

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC FACILITIES COMMITTEE REPORT

WEDNESDAY, MARCH 21, 2012

Present: Ald. Salvucci (Chairman), Lennon, Albright, Gentile, Crossley, Danberg, Laredo, and Lappin

Also present: Ald. Linsky

City staff: Lou Taverna (City Engineer) and David Turocy (Commissioner of Public Works)

#61-12            NSTAR ELECTRIC COMPANY petitioning for a grant of location to relocate and replace Pole #3/8 on the southwesterly side of ADAMS AVENUE approximately 40' ± southeast of Milton Street. (Ward 3) [02/27/12 @ 11:04 AM]

**ACTION:**        **APPROVED 4-0 (Lennon, Gentile, Danberg, Laredo not voting)**

**NOTE:**            Maureen Carroll presented the request for a grant of location to install a new pole in Adams Avenue in West Newton. NStar will be removing an existing pole located close to the driveway of 83 Adams Avenue. The property owner has requested that the pole be relocated, as it is difficult to enter and exit the driveway. The new pole will be located between the driveways at 73 and 83 Adams Avenue, which will improve driveway access at 83 Adams Avenue and will not impede driveway access at 73 Adams Avenue.

The public hearing was opened and no one spoke for or against the petition. After the close of the public hearing, Ald. Albright moved approval, which carried unanimously.

#13-12            ALD. ALBRIGHT, LINSKY AND JOHNSON requesting discussion with the appropriate utilities and City departments regarding the prolonged construction on Walnut Street during the Fall of 2011, which caused tremendous loss of revenue for Newtonville businesses. [12/13/11 @ 12:13 PM]

**ACTION:**        **NO ACTION NECESSARY 8-0**

**NOTE:**            Ald. Linsky informed the Committee that this item was docketed because of complaints from numerous business owners in Newtonville Square regarding the National Grid Project on Walnut Street in Newtonville this past summer and fall. The attached e-mail was received by Ald. Linsky from one of the businesses. The business owners were very upset with the loss of revenue due to lack of parking in front of the stores and the inability of potential customers to access their stores. In addition, the project was delayed by two to three weeks prolonging the problems with access to the stores. The Ward Two Aldermen felt that it would be appropriate to discuss the project with National Grid and perhaps propose some changes to the way business owners and residents are informed of these types of projects by utility companies.

Victor Santana, National Grid Community and Customer Management Manager, reviewed the project with the Committee. National Grid replaced approximately 1,700' of cast iron pipe that was installed in the early 1900s with plastic pipe to improve safety. A portion of this project encompassed the Newtonville Square area. National Grid did walk the area and reached out to business prior to the project and several times during the project. Mr. Santana stated that National Grid did receive complaints regarding a sidewalk closure and responded by speaking with their contractor. The closure was a result of a miscommunication with the contractor and Mr. Santana stated that the sidewalk was reopened a few hours after it had been closed.

National Grid also responded to complaints regarding the parking along Walnut Street. National Grid worked to allow for more parking along Walnut Street in front of the businesses. Mr. Santana pointed out that National Grid must file with and receive approval of a traffic management plan from the Newton Police Department. National Grid must follow any stipulations that the Police Department deem necessary. Mr. Santana added that he believed National Grid did fail in communicating with the businesses regarding the change in the length of the project.

National Grid met with the Engineering Division regarding the project. However, the Engineering Division does not get involved in the means and methods of construction of the utility companies. However, the Engineering Division is responsible for protecting the public way and ensuring that any street and/or sidewalk is restored correctly and paved. The Engineering Division issues a street opening permit with conditions regarding restoration of the street. It also inspects the project on a regular basis to ensure that the company doing the project is abiding by the conditions of the street opening permit.

