

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC FACILITIES COMMITTEE REPORT

WEDNESDAY, DECEMBER 8, 2010

Present: Ald. Schnipper, Albright, Gentile, Crossley, Danberg, and Lappin

Absent: Ald. Lennon and Salvucci

Also present: Ald. Baker, Blazar, Ciccone, Fischman, Fuller, Harney, Hess-Mahan, Johnson, Linsky, Merrill, Shapiro, Swiston, and Yates

City personnel present: Marie Lawlor (Assistant City Solicitor), Robert DeRubeis (Commissioner of Parks and Recreation), Captain Howard Mintz (Police Department), Robert Rooney (Chief Operating Officer), Thomas Daley (Commissioner of Public Works), David Turocy (Deputy Commissioner of Public Works), Jayne Colino (Director of Senior Services), Stephanie Kane Gilman (Commissioner of Public Buildings), Arthur Cabral (Budget and Projects Specialist; Public Buildings Department), Dr. David Fleishman (Superintendent of Schools), Sandra Guryan (Assistant Superintendent of Business and Finance; School Department), Michael Cronin (Director of Operations; School Department), Heidi Black (Administrator of High School Construction and Strategic Planning; School Department), Joseph Russo (Assistant Superintendent for Elementary Education), Claire Sokoloff (School Committee), Reenie Murphy (School Committee), Kurt Kusiak (School Committee), Jonathan Yeo (School Committee), Susan Rosenbaum (School Committee), and Margie Ross Decter (School Committee)

**REFERRED TO PS&T, PUB. FACIL. AND FINANCE COMMITTEES**

#310-10 ALD. DANBERG, ALBRIGHT, BAKER, BLAZAR, CROSSLEY, FISCHMAN, FREEDMAN, HESS-MAHAN, JOHNSON, LINSKY, MERRILL, RICE AND SCHNIPPER requesting that §26-8 and §20-21 of the City of Newton Rev. Ords., 2007, be amended to establish criteria and provisions for requiring removal of snow in all districts by property owners, occupants, and property managers to sidewalks abutting their property and to review and amend enforcement provisions including structure of fines, for snow removal violations. [10/25/10 @ 4:39 PM]

**PUBLIC SAFETY & TRANSPORTATION HELD 7-0 on 12/08/10**

**ACTION: HELD 6-0**

**NOTE:** The Public Safety and Transportation Committee met jointly with the Public Facilities Committee to discuss the item. The Committees previously met on November 17, 2010 to hold a public hearing and initial discussion on the item. The item was held at that time to give Aldermen an opportunity to submit questions to the administration and to review language provided at the meeting for a three-year trial of the ordinance. The responses to the submitted questions were attached to the Committee agenda. Also included with the agenda was draft language for a snow removal program with a two-year sunset clause.

Ald. Danberg reiterated her statements regarding the necessity of the City implementing a snow shoveling ordinance. It would make the City more walkable and much safer for people who have no choice but to walk. Everyone should be able to navigate the sidewalks within the city. The City does not have the funds or the work force to shovel all of the City's sidewalks. She proposed a snow shoveling trial ordinance.

Chief Operating Officer Robert Rooney provided the attached draft ordinance and information pertaining to the proposed trial. The trial ordinance would not impose fines in the first year. The City would use education and outreach during the first year. For further details on the proposed trial, refer to the attachments. Mr. Rooney added that all sidewalks that abut public property would be cleared this winter whether or not the proposed ordinance is approved. The City and the city's plowing contractors will not pile snow on corners, as well. The plowing contracts now institute a fine of \$500 if the contractor piles snow on a corner.

Questions remained about the requirement that residents clear the sidewalk to a width of 48". Mr. Rooney explained that the width requirement is 48" to support the Americans with Disabilities Act. However, if the sidewalk is not 48" wide, it is only necessary to shovel the width of the sidewalk. Mr. Rooney also pointed out that if there is not a paved sidewalk in front of a property there is no requirement to clear. Ald. Ciccone provided the attached photos of streets where there are both paved sidewalk and grass sidewalks. It seems to defeat the purpose of the proposed ordinance, if people are still forced to walk in the street on some streets. There are approximately 70 miles of unpaved sidewalk in the City. The Snow Committee will continue to look at how to rectify that situation.

