

CITY OF NEWTON
IN BOARD OF ALDERMEN
BOARD ACTIONS

Monday, August 10, 2009

Present: Ald. Albright, Brandel, Ciccone, Coletti, Danberg, Fischman, Freedman, Gentile, Harney, Hess-Mahan, Johnson, Lappin, Lennon, Linsky, Mansfield, Parker, Salvucci, Sangiolo, Schnipper, Swiston, Yates and Baker.

Absent: Merrill, Vance

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

- #139-09 **FRANCESCO GIGLIOTTI** petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING STRUCTURE to construct a second-story addition onto the front of an existing single-family dwelling, increasing the legally nonconforming floor area ratio from .43 to .48, at 204 RIVER STREET, WEST NEWTON, on land known as Sec 44, Blk 17, Lot 55, containing approx 3,064 sf feet of land in a district zoned SINGLE RESIDENCE 3. Ref: 30-24, 30-23, 30-21(a)(2)(b), 30-21(b) of the City of Newton Rev Zoning Ord, 2007. **LAND USE APPROVED 6-0-1 (Fischman abstaining; Brandel not voting) on 6/16/09 (90 days 9/1/09)**
- ITEM POSTPONED on 7/13/09 to DATE CERTAIN of 8/10/09:**
- Request for Withdrawal without Prejudice received 8/3/09*
- Motion to suspend the rules to allow the Chair of Land Use to poll the committee APPROVED by Voice Vote.**
- LAND USE COMMITTEE APPROVED 6-0 motion to change vote in committee to Withdrawal without Prejudice**
- VOICE VOTE APPROVES WITHDRAWAL WITHOUT PREJUDICE**
- #108-07(3) **ALD. SANGIOLO** proposing the suspension/rescission of Ordinance Z-44, voted on March 16, 2009, which deleted Footnote 7 of Section 30-15, Table 1 relative to floor area ratio.
- In Zoning & Planning on 6/22/09 a motion to Approve as amended with a sunset date of 7/30/10 Failed to Carry 3-3-1 (Harney, Lappin, Swiston voting in the affirmative; Baker, Linsky, Yates opposed; Danberg abstaining) (90 days: 9/6/09)**

MOTION TO SUBSTITUTE APPROVAL CARRIED 12-10 in FULL BOARD on 7/13/09

ITEM POSTPONED on 7/13/09 to DATE CERTAIN of 8/10/09:

Motion to amend by adding Sunset date of July 30, 2010 to text

APPROVED by Voice Vote

MOTION TO APPROVE AS AMENDED FAILED TO CARRY 14 YEAS, 8 NAYS (Ald. Albright, Danberg, Fischman, Freedman, Hess-Mahan, Mansfield, Yates), 2 ABSENT (Ald. Merrill, Vance)

Clerk's Note: 16 votes needed to approve zoning amendment

#142-09

ALD. BAKER, DANBERG, HESS-MAHAN, MANSFIELD, PARKER, YATES proposing that Chapter 30 be amended to provide a cumulative floor area ratio bonus of .05 for renovation of existing one- and two-family homes which meet otherwise applicable dimensional requirements; to provide an additional .02 floor area ratio bonus for renovation of existing one- and two-family homes on old zoning lots which meet new zoning lot dimensional requirements; to clarify the application of the existing .05 floor area ratio bonus for new construction of one- and two-family homes; to end such floor area ratio bonuses on July 30, 2010; and to clarify the application of the *de minimis* rule, in accordance with language provided. **IN ZONING & PLANNING on 6/22/09 MOTION TO APPROVE FAILED TO CARRY 3-4 (Baker, Linsky, Yates voting in the affirmative; Danberg, Harney, Lappin, Swiston opposed (90 days: 9/6/09))**

ITEM CHARTERED 7/13/09 by ALD. GENTILE

Motion to Substitute Approval for Denial Approved by Voice Vote

APPROVED 16 YEAS, 6 NAYS (Ald. Ciccone, Gentile, Harney, Lappin, Samgolo, Schnipper), 2 ABSENT (Ald. Merrill, Vance)

#206-09

HIS HONOR THE MAYOR requesting that **§27-9 Hotel, lodging house and motel excise tax.** of the City of Newton Revised Ordinances of 2007 be amended by increasing from 4% to 6% the local excise tax pursuant to GL chapter 64G §3A, accepted by the City in 1985 and recently amended to provide for this increase. If adopted prior to August 31, 2009, this increase would become effective October 1, 2009, generating for FY10 an estimated \$366,666 in new revenue. [7/7/09 @ 4:31 PM]

