

CITY OF NEWTON  
IN BOARD OF ALDERMEN  
PUBLIC FACILITIES COMMITTEE REPORT

WEDNESDAY, DECEMBER 4, 2002

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

Also present: Ald. Ciccone

City personnel: Gayle Smalley (Associate City Solicitor), Dave Willet (City Engineer) and Lou Taverna (Utilities Director)

#427-02(02) BOSTON EDISON d/b/a NSTAR ELECTRIC requesting a grant of location to install a hip guy and anchor at pole 73/38 opposite Mill Street.

**ACTION:** **HELD 8-0**

**NOTE:** This item was held at the previous meeting of the Committee in order for NStar to look at different alternatives to a hip guy and anchor. Maureen Carroll was present for the discussion. Ms. Carroll explained that when she met with the NStar Engineer regarding this pole, the Engineer stated that the only option was the hip guy and anchor due to the strain of the wires on the pole. The Committee asked if Ms. Carroll had discussed moving the pole to a closer location, causing less strain on the pole. Ms. Carroll stated that relocation of the pole was not part of the discussion.

The Committee asked the City Engineer, if he knew of any alternatives to hip guy and anchors. Mr. Willet responded that it would be helpful to meet with the NStar Engineer to discuss alternatives. Ald. Lappin moved hold on the item until Mr. Willet had met with the NStar Engineer. The Committee voted unanimously to hold the item.

#213-02 VERIZON petitioning for a grant of location to place guy and anchor on the easterly side 53' southerly at existing pole 413/9 on Sumner Street.

**ACTION:** **HELD 8-0**

**NOTE:** Gary Savignano, Verizon Representative, was present for the discussion of this item. This item was held in June until NStar's petition for a grant of location for conduit at the same location was approved. The petition is on behalf of NStar in order to upgrade the electrical service in the area. The hip guy is required to stabilize the pole, where the additional conduit will be attached. It was decided to hold the item until the City Engineer has met with the NStar Engineer regarding alternatives to guys and anchors.

#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:** **HELD 8-0**

**NOTE:** Ald. Stewart feels that it would be in the City's best interest to form a group to monitor sewer issues. The group would discuss sewer problems and prepare reports for the Board of Aldermen and citizens. The Committee entered a discussion on what type of group should be formed. It was felt that a taskforce should be formed by the Public Facilities Committee consisting of citizens, aldermen and city personnel.

The Committee had a brief discussion with Lou Taverna regarding private unauthorized sewer connections to the City storm drain. It is the hope of Mr. Taverna to work on reducing private inflow into the storm drain. There were several questions regarding how the City will begin this process, how to identify illegal hookups, how it can be enforced and who will pay for the new connection to the City sewer line. Gayle Smalley stated that the law is very clear in regards to the fact that it is the homeowner's responsibility. Several Aldermen felt that if it is possible to implement a program to fund the cost of the new hookup, homeowners will change their hookups. It was decided that this was something that the taskforce could investigate.

The Committee created a new docket item creating a taskforce. Ald. Linsky moved hold on the original item, which was voted unanimously.

#261-02(2) PUBLIC FACILITIES COMMITTEE establishing a taskforce of Aldermen, departmental officials and citizens to 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:** **APPROVED 8-0**

**NOTE:** See above item.

#257-02 ALD. SCHNIPPER requesting a discussion of the state and federal laws that govern the shared use of utility poles, including a review of the standards and procedures employed in determining whether poles have adequate space and weight-bearing capacity to support the attachment of additional cables and wires.

**ACTION:** **HELD 8-0**

**NOTE:**

Gayle Smalley and Dave Willet were present for discussion of this item. Ms. Smalley explained that the utility company that owns the poles has very little rights to keep others off their poles. A series of laws at the state and federal level were created to encourage the utility companies to share their pole space with all the telecommunication and Internet service providers. However, there are procedures and agencies that look into disputes between the utilities and telecommunication providers regarding access to poles and how they are used. During Ms. Smalley research on this item, she did not come across any legal dispute or law that directly addresses how much weight or space poles can hold. Ms. Smalley provided the Committee with the regulations concerning pole attachment, duct, conduit and right of way complaint and enforcement procedures (Attached). This regulation states that the utility shall provide nondiscriminatory access to poles, ducts and conduit. It also states that a utility may deny access to its poles, ducts and conduit for valid reasons of insufficient capacity, safety, reliability, generally applicable engineering standards or for good cause shown. There has been no cases applying these standards, but she believes this is the heart of it. There are some cases where cities or towns have turned down grant of locations for various reasons. Safety is usually the factor and it is important to the standards the City can look at when it reviews requests for grants of locations.