The City will also assist people who cannot shovel and cannot afford to pay someone to shovel to contact a volunteer. The list of volunteer shovelers has grown from ten to between fifteen and twenty volunteers. Ald. Merrill stated that there are a number of senior citizens, who live in the City on a fixed income that are not physically capable of shoveling, He has tried to call the volunteers and gotten no response. There are never enough people actually willing to shovel when the time comes. Ald. Harney has gotten a number of phone calls and e-mails and the majority of them have not been supportive of a shoveling ordinance. It is a problem that there are no exemptions for residents and that the list of volunteers is very small. Mr. Alan Kovacs, 257 Dedham Street, submitted the attached draft ordinance with language provided for exemptions. Ald. Johnson added that there is a significant need for an education program. There needs to be some thought given on how to get neighbors involved with helping their neighbors that cannot shovel.

Most of the communications that have been received are opposed to the fine and the 24-hour clearing requirement. It would be good to look at the possibility of a graduating fine structure and the possibility of extending the time requirement. Ald. Albright proposed extending the time requirement to either 36 hours or 48 hours.

Ald. Gentile has spoken with three contractors who provide shoveling services regarding the cost. The contractors' prices ranged from \$.50 to \$1 per foot plus the cost of ice melt. Therefore, if a resident has 100' of frontage, it will cost between \$50 and \$100 to clear it, which could be a real hardship for a property owner. Further information regarding whether it is possible for the City to clear the streets for a fee is needed.

Many members of both Committees were concerned about the liability issue related to slip and falls on City sidewalks. Assistant City Solicitor Marie Lawlor explained that the liability issue will remain unclear until there is litigation to establish liability. However, other cities and towns have a snow shoveling requirement and liability has never been an issue.

The Committees discussed the enforcement of the ordinance and asked what the cost implications are to the City. There are costs related to implementing the ordinance such as impact bargaining if the Parking Control Officers provide enforcement, software upgrades, and equipment upgrades. The cost to the City has not yet been determined. Several Aldermen felt that it was important to have that information before acting on the proposal. Ald. Gentile would like the information before the item is discussed in the Finance Committee.

Several Aldermen pointed out that there are ordinances in place related to dumping snow that are not enforced. It would be helpful if the City focused on aggressively enforcing the existing snow ordinances.

As there were many unanswered questions and proposed amendments to the draft ordinance both Committees opted to hold the item for further discussion.

**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:

- (A) seventy-five thousand dollars (\$75,000) for site plan design work for modular classrooms at Horace Mann, Zervas, and Countryside Elementary Schools
- (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]

**PROGRAMS & SERVICES APPROVED AS AMENDED 6-0 on 12/08/10**

**ACTION: APPROVED AS AMENDED 6-0**

**NOTE:** The Committee met jointly with the Programs and Services Committee to discuss Part A of the docket item, which is a request for \$75,000 for site-plan design work for modular classrooms at Horace Mann, Zervas, and Countryside Elementary Schools. Significant backup information was attached to the agenda related to the request that included a cost breakdown of the modular classroom site-plans designs, information on long and short-range facilities planning, projected enrollment figures for upcoming years, and the F.A. Day Middle School Space Needs Study.

Ald. Schnipper pointed out that the site-plan designs for the Mason Rice and Burr Elementary Schools that were completed in 2008 need to be reviewed to ensure that no changes need to be made to the plans to comply with any changes in the law or State building code. She would suggest amending Part A to include review of the Mason Rice and Burr School site plan designs. Members of both Committees were in agreement with the suggestion. The site plan designs will be done by the City's on-call architect. The Designer Selection Committee is in process of finalizing a Request for Qualifications for an on-call architect and engineer. Once the

architect is selected, work will begin on the plans and the review of the already completed site plans. The plan is to have the modular classrooms installed by the start of the next school year.

There is a relationship between the addition of up to six permanent classrooms at F.A. Day Middle School and the modular classrooms at the elementary schools. The City needs to look at all the components of the plan to address space needs to determine the best direction to move in. The goal is to keep moving on all fronts to address the space needs of the schools.

There are currently three design options for Day Middle School before the School Committee. The School Committee is looking at the most cost-effective design that still meets the needs of the school. The three designs all include additional classroom and cafeteria space and one option includes additional office space. Once an option is chosen, the Design Review Committee will begin working on its review of the schematics and site-plan.

There is some concern that there will not be enough money to install the modular classrooms. It is expected that the Day Middle School alterations will cost approximately \$3.5 million leaving about \$1.5 million for modular classroom. There is concern due to a change in the law that could significantly increase the cost of the projects. The change requires the addition of sprinkler systems in all areas of the building when adding space to a building that is more than 7,500 square feet. All of the elementary schools and Day Middle School are all well over 7,500 square feet; therefore would require sprinkler systems. The City is currently investigating the possibility of requesting extensions of time to install the sprinkler systems, as the City is looking at renovating or rehabilitating several of the elementary schools in the next few years.

