

CITY OF NEWTON
IN BOARD OF ALDERMEN
BOARD ACTIONS

Monday, November 7, 2011

Present: Ald. Baker, Blazar, Ciccone, Crossley, Danberg, Fischman, Freedman, Fuller, Gentile, Harney, Hess-Mahan, Johnson, Lappin, Linsky, Merrill, Rice, Salvucci, Sangiolo, Schnipper, Shapiro, Swiston, Yates and Lennon

Absent: Ald. Albright

THE BOARD OF ALDERMEN DISCUSSED AND VOTED THE FOLLOWING ITEMS ON SECOND CALL:

- #211-11 EASTERN BEVERAGE GROUP/EMK NEWTON CENTRE REALTY, LLC
petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and to
EXTEND/ALTER A NONCONFORMING USE from a retail market to a retail
liquor store with associated signage at 543-545 COMMONWEALTH AVENUE,
Ward 7, on land known as SBL 73, 45, 19, in a district zoned MULTI
RESIDENCE 1. Ref: special permit #166-99, Sec 30-24, 30-23, 30-21(b) of the
City of Newton Rev Zoning Ord, 2007.
LAND USE APPROVED 5-0-2 (Blazar and Merrill abstaining) on 10/11/11
ITEM CHARTERED BY ALD. BAKER on OCTOBER 17, 2011
APPROVED AS AMENDED 22 YEAS, 0 NAYS, 2 ABSENT (Ald. Albright
& Swiston)

Clerk's Note: Ald. Baker noted that he had met with the petitioners, the petitioner's council and neighbors and offered an amended text for the special permit which had been agreed to by the petitioner. Modifications offered by Ald. Baker included that the conditions of the special permit would apply to any successor tenant, that additional signage would have to meet city signage ordinances, that trash and recyclables would be picked up by a private contractor, and that the petitioner would cooperate with the city to care for the vegetation in the block in front of the stores.

- #52-07 ALD. PARKER, SANGIOLO, MANSFIELD, HARNEY, DANBERG, VANCE,
LINSKY, HESS-MAHAN, BURG, ALBRIGHT & JOHNSON requesting an
ordinance amendment to create a health care advisory committee whose function
would be to recommend measures to control the rate of increase of health
insurance costs, as recommended by the Newton Finance & Management
Working Group in 2005 and the Blue Ribbon Commission on the Municipal
Budget in 2007. [02/09/07 @ 12:36 PM]
APPROVED subject to 2nd call 5-0-3 (Baker, Fischman, Merrill abstaining)

**MOTION BY THE CHAIR OF PROGRAMS & SERVICES TO POLL
HER COMMITTEE WAS APPROVED BY VOICE VOTE**

**MOTION IN COMMITTEE TO ACCEPT THE PROGRAMS &
SERVICES REPORT WAS APPROVED 8-0**

APPROVED 23 YEAS, 0 NAYS, 1 ABSENT (Ald. Albright)

Clerk's Note: The Chair of the Programs & Services Committee noted that the items was approved in committee subject to second call, but requested that the rules be suspended to allow her to poll her committee to accept the item as discussed in committee. The Committee approved the report 8-0.

#355-10 PRESIDENT LENNON and ALD. LAPPIN requesting a change to the rules of the Board of Aldermen to eliminate the Real Property & Reuse Committee. Issues regarding reuse of public buildings to be referred to the Public Facilities Committee and issues regarding reuse of City owned land would be referred to the Land Use Committee. Effective date of this change will be January 1, 2012. [11/26/2010 @ 11:59 AM]

PROGRAMS & SERVICES APPROVED AS AMENDED 6-0-1 (Linsky abstaining; Baker not voting)

ITEM CHARTERED BY ALD. SHAPIRO

Clerk's Note: Ald. Shapiro stated that he had some concerns about the elimination of these committees, but due to the lateness of the hour and the potential for significant discussion he chartered this and the following two items.

