

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE AGENDA

MONDAY JUNE 27, 2011

7:45pm Room 202

ITEMS SCHEDULED FOR DISCUSSION:

- #163-11 BARBARA HUGGINS of 122 Albemarle Road, Newtonville, appointed as an alternate member of the Conservation Commission for a term of office to expire on May 31, 2014 (60 days 08-05-11). [05/23/11 @ 3:47 PM]
- #164-11 ROBERT UNSWORTH, 34 Bradford Road, Newton Highlands, appointed as an alternate member of the Conservation Commission for a term of office to expire May 31, 2014 (60 days 08-05-11) [05/23-11. @ 3:47PM]
- #26-11 HIS HONOR THE MAYOR submitting in accordance with Section 7-2 of The City Charter an amendment to the 2007 Newton Comprehensive Plan to include a Mixed Use Centers Element [01-07-11 @ 4:20 PM] (Planning Board report submitted April 5, 2011).
- #150-08 ALD. GENTILE proposing that Chapter 30 be amended to clarify that for a commercial vehicle to be parked legally at a residential property, it must be registered to the owner/occupant of that residential property. [4/15/08 @ 2:17PM].

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

- #49-11 ALD. JOHNSON, Chair of Zoning and Planning Committee, on behalf of the Zoning and Planning Committee requesting that the Director of Planning & Development and Commissioner of Inspectional Services review with the Zoning & Planning Committee the FAR data collected during the eight months prior to the new FAR going into effect and the 12 months after. This committee review should occur no less than bi-monthly but could occur as frequently as monthly, based on the permits coming into the departments. [02-15-2011 @ 8:44AM]

The location of this meeting is handicap accessible, and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, please contact the Newton ADA Coordinator Kathleen Cahill, 617-796-1125, via email at KCahill@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting date.

#81-11 ALDERMEN JOHNSON, CROSSLEY, HESS-MAHAN, LAPPIN & DANBERG requesting the Director of Planning & Development and the Chair of the Zoning Reform Scoping Group provide updates on the Scoping Group's Progress. These updates will occur at the frequency determined by the Chair of the Scoping Group and the Chair of the Zoning and Planning Committee. [3/14/2011 @ 11:16PM]

#65-11(3) ZONING AND PLANNING COMMITTEE requesting that the terms "flat roof" and "sloped roof" be defined in the zoning ordinance.

REFERRED TO PROGRAMS AND SERVICES COMMITTEE

#114-11(2) ALD. HESS-MAHAN & ALD. SALVUCCI requesting a discussion on the definition of "tot lot" in the ordinance and whether there are other play areas/structures which should be protected from the presence of dogs.

#94-11 ALD. HESS-MAHAN proposing an amendment to the accessory apartment ordinance by adding "no accessory dwelling unit shall be separated by ownership from the principal dwelling unit or structure, including, without limitation, conversion to the condominium form of ownership. Any lot containing an accessory dwelling unit shall be subject to a recorded restriction that restricts the lot owner's ability to convey interest in the accessory dwelling unit, except leasehold estates" [03-24-11 @ 9:30AM]

#162-11 ALD. YATES requesting a report from the Director of Planning and Development on the status of the update of the *Open Space and Recreation Plan*, particularly as it pertains to the Charles River Pathway. [05/12/11 @ 10:16AM]

Public hearing held on April 25, 2011

#65-11(2) TERRENCE P. MORRIS & JOSEPH PORTER proposing amendments to the Zoning Ordinance to revise the definition of "height" in Section 30-1 B) and to add a provision in Section 30- 15(m) to allow accessory structure height limits to be waived by special permit. [03-30-11 @ 4:12PM]
(Public Hearing closed 4-25-2011; 90 day expiration July 22, 2011)

#153-11 ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting that Chapter 30 be amended by adding a new Sec. 30-14 creating certain Retail Overlay Districts around selected village centers in order to encourage vibrant pedestrian-oriented streetscapes which would allow certain uses at street level, including but not limited to financial institutions, professional offices, and salons, by special permit only and require minimum transparency standards for street-level windows for all

commercial uses within the proposed overlay districts. [05-10-11 @3:19 PM]