The following are questions and statements regarding the projects and overall need for space in several school buildings:

- Is there a possibility that the Carr School can be used for school space? The Carr School needs a significant amount of work before it can be used and the School Department needs it available as swing space during possible elementary school construction.
- Should there be a conversation with the Mass. School Building Authority regarding the new sprinkler requirement. Yes
- What testing has been done to ensure that the addition of classrooms at F. A. Day Middle School will result in the need to do asbestos abatement? No testing has taken place but once an option for the school is chosen, testing will take place.
- If the modular classrooms were not attached to the school buildings, would it still be necessary to provide a sprinkler system. The administration is looking at that question.
- Is redistricting an option instead of modular classrooms or as a supplement to the modular classrooms to address space needs? The possibility of redistricting cannot be taken off the table but there are only two elementary schools with any space.

Ald. Gentile moved approval as amended to include review of the Burr and Mason Rice Elementary School site plan designs in Public Facilities and Ald. Hess-Mahan made the same motion in the Programs and Services Committee. The Public Facilities Committee and the Programs and Service Committee members voted unanimously in favor of the motion.

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

#365-10 **HIS HONOR THE MAYOR** requesting authorization to appropriate and expend the sum of three hundred ninety-five thousand dollars (\$395,000) from the FY 2011 Overlay Surplus Reserve Account for the purpose of funding a Comprehensive Citywide Capital Assessment. [11/29/10 @ 3:23 PM]

**ACTION:** **APPROVED 5-0-1 Gentile abstaining**

**NOTE:** Public Buildings Commissioner Stephanie Kane Gilman presented the request for funds to be used for a comprehensive citywide capital assessment. The funding for the assessment is as follows: \$395,000 from the FY 11 Overlay Surplus Reserve Account, \$100,000 from Community Preservation Act Funds and \$20,000 from Community Development Block Grant (CDBG) Funds. The only part of the request before the Board of Aldermen is the \$395,000. However, the \$100,000 from the Community Preservation Act (CPA) will require Board of Aldermen approval once it has been through the Community Preservation Committee.

The funds will be used to do a facilities study of thirty municipal buildings. The study will include an evaluation or assessment of historical significance, building envelope, accessibility, life safety, structural and mechanical systems, and a life-cycle cost analysis for each building. In addition, there will be a remediation plan with cost estimates for each of the buildings. The study would result in the creation of a database that has current information on each of the building. The study is a needed tool for the prioritization of capital expenditures and long-range planning. The City has already conducted similar studies on the schools, fire stations, streets, sidewalks and parks. It is hoped that with the completion of this study, all of the various studies can be combined for a complete and comprehensive overview of all of the city's capital needs.

A list of the thirty buildings was attached to the Committee agenda. The Administration came up with list and prioritized it. It is the intent to look at all the buildings but the smaller buildings should require less study. It would be helpful to some Committee members if the rationale for the prioritization choices were provided.

Committee members inquired if Ms. Gilman had submitted a request to the Community Preservation Committee for the \$100,000 in CPA Funds and if the Community Development Block Grant is willing to contribute \$20,000. Ms. Gilman responded that she has consulted with the Community Preservation Committee and they are willing to entertain the request for funds out of cycle. Ms. Gilman will be submitting an application for funds and will meet the Community Preservation Committee on December 15, 2010. The Community Block Grant has committed to providing the \$20,000. Ald. Gentile stated that the Finance Committee would take the item up in conjunction with the docket item for the CPA funds.

Ald. Crossley asked if the work done by the energy service company (ESCO) would be included in the database. Ms. Gilman responded that it is the intent to include the work. Ald. Crossley felt that it was important to understand the relationship between the ESCO work and the building study. The ESCO has addressed all of the simpler fixes but the City may want to delve deeper into other energy saving projects when considering capital projects.

A motion for approval was made, which carried by a vote of five in favor and one abstention. Ald. Gentile abstained as he has reservations about spending money on studies, when that money could be used for a project in a needy building.

