

CITY OF NEWTON
IN BOARD OF ALDERMEN
POST AUDIT & OVERSIGHT COMMITTEE REPORT

TUESDAY, NOVEMBER 25, 2008

Present: Ald. Albright (Chairman), Lennon, Swiston, Mansfield and Schnipper

Absent: Ald. Harney, Coletti and Freedman

Also present: Ald. Baker, Johnson, Lappin and Parker

City staff present: Sanford Pooler (Chief Administrative Officer), A. Nicholas Parnell (Public Buildings Commissioner) and Shawna Sullivan (Committee Clerk)

#178-04(3) ALD. LAPPIN requesting a report from the Commissioner of Public Buildings regarding why no progress has been made on the implementation of the construction project database approved by the Board of Aldermen on April 20, 2004.

ACTION: **HELD 5-0**

NOTE: Public Building Commissioner Parnell briefed the Committee and Ald. Lappin on the progress that has been made on the construction database. Josh Morse and Arthur Cabral of the Public Buildings Department are populating the database. The Commissioner would like a designee from the Operations Department of the School Department to contribute some information to the database. He thinks that at some point the custodians in the schools along with those principals and administrative staff will provide information for the database to the Operations Department. Mike Burton from Turner Construction, who was involved in the Newton South project, will provide a list of some of the issues at Newton South for the database. The database already includes information on the Tier 1 projects and the middle schools project. Commissioner Parnell will ask the Information Technology Department to provide access to the database from the Clerk's Office to allow Aldermen to view it.

The Commissioner reiterated his concern about including anything that is related to the Newton North project as it is a work in progress and may come back to haunt the City. The Commissioner stated that it is difficult to determine if it is the product, underlying materials or workmanship. He does not want to place blame on anything or anyone, if there is a question regarding fault, especially during an ongoing project. Ald. Swiston questioned why the Commissioner was concerned about the inclusion of projects under contract. He explained that the database is public record and the Law Department has weighed in on the database and recommended that ongoing projects not be included due to liability issues. The Chair suggested that the committee invite a representative of the Law Department to comment on the recommendation.

Commissioner Parnell stated that the database is open to everybody and he would like to know who determines what goes into the database. Ald. Lappin responded that the database

should include anything that cost the City money that should not have cost the City money. Ald. Lappin asked when the database would be available to the contractor for the Newton North High School project. The Commissioner responded that it would be approximately a year before it was ready for that type of use. However, there is a person on-site that worked on the Newton South High School project, who is aware of the lessons learned during that project.

Ald. Johnson stated that this item has been around for a number of years and needs to be finalized. Ald. Parker briefed the committee on a meeting he attended in Somerville. The City of Somerville uses a software program called Somerstat to record progress on ongoing construction. He explained that all parties including the Law Department meet, discuss, and record any problems with the construction. The chair suggested that a representative of Newton's Law Department contact the City of Somerville's Law Department. Commissioner Parnell will also contact his counterpart in Somerville to discuss Somerstat.

The item was held until a representative from the Law Department could brief the Committee on concerns regarding the information on the database and for further information on the Somerstat program used for construction management by the City of Somerville.

#375-08 ALD. PARKER, JOHNSON, LINSKY AND SWISTON requesting follow-up discussion on the Payments-In-Lieu-of-Taxes (PILOT) budget resolution passed by the Board of Aldermen as part of the Fiscal year 2009 operating budget discussion. [10-14-08 @3:35 PM]

ACTION: **HELD 5-0**

NOTE: Ald. Parker explained that the item was docketed in order to get an update on the progress of establishing Payments-In-Lieu-of-Taxes (PILOT). Ald. Parker has had a number of discussions with the Executive Department regarding requesting non-profit institutions, which are tax exempt but benefit from services provided by the city, to make scheduled payments to the City. There are two options that other communities have used when asking for PILOTs. Some communities send a letter to all their non-profit institutions asking for a payment of 25% of what their tax bill would be if they were to get a bill. The other option is for the Mayor or other top city official to have conversations with the heads of the institutions.

Ald. Parker pointed out that the cities of Boston and Cambridge have some advantage when asking for PILOTs, as they are exempt from the Dover Amendment. However, there are other Massachusetts' communities that have gotten PILOT payments through methods such as conditions to special permits. There is more than \$2.4 billion in tax-exempt property in the City of Newton and if the city were to get even a small percentage of that it would go a long way in closing some of the budget gap.

