

**CITY OF NEWTON**  
**IN BOARD OF ALDERMEN**  
**BOARD ACTIONS**

Monday, July 12, 2010

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

Absent: Ald. Fischman, Harney and Lennon

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

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

#87-09 ALD. SANGIOLO, BRANDEL, FREEDMAN AND HESS-MAHAN requesting a Home Rule Petition to allow the City of Newton to require elected officials to contribute a higher percentage rate for health insurance benefits than is required for other employee groups. [03-10-09 @ 9:17 AM]

**PROGRAM & SERVICES APPROVED 5-1-1 (Baker opposed; Merrill abstaining; Parker not voting) on 4/15/09**  
**FINANCE APPROVED AS AMENDED 6-0 on 6/14/10**

**ITEM CHARTERED BY ALD. HARNEY on 6/21/10**

**MOTION TO RECOMMIT TO FINANCE COMMITTEE**  
**APPROVED BY VOICE VOTE**

**Notes:** Concern was raised at the Board meeting that the School Committee had not had the chance to comment on this item. As it will also affect the School Committee, the motion was made to refer the item back to the Finance Committee in order that the Board may hear from the School Committee.

#394-09(B) ALD. BAKER requesting clarification of the Rules of the Board regarding referrals to Committee of appeals of decisions of the Traffic Council. [11/30/09 @ 9:34 AM]

**B. PROGRAMS & SERVICES APPROVED AS AMENDED 4-3**  
**(Baker, Hess-Mahan, Blazar opposed)**

**MOTION TO POSTPONE TO SEPTEMBER 7, 2010 FAILS TO CARRY BY VOICE VOTE**

**MOTION TO SUBSTITUTE ORIGINAL LANGUAGE OF ITEM FOR AMENDED LANGUAGE FAILS TO CARRY BY VOICE VOTE**

**ITEM AS AMENDED IN PROGRAMS & SERVICES APPROVED**  
**19 YEAS, 2 NAYS (Ald. Baker & Schnipper), 3 ABSENT (Ald.**  
**Fischman, Harney & Lennon)**

**Notes:** The issue before the board is whether an appeal of a Traffic Council decision should go to the Public Safety and Transportation Committee, or if its assignment to committee should be at the discretion of the Board President. The Programs and Services Committee approved a rule that the appeal will go to Public Safety but also gave the President of the Board the discretion to jointly refer it to any other committee that has substantive authority over the item being appealed. The approved language reads:

E. The President shall refer appeals from a Traffic Council decision to the Public Safety and Transportation Committee. At the discretion of the President, any such appeal may also be jointly referred to an additional committee or committees in the event such committee has, or committees have, substantive jurisdiction over the subject matter of the appeal.

A motion was made and seconded to postpone the discussion of the item to the first meeting in September. Concern was raised that the vote was divided, 4 in favor and 3 against; and that the traffic engineer had supported the original language. There was concern that the President and Ald. Fischman, the maker of the amended motion in Programs & Services, were not able to be at this meeting and should have the opportunity to weigh in.

Discussion on the motion focused on the need to take action and not continually postpone items. There was sentiment to just vote the item up or down. The original discussions around the creation of the Traffic Council and the appeal process noted that appeals would go to Public Safety. There was concern that there might be forum shopping by not naming a committee and it was felt that everyone should know where the item would be referred.

The motion to Postpone the item FAILED to carry by voice vote.

A motion was made and seconded to substitute the original language of the docket item which gave the discretion of assignment to the President for the language approved by Programs & Services. It was felt by the maker of the motion that the President should have the discretion to send it to the most appropriate committee.

Concern was raised that an objective committee would be needed to hear an appeal, the appeal should not be sent to a committee that has already been involved with the item. It was noted that the Board Rules require that items concerning the Traffic Engineer and the Traffic Council go to the Public Safety Committee and it was argued that the Board should develop the expertise to hear appeals in a specific committee and the Public Safety Committee would be the appropriate committee to develop that expertise. It was noted that regardless of which committee the appeal went to, it was ultimately the full board that made the decision as to whether to approve the appeal. The Traffic Council was formed to help alleviate the work load of the Public Safety Committee, so if these items

were to be in Public Safety in the first place, then why would the appeal not go to Public Safety? It was noted that some traffic related items that come before Land Use and Public Facilities do not necessarily go to Public Safety.

The motion to substitute FAILED by Voice Vote

The motion to approve the text recommended by the Programs & Services Committee was APPROVED by roll call vote.

**THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 21 YEAS, 0 NAYS, 3 ABSENT (Ald. Fischman, Harney, Lennon) TO ACCEPT ITS COMMITTEES' RECOMMENDATIONS ON THE FOLLOWING ITEMS:**

**REFERRED TO LAND USE COMMITTEE**

Tuesday, June 22, 2010

*Public Hearings were held on the following petitions:*

#122-10 **HOSSEIN VAHEDI TRUSTEE 33-35 HIGHLAND AVENUE REALTY TRUST** petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION of NONCONFORMING STRUCTURE/USE to AMEND special permit/site plan #127-87(2) to relocate two parking spaces, to waive minimum parking stall dimensions, to allow parking in the setback, and to decrease the legally conforming minimum open space at 35 HIGHLAND AVENUE. Ward 2, NEWTONVILLE, on land known as Sec 24, Blk 9, Lot 28 containing approx 8,133 square feet of land in a district zoned MULTI RESIDENCE 1. Ref: Sec 30-24, 30-23, 30-21(a)(2)(b), 30-21(b), 30-19(h)(1), 30-19(m) of the City of Newton Rev Zoning Ord, 2007.  
**LAND USE HEARING CONTINUED FROM MAY 18; ITEM WITHDRAWN WITHOUT PREJUDICE 7-0**

#140-10 **ANOTHER CAFÉ FIORELLA, INC./MICHAEL J. PENTA, SUSAN SGARZI PENTA & ANGELO D. PAOLINI, TRUSTEES OF THE SMC TRUST** petition for a SPECIAL PERMIT/SITE PLAN APPROVAL/EXTENSION OF NONCONFORMING USE to expand an existing restaurant from 64 to 114 seats and to waive the side setback requirement for a parking facility of greater than five stalls at 187 NORTH STREET, Ward 3, on land known as Sec 21, Blk 12, Lot 10, containing approx 24,108 sq ft of land in a district zoned MANUFACTURING. Ref: Sec 30-24, 30-23, 30-21(b), 30-19(h)(1), 30-19(m) of the City of Newton Rev Zoning Ord, 2007.  
**LAND USE HEARING CLOSED**

#282-06(2) CLEAR WIRELESS, LLC. /HAMMOND POND TRUST petition to AMEND Special Permit/Site Plan Approval #282-06(2), granted on 11/6/06 for the installation of wireless communication equipment, in order to replace one panel antenna and to add two panel and two dish antennas at 20 HAMMOND POND PARKWAY, Ward 7, CHESTNUT HILL, on land also known as Sec 82, 2, 21A1, containing approximately 175,950 sq ft of land in a district zoned MULTI RESIDENCE 3. Ref: Sec. 30-24, 30-23, and 30-18A(e)(6) of the City of Newton Rev Zoning Ord, 2007.

**LAND USE HEARING CLOSED; ITEM APPROVED 7-0**

#19-98(2) CLEAR WIRELESS, LLC./LASELL COLLEGE petition to AMEND Special Permit/Site Plan Approval #19-98, granted on 3/16/98 for wireless telecommunication equipment, in order to replace three panel antennas and to add two dish antennas at 216 WOODLAND ROAD, Ward 4, AUBURNDALE, on land also known as Sec 43, Blk 10, Lot 9, containing approx 282,705 sq ft of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 30-24, 30-23, 30-18A(e)(6) of the City of Newton Rev. Zoning Ord, 2007.

**LAND USE HEARING CLOSED; ITEM APPROVED 7-0**

**REFERRED TO ZONING & PLANNING COMMITTEE**

Monday, June 28, 2010

#142-09(3) ZONING & PLANNING COMMITTEE proposing that subsection 30-15(u) of Chapter 30 relative to floor area ratio, as established by Ordinance Z-51, dated August 10, 2009, be amended by extending the provisions of paragraph nos. 1. 2. and 3. from July 30, 2010 to October 31, 2010. [05/11/10 @ 10:10 AM]

**ZONING & PLANNING HEARING CLOSED; APPROVED AS AMENDED 4-0 TO 12/31/10**

#93-10 ALD. JOHNSON AND SANGIOLO requesting revision of **Section 30-27** of the City of Newton Ordinances governing membership of the Zoning Board of Appeals by providing selection criteria guidance and process so that the level of expertise in related areas, or the equivalent combination of experience and/or education is present in order to enhance the ability of the Board to increase its level of service to Newton. [03/26/10 @ 12:31 PM]

**ZONING & PLANNING HEARING CLOSED; HELD 4-0**

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

#184-10 HIS HONOR THE MAYOR requesting authorization to eliminate the part time Chief Zoning Code Official and the part time Principal Planner positions (19 hours each) and to create a full time (37.5 hours) Chief Zoning Code Official position, which salary will be absorbed in the

existing FY2011 Planning Department budget, although there may need to be additional funding for benefits. [6/14/10 @6:20PM]