FINANCE APPROVED 6-0-2 (Lennon and Parker abstaining)

APPROVED 21 YEAS, 1 NAY (Ald. Swiston), 2 ABSENT (Ald. Merrill, Vance)

REFERRED TO PS&T., FINANCE AND PROG & SERV. COMMITTEES

- #273-04(3) ALD. GENTILE requesting a re-vote of a previously submitted Home Rule Petition approved February 20, 2007 by the Board of Aldermen for special legislation to reclassify the two "dedicated fire apparatus mechanic" positions from Group 1 to Group 2 in the State Retirement System. [02/13/09 @ 4:11 pm]
PUBLIC SAFETY & TRANSPORTATION MOTION TO APPROVE FAILED TO CARRY 3-3-1 (Fischman, Ciccone, Coletti; Harney, Danberg & Linsky opposed; Swiston abstaining) on 04-15-09 PROGRAM & SERVICES APPROVED 5-0-1 (Freedman abstaining; Brandel and Sangiolo not voting) on 04-15-09 FINANCE APPROVED 6-0-2 (Schnipper and Freedman abstaining) SUBJECT TO 2nd CALL
Motion to substitute Approval for Denial in Public Safety Approved by Voice Vote
APPROVED 17 YEAS, 5 NAYS (Ald. Danberg, Freedman, Harney, Linsky, Baker), 2 Absent (Ald. Merrill, Vance)

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #178-09 HIS HONOR THE MAYOR requesting to appropriate and expend from Capital Stabilization the sum of thirty eight thousand six hundred dollars (\$38,600) to the Building Department for the balance of the cost to replace the emergency generator at the Peirce Elementary School. [/6/09/09 @ 5:08 PM]
Note: A letter from His Honor the Mayor was received on 06/12/09 requesting to amend this appropriation from Capital Stabilization to the Building Department from \$38,600 to \$43,850.
PUBLIC FACILITIES APPROVED 8-0 on 06-17-09
FINANCE APPROVED AS AMENDED @ \$43,850 7-0 (Johnson not voting)
Motion to suspend rules to allow Chair of Public Facilities to poll committee Approved by Voice Vote.
Public Facilities Approved Amended amount of \$43,850
APPROVED @ \$43, 850 22 YEAS, 2 ABSENT (Ald. Merrill, Vance)

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #179-09 HIS HONOR THE MAYOR requesting to appropriate and expend from bonded indebtedness the sum of four hundred five thousand dollars (\$405,000) to Department of Public Buildings for the purpose of replacing two underground fuel tanks at the Crafts Street DPW yard. [06-09-09 @ 5:08 PM]
PUBLIC FACILITIES APPROVED 4-0 on 07-08-09

Note: A letter from His Honor the Mayor was received on 07/16/09 requesting to amend this appropriation from bond authorization to the Department of Public Buildings from \$405,000 to \$453,000.

APPROVED AS AMENDED @ \$310,000 5-2 (Gentile and Parker opposed; Johnson not voting), SUBJECT TO 2ND CALL.

Motion to suspend rules to allow Chair of Public Facilities to poll committee Approved by Voice Vote.

Public Facilities Approved (A) \$310,000 and held (B) \$143,000 7-1

MOTION TO APPROVE (A) \$310,000 FAILED TO CARRY 11 YEAS, 10 NAYS (Ald. Brandel, Freedman, Gentile, Harney, Johnson, Linsky, Mansfield, Parker, Sangiolo, Swiston), 3 ABSENT (Ald. Lappin, Merrill, Vance)

Clerk's Note: A 2/3rds vote is needed to approve a bond request.