Mr. Pooler provided the Committee with an update on the budget resolution. The Mayor has spoken with the larger institutions and the response from the institutions is that they feel that they are providing the City with a number of services in lieu of taxes (SILOT.) Mr. Pooler used Newton Wellesley Hospital as an example of some of the services provided by a tax-exempt

institution. The hospital provides the City with such services as pre-employment screening, confidential counseling for employees with personal or work related problems and worker's compensation related issues. A memo from Mr. Pooler detailing the services provided by the hospital was submitted after the discussion. The memo is attached to the report. He also stated that Boston College provides some services to the City such as tuition vouchers for City employees.

Mr. Pooler felt that it might be easier to get the institutions to contribute more services in lieu of taxes rather than monetary contributions. He pointed out that there might be opportunities for monetary contributions through special permits for specific uses. Ald. Johnson suggested monetizing the services that the City provides to the institutions and providing that information to the institutions. She also asked if the City has quantified services to tax-exempt institutions versus their services to the City. Mr. Pooler responded that this has not been done. Ald. Albright pointed out that it is to the benefit of the institutions to keep Newton healthy. Mr. Pooler stated that due to tough financial times, endowments for these institutions have shrunk and they are having trouble, as well. It would be great to look for services that the City needs and the institutions can provide. Ald. Swiston stated that the City should keep trying for the monetary contribution because when the economy improves it may be more likely that the institutions will provide monetary contributions.

Ald. Mansfield stated that the region is very dense with non-profit institutions and that some communities have been successful in their pursuit of PILOTS. He recalled that the Blue Ribbon Commission and most recently the Citizen Advisory Group found specific instances of PILOT payments outside of Boston and Cambridge. He requested that a list of these payments be provided to the Committee. He is also aware that the City of Worcester is pursuing PILOT programs with their tax-exempt institutions. He suggested contacting Worcester to see how they are proceeding. Ald. Lennon inquired whether there would be upcoming Special Permit opportunities with Boston College. Boston College is planning a few things in Newton, which may provide that type of opportunity but most of the construction is planned for Boston.

Ald. Parker stated that the discussion was helpful but the City needs to set goals and make this a priority. He would like to have another conversation in a few months after the following action items have been addressed:

1. Information on PILOT programs in other cities and towns from the Blue Ribbon Report and the CAG Draft Benchmarking Report.
2. Quantification of the value of services the City provides versus services the tax-exempt institutions provide.
3. A strategy on how to approach the institutions regarding PILOTs and SILOTs.

Mr. Pooler suggested that the Aldermen might want to consider having informal conversations with the Mayor. With that, Ald. Swiston made a motion to hold the item, which carried unanimously.

REFERRED TO POST AUDIT & OVERSIGHT AND FINANCE COMMITTEES

#300-08 ALD. JOHNSON AND SWISTON requesting discussion with Mayor David Cohen and Superintendent Jeffrey Young as to the procedures that are in place to ensure accountability of their staff in respect to adherence to the authorization of purchasing and expenditures policy and procedures. [07-21-08 @ 9:03AM]

ACTION: **HELD 5-0**

NOTE: The Chair spoke with both the Mayor and Superintendent Young and both felt that it was a procedural issue. Therefore, they felt the Committee would be better served by discussing the item with the Commissioner of Public Buildings and the Chief Administrative Officer. Ald. Johnson was dismayed that there was no representative from the School Department. Ald. Johnson spoke on the reasons for docketing the item. In a well run company there are checks and balances to keep tight control of purchasing and expenditures. People have spending authority and spending limits and there are serious controls on who can sign for thing and who can spend. When Ald. Johnson saw two expenditures where money was authorized without the authority of the Board of Aldermen and expended, she was very concerned.

The two expenditures were window repairs at various school buildings and the design work for the modular classrooms. There was a breakdown in communication between the School Department and the Public Buildings Department regarding the window repairs. An employee of the Public Buildings Department, who is no longer with the City, provided the School Department with the name of a vendor to repair the windows. The School Department mistakenly thought that this was an approval of the vendor and did not realize that they were breaking the public bid laws. There should have been a bid process, where three quotes were obtained for the work. If this had been done, it would not have required Board of Aldermen approval. It is unlikely that this type of error will happen again. Commissioner Parnell provided a memo to the Committee addressing the measures that have been put in place by his department, which is attached.

