



Programs & Services Committee Report

City of Newton In City Council

Wednesday, April 12, 2023

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

Also Present: Councilors Lucas, Malakie, and Norton

City Staff: Lisa Dady, Director of Historic Newton; Jennifer Wilson, Assistant City Solicitor; Jonathan Yeo, Chief Operating Officer; Alissa Giuliani, City Solicitor; Hattie Kerwin Derrick, Director of Community Engagement & Inclusion; Marc Welch, Superintendent of Urban Forestry; and Jaclyn Norton, Committee Clerk

For more information regarding this meeting, a video recording can be found at the following link: [04-12-23 Programs & Services Committee Meeting](#)

#100-23 Appointment of James Cote to the Licensing Board

HER HONOR THE MAYOR appointing James Cote, 934 Watertown Street, West Newton as a member of the Licensing Board for a term of office to expire on June 3, 2024. (60 days: 05/19/2023)

Action: **Programs & Services Approved 5-0-1 (Councilor Humphrey Abstaining)**
(Councilors Ryan and Noel Not Voting)

Note: James Cote was introduced and detailed his interest in continuing to serve his community. On the Licensing Board Mr. Cote hopes to add value to the Board and help individuals navigate bureaucratic processes. A Councilor expressed thanks for Mr. Cote's willingness to serve and Committee members voted 5-0-1 (Councilor Humphrey Abstaining) (Councilors Ryan and Noel Not Voting) on a motion to approve from Councilor Wright.

#101-23 Appointment of Harry Meade to the Biosafety Committee

HER HONOR THE MAYOR appointing Harry Meade, 62 Grasmere Street, Newton as a member of the Biosafety Committee for a term of office to expire on April 18, 2025. (60 days: 05/19/2023)

Action: **Programs & Services Approved 7-0 (Councilor Noel Not Voting)**

Note: Harry Meade was introduced and detailed his over 40 years of experience in the biotech industry. Multiple Councilors welcomed his expertise and look forward to working with him. Committee members voted 7-0 (Councilor Noel Not Voting) on a motion to approve from Councilor Greenberg.

#102-23 Appointment of Bill Dain to the Human Rights Commission

HER HONOR THE MAYOR appointing Bill Dain, 199 Harvard Circle, Newton as a member of the Human Rights Commission for a term of office to expire on March 6, 2026. (60 days: 05/19/2023)

Action: Programs & Services Approved 8-0

Note: Bill Dain was introduced and described that he is a retired social worker and that on the Commission he hopes to be part of the Commission becoming more active within the City. A Councilor expressed thanks for Mr. Dain's willingness to serve and the Committee voted 8-0 on a motion to approve from Councilor Albright.

#103-23 Appointment of Maureen Sullivan to the Human Rights Commission

HER HONOR THE MAYOR appointing Maureen Sullivan, 23 High Street, Newton as a member of the Human Rights Commission for a term of office to expire on March 6, 2026. (60 days: 05/19/2023)

Action: Programs & Services Approved 8-0

Note: Maureen Sullivan was introduced and detailed her professional diversity, equity, and Inclusion (DEI) experience as the Senior Vice President of Human Resources at Village Bank. A Councilor expressed thanks for Ms. Sullivan's willingness to serve and Councilors voted 8-0 on a motion to approve from Councilor Humphrey.

#171-22 Request for approval to proceed with the process of updating the City Seal

HER HONOR THE MAYOR requesting authorization to advance the City Seal Working Group's recommendation to update the City Seal.

Action: Programs & Services Approved 8-0

Note: Lisa Dady, Director of Historic Newton stated that the mayor formed a City Seal Working Group over a year ago to determine if the City Seal still represented the City of Newton. This working group was comprised of 13 individuals from across the City with various backgrounds. In meeting for over a year, the working group conducted public meetings, community surveys, and conversations with experts. The group ultimately decided that updates need to be made to the City Seal.