Donna Soodalter-Toman, 56 Helene Road, stated that she owns Diva Jewelry Store in Newtonville and that no one from National Grid spoke with her concerning the project. She stated that the sidewalks and crosswalks were blocked by the project. The National Grid project was done during prime business hours including Saturday, which cost shop owners a significant loss of business. The gas meter for her store was shut off for what was supposed to be a few hours during the project. The gas meter for Diva is located in the rear of the basement of the laundromat and the gas company neglected to turn it back on when they turned all of the other meters back on. Ms. Soodalter-Toman was unaware that the gas was not on until the weather was cold enough to require that the store be heated. When she called National Grid to inform them that there was no heat, she was told that the meter was on and she should call a plumber. Ms. Soodalter-Toman explained that she did hire a plumber, who determined that gas service was not being provided. Ms. Soodalter-Toman again called the gas company and her heat was turned on but it cost her over \$300 for the plumber. Mr. Santana stated that he would follow-up with Ms. Soodalter-Toman regarding a reimbursement for the plumber.

Committee members suggested that language be added to the street opening permit regarding providing continual information to properties abutting large projects. It may also be helpful if a sandwich board with contact information is provided at the site of a project. City Engineer Lou Taverna stated that it is possible to add that type of language. In addition, many

members felt that there should be a requirement that access to properties should be kept open at all times. The City's current ordinances specify that no person shall obstruct passage on a sidewalk and that if a street or sidewalk is obstructed due to a construction project, a street occupancy permit from the Department of Public Works is required. The ordinances also require that a suitable barrier be installed around the part of the way that is obstructed. The related ordinances are attached. The Committee felt strongly that pedestrian access should always be maintained during construction projects. Mr. Santana explained that National Grid does try to provide contact information to property owners and business owners located in sensitive areas. Mr. Santana did provide business cards to business owners in the Newtonville area and left cards with the contractor in case there was a request for contact information. The businesses were also notified by mail regarding the project. It was suggested that National Grid might want to add language to the envelope containing the notification to ensure that people open it.

Ald. Lappin moved no action necessary on the item, as the requested discussion was completed. The Committee voted in favor of the motion by a vote of eight in favor and none opposed.

*Item recommitted by the Board of Aldermen on March 19, 2012*

**REFERRED TO PUBLIC FACILITIES & FINANCE COMMITTEES**

#89-11 **FINANCE COMMITTEE** recommending that **Sec. 29-72(b) Same— Assessments upon owners of estates passed by new sewers.** of the City of Newton Rev Ordinances, 2007, be amended to increase the fixed uniform rates assessed upon owners of all estates passed by new sewers to rates that more accurately represent the estimated average cost of installing such sewers.

**ACTION:** **APPROVED 8-0**

**NOTE:** The item was recommitted by the Board of Aldermen in order to include further language within the ordinance amendment to exclude estates already connected to the City's sewer system from assessment. The draft ordinance language and a memo providing further detail are attached. Ald. Crossley moved approval, which carried unanimously.

#50-12 **ROBERT CICCETTI**, 44 Oak Street, petitioning for a common sewer to be constructed in OAKDALE ROAD from a sewer manhole in WALNUT HILL ROAD 125' ± easterly through a proposed 20' wide easement in OAKDALE ROAD to a proposed sewer manhole to provide service to a new building on Oakdale Road. [02/13/12 @ 3:57 PM]

**PETITIONER TO PAY ENTIRE COST**

**ACTION:** **HELD 8-0**

**NOTE:** The Chairman explained that the item was previously held in order to get a memo from the Law Department regarding whether the sewer petition can be denied and if there would be any ramifications related to a denial. The Committee received a response from the Law Department in the form of a confidential memo, which loosely states that the Board of Aldermen can deny the petition. However, when making a decision to extend the sewer the Board of Aldermen must consider whether the extension is necessary for the public convenience or public

health. There is a sink located in the garage on the property, which is not connected to any type of sewer or septic system. The Health Department deems that the sink should be connected to a septic system or public sewer to dispose of the wastewater.

The Chairman added that he spoke with the Utilities Division of the Department of Public Works regarding the property. The property owner has been reluctant to allow anyone access to change the water meter. The water usage at the site has also been very low over the past couple of years. There are also curtains in the windows of the garage, which raises the question of whether someone is residing in the garage.