**FINANCE APPROVED REFERRAL TO ZONING AND PLANNING 8-0 ON 7/12/10**

**ZONING & PLANNING APPROVED 3-0-1 (Sangiolo abstaining)**

*Clerk's Note: The Finance Committee did not need to act on this item as there was no need for additional funding. The Committee voted to refer it just to Zoning & Planning for its recommendation which was approval.*

**REFERRED TO PROGRAMS & SERVICES COMMITTEE**

Wednesday, June 23, 2010

- #186-10 PRESIDENT LENNON recommending the re-appointment of ROBERT GERST, 51 Claremont Street, Newton, as an Aldermanic appointee to the COMMUNITY EDUCATION COMMITTEE for a term to expire 12/31/11. (60 days 8/20/11) [06/11/10 @2:31 PM]  
**PROGRAMS & SERVICES APPROVED 6-0 (Fischman not voting)**
- #187-10 PRESIDENT LENNON recommending the appointment of PHILIP J. STONER, 31 Colgate Road, Newton Lower Falls, as an Aldermanic appointee to the BIOSAFETY COMMITTEE for a term to expire 12/31/12. (60 days 8/20/11) [06/11/10 @2:31 PM]  
**PROGRAMS & SERVICES APPROVED 7-0**
- #188-10 PRESIDENT LENNON recommending the appointment of SHAWN FITZGIBBONS, 300 Homer Street, Newton Centre, as an Aldermanic appointee to the NEWTON CHILD CARE COMMISSION for a term to expire 12/31/11. (60 days 8/20/11) [06/11/10 @2:31 PM]  
**PROGRAMS & SERVICES APPROVED 7-0**
- #203-10 PRESIDENT LENNON recommending the appointment of ALISON GLASTEIN, 121 Carver Rd., Newton, as an Aldermanic appointee to the NEWTON CHILD CARE COMMISSION for a term to expire 12/31/11. (60 days 8/20/11) [06/11/10 @2:31 PM]  
**PROGRAMS & SERVICES APPROVED 7-0**
- #394-09(A) ALD. BAKER requesting clarification of the Rules of the Board regarding referrals to Committee of appeals of decisions of the Traffic Council. [11/30/09 @ 9:34 AM]  
**A. PROGRAMS & SERVICES APPROVED 7-0**

**REFERRED TO PUBLIC SAFETY & TRANSPORTATION COMMITTEE**

Wednesday, June 23, 2010

- #162-10 HIS HONOR THE MAYOR appointing LT. HUGH DOWNING, 60 Crescent Avenue, Newton as Civil Defense Director. [06/01/10 @ 5:19 PM]  
**PUBLIC SAFETY APPROVED 5-0**
- #126-10(A)&(B)BOSTON COACH TRANSPORTATION request for annual renewal of the Boston College Bus Licenses. There are no changes proposed to last year's licenses. [04/22/10 @ 10:15AM]  
**PUBLIC SAFETY APPROVED 5-0**
- #189-10 POLICE DEPARTMENT submitting reports of semi-annual taxi license/public auto inspections for review. [06/14/10 @ 2:43 PM]  
**PUBLIC SAFETY APPROVED 5-0**
- #190-10 TAREK ALI, 24 Auburn Street, Saugus, MA 01906, requesting one (1) new bus license for METRO WEST SHUTTLE, INC. [06/08/10 @ 9:33 AM]  
**PUBLIC SAFETY APPROVED 5-0, SUBJECT TO 2<sup>ND</sup> CALL**
- Clerk's Note: Having received the information the Committee had requested from the Law and Police Department's, the Committee removed the need for the item to go on second call.*
- #161-10 PLANNING DEPARTMENT and 128 Business Council seeking renewal of the Needham Shuttle Bus License. [05/24/10 @ 3:02 PM]  
**PUBLIC SAFETY APPROVED 5-0**

**A MOTION TO SUSPEND THE RULES TO ALLOW THE LAND USE COMMITTEE CHAIR TO POLL HIS COMMITTEE AND REPORT ON THE FOLLOWING ITEMS WAS APPROVED BY VOICE VOTE***Request for withdrawal without prejudice:*

- #139-10 MAX & MAJORIE SCHECHNER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL/EXTENSION OF NONCONFORMING STRUCTURE to add a shed dormer wider than 50% of the length of the exterior wall of the story next below onto the rear of an existing two-family residence and to waive the dimensional requirements for parking spaces at 8-10 HATFIELD ROAD, Ward 3, on land known as Sec 34, Blk 18, Lot 1, containing approx 7,370 sq ft of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-15(t)(a), 30-19(g) and (m) of the City of Newton Rev Zoning Ord, 2007.  
**LAND USE APPROVED WITHDRAWL WITHOUT PREJUDICE 6-0**