The current question before the Committee currently is to allow the Mayor to send out a request for proposals (RFP) for a design consultant to develop potential designs for an updated City Seal. The Chair noted that the City Seal is contained in the Ordinances and would require City Council approval to adopt any changes. Ms. Dady also provided the Committee with a description of each aspect of the seal and its origin.

Multiple Councilors noted that the report from the City Seal Working Group included in the Friday Packet was very helpful in understanding the issue. A Councilor sought clarification regarding the cost of the RFP and the proposed designs being created. Hattie Kerwin Derrick,

Director of Community Engagement and Inclusion stated that the estimated cost of this phase would be \$25,000. A Councilor asked about the word Nonantum on the City Seal and if the presenters could provide some context. Ms. Dady stated that members of the working group would be willing to speak with residents regarding this topic. A romanization of Native culture was occurring around the time when the first City Seal was created and the scene depicted on the City Seal is one of a handoff from Native Americans to Colonial Settlers. The area called Nonantum was located near what is presently referred to as Newton Corner and was called Nonantum due to John Elliot's interpretation that Nonantum meant rejoicing in the Algonquin language. Ms. Dady noted that the word Nonantum on the current City Seal does not have any connection to the village of Nonantum and the working group would like to find a better way to honor all villages in an updated City Seal.

Multiple Councilors voiced support for adding a condition that a member of the City Council (preferably a member of the Programs & Services Committee) be added to the City Seal Working Group. Councilors voted 8-0 on a motion to approve from Councilor Albright with the condition that a member of the City Council is added to the City Seal Working Group.

Referred to Programs & Services and Finance Committees

#110-23 Request to transfer \$150,000 from Law Department Full Time Salaries

HER HONOR THE MAYOR requesting authorization to transfer the sum of one hundred fifty thousand (\$150,000) from Account #0110851-511001 Law Department Full Time Salaries to Account #0110851-530900 Law Department Legal Services to retain outside counsel to continue the work of Deputy City Solicitor Jeffrey Honig.

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

Note: Alissa Giuliani, City Solicitor was introduced and described that this request is due to the untimely passing of Deputy City Solicitor Jeffrey Honig in October 2022. In his role, he handled all labor relations of the City and the Law Department needed to hire outside counsel for negotiations with the Union as a result. Due to the sudden nature of his passing the Law Department did not have enough funds in the legal services line item and this transfer would allow funds from Attorney Honig's salary to be used to retain this counsel. A Councilor asked if the Law Department plans to hire staff to fill this vacancy. Attorney Giuliani stated that beginning July 1, 2023, funds will be budgeted for the Law Department to hire someone who will handle all labor relations of the City. Committee members voted 8-0 on a motion to approve from Councilor Albright.

Referred to Programs & Services and Finance Committees

#411-22 Request for Amendment to Chapter 21, Art III Trees to extend tree protection and update permits

COUNCILORS MALAKIE, NORTON, LEARY, RYAN, WRIGHT, LUCAS, HUMPHREY, BOWMAN, MARKIEWICZ, OLIVER, DOWNS, LAREDO, AND GROSSMAN requesting revisions and amendments to Chapter 21, Art. III Trees (sec. 21-60 through 21-

89) to extend tree protection to all trees 6 inches DBH (diameter at breast height) and greater within the City (with no exempt lots); to update tree removal permits, fees, and compensation; and to strengthen protection for existing and replacement trees.

Action: Programs & Services Held 8-0

Note: The Chair detailed that the Committee has been taking a series of straw votes on aspects of the tree preservation ordinance and that the Committee will continue this process. This would be with the goal of having a single redline version that the public can comment on at a future meeting.

Sec. 21-88 Enforcement

Proposed changes to Sec. 21-88(b)(1) and Sec. 21-88(b)(3) were the same in both the Councilor and City proposals and were adopted via unanimous consent.