- #153-11(2) ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting the map changes necessary to establish certain Retail Overlay Districts around selected village centers. [05-10-11@3:16 PM]
- #154-10(2) ZONING AND PLANNING COMMITTEE requesting to amend **Section 30-1 Definitions** by inserting revised definitions for “lot line” and “structure” for clarity. [04-12-11 @11:34AM]
- #133-03 ALD. YATES proposing an amendment to Chapter 30 requiring a special permit for a so-called "snout house" (one with excessive/intrusive garage on the front) following the example of Fort Collins, Colorado.
- #154-10 ALD. JOHNSON, CROSSLEY and HESS-MAHAN requesting to amend **Section 30-1 Definitions**, by inserting a new definition of “lot area” and revising the “setback line” definition for clarity. [06/01/10 @ 9:25 PM]
- #102-11 ALD. HESS-MAHAN, JOHNSON, COMMISSIONER LOJEK, AND CANDACE HAVENS requesting an amendment to Chapter 17 to establish a fee for filing a notice of condo conversion. [03-29-11 @ 4:55PM]
- #94-11 ALD. HESS-MAHAN proposing an amendment to the accessory apartment ordinance by adding “no accessory dwelling unit shall be separated by ownership from the principal dwelling unit or structure, including, without limitation, conversion to the condominium form of ownership. Any lot containing an accessory dwelling unit shall be subject to a recorded restriction that restricts the lot owner’s ability to convey interest in the accessory dwelling unit, except leasehold estates” [03-24-11 @ 9:30AM]
- #95-11 ALD. HESS-MAHAN proposing an ordinance requiring that a notice of conversion to condominium ownership be filed with the Inspectional Services Department and that the property be inspected to determine compliance with all applicable provisions of the state and local codes, ordinances and the rules and regulations of all appropriate regulatory agencies. [03-24-11 @ 9:30AM]

REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES

- #64-11 HIS HONOR THE MAYOR, in coordination with the Director of Planning and Development, requesting to amend Section 30-15, Table 4, Dimensional Controls for Rear Lot Development in Residential Zones as they pertain to floor area ratio. [02-22-11 @ 6:47PM]

- #365-06 ALD. YATES requesting the establishment of an education program for realtors concerning properties in historic districts.
- #253-10(2) ZONING & PLANNING COMMITTEE supporting the establishment of a Brightfield Solar Energy Array, subject to neighborhood input, on the Flowed Meadow site similar to the one in Brockton. [02-15-2011 @10:01am]
- #150-09(3) ALD. ALBRIGHT, JOHNSON, LINSKY proposing that a parcel of land located in Newtonville identified as Section 24, Block 9, Lot 15, containing approximately 74,536 square feet of land, known as the Austin Street Municipal Parking Lot, currently zoned Public Use, be rezoned to Business 4. (12/10/10 @9:21AM)
- #153-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-15 Table 1** of the City of Newton Ordinances to allow a reasonable density for dwellings in Mixed Use 1 and 2 districts. [06/01/10 @ 9:25 PM]
- #183-10 ALD. JOHNSON, CROSSLEY AND HESS-MAHAN requesting to amend **Section 30-13(a) Allowed Uses in Mixed Use 1 Districts** by inserting a new subsection (5) as follows: “(5) Dwelling units above the first floor, provided that the first floor is used for an office or research and development use as described above;” and renumbering existing subsection (5) as (6). [06/07/10 @ 12:00 PM]
- #311-10 HIS HONOR THE MAYOR submitting the FY’ 12-FY’ 16 Capital Improvement Program, totaling \$174,246,135 pursuant to section 5-3 of the Newton City Charter and the FY’ 11 Supplemental Capital budget which require Board of Aldermen approval to finance new capital projects over the next several years. [10/18/10 @5:24PM]
- #474-08 ALD. HESS-MAHAN & VANCE proposing that Chapter 30 be amended to transfer from the Board of Aldermen to the Zoning Board of Appeals and/or the Planning & Development Board the special permit granting authority for special permit/site plan petitions not classified as Major Projects pursuant to Article X of the Board Rules. [12/09/08 @ 3:26 PM]
- #152-10 ALD. BAKER, FULLER, SCHNIPPER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to **Section 30-19** of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities. [06/01/10 @ 4:19 PM]

#411-09 ALD. DANBERG, MANSFIELD, PARKER requesting that §30-19(d)(13) be amended by adopting the Board of License Commissioners' current informal policies, which waive parking stall requirements for a set maximum number of seasonal outdoor seats in restaurants and require that indoor seats be temporarily reduced to compensate for any additional outdoor seats while they are in use, by establishing a by-right limit based on a proportion of existing indoor seats that will allow seasonal outdoor seats to be used without need for additional parking.

