

CITY OF NEWTON

IN BOARD OF ALDERMEN

POST AUDIT & OVERSIGHT COMMITTEE REPORT

TUESDAY, MARCH 28, 2006

Present: Ald. Merrill (Chair), Albright, Harney, Mansfield, Schnipper and Fischman

Absent: Ald. Burg and Coletti

Also present: Sergeant James Norcross (Police Department) and Clint Schuckel (Traffic Engineer)

#165-03 ALD. MANSFIELD requesting report from Police Department and/or Department of Public Works on notices of violations issued since December 1, 2002 of Sec. 26-8 and 26-9 of Revised Ordinances, as authorized by Sec. 20-21(d) and (e) (snow and ice removal).

ACTION: **NO ACTION NECESSARY 6-0**

NOTE: Sergeant James Norcross joined the Committee for discussion of this item. He reported that the Police Department does not track these types of violations through the computer. As a result of that, it is very difficult to tell how many tickets for snow and ice violations have been issued in the past. Captain Cummings believes that two tickets were issued this past winter. Currently, the Animal Control Officers are used to respond to complaints about snow and ice that is not removed properly. Sergeant Norcross also spoke with Ed Spellman, City Treasurer, to ask if the Treasurer's Office tracked the fines. Unfortunately, the Treasurer's Office does not track these types of fines specifically. Mr. Spellman noted that there were payments in that account but he could not tell what the specific payments were for, other than the fact that they were payments made for miscellaneous items that includes snow and ice removal violations.

Ald. Harney asked Ald. Mansfield what he hopes for an outcome for this item and whether these types of violations have been a problem. Ald. Mansfield explained that he docketed the item in 2003, he was asking for information from the previous winter of 2002, the item was discussed previously, and at that time, there were no tickets issued for these types of violations. This item is related to the larger issue of the ability of pedestrians to get around the City during the winter months. In the early 1990s, there was controversy over whether the City should have an ordinance requiring residents to shovel sidewalks in front of their houses. However, there has never been any controversy over the ordinance (Sec. 26-8) that requires businesses and properties located within a business district to clear the sidewalks of snow and ice. In the winter of 2002-2003, Ald. Mansfield noticed over and over again that there were certain business locations that were never clear in the Newton Highlands and Newton Centre area. He wanted to be sure that the ordinance was being enforced, that these people were receiving tickets, and if it was not being enforced what could be done to improve enforcement. The report came back and the ordinance was not being enforced but the Committee never reached a conclusion on how to ensure that the ordinance be enforced. The other ordinance (Sec. 26-8) concerns blocking city streets and sidewalks with snow and ice. The City has had a problem with private contractors plowing driveways and leaving the snow across the sidewalk and the roadway. The ordinance was

amended in 2004 to allow the City to ticket the homeowner, who employs the contractor. Ald. Mansfield is not sure if this ordinance is being carried out.

Ald. Albright suggested sending notice about both ordinances with a City mailing such as the census or tax bill. Ald. Mansfield asked Sergeant Norcross if the plow drivers were licensed by the City. Sergeant Norcross responded that no, they are not licensed through the City; however, with the change in the ordinance it now becomes the homeowner's responsibility to notify their contractor of the ordinance. Sergeant Norcross pointed out that there is still a difficulty with enforcement as there is a question of how the City proves that the snow comes from a certain driveway unless there is a witness. The Law Department has been consulted but he does not believe any answer has been received. Ald. Harney felt that the problem with the ordinance is that it is only enforced if a complaint is made and people do not realize that it is a violation, therefore, they do not complain. Ald. Albright asked if the enforcement needed to be complaint driven and Sergeant Norcross responded that it is a manpower problem; the Police Department does not have enough officers to check all the streets for violations.

Ald. Mansfield asked to return to the enforcement of snow removal in business districts. He asked if the Parking Control Attendants are authorized to issue snow removal citations, as they would see the violations. Sergeant Norcross explained that the attendants could call dispatch and ask for an officer to respond to a violation. Ald. Merrill felt that Ald. Albright's suggestion of notifying residents and businesses was a great idea. Ald. Albright then suggested putting a tear-off at the bottom of the sheet for homeowners to give to their contractor. Sergeant Norcross recommended putting some informative spots on NewTV this fall.

Ald. Mansfield inquired what happened when someone called the Police Department and they report snow blocking a sidewalk. Sergeant Norcross explained that the call would be dispatched to Animal Control if someone was working and if not the call would be dispatched to the Patrol Bureau. Ald. Fischman suggested a larger fine and perhaps sending out city forces or contractor to clean up a blocked sidewalk and bill the property owner.