#356-10 PRESIDENT LENNON and ALD. LAPPIN requesting a change to the rules of the Board of Aldermen to eliminate the Post-Audit Committee. All post audit/follow-up items will be discussed in the substantive committee that originally heard the item. Effective date of this change will be January 1, 2012. [11/26/2010 @ 11:59 AM]

PROGRAMS & SERVICES APPROVED 6-0-1 (Linsky abstaining, Baker not voting)

ITEM CHARTERED BY ALD. SHAPIRO

#357-10 PRESIDENT LENNON and ALD. LAPPIN requesting a change to the rules of the Board of Aldermen to eliminate the Committee on Community Preservation. All Community Preservation items will be referred to the Finance Committee. Effective date of this change will be January 1, 2012. [11/26/2010 @ 11:59 AM]

PROGRAMS & SERVICES APPROVED 7-1 (Linsky opposed)

ITEM CHARTERED BY ALD. SHAPIRO

#26-11(2) PLANNING AND DEVELOPMENT BOARD submitting in accordance with Section 7-2 of the City Charter an amendment to the 2007 Newton Comprehensive Plan to create a new Mixed Use Centers Element to be numbered section 3.A in the Comprehensive Plan and to include a vision and guidance for the development or redevelopment of large mixed-use centers. [*Committee must take action by December 12th*]

ZONING & PLANNING APPROVED 8-0

APPROVED 23 YEAS, 0 NAYS, 1 ABSENT (Ald. Albright)

Clerk's Note: This item was placed on second call by Ald. Gentile for a couple of reasons. As Finance and Zoning & Planning meet at the same time it was difficult to get to hear the discussions in Zoning & Planning. Ald. Gentile wanted to make sure that they were not voting for an unintended consequence. There was concern that there might be specific zoning changes or that doors might be opened for a special permit that might not be a good idea. In hearing the report and conversations with those that worked on the amendments and the Chair of Zoning and Planning, he felt comfortable with the changes. Ald. Gentile also wanted to let people know that just because he will vote for this item, he might not vote for a specific zoning change that might come along later.

REFERRED TO REAL PROPERTY REUSE COMMITTEE

#150-09(6) JOINT ADVISORY PLANNING GROUP and PLANNING & DEVELOPMENT DEPARTMENT filing their separate reports pursuant to Ordinance Sec. 2-7(2)b) identifying alternatives for the future use of the Austin Street municipal parking lot at 28 Austin Street, on land known as SBL 24, 9, 15, containing approximately 74,536 sq. ft. of land, in Newtonville, which was declared surplus by the Commissioner of Public Works on December 1, 2010.

APPROVED 6-0-1 (Gentile abstaining) to sell or lease and retain 85 public parking spaces

**MOTION TO POSTPONE TO DATE CERTAIN OF DECEMBER 19, 2011
APPROVED BY VOICE VOTE**

Clerk's Note: The Chair of the Reuse Committee asked for the postponement of this item to a date certain of December 19, 2011 to allow time for an appraisal of the property to be completed.

THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 22 YEAS, 0 NAYS, 2 ABSENT (Ald. Albright & Linsky) TO TAKE THE FOLLOWING ACTIONS:

REFERRED TO LAND USE COMMITTEE

Tuesday, November 1, 2011

#250-10(2) REQUEST FOR A ONE-YEAR EXTENSION OF TIME in which to EXERCISE SPECIAL PERMIT #250-10, granted to Historic Chestnut Street, LLC on December 6, 2010, to extend a nonconforming structure by renovating an existing building and constructing an addition to create three residential units and to waive one parking space at 1012-1022 CHESTNUT STREET, Ward 5, Newton Upper Falls. Ref: Sec. 30-24(c)(4) of the City of Newton Rev. Zoning Ord, 2007.
LAND USE APPROVED 8-0

#213-11 GALINA SLEZINGER/DAVID T. ZUSSMAN, TR. petition for a SPECIAL PERMIT to expand an existing restaurant to allow a portion of the restaurant to be used as a function room on certain evenings and to waive the parking requirements associated with a restaurant greater than 50 seats at 54-57 UNION STREET, Ward 6, Newton Centre, on land known as SBL 61, 36, 7, in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-11(d)(9), 30-19(d)(13), and 30-19(m) of the City of Newton Rev Zoning Ord, 2007.
LAND USE APPROVED 8-0

