

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC FACILITIES COMMITTEE REPORT

WEDNESDAY, FEBRUARY 9, 2005

Present: Ald. Schnipper (Chairman), Albright, Salvucci, Stewart, Yates and Lappin

Absent: Ald. Gerst and Mansfield

Also present: Ald. Parker and Linsky

City personnel: Lieutenant Aucoin (Police Department), Robert Rooney (Commissioner of Public Works) and Shawna Sullivan (Committee Clerk)

#22-05      KEYSPAN ENERGY DELIVERY requesting a grant of location to install and maintain 275' ± of 4" gas main in ALBA CIRCLE from the existing 6" gas main in Park Street @ Alba Circle west to the end.

**ACTION:**      **APPROVED 6-0**

**NOTE:**      Fran O'Leary, Keyspan Permit Representative, joined the Committee for discussion of this petition. Alba Circle is a private way; therefore, Keyspan does not require a grant of location except for the 12' portion of proposed gas main on Park Street. The grant of location is necessary to provide heat, hot water and gas for cooking to 26 Alba Circle, which is new construction.

Ald. Salvucci asked whether Keyspan had asked residents of the lots bordering Alba Circle if they were interested in gas service. Mr. O'Leary responded that no one was interested and he stated that Keyspan always surveys the neighbors to find out if they would like to switch to gas service.

Ald. Salvucci asked if the Public Works Department would allow Keyspan to perform the necessary work during the winter. The Commissioner stated that if the weather was good there was a possibility of granting a street opening permit for this petition as the work in the public way would be completed in a day. However, the Commissioner also pointed out that the petitioner does not need permission from the Public Works Department to perform the work on the private way. The city will not plow Alba Circle if there is an open trench. Mr. O'Leary responded that Keyspan would back fill the trench at the end of each day.

The public hearing was opened and Richard Sewall, 28 Adams Street, spoke in favor of the petition. He is the owner of 26 Alba Circle and would like to have heat for the contractors working on the house. The heat is necessary to continue the work on the house, such as plastering and Mr. Sewall would like to move in as soon as possible.

Ald. Salvucci moved approval of the item and stated that the Public Works Department should not wait until the end of the moratorium to issue the street opening permit. The Chairman asked that the Commissioner and petitioner work together to circumvent the moratorium and with that the Committee voted unanimously to support the motion.

#104-04 ALD. YATES requesting a report from the Chief of Police as to how the ordinance prohibiting the blockage of sidewalks with snow can be more easily enforced.

**ACTION:** **HELD 4-2 (Salvucci and Stewart opposed)**

**NOTE:** Ald. Yates explained that he had docketed this item in response to the former Chief of Police's statement that the ordinance prohibiting the blockage of sidewalks is not enforceable, as it is necessary for the Police to witness someone blocking the sidewalk with snow before a ticket can be issued. Lieutenant Aucoin responded that there is a new ordinance (attached) allowing the police to ticket the owner or occupant of the property whose driveway or sidewalk is cleared and the snow placed on the public way.

Ald. Salvucci pointed out that the City is the biggest offender of the ordinance. The City plows the snow from the street up onto the sidewalk at the corners of intersections. He asked how the City could expect an individual to pay a fine when the City is exempt from the ordinance and they are the biggest violator. Lt. Aucoin stated that the State plows Route 9 and places the snow on the sidewalks and there is nothing the City can do about it.

Ald. Yates asked the Lieutenant if the amendment to the ordinance made it any easier to enforce. Lieutenant Aucoin responded that he does not believe it is any easier. Ald. Yates then asked if there was anything else that could be done. The Lieutenant felt that unless the City mandated that residents had to shovel the sidewalk in front of their house there was nothing that could be done. Ald. Yates asked if the City needed to state explicitly in the ordinance that it shall be assumed that an owner or an occupant of a home is responsible for a pile of snow in the public way that is in front of or across the street from the driveway of the home. Ald. Parker explained that the current ordinance allows enforcement of this situation according to the Law Department. It was Attorney Salchert's contention that the use of the word adjoining in the ordinance covered this circumstance. Several Aldermen felt that the language was confusing. Ald. Schnipper pointed out that she lives at a major intersection and all of the contractors and the city plows push the snow in the same direction and how would the police prove which plow put the snow on the public way.

Ald. Stewart stated that his home is on a corner lot and the City has plowed snow up onto the sidewalks and his lawn making it impossible for him to shovel the sidewalks. He asked what difference it made if someone piles snow on a sidewalk that does not need to be cleared. Lieutenant Aucoin responded that if the intent is

to have the sidewalks cleared this ordinance is not the strongest case to do it, as there is no requirement to shovel the naturally falling snow. The majority of the complaints the Police Department received after the last storm dealt with business not complying with the requirement that they shovel around their business.

Ald. Parker felt that the last storm was not the best test case to see if the new ordinance is helpful because it was such a huge storm. He thinks that there are some related issues that have been touched upon that are the crux of where the problem lies. First, the corners where the City plows have piled snow should be cleaned up by the City as soon as possible after a storm. In addition, when a contractor plows a driveway it creates an impassable wall on either side of the driveway and sidewalk creating a need for people to walk in the street. The walls are so large that on school routes the City sidewalk plows cannot penetrate them and have to go around them, therefore, it is important to enforce the ordinance.

