

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, JANUARY 19, 2005

Present: Ald. Johnson (Chair) Ald. Sangiolo, Hess-Mahan, Baker

Absent: Ald. Merrill, Parker, Coletti, Fischman

Also Present: David Naparstek (Health Commissioner) Peter Karg (Election Secretary) Robert DeRubeis (Recreation)

#464-04 PRESIDENT BAKER appointing CARISA OLIVO, 251 Pearl Street, Newton Corner as a member of the CHILD CARE COMMISSION for a term to expire January 1, 2007. (60-day Board action date 2/4/05)

ACTION: **APPROVED 4-0**

NOTE: Ms. Olivo had appeared before the Committee at the previous Programs and Services Committee meeting and since she already appeared before the Committee, her appointment was approved 4-0.

Reappointment by His Honor the Mayor:

#12-05 THOMAS ELKIND, 29 Wamesit Road, Newton reappointed as a member of the Newton Commonwealth Golf Foundation for a term of office expiring on July 30, 2007. (60-day Board action date March 4, 2005)

ACTION: **APPROVED 4-0**

NOTE: Mr. Elkind was present and told the Committee he has lived in Newton since 1979 and has been on the golf committee since its establishment. He has served as Chairman for 13 years and has remained on the Committee. He is happy to oversee the operation of the course. There is now a golf professional consultant hired that has come up with a master plan for the course which will be implemented. The course is well-managed and is a great asset to the City.

Reappointment by His Honor the Mayor

#13-05 HARMON WHITE, 50 Valley Springs Road, Newton reappointed as a member of the Newton Commonwealth Golf Foundation for a term of office expiring on July 30, 2007. (60 day Board action date March 4, 2005)

ACTION: HELD

NOTE: President Baker said Mr. White has been involved since the inception of the golf course and said he felt he was entitled to be reappointed. Since he was not present and provided no backup, the Committee voted to hold.

Appointment by His Honor the Mayor

#19-05 PETER BROWN, 79 Washington Street, Newton Corner, appointed as a member of the NEWTON HUMAN RIGHTS COMMISSION for a term of office to expire on January 1, 2008 (60-day Board action date March 19, 2005).

ACTION: APPROVED 4-0

NOTE: Mr. Brown explained he had been on the Advisory Committee for the past few years. He has been trying to act as the liaison with the Massachusetts Association of Human Rights Commissions to try to coordinate Human Rights Commissions and work that is being done. He is hopeful that several communities will be getting together to handle any hate incidents. Chairman Johnson questioned what was being done to prevent hate incidents. Mr. Brown said programs would be developed for schools. Chairman Johnson hoped that something in the future could be done for broader education for a wider group.

Re-appointment by His Honor the Mayor

#20-05 DONALD FERRERI, 19 Shute Path, Newton Centre, reappointed as a member of the NEWTON HOUSING AUTHORITY for a term of office to expire on February 16, 2010 (60-day Board action date March 19, 2005).

ACTION: HELD 4-0

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#16-05 HIS HONOR THE MAYOR requesting an appropriation in the amount of \$24,576 from Budget Reserve for the purpose of allowing the Health Department to pay for the 1,024 flu vaccinations the Department and the Visiting Nurses Association administered on November 22, 2004.

ACTION: APPROVED 4-0

NOTE: Mr. Naparstek was present as well as Linda Walsh who sets up the flu clinics. Massachusetts was only able to get less than half of their normal supply. Newton was offered about 500 doses. The Commissioner at that time ordered that only folks over 75 could get shots or people in a high risk category. After meeting with neighboring communities as well as Newton Wellesley Hospital, it was learned that the Visiting Nurses Association of Boston had purchased around 5,000 doses of flu vaccine that could not be used. Mr. Naparstek contacted them and was able to acquire more vaccine. At a clinic at Post 440, 1500 doses were used. The cost was \$22.00 per dose. Mr. Naparstek said they were hoping to receive some reimbursement from Medicare, but this would take six to eight months. Over 3300 doses have been administered so far. The Committee voted 4-0 in approval.

REFERRED TO PROGRAMS & SERVICES & FINANCE COMMITTEES

#29-05 HIS HONOR THE MAYOR requesting authorization to appropriate and expend three hundred twenty-one thousand nine hundred fifty-eight dollars (\$321,958) from Budget Reserve for the purpose of funding current and future snow and ice and tree emergency expenses in the Parks and Recreation Department.

