

April 7, 2017

Proposed changes to Sections 4-4 and 11-7 of the charter concerning school committee representation in review of school building projects.

Proposed:

To delete from **Section 4-4 New School Buildings** the second sentence beginning “Upon receipt of the written communication....” And ending “... which shall include at least 1 member of the school committee.”

To add to **Section 11-7 Construction of Public Facilities** after the last sentence “Whenever a school project is reviewed, at least 1 member of the school committee shall be included as a voting member of the design review committee.”

These changes are proposed after reviewing the Preliminary Draft Charter with the Law Department. This review and proposed changes had input from Anne Larner, Jane Frantz, and Karen Manning.

Background

In 2004 enabling legislation was passed to establish the Massachusetts School Building Authority (MSBA) to oversee planning and construction of all school building projects in the state receiving state assistance. MSBA promulgated regulations in 2006 (963 CMR 2.00) detailing the process and standards applied to school building projects receiving state funds. 963 CMR 2.00 has been amended numerous times since 2006 and will likely continue to be amended periodically.

Under 963 CMR 2.00 the Mayor of a city is the official “applicant” for state school building funds and is responsible for following the regulations and establishing a Building Committee with specific categories of various stakeholders to advise him as the project develops. Deleting the second sentence of our draft **Section 4-4** and leaving the mayor to follow state statutes and regulations seems the most simple and wise move.

When the city decides to undertake a school building project without seeking state funding such as in the current case of the Zervas School project, there are far fewer state imposed statutes and regulations the city must follow. The challenge for the charter commission is to protect any compelling public interests in this complicated situation when MSBA is not involved, yet not add any unnecessary complexity to an already confusing situation where different rules and processes apply depending on whether or not state funding is part of the project.

Prior to the establishment of MSBA, the primary process in Newton for detailed public review of school building project plans focused on the Designer Selection and Design Review Committees (established under the 1971 charter) which have been and continue to be public, multi-member bodies who meet in open session and have specific oversight responsibilities for the planning stages of public building projects. Their operations and membership are detailed in ordinances. Since 1971 a school committee member has been a non-voting member of design review whenever a school project has been before that body.

The existence of MSBA and its requirement for state funded projects to include a public building committee that includes a school committee member among its members creates a new standard and expectation regarding guaranteed voting participation by a school committee representative on any public committee that is charged with reviewing a school building project. The simplest way to address that new standard/expectation is to add a requirement in **Section 11-7** that design review should include as a voting member a representative from the school committee whenever a school project is before that body. Therefore, we suggest adding a sentence to Section 11-7 as outlined above

Recent Newton experience demonstrates that a savvy mayor recognizes the need to treat all similar projects in an equitable way. Though not mandated to do so since no state funds are being used, our current mayor has wisely set up a public school building committee to work with the Zervas project. Any future mayor would be hard pressed not to follow this precedent. In leaving the mayor the flexibility to create a public committee that meets the needs of individual school projects when no state funds are used. We also note that when no MSBA mandated building committee is involved in a school project, the design review committee plays a more prominent role.