Several Committee members voiced concern regarding granting the sewer extension without getting access to the garage to change the water meter. It was suggested that the City turn off the water to the site until the water meter has been changed.

It was pointed out that the Inspectional Services Department is responsible for zoning enforcement and would be the proper department to notify if there is a question of whether someone is residing in the garage. The Ward Alderman reminded the Committee that at the public hearing several neighbors voiced opposition of the possible development of this site. It was pointed out that the building permit, which was issued for this property to construct a single-family home was rescinded. The property owner will have to petition for a zoning variance to build a single-family home on the site.

Verne Porter, VTP Associates, is the engineer for the project. Mr. Porter has been inside the garage and assured the Committee that there was no one living in the garage. The garage is currently the base of operations for a landscaping company. The site has been a legal commercial garage since 1932. The landscapers wash trucks on the site and the water runoff is running into a dry wall and running down into the street. Mr. Porter added that he does not believe that the petitioner will proceed with the sewer extension if he does not receive a zoning variance for the site.

Ald. Lappin moved hold on the item in order to resolve the water meter situation and determine how to proceed with the petition. The Committee voted unanimously to support the motion of hold.

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

#54-12 ALD. SALVUCCI, BLAZAR AND FULLER requesting the creation of a revolving fund into which 50% of all betterment income shall be deposited to be used exclusively for individual requests for betterments. [02/02/12 @ 10:21 AM]

**ACTION:** **HELD 7-1 (Salvucci opposed)**

**NOTE:** The docketors are proposing the creation of a revolving fund to be used exclusively for betterments requested by property owners. There is currently a betterment revolving fund, which was created for the purpose of funding individual betterments but is being used for betterments done in the course of street reconstruction projects. The proposed revolving fund would be funded with 50% of all income collected from completed betterments. The other

50% of collected income would continue to be used for betterments during road reconstruction projects.

Commissioner of Public Works Dave Turocy explained that the betterment funds are being used in accordance with the law. It is more efficient to do curbing and sidewalk betterments during reconstruction. It also allows the Public Works Department to install curbing during reconstruction without using Chapter 90 funds. The sidewalks are installed at no cost to property owners during reconstruction projects. Commissioner Turocy added that when curbing is installed at individual properties the road becomes compromised due to the breaking of the seam of the roadway resulting in quicker deterioration.

There are over two hundred property owners on the betterment request list. The Public Works Department has not provided any individual betterments for the past ten years. The Public Works Department hoped to address some individual betterments over the past summer but unfortunately was unable to get to any of them before the end of the construction season. The Public Works Department is looking at how to prioritize the betterments and determining the best way to stage betterments. In addition, property owners can opt to hire a private contractor to install new curbing and/or a sidewalk.

Commissioner Turocy would like to pursue individual betterment requests for sidewalk installation. One of the Administration's goals is to make Newton more walkable and additional sidewalks would coincide with the walkability goal. Commissioner Turocy stated that he is willing to work with the Committee to ensure that more betterments that are for individual property owners are done. The Chair stated that he spoke with the Mayor regarding the docket item and the Mayor voiced support of the item.

The Commissioner suggested that the Committee consider raising the betterment assessment threshold from \$500 to somewhere between \$1,500 and \$2,000. If the threshold were raised, it would allow the City to get more money up front for the betterments, which in turn would enable the Public Works Department to get more betterments done.

Several Committee members requested the following information from the Commissioner of Public Works:

- The exact number of people awaiting betterments for sidewalk and/or curbing
- The estimated cost of addressing all requested betterments
- How much money is needed to catch up with sidewalk repair
- The estimated cost of the delayed sidewalk repair
- The linear feet of sidewalk in disrepair and where are they located
- What is the condition of the sidewalks
- Information on the plan for the streets in the near future and how that dovetails with sidewalk repair
- How much does it cost to install curb and repair the sidewalks as a block compared to doing them on an individual basis
- Do other communities offer a betterment program

- Is it possible to offer the betterment program without offering the option to pay for the betterment over 20 years

A motion to hold the item until the requested information is available was approved unanimously.