The issue with the design funds for the modular classrooms will never happen again. The Commissioner thought that the School Department would be paying for the design of the modular classroom and authorized the work. The Commissioner will no longer authorize anything without a written memorandum of understanding stating who will be paying for the services.

The Committee suggested and the the Public Buildings Department agreed that the Commissioner would also work on a formalized checklist and sign off for authorizations and sign-offs. The Commissioner will provide the Committee with the documents once they are completed. Ald. Johnson asked if there was any type of control plan. The Commissioner responded that they are looking at developing a control plan. Ald. Lennon offered to provide the Commissioner with an example of the State Auditor's control plan. Ald. Swiston moved hold on the item until the documents are available to review, which carried unanimously.

#401-08 ALD. JOHNSON, ALBRIGHT AND LINSKY requesting discussion of the overall project management and communication of the Newton North High School Project. [11-10-08 @ 8:53 AM]

ACTION: **HELD 5-0**

NOTE: The Chair stated that the project management team for the Newton North High School Project would be meeting with the Public Facilities Committee on December 3, 2008. She suggested that the Committees meet jointly to discuss this item and an item that is closely related, which is before the Public Facilities Committee. The Committee members agreed to the joint meeting.

Committee members pointed out that the Project Manager's Report from October was just received. The project manager should be providing better and timelier information to the Board of Aldermen and the citizens. There is a lack of transparency and it is a very frustrating process. There is not a readable construction plan that is available to residents. It is in the City's best interest to work with the residents.

The website is not easy to navigate and it is very difficult to find current information. The City needs to archive the older data that is located on the site. The Ward Two aldermen have spoken with the Mayor regarding the website and he has agreed that it needs to be improved.

The item was held for further discussion on Wednesday, December 3, 2008.

#402-08 ALD. JOHNSON AND SANGIOLO requesting a discussion with the Executive Department as to how the tree funds are being collected and spent. [11-10-08 @ 8:53 AM]

ACTION: **HELD 5-0**

NOTE: Sandy Pooler, Chief Administrative Officer, was present for the discussion of this item. He provided the Committee with a tree preservation funding report from November 2008, which is attached. He asked for clarification on what type of information the docketors were looking for from the Executive Department.

Ald. Johnson, who is a co-docketor of the item stated that she does not have a clear understanding of how decisions are made in terms of how the tree funds are spent and how it is determined whether a waiver should be granted. The only time any information is provided on the tree fund accounts is during budget discussions. She would like to see a more frequent reporting mechanism. She was also concerned about the lack of information on the granting of appeals from the tree warden's decision.

Ald. Sangiolo was unable to attend the meeting but sent an email explaining why she co-docketed this item. She feels there needs to be a clear accounting of where the tree preservation funds go and how it is determined where it is to be spent and how it is determined when an

appeal should be granted. She has attended numerous Tree Commission meetings and has full faith and confidence in our Tree Warden and his determination on how the funds should be best spent. However, the BOA really should see a report - particularly since many of us are interested in making additional amendments to the ordinance. A question was raised by Alderman Mansfield regarding how decisions are made on exemptions regarding properties under construction. It was felt that it would be useful to discuss this with the Commissioner of Inspectional Services.

The Committee felt that Marc Welch, Director of Forestry, and John Lojek, Commissioner of Inspectional Services should be present for the discussion of this item. Therefore, the Committee held the item until they could join the discussion. Mr. Pooler provided the Committee with two memos after the fact, which are attached to the report.

Respectfully submitted,

Susan S. Albright, Chairman



David B. Cohen
Mayor

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Office of the Mayor

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#375-08

Memorandum

To: Post Audit Committee
From: Sandy Pooler, Chief Administrative Officer *JMP*
Date: November 28, 2008
Re: Newton Wellesley Hospital Services

Newton Wellesley Hospital provides various services to the City of Newton through its Health at Work Program, including the following at no cost to the City:

- EAP , the Employee Assistance Program, which provides professional, confidential counseling to assist employees with personal or work related problems.
- Pre-Employment Screenings, including, when applicable, audiometry, pulmonary functions testing, EKG, etc.
- Annual exams (such as Asbestos)
- Drug screen collection cost (we still get billed from the lab), and breath alcohol testing
- Workers' Comp- if employee is seen less than two visits, there is no cost to the City. If they are seen for three or more visits, we pay for all services, including the first two visits. Payment is at the standard rate of reimbursement for W/C injuries, as set by the Division of Health Care Finance and Policy.

