

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC FACILITIES COMMITTEE REPORT

WEDNESDAY, FEBRUARY 18, 2004

Present: Ald. Schnipper (Chairman), Gerst, Albright, Salvucci, Stewart, Yates, Mansfield and Lappin Also present: Ald. Parker

City personnel present: Gayle Smalley (Associate City Solicitor) Cathy Salchert (Associate City Solicitor), Captain Alex Sbordone (Police Department), Beverly Droz (Director of Volunteer Services; Human Services Department) Robert Rooney (Commissioner of Public Works) and Lou Taverna (Director of Utilities), Shawna Sullivan (Committee Clerk)

#66-04 PRESIDENT BAKER recommending JOHN BLISS, 9 Lewis Terrace, Newtonville be re-appointed as an Aldermanic appointee to the CITIZEN'S COMMISSION ON ENERGY, term to expire 01-13-07 (60-day Board action date 3/20/04).

ACTION: **APPROVED 8-0**

NOTE: Mr. Bliss was unable to attend the meeting due to recent surgery on his foot. However, Mr. Bliss is well known to most Committee members and has served on the Citizen's Commission on Energy since 1991. Mr. Bliss also provided a resume, which was attached to the agenda. The Committee felt that it was not necessary for Mr. Bliss to be present at the discussion of his reappointment, as he is recovering from surgery. Ald. Yates moved approval, which carried unanimously.

#64-04 PRESIDENT BAKER recommending PETER BARRER, 24 Hazelton Road, Newton Centre, be re-appointed as an Aldermanic appointee to the DESIGN REVIEW COMMITTEE, term of office to expire 12/31/05 (60-day Board action date 3/20/04).

ACTION: **HELD 8-0**

NOTE: Mr. Barrer was unavailable to meet with the Committee. Although his resume was attached, many of the members were unfamiliar with Mr. Barrer. Therefore, the Committee opted to hold the item until Mr. Barrer was available to meet with the Committee.

#63-04 PRESIDENT BAKER recommending JEREMIAH ECK, 14 Eliot-Memorial Road, Newton, be re-appointed as an Aldermanic appointee to the DESIGNER SELECTION COMMITTEE, term of office to expire 12/31/05 (60-day Board action date 3/20/04).

ACTION: **APPROVED 8-0**

NOTE: Mr. Eck joined the Committee for the discussion regarding his reappointment to the Designer Selection Committee. The Designer Selection Committee has not been very active in the last few years but there is potentially a huge project on the horizon should the City go forward with the new high school. The Designer Selection Committee met recently to discuss how to make the project work and get the best possible designer.

The Chair asked Mr. Eck what he thought of having a contest to select a designer for the high school. Mr. Eck responded that he felt that contests were time consuming and costly and probably not the best way to get the best design. He feels it is better to approach known established architects. The City should look at the quality of previous work of possible architects. Committee members asked if the City could solicit architects. Mr. Eck responded that there were no reasons the City could not approach architects. He would really like to the City select the best people to do the job regardless of the fee. The better the design the less change orders during construction, which would more than make up the cost of a larger fee. A project of this size should draw a lot of good architects, who will come in with a body of work.

The Designer Selection Committee is currently comparing the request for proposals (RFP) for the library and two other large projects to see what is different in the RFP for the library, as it is the most successful large project in recent history. Mr. Eck stated that the library was a joint venture between two architectural firms and he would like to see that happen with the new high school. However, the Designer Selection Committee does not make the final decision on the architect. The Committee sends their top three choices to the Mayor and the Mayor chooses the architect.

The Committee offered the Board's help in making sure the best possible architect is chosen. Ald. Yates moved approval of the item, which carried unanimously. The Committee thanked Mr. Eck for his service to the City.

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

ACTION: **HELD 8-0**

NOTE: The Designer Selection Committee was not available for discussion on this item. Therefore the item was held.

#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 8-0**

NOTE: Captain Sbordone of the Police Department's Traffic Bureau and Ald. Parker joined the Committee for discussion of this item. Ald. Yates docketed the item to improve the enforcement of the existing ordinance prohibiting placing snow on sidewalks or streets. Ald. Mansfield has a related item in the Post Audit and Oversight Committee and during discussion in that Committee he learned that the ordinance was not being enforced. It is Ald. Yates' hope that the Police Department may have some ideas on how to better enforce the ordinance.

Captain Sbordone stated that it is very difficult for the Police Department to enforce the current ordinance. In many cases, the Police Department has no idea who blocked the sidewalk. In some cases the Police receive calls from residents who report the plate number of the contractor who blocked the sidewalk. The Police call and cite the contractor but it is very difficult to prove who blocked the sidewalk if the Police do not witness it. Ald. Salvucci feels that the owner of the property of where the snow comes from should be held responsible. Ald. Yates and Mansfield agreed with Ald. Salvucci, as the ordinance reads causing snow to be placed on a sidewalk and if you hire a contractor to plow your driveway and that person blocks the sidewalk it is your responsibility. Captain Sbordone also explained that the Police Department does not have the resources to enforce the ordinance. The Police Department does not have officers walking foot routes anymore to check on commercial establishments but Captain Sbordone feels the businesses do a good job keeping the sidewalks clear in front of their establishments.

