

CITY OF NEWTON

IN BOARD OF ALDERMEN

COMMITTEE ON COMMUNITY PRESERVATION REPORT

TUESDAY, MAY 29, 2007

Present: Ald. Linsky (Chairman), Parker (Vice Chairman), Hess-Mahan, Lappin, Lennon, Vance, Yates; Absent: Ald. Sangiolo

Also Present: Charles McMillan, Judy Jacobson, (CPC) Alice Ingerson (Planning), Daniel Funk (City Solicitor), Donalynn Kahn (Solicitor), Josh Krintzman (Policy and Communications Director, Office of Senator Cynthia Stone Creem), Karyn Dean (Committee Clerk)

DISCUSSION OF SENATE BILL NO. 137

(The Committee invited State Senator Cynthia Creem's office to join in a discussion of pending legislation that related to the item on the Committee's docket that evening.)

Joshua Krintzman, Policy and Communications Director for Senator Cynthia Creem joined the Committee for discussion of this pending legislation. He reported there were 21 legislative co-sponsors of this bill, which was a significant amount of support both in the Senate and the House. It has not had its public hearing yet but will soon and he would let the Committee know when it would be taking place. He said it was hard to predict what would happen after that, but the Community Preservation Coalition has been very supportive of the bill and was continuing their lobbying efforts to get this acted upon as quickly as possible.

Mr. Krintzman said that one major thrust of the legislation was to provide municipalities with greater flexibility and control over the spending of their community preservation funds. One concern was that so many communities were going to be passing the legislation and adopting the CPA, it was going to be difficult to meet the state match requirements. There was a fear that the funds would be depleted and the municipalities that adopted it would not see the full match they were anticipating from the state. One provision in this bill was to ensure all municipalities would receive at least 75% in match monies from the state.

Mr. Krintzman noted an article in The Tab that he said mischaracterized the legislation. The Community Preservation Coalition was in the process of formulating a response for next weeks Tab. He said that the article made it sound as if this was legislation specifically designed to get "Astroturf" put into place, and that is not the case.

Mr. Krintzman said this bill was not designed to support or oppose any of those specific local measures. Ald. Vance pointed out that the installation of artificial turf was referred to in the new version of the legislation as being allowed. Mr. Krintzman said that determinations would still be made on the local level and this bill wasn't endorsing this use in particular. One of the purposes of the bill was to provide more flexibility to the municipalities to use the funds as they deemed appropriate.

Ald. Hess-Mahan had questions regarding the bill in terms of putting in additional funding out of the City's operating budget. Mr. Krintzman said the operating budget was a completely separate and distinct issue, and one of the things this bill was here to do was to distinguish between routine maintenance of any given property.

Ald. Hess-Mahan thought there was a provision in the bill that appeared to give the Mayor the authority to propose a project and submit it to the aldermen without the CPC. His concern was that the Mayor might have a way to circumvent the CPC and propose something directly to the aldermen. He didn't think the Mayor would do that, however.

Ald. Parker said the bill's drafters intentionally made the local percentage of property tax surcharge related to the state match if there weren't sufficient funds. He said Newton had too tight an operating budget to divert funds from it and would therefore be unable to take advantage of the following provision, and he hoped it would be struck from the bill:

"The legislative body may vote to accept sections 3 to 7, inclusive, by approving a surcharge on real property of not less than 1% of the real estate tax levy against real property, and making an additional commitment of funds by dedicating revenue not greater than 2% of the real estate tax levy against real property, provided that additional funds so committed shall come from another source or sources of municipal revenue..."

Ald. Parker was concerned also about the provision in the bill that might indicate to a city with a capital improvement plan, which Newton is, that the Mayor could act under his usual appropriating authority. In effect, it said the Mayor could propose and then approve projects. He felt it should be taken out of the bill. He thinks the City's process works and it shouldn't be changed.

Ald. Vance asked about a provision in the bill about voting on the recommendations from the CPC and what that meant. Dan Funk said that his interpretation was that if the board chose to approve the recommendation of