The Committee adjourned at 8:55 PM. All other items before the Committee were held without discussion

Respectfully submitted,

Anthony J. Salvucci, Chairman

## Sullivan Shawna

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From: Sullivan Shawna <[ssullivan@newtonma.gov](mailto:ssullivan@newtonma.gov)>  
To: @LIST58ED.PML  
Subject: (Fwd) FW: testimony in re: #13-12  
Date sent: Tue, 20 Mar 2012 11:48:45 -0400

----- Forwarded message follows -----

From: "Stephen" <[smlinsky@rcn.com](mailto:smlinsky@rcn.com)>  
To: "Sullivan Shawna" <[ssullivan@newtonma.gov](mailto:ssullivan@newtonma.gov)>  
Copies to: <[susan.albright@tufts.edu](mailto:susan.albright@tufts.edu)>, "Marcia Johnson"  
<[marcia@marciajohnson.org](mailto:marcia@marciajohnson.org)> Subject: FW: testimony in re: #13-12 Date  
sent: Mon, 19 Mar 2012 22:23:17 -0400

From: Down Under Yoga [<mailto:downunder yoga@yahoo.com>]  
Sent: Sunday, March 18, 2012 8:12 AM  
To: [timothydavidstone@gmail.com](mailto:timothydavidstone@gmail.com); Stephen Linsky  
Subject: testimonial

Hi Steve,

Please read at the hearing from Down Under Yoga.

Dear Committee Members,

I wanted to bring to you attention last year's Walnut Street project and the effect it had on small businesses on the street. I run Down Under Yoga, a community yoga studio and we only discovered work was happening when the roar of jack hammers ended a morning mediation class we were running. It would have been nice to have been told or involved. The real problem came when some form of cleaning out operation began (which I later learned can sometimes affect the surrounding sewer systems). We were in class when a noxious foul smelling gas came pouring out of all sinks and toilets and our toilets spilled over with waster matter. The same thing happened to CVS, Get In Shape and the shops either side of us. It was not only dangerous to breath but caused great panic among the staff and students. I wonder if in future there is a way for avoiding such incidents or discussing the possibilities with surrounding businesses since the entire street has to evacuate people, shut doors and there was general chaos. We also had to all pay our own bills for extensive cleaning, none of which was anticipated or our doing.

Warmest wishes,

Justine

----- End of forwarded message -----

Attachments:

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**Sec. 26-13. Excavations near streets.**

No person shall dig a cellar or other cavity in the ground near to or adjoining any street unless he shall erect and maintain a barrier or fence on or near the line of such street, sufficient to protect travelers from falling into the place so dug, or being injured thereby. (Rev. Ords. 1973, § 19-13)

**Sec. 26-14. Obstructing sidewalks generally.**

No person shall place or cause or permit to be placed upon any sidewalk any snow or ice, lumber, iron, coal, trunk, bale, box, crate, cask, package, article or thing whatsoever, so as to obstruct free passage for travelers. (Rev. Ords. 1973, § 19-14)

**Sec. 26-15. Obstructing free passage on sidewalks.**

No person shall willfully or negligently obstruct the free passage of foot travelers upon a sidewalk in any street of the city, or willfully or negligently congregate with others upon a sidewalk or in a street or other public place of the city and obstruct the free passage of foot travelers or vehicles that are rightfully and properly passing thereon. (Rev. Ords. 1973, § 19-15)

**Sec. 26-16. Vehicles on sidewalks; permit fee; bond.**

(a) No person shall park a vehicle upon, obstruct, damage or destroy any sidewalk, berm or curbing.

(b) No person shall drive, wheel or draw any motor vehicle upon or across any sidewalk, berm or curbing except in accordance with a permit issued by the commissioner of public works as provided in subsection (c) or except as follows:

- (1) a motor vehicle which is registered or otherwise authorized to be driven on the public streets may be driven across that portion of sidewalk which constitutes the driveway entrance or apron; or
- (2) as may be required for municipal snow clearance operations.

