



Public Facilities Committee Report

City of Newton In City Council

Wednesday June 8, 2016

Present: Councilors Crossley, Gentile, Laredo, Albright, Brousal-Glaser, Lappin, Lennon

Also Present: Councilors Leary, Fuller

Absent: Councilor Danberg

City Staff Present: Commissioner of Public Buildings Joshua Morse, Commissioner of Public Works Jim McGonagle, Associate City Engineer John Daglian, City Engineer Lou Taverna, Associate City Solicitor Alan Mandl, City Solicitor Donnalyn Lynch Kahn

Referred to Programs & Services, Public Facilities and Finance Committees

#175-16 Authorization to enter into a settlement agreement with National Grid.

HIS HONOR THE MAYOR requesting authorization for the City to enter into a settlement agreement with Boston Gas Company d/b/a National Grid. [04/25/16 @ 6:52 PM]

Action: Public Facilities Held 7-0.

Note: City Solicitor Donnalyn Lynch Kahn appeared on behalf of the Law Department to discuss the settlement agreement. The settlement agreement has a confidentiality clause and as such was not distributed prior to or at the meeting. Attorney Kahn and Committee members acknowledged that review and/or discussion of the settlement agreement could be in violation of the confidentiality clause outside of Executive session. Attorney Kahn noted that while the Law Department is not required to come before the Council on this item, she would prefer that the Council be aware of the transaction and stated that she would be more comfortable discussing the item in Executive session. Committee members requested that the details of the confidentiality clause be confirmed, as some specifics have already been released in the paper. Attorney Kahn did note that under the Public Records Law, should someone request a copy of the settlement agreement; the Law Department would be required to furnish a copy. The Committee agreed to meet in Executive session at a later date to be determined. Councilor Gentile motioned to hold the item which carried unanimously.

#161-16 Comcast petition for a Grant of Location for Washington Street

COMCAST OF MASS petitioning for a grant of location to install 264' ± of 3" pipe from Pole #864/2 on Lenglen Road, southeasterly 199' ± across Washington Street thence turning easterly 65' ± to 580 Washington St. (Ward 2) [04/21/16 @ 9:00 AM]

Action: Public Facilities Approved 7-0.

Note: Manuel Furtado appeared on behalf of Comcast to present the petition for a grant of location on Lenglen Road trenching east to Washington Street to provide service to 580 Washington Street. It was noted that this portion of Lenglen Road is not private. Mr. Furtado stated that after City Council approval, construction is typically completed within thirty days. The Public

Hearing was opened and closed with no comment. Councilor Albright motioned for approval which carried unanimously.

#162-16 Verizon Petition for a Grant of Location for Upland Ave

VERIZON NEW ENGLAND, INC. petitioning for a grant of location to install approximately 160'± of 1¼" conduit in Upland Avenue from an existing manhole (in front of #123) running 125' northerly to a new 2' x 3' handhole in the grass strip in front of #128 Upland Avenue. (Ward 8) [04/20/16 @ 4:37 PM]

Action: Public Facilities Approved 7-0.

Note: Elizabeth Kelly, Right of Way Agent for Verizon presented the petition to install conduit in Upland Ave to provide service to #128 Upland Avenue. Ms. Kelly informed the Committee that due to a communication error, the work has already been completed. City Engineer Lou Taverna stated that when a road is a private way, the utilities do not need Council approval for a grant of location. Because the petitioner and contractor believed this portion of Upland Avenue to be private, no petition for grant of location was submitted until after completion. The Engineering Department confirmed that the work had been completed to meet City standards. The Public Hearing was opened and closed with no comment. Committee members expressed dissatisfaction relating to Verizon's apparent lack of attention to detail on this item and hope not to have a similar situation before the Committee again. Councilor Lappin motioned for approval and the Committee voted 7-0 in favor.

#190-16 National Grid Petition for a Grant of Location in Wendell Road

NATIONAL GRID petitioning for a grant of location to install approximately 210' ± of 4" conduit on Wendell Road from existing 12" gas main in Dedham Street northerly to house #126 for new gas service. (Ward 8) [04/27/16 @ 1:33 PM]

Action: Public Facilities Approved 7-0.

