

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, JANUARY 23, 2001

Present: Ald. Johnson, Sangiolo, Coletti, Gentile, Parker, Lipsitt,

Absent: Ald Fischman and Merrill

Other Alderman present: Ald. Lennon, Gerst, Mansfield, Basham, and Baker

Officials Present: Dan Funk, Gayle Smalley, Elizabeth Dromey, Joe Russo
Principal, Horace Mann School]

#9-02 **PRESIDENT LIPSITT requesting discussion with
Election Commission and Law Department regarding residency
requirements for Board of Aldermen and School Committee elections.**

Action: **Held: 5-0 (Ald. Sangiolo Not Voting)**

Note: Dan Funk presented three options that addressed the will of the Committee as decided on January 9th. There was much discussion regarding whether the date should be at the time the candidate takes out papers. Ald. Baker, Gentile, and Lipsitt spoke in favor of the residency requirement being set at this point in the election cycle. It was important that we set the date at the point of taking out papers, as the candidate should be “living” in the Ward from which s/he would be running when s/he collects signatures. Ald. Basham was concerned with this date being the one that was when a candidate established his/her residency as it was about 8 months prior to Inauguration and this is a long time, if someone was planning to run but had not yet moved. Ald. Parker thought by having the date being when one pulls papers is a very unclear date, as a candidate might pull the papers only a few days before they are due or s/he might pull them several weeks before they are due or s/he may pull the papers when they first become available. He preferred a date that is clear and by using the filing date, it is very clear. Mr. Funk had a concern regarding the residency date being the date when a candidate “pulls nomination papers.” The City would need to have a very clear record of residency on the date when a candidate pulled his/her papers so that we could clearly determine residency should there be a legal challenge. There was consensus that the Election Commission needs to tighten its procedures and ensure that *only* the Candidate is able to take out nomination papers. Ald. Mansfield pointed out that until nomination papers are filed and certified, the candidate is not an official candidate. In a straw vote of 4-0 [Gentile and Sangiolo voting no] the Committee approved Version 2 submitted by the Law Department which sets the

residency requirement as of the date of filing papers. The Law Department will return with a Charter Amendment wording as requested by the members of the Committee.

8-02 HIS HONOR THE MAYOR appointing Mr. Doug Dickson, 17 Oxford Road, 02459 to the Community Preservation Act Committee n January 7, 2002 Recreation – term to expire on 01/01/93.

(C) Doug Dickson **Approved 5-0, (Coletti not voting)**

Note: Mr. Dickson worked actively to ensure the passage of the Community Preservation Act (CPA). He wants to ensure that this gets off to a strong start. Through his work on the Conservators, he is concerned with open space and land use development along with both passive and active parks. He has worked extensively with the Parks and Recreation Commission on maintenance and design of recreation space. Ald. Gentile was confused as to the CPA designation of open space vs. recreation. Within the City, there seems to be a competition between open space and recreation. Mr. Dickson, agrees that there should not be competition, but the two should be integrated. Also, given Mr. Dickson’s background, there was confusion as to why he had the recreation designation. He explained that he is not representing the Conservators and that he had been very actively involved in the renovation of Weeks field. Ald. Gentile requested that Mr. Dickson and the CP committee not lose sight of the need to unify open space and recreation. Mr. Dickson also stated that all Mayoral Appointees have a mixture of interests and that they will work together to develop the proposals for how to utilize the CPA money. Ald Gentile also expressed concern that new people get involved in this process. Since the other three members, previously approved, of the CP committee are new comers, it was felt that Mr. Dickson’s experience would be an asset mixed with the new ideas and experiences of the other members.

440-01 ALD. GENTILE & MEMBERS OF THE JOHN M. BARRY BOYS & GIRLS CLUB requesting the establishment of a smoke free zone around and within the perimeter of the Horace Mann School and the Boys & Girls Club.

ACTION: **Held 5-0 (Coletti Not Voting)**

NOTE: Ald. Gentile was contacted by the Boys & Girls Club regarding the establishment of a Smoke Free Zone. They invited him and Mr. Russo to enlist their assistance to make the zone become a reality. Mr. Rick MEEK, Director Teen Programs for the Club received a grant from the American Cancer Society through the hard efforts of the children along with the assistance of Mr. Russo and the Horace Mann School. They are hoping that the work that they are doing regarding the anti smoking message driven through education programs up to and including the political spectrum, will eventually become a program for Boys and Girls Clubs nation-wide. There were about a dozen children present to support this item. They had the following questions that they raised as they look toward the establishment of this Smoke Free Zone:

- Will there be fine?
- Will the law be enforced?
- How will the process work?
- How long will it take for the law to get in place?
- How many signs will there be and where?
- Who will decide on what the signs will look like?
- Will the law include all tobacco products, i.e. cigars, pipes, and chewing tobacco along with cigarettes?
- When the school and the club is closed will the law be in effect?

Mr. Russo and Ald. Lennon spoke in support of the item and the efforts of the children.

City Solicitor Funk explained the current state of laws that apply to restricting smoking:

20-16 – Our law restricts smoking in public places [recreation facilities, Education facilities] Therefore the portions of the Club that are used for these purposes are currently covered under the City's ordinance. However offices and restrooms may not fall under this ordinance. We could look to tightening the ordinance.