REFERRED TO ZONING AND PLANNING COMMITTEE

Monday October 24, 2011

Public Hearing held on October 24, 2011:

#249-11 FRANK UTANO et al. filing with the City Clerk on August 11, 2011 a Group Petition with 51 qualified voter signatures, pursuant to Sec. 10-2 of the City Charter, requesting a special meeting with the Board of Aldermen to discuss the amended zoning laws scheduled to take effect in October, 2011. [August 18, 2011]

NB: Board action shall be taken not later than three months from the date the petition was filed with the City Clerk. [Nov 9, 2011]

ZONING & PLANNING NO ACTION NECESSARY 8-0

REFERRED TO PROGRAMS AND SERVICES COMMITTEE

Wednesday October 19, 2011

Appointment by His Honor the Mayor

#276-11 KIRAN MILUNSKY, 18 Indian Ridge Road, Newton Centre, appointed to the Advisory Council of Health and Human Services for a term of office to expire December 1, 2014 (60 days 12/02/11. [09/26/11 @9:37AM]

PROGRAMS & SERVICES APPROVED 6-0 (Hess-Mahan, Baker not voting)

REFERRED TO PUBLIC SAFETY & TRANSPORTATION COMMITTEE

Wednesday, October 19, 2011

- #288-11 ALD. SWISTON & HESS-MAHAN, requesting the Mayor act on the recommendations made on September 22, 2011 by the Traffic Council relative to item TC5-11 recommending a series of speed humps between Chestnut and Forests Streets to address speeding on Otis Street. [10/07/11 @ 3:28 PM]
PUBLIC SAFETY RESOLUTION APPROVED 5-0-2 (Freedman, Shapiro abstaining)
- #235-09 ALD. SANGIOLO, HARNEY & GENTILE on behalf of residents on TC2(2)-08 Wolcott Street requesting that the traffic control signal located at Wolcott and Lexington Streets be moved to a different location or removed altogether. (Ward 4) [3/28/08 @ 9:59 AM]
PUBLIC SAFETY NO ACTION NECESSARY 6-0, Shapiro not voting
- #261-09 ALD. JOHNSON requesting a review of the City of Newton Ordinances Chapter 24, Sections 26–34 Alarm System Regulations to more clearly express the fines and penalties to residential and commercial property owners for false alarms. [08/19/09 @ 9:53 AM]
PUBLIC SAFETY NO ACTION NECESSARY 6-0, Shapiro not voting

REFERRED TO PUBLIC FACILITIES COMMITTEE

Wednesday, October 19, 2011

- #266-11 NATIONAL GRID petitioning for a grant of location to install and maintain 80' ± of 4" gas main in RUANE ROAD from the existing 4" gas main at 74 Ruane Road in an easterly direction to #69 Ruane Road. (Ward 3) [09/12/11 @ 11:59 AM]
PUBLIC FACILITIES APPROVED 6-0 (Lennon not voting)

REFERRED TO PUB. FACIL., PROG. & SERV., AND FINANCE COMMITTEES

- #8-09 ALD. HESS-MAHAN LINSKY, ALBRIGHT, FREEDMAN, MANSFIELD, JOHNSON, HARNEY & VANCE proposing an ordinance requiring that the installation of synthetic in-filled turf athletic fields on city-owned property shall use sustainable, recyclable, lead-free, non-toxic products to the maximum extent feasible. [12/30/08 @9:55 AM]
PROGRAMS & SERVICES APPROVED 7-0 on 03/09/11
FINANCE APPROVED 5-0-1 (Fuller abstaining) on 10/24/11
PUBLIC FACILITIES APPROVED 5-0(Lappin and Lennon not voting)
- #279-11 ALD. YATES requesting a report from the Chief Administrative Officer as to when the topsoil stored at the Department of Public Works Elliot Street Yard will be used at the Newton North High School fields. [09/26/11 @2:37 PM]
PUBLIC FACILITIES NO ACTION NECESSARY 6-0 (Lennon not voting)