Ald. Albright asked if the commercial district fine was per day or per storm. Sergeant Norcross responded that you probably could not fine them everyday. Ald. Albright felt that if you could fine everyday it would send a clear message to the offender. Ald. Harney suggested implementing a progressive ticketing scale, which includes a warning option. The Police Department will need to track warnings and tickets for these types of violations. Sergeant Norcross stated that he would look into a database to track these types of violations. He was supportive of a progressive ticketing process.

Ald. Harney pointed out that the docket item asks for a report from the Police Department and the Committee has received the answer that there are very few tickets issued. The discussion is leading to subject matter for another docket item for a substantive committee to discuss.

The Committee agreed that a printed notice inserted with a city mailing, flyers at the front desk of City Hall and the library should be used to inform citizens and business owners that these ordinances would be enforced. Ald. Mansfield felt that it was appropriate to recommend to the Police Chief that these violations be tracked so that repeat offenders can be treated accordingly. Sergeant Norcross will send a memo to the Chief suggesting that the Information Technology Department set-up a database to track this information. Ald. Merrill suggested a motion of no action necessary with the recommendation that information regarding the snow clearing

ordinances be distributed, aired on NewTV and published in the TAB. The item was voted no action necessary by the Committee.

#33-02 ALD. LIPSITT requesting report on status of implementation of speed zone and truck exclusion ordinances adopted by the Board of Aldermen.

ACTION: **HELD 6-0**

NOTE: Clint Schuckel joined the Committee for discussion of this item. Mr. Schuckel and the Committee reviewed the speed zone and truck exclusion that were part of the original discussion. Several of the ordinances were referred to the Public Safety and Transportation Committee to be rescinded. The remaining ordinances required a restudy of the truck exclusion or speed limit reduction and the results were to be reported back to the Post Audit Committee.

Clint Schuckel has done some research to determine which speed limits and truck exclusions have the State approval. He believes that 83 of 91 speed limit ordinances are legal and four that have not been approved are awaiting signatures from City officials. The other four are Centre Street, Fuller Street Windsor Road and Wolcott Street and the State has never responded to these speed limits. Only five out of 28 of the truck exclusions ordinances have been approved by the State. Part of the problem with establishing truck exclusions is that an alternate truck route must be found. There are several truck exclusions that need to be researched and either rescinded or submitted to the State for approval.

Ald. Merrill asked if the studies for speed reductions have been undertaken. Mr. Schuckel responded that no, they have not and one of the things the State requires now is the City to do radar studies before submitting a request for a speed reduction. It is labor intensive, as it requires the study to be done with a police officer in an undercover vehicle.

Ald. Merrill inquired whether a system to track submittals to the State had been established. Mr. Schuckel responded that some thought has been put into how to keep this type of situation from happening again. The Law Department has recommended some type of sunset clause in the ordinance, such that if State approval was not received in a certain period of time the ordinance would be automatically rescinded.

Ald. Mansfield is concerned that only five of the 28 truck exclusions have been approved. Ald. Mansfield asked if Mr. Schuckel was going to try to legalize the 23 truck exclusions on the book. Mr. Schuckel explained that it is going to take a fair amount of work to get them done, as in each case a study will have to be performed quantifying how many vehicles are going down the road and what percentage are trucks. It is a project that he would like to finish off before the next recodification of the ordinances. There is also a project that the Traffic Council is working on through the Public Safety and Transportation Committee. They have looked very carefully at how parking restrictions and traffic regulations are administered in several cities and have some pretty radical recommendations for how they may be handled in Newton. The crux of the proposal would make the parking and traffic regulations more of an administrative process through Traffic Council with an appeal process to the Board. Currently, nine out of 10 of the items that go through Traffic Council are voted by the Board without discussion but there are a few that generate discussion within the Board, therefore an appeal process was maintained. Part of that process would take out many of the sections of Chapter 19 that refer to particular streets and intersections and that would include speed limits and truck exclusions. There are a number of advantages to that one being that when there is a discrepancy it will be easier to make the

correction. It will also make it easier for the Police and Parking Clerk to have a document that is updated more frequently than the City ordinance. It does not directly address the issue under discussion but it would make it easier to clean up.

The Committee held the item for a report from the Traffic Engineer on Charlemont, Christina, Bernard, Goddard, Roland and Wallace Streets truck exclusion and the Centre Street, Fuller Street and Windsor Road speed reductions.

Respectfully submitted,

Carleton P. Merrill, Chairman