

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING AND PLANNING COMMITTEE REPORT

WEDNESDAY, JULY 24, 2002

Present: Ald. Yates (Chairman), Ald. Lappin, Sangiolo, Lennon, Mansfield, and Baker

Absent: Ald. Gentile and Johnson

Other Aldermen present: Ald. Merrill and Linsky

Members of 30-15 Task Force Present: Inspectional Services Commissioner Mark Gilroy, Zoning Administrator Peter Bronson, Associate City Solicitor Ouida Young, Planning and Development Director Michael Kruse, Associate Director Juris Alksnitis, and the following private attorneys: Jason Rosenberg, G. Michael Peirce, Mark White.

#232-02 RE-APPOINTMENT BY HIS HONOR THE MAYOR
RACHEL FREED, 9 Chaske Avenue, Auburndale, re-appointed on May 30, 2002, as a member of the CONSERVATION COMMISSION for a term of office which will expire on April 30, 2005 (60-day Board action date 8/16/02).

ACTION: APPROVED 6-0

NOTE: Ms. Freed is an official of the Massachusetts Department of Environmental Protection who oversees the work of Conservation Commissions in other cities and towns so she is extremely familiar with the Wetlands Laws to be enforced by the Commission. She strongly recommends approval of the Mayor's proposal to make the enforcement of the Commission's orders by ticketing. There are several property owners who have violated the Ordinances and the orders of the Commission. Most have been brought into compliance through discussion and negotiation, but some have flouted the Commission's orders despite repeated requests. Dragging them into Court is extremely costly in staff costs, and takes a lot of time to carry out. Tickets of up to \$300 per day can serve the same function of convincing the owner that the city is serious about its ordinances and that he should comply as soon as possible. The Committee thanked her for the briefing on this issue that the Committee will take up in the fall. Alderman Sangiolo moved approval of her re-appointment. The motion passed 6-0.

#238-02 RE-APPOINTMENT BY HIS HONOR THE MAYOR
NORMAN RICHARDSON, 372 Waltham Street, West Newton, re-appointed on May 30, 2004 as a member of the CONSERVATION COMMISSION for a term of office which will expire on April 30, 2005 (60-day Board action date 8/16/02).

ACTION: APPROVED 6-0

NOTE: Mr. Richardson has both an education in botany and extensive experience at environmental work. He concurred with Ms. Freed that ticketing would be a useful tool for the Commission. The Committee thanked him for putting his expertise at the city's service. Alderman Baker's motion to approve his re-appointment passed 6-0.

#233-02 RE-APPOINTMENT BY HIS HONOR THE MAYOR
ERIC REENSTIERNA, 15 Otis Park, Newtonville, re-appointed on 5/30/02 as a member of the CONSERVATION COMMISSION for a term of office which will expire on April 30, 2005 (60-day Board action date 8/16/02).

ACTION: APPROVED 6-0

NOTE: Mr. Reenstierna is a land appraiser who serves as the Commission's representative on the Community Preservation Committee. The Commission will submit a plan to the Board for use of approximately \$3 million for Open Space, Historic Preservation, and Affordable Housing this year with projects that fit more than one category having preference. The Committee thanked him for his willingness to serve on both bodies. Alderman Baker's motion to approve his re-appointment passed 6-0.

#235-02 RE-APPOINTMENT BY HIS HONOR THE MAYOR
PETER KAI JUNG LEW, 61 West Pine Street, Auburndale, re-appointed on 6/10/02 as a member of the ECONOMIC DEVELOPMENT COMMISSION for a term of office which will expire on February 25, 2005 (60-day Board action date 8/16/02).

ACTION: APPROVED 6-0

NOTE: Mr. Lew is an architect and project manager who brought the Committee up-to-date on various EDC projects including the Skating Rink on Nonantum Road, the redevelopment of Newton Centre, and increased development of Riverside MBTA land. Some Committee members were concerned about some of the projects possibly conflicting with other city policies. It was not clear why the EDC not the Recreation Commission was investigating the use of the Skating rink. The project had been started before he was appointed. He assured the Committee that the projects were in preliminary stages. Alderman Yates urged him not to neglect the ZAP items referred to the EDC for their input. He agreed. Alderman Sangiolo moved his appointment, which passed 6-0.

#236-02 RE-APPOINTMENT BY HIS HONOR THE MAYOR
ALLEN WELTZ, 24 Windermere Road, Auburndale, re-appointed on 6/10/02 as member of the ECONOMIC DEVELOPMENT COMMISSION for a term of office which will expire on November 6, 2004 (60-day Board action date 8/16/02).

