



## Programs & Services Committee Report

### City of Newton In City Council

**Wednesday, November 18, 2020**

**Present:** Councilors Krintzman (Chair), Noel, Albright, Ryan, Greenberg, Baker, Humphrey, and Wright  
**Also Present:** Councilor Malakie

**City Staff:** Carol Stapleton, Rec Program Manager; Nicole Banks, Commissioner of Parks, Recreation and Culture; Jonathan Yeo, Chief Operating Officer; Marie Lawlor, Assistant City Solicitor; Nathan Giacalone, Committee Clerk

**#408-20      Appointment of Rabbi Keith Stern to the Human Rights Commission**

HER HONOR THE MAYOR appointing RABBI KEITH STERN, 115 Hunnewell Avenue, Newton, as a member of the HUMAN RIGHTS COMMISSION for a term to expire on November 30, 2023. (60 Days: 12/18/2020)

**Action:**      Programs & Services Approved 8-0

**Notes:**      The Chair welcomed Rabbi Stern to speak and introduce himself and describe why he is interested in serving on the Human Rights Commission (HRC). Rabbi Stern said that he has been a resident of Newton for 24 years and is the Senior Rabbi at Temple Beth Avodah, a congregation which he noted has always had a strong commitment to social justice. He said that he has learned many new concepts over the past few years such as privilege and that he is at a stage in his life where he is able to serve the community in a broader context. Rabbi Stern said that there was only so much he could do from his own position but being a member of the HRC would allow him to better serve the community.

The Committee thanked Rabbi Stern for his willingness to serve.

**Committee Discussion:**

**C:** Temple Beth Avodah has always been a welcoming place, demonstrated by its recent support of a transgender youth transitioning at a young age. They have also had a large presence in the Boston Pride Parade and have been studying anti-racism this year.

**C:** It would be good if the HRC could offer insight to the Zoning & Planning and Land Use Committees as they move through the Zoning Redesign process. Some of the issues they address have a greater social justice component than initially expected. HRC would be a great voice to have in these conversations.

Councilor Greenberg moved approval which carried 8-0.

**#409-20 Appointment of Susan Lowcock to the Human Rights Commission**

HER HONOR THE MAYOR appointing SUSAN LOWCOCK, 1273 Walnut Street, Newton, as a member of the HUMAN RIGHTS COMMISSION for a term to expire on November 30, 2023. (60 Days: 12/18/2020)

**Action:** Programs & Services Approved 8-0

**Notes:** The Chair welcomed Ms. Lowcock to speak and introduce herself and describe why she is interested in serving on the HRC. Ms. Lowcock said that she was originally from Hong Kong and moved to Newton seven years ago. Her family is diverse, and she has volunteered with the school system as well. Ms. Lowcock said that she was also involved with the Asian American town hall held towards the beginning of the COVID-19 pandemic to combat the anti-Asian racism that was a product of the pandemic. Ms. Lowcock felt that there was not enough Asian American representation in the city and wanted to do her part to increase it.

The Committee thanked Ms. Lowcock for her willingness to serve.

**Committee Discussion:**

**C:** There is a large Asian American immigrant community in Ward 5 with many members living around Route 9. How could the HRC work better with the Council to better represent this community?

**A:** There are barriers such as feeling like a foreigner, language, and trusting the government due to negative experiences from home countries. The first step to solving these problems is to talk about them openly.

**C:** It would be helpful to have more involvement between the HRC and Zoning & Planning, Land Use, and the Council in general.

**C:** If the Council wishes for the HRC to be more involved in zoning discussions, then it needs to have conversations about the most appropriate role for this.

Councilor Humphrey moved approval which carried 8-0.

**#433-20 Appointment of Gloria Mastrocola Gavis to the Parks and Recreation Commission**

HER HONOR THE MAYOR appointing GLORIA MASTROCOLA GAVRIS, 21 Monadnock Road, Newton, as the Ward 7 member of the PARKS AND RECREATION COMMISSION for a term to expire on September 30, 2021. (60 Days: 01/01/2021)

**Action:** Programs & Services Approved 8-0

**Notes:** The Chair welcomed Ms. Gavis to speak and introduce herself to the committee and describe why she is interested in serving on the Parks and Recreation Commission (PRC). Ms. Gavis said that as a retired attorney, she has already donated much time and volunteer work to the City. She said that this work has been dedicated to the arts, culture, and open space. Ms. Gavis said that she was looking forward to advocating for ward 7 issues on the PRC.

The Committee expressed its support for Ms. Gavis' appointment and said it looked forward to her plans for the PRC.

