

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC FACILITIES COMMITTEE REPORT

WEDNESDAY, APRIL 18, 2012

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

Absent: Ald. Gentile and Crossley

Also present: Ald. Fuller

City officials present: David Turocy (Commissioner of Public Works), Lou Taverna (City Engineer), Maria Rose (Environmental Engineer), Ouida Young (Associate City Solicitor), Stephanie Gilman (Public Buildings Commissioner), and Maciej Konieczny (Project Manager, Public Buildings Department)

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#105-12 **HIS HONOR THE MAYOR** requesting authorization to appropriate the sum of one hundred seventy thousand dollars (\$170,000) from the stormwater reserve account for the purpose removing sediment from the three basins of the City Hall ponds. [04-09-12 @ 3:39 PM]

ACTION: **APPROVED 3-0-1 (Lappin abstaining, Danberg, Lennon not voting)**

NOTE: The above item is a request to appropriate \$170,000 to fund a portion of the cost of removal of sediment from the City Hall ponds. The estimated cost of the project is \$320,000 and it is listed in the Fiscal Year 2013 Capital Improvement Plan as a priority. Commissioner of Public Works David Turocy explained that he plans to fund the remainder of the cost of project through the Fiscal Year 2012 Stormwater Operating Budget.

The project will restore the hydraulic capacity of the ponds and mitigate stormwater impacts. The sediments that will be removed from the ponds are mostly the result of road runoff composed of sand and silt. The ponds are fed through two inlets known as the Hammond Brook and Cold Springs Brook culverts, which discharge stormwater that contains sediment into the ponds. The sediment removal plan includes removal of sediment from the two culverts. When stormwater capacity is compromised in the ponds, it could result in flooding in the areas of Homer Street, City Hall grounds, and the library parking lot. The ponds discharge into Bullough's Pond through a culvert under Commonwealth Avenue. If the sediments are not removed from the City Hall ponds, the sediments will eventually compromise Bullough's Pond.

The City has obtained all of the necessary permits for the sediment removal project. The sediment in the ponds has been tested and it has been determined that is suitable for reuse at Massachusetts Department of Environmental Program approved landfills after removal from the ponds. The plan is to send the project out to bid in the summer and begin the construction work in the late fall or early winter. The project is expected to take between one and two months to complete.

The Department of Public Works has developed an Operations and Maintenance Plan to inspect and monitor the ponds on a regular basis. When the sediment in the first pond, which is a

sacrificial pond, reaches a certain depth the sediment from that pond will be removed. By doing sediment removal in the first pond on a regular basis, it will make the need to do sediment removal in the other two ponds less frequent.

There is currently \$364,000 in the City's Stormwater Reserve Account. The \$170,000 designated to the sediment removal project will bring the reserves down to \$194,000. According to the City's reserves policy, the stormwater account should maintain at least a balance of \$125,000.

The Aldermen requested that the following information be provided to the Finance Committee:

- Rough draft of a ten to fifteen year operations and maintenance plan for the ponds
- The costs associated with the maintenance of the ponds
- A cost breakdown of the project
- Summary of the Stormwater Reserves

The Commissioner agreed to provide the requested information to the Board of Aldermen before the Finance Committee meeting.

The Committee also discussed the steel storm gate that is used during heavy rainstorms to release water from the City Hall ponds to Bullough's Pond. The gate is broken but not to the point where it is inoperable. The Public Works Department would like to replace the gate but it is not currently a priority. The Committee requested that the Commissioner of Public Works provide cost estimates for the gate replacement.

Ald. Albright moved approval, which carried by a vote of three in favor and one abstention. Ald. Lappin abstained until she has an opportunity to review the requested information.

#97-12 PUBLIC BUILDINGS COMMISSIONER recommending that **Article III. Designer Selection Committee, Sec. 5-35 Established; purpose.** of the City of Newton Rev Ordinances, 2007, be amended to clarify the role of the Designer Selection Committee and to permit alternative methods to secure design services when required to use such methods by state or federal law or regulation. [04-09-12 @ 3:41 PM]

ACTION: **APPROVED 6-0**

NOTE: Associate City Solicitor Ouida Young presented the request for amendments to the ordinance related to the designer selection process. The amendments will bring the ordinance language into conformance with the approach the City is already taking. A memorandum providing details on the proposed amendments is attached.

The first change will clarify the role of the Designer Selection Committee in terms of the City Charter and the State statutes dealing with design services. The second change will allow

the City to use an alternative designer selection process when a state or federal regulation requires the City to procure designer services in a different manner, as is the case with securing funds for the Angier Project from the Massachusetts State Building Authority.