ACTION: APPROVED 4-0

NOTE: Bob DeRubeis, Deputy Commissioner, was present and noted that the City has two new contractors who have been working out well.

Ald. Sangiolo asked about situations where there is only a small amount of snow. Mr. DeRubeis explained that some of these small storms are very costly and further explained if the small storms are not cleaned up, there can then be a frozen mess. Ald. Sangiolo asked if school plowing included sidewalks all around the schools or just the school parking lot. Mr. DeRubeis explained it was internal sidewalks, blue zones, and parking lots all done by the contractor. Ald. Sangiolo mentioned issues where sidewalks were not done. Mr. DeRubeis said blue zones are done. Ald. Baker asked about plowing around Bigelow. Ald. Sangiolo questioned some contractors blocking sideways. The contract reads that when blue zones are plowed, contractors are asked to clean things up. Ald. Hess-Mahan questioned the type of sand used and asked whether the City was using an environmentally friendly mix of mash, salt and sand that sticks to road surfaces better. Mr. DeRubeis responded that it was a sand and salt mix. Chairman Johnson noted that traffic was blocked on the entire Albemarle Road while the plows were running. She wanted to be sure that kind of problem would not reoccur. Another question Chairman Johnson had was how contractors were chosen. The response was low-qualified bidder. Her final question involved insurance and Mr. DeRubeis responded that the appropriate amounts were all in place.

#171-04 ALD. HESS-MAHAN requesting home rule legislation authorizing local voting rights for permanent resident aliens residing in Newton.

ACTION: APPROVED 3-0-1 (Baker abstaining)

NOTE: The Committee was joined for this discussion by Gayle Smalley of the Law Department and Peter Karg of Elections.

Background: At the time of our last discussion there were two major areas for discussion that Ald. Hess-Mahan needed to address. They were

1. a discussion of this item with the Election Commission
2. the question of whether this would enable permanent resident aliens who can vote to run for local election as well.

Election Commission: Ald. Hess-Mahan reported that he spoke with the Election Commission concerning the logistics of a special list for this type of election.

Mr. Karg said that Ald. Hess-Mahan came in and spoke to the Election Commissioners on January 6th and took many questions as to how the process would work procedurally. There was also discussion regarding the type of process to be set up which would include registration and some type of manual list system. Presently there is a central voter registry maintained by the state. At the end of each election, lists are scanned in (each name has a respective bar code) to record voter activity. Because non-citizens are not included on the central registry, lists of permanent resident aliens voting in local elections would have to be compiled manually. Ald. Sangiolo noted that after the first list, couldn't each voter be assigned a bar code. Mr. Karg said that every community in the Commonwealth uses the central voter registry which does not include non-citizens. Ald. Sangiolo further asked why couldn't communities who were adopting this permanent resident alien voting develop their own system. Mr. Karg responded that the state would not allow us to enter non-citizen voters in their system. Ald. Sangiolo felt it would be simple to develop a system for Newton. Chairman Johnson noted that resident aliens are included in the annual city census and felt that from a technology perspective, it would not be a big problem to set up a system.

Chairman Johnson concluded that there was no vehement objection by the Election Commissioners and Mr. Karg agreed. President Baker clarified that the policy question is strictly in our court.

Eligibility of permanent resident aliens to run for local office if they are given the right to vote in local elections: Ald. Hess-Mahan noted that Ald. Baker had questioned if someone could vote would be eligible to run for office. The response was yes. Part 1, Article 9 of The Massachusetts Constitution requires that "all elections ought to be free; and all the inhabitants of this Commonwealth having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments." Decisions interpreting this constitutional provision were pretty clear that if you can vote in an election, you can run for office. The other issue was the meaning of "inhabitant." Inhabitants include all people residing in Massachusetts cities and towns, not just citizens. The Massachusetts Constitution requires that all inhabitants of cities and towns, including non-citizens, be counted in the census. Ald. Hess-Mahan noted that with respect to the policy debate about fairness, if you think back to pre Civil War, there were African-Americans that were not allowed to be citizens but they were counted as three-fifths of a person for purposes of representation in Congress. Similarly, today, in Massachusetts, resident non-citizens cannot vote in local elections but are counted for purposes of representation in the state legislature which he thinks is unfair.