Ald. Parker suggested that the sidewalk plow operators relay any of these blockages to the Police so they can issue a warning or a ticket. The lieutenant agreed that it would be possible to work with the Public Works to establish communications. Ald. Parker would like to discuss what communication protocols were established and what was accomplished at the end of the snow season.

Ald. Yates asked Commissioner Rooney if he or anyone in his department told the Superintendent of Schools that all of the school routes had been plowed the Monday evening after the storm. The Commissioner responded that he did not speak with the Superintendent. Ald. Yates also asked if the Police had issued any tickets. Lieutenant Aucoin explained that the police address each complaint as they receive it and if there is an issue a warning is given and it is cleared up. The police received about 15 complaints this past storm, issued warning, and would have ticketed if the snow were not cleared. He also stated that the Police did patrol the squares to make sure that businesses were complying with the snow-clearing ordinance.

Ald. Parker recommended that the City plow the sidewalks on Route 9, as people are walking on the highway, particularly in the vicinity of the T stations. He realizes that it is a State road and it is the State that plows the snow onto the sidewalks but they will not clear the sidewalks and the City cannot ticket the State. Ald. Yates was in agreement with the concept but does not think it is practical for the City to clear all of those sidewalks. Ald. Parker clarified that he means clearing only in the vicinity of the T, such as the area from Newton Highlands to Newton Upper Falls and in the area of the Chestnut Hill station. Commissioner Rooney explained that the City does not own but once the State constructed the infrastructure, they bequeathed it to Newton to maintain and renew sidewalks. Ald. Yates asked the Commissioner for something written stating that the City is responsible for the sidewalks. The Commissioner agreed to provide the Committee with something stating this, which is attached.

The Chairman asked what the priority was in terms of sidewalks. The Commissioner explained that there are 60 miles of designated sidewalks that the

City is responsible for plowing. The Chairman then asked if Route 9 was included anywhere in the 60 miles. The Commissioner responded that Route 9 was not included in the list.

Ald. Parker asked that the Committee to work with the Commissioner to get the Route 9 sidewalks cleared even if it is on a complaint driven basis, as it is a very important public safety matter. Ald. Parker also asked the Committee to hold #522-03 and Ald. Yates asked that his item be held for discussion with the Law Department and Police Department to clarify the language in the ordinance.

Ald. Stewart disagreed with fixing the language in the ordinance, as there were only fifteen complaints filed in a major snowstorm. Secondly, he feels strongly that these items are a very inefficient way to deal with the huge issue of snow. He would like to see some type of comprehensive, systematic review of the whole City snow fighting policy. Ald. Albright pointed out that to improve the snow clearing by the City it would require providing more funding and personnel.

The Chairman asked the Commissioner if there was anything that would help that does not require funding, such as a policy or ordinance. The Commissioner responded that the ordinance needs to be publicized especially to people on designated sidewalk clearing routes.

The Committee also discussed the sad state of snow shoveling list. It was decided to invite Beverly Droz, Director of Volunteer Services, to find out what has been done to find people to shovel for a fee.

Ald. Yates moved hold on the items in order to contact the Law Department for clarification of the language. Lieutenant Aucoin volunteered to talk with the Law Department regarding the language.

#522-03 ALD. PARKER AND LENNON requesting an ordinance amendment to improve enforcement related to snow removal.

**ACTION:** **HELD 4-2 (Salvucci and Stewart opposed)**

**NOTE:** Please see the note above for discussion of this item.

#27-03 ALD. SALVUCCI, SCHNIPPER, LINSKY, STEWART, LAPPIN AND YATES requesting a review of all change orders to date with Public Buildings Commissioner and the Project Manager on the Newton South High School project.

**ACTION:** **HELD 6-0**

**NOTE:** This item was held for input from the Public Buildings Department after Ald. Salvucci stated that there have been several new change orders and additional problems with the reconstruction.

#261-02 ALD. STEWART, BRYSON, SANGIOLO, SALVUCCI, COLETTI, GENTILE, LINSKY, BULLWINKLE, YATES, SAMUELSON, MERRILL, BASHAM, FISCHMAN, PARKER AND GERST requesting the creation of a special committee of the Board of Aldermen to continually monitor the sewer problems, prepare periodic reports for the public on the actions being considered by the City to address the problem, and serve as an initial clearinghouse for information for Board of Aldermen and for citizens.

**ACTION:** NAN 6-0

**NOTE:** The Committee voted the item no action necessary as the task force has been formed and is meeting.

#108-04 ALD. SAMUELSON AND YATES requesting the creation of requirements and municipal review before a utility company can locate a utility pole on private property especially in residential areas.

**ACTION:** NAN 6-0

**NOTE:** Ald. Yates moved the item no action necessary and the Committee approved the motion.

#105-04 ALD SCHNIPPER requesting a discussion with members of the Designer Selection Committee regarding selection of an architect for Newton North High

**ACTION:** NAN 6-0

**NOTE:** The item was voted no action necessary as several discussions have taken place with the Designer Selection Committee regarding this item and it is no longer relevant.

#15-04 ALD. BAKER requesting discussion and planning of upcoming committee agendas, process, future work, and how to streamline committee work on minor or routine approvals in order to allow time to focus on more major or non-routine matters.

**ACTION:** NAN 6-0

**NOTE:** The Committee felt that it has dealt with this item to the best of its abilities. Therefore, the item was voted no action necessary.

Respectfully submitted,

Sydra Schnipper, Chairman