

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC FACILITIES COMMITTEE REPORT

WEDNESDAY, JANUARY 21, 2004

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

Absent: Ald. Gerst

Also present: Ald. Samuelson

City personnel: Robert Rooney (Commissioner of Public Works) and Shawna Sullivan (Committee Clerk)

**REFERRED TO PUBLIC FAC. AND PUBLIC SAFETY & TRANS. COMMITTEES**

#35-04 ALD. SAMUELSON requesting an ordinance amendment to Section 26-8 of the City of Newton Revised Ordinances, 2001 to require all property owners or residents to remove snow from sidewalks abutting their property.

**ACTION:** **HELD 7-0**

**NOTE:** Ald. Schnipper gave a brief history of the previous ordinance that was passed and then rescinded. A ticketing process was put in place for people who did not shovel their sidewalks within twenty-four hours. The Aldermen also tried to put in place a mechanism to have young people shovel sidewalks for those who could not shovel. The Board rescinded the ordinance because of concerns regarding people's safety if shoveling put them at risk. The City also did not have a large enough force of people willing to shovel for others, even for a fee, to make it practical to enforce the ordinance. When the ordinance was rescinded the City's role was increased to include not only school routes but around village centers. She is happy to bring back the ordinance, however, the Board needs to look at what happens if somebody does not shovel or if somebody does and is injured. Ald. Salvucci recalled that there was a question surrounding who would be liable the City or the resident once the sidewalk is shoveled and somebody falls on it.

Ald. Samuelson has heard from a variety of residents who are appalled that the City does not have an ordinance requiring residents to shovel in front of their homes. Our sidewalks remain impassable in some areas of the City throughout the winter. There are many communities surrounding Newton requiring residents to shovel. Ald. Samuelson has checked with the Law Department and a resident is not liable if someone slips on the sidewalk in front of their home just as the City is not liable if someone slips now. She feels that from a public policy standpoint it is inappropriate for access to public sidewalks to be blocked. Several residents

have their driveways plowed and added to the snow on the sidewalk making it more impassable. It would seem that if the resident were having the driveway done by a contractor than they can have the sidewalk done as well. If this ordinance were to be passed, it would make the City more accessible for everyone.

Ald. Yates has seen many people who have their driveways plowed and the snow is placed across the street blocking that sidewalk, which is a violation of the ordinances. However, he does not see the linkage between the ability to hire someone to plow the driveway and clearing the sidewalk, as a plow cannot clear the sidewalk. He has seen many mobility impaired people use the street even when the sidewalks are mostly clear. It is very difficult for people with impaired mobility to clear the sidewalks without assistance during the winter. The list that was sent out this year for snow clearing assistance was pitiful. There were only about eight people to cover the entire City. Ald. Yates would like Volunteer Services and the School Department to become more involved in recruiting people to assist with shoveling. Ald. Samuelson responded that it is not just about accessibility for the disabled but about everyone in the community, such as school children. She pointed out that when a contractor is hired to plow a driveway you could hire them to clear the sidewalk. It is between the homeowner and the contractor but if the City has an ordinance on the books people will create ways to address it. In the past, Newton North and South both had organizations for the purpose of providing shoveling services. There is a community service requirement at the high schools, which could be met by providing shoveling assistance. Ald. Albright told the Committee there is currently no community service requirement for students at either of the high schools. It is Ald. Samuelson's stance that every sidewalk should be cleared and residents should make an effort to clear their sidewalks.