Not Covered:

- X-rays
- Interpretation of x-rays by radiologist
- Interpretation of EKG by a cardiologist (when required)
- Medical supplies utilized (dressing for wounds, medications to sutures, crutches, braces, etc.)
- Urgent Care visits

08 NOV 28 PM 4: 32
 CITY CLERK
 NEWTON, MA 02459



PUBLIC BUILDINGS DEPARTMENT

A. NICHOLAS PARNELL, AIA, COMMISSIONER

Telephone: (617) 796-1600

Fax: (617) 796-1601

TTY: (617) 796-1089

52 ELLIOT STREET

NEWTON HIGHLANDS, MA 02461-1605

David B. Cohen
Mayor

TO: Alderman Marcia Johnson
Chair, Post Audit Committee

FROM: A. Nicholas Parnell, AIA
Commissioner of Public Buildings

RE: Public Building/School Procurement

DATE: November 24, 2008

The Public Buildings Department, when issuing a request for services from outside vendors, has added a clause in the vendor's contract which states there is an upper limit of dollars not to be exceeded on a single project without the authorization of the Commissioner of Public Buildings or his designee.

This should eliminate any future expenditure that exceeds the public procurement threshold on work to be performed. With the elimination of the Facilities Manager position, whose responsibility this was, an in-house directive has been given to all Public Building Department personnel to adhere to this directive. School Department personnel have been notified as well. The Public Buildings Department oversees more than \$4m per year in purchase orders and scrutinizes them all. This \$23,000 error was the result of a communication failure that has since been remedied. I hope this clarifies any concerns for future procurement between the Public Buildings Department and the School Department.

CC: Sandy Pooler, Chief Administrative Officer
Arthur F. Cabral, Budget & Project Specialist
Michael Cronin, Chief of Operations

#402-08

City of Newton, Tree Preservation Ordinance Funding Report November 2008

Summary

Over 100 applications received

32 payments received into Tree Ordinance Fund

\$868,418 received; \$858,418 in payments and \$10,000 in fines and fees

\$378,000 spent on preventative pruning thru June 2008

\$90,000 additional pruning and preservation work currently out for bid

Over 6000 trees pruned with funds

\$337,000 spent on tree planting thru November 2008 (invoices pending)

Over 876 trees Planted

Payment Locations

Site	Nei	Amount	Deposited
1844 Commonwealth Ave	Auburndale	\$ 19,213.00	11/26/01
225 Lexington St. Realty Trust	Auburndale	\$ 3,150.00	7/25/03
236 Islington Rd	Auburndale	\$ 4,480.00	4/12/05
37 Baldpate Hill	Chestnut Hill	\$ 8,000.00	11/17/03
Bloomingtondale's	Chestnut Hill	\$ 4,400.00	4/20/06
Longwood Cricket Club	Chestnut Hill	\$ 3,840.00	11/28/08
51 Baker Place	Lower Falls	\$ 1,750.00	12/15/05
Newton Terraces	Newton Center	\$ 310,700.00	3/10/03
1466 Commonwealth Ave	Newton Center	\$ 9,800.00	4/24/03
Parker Ter.	Newton Center	\$ 10,880.00	6/2/08
Newton Terraces	Newton Center	\$ 18,450.00	11/28/08
Lot 44 Hood Street	Newton Corner	\$ 10,850.00	3/13/02
157 Newtonville Ave	Newtonville	\$ 5,250.00	11/26/02
15 Washington Park	Newtonville	\$ 3,150.00	2/14/03
241 Watertown St	Nonantum	\$ 5,690.00	2/8/05
75 Chapel St	Nonantum	\$ 1,650.00	8/1/07
115-117 Florence St	Oak Hill	\$ 5,250.00	1/3/05
Kessler Woods Lot J	Oak Hill	\$ 230,000.00	3/7/05
39 Brookline St (Kessler Lot)	Oak Hill	\$ 30,800.00	6/23/05
Wells Ave.	Oak Hill	\$ 3,570.00	10/1/06
6 Kessler Way (Kessler Lot)	Oak Hill	\$ 5,760.00	11/14/06
Kessler Way (Kessler Lot)	Oak Hill	\$ 11,250.00	3/26/07
Kessler Way (Kessler Lot)	Oak Hill	\$ 39,200.00	10/2/07
Kessler Way (Kessler Lot)	Oak Hill	\$ 9,870.00	10/2/07
Kessler Way (Kessler Lot)	Oak Hill	\$ 8,640.00	10/4/07
Mt. Ida Col	Oak Hill	\$ 46,200.00	11/28/08
21 Endicott St	Waban	\$ 4,900.00	1/3/05
199 Otis Street	West Newton	\$ 2,975.00	10/23/01
399 Cherry Street	West Newton	\$ 3,850.00	7/10/02
23 Craigie Terrace	West Newton	\$ 14,350.00	9/30/03
54 Hull St, Newtonville	West Newton	\$ 2,100.00	3/4/04
Allen Place/ Little People's School	West Newton	\$ 18,450.00	9/28/06
	total	\$ 858,418.00	