Note: Dennis Reagan, Permit Representative for National Grid reviewed the petition for grant of location on Wendell Road to provide gas service to 126 Wendell Road. Mr. Taverna noted that because Wendell Road was paved in 2012, the petition requested is within the five year moratorium for Wendell Road. Because this portion of Wendell Road does not have gas, the Engineering Department has recommended that the petitioner mill and overlay curb to curb for the length of the trench plus 25 feet, including Dedham Street after installation of the conduit. Mr. Taverna also referenced a new compaction device that allows the City to check for proper compaction prior to paving. The Chair requested that Engineering provide a map displaying the extent that the petitioner would be required to mill and overlay in addition to the written recommendations.

Commissioner of Public Works Jim McGonagle mentioned that the Public Works Department is making an effort to coordinate the undergrounding of utilities among utility companies and during Special Permit projects. While there was some consideration that it could be opportune to underground utilities at one time, Mr. Reagan noted that National Grid cannot preemptively install gas mains without requests for service due to deregulation.

The Public Hearing was opened. Julia Malakie, 50 Murray Road, does not agree with allowing utilities to underground within the five year moratorium. The Public Hearing was closed.

As the petition for grants of location are similar, the Committee discussed the protocol for Old Farm Road. Commissioner McGonagle explained that requiring the petitioner to mill and overlay curb to curb would help preserve the integrity of the street whereas outside of the five year moratorium it would only be required that the petitioner patch the trench. The Chair requested that the street opening permit be granted with the condition that the petitioner mill and overlay the entire roadway surface on Wendell Road, from curb to curb, from the intersection of Dedham Street and Wendell Road, 25 feet in either direction of the end of the trench. Councilor Lappin motioned for approval with the condition language to be incorporated on the street opening permit which carried 7-0.

#124-16 National Grid Grant of Location Petition for Old Farm Road

NATIONAL GRID petitioning to install and maintain 200'± of 4" gas main in Old Farm Road from the existing 12" gas main in Brookline Street southerly to 12 Old Farm Road for a new gas service. (Ward 8) [03/22/16 @ 3:09 PM]

Action: Public Facilities Approved 7-0.

Note: Dennis Reagan presented the petition for grant of location to install conduit for new gas service. As this item was previously denied, it had been requested that Commissioner McGonagle provide a written recommendation (attached). Commissioner McGonagle noted that the petition was not recommended previously in part due to the inability to check trench compaction and concerns about trench settlement. The recommendation to approve the grant of location comes with the requirement to mill and overlay in conjunction with the department's ability to check the compaction of the trench. Mr. Taverna also noted that the City has hired an Inspector to inspect trenches after repaving. The expense of milling and overlaying is substantially more (approximately three times), however is a better alternative to trenching although it is not in line with the five year moratorium. Should the petitioner wait until outside of the five year moratorium, however, according to current policy they would only be required to pave over the trench; again leaving the street compromised. Commissioner McGonagle stated that Public Works is considering a policy revision to require mill and overlay for all undergrounding work. The Committee noted the importance of establishing concrete guidelines to standardize the requirements for street repair and requested clarification relating to the paving guidelines as set by the state.

The Public Hearing was opened. Abnesh Gupta, 33 Old Farm Road, stated that his family and two neighboring families are very interested in converting to gas and was not sure if this could be done in the same time frame as the current petition. Committee members encouraged Mr. Gupta to speak with Senior City Engineer Lou Taverna and with National Grid's customer for Old Farm Road to determine if a collaboration could be accomplished. The Public Hearing was closed. Councilor Lappin motioned for approval which carried 7-0.

#109-16B Verizon Grant of Location petition for wireless communication equipment

CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS petitioning for a grant of location to attach wireless communication equipment to existing utility poles at the following locations:

Locations

Grove Street (near corner of Grove and Washington Streets) at Pole #185/79

Crafts Street (near 224 Crafts Street) at Pole # 108/30

Item was split into B1 (Grove Street) and B2 (Crafts Street)

Public Facilities Held B2 7-0.

Public Facilities Approved B1 7-0.

Note: Attorney Elizabeth Mason representing Cellco appeared to provide updates to the status of the double poles in regard to the petition for grants of location for two “cantenna” apparatus. The two locations were previously held due to the request to install Cellco’s equipment on double poles. Attorney Mason indicated that due to the combined efforts on behalf of primarily Assistant City Solicitor Alan Mandl and herself, the first double pole 185/79 has been removed.