Commissioner Banks joined the call to express her support for Ms. Gavis' nomination as well.

It was said that Newton's fields need attention and the matter of funding and fees requires careful attention as well.

Councilor Baker moved approval which carried 8-0.

**#410-20 Reappointment of Michael Goldman to the Farm Commission**

HER HONOR THE MAYOR reappointing MICHAEL GOLDMAN, 14 Saxon Terrace, Newton Highlands, as a member of the FARM COMMISSION for a term to expire on July 31, 2023. (60 Days: 12/18/2020)

**Action:** Programs & Services Approved 8-0

**Notes:** The Chair welcomed Mr. Goldman to speak and introduce himself to the new members of the Committee and to describe his interest in continuing to serve on the Farm Commission. Mr. Goldman said it has been gratifying to serve on the Farm Commission and to meet its goals laid out in the original ordinance. He said that he was voted to succeed Jim Harper as chair of the Farm Commission.

**Committee Discussion:**

**C:** The Newton Community Farm is a storied institution in the city. Earlier this year it was the subject of a discussion regarding maintenance issues. Were you aware of these problems?

**A:** Yes-in detail as these maintenance issues are discussed often in Farm Commission meetings. The state of the farmhouse is the only major infrastructure problem at the farm currently. There has been a bequest of funds that have allowed the Farm Commission to fix the greenhouse and electric fence, but this is not enough to fix the farmhouse. Since the City is unable to provide the funding for this currently, the Farm Commission is preparing an application for CPA funding.

**C:** It is great to see that despite some doubt when the Newton Community Farm was established, it is not only surviving but thriving thanks to the hard work of the Farm Commission and other farm staff.

Councilor Noel moved approval which carried 8-0.

**#411-20 Reappointment of John Schwartz to the Biosafety Committee**

HER HONOR THE MAYOR reappointing JOHN SCHWARTZ, 200 Upland Road, Newton, as a member of the BIOSAFETY COMMITTEE for a term to expire on September 30, 2023. (60 Days: 12/18/2020)

**Action:** Programs & Services Approved 8-0

**Notes:** The Chair invited Mr. Schwartz to speak and introduce himself to the new members of the committee and to describe his interest in continuing to serve on the Biosafety Commission. Mr. Schwartz said that he is a 29-year resident of Newton and spoke about his extensive background in life

sciences and laboratory safety. He said that it is a great opportunity to attract new businesses of this field to Newton, but it needs to meet appropriate regulation.

It was said that Newton is fortunate to have experts living in the city who are willing to volunteer their talent.

Councilor Albright moved approval which carried 8-0.

**#49-20 Request for update on leaf blower ordinance compliance**

COUNCILORS BAKER, LEARY, RYAN, AND HUMPHREY requesting update from the Executive Department on compliance with Newton's leaf blower ordinance and discussion of possible revisions to the ordinance's enforcement provisions to improve compliance.

**Action:** Programs and Services Held 7-0 (Councilor Albright not voting)

**Notes:** The Chair introduced the item and said that the goal of tonight's discussion would be to review the latest draft revisions and to see if the Committee felt ready to schedule a public comment session on the proposed leaf blower ordinance revisions.

The goals of the revisions to the ordinance are to address the language, the fee amount, homeowner liability, and enforcement. Ms. Lawlor said that one possible solution for the fee amount could be to state "the commissioner may set a reasonable fee" instead of a static amount. This would allow a degree of flexibility to the ordinance and is possible because the City has accepted the appropriate section of the Massachusetts General Laws.

**Committee Discussion:**

**C:** Much work has been done on this since June, but until there is an answer on the enforcement component question there should not be a public comment session. Multiple councilors have said that while they support the proposed ordinance revisions as a whole, they will not support it if the police remain as the primary enforcers of the ordinance. As stated previously, there are numerous enforcement issues with the ordinance as is and it appears that a force of unarmed code enforcers will not be formed anytime soon. Since enforcement is already so low, there should be no issue shifting it to ISD despite the slower response time they have.

**Q:** Would vacuum machines be included in the ordinance?

**A:** No, they are not included within the ordinance.

**Q:** Where in the ordinance does it fine the homeowner?

**A:** This language is included in section h of the Noise Ordinance. This first clause makes the homeowner liable.

**C:** The ordinance should be written to be clear to residents that they are liable for the landscapers they hire. It should focus on education rather than punishment and the homeowner should not be made liable at all. Otherwise this ordinance could elicit a bad reaction from residents and contribute to a negative environment.