A MOTION TO RECONSIDER WAS FILED BY ALD. LINSKY ON AUGUST 11 @ 5:19 PM

THE BOARD OF ALDERMEN VOTED WITHOUT DISCUSSION 21 YEAS, 3 ABSENT (ALD. GENTILE, MERRILL, VANCE) TO ACCEPT ITS COMMITTEES' RECOMMENDATIONS ON THE FOLLOWING ITEMS:

REFERRED TO LAND USE COMMITTEE

Tuesday, July 14, 2009

#232-07(4) AMERADA HESS CORPORATION petition to AMEND special permit #232-07 by deleting in condition 9.d. the reference to the "...bermed area at the edge of the curb extension planted with grass and pear trees..." which is not shown on the plan and not built as part of the already constructed curb extension approved in SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NON-CONFORMING USE, granted on 12/17/07, for the conversion of a full-service gasoline selling station to a self-service gasoline selling station and retail convenience store at 2370 COMMONWEALTH AVENUE, Ward 4, AUBURNDALE, Ref: Sec 30-23 and 30-24 of the City of Newton Rev Zoning Ord, 2007. **HEARING CLOSED; LAND USE APPROVED 7-0 (Brandel not voting)**

#163-09 NICHOLAS POLYHRONOPOULOS & VASIILKI POLYHRONOPOULOS petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION of a NONCONFORMING STRUCTURE to install a semi-circular driveway within the front setback with parking; replace an existing nonconforming front stairway in the front setback; and to install /construct retaining walls and stairways as retaining walls at an existing single-family dwelling at 103 COMMONWEALTH AVENUE, Ward 7, CHESTNUT HILL, on land known as Sec 63, Blk 8, Lot 46,

containing approx 13,693 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21((b), 30-19(g)(1) and (3), 30-19(m), 30-5(b)(4) as most recently amended by Ordinance Z-45.

HEARING CLOSED; LAND USE APPROVED 7-0 (Brandel not voting)

REFERRED TO FINANCE COMMITTEE

Monday, July 20, 2009

Appointment by His Honor the Mayor

#200-09 JOAN E. HARRINGTON, 157 Lowell Avenue, Newtonville, appointed as a TRUSTEE of the NEWTON READ FUND for a term to expire June 1, 2012 (60 days 9/11/09). [07/01/09 @ 10:49 AM]

FINANCE APPROVED 5-0 (Lennon, Gentile and Parker not voting)

Appointment by His Honor the Mayor

#199-09 LOIS McMULLIN, 11 Meigh Road, Chestnut Hill, appointed as a TRUSTEE of the NEWTON READ FUND for a term to expire June 1, 2012. (60 days 09/11/09) [06/26/09 @ 11:02 AM]

FINANCE APPROVED 5-0 (Lennon, Gentile and Parker not voting)

#204-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend five thousand nine hundred fifty-two dollars and fifty-six cents (\$5,952.56) from Budget Reserve to settle a claim that arose from a City truck striking a private vehicle on January 1, 2009. [7/7/09 @ 4:31 PM]

FINANCE APPROVED 5-0 (Lennon, Gentile and Parker not voting)

#202-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend two hundred twenty-four thousand, two hundred thirty-two dollars (\$224,232) from Wage Reserve to the payroll accounts of Public Buildings, Public Works, and Parks and Recreation Departments for retroactive salary payments pursuant to the agreement reached with the Newton Municipal Employees Association. [7/7/09 @ 4:31 PM]

FINANCE APPROVED 8-0

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#36-08(2) HIS HONOR THE MAYOR requesting to amend docket item #36-08 by appropriating an additional one hundred nine-thousand six hundred twenty-seven dollars (\$109,627) from Budget Reserve for the fuel tank replacements at the Elliot Street DPW yard. [04/28/09 @ 6:02 PM]

PUBLIC FACILITIES APPROVED 5-0-2 (Gentile and Lennon abstaining) on 5-20-09

FINANCE APPROVED 8-0 from Capital Stabilization, SUBJECT TO 2nd Call

Motion to suspend rules to allow Chair of Public Facilities to poll committee Approved by Voice Vote.

PUBLIC FACILITIES APPROVED from Capital Stabilization

#201-09 HIS HONOR THE MAYOR requesting acceptance of and authorization to expend a grant of fifty-nine thousand, nine hundred seven dollars (\$59,907) from the Federal FY09 American Recovery and Reinvestment Act (ARRA) Byrne Justice Assistance Grant Program to be used for tactical team staff development and equipment purchases for tactical field operations. [7/7/09 @ 4:31 PM]

FINANCE APPROVED 8-0

#203-09 HIS HONOR THE MAYOR requesting a transfer of funds in the amount of sixty-seven thousand, five-hundred dollars (\$67,500) from payroll accounts to expense accounts in the Treasury Department to (A) \$17,500 to restore parking ticket contract administration funds previously-transferred to cover an urgent staff vacancy in FY09 and (B) \$50,000 to cover an outstanding invoice payable to bond counsel for FY09. [7/7/09 @ 4:31 PM]