Ald. Schnipper felt that if this item were to go forward there would need to be input from the Law Department. Ald. Stewart stated that perhaps discussion to address the many issues and to look for creative alternatives to this issue before the Law Department is involved. There are some streets and neighborhoods where sidewalks should be plowed but there are many streets and neighborhoods that there is no need to clear sidewalks because no one uses the sidewalks. Ald. Mansfield agreed with Ald. Stewart that there are a number of sidewalks within the City that do not require clearing and perhaps the ordinance needs to be selective by requiring that on designated streets, sidewalks must be cleared. He realizes that it would be treating residents differently but they are treated differently in lots of different ways, such as in their property assessments. If you are on a busy heavily traveled street your assessment is likely to be lower than on quieter streets. Therefore, the person who is paying more will not be as burdened by this ordinance. The City must also deal with the people who block their sidewalks and contractors who block sidewalks due to plowing snow. Ald. Mansfield previously docketed an item in Post Audit asking for a report on how

many citations were issued for dumping snow on a sidewalk or public way while plowing. The Police Department responded that no tickets were issued for that type of violation. It has been suggested to Ald. Mansfield that perhaps the City should consider licensing private snowplow operators. The license would require the snow plow operators not to dump snow on the sidewalk or public way and if they violated the requirements they would lose their license.

Ald. Lappin felt that an ordinance might not be the way to go as it has been tried but perhaps there is a way to encourage people to shove their sidewalks. There are many different issues, such as illnesses, disabilities and vacations. Ald. Yates then asked the Commissioner if there is discussion with Chief of Police, the Superintendent of Schools and Volunteer Services regarding ticketing, student volunteers and getting other volunteers involved in snow clearing assistance. The Commissioner responded that there is a snow coordination meeting at the beginning of each season with all the department heads. The discussion surrounds strategies for dealing with the snow and not the specifics, such as ticketing. The Chief feels that the ordinance regarding placing snow on sidewalks and public ways is unenforceable, as you have to see someone do it before a ticket can be issued. There is some draft language pending at the request of Ald. Parker stating that if there is snow dumped in front of your house you are responsible for it regardless of how it got there. The Commissioner feels that a citywide ordinance on sidewalk clearing would be unenforceable, as the City's police force is not large enough to ticket all of the violators. Also, the list of volunteers is dismal and cannot possibly cover the amount of citizens who would require assistance. The Commissioner does not think it is appropriate for Newton to have a snow-clearing ordinance. He thinks that if this is a priority the City needs to purchase new equipment and better fund snow accounts to allow the City to do more sidewalks. It would be a lot easier if the City did it than to enforce an ordinance requiring residents to do it.

Many Committee members felt that the best direction to go with this item was to upgrade the City's equipment and have the City clear the required sidewalks. Ald. Mansfield pointed out that there is a need to clear sidewalks in village centers particularly around T stations. It is generally not business but institutions, such as churches that are in business districts that do not clear the sidewalks but do clear the walkway to the entrance. It would be good to require the institutions in business districts clear the sidewalks.

On a motion to hold from Ald. Stewart, the Committee opted to hold the item, consult with the Law Department regarding a selective ordinance, and further investigate the possibility of the City clearing the sidewalks. Ald. Yates suggested through docketing or requesting reports from the Police Department, School Department and the Director of Volunteer Services regarding how the ordinance

on dumping snow on a sidewalk can be enforced and what can be done to recruit volunteers to shovel snow for people requiring assistance.

#394-03 ALD. LIPSITT AND GERST requesting a discussion with the Department of Public Works regarding the policy for installation of sidewalks and curbs during street repair/reconstruction and possible amendment of Sec. 26-70 of the of the City of Newton Revised Ordinances, 2001.

**ACTION:** **NO ACTION NECESSARY 7-0**

**NOTE:** This item was held on November 5, 2003 for draft language requiring granite curbing when curbing is installed as part of reconstruction. The Law Department provided the Committee with the draft language this past Friday.

Commissioner Rooney thinks the proposed language accurately reflects the Committee's request. However, he has given considerable thought to the issue and feels the proposed amendment does not address the problem. Currently, when a road is reconstructed the Public Works Department does exactly what the draft language would require. He pointed out that when Sargent Street was reconstructed he replaced asphalt curbing, in kind, however, granite curbing was installed at catch basins and on the entire radius at corners, granite was used. This amendment does not address a much larger problem.