Although the second double pole had some equipment transferred, some wires remain on a stub pole. Attorney Mason provided photos of the updated poles (attached) and reiterated to the Committee that Cellco does not own or have control over the pole usage and should not be held responsible for other companies’ equipment. Atty. Mandl mentioned that the conversations to remove equipment from the utility poles were happening during the Verizon strike, which has since been resolved, complicating communications to Verizon personnel.

Attorney Mason noted that the prevalence of small cells is increasing immensely and that in the next two years small cell growth will be equivalent to cell tower growth over the past 20 years due primarily to a rise in use of cellular data.

The Committee questioned whether the stub pole would be a safety code violation and if so, whether the Inspectional Services Department has any recourse with the owner(s) of the double pole. Commissioner of Public Buildings Joshua Morse confirmed that ISD has jurisdiction over safety code violations and that he could confirm the status of the pole with the department. The Committee decided to hold pole #108/30 at Crafts Street (B2) until June 22, 2016, to wait for additional information. Councilor Gentile motioned to approve the first grant of location at Grove Street (B1) which carried 7-0. Councilor Lennon motioned to hold pole 108/30 (B2) which carried 7-0.

#163-16 Request for discussion with DPW to consider amend Ordinance for street reconstruction

COUNCILORS CROSSLEY, LAREDO & LAPPIN requesting a discussion with the Commissioner of Public Works, to review city policy and/or ordinances governing repairs to city streets within a period of years after full reclamation and/or milling and repaving of said streets, and to consider strengthening the requirements for repairs so as to protect the public investment in said streets.

Action: Public Facilities Held 6-0 (Gentile not voting)

Note: The Chair opened the item and indicated her intention to initiate a process to determine what changes need to be made to the street repair policies. The Committee emphasized the importance of standardizing the recommendations for street repair and minimizing discretion in an effort to provide clear expectations. Commissioner McGonagle is receptive to feedback from the Committee in implementing the roads policy.

The City currently has a five year moratorium on cutting into streets paved. Mr. Taverna stated that this policy can be difficult to adhere to when it limits the ability to have conduit installed to homes. It would be in the best interest of the City to require milling and overlaying for any underground utility work done within the five year period. Although it is a greater expense to mill and overlay, it maintains the integrity of the street for a longer period of time. Additionally the City now has the ability and staff to check the compaction of trenches with a new tool.

One suggestion that has been discussed is the structuring of a multi-tier policy for allowable street work. It was also noted that Braintree has recently passed a 10 year moratorium.

Committee members questioned when they could expect revisions and recommendations for the policy. DPW is already working on revisions and plans to submit a comprehensive package including the results of the Street Scan data in early fall. The Chair requested that the recommendation include a combination of ordinance/best practices and policy. Committee members requested that in drafting the policies, DPW document alternative considerations and thought processes. Committee members also felt that it would be beneficial to have sample situations to apply the policies to when reviewing the changes. Additionally, Commissioner McGonagle confirmed that any proposals or revisions to policy or ordinances would be reviewed by the Law Department. Councilor Laredo motioned to hold the item which carried 6-0.

Referred to Programs & Services and Public Facilities Committees

#141-15 Discussion on tracking and improving the condition of the gas utility infrastructure
ALD. BROUSAL-GLASER, SANGIOLO, HESS-MAHAN, COTE, NORTON AND ALBRIGHT
requesting a discussion with the Director of Urban Forestry, a representative of the Department of Public Works and a representative of the Law Department about tracking and improving the condition of the gas utility infrastructure in Newton, new state statutes governing infrastructure repairs, coordination of increased repair work with city operations, the status of negotiations with National Grid to compensate for tree deaths resulting from gas leaks, and the possibility of creating a utilities working group to monitor progress on these and related issues. [05/26/15 @ 2:52 PM]

Chair's Note: *The intended focus of this discussion is the Department of Public Utilities' Rulemaking comment period. Please review carefully the legislation and Attorney Mandl's summary memo which we'll use to organize this discussion*

Action: Public Facilities Held 6-0 (Gentile not voting)

Note: The Committee has identified the importance of influencing how the regulations relating to gas utility infrastructure maintenance under DPU are promulgated. The state regulations are

currently lacking in this matter. Attorney Mandl suggested that it would be most impactful to have feedback in time for July 5, 2016. He also noted the importance of feedback from all affected departments. Attorney Mandl reviewed his memo to the Committee providing thoughts on the DPU legislature.