ACTION: APPROVED 5-0-1 (LAPPIN ABSTAINING)

NOTE: Although Mr. Weltz was not present because of a current health problem, most Committee members were familiar with his work as a community activist and his

knowledge as development consultant for hotels. Alderman Sangiolo's motion to approve his appointment passed 5-0-1.

ITEM REFERRED TO THE 30-15 TASK FORCE:

#216-00 ALD. YATES requesting that Chapter 30 be amended to require a special permit to demolish an existing single-family dwelling on a pre-1953 lot that does not meet the current dimensional requirements for a lot in a Multi Residence District and replace it with a two-family dwelling.

ITEM REFERRED TO THE 30-15 TASK FORCE:

#217-00 ALD. YATES requesting that Chapter 30 be amended to require a special permit for the demolition of a structure aged 100 years or more containing one or more residential units in any residential district.

ACTION: HELD 6-0

NOTE: Alderman Mansfield served as Chair of the Task Force to review the provisions of the ordinance regarding older, smaller lots. With the assistance of his Task Force members, including Aldermen Baker and Sangiolo, he explained the Task Force's second set of recommendations. They had found numerous sections of the city that were not zoned in accordance with the predominant residential land use. Most were single residence districts zoned for two-families. A few were the reverse. Both contradicted the obvious sense of the street. Without excruciating analysis of the zoning of their neighborhoods, residents of a single-family district zoned to allow two-families might find such a structure being built without a special permit on a small lot next to their homes. (This is what happened on Ohio Avenue in Upper Falls; a large two-family house has been built on a street of mainly small, affordable ones. Each side of the new structure is offered for sale at \$500,000, far beyond the means of the long-time residents of the area. Another house next to the new one has been sold and demolished and left in that state for at least six months.) The surprise for the "mis-zoned" two-families would be if the owners wanted to make even the smallest change to their two-family structure in the middle of a block of two-families would find it an extension of non-conforming use and have to seek a special permit for no reason other than the mismatching zoning of the neighborhood. To avoid these problems and begin the process of making the city zoning match the land use as far as possible while avoiding time based zoning, the Task Force proposes that three small areas be rezoned to conform to the existing uses. (A long term goal is to add new zoning districts that match the land use in some older sections of the city, but that will take a great deal of time and work. These map changes are intended to straighten out these neighborhoods for the foreseeable future. GIS maps showing the current zoning and land use and the proposed zoning were shown, and are available for inspection in the Clerk's office. The three areas are the Oakmont area of Thompsonville, the Northgate Park/Southgate Park area of West Newton, and the area of Auburndale. A detailed listing of the parcels is given in the items below. The Committee agree to docket the items with the proviso that the proposed changes be drawn as widely as possible. Excess parcels can be dropped much more easily than new ones added. Alderman Mansfield moved that the Zoning and Planning Committee file three items

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transmitting the zoning map changes recommended by the 30-15 Task Force. The motion passed 6-0. (See 8/12/02 Docket for streets and addresses.)

Associate Solicitor Ouida Young then explained a text change that the Task Force was recommending that would remove portions of the ordinance that appear to allow residential construction on lots of 3,000 square feet per unit.. Other sections now restrict the area per unit to 3500 square feet. This change will make the two sections concur at 3500 square feet per unit. Alderman Mansfield's motion for the Committee to docket this item also passed 6-0. (See 8/12/02 Docket for text.)

The Chairman complimented the Task Force on its excellent work to date. The Chairman pointed out that there had been an attempt to keep the Task Force from being stacked one way or the other, but that in fact, all the Task Force's actions had been taken by consensus after extensive discussion. The Attorneys particularly wanted it known that the work of the Task Force, once adopted, would probably cost each of them significant income but that it is work they no longer want to do. It was imposing a financial burden on homeowners who only wanted to make minor changes to their homes. It was excruciatingly detailed work that served no real purpose. The current ordinance is almost incomprehensible even to them with their decades of experience. The average citizen should be able to look around his neighborhood and get a general sense of what's allowed. The citizen should be able to consult the zoning ordinance to find out what he or she can do with his or her property without having to consult city officials or private attorneys. The Committee agreed that these were worthwhile goals and that they should continue to work towards them by supporting the newly docketed items and by getting more ready for after they pass.

Respectfully submitted,

Brian Yates Chair