(c) The commissioner of public works may grant a permit, upon payment of the fee specified in subsection (d), to any person authorizing the crossing or obstruction of a sidewalk, berm or curbing by vehicles where the same may be necessary to the performance of any work on any land, building or structure abutting thereon. All damage to any sidewalk, berm or curbing caused thereby shall be repaired and restored by the commissioner of public works to a condition satisfactory to him at the expense of the holder of such permit, and the commissioner of public works may require, as a condition of the issuance of any such permit, a bond in such amount and in such form and with such surety as may be satisfactory to him for the performance of the requirements thereof and of this section.

(d) The fee for a sidewalk crossing permit shall be as follows:

Application and inspection fee	\$50.00
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(e) Within three business days of the department's receipt of an application for a permit under this section, the commissioner of public works or the commissioner's designee shall inspect the site and make a determination whether to grant such a permit. (Rev. Ords. 1973, § 19-16; Ord. No. 90, 10-6-75; Ord. No. T-161, 7-8-91; Ord. No. V-2, 1-3-95; Ord. No. X-55, 6-16-03)

**Sec. 26-17. Obstructing streets, sidewalks with staging for building, scaffolding, dumpsters, brick, timber, etc.**

No person shall erect any staging for building, or scaffolding, or place or deposit a dumpster in connection with construction, or any stones, bricks, timber or other building materials in any street or on any sidewalk without first obtaining a written street occupancy permit therefor from the commissioner of public works. The fee for said street occupancy permit shall be fifty dollars (\$50.00). All rubbish shall be promptly removed by such person and in case of neglect the commissioner of public works shall cause it to be removed at the expense of such person. (Rev. Ords. 1973, § 19-17; Ord. No. 90, 10-6-75; Ord. No. X-55, 6-16-03)

**Sec. 26-18. Same—Barriers to be maintained; restoration.**

Whenever any street under permission granted pursuant to section 26-17 is obstructed, the person so licensed shall keep a suitable barrier, sufficiently lighted every night, around the part of the street so obstructed. He shall also, within such reasonable time as the commissioner of public works shall direct, mend and repair such street to the satisfaction of the commissioner of public works. (Rev. Ords. 1973, § 19-18; Ord. No. 90, 10-6-75)

**Sec. 26-19. Playing ball, flying kites, throwing missiles in streets.**

No person shall play ball, fly a kite or throw a stone or a snowball or any other missile in any street or upon or from any bridge. (Rev. Ords. 1973, § 19-19)

**Sec. 26-20. Shooting arrows and air guns in streets.**

No person shall shoot with or use a bow and arrow or air gun in a street or upon or from any bridge. (Rev. Ords. 1973, § 19-20)

**Cross reference**—Discharging firearms, § 20-62

**Sec. 26-21. Cleaning carpets in streets.**

No person shall shake or clean a carpet in any street or in any park or public ground. (Rev. Ords. 1973, § 19-21)

**Sec. 26-22. Tables, stalls, etc, for sale of food or merchandise.**

No person shall place or keep any table, stall, booth or other structure in any street or public grounds in the city for the sale of food, fruit, merchandise or other thing, without first obtaining permission from the commissioner of public works. (Rev. Ords. 1973, § 19-22; Ord. No. 90, 10-6-75)

**Cross reference**—Licensing and permits generally, Ch. 17

**Sec. 26-23. Lighting, extinguishing streetlamps.**

No person shall light or extinguish any public lamp in any street or public grounds without authority of the commissioner of public works. (Rev. Ords. 1973, § 19-23; Ord. No. 90, 10-6-75)

**Sec. 26-24. Permitting material to remain upon sidewalks and streets.**

No person shall suffer his fuel, dirt, ashes or other rubbish or any other material to remain on any sidewalk or any street, or in any manner to obstruct any sidewalk or street crossing, without a permit from the commissioner of public works. If so permitted to remain overnight, the owner thereof shall place and keep a sufficient light over or near the same through the night in order to give notice thereof to travelers. (Rev. Ords. 1973, § 19-24; Ord. No. 90, 10-6-75)