Chairman Johnson asked if there was any risk in comparison to a citizen who was elected and lost his/her voting privilege versus a permanent resident alien and has his or her voting privileges taken away if they are gone for a period of time. Ms. Smalley said there was no provision in our charter to get rid of elected officials during their term of office. Ald Hess-Mahan said he felt the answer was in the section that stated that all inhabitants shall have the equal right to elect and hold office so if someone who is a citizen loses their voting rights the same rule would apply to permanent resident aliens

Voting rights at the state and national level: Another concern people may have is that allowing local voting rights for non-citizens now would mean that the next thing would be to allow non-citizens to vote in state and national elections. In the State Constitution, there is a specific provision which requires that you must be a citizen to vote for a state or national office. Accordingly, granting non-citizens voting rights in a state or federal election in Massachusetts, would require a state constitutional amendment. .

Home Rule Legislation Wordings (see attached): The Committee reviewed prior language and Chairman Johnson noted in Section 2 that rules were referred to and she was looking for clarification for the type of “rules.” Ms. Smalley said one issue would be that permanent status can change and might require voters to come in and bring a copy of the documentation every so many years. There would be many practical arrangements in order to implement this as well as authority to say the right to vote is still contingent to registering this far in advance. In our usual registration, we are using a comprehensive set of state rules. The Election Commission would have to put some procedure in place.

Committee Member’s Opinions

President Baker feels that citizenship is the best qualification and is cautious about considering this docket item.

Since it often takes so long for citizenship, Chairman Johnson said that it would be encouraging to permanent resident aliens rather than discourage them if they could have some impact on elections. She continued to say that this item is worthy of discussion at board level and moved approval.

Ald. Baker noted that people pay taxes to all levels of government and that by itself does not give the right to vote. He agrees that there are good arguments for this but was not ready to join his colleagues and voted to abstain.

Ald. Hess-Mahan added the following information: according to the 2000 Census, there are approximately 15,120 people who are foreign born and live in Newton; there were 6,051 foreign born who are still not citizens either because they

haven't lived here long enough or had not completed the citizenship process. Thus, a little over 9,000 foreign-born residents did become citizens. Statistics show that the vast majority of permanent resident aliens who come to this country become citizens eventually.

#11-05 EXECUTIVE SECRETARY OF THE ELECTION COMMISSION requesting Board of Aldermen approval of the following:
"To fix the date of Tuesday, September 20, 2005 (City Preliminary Election) for the nomination of Mayor, sixteen (16) Aldermen-at-Large, eight (8) Aldermen-by-Ward, eight (8) Members of the School Committee. Polling places will be open from 7:00 am to 8:00 pm."

ACTION: APPROVED 4-0

NOTE: Mr. Karg said the Board approves the date of the preliminary election. Since November 8th is the first Tuesday after the first Monday, the election in 2005 is a little later than usual. Generally 7 weeks are needed between preliminary and municipal election that allows for recounts, absentee ballots, and do all the prep work that needs to be done. Waltham has set the same date and that might reinforce voting if the signs are also seen in Waltham. This would also help getting tech support if two communities had set the same date. In Mr. Karg's opinion, September 20th seemed an appropriate date. From the date of the preliminary election, you work backwards 49 days in determining the last date to submit nomination papers. In counting back the 49 days, the last day to submit to Election Commission would be August 2nd. In looking at the law, this would be needed to comply with state statute.

President Baker noted it was a full month later than usual. Ms. Smalley noted this was by statute. The statute allows candidates up to the 49th day before the preliminary election to pass in nomination papers. There are some dates set by statute and other dates that are not. Charter determines the date of the final election. The period for challenges for nomination papers is set by statute. From the date nomination papers are submitted to the Commission, that would be 49 days before the preliminary election, there is a 14-day period for certification of signatures, and the next 35 days brings you down to the election date itself.

Chairman Johnson concluded that this seemed to be a good timeframe.

There was a motion to approve and the Committee voted 4-0 in favor.

#242-03(2) ALD. JOHNSON, SAMUELSON, SANGIOLO requesting to establish a taskforce to conduct a *Dogs off Leash Feasibility Study*.