Also, the Club may, on its own, establish a policy that would have no penalties other than what they establish as consequences within their policy. People would be expected to observe and respect the policy. Also the Club can embrace the City's ordinance as its own. The school building and surrounding grounds are under the State statute that requires schools to create no smoking policies. If there is a desire to go further than the building, the Law Department would need to research how much farther we can go. To address the children's question regarding signs, he stated that they need to be easily seen, able to be easily read and understood. The City's ordinance carries a \$50 fine for the first offense and \$100 for second, The Health Department would be able to tell us how the current ordinance is being enforced. Ald. Lipsitt asked if they were looking to include the sidewalk. Mr. Meek stated that originally they were looking to only go up to the inside edge of the sidewalk, but it would be ideal to include the sidewalk. Mr. Funk thought that if we wanted to include the playground, that is not already covered, e.g. Tot Lot then we might want to make this ordinance city-wide and not site specific. Ald. Gentile spoke in favor of including the sidewalk. Ald Gentile preferred to focus on this one area so that we can proceed quickly and take on a city-wide effort later. Mr. Funk thought that this could be completed reasonably efficiently.

Mr. Funk stated that we need to carefully determine our terms [sites] where certain things occur. Ald. Parker asked if we were to decide something like "youth sites" what options/process would we take. Ald Johnson felt that non-smoking should be broadened to include playgrounds, if not already covered. She also expressed concern of addressing Youth sites, as proposed by Ald. Parker as there are places like the Teen Center at NCSC where this could be problematic as teens, unfortunately smoke and it might drive them

away. When asked if it is possible to expand the state law to these types of sites. Mr. Funk responded that it is tricky when dealing with private organizations who engage in certain activities, e.g. youth activities, and we define these activities as important. As the discussion went on it was clear that we needed to have the Health Department's input before we could go much further. Mr. Funk also stated that the Health Commissioner was considering a series of amendments to our current smoking ordinance. Ald. Lipsitt agreed with including sidewalks and thought that by limiting the scope of this item to the Club and the Horace Mann school, it could be a pilot and if it works it could become a model that could be implemented in other areas within the city. Ald. Gentile suggested enlisting Traffic Engineer LaMotte to assist in outlining the area, similar to what he does for No Parking Zones. Ald. Sangiolo spoke in favor of the pilot program. In a straw vote [5-0] the Committee approved the crafting of some sort of legislation regarding Smoke Free Zone. At the end, Ald Gentile will work with the Law [who will do more research] and Health Departments to craft a more definitive proposal to be brought back to the Committee next meeting.

REFERRED TO FINANCE AND PROGRAMS & SERVICES COMMITTEES

#158-01 ALD. GERST seeking Home Rule Legislation for the purpose of raising qualifying income level for the Newton 41A (Senior Citizen real estate tax deferral) program.

ACTION: Held 6-0

Ald. Gerst introduced this item by stating that the item had been approved by the Finance Committee on June 25, 2001. He thought the legislation and ordinance, as written by Solicitor Smalley was fine and hoped that the Committee would approve it. He was reluctant to make this available to all citizens rather than just seniors due to the potential pool of participants.

Ms Smalley provided some history for this item in that Newton moved its threshold to \$40K in 1993. Therefore to increase the threshold, we need special legislation. Newton's program is used more than in other communities. Water program follows 41A and participants are automatically eligible for Water-Sewer deferments if given tax deferments. This deferment needs to follow either State or Federal standards. It can be separated from 41A. If we increased the tax deferral to \$41K, the water sewer level could stay at its current level with an amendment.

Elizabeth Dromey, from the Assessors office reviewed the information in her memo dated January 18th. Ald. Baker expressed his concern regarding the impact of increasing the threshold to. Ms. Dromey stated that with a median tax bill of \$5190 if all eligible [1385 at \$70K threshold] applied for a deferment, this would constitute an approximate \$7 Million revenue loss to the city. He also supports de-coupling the Water-Sewer from Property Tax deferments. Ald. Baker does support, from a policy perspective, the concept of Newton making its own decisions rather than being bound to the State.

However he asked that we be cautious about raising the threshold, above the current level of \$40K. If under 10% of those eligible, today, are taking advantage – the concern is why and maybe that should be the focus rather than raising the threshold. [Note: in 2001, the impact on the city based on deferments made was about \$500K]. Ald. Lipsitt agrees that the \$70K is high and the HUD standard of about \$56K would be the highest that she could see it being set and could be convinced to not go that high. Ald. Johnson also agreed that \$70K is too high.

Ald. Gentile was concerned regarding how sure are we that Newton gets its money back when owners die or sell the house. Ms. Dromey assured us that the Law Department does an excellent job in this area. Ms. Smalley and Dromey assured the committee that when there is a change in ownership, even in a Revocable Trust, payment to the city is required and received.

Ald Gerst and Basham spoke to the fact that this is a public policy decision and that the more the City can do to assist seniors to stay in their homes the better off we all would be. It also will help to preserve the diversity and character of the city. The question really is what is the appropriate threshold. Ald. Parker spoke in support of the legislation. Ms. Smalley did state that, to her knowledge, Newton would be the first city or town to file a Home Rule petition and that most areas continue to have the \$20K threshold. Ald. Sangiolo was concerned with raising the threshold. Ald Gentile thought that we ought to be cautious about increasing the threshold. Ald. Sangiolo could support the Home Rule legislation but not raising the rate above \$40K, as stated in the drafted ordinance. The Committee, through a straw vote 5 approving, Ald. Gentile opposing supported moving forward some sort of special legislation. Ald. Lipsitt requested that the legislation be more progressive in its wording in order to allow maximum flexibility, e.g. increasing the threshold – while decreasing the benefit with increasing income. Ald. Parker wants a way to modify our ordinance on Water/Sewer payments to parallel this as now Newton does not ever see the deferred Water/Sewer money and others in the city have to absorb this in their own bills. The Law Department will come back with a redrafted piece of legislation

158-01(2) Held 6-0 – see discussion in previous item.

Respectfully submitted,

Marcia Johnson, Chair