since the hour was so late, Ald. Parker suggested that the item be held. The Committee voted 7-0 to hold.

The meeting adjourned at 11:07 p.m.

Respectfully submitted,

Marcia Johnson, Chair