**Cross reference**—Licensing and permits generally, Ch. 17

**Sec. 26-25. Permission required for construction of alley, driveway or garage entrance.**



Setti D. Warren  
Mayor

DEPARTMENT OF PUBLIC WORKS  
OFFICE OF THE COMMISSIONER  
1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449

#89-11

March 14, 2012

To: Robert R. Rooney, Chief Operating Officer  
Maureen Lemieux, Chief Financial Officer

From: David F. Turocy, Commissioner of Public Works  
Louis M. Taverna, P.E., City Engineer

Subject: Docket Item 89-11  
Request for Ordinance Change  
Assessments upon owners of estates passed by new sewers  
Lots connected to existing sewer system

Docket item 89-11 refers to a change in the method by which sewer extensions are assessed to abutting properties, making each equal to a single family residence. A question was raised by the Board of Aldermen regarding corner lots, which abut more than one street or way, where the proposed sewer extension passes by one street only, or both streets. The current ordinance language allows for assessments based on length of frontage with an Aldermanic waiver "as deemed just and equitable" as follows:

*"Where such estates abut upon more than one street or way, such assessments shall be assessed upon one such street or way, and upon so much of such other street as is not exempted by the board of aldermen. The board may exempt from assessment so much of the frontage on such other street as it deems just and equitable."*

We propose the following revised ordinance based on the fact it would now be counted as one residential lot, not based on the calculation of length of frontage, and to not charge the owner of the lot more than once when on a corner lot:

*"Estates which are presently connected to city sewers shall not be counted as potential sewer units in the uniform unit method calculation, as in no instance will the owner be charged more than once should a sewer service installation pass by the estate."*

Should you agree with this ordinance change clarification, please forward this to the City Clerk's office for Board of Aldermen consideration. See Law Department's draft board order attached.

Sincerely,

David F. Turocy  
Commissioner

cc: R. Waddick  
attachment

CITY OF NEWTON

IN BOARD OF ALDERMEN

ORDINANCE NO.

BE IT ORDAINED BY THE BOARD OF ALDERMEN  
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby further amended with respect to Chapter 29 Water Sewer and Drains as follows:

In Section 29-72(a), relative to sewer assessments delete the following portion of the second sentence: “The assessment shall be at a fixed uniform rate based upon the estimated average cost of such sewers, both according to the frontage of such estates which is passed by the sewer and according to the area of such estates within a fixed depth of one hundred twenty-five (125) feet from such street or way”

AND insert in place thereof the following provisions:

The assessment shall be made by a uniform unit method which shall be based upon sewerage construction costs divided among the total number of existing and potential sewer units to be served, after having proportioned the cost of special and general benefit facilities. Each sewer unit shall be equal to a single-family residence. Potential sewer units shall be calculated on the basis of zoning then in effect. Existing and potential multi-family, commercial, industrial, and semipublic uses shall be converted into sewer units on the basis of residential equivalents

AND in Section 29-72(a), delete, in their entirety, the third and fourth sentences which provide as follows:

“Where such estates abut upon more than one street or way, such assessments shall be assessed upon one such street or way, and upon so much of such other street as is not exempted by the board of aldermen. The board may exempt from assessment so much of the frontage on such other street as it deems just and equitable.”

AND insert in place thereof, the following provision:

Estates which are presently connected to city sewers shall not be counted as existing or potential sewer units in the uniform unit method calculation.

AND delete in its entirety Section 29-72(b) which provides the following:

“(b) The fixed uniform rate to be assessed upon estates is established at one dollar (\$1.00) upon each foot of frontage on any street or way where a sewer is constructed, and twenty-five cents

(\$ .25) upon each square foot of area within a fixed depth of one hundred twenty-five (125) feet from such street or way, the same having been so found and determined.”

AND change the heading of Section 29-72 “(c)” to “(b).”