If the Department of Public Works is reconstructing a road, which is 3,035' long with 7,000 linear feet of concrete curbing and it is the intent to replace the curbing with granite the cost will be phenomenal. A road that costs \$40,000 to repave would cost the City an additional \$161,000 to put in granite curbing. If the City replaced concrete curbing in kind it would cost the City \$126,000 and asphalt curbing would cost \$17,000. When Sergeant Street was reconstructed it would have cost the City an additional \$69,000 instead the cost of the asphalt curbing, which was what Public Works replaced it with was \$7,500.

There is no question about the longevity of granite; it is 100 years or more. Concrete lasts 20 to 30 years and asphalt may last 7 to 10 years on a good life span. This is probably the worst fiscal time in the City to be changing an ordinance and requiring granite, when the City cannot afford it. The Public Works budget is seriously under funded for street maintenance. If you take 300 miles of City road, which Newton has, and you estimate a twenty-year life span per road, the Department of Public Works needs to pave approximately 15 miles of road a year. In the last three or four years the City has only paved five miles of road per year. There is a straight financial cost to putting granite curbing in and there is a resource issue. The City does not have the manpower to put in granite curbing. The Commissioner asked why when the City is in the worst financial times is granite curbing going to be required. Personally, he feels that granite is the way to go, but the City simply cannot afford it.

It is the Commissioner's belief that the issue that prompted the docket item is not being addressed. When the City goes in to pave a road a letter is sent to the residents of that road telling them the road is being paved and if there is any water work to be done or if the resident knows of any issues would they please contact the Public Works Department. In the past, the Public Works Department has requested that residents who want curbing or sidewalks schedule that type of work when they receive the letter. Last year, the Public Works Department could not do that because as soon as you begin construction residents approach workers and request sidewalks and curbing, as the street is being ripped up, which makes sense. The problem is that the funding and planning were put into place the year before and the requests for sidewalks and curbing are not part of the funding. Therefore, if the City chooses to use granite curbing this year, the Commissioner will need to take funds from somewhere else. Secondly, the projects that have already been planned for the upcoming construction season will require much more time to complete causing a backlog of work.

The Commissioner proposes that when the City reconstructs a street the City will put in sidewalks at no cost but the curbing will be put in at 100% cost at the resident's expense for time and materials. The City will contribute equipment hours, fuel and maintenance in perpetuity. When a resident comes out and requests curbing it will require a payment from the resident for the curbing and man hours and the crew will work at night or over the weekend to put in the curbing. The Commissioner's budget will still be covered and the schedule will still be on track. The Commissioner has spoken to the Law Department and it is possible to do this type of program.

Ald. Lappin asked if a resident could pay 50% of the cost as a betterment why would they choose to pay \$100%. Commissioner Rooney stated that people have not signed up for betterments and it would require the resident to wait for the betterment. The resident would also get the sidewalk at no extra cost if they paid up front for curbing. The concrete sidewalk costs about \$4 a linear foot, which is much less expensive than the curbing. Ald. Mansfield pointed out that if a resident went with the betterment approach, when the Public Works Department went back to put the curbing in after a few years they would ruin the integrity of a new street. It would make more sense to put the curbing in at the time of reconstruction. The Commissioner responded that the newly reconstructed street would fall under the five-year moratorium, therefore, the soonest a betterment could be done would be five years.

The Commissioner also explained that curbing is done for mostly aesthetic value in many cases. There are no safety or drainage issues if curbing is not installed. Several Committee members responded that they have been told that curbing prevents erosion. Commissioner Rooney used Grant Avenue, a major collector,

as an example of a road without curbing that has held up for a number of years without curbing. Ald. Mansfield felt that deterioration at the edge of streets without curbs is from water flowing down the street. Commissioner Rooney explained that he would put in curbing at the City's cost if there were a safety or an erosion issue.

Ald. Salvucci asked what was happening with the betterment money, as it is a revolving fund. The Commissioner stated that every year the City is only getting 50% of the cost, so the Board needs to appropriate money to pay the other 50% of the cost. The cost of betterments have risen over the years, therefore, the money that is being applied to the betterment account is not enough to cover 50% of the cost. Ald. Schnipper pointed out that betterments are not coming to Board frequently.