**C:** This ordinance could be explained in plainer language to residents through the Mayor's Newsletter.

**Q:** On the fee issue, if the fee is nominal and designed only to cover its cost, does this language need to be added to the ordinance?

**A:** No, this is already implied through the use of the term "reasonable fee" and already built into the law.

**C:** The Committee should have a meeting devoted to the enforcement question of this ordinance that includes the appropriate city staff. Based on comments from the Arlington police chief, if the community wants something done, then it should be addressed as community policing. Though with the police reform task force and the police chief search process, it may be more appropriate to wait for these processes to finish before answering the enforcement question.

**C:** Part of the current enforcement issues are due to COVID. The intent of the registration process is to get ahead of leaf blower violations and make enforcement less needed. Other goals of the revisions are to shift liability to the contractor instead of the workers. It is unlikely that even when the new police chief is hired that there will be a better agent than the police to enforce the ordinance in the foreseeable future. These revisions will put Newton in a better place to respond to resident concerns about leaf blowers.

The Chair proposed a compromise to the revisions which would state that homeowners are liable unless they hire a contractor from the list of city-approved/registered contractors. This would signify that the homeowner has done all they can be reasonably expected to do. The revisions should also include provisions to penalize landscapers and clarify the risk to homeowners from hiring unapproved landscapers.

**C:** The police must be removed from enforcement entirely, especially because we want the police to be focusing on other issues besides leaf blowers.

**C:** Legitimate landscapers want this ordinance followed because those who break the rules are at an unfair advantage. These revisions will take important steps in making sure that landscapers follow the rules, such as ensuring that all trucks are properly lettered. It would also be good to see a return of responsible landscaper groups.

**C:** Could parking enforcers be used in place of police officers to respond to leaf blower violations? They are still part of the police department, but they do not carry guns. If not them, then ISD would be the best option for enforcement.

**C:** How does the language of the compromise that makes homeowners liable compare to that in the snow shoveling ordinance? The ordinance should be self-enforcing ahead of time so there is less need for interaction. If these revisions can reduce the need for active enforcement, then ISD should be able to handle it.

The Chair agreed that police enforcement was not the best option for the ordinance. Responding to discussion, he said that it would be fine to hold off on a final vote, but the Committee should not delay public comment even if the enforcement question has not been settled.

A straw poll was held by the Committee to gauge where members stood on the liability of the homeowner in the ordinance:

Remove homeowner liability: 1

Absolute liability for homeowner: 1

Compromise liability for homeowner: 5

Ms. Lawlor said that she would draft language for this compromise.

**C:** Work on revising this ordinance should continue. It must be noted that there is simply no other body than the police capable of enforcing this ordinance currently.

Mr. Yeo spoke and recommended that revision efforts continue to move forward. He said that in the near future there will not be a non-police body to enforce the leaf blower ordinance.

**C:** The Committee should wait for the police reform task force and the chief search to complete before it arrives at an answer to the enforcement question. These are expected to be finished by the early spring.

**C:** Nobody should enforce this ordinance if they are armed. There is no point waiting for the task force to finish its work if the ordinance would be enforced by anybody carrying a gun. The Council can and should be creative about the solution to this problem.

**C:** Could the auxiliary police be an option if they are unarmed?

**C:** Could the term “non gun carrying employee” be used as a placeholder in the revisions for the time being?

**A:** Probably not-the sense of the Committee seems to be to answer this question one way or another rather than use a placeholder.

The sense of the Committee was that while it was largely in agreement over the path forward for the ordinance, it was not ready to go to the public with it yet. It will need to meet with appropriate city staff such as the police chief and the ISD commissioner before a comment session.

Professor Klugman spoke as former member of Chestnut Hill neighborhood association who was key with early leaf blower ordinance work. He spoke on the values of the neighborhood working together and what can be accomplished. He thanked the Councilors for all their accomplishments for Newton.

**C:** Before public comment, there should be a meeting to review the clean draft with exception of enforcement then discuss with Mr. Yeo and Chief Mintz the enforcement question on the ordinance.

**C:** The Committee could have extra meetings to discuss the leaf blower ordinance if need be.

Councilor Baker moved Hold which carried 7-0 (Councilor Albright not voting).

Councilor Ryan asked when the docket item on the special elections (#449-20) would be heard in committee. The Chair said that he and President Albright would be meeting with the City Clerk to

determine the best options for moving forward with the special election.

The meeting adjourned at 9:00pm.

**Respectfully Submitted,**

**Josh Krintzman, Chair**