The third change relates to clarifying that the Designer Selection Committees oversees the selection of design professionals involved in public construction and maintenance as provided in Massachusetts General Law Chapter 7, Section 38K.

The fourth change states that the Public Buildings Commissioner can consult with the Designer Selection Committee regarding design services contracts or procurement that is not contained in the ordinances.

The City's 5-58 Working Group has reviewed the language and agreed with the proposed amendments. Ald. Lappin moved approval of the amendments, which carried unanimously.

Clerk's Note: A revised draft Board Order, which is attached, was submitted on April 25, 2012. The revision creates a gender neutral ordinance amendment.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#113-12 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of three hundred thousand dollars (\$300,000) from bonded indebtedness for the purpose of funding Phase I (evaluation, hazardous material testing, code review, and schematic design) of the Carr School renovations. [04-09-12 @ 3:39 PM]

ACTION: **APPROVED 6-0**

NOTE: The item is a request for funds to complete the feasibility study, begin hazardous material testing, code review, and accessibility compliance review for the Carr School. The Carr School will be used for swing space during elementary school renovation projects beginning with the Angier Elementary School. The Carr School is expected to be used for swing space over the next 15 or 20 years. In order to use the Carr School, many renovation projects need to be completed including masonry work, sprinklers, mechanical, electrical, and plumbing updates, accessibility upgrades throughout the building, and installation of an elevator. The installation of the elevator may require design review if it is necessary to go outside the footprint of the existing building.

The Public Buildings Department is looking at all the options for the use of space within the Carr School but there is enough space to house the Angier Elementary School. They are still determining the best use of space including where to locate the cafeteria. There are a few options in terms of space that can be converted to cafeteria space within the existing building.

The cost range for the project is between \$8 and \$10 million. The request for \$300,000 is based on the estimated range of cost and it is expected that it is enough to complete the study, testing, and code reviews. After the feasibility study and code reviews are complete, the cost estimate for the renovations will be refined. The Designer Selection Committee is in the process of selecting a designer and is likely to make a recommendation on April 24, 2012. The contract

with the designer should be signed shortly thereafter. A rough timeline for the renovation was provided; however, the Committee requested a more detailed timeline for the Finance Committee meeting on April 23, 2012,

Ald. Lennon suggested that the Public Buildings Department provide a monthly budget summary for each capital project in process. Commissioner of Public Buildings Stephanie Gilman agreed to provide the budget summaries. Ald. Albright moved approval, which carried unanimously.

REFERRED TO PROG & SERV, PUBLIC FACIL. AND FINANCE COMMITTEES

#367-10 HIS HONOR THE MAYOR requesting authorization to appropriate an amount not to exceed five million dollars (\$5,000,000) from bonded indebtedness for the following:

- (B) installation of up to six modular classrooms at five elementary schools as well as the addition of permanent classrooms and renovations to the core of F.A. Day Middle School. [11/29/10 @ 3:23 PM]
- (A) \$75,000 for site plan work for 1 modular at Horace Mann, 2 at Zervas, and 1 at Burr was approved on December 20, 2010.
- (B1) \$923,375 for installation of 4 modulars was approved on July 11, 2011
- (B2A) \$86,545 for additional expenses related to the construction and installation of modular was approved on November 21, 2011.
- (B2B) \$102,117 for design of sprinkler systems at three elementary schools was approved on November 21, 2011.
- (B2C) Six hundred forty-three thousand five hundred dollars (\$643,500) of the remaining \$3,812,963 for the design and other related expenses associated with the building renovations to F.A. Day Middle School was approved on December 19, 2011.
- (B2D) One million four hundred seventy-four thousand one hundred ninety-four dollars (\$1,474,194) of the remaining \$3,169,463 for the purpose of funding construction, construction administration and related expenses for the sprinkler system installations at the Burr, Zervas, and Horace-Mann Elementary Schools to be voted 03/05/12.

#367-10(B2) – \$ 1,695,269 (remaining balance) for renovations to the core of F.A. Day Middle School and sprinkler systems.

ACTION: **NO ACTION NECESSARY 6-0**

NOTE: Docket Item #367-10(B2) is no longer necessary as the Mayor has submitted a new request (Docket Item #115-12) for additional funds for the construction of Day Middle School. Therefore, a motion for no action necessary was made and approved unanimously.

All other items before the Committee were held without discussion.