In the proposed amendments to Sec. 21-88(b)(2) the City proposal makes no changes to the existing language. The Councilor proposal would change the word request to direct regarding the tree warden asking the agency that granted the exterior work permit to issue a stop work order. Jennifer Wilson, Assistant City Solicitor stated that the cases in which a stop work order can be issued are governed under the state building code and that the tree warden is unable to direct the Commissioner of the Inspectional Services Department. Multiple Councilors noted the language in the section “to the extent permissible by law” as something that could prevent this conflict. Attorney Wilson stated that she would still see legal concerns with the section if the word change to direct was adopted. Committee members voted 7-0-1 (Councilor Wright abstaining) on a straw vote to adopt the City proposal of no changes to Sec. 21-88(b)(2).

Sec. 21-89 Penalties

The City proposal proposes no changes to Sec. 21-89(a). However, the Councilor proposal proposes that the language “Each day, until a Permit Application is filed, shall constitute a separate offense” be added to the end of Sec. 21-89(a).

Marc Welch, Superintendent of Urban Forestry, outlined that his current practice regarding this is that the property owner is sent a letter advising them to file a tree permit application by a specified date. If the owner fails to do so Mr. Welch can escalate by also constituting the offense as a failure to replace trees or make a payment in lieu of planting which would be a fine of \$300.00 with each day constituting a separate offense. Mr. Welch also stated in a response to a Councilor’s question that he tries to provide a warning for first-time offenders but those who are habitual offenders are charged a \$300.00 fine for removal without a permit. These fines must be paid at the time of a tree permit application. Committee members voted to adopt the City proposal via unanimous consent.

The Committee in a previous discussion regarding this item rejected the adoption of the language of Environmental Mitigation Payment. The City proposal for Sec. 21-89(b) was adopted via unanimous consent.

Sec. 21-90 Severability, effect on other laws

The Chair outlined that the Councilor proposal proposes three changes to this section while the City proposal would leave the section unchanged.

The first proposed amendment is to remove the first sentence of the section with the Chair noting that any conflict is resolved with the current second sentence. Attorney Wilson advised to not remove the first sentence for clarity. Committee members retained the first sentence unanimously.

The second amendment would be to have this ordinance guide tree removal and replacement for special permits. A Councilor and Attorney Wilson noted that a special permit cannot override an ordinance outside of Chapter 30. Councilors voted unanimously regarding a straw vote to not adopt the second amendment.

The third amendment was adopted unanimously to remove the final sentence of the section.

Newton Cemetery Exemption

Attorney Wilson drafted language for an exemption for Newton Cemetery and Arboretum that allows for considerations for the Cemetery while also giving the City control over granting the exception (attached). In response to a Councilor's question, Attorney Wilson stated that this exemption would only apply to the planting of replacement trees. Multiple Councilors noted the responsibility that the City has to the Cemetery as once the Trust has exhausted funding the City will assume financial responsibility. Multiple Councilors also expressed concerns with various aspects of the proposed language and the Committee unanimously agreed to have the Law Department redraft the language for this provision.

Hedges

During a previous discussion regarding Sec. 21-85(b)(1) the Committee tentatively decided to adopt the City proposal under the condition that Mr. Welch provides the Committee with a definition of hedge to be added to the ordinance. The Chair noted that the City proposal would enable the tree warden agency to determine when trees planted as hedges shall count as replacement trees. Mr. Welch provided the Committee with a definition that can be found in the attached slide. A Councilor asked if hedges have been approved as replacement trees in the past. Mr. Welch clarified that they had in the past but the City is looking to move away from this. Committee members voted unanimously in a straw vote to adopt the city proposal and include the provided hedge definition.

Sec. 21-80 Findings, intent, and purpose

One of the docketing Councilors noted that while they would like more language in this section it could be refined for conciseness. Councilors agreed to submit revised language to the clerk the next time this item is discussed.