Ald. Mansfield asked if the Captain was aware of the memo sent to the Chief of Police and Commissioner of Public Works regarding clearing violations and blockage of sidewalks in Ward Six. He sent a list of businesses in Ward Six that had not cleared or blocked the sidewalks during the plowing of their parking lots and enforcement was needed. Ald. Mansfield received no response to his memo from either the Chief or the Commissioner. Captain Sbordone responded that he was not aware of the memo but he does not work in the Patrol Bureau, which addresses all issues regarding blocking sidewalks and failure to clear sidewalks in front of a business. It is very possible the memo was shared with Deputy Superintendent O'Brien and Captain Taylor of the Patrol Bureau. The Committee questioned why Captain Sbordone was sent to the meeting if this was not his area of responsibility. Captain Sbordone explained that the Chief asked him to attend, as the Deputy Superintendent was not available.

Ald. Parker stated that there are three Committees with Docket Items relating to the blocking of sidewalks with snow and ice. Commissioner Rooney, Ald. Parker, Ald. Lennon and some citizens have an informal working group that started last summer addressing snow and ice issues. The group has drafted language, with the help of the Law Department, and docketed an item, which would allow the Police Department to fine the property owner, who allowed the sidewalk to be blocked. The Committee questioned if the Police Department would have the manpower to enforce any ordinance. The ordinance would also have to clarify whether the owner or tenant would be fined. Ald. Mansfield also would like to see the ordinance requiring sidewalks abutting businesses be more strictly enforced. He has had several complaints from constituents regarding unshoveled T stops in business centers.

Ald. Stewart suggested that a subcommittee to deal with snow issues be formed. It would allow the discussions surrounding snow issues to be discussed in one forum instead of in various Committees. He would like these issues dealt with as expeditiously as possible. Ald. Mansfield also felt strongly that these issues need to be dealt with quickly either through the Committees or a subcommittee.

Mr. Alan Lewis a resident of West Newton, who has worked with Ald. Parker on the snow and ice issues was also present for the discussion. It is his belief that with a little concerted effort through public relations and communications letting people know that the City is going to enforce the ordinance there will be an improvement in compliance to the Ordinance. If the Police Department ticketed for a short time people would get the message not to block sidewalks.

Ald. Stewart raised the issue of the City blocking the sidewalks. It is impossible for him to keep the sidewalks in front of his house clear because the City continually piles snow on the corner. He feels strongly that a subcommittee on snow should be formed. He is willing to speak with the President regarding forming such a Committee. The majority of the Committee was in favor of the possibility of a subcommittee.

Ald. Mansfield would still like a report from the Chief of Police as requested in the docket item. Captain Sbordone commented on the resident being held responsible for a contractor who plows snow from their driveway blocking the sidewalk in the meantime. He explained that often times the person who lives at the address is a tenant who did not hire the contractor to plow. It becomes a time consuming task to figure out who is responsible and who to ticket. The Police Department does not have the manpower to enforce either the current ordinance or the proposed ordinance.

Ald. Yates moved hold, as there is clearly more work to be done on the item. Ald. Mansfield stated that this is the type of enforcement activity that no one expects to

be done comprehensively but if the Police send a message that enforcement is likely to happen and some people are fined people will begin to comply. The Committee voted unanimously to hold the item.

#103-04 ALD. YATES requesting reports from the Director of Volunteer Services and the Superintendent of Schools as to what steps they can take to recruit volunteers to shovel the snow of residents who are unable to do so.

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

NOTE: Beverly Droz and Judy Malone-Neville were present for discussion of this item. Ald. Yates docketed this item because the list of people available to shovel snow for those unable to do so is very small and there is currently a docket item that would require all residents to shovel. If the ordinance should pass, there will need to be a much larger list of people willing to shovel for a fee. The Committee would like to know what role the Schools and the Director Volunteer Services feel they can do to help provide people who can work in this capacity for a fee. Ald. Yates pointed out that there is currently an ordinance requiring the Commissioner of Public Works to annually prepare a list of people available to provide snow clearing assistance either for a fee or on a volunteer basis through consultation with the School Department, Human Services Department, City personnel, neighborhood organizations and houses of worship. Ald. Yates asked if this was done on an annual basis. Ms. Malone-Neville explained that it does take place. She provided the Committee with a memo from Michael Cronin to middle school principals and high school principals asking for students willing to participate in sidewalk shoveling (attached). She does not have the number of students who joined this year. She is willing to try to get more students to volunteer next year through better advertisement.

