

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC FACILITIES COMMITTEE REPORT

WEDNESDAY, NOVEMBER 6, 2002

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

Also present: Ald. Johnson, Merrill, Sangiolo, Parker, Lipsitt and Fischman

City personnel present: Nick Parnell (Public Buildings Commissioner), Sandy Pooler (Chief Budget Officer), Michael Rourke (Chief Administrative Officer), Eileen McGettigan (Assistant City Solicitor) Robert Rooney (Commissioner of Public Works) and Lou Taverna (Utilities Director)

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#431-02 HIS HONOR THE MAYOR requesting an appropriation in the amount of \$30,000 from Free Cash for the purpose of upgrading the air conditioning system in the Information Technology main computer room. This project is listed in the FY03 Capital Plan.

ACTION: **APPROVED 7-0 (Linsky Not Voting)**

NOTE: Nick Parnell and Sandy Pooler joined the Committee for discussion of this item. A breakdown of the cost of replacement was attached to the agenda. The air conditioning in the main computer room has failed several times causing the crash of the major computer system. Some of the crashes have resulted in loss of data, which was able to be retrieved after much effort. The air conditioner in the main computer room was last replaced fifteen years ago and was originally designed for a mainframe system. Parts for the air conditioner are very difficult to find and it has a tendency to shut off by itself.

The new unit will be much more dependable, energy efficient and it will create a temperature-controlled room. Our current backup generator and uninterruptible power supplies will be able to power the unit if electricity is lost. It will be easier to maintain it, as it will not be as complex as the unit, which is there now. It is an excellent investment. Ald. Salvucci asked why it costs \$5,000 for the breakdown of pipe. Mr. Parnell explained that it is pipe and a large fan unit. This quote also includes a disposal fee for the refrigerant in the unit. The expected life span of the unit is about fifteen to twenty years. Ald. Salvucci moved approval of the item, which was approved unanimously.

REFERRED TO PUBLIC FACILITIES & PROGRAMS & SERVICES

#181-02 HIS HONOR THE MAYOR requesting that the Board of Aldermen approve a new agreement between the City of Newton and the Town of Wellesley that will allow the Town of Wellesley to continue to pump sewerage through Newton's

Cochituate Aqueduct to the MWRA collection system in Brighton.
RECOMMITTED TO PUBLIC FACILITIES AND PROGRAMS & SERVICES
ON 6/17/02

ACTION: **APPROVED 5-1-1 (Gerst Opposed, Mansfield Abstaining and Salvucci Not Voting)**
PROGRAMS & SERVICES APPROVED 4-1-1 (Sangiolo Opposed and Parker Abstaining)

NOTE: The Committee discussed this item jointly with the Programs and Services Committee. A draft Memorandum of Understanding was distributed to the Board on Friday, which addresses the issues that many of the Aldermen had raised at previous meetings regarding the agreement. Commissioner Rooney reviewed the draft memorandum. Since the last joint meeting, the Chairman of the Public Works Board in Wellesley has corresponded with the Mayor twice summarizing his understanding of what the expectations of the Board were and clarified his understanding of the commitment to seek alternatives and commit to capital investments in I/I reduction. On October 21, 2002, a timeline was received from Wellesley, at the request of Newton, to lay out what an alternative pumping solution would be if the sewage went to Needham or Weston. Wellesley has met with the MWRA and Lou Taverna to talk about their options. As was discussed with the Chief Operating Officer of the MWRA, it would be several years and in this case they estimated upwards of fifteen to twenty years for actual valves to be closed and diversion to take place. It is a guesstimate, nobody can predict the hurdles that would come into play along that path.

The draft Memorandum of Understanding has the verbal commitment of the Public Works Board of Wellesley regarding its content. Wellesley has not signed it because Commissioner Rooney felt the Board of Aldermen should review it and make sure it is what was requested. The Memorandum of Understanding addresses the things that were brought up by the subcommittee asking for a commitment of capital expenditures in dollars both for Newton and for Wellesley. It addresses the emergency procedures that would be undertaken and are undertaken at this time in case of a rainstorm without going into specifics. Upon review by Wellesley, they have said the nature of the document would require it to go back to the Public Works Board to sign. They would prefer to have it either signed by their Chair of the Board or by the Public Works Director because as soon as it enters a formalized Inter-municipal Memorandum of Understanding that triggers the whole process.