The Commissioner is asking the Board to allow the Public Works Department to charge for curbing if a resident wants curbing during reconstruction. It would not force residents to purchase curbing during reconstruction unless they want to have curbing. Ald. Mansfield feels that this could result in spot curbing creating erosion where there is no curbing. Ald. Albright felt that there are parts of the City where people can afford to purchase granite and parts where they cannot, creating a separation. Ald. Stewart stated that there are some streets that do not need sidewalks or curbing, as there are not many people using the sidewalks for walking. He does not think there needs to be consistency throughout the City. Each street needs to be looked at and there needs to be a determination of what is appropriate for that street. Ald. Stewart pointed out that there are other options besides asphalt, concrete and granite and perhaps those options should be investigated. He also feels that asphalt is perfectly acceptable for many streets and it is economical. Ald. Salvucci pointed out that asphalt is much more susceptible to damage often requiring replacement shortly after it is installed.

Ald. Schnipper pointed out that there are two issues before the Committee. The first is whether the Committee will support the draft ordinance requiring granite curbing whenever a street is reconstructed. She would love to support the item but it is not financially feasible. Second, in terms of the Commissioner's proposal it would require a new docket item. Ald. Yates moved no action necessary on the item, which carried unanimously. The Commissioner will work with the Law Department on draft language for his proposal and it will be docketed at the appropriate time.

**REFERRED TO PUB. FACILITIES AND PROGRAMS & SERVICES COMMITTEES**

#83-03      ALD. GENTILE, BRYSON, COLETTI AND LIPSITT requesting that the Health Commissioner conduct/oversee a testing program to evaluate the air quality at Newton North High School and, if necessary, make recommendations to ensure the safety of all students and staff in the building.

**ACTION:**     **HELD 7-0**

**NOTE:**       This item was held, as the necessary information to continue discussion was unavailable. The item will be discussed on February 4, 2004.

#497-03        ALD. STEWART recommending review of the city's policies and practices regarding notification of residents of street repairs and utility installations.

**ACTION:**     **NO ACTION NECESSARY 7-0**

**NOTE:**       Ald. Stewart would like to be sure that residents are informed about who to address complaints regarding utility work and construction work on their street. The utility companies currently notice all residents on streets and provide contact information regarding upcoming work and the City notices residents whenever a utility requires a grant of location. The Department of Public Works sends notice to all residents whenever there is upcoming work on their street. Ald. Stewart was satisfied that residents were receiving enough information on street repairs and utility installations. Therefore, the item was voted no action necessary.

#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:**     **HELD 7-0**

**NOTE:**       The Committee had a brief discussion on how the Committee would like to handle reappointments. Ald. Mansfield feels that it is important to meet with all the Board of Aldermen appointees and reappointees. Ald. Lappin suggested having the different commissions within the City give a presentation to the Committee every couple of years. All the Committee members felt that meeting with reappointees was good opportunity to meet with reappointees to get an idea of what work the committees are doing and if there are any problems. It was decided to invite all appointees and reappointees to meet with the Committee and if someone was not available decide at that time whether to approve the reappointment.

The Committee also felt it would be beneficial to invite members of the Designer Selection Committee to a meeting to discuss the selection of an architect for Newton North High School. Ald. Schnipper offered to docket an item requesting the members come in collectively to discuss the process.

#65-04        PRESIDENT BAKER recommending ALD. ANTHONY SALVUCCI be re-appointed as a non-voting Aldermanic appointee to the DESIGN REVIEW COMMITTEE, term of office to expire 12/31/05 (60-day Board action date 3/20/04).

**ACTION:**     **APPROVED 7-0**

**NOTE:**       The Committee asked Ald. Salvucci if he would like to continue serving on the Design Review Committee. Ald. Salvucci responded that he would like to continue serving. With that, the Committee voted approval of Ald. Salvucci's appointment.

Respectfully submitted,

Sydra Schnipper, Chairman