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

#311-10 HIS HONOR THE MAYOR requesting an appropriation in the amount of three million three hundred thirty-five thousand dollars (\$3,035,000) from bonded indebtedness for the purpose of funding the FY 2011 Capital Improvement Plan projects as follows:

(A) Architectural Design and Engineering/ Next Scheduled Fire Station	\$400,000
(C) City Hall Windows – Repair/Replacement	\$125,000
(D) Purchase of Heavy Vehicle Equipment – DPW	\$300,000
(E) Newton Public Schools – Roof Repairs	\$810,000
(F) Newton Public Schools – Masonry Repairs	\$450,000
(G) Newton Public Schools – Boiler Replacements	\$350,000
(H) Newton Public Schools – Roof Top & Exhaust Unit Replacements	\$100,000
(I) Newton Public Schools – Window and Door Replacements	\$500,000
<b>TOTAL</b>	<b>\$3,035,000</b>

[11/29/10 @ 3:23 PM]

**#311-10A WAS SPLIT INTO A-1 AND A-2**

**ACTION:** **#311-10A-2 - HELD 6-0 \$270,000 for final design bidding and construction administration for renovation, project management and contingency**  
**#311-10A-1 - APPROVED 6-0 @ \$130,000 for architectural programing, schematic design, site and building testing**

**NOTE:** The Committee only discussed the request for \$400,000 for fire station design and engineering. The Fire Station Subcommittee has been having ongoing discussions on which fire station should be the next to be remodeled. Station #3 has the greatest need but is a part of a possible large-scale project in Newton Centre. In addition, there is some question on the programmatic elements at Station #3 related to a possible emergency response center, whether fire headquarters should be attached to the station, and relocation of the Fire Department's Wire Division to Station #10. The subcommittee determined that the best way to proceed is with a study of programming and schematic design at fire headquarters, Station # 10 and #3 in order to determine which station to renovate. It is expected that the determination should be made within the next three to four months. The request also includes funds for a project manager, testing services and final design bidding and construction administration for renovation of the selected fire station.

The Committee discussed the request with the Public Buildings Commissioner, Stephanie Kane Gilman. Ald. Crossley was concerned that there was not enough money being requested.

Ms. Gilman responded that depending on which station is chosen and what programmatic changes occur there may not be enough for design. Ald. Gentile pointed out that there is also the likelihood of some saving as programming and schematic designs are being done in conjunction. Several Committee members felt that it would be appropriate to know which station was going to be remodeled before approving money for the design of the station. In addition, there is a possibility that more money will be needed for that design.

Ald. Lappin made a motion to split #311-10A into A-1 and A-2, approve A-1 for \$130,000 for architectural programming, schematic design, site, and building testing, and hold the remainder of the requested funds. There was some concern that if the entire amount was not approved it would slow down the design process. Ms. Gilman felt that splitting the item would not delay the timeframe. Ald. Gentile asked that Ms. Gilman provide a timeline to the Finance Committee for the next meeting. With that, the Committee voted unanimously in favor of Ald. Lappin's motion.

#385-07      ALD. SCHNIPPER AND GENTILE updating the Public Facilities Committee on the progress of the Newton North High School Project. [11/21/07 @ 10:23 AM]

**ACTION:**      **HELD 6-0**

**NOTE:**      Ald. Schnipper and Gentile provided the Committee with an update on the demolition of the old high school. At some point in the near future, there will be a request for an amendment to the Board Order to shift additional funds into Phase II (demolition) of the project. There is an issue with asbestos in the exterior wall of the school that is driving up the cost of demolition due to required abatement procedures. The project is still within budget, but some of the savings or contingency money will be needed to address the asbestos abatement.

The construction team is in the process of determining what method of abatement is most cost-effective and safest. The asbestos abatement will cause a delay in the scheduled demolition, but it is imperative that the asbestos is abated by the safest process for the community. The Newton North Liaison Committee has been made aware of the asbestos issues and the delay to the project.

Ald. Lappin was concerned that there was earlier testing done on the building for hazardous materials and the full extent of the asbestos issue was not realized. Ald. Gentile explained that the asbestos was found on the steel structures behind the brick exterior, which was not accessible. Ald. Gentile and Schnipper will keep the Committee informed on the asbestos issue. With that, the Committee held the item unanimously.

Respectfully submitted,

Sydra Schnipper, Chairman

12/8/10

**DRAFT LANGUAGE FOR SIDEWALK SNOW REMOVAL TRIAL PROGRAM - 3 year trial**

The proposed pilot program leaves in place the current Sec. 26-28 sidewalk snow removal requirement pertaining to business districts and commercial properties, and inserts a new section, with a sunset provision, applicable to all other properties. This proposed new section would be enforceable (\$50.00 fine) while it is in effect. The proposal would also increase all currently existing snow removal fines (§ 26-8 sidewalk snow removal in business districts; § 26-9 placing snow on public ways) from \$25.00 to \$50.00 with no sunset.