Sec. 21-82 Applicability

During the previous discussion on Sec. 21-82(a) the Committee agreed to revisit the 24-month lookback provision. A Councilor asked Mr. Welch how the 24 months were decided for the City proposal. Mr. Welch stated that this would be enough time to prevent someone from circumnavigating the tree preservation ordinance and that all tree or exemption permit applications would need to be recorded with the City. In this process, the size and species are documented along with being recorded in the online permitting system according to Mr. Welch. The tree permits being recorded in the online permitting system allows Mr. Welch to see all previous tree permits that the property has applied for. A Councilor sought clarification on what happens if a property is sold. Mr. Welch described that the new owner would be responsible for any fees incurred from noncompliance with prior tree or exemption permits. Committee members took a straw vote of 7-0-1 (Councilor Wright Abstaining) on whether to keep the 24-month lookback provision.

Councilors also discussed amending the word Legacy in the City proposal to Significant. It was decided that this would be discussed once a fee schedule has been shared with the Committee.

Fee Schedule

A Councilor asked Mr. Welch about the ability to amend the formula used to calculate the payment in lieu of planting to remove the sudden jumps when the tree designation changed. Mr. Welch described that he is currently trying to develop this fee schedule and that a payment table would need to be created if it were to no longer be tied to the tree designation. Multiple Councilors expressed support for this fee schedule to be published whenever it is updated by the tree warden. That provision was unanimously added to Sec. 21-86(b). Mr. Welch stated that he will develop this payment table for the fee schedule to be presented at an upcoming meeting.

Conclusion

The Committee decided to continue the discussion at the next regularly scheduled meeting should time allow. Councilors voted 8-0 on a motion to hold from Councilor Ryan.

Referred to Programs & Services and Finance Committees

#412-22

Request for Review and Amendments to Chapter 21, Art. III, Division 3

HER HONOR THE MAYOR requesting review and amendments to Chapter 21, Art. III, Division 3, Tree Preservation to increase replacement requirements for larger trees, add protections for smaller trees, limit removal of trees without replacement, enhance procedures for protecting trees, increasing payment required for trees cut without replacement, protect trees on lots adjacent to

construction, provide Tree Warden with additional professional input on trees on private properties.

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

Note: This item was discussed concurrently with item #411-22. A written report can be found with item #411-22.

#114-23 Reappointment of Julie Winsett to Urban Tree Commission

HER HONOR THE MAYOR reappointing Julie Winsett, 33 Alexander Road, Newton Highlands as a member of the Urban Tree Commission for a term of office to expire on March 1, 2026. (60 days: 06/02/2022)

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

Note: Items #114-23, #115-23, and #116-23 were read into the record. Councilors expressed no concerns relative to the reappointments and voted 8-0 on a motion to approve from Councilor Albright.

#115-23 Reappointment of James Harper to the Farm Commission

HER HONOR THE MAYOR reappointing James Harper, 59 Westminster Road, Newton Centre as a member of the Farm Commission for a term of office to expire on March 31, 2026. (60 days: 06/02/2022)

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

Note: This item was discussed concurrently with item #114-23. A written report can be found with item #114-23.

#116-23 Reappointment of Gary C. du Moulin to the Biosafety Committee

PRESIDENT ALBRIGHT reappointing Gary C. du Moulin, 24 Myerson Lane, Newton Centre, as a member of the Biosafety Committee for a term of office to expire on May 4, 2026. (60 days: 06/02/2022)

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

Note: This item was discussed concurrently with item #114-23. A written report can be found with item #114-23.

The meeting adjourned at 10:32 pm.

Respectfully Submitted,

Josh Krintzman, Chair

Proposed Amendment re: Cemetery



Add a new subsection to 21-85. Tree replacement.

Cemeteries exempt: this Section 21-85 shall not apply to protected trees that are removed in a cemetery for the purpose of creating burial plots if the following criteria is met:

1. The cemetery submits a tree management plan that is approved by the Tree Warden;
2. The cemetery complies with the approved tree management plan; and
3. The cemetery employs a certified arborist on its staff.

If at any time the Tree Warden determines that the cemetery has failed to follow the approved tree management plan or employ a certified arborist, the cemetery shall be required to comply with this Section 21-85.

Hedge - A line of closely spaced trees, typically spaced less than 10 feet apart, planted to form a barrier or to mark the boundary of an area.