Ald. Gerst asked if there is anything that prohibits the City of Newton from establishing a set of standards for safe construction and installation of utilities. Ald. Salvucci pointed out that the wires cannot be lower than 20' from the street. Gayle Smalley said that there is a national electric safety code, which governs the methods of attachment to the poles, the placement and the separation of the wires. She feels that the City has some authority to regulate the way poles are used. In Chapter 23 of our existing ordinances, there are rules for poles (Attached). It is her feeling that the City regulated these rules more stringently in the past than it has in recent decades. On that basis, the City may well have authority to regulate how the poles are placed.

Mr. Willet stated that there are many factors, which contribute to leaning poles. The tension of the wires, ground vibrations, groundwater changes and soil compositions are some of the things that contribute to leaning poles. He is not sure what the standards are for the depth setting of the poles. He would estimate that the poles are set six to eight feet below the surface of the roadway regardless of the soil composition. He does not believe that there are any standards for the depth of the pole in the roadway. Ald. Yates suggested creating an ordinance, which states a utility will only receive a grant of location for poles to carry wires, transformers, etc. subject to nondiscriminatory standards concerning insufficient capacity, reasons of safety, reliability and generally applicable engineering standards or for good cause. The City will be doing the State a favor because the City will be monitoring those things and creating the standards for the City. The City is defining the terms of the State regulations. There was some question if this would be compatible with the federal Telecommunications Act. Gayle

Smalley will research this but there has been a lot of litigation regarding this and the pendulum has swung back more in favor of municipal management.

The Committee held the item in order to acquire more information. Gayle Smalley will review the existing ordinances and cases, which talk about municipal authority in the past. She will also get the existing engineering standards in regards to poles and conduit.

#135-01 ALD. M. LIPOF offering a resolution urging His Honor the Mayor to hire an independent auditor to oversee and report monthly through the Mayor to the Board of Aldermen for the duration of the construction and renovations to the high schools.

**ACTION:** **HELD 8-0**

**NOTE:** Ald. Linsky would like the Board to receive more information on the high schools project. The Board currently receives financial reports on the projects. Several Committee members felt that additional information would be beneficial. The item was held in order to come up with specific requests for information.

#387-01 ALD. ANTONELLIS requesting discussion with Nstar regarding frequent power outages in the Highland Avenue area.

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

**NOTE:** There have been no power outages in the past year and it would appear that NStar has resolved the problems. Therefore, the Committee voted the item No Action Necessary.

#341-98 ALD. CICCONE requesting establishment of an ordinance to require that street design/redesign projects be submitted to the Board of Aldermen for approval.

**HELD 8-0**

**NOTE:** Ald. Ciccone joined the Committee for the discussion of this item. Ald. Ciccone would like an ordinance requiring all design and redesign projects to be reviewed by the Board of Aldermen. There have been several past projects that have been problematic. All projects that are funded through Chapter 90 or in the budget do not currently require aldermanic review. It is Alderman Ciccone's feeling that the Board should review these projects. The Committee felt that it would be a good idea to review these projects.

Mr. Willet stated that he would like to review projects with the Board. He would like some definitions regarding what to share with the Board. He has some concern regarding the level of detail that the Board is looking for. The Committee assured him that they would only like to review designs that contain alterations to the current roadway.

There was not a draft ordinance available because Ms. Smalley needs to know how to describe the circumstances that trigger the need for review. The Committee would like to see all design/redesign projects that alter the current physical characteristics of the right of way. The Committee held the item until Gayle Smalley could complete a draft ordinance.

Respectfully submitted,

Sydra Schnipper, Chairman