#391-09 ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting an amendment to §30-19 to allow payments-in-lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

#391-09(2) ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting the establishment of a municipal parking mitigation fund whose proceeds, derived from payments-in-lieu of providing off-street parking spaces associated with special permits, will be used solely for expenses related to adding to the supply of municipal parking spaces, improving existing municipal parking spaces, or reducing the demand for parking spaces.

#207-09(2) ALD. PARKER, DANBERG & MANSFIELD, proposing that chapter 30 be amended to allow additional seating in restaurants. [07/07/09 @ 12:42 PM]

#61-10 ALD. CICCONE, SWISTON, LINSKY, CROSSLEY AND HESS-MAHAN requesting a discussion relative to various solutions for bringing existing accessory and other apartments that may not meet the legal provisions and requirements of Chapter 30 into compliance. [02/23/10 @ 2:48 PM]

#164-09(2) ALD. HESS-MAHAN requesting that the Planning Department study the dimensional requirements for lot and building size for accessory apartments and make recommendations for possible amendments to those dimensional requirements to the board of Aldermen that are consistent with the Newton Comprehensive Plan. [01/07/10 @ 12:00 PM]

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

#48-06 ALD. HESS-MAHAN, BURG, JOHNSON, DANBERG, PARKER & WEISBUCH proposing that the city provide financial incentives to rent accessory apartments to low- to moderate-income households at affordable rates that can serve housing affordability goals.

FINANCE VOTED NO ACTION NECESSARY ON 3/8/10

- #60-10 ALD. HESS-MAHAN proposing that sections 30-15(s)(10) and 30-24(b) of the City of Newton Ordinances be amended to substitute a 3-dimensional computer model for the scaled massing model in order to facilitate compliance with recent amendments to the Open Meeting Law and that sections 30-23 and 30-24 be amended to reflect the filing procedures in Article X of the Rules & Orders of the Board of Aldermen.
[02/23/10 @ 3:24 PM]
- #475-08 ALD. HESS-MAHAN, DANBERG, JOHNSON, SWISTON, & PARKER proposing that the City of Newton accept the provisions of GL chapter 43D, a local option that allows municipalities to provide an expedited permitting process and promote targeted economic development.
[12/09/08 @ 9:41 AM]
- #288-06 ALD. MANSFIELD, DANBERG, PARKER proposing that Sec 30-11(a), (b), and (d) of Chapter 30 be amended to allow banks and other financial institutions only by special permit in Business 1, 2 , 3 and 4 districts.
- #440-04 ALD. JOHNSON, BAKER & LAPPIN proposing a definition of “accessory structure” which will include mechanical equipment.
- #20-99 ALD. YATES proposing that Chapter 30 be amended by removing radio and television towers as allowed uses in the Mixed Use 1 district.

Respectfully Submitted,

Marcia Johnson, Chairman

163-11

Barbara Huggins

Academic

*Master of Arts
Tufts University
Graduate Department of
Urban and Environmental
Policy and Planning*

*Juris Doctor
Boston University
School of Law*

*Bachelor of Arts
University of Pennsylvania*

Professional

*Admitted to the bar
in Massachusetts
and Mississippi*

INTRODUCTION

Barbara Huggins is a partner in the law firm of Huggins and Witten, LLC, where her practice includes municipal and land use law. Prior to joining the firm, then Daley and Witten, Ms. Huggins served as Law Clerk to the Hon. Mark V. Green, then-Associate Justice of the Massachusetts Land Court; as Law Clerk to Hon. Joseph Trainor and Janice Berry, Associate Justices of the Massachusetts Appeals Court; and as Editor of Landplanner Magazine and the Land Court Reporter. She has a masters degree in planning from the Tufts Department of Urban and Environmental Policy and Planning, where she wrote her thesis on Chapter 40R and Chapter 40B. While pursuing her planning degree, she interned in the Newton Planning Department for the Zoning Administrator. Recent civic activity includes serving on the Zoning Task Force appointed by the Board of Alderman, examining the "de minimis" rule in the Zoning Ordinance. She has a daughter in the F.A. Day Middle School and Newton Youth Hockey.