Ald. Linsky asked if a Memorandum of Understanding could serve at any point in time to modify the agreement and if that is the case then the Executive Office and the Wellesley Board of Public Works could create a Memorandum of Understanding at anytime without Board of Aldermen approval. Eileen McGettigan responded that yes, it could but she felt that it was not the intention of the Executive Office. Ald. Lipsitt asked if there could be a commitment from the

Mayor's Office that if there are any further Memorandum of Understandings that those will be brought back to the Board for approval. Mr. Rourke said that he believes that it is the Mayor's intention to bring back any amendments to the Board. Ald. Schnipper suggested that if the committees act on the item they could ask that it be put into writing before the Full Board meeting.

Ms. McGettigan would have preferred to have this be a letter of agreement because she feels that it amplifies what was already part of the agreement but the subcommittee and the Aldermen requested that it be a Memorandum of Understanding. Ald. Lappin inquired if a letter would need to go back to town meeting in Wellesley. Ms. McGettigan stated that Wellesley's Board of Public Works could sign a letter. She also feels that they could sign the Memorandum of Understanding but it is Commissioner Rooney's understanding that Wellesley feels that they have to go back to Town Meeting to sign the Memorandum of Understanding. Ald. Stewart would like language added to the Memorandum of Understanding, which requires Wellesley to update the timeline at a minimum of every five years. Ms. McGettigan said that she could certainly include that in the Memorandum of Understanding. She also explained that all along the timeline Newton is to participate with Wellesley in meetings. Ald. Lipsitt asked the Committees to remember that there was discussion about having a five year agreement but in effect we have got the long term agreement, which allows Newton to ask Wellesley to look at changing how they handle their sewage over the next twenty years and Newton has the right to revisit any issues that are contentious every five years. Ald. Lipsitt asked if there is the opportunity for Newton and Wellesley to come to agreement at some point during the timeline that it is not necessary for Wellesley to continue in the direction of the alternate sewage route. Ms. McGettigan stated that this was correct. Commissioner Rooney explained that Wellesley is asking Newton for a decision of whether to go forward in 2006 because then the real commitment of money will be incurred.

Ald. Lipsitt can envision that if enough of the I/I problem is solved, Wellesley will not need an alternative. Commissioner Rooney also explained that Newton may incur some capital expenditure on maintenance in the future and Wellesley will have to focus on whether they invest money into the maintenance or do they divert their money into the alternative.

Ald. Parker felt that there had been good progress on some of the issues but several remained unresolved. He feels that the agreement would not end at twenty-five years because if there is any open financing by Wellesley, the agreement is still open. The City needs to have a way of stopping Wellesley from doing that type of long-term financing in the latter years of the agreement. He would also like it clarified what the rights and responsibilities are at the five-year intervals. If you read the original agreement it appears that the City only has the right to request a discussion. Either party can request a discussion and it takes mutual agreement to amend the inter-municipal agreement. Wellesley is not

obligated to address any of Newton's concerns. Ald. Parker suggested that there be another extension of the existing agreement and continue to work on the new agreement. Ald. Parker moved hold on the main item in Programs and Services and requested that an item for an extension be created.

Ms. McGettigan explained that if Wellesley bonds then the agreement is extended for the duration of the bonds. However, it is not the same agreement because at that time a new agreement is negotiated. Newton would be able to charge Wellesley more money. Ald. Parker feels that it is quite clear that the agreement would continue and feels strongly that there should be a clause regarding buying out the remainder of the bond or not allowing bonding in the latter years of the contract. Ald. Schnipper pointed out that Newton would have the option of not entering into a major financing piece.

Ald. Lipsitt inquired if the City of Newton would initiate the steps for infrastructure improvements. If this is the case Newton still has control, either Newton asks Wellesley to contribute to the improvements, does not make the improvements or finances it without Wellesley's contribution. Fifteen years from now, when this becomes an issue, Newton and Wellesley will have made the decision of whether Wellesley is going to continue using the system. Therefore, it will not be an issue.