- #8-10(3) AGREEMENT TO AN EXTENSION OF TIME IN WHICH TO ACT on petition #8-10: Clear Wireless, LLC/American Tower request to add a wireless antenna installation to an existing tower consisting of 3 panel antennae at the height of 115 feet and 9 wireless backhaul dishes at 250 feet in height, plus an ancillary ground-level equipment cabinet at 1165 CHESTNUT STREET, Ward 5; said extension will run from JULY 30, 2010 through OCTOBER 29, 2010.  
**LAND USE APPROVED AN EXTENSION OF TIME IN WHICH TO ACT 6-0**

**A MOTION TO SUSPEND THE RULES TO ALLOW THE PUBLIC FACILITIES COMMITTEE TO REPORT ON ITEMS TAKEN UP AT THEIR MEETING EARLIER IN THE EVENING WAS APPROVED BY VOICE VOTE**

**REFERRED TO PUBLIC FACILITIES COMMITTEE**

**Monday, July 12, 2010**

- #204-10 COMMISSIONER OF PUBLIC WORKS, ON BEHALF OF NSTAR, petitioning for a grant of location to relocate pole 128/6 to the opposite side of ELM ROAD, a distance of 50' +/- westerly from existing pole location. (Ward 2) [06/21/10 @ 5:13 PM]  
**PUBLIC HEARING WAS OPENED AND CLOSED. PUBLIC FACILITIES APPROVED WITH CONDITION 6-0 (Albright not voting)**  
**MOTION TO RECONSIDER THIS ITEM WAS FILED BY ALDERMAN SALVUCCI ON TUESDAY, JULY 13, 2010**

**A MOTION TO SUSPEND THE RULES TO ALLOW THE FINANCE COMMITTEE TO REPORT ON ITEMS TAKEN UP AT THEIR MEETING EARLIER IN THE EVENING WAS APPROVED BY VOICE VOTE**

**REFERRED TO FINANCE COMMITTEE**

**Monday, July 12, 2010**

Appointment by His Honor the Mayor

- #198-10 JAMES PELLEGRINE, 60 Clinton Place, Newton Centre, appointed as a Constable for the City of Newton for a term of office to expire July 12, 2013. [6/14/10 @6:13PM]  
**FINANCE APPROVED 8-0**

Appointment by His Honor the Mayor

- #197-10 SHAWN MURPHY, 11 Morrill Street, West Newton, appointed as a Constable for the City of Newton for term of office to expire July 12, 2013. [6/14/10 @6:13PM]  
**FINANCE APPROVED 8-0**

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

- #184-10 HIS HONOR THE MAYOR requesting authorization to eliminate the part time Chief Zoning Code Official and the part time Principal Planner positions (19 hours each) and to create a full time (37.5 hours) Chief Zoning Code Official position, which salary will be absorbed in the existing FY2011 Planning Department budget, although there may need to be additional funding for benefits. [6/14/10 @6:20PM]  
**ZONING & PLANNING APPROVED 3-0-1 (Sangiolo abstaining)**  
**FINANCE REFERRED TO ZONING AND PLANNING 8-0**

**A MOTION TO SUSPEND THE RULES TO ALLOW THE FOLLOWING LATE FILED ITEM TO BE ACCEPTED ON THE DOCKET AND REFERRED TO THE PROGRAMS & SERVICES COMMITTEE WAS APPROVED BY VOICE VOTE**

- #207-10 ALD. SANGIOLO, YATES, FISCHMAN, JOHNSON requesting a discussion with the Newton Housing Authority regarding the various housing programs offered and the process and procedures in (1) selection of appropriate housing for tenants with special needs (2) any special services offered to tenants with disabilities (3) resolution of tenant disputes and possible eviction procedures and (4) tenant resources and recourse in the event of tenant complaints. [7/7/10 @8:53 AM]

**A PUBLIC HEARING WAS ASSIGNED FOR THE FOLLOWING ITEM:**

**Public Hearing assigned for July 27, 2010:**

- #139-10(2) MAX & MAJORIE SCHECHNER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL/EXTENSION OF NONCONFORMING STRUCTURE to add a dormer approximately 88% of the length of the rear of an existing two-family residence at 8-10 HATFIELD ROAD, Ward 3, on land known as Sec 34, Blk 18, Lot 1, containing approx 7,370 sq ft of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-15(t)(a), 30-19(g) and (m) of the City of Newton Rev Zoning Ord, 2007.