REPRESENTATIVE PROJECTS

Town Counsel: Town of Stow, Massachusetts 2005-Present:
Represents the Town of Stow in legal matters relating to zoning, land use, subdivision control, permitting (including wetlands), and telecommunications.

Town Counsel: Town of Marion, Massachusetts 2005- Present:
Represents the Town of Marion in legal matters relating to zoning, land use, subdivision control, and permitting (including wetlands).

Special Town Counsel: Town of Middleborough, Massachusetts 2005- Present: Represents to Board of Appeals for legal matters relating to comprehensive permit applications and appeals.

Special City Solicitor: City of Amesbury, Massachusetts 2005-Present: Represents the City of Amesbury for legal matters relating to comprehensive permit applications and appeals.

Special City Solicitor: City of Gloucester, Massachusetts 2009-Present: Represents City of Gloucester in an appeal from a comprehensive permit decision by the Housing Appeals Committee.

Special Town Counsel: Towns of Wareham and Bourne, Massachusetts 2005-Present: Represents Towns' Boards of Appeals for legal matters relating to comprehensive permit applications.

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NEWTON, MA. 02159

PRIOR EMPLOYMENT

Intern: Department of Planning and Development, City of Newton, Massachusetts Spring 2005: Reviewed applications for residential construction under city ordinance, and researched and drafted memoranda on zoning topics.

Law Clerk: Massachusetts Appeals Court 2001-2003: Law clerk to the Hon. Joseph Trainor and the Hon. Janis Berry.

Editor, Department of Environmental Protection Reporter and Land Court Reporter; Editor-in-Chief, Landplanner Magazine. 1999-2000: Prepared case summaries and digest entries for decisions issued by the Land Court and the DEP, including cases under the state Wetlands Protection Act. Prepared and edited articles on issues arising from zoning, development, and the permitting process for Landplanner Magazine.

Law Clerk: Land Court Department, Trial Court of Massachusetts 1997-1999. Law clerk to Hon. Mark Green. Court's jurisdiction includes zoning and subdivision control law.

Associate, Maxey Wann & Begley, Jackson, MS 1994-1995
Practice focused on administrative, gaming, and business law.

Senior Staff Attorney, Mississippi Supreme Court, Jackson, MS. 1995-1996. Prepared memoranda on cases and motions before the Court. Drafted and edited opinions and orders for publication.

Robert E. Unsworth

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Experience

President, Industrial Economics, Incorporated, Cambridge, MA. 2005-2011.

Mr. Unsworth is a Principal and Partner with the firm of Industrial Economics, Incorporated (IEc). He joined IEc in 1985 as a Research Analyst, and was subsequently promoted to Associate, Senior Associate, Principal, Chief Operating Officer, and President.

IEc is an internationally recognized environmental policy, economics, and environmental science consultancy. Mr. Unsworth's practice at IEc focuses on helping clients understand the economic and social implications of environmental change, environmental regulation, and natural resource management.

- Mr. Unsworth is an expert in natural resource damage assessment, water economics, and environmental policy analysis.
- He serves as an advisor to the U.S. Department of Justice, the U.S. Department of the Interior, various state, local and Tribal governments, law firms and NGOs.
- He has served as an expert witness in cases involving adverse environmental change.
- He has conducted studies of the potential economic effects of climate change, Federal and state environmental regulations, and regional management of land and water resources.
- He has served on numerous expert panels for the National Research Council, California Energy Commission, European Union, U.S. Environmental Protection Agency, U.S. Department of the Interior, and other governmental and non-governmental organizations.

Education

B.S., Forestry, State University of New York (*magna cum laude*). 1984.

Masters of Forest Science, Yale University, School of Forestry and Environmental Studies. 1986.

Other

Mr. Unsworth has lived in Newton since 1994. He is married to Lisa Unsworth. Their daughter, Fiona, is a student at the Dana Hall School in Wellesley.