The MWRA is not going to let Newton stop allowing Wellesley to pump sewage through Newton. Ald. Parker explained that the subcommittee was discussing a timetable, which could start a phase out in five years, which might be a ten-year process. It would not mean that Newton would say no more but Newton would have some leverage. It would allow Newton to at least initiate a process if there are problems for Newton's residents. He feels that if we can document that there are problems the MWRA and EPA would support Newton in getting out of the agreement if there were a provision for phase out.

Ald. Lipsitt, Schnipper and Johnson felt that a buyout option would not work as a practical matter unless both communities are ready for Wellesley to have another solution. The City of Newton is not going to be able to exercise a buyout provision if Wellesley does not have anything else to do with their sewage. Wellesley is not going to be interested in a buyout provision unless they have another solution. Should Newton exercise the timeline that has been presented and if Wellesley is ready to utilize another route in year twenty-one of the twenty-five year agreement, it is not necessarily to our financial advantage to let them out of the agreement. Wellesley should come to Newton to amend the contract to let them buy out the last part of the agreement. She feels that Newton should not put buyout provisions in the agreement. A buyout option only becomes germane if Wellesley can actually exercise an alternative option and if it comes to that point they can come to us and ask to renegotiate the balance of the agreement.

Ald. Schnipper felt that Wellesley only provided the timeline because Newton requested it. The only reason for Wellesley to look for an alternative for their sewage is if Newton's residents experience backups and Newton believes that it is Wellesley's additional sewage causing the problem. She does not believe that Wellesley has any desire to look elsewhere unless that was the case.

Ald. Parker clarified his motion. There are two parts. The first is to extend the existing agreement for two months and the second is to hold the original item in Committee and take it back up in a couple of weeks with a more clear Memorandum of Understanding.

Ald. Mansfield pointed out that there seems to be questions that have come up in the subcommittee, which three of the members of the subcommittee feel need more attention. He would like to know why it should not be held and go back to the subcommittee. It has been concluded that we need an extension of time on the existing agreement because it expires before the next Full Board meeting.

Commissioner Rooney explained that if the Committees want to change the character of the Memorandum of Understanding it would need to go back for a full vote of the Town Meeting. The extension will need to be for much longer than two months. If the Committees wish to add the buyout option, Newton might as well rewrite the agreement. Ald. Johnson pointed out that the longer we extend the existing agreement the more funds the City loses.

The Programs and Services Committee voted on Ald. Parker's motion to hold the item. The motion failed to carry with two in favor, three opposed and one abstention (Ald. Johnson, Merrill, and Lipsitt opposed; Ald. Fischman abstaining). A motion to approve an extension of the existing agreement was approved by a vote of 5-0-1 (Ald. Lipsitt abstaining). Ald. Lipsitt then made a motion to approve the agreement with the understanding that the representatives of the Executive Department will try to make amendments to the memorandum or letter. The Programs and Services Committee approved the item by a vote of 4-1-1 (Sangiolo Opposed and Parker Abstaining).

Ald. Stewart made a motion to extend the existing agreement and approve the item subject to the same understanding that there will be another version of the memorandum in the Public Facilities Committee. The Committee approved the extension of the existing agreement unanimously. The Committee approved the item with five in favor, Ald. Gerst opposed and Ald. Mansfield abstaining.

In summary, the Committees would like additional language included in a letter of agreement. First, language to entertain buyout options if capital investments are made and Newton later elects to sever the relationship. Second, language, which clarifies Wellesley's understanding of the five-year terms. Third language that clarifies emergency procedures as to who makes the call to reduce pumping.

Fourth, clarification in the timeline regarding who decides the alternatives at the 2006 meeting fifth, a letter from the Mayor's Office that in any substantive changes to agreement the Board of Aldermen will be notified in writing.

#181-02(3) PUBLIC FACILITIES AND PROGRAMS & SERVICES COMMITTEES
requesting a two month extension or until a resolution is reached, if sooner of the existing agreement between the City of Newton and Town of Wellesley that allows the Town of Wellesley to pump sewerage through Newton's Cochituate Aqueduct to the MWRA collection system in Brighton.

ACTION: **APPROVED 7-0 (Salvucci Not Voting)**
PROGRAMS & SERVICES APPROVED 4-1-1 (Merrill Opposed and Lipsitt Abstaining)

NOTE: Please see above note.

Respectfully submitted,

Sydra Schnipper, Chairman