REFERRED TO FINANCE COMMITTEE

Monday, October 24, 2011

Appointment by His Honor the Mayor

#292-11 ANTONIO BIANCHI, 15 Colonial Avenue, Newton is hereby appointed as a CONSTABLE of the City of Newton for a term of office to expire on November 30, 2014. [10-04-11 @3:49 PM]

FINANCE APPROVED 4-0 (Linsky and Rice not voting)

REFERRED TO PUBLIC FACIL., PROG. & SERV. & FINANCE COMMITTEES

#8-09 ALD. HESS-MAHAN LINSKY, ALBRIGHT, FREEDMAN, MANSFIELD, JOHNSON, HARNEY & VANCE proposing an ordinance requiring that the installation of synthetic in-filled turf athletic fields on city-owned property shall use sustainable, recyclable, lead-free, non-toxic products to the maximum extent feasible. [12/30/08 @9:55 AM]

PROGRAMS & SERVICES APPROVED 7-0 on 03/09/11

PUBLIC FACILITIES APPROVED 5-0 (Lappin & Lennon not voting) on 10/19/11

FINANCE APPROVED 5-0-1 (Fuller abstaining)

REFERRED TO PUBLIC SAFETY/TRANSPORTATION & FINANCE COMMITTEES

#54-11(2) ALD. YATES, CICCONE, HARNEY, FREEDMAN requesting that Chapter 19 MOTOR VEHICLES AND TRAFFIC of the Revised Ordinances be amended by reinstating the Community Parking Program in a manner that charges the participants for the full cost of the program. [05-01-11 @10:05AM]

PUBLIC SAFETY VOTED NO ACTION NECESSARY 6-0 (Shapiro not voting) on 10/19/11

FINANCE NO ACTION NECESSARY 6-0

THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 21 YEAS, 1 NAY (Ald. Schnipper), 2 ABSENT (Ald. Albright & Linsky) TO TAKE THE FOLLOWING ACTION:

REFERRED TO LAND USE COMMITTEE

#313-10 PRESIDENT LENNON in conjunction with Newton Wellesley Hospital recommending the re-appointment/appointment of the following individual to the Newton Wellesley Hospital Neighborhood Council pursuant to condition 29 of special permit #470-04 for terms concurrent with the 2010-2011 Board of Aldermen:

(D) Debra Sallaway
10 Bonaire Circle
Newton 02462 (new appointee)

LAND USE APPROVED 7-1 (Schnipper)

THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 21 YEAS, 1 NAY (Ald. Yates), 2 ABSENT (Ald. Albright & Linsky) TO TAKE THE FOLLOWING ACTION:

REFERRED TO POST AUDIT & OVERSIGHT COMMITTEE

- #323-10 ALD. YATES requesting a report from the Newton Housing Authority (NHA) on the posting of names and contact information of members of the Board of the NHA on bulletin boards in the community centers of NHA developments and on the website of the NHA. [11/01/10 @ 9:44 PM]
POST AUDIT NO ACTION NECESSARY 4-0

THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 21 YEAS, 1 NAY (Ald. Lennon), 2 ABSENT (Ald. Albright & Linsky) TO TAKE THE FOLLOWING ACTION:

- #293-11 NEWTON RETIREMENT BOARD requesting acceptance of the provisions of Section 19 of Chapter 188 of the Acts of 2010 to increase the base for which retiree cost of living adjustments are applied as follows: \$13,000 for FY2013 and \$14,000 for FY2014. [10-04-11 @ 1:48 PM]
FINANCE DENIED 6-0

THE FOLLOWING FIVE ITEMS WERE LATE FILED. THE BOARD OF ALDERMEN SUSPENDED THE RULES AND APPROVED THE ACCEPTANCE OF THE ITEMS TO THE DOCKET AND REFERRED THEM TO COMMITTEE BY VOICE VOTE.