Ms. Droz, Director of Volunteer Services, explained that the Human Services Department receives calls requesting snow shovelers from the elderly. When the Department receives these calls they generally refer the senior back to the Public Works Department of Public Works to find out the contact information for snow shovelers. She is aware that it is a problem and is working on a program with the Youth Commission. It is her hope that the program will provide seniors and disabled people with students to help with outdoor seasonal chores that would include snow shoveling. The program is in rough draft form but the concept has been discussed with the Law Department and would require parental consent. Ms. Droz has reached out to the school a little bit to see if there would be interest. If the program moves forward, she will be in touch with both the School Department and Mayor's Office to promote the program.

The Committee was pleased with the reports from the School Department and the Director of Volunteer Services. Ald. Mansfield requested that the Committee be

kept abreast of the recruiting process and the proposed program. Ald. Yates moved no action necessary on the item, which carried unanimously.

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 8-0**

NOTE: Cathy Salchert and Ald. Samuelson joined the Committee for the discussion of this item. This item was discussed on February 3, 2004 and held for further information. Ald. Gerst voiced his concerns regarding enforcement of the proposed ordinance. The City does not have the personnel to ticket offenders and the residents do not own the sidewalks. Ald. Samuelson stated that there are many communities that require residents to shovel and enforce the requirement. The PTOs, the Mayor's Committee for People with Disabilities and the Post Office are in favor of this ordinance. She feels that if the ordinance is approved it will make the City more livable for everyone. Ald. Stewart thinks there has to be research on the item. He would like to know what communities have this type of ordinance and how it is enforced. He would like the item thoroughly researched before a public hearing is scheduled.

The Committee requested that the Cathy Salchert research the history of the previous shoveling ordinance, the surrounding communities ordinances, how to enforce the ordinance and the possibility of a selective ordinance requiring certain sidewalks to be shoveled. Ald. Yates moved hold on the item until the requested information is available. The Committee approved the motion to hold unanimously.

#442-03 ALD. SAMUELSON AND YATES proposing an ordinance to allow the city to stabilize private way road surfaces with a steep grade, which cause road fill to impede drainage of public systems.

ACTION: **NO ACTION NECESSARY 5-1-1 (Salvucci opposed, Albright abstaining, Mansfield not voting)**

NOTE: Commissioner Rooney and Gayle Smalley were present for the discussion of this item. Public Facilities Committee previously discussed the item on November 5, 2003 (Report Attached), when it was held for draft language and time to research questions that were raised regarding fining private way owners for damage to city drains. Ms. Smalley had provided the Committee with a draft Ordinance allowing the Commissioner of Public Works to make minor temporary repairs on a private way to prevent the road fill to clog city drains (attached). The draft language was not discussed in Committee, as Ald. Samuelson was unavailable.

Ms. Smalley provided the Committee with a memo that was attached to the agenda. She briefly reviewed the memo with the Committee. The memo states that there is an existing ordinance that could provide the Public Works Department with the means to fine private way owners for impeding the public drainage system. There is also another area of law that applies. The civil law of nuisance imposes liability to property owners who cause interference with the use and enjoyment of the property of another.

Commissioner Rooney stated that he would continue to clean out clogged drains that are a result of road fill from private ways entering the city drainage system. However, he will inform residents of private ways by letter of the existing ordinance and request that they repair the roadway. If they do not comply, he will inform the Police Department to fine the residents. Several Committee members questioned whether a resident who had purchased the property after road fill had been placed would be responsible for the clogging of the drains. Ms. Smalley responded that enforcement might be more difficult if none of the current owners had participated in the road resurfacing also, if it is a natural dirt road the ordinance would not apply.

Ald. Yates moved no action necessary on the docket item, as there is already an ordinance in place. The motion carried by a vote of five in favor, one opposed and one abstention.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#129-04 **HIS HONOR THE MAYOR** requesting that the sum of \$250,000 (\$188,600 from Water Surplus and \$61,400 from Sewer Surplus) be appropriated in order to supplement the overtime accounts in the Water and Sewer divisions of the Public Works Department.

ACTION: **APPROVED 8-0**

NOTE: Commissioner Rooney and Lou Taverna were present for the discussion of the item. The appropriation is necessary to supplement the overtime accounts in the Utility Division of the Public Works Department. When the FY'04 budget was presented, the overtime account was cut in the Water and Sewer division in anticipation of the implementation of a second shift. There is a shortfall in the overtime accounts because the second shift has not been implemented. Due to an abnormally cold January the Water Department has responded to many water line breaks during overtime hours. The additional funds will also be used to pay for police details at the Waban Hill Reservoir. The installation of the new security devices was delayed for a month, therefore, police details were required for long than originally anticipated. The security devices are scheduled to be in place in March making further police details unnecessary. Ald. Salvucci moved approval, which carried unanimously.

#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 8-0**

NOTE: This item was held without discussion due to the lengthy discussion of the above items and the lateness of the evening.

All other items were held without discussion. The Committee adjourned at 10:35 PM.

Respectfully submitted,

Sydra Schnipper, Chairman