City of Newton, Tree Preservation Ordinance Funding Report November 2008

Locations of Plantings with Quantities

Adeline	2	Eastham	2	Longmeadow	1	Walters	6
Adena	1	Eden Ave.	1	Loring	2	Wamiset Rd.	2
Albemarle	5	Elgin Rd.	7	Lovett Rd.	8	Ware Rd.	1
Albion Pl	1	elinor rd	2	Lowell Ave.	7	Warren St.	19
Anawan	1	Eliot Terr.	2	Lyme Rd.	1	Washington St.	4
Appleton Cir.	1	Estyfarm Rd.	15	Manamet Rd.	1	Watertown St.	2
Arapahoe Rd.	2	Fairhaven	2	Mandalay	2	Washburn St.	9
Aspen Ave.	5	Fairway Dr.	3	Maplewood	4	Westland Terr	1
Auburn St.	3	Farlow Park	2	Melville Ave.	3	White Ave.	2
Audobon	6	Fredette Rd.	1	Merrill Rd.	6	winchester st	2
Bald Pate Hill Rd.	14	Garland Rd.	1	Mignon Rd.	1	Woodland Rd.	2
Ballard	1	Gath Pool	10	Morton St.	4	Woodside Rd.	1
Beacon St.	1	Glen Ave.	11	Mt. Alvernia Rd	1	Woodward St	1
Beaumont	1	Glenwood	10	Myerson Ln.	2		
Botsford	2	Grace Rd.	6	Newell St.	1		876
Bow Rd.	8	Gralynn	1	Newton Ctr Plgd	22		
Brandeis Rd.	8	Grant	3	Nickerson	2		
Brealand Ave.	9	Grayson Lane	1	Oak Hill St.	6		
Broadlawn Dr.	5	Greatmeadow	1	Oakmont Rd.	7		
Broken Tree	4	Grove St.	5	Old Field	7		
Brookline St.	54	Hagen Rd.	3	Oldfarm	20		
Bryon	13	Hamilton plgd	1	Parker St.	26		
Burdean	1	Hancock St.	6	Parmenter Rd.	1		
Byrd Ave.	2	Hartford	2	Pearl St.	1		
Cabot	1	Hartman Rd.	13	Peregrine Rd.	10		
California St.	3	Harwich Rd.	12	Philbrick Rd.	1		
Carlson Rd.	2	Hatfield Rd.	3	Pierrepont Rd.	1		
Channing	1	Hawthorne Ave.	1	Pondbrook	9		
Chapel	1	Hawthorne St.	1	Prentice	1		
Chase	10	Herrick rd.	2	Redwood	3		
Chester St.	1	Highrock	2	Richfield	1		
Cheswick Rd.	1	Hilltop	2	Ripley	19		
Clifton	5	Hobart	2	Robinhood Rd.	1		
Clinton	1	Horrace Mann	2	Rotherwood	1		
Collins	1	Hyde Comty Ctr	2	Sawmill Brook Pky	71		
Columbine	1	Intervale	1	Scotney	2		
Commonwealth Ave.	7	Jackson St.	20	Seldon	1		
Country club	4	Jules Ter.	1	Sevland Rd	1		
Crosshill Rd.	5	June La.	4	Sharp Rd	2		
Cynthia	4	Kenilworth	1	Sheldon	1		
Cypress St.	23	Kennedy Circle	1	Shuman Cir.	1		
Daniel St.	10	Kenrick st.	2	Spaulding St.	1		
Day St.	1	Kingswood Rd.	1	Sycamore Rd.	1		
Debra	1	Knowles	10	Taft Ave.	1		
Dedham St.	39	LaGrange	12	Tamworth	1		
Dickerman Rd.	1	Langley Rd.	24	Tanglewood Rd.	3		
Dorcar Rd.	7	Lantern La.	8	Tirell Crescent	1		
Dorothy Rd.	8	Larkspur	1	Vernon St.	1		
Drumlin Rd.	3	Leslie Rd.	2	Vine St.	4		
Dudley Rd.	1	Lexington	4	Wade	5		
Durant	1	Linwood Park	6	Walden St.	1		
Duxbury Rd.	1	Locksley	2	Walnut St.	9		