ACTION: APPROVED 4-0

NOTE:

Background: Chairman Johnson noted that at the January 5th Programs and Services Committee, Ald. Sangiolo and Samuelson suggested a taskforce comprised of combination of citizens and members of relevant commissions and departments to go out and look at the feasibility of finding places or times where dogs may be off leash. (Resolution attached)

Task Force Representation and Leadership: There was discussion of various representatives including one to two representatives from each ward and a Parks and Recreation representative. A caveat would be that all members should be willing to view the issues from all sides and develop a collaborative recommendation. President Baker questioned who would Chair this Committee and Chairman Johnson thought it would be up to the Task Force. President Baker shared Ald Hess-Mahan's view regarding size of the Task Force. Chairman Johnson stated that Commissioner Naparstek did not want to be a member of the taskforce but would want to be a resource and review output. President Baker thought that the animal control officer may be someone who is not on the Commission but sits as a reviewer and provides input, similar to that of the Health Commissioner. President Baker felt it might be better to have a smaller body which would be more manageable.

Potential Locations/Criteria for Selection: Discussion ensued on the use of conservation areas. There was agreement that all School yards seem to be a bad idea. Norm Richardson was present as the representative of the Conservation Commission. He indicated that there has been discussion and some divided opinion. The Commission would be open to a specific proposal to be considered. He sees the mission of conservation to protect and preserve.

Ald. Sangiolo said there are some conservation owned lands that are considered dog parks. It could be an issue of enforcement and her opinion was not to exclude all conservation areas as some might be appropriate. President Baker doesn't see this as a dialogue with the Conservation Commission but rather the Conservation or Recreation Commission would say, "Here are some ground rules we will start with", and then go from there.

Ald. Hess-Mahan had concern regarding the limits the Task Force would have. If there were only a limited number of locations, either people are all going to flock there or they won't use it at all and continue to do what they do now. Chairman Johnson explained this is not going to include all parks citywide. Brookline and other communities have started with some areas so there would be monitoring and enforcement to make this successful. Ald. Hess-Mahan felt it would be useful to identify the best possible sites first. Chairman Johnson said there has been a good deal of research done regarding best practices. Since this is a delicate issue, monitoring performance and acceptance in areas all over the city would be very difficult. Ald. Hess-Mahan felt the sites should be geographically dispersed.

Enforcement: President Baker felt a big challenge would be enforcement. We have a leash law right now which people are not willing to abide by. He was concerned that people would question if rules are not presently abided by, why would they be in the future? In his opinion, the enforcement issue would be key to making this successful. Chairman Johnson observed that models show where this is in place, self-enforcement has worked. Chairman Johnson noted that you could not make an assumption that just because a dog is on leash that the person who is responsible for that animal will clean up after it. Ald. Sangiolo stated that we are not trying to address the pooper/scooper law; we are trying to address areas where dogs can be off leash and get exercise.

President Baker spoke to the dog officer and was told that enforcement of conservation lands would be greater than parks. You can drive around a park and see what is going on but it is much more difficult to do this on foot and much more of a challenge. There would also be a timing problem with different shifts. He felt there should be preliminary advice from each of the commissions.

Amendment: Ald. Sangiolo suggested an amendment to the resolution and perhaps a paragraph that says, "The Parks and Recreation Commission and the Conservation Commission shall submit to the Task Force criteria for exclusion or other areas that they believe may not be appropriate". That could be brought forward to the Task Force and then explain why it should or should not be included. There was discussion suggesting that the sites chosen would be geographically dispersed.

There was a motion by Ald. Hess-Mahan and the Committee voted 4-0 to approve.

#335-04

PRESIDENT BAKER requesting an amendment to the Board of Aldermen Rules and Orders 2004-2005 to allow the majority of reappointments to be made without discussion so as to avoid duplication of effort.

Rules Subcommittee approved 3-0 on 1/10/05

ACTION:

APPROVED 4-0

NOTE:

President Baker said this amendment would bring our rules into conformity with current practice. This item had been discussed and approved in the Rules Committee. Chairman Johnson said she had in the past worked with Karen Griffey and Michael Rourke to implement a process to clean up the appointment process. This puts into words the practice that has evolved out of that process. President Baker concluded that this refers to the Mayor's appointees and he felt the same should be done for aldermanic appointees.

The Committee moved approval with the amendment to include aldermanic approval, Ald.Hess-Mahan moved approval. 4-0.

The Committee adjourned at 10:40 p.m.

Respectfully submitted,

Marcia Johnson, Chair