The Committee determined that the most effective way to send feedback during the lawmaking period would be to send a collaborative letter written by Attorney Mandl incorporating the feedback from the Committee and articulating the needs of city departments from the City Council President, Public Facilities Committee Chair and the Mayor. Additions and revisions can be submitted as an attachment with explanations of why they should be adopted.

Attorney Mandl had concerns with the first draft of the proposed rules including ambiguous and vague descriptions. He stressed the importance of providing feedback that could be included in the rules that provide real guidance to utility companies. Atty. Mandl reviewed some points that the Committee should focus the discussion on. His major concerns included:

Increased accountability on behalf of the utility. Currently, the utilities are not subject to high standards as regulated by the DPU.

Gas utilities having the ability to apply for exceptions from requirements. While there may be times that exceptions are appropriate, utilities should be required to notify the City if an exception has been requested.

A need for municipalities is access to an updated document searchable by community to identify where there are gas leaks. While there is a report that is provided, it is not user friendly and barely legible. The utilities are essentially able to avoid providing this information until the gas leaks are repaired. Utilities should not be charging for unaccounted gas. Holding them to this standard will have repairs done much faster.

Classification or reclassification of gas leaks. The Committee discussed the difference in current classifications. Grade 1 gas leaks include imminent threats to people or property. These gas leaks are fixed immediately. Trees are not currently considered property under this classification. Should there be additional pressure to include trees as property and consequently increase the number of Grade 1 gas leaks, the volume and prioritization could become impractical. Grade 2 gas leaks allow the utility 12 months to fix the leak at which point the tree could be irreparably damaged. Grade 3 gas leaks are the lowest priority and can be ignored provided they do not worsen. Committee members discussed the reclassification of Grade 3 leaks. It was stressed that these timelines have to be adjusted for the gas leaks so they appropriately address damage and safety concerns. Another suggestion was to have the utilities pay for the tree damage/death. Atty. Mandl stated that the legislature pertaining to tree deaths under this piece of legislature may not be applicable. While Committee members agreed, the consensus was to include the information and suggestion to hold utilities accountable for tree deaths by gas leaks and allow the DPU to make a determination.

The legislature noted that the gas companies should have to prioritize fixing gas leaks in school zones. Atty. Mandl suggested that the legislature should define prioritize in this context.

Atty. Mandl confirmed that he will draft the letter for the June 22, 2016 Public Facilities meeting with input from Mark Welch and Commissioner McGonagle. Councilor Laredo motioned to hold the item which carried unanimously.

#213-16 Funding for design and site plan approval for the Cabot School Project

HIS HONOR THE MAYOR, requesting authorization to appropriate four hundred thousand dollars (\$400,000) from bonded indebtedness for the purpose of funding the completion of the schematic design and site plan approval for the Cabot School Project.
[06/06/16 @ 1:54 PM]

Action: Public Facilities Held 6-0 (Gentile not voting)

Note: After design and review of a different site plan for Cabot School, there was a unanimous vote to continue with the original site plan. The appropriation is to fund expenses associated with the continued design of the project. Commissioner Morse reviewed the breakdown of funds as provided to the Committee. \$200,000 will be for continued design, \$100,000 for management of the project, \$50,000 for environmental and site costs and \$50,000 will be for other various costs including traffic analysis and landscaping. He noted the importance of landscaping and analysis of environmental factors. Commissioner Morse anticipates that site plan approval will be ready prior to fall. Because there was a four week delay due to the review of secondary plans, the Committee questioned how this would impact the cost and schedule of the project. Mr. Morse stated that the funds for the delay, which was early on in the design, were covered by the initial million dollars approved for design and the delay would not affect the contingency. Mr. Morse also stated that he is billed monthly for the work completed and has not yet been billed for this phase of design. He did mention however that unlike other school projects including Angier & Zervas, there has been a significant amount of community feedback for the Cabot school, which has contributed to an increase in the amount of time required for each step. He anticipates that subsequent phases may similarly take longer than expected and could impact the cost and timeline.