FINANCE APPROVED 7-0 (Johnson not voting)

#205-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend two thousand six-hundred twenty-one dollars (\$2,621) from Budget Reserve to fund actual FY10 salaries for the Retirement Board staff, which amount was inadvertently omitted from the FY10 budget. [7/7/09 @ 4:31 PM]

FINANCE APPROVED 7-0 (Johnson not voting)

REFERRED TO PROGRAM AND SERVICES AND FINANCE COMMITTEES

#177-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend from E-rate Receipts the sum of two hundred one thousand four hundred ninety seven dollars and fifteen cents (\$201,497.15) for the purpose of implementing the School Department wireless technology plan for Newton South, as well as district-wide management. [06/09/09 @ 5:09 PM]

PROGRAM & SERVICES APPROVED 7-0 on 07-08-09

FINANCE APPROVED 7-0 (Johnson not voting)

#176-09 HIS HONOR THE MAYOR requesting authorization to accept and expend from Eagle Investment Systems, LLC the sum of seven thousand two hundred ninety six dollars (\$7,296) for the purpose of installing two accessible curb cuts for pedestrians on Wells Avenue. [06/09/09 @ 5:08 PM]

FINANCE APPROVED 7-0 (Johnson not voting)

#33-05(2) HIS HONOR THE MAYOR requesting authorization to appropriate and expend from the *Arborpoint at Woodland Station* traffic mitigation receipts reserve account sixty-four thousand, six hundred twenty dollars (\$64,620) to defray the costs of upgrading the traffic signal equipment at the intersection of Washington Street and Commonwealth Avenue pursuant to Condition #8 of Comprehensive Permit #20-04. [7/7/09 @ 4:31 PM]
FINANCE APPROVED 7-0 (Johnson not voting)

#155-09 HIS HONOR THE MAYOR requesting authorization for the Comptroller to transfer personnel funds as necessary between departments at year-end to prevent any departmental deficiencies in payroll accounts and to transfer up to one million dollars from departmental personnel savings to the wage reserve to fund the retroactive portion of any settlement with the two bargaining units with unsettled contracts. [05/26/09 @ 5:51 PM]
FINANCE NO ACTION NECESSARY 7-0 (Johnson not voting)

**ITEM RECOMMITTED TO PUB FAC & FINANCE COMMITTEES ON 10-20-08
 REFERRED TO PUBLIC FACILITIES & FINANCE COMMITTEES**

#265-08 HIS HONOR THE MAYOR requesting authorization to appropriate and expend one hundred fifty thousand five hundred eighty seven dollars (\$150,587) from capital stabilization for the purpose of restoration of the exterior of the Jackson Homestead. [7-8-08 @ 5:17 PM]
**PUBLIC FACILITIES APPROVED 1-0-3 (Lennon, Albright and Mansfield abstaining, Salvucci and Gentile not voting) on 10-22-08
 FINANCE APPROVED AS AMENDED 4-2-1 @ \$122,976 (Lennon and Gentile opposed; Johnson abstaining) on 10-27-08
 FINANCE WITHDRAWN 7-0 (Johnson not voting)**

Motion to suspend rules to allow Chair of Public Facilities to poll committee Approved by Voice Vote.

PUBLIC FACILITIES APPROVED WITHDRAWAL 7-0

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#260-08 ALD. SANGIOLO proposing the establishment of a revolving account to receive contributions and rental income to go directly to fund branch libraries for each individual branch. [07-08-08 @ 1:29 PM]
**PROGRAM AND SERVICES APPROVED AS AMENDED 5-0-3 (Baker, Freedman and Hess-Mahan abstaining) on 09-03-08
 FINANCE NO ACTION NECESSARY 7-0 (Johnson not voting)**

Motion to suspend rules to allow Chair of Programs and Services to poll committee Approved by Voice Vote.

PROGRAMS AND SERVICES NO ACTION NECESSARY 7-0

PUBLIC HEARINGS WERE ASSIGNED FOR THE FOLLOWING ITEMS***Public Hearing re-assigned for September 22, 2009***

#181-09 201 NEEDHAM STREET LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to convert a portion of existing retail space to restaurant space with 120 seats at 201 NEEDHAM STREET, Ward 5, Newton Upper Falls on land known as Sec 51, Blk 28, Lot 8B, containing approx 64,398 sf of land in a district zoned MIXED USE 1. Ref: Sec 30-24, 30-23, and 30-13(b)(5) of the City of Newton Rev Zoning Ord, 2007.