#402-08



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David B. Cohen
Mayor

CITY CLERK
NEWTON, MA. 02459

08 NOV 26 AM 11:34

Memorandum

To: Post Audit Committee
CC: Ald. Johnson, Ald. Sangiolo
From: Sandy Pooler, Chief Administrative Officer *SP*
Date: November 26, 2008
Re: Tree Ordinance Discussion Follow-up

At last night's Post Audit Committee someone said that the Board members were not getting information about appeals from the tree warden's decision.

I looked into this and found that the tree ordinance provides that notification of appeals and the decisions are sent both to the Clerk of the Board and to the three aldermen from the affected ward. I have confirmed with the Clerk's office that it has received such notices and that they are available for any Board member to inspect. So, notice is being given from this office and received in the Clerk's office. I am therefore, not sure what the issue about notice to the Board is all about. Your clarification of this inquiry would be welcome.

Tree Ordinance, Revised Ordinances Section 20-33.

(g) Appeal: Any person aggrieved by a decision of the tree warden may file an appeal with the mayor or his designee. Said appeal must be in writing and must be received by the mayor or his designee within five (5) business days of issuance of the tree warden's decision. Upon receipt of such appeal, the mayor or his designee shall provide a copy to the clerk of the board of aldermen and to each alderman for the ward in which the trees are located. The mayor or his designee shall make a final decision on the matter within thirty (30) days from the date of receipt of the appeal. The mayor or his designee shall include in the decision the rationale therefor. Upon issuance of the final decision, the mayor or his designee shall provide a copy to the clerk of the board of aldermen and to each ward alderman for the ward in which the trees are located. There shall be no further appeal of the matter decided by the mayor or his designee. No protected trees shall be removed while an appeal is pending. (*Emphasis added*)



City of Newton
URBAN TREE COMMISSION

GUIDELINE FOR EXPENDITURE OF TREE PRESERVATION FUNDS

Approved June 13, 2003

Decisions about expenditure of funds collected as a result of the Tree Preservation Ordinance will be made by the Tree Warden with the consultation of the Urban Tree Commission. These decisions shall take the following priorities into consideration, in the order in which they are presented, depending upon the relative needs of the urban forest at the time the decisions are made:

Priority Area One—the streets and other public spaces immediately surrounding the development from which the funds were derived.

Priority Area Two—the immediate neighborhood or village in which the development is located.

Priority Area Three—any other area of the city with a demonstrated need for the funds.

Funds from any single development or other source may be allocated in whole or in part to one or more of these priorities.

In making these decisions, the Tree Warden, in consultation with the Urban Tree Commission, will determine what share of the funds shall be allocated to the cost of preserving existing trees versus planting new trees. This determination will be based on the relative needs of the urban forest within each priority area at the time of the decision. For the near term, the balance is expected to tip in favor of preservation pruning.

The Tree Warden will solicit neighborhood input, whenever it is warranted and feasible, by consulting with appropriate community groups, neighborhood associations, aldermen and other interested parties.