It was requested that for the Finance Committee, Commissioner Morse provide detailed expenditures to date for the Cabot School project. It was suggested that Committee members email questions about Cabot school expenditures to Commissioner Morse for the Finance Committee meeting. Councilor Lennon motioned for approval which carried 6-0 (Gentile not voting).

Respectfully Submitted,

Deborah J. Crossley

City of Newton



DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE COMMISSIONER

1000 Commonwealth Avenue
Newton Centre, MA 02459-1449

Setti D. Warren
Mayor

April 25, 2016

To: Public Facilities Committee

From: James McGonagle, Commissioner of Public Works

Subject: # 12 Old Farm Road, Petition for Grant of Location, National Grid Gas Main

Discussion:

National Grid submitted a petition for installation of a new gas main in Old Farm Road, for gas service to #12 Old Farm Road, in the fall of 2015. Old Farm Road currently has no gas main or gas service. Old Farm Road had undergone major construction in the 2011-2012 construction seasons, with installation of a new water main, major sewer and drain repairs, and full depth reconstruction and paving of the roadway surface.

Public Works had recommended denial of the petition at that time, due to three major issues:

- 1) The 5 year roadway moratorium was still in effect. This proposed gas main installation is not a small trench perpendicular to the roadway, but a 200 linear foot trench within the roadway. Cutting into a roadway paved less than 5 years ago by a contractor hired by National Grid is not permitted on a newly paved roadway.
- 2) The compaction techniques of National Grid and their contractors may or may not meet the construction standards of the city, and Engineering Division had no in-house means to measure compaction density.
- 3) Engineering Division did not have a full time construction inspector assigned to monitor the backfill and compaction efforts of National Grid or the other utility companies or their contractors.

Public Facilities Committee denied the petition.

Since that time, Public Works and Engineering Division have been in discussions with the developer of #12 Old Farm Road, to see if an engineering compromise could be reached. The above concerns are addressed as follows:

- 1) Although the five year moratorium is in effect through the spring of 2017, if the work can be performed soon the developer has agreed to additional conditions. The developer at #12 Old Farm Road has agreed to cold-plane (mill) and overlay (with asphalt) the entire roadway surface for the length of the new gas trench, from the connection in Brookline Street to #12 Old Farm Road, plus 25 feet beyond the trench in Brookline Street and 25 feet beyond the trench in Old Farm Road. See sketch attached. It is in the developer's interest for National Grid to properly

compact the trench. This gives the city essentially a new roadway in this area of work. Should the trench in the new roadway settle (and it should not if properly compacted), the developer would be required to return and repair the roadway within one year of paving.

The advantage of this condition is that the entire roadway surface gets new pavement, where as if the developer returned in 2017, with the moratorium over, only the gas trench area (say 3 feet wide) would be required under our current policy to receive a permanent patch of bituminous concrete.

2) A soil densitometer has been purchased by engineering division, and has been delivered. The soil densitometer allows the city construction inspector to test and verify the soil density of the trench, so there can be no question as to the proper soil compaction of the backfill material. Engineering division is currently using the soil densitometer in the field. It would be used to check the compaction density in Old Farm Rd.

3) A new construction inspector position has been added to the engineering division staff (filling a vacant position in Highway Division). The inspector was hired in February 2016. The inspector's duties, among many, include inspection of National Grid's (and all other utilities) trench backfill operations throughout the city, and ensuring that the trenches are backfilled and compacted to city specifications.

After much discussion, we feel that both the extent of repaving as well as the departments ability to properly inspect the work and ensure quality control provides a reasonable engineering compromise to the petitioner's request.

Alternatively, if the petition is again denied, the 5 year moratorium expires in the spring of 2017. At that time, National Grid may again petition for a grant of location for the new gas main, and we would recommend that the petition be granted, and only the area of the trench would be required to be repaired and paved, not the entire roadway surface.

This is a change to the policy in year 5 of the moratorium, with conditions attached to improve our city streets. We have no intention of revising the policy, and we do adhere to the policy on a regular basis.

Sincerely,

James McGonagle
Commissioner Public Works