Respectfully submitted,

Anthony J. Salvucci, Chairman

CITY OF NEWTON
LAW DEPARTMENT
INTEROFFICE MEMORANDUM

DATE: April 13, 2012

TO: Ald. Salvucci, Chairman, Public Facilities Committee
Members, Public Facilities Committee

FROM: Ouida C.M. Young, Associate City Solicitor

RE: Proposed Revisions to Sec. 5-35
Designer Selection Committee
Docket #97-12



The Public Buildings Commissioner is requesting that Section 5-35 which sets out the jurisdiction of the Designer Selection Committee ("DSC") be amended to clarify the role the DSC plays pursuant to the City Charter and state statutes dealing with the procurement of design services. The proposed amendment will also allow the City to use an alternative designer selection process in any case where a state or federal statute or regulation requires procurement of design services in a manner inconsistent with Section 5-35. The City is facing that specific situation with regard to the City's efforts to secure funding for the Angier Elementary School renovation from the Massachusetts School Building Authority ("MSBA"). A copy of the proposed amendment is attached to this memorandum.

As this committee understands, section 11-8 of the City Charter requires that the City establish a designer selection committee by ordinance and that such ordinance provide "... that the designer selection committee shall be consulted and directed to make recommendations whenever an architect is to be engaged by the City for any purpose."

While the phrase "for any purpose" is extremely broad, the "purpose" should be one that is related to the professional qualifications and training of an architect.¹ The draft amendment would clarify that the DSC oversees the selection of architects for "any purpose involving construction, alteration, repair or maintenance of a public building... ." Please note that there is no dollar threshold under the Charter, so the DSC oversees the hiring of architects for even modest public buildings projects.

¹ One would not seriously expect to involve the Designer Selection Committee if an architect was hired to drive a snow plow.

Architects are not, however, the only design professionals involved in the construction or maintenance of public buildings. In addition to the requirements of the Charter, the City must also follow state law when procuring design services. Specifically, Chapter 579 of the Acts of 1980 required municipalities to procure design services in connection with any public building project estimated to cost more than \$100,000 through a qualification based selection process. See G.L. c. 7, sec. 38K.

The term "design services" is defined in G.L. c. 7, sec. 38A ½ to include services provided by designers (architects or engineers), programmers, and construction managers in connection with numerous public building activities ranging from the preparation of master plans, soil tests, and cost estimates, to the development of plans and specifications, and finally, to the administration of a construction contract or construction management.

In practice, the DSC has also overseen the procurement process for design contracts as required by G.L. c. 7, sec. 38K, which includes the selection of architects as required by the City Charter. The proposed amendment would clearly give the DSC jurisdiction over the procurement of design services as required by G.L. c. 7, sec. 38K.

The most important proposed amendment, however, concerns instances in which the City's designer selection procedure would conflict with a state or federal requirement pertaining to the procurement of design services. When the MSBA was established to handle state funding for school construction, the state's designer selection process for municipalities was amended to exempt MSBA projects from the provisions of G.L. c. 7, sec. 38K. Instead, the MSBA selects a local municipality's school designer, with input from the community.

Accordingly, to eliminate the conflict between our City procedures for the selection of architects, and the MSBA requirements, the Law Department has drafted a revision to sec. 5-35 that would authorize the City to follow an alternate selection process if required to do so by state or federal law. As noted above, the need for this change is being driven by the Angier Elementary School renovation project.

Finally, the proposed amendment would also expressly authorize the Public Buildings Commissioner to consult with the DSC with regard to the selection of design services not subject to the DSC's jurisdiction, i.e., selection of a mechanical engineer for a project expected to cost less than \$100,000.

Article III. Designer selection Committee

Sec. 5-35. Established; purpose.

A designer selection committee is hereby established to make recommendations to the mayor whenever an architect is to be engaged by the city for any purpose [involving construction, alteration, repair or maintenance of a public building](#), and the mayor shall consult with this committee and shall select said architect from these recommendations. At least three (3) recommendations shall be offered and the mayor may request three (3) additional recommendations. ~~from which he shall make his selection.~~ [The designer selection committee shall also oversee the selection process for design services contracts subject to the provisions of section 38K of chapter 7 of the General Laws. The designer selection committee shall not oversee the selection process for design services contracts in any instance where an alternative procurement process inconsistent with this section is prescribed by state or federal laws or regulations.](#)

[The public buildings commissioner may consult with the designer selection committee regarding procurement of any design services contract not otherwise required to be overseen by the committee pursuant to the provisions of this section.](#) (Rev. Ords. 1973, §2-346)