Public Hearing re-assigned for September 22, 2009

#182-09 188 NEEDHAM STREET petition for SPECIAL PERMIT to convert a portion of existing retail and office space to restaurant space with 120 seats at 188-210 NEEDHAM STREET, Ward 8, Newton Upper Falls, on land known as Sec 83, Blk 28, Lots 83 and 84, containing approx 192,308 sf of land in a district zoned MIXED USE 1 Ref: Sec 30-24 and 30-13(b)(5) of the City of Newton Rev Zoning Ord, 2007.

Public Hearing re-assigned for September 22, 2009

#183-09 MONTE J. & ANNE H. WALLACE TRUSTEES petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a private garage of more than 700 square feet to be attached to an existing single-family dwelling at 256 CHESTNUT HILL ROAD, Ward 7, Chestnut Hill, on land known as Sec 63, Blk 32, Lot 3, containing approx 126,120 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec 30-24, 30-23, and 30-8((b)(7) of the City of Newton Rev Zoning Ord, 2007.

Public Hearing assigned for September 22, 2009:

#208-09 TREXLER M. & JUDITH W. TOPPING petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to re-grade portions of a yard for retaining walls/berms and landscape areas in excess of 4 feet at 132 FARLOW ROAD, Ward 7, NEWTON, on land known as Sec 72, Blk 35, Lot 10, containing approx 62,378 sf of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 30-24, 30-23, 30-5(b)((4) of the City of Newton Rev Zoning Ord, 2007.

The following item was late filed and the Board suspended the rules and approved its acceptance to the docket.

Public hearing assigned for September 22, 2009:

#209-09 KARAMEH HAWASH petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to demolish an existing single-family dwelling and to reconstruct a new single-family dwelling, which will exceed the allowable floor area ratio from .3 to .33 at 45 VILLAGE CIRCLE, Newton Centre, Ward 8, on land known as Sec 81, Blk 3, Lot 14, containing approximately 10,037 sf in a district zoned SINGLE

RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-15, Table 1 Footnote 5 of the City of Newton Rev Zoning Ord, 2007.

The following item was late filed and the Board suspended the rules and approved its acceptance to the docket.

Public hearing assigned for September 22, 2009:

#210-09 PHILIP & MICHELLE DANDREA petition for SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NON-CONFORMING STRUCTURE to demolish an existing one-story garage and replace it with a new garage and second-story addition, which will increase the floor area ratio from .46 to .55 at 91 OTIS STREET, Newtonville, Ward 2, on land known as Sec 24, Blk 12, Lot 10, containing approximately 3,467 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-15 Table 1, Footnote 5 of the City of Newton Rev Zoning Ord, 2007.

Public Hearing assigned for September 9, 2009

#236-09 JOHN F. FANTASIA, 337 California Street, Newton 02458, petitioning for a common sewer main to be constructed in CALIFORNIA STREET from the existing sewer manhole located approximately 200' east of the intersection of Chapel Street and California Street westerly 460' ± to a proposed manhole in California Street. (Ward 1) [07/15/09 @ 12:40 PM]

Public Hearing assigned for September 9, 2009

#237-09 VERIZON NEW ENGLAND, INC. petitioning for a grant of location to set new Pole 64/14A in CARLISLE STREET to be used to guy existing Pole 64/14 and to eliminate the aerial cables from crossing over the property at 124/126 Carlisle Street. (Ward 6) [07/30/09 @ 11:00 AM]

The following item was late filed and the Board suspended the rules and approved its acceptance to the docket.

Public Hearing assigned for September 9, 2009:

#238-09 NSTAR ELECTRIC COMPANY petitioning for a grant of location to install approximately 728 feet of conduit in Lowell Avenue and Elm Road and to install 2 new manholes in Elm Road to provide electric service to the new Newton North High School.

Public Hearing assigned for Monday, September 28, 2009

#207-09(2) ALD. GENTILE, JOHNSON, LENNON, SALVUCCI AND SANGIOLO requesting a public hearing on docket item #207-09, a proposal to increase the meals tax by .075% in Newton. [07/24/09 @ 9:14 AM]