REFERRED TO PUBLIC FACILITIES COMMITTEE

- #288-09(2) HIS HONOR THE MAYOR requesting that Board Order #288-09 be amended to reflect the subsequent decision to undertake additional classroom space at F. A. Day Middle School instead of modular class rooms as originally requested in a letter from the Executive Department dated September 15, 2009. [11-01-11 @ 2:11 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #365-11 HIS HONOR THE MAYOR requesting authorization to transfer the sum of thirty-two thousand dollars (\$32,000) from the Health and Human Services Consultant Account to the Health and Human Services Part-time Work Account. [11-01-11 @2:12 PM]

REFERRED TO PUBLIC SAFETY & TRANS. AND FINANCE COMMITTEES

- #370-11 HIS HONOR THE MAYOR requesting authorization to appropriate and expend the sum of seventy two thousand nine hundred eighty eight dollars (\$72,988) from FY11 Free Cash for the purpose of purchasing two Fire Department replacement vehicles: a Ford Expedition to be utilized by the Fire Alarm Division and a fire mechanical utility/maintenance truck. [11-03-11 12:08PM]

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #371-11 HIS HONOR THE MAYOR requesting authorization to appropriate and expend the sum of thirty-three thousand two hundred fifty dollars from FY12 Budget Reserve to the Public Buildings Department for the purpose of funding the costs of the boiler replacement at the Senior Center and for repair of the emergency generator at the Main Library. [11-01-11 @2:12 PM]

REFERRED TO FINANCE COMMITTEE

- #385-11 HIS HONOR THE MAYOR requesting authorization to appropriate and expend the sum of seven thousand six hundred sixteen dollars (\$7,616) from the Worker's Compensation Lump Sum Account for the purpose of settling a worker's compensation claim. [11/04/11 @ 4:15 PM]

PUBLIC HEARINGS WERE ASSIGNED FOR THE FOLLOWING ITEMS:

Public hearing assigned for November 16, 2011:

- #354-11 NATIONAL GRID petitioning for a grant of location to install 160' ± of 12" gas main in OAK STREET from the proposed regulator station at 81 Oak Street easterly to the existing 12" gas main at Needham Street.

Public Hearing assigned for November 22, 2011:

- #148-11(3) CONSTANTINE TALEAS, TRUSTEE OF the BORDER TRUST 06 u/d/t dated May 1, 2006 and CONSTANTINE TALEAS, TRUSTTEE of the ELM TRUST 06 u/d/t dated November 20, 1996 petition for a Special Permit/Site Plan Approval to waive ten (10) parking stalls in conjunction with special permit petition #148-11(2), which was the subject of a public hearing on October 11, 2011, for a Special Permit/Site Plan Approval to Extend a Non-Conforming Structure by combining three legally nonconforming lots into one conforming lot and to extend the legally nonconforming structure at 115-119 ELM STREET by attaching a 3-story mixed- use building with commercial space on the first floor and 4 dwelling units on the second and third floors, increasing both the Floor Area Ratio, height, and number of stories, and certain dimensional parking requirements, screening, and lighting requirements at 8 BORDER STREET and 111 and 115-119 ELM STREET, Ward 3, West Newton, on land known as Sec 33, Blk 15, Lots 29, 30, 31, containing a total of ≈11, 044 sq. ft. of land in a district zoned Business 1. *Ref: Sec 30-24, 30-19(d) and (m), of the City of Newton Rev Zoning Ord, 2007.*

Public hearing assigned for November 28, 2011:

- #64-11(2) HIS HONOR THE MAYOR, in coordination with the Director of Planning and Development, requesting to amend Section 30-15(u) to exclude dwellings on rear lots created under the provisions of section 30-15(r); to amend section 30-15(r) and Section 30-15 Table 4 to allow the FAR limits of Section 30-15, Table 4, to be waived by special permit; and to amend the footnotes of section 30-15 Table 4 to be consistent with the changes above.