1. Insert a new section **26-8D** as follows:

**Sec. 26-8D Trial program for removal of snow and ice from sidewalks.**

In order to allow for safe pedestrian and wheelchair passage, every owner or occupant of a building or lot of land abutting upon a paved sidewalk or any person having charge of such property shall cause snow to be removed from the sidewalk, including handicap access ramps, and ice on the sidewalk, including handicap access ramps, to be removed, sanded or salted to allow for a passageway of at least forty-eight (48) inches in width, provided that where the sidewalk as defined herein is less than forty-eight (48) inches in width, the passageway shall encompass the entire width of such sidewalk and shall include handicap access ramps. Snow shall be removed and ice shall be removed, sanded or salted within twenty-four (24) hours after such snow has ceased to fall or such ice has come to be formed. This section shall apply to snow and ice which falls from buildings, other structures, trees or bushes, as well as to that which falls from clouds. This section shall not apply to owners or occupants of a building or lot covered by Section 26-8. The provisions of this section shall expire three (3) years from the date of its adoption unless terminated earlier or renewed or modified by the board of aldermen.

2. Amend paragraph (d) of section 20-21, **Enforcing persons and revised ordinances subject to civil fine**, relative to ordinances enforced by the Police Department by:

A. Deleting, in Sec. 26-8 **Removal of snow and ice in certain districts**, the penalty amount of “25.00” and inserting in its place the penalty amount of “50.00.”

B. Adding after Sec. 26-8 the following language:

**Sec. 26-8D. Removal of snow and ice from sidewalks (pilot program)**

( ) Any offense.....\$50.00

C. Deleting, in Sec. 26-9 **Putting snow and ice upon streets, sidewalks and bridges**, the penalty amounts of “\$25.00”, and inserting in their place the penalty amounts of “\$50.00



## Snow Clearing Trial Proposal

December 8, 2010

- Authority to require clearing allowed by State Law; 11 communities in metro Boston have adopted similar; Brookline since 1987
- Education/Outreach (notification) in first year; no fines
- Sunset provision after 3 years without BOA action
- 48" width to support ADA recommendation
- 24 hour period after storm ceases to have sidewalk cleared (same as current Ordinance requirement of businesses)
- Sidewalks abutting all public property will be cleared this winter regardless of Ordinance
- Plowing contracts modified to support stronger enforcement of "Piles on Corners"; contractor can now be fined
- Police to use "informed discretion" to assess standards
- Shoveling list (for fee) on City website, and public facilities
- Additional volunteer (free) list held by Health and Human Services for those who qualify: income AND health/disability AND "circumstantial" criteria
- Abutters in business districts have been required since 1973 to clear sidewalks; no successful challenges to Ordinance for slippage on snow & ice.

Danielle Delaney



Danielle Delaney



Danielle Delaney



Submission by Alan Kovacs, 257 Dedham St.

New section 26-8D, as proposed by Vicki Danberg, should not be passed unless it is modified to read as follows:

**Sec. 26-8D Trial program for removal of snow and ice from sidewalks.**

In order to allow for safe pedestrian and wheelchair passage, every owner or occupant of a building or lot of land abutting upon a paved sidewalk or any person having charge of such property shall cause snow to be removed from the sidewalk, including handicap access ramps, and ice on the sidewalk, including handicap access ramps, to be removed, sanded or salted to allow for a passageway of at least forty-eight (48) inches in width, provided that where the sidewalk as defined herein is less than forty-eight (48) inches in width, the passageway shall encompass the entire width of such sidewalk and shall include handicap access ramps. Snow shall be removed and ice shall be removed, sanded or salted within twenty-four (24) hours after such snow has ceased to fall or such ice has come to be formed. This section shall apply to snow and ice which falls from buildings, other structures, trees or bushes, as well as to that which falls from clouds.

This section shall not apply to:

(1) owners or occupants of a building or lot covered by Section 26-8;

(2) persons who certify that they are over 67 years of age;

(3) persons who certify that:

a. they are physically unable to remove snow and/or ice from such sidewalk, and

b. they are financially unable to employ a third party to remove snow and/or ice from such sidewalk; and

(4) persons who certify that snow has been placed onto such sidewalk as a result of municipal snow removal operations, such that they are unable to comply with the requirement of this section<sup>1</sup>;

Any such certification may be made in writing, in response to the issuance of a citation, and shall be prima facie evidence of the matters certified to therein.

The provisions of this section shall expire two (2) years from the date of its adoption unless terminated earlier or renewed or modified by the board of aldermen.

<sup>1</sup> Newton Code Sec. 26-9 presently prohibits the "placing of snow or ice ....upon a...sidewalk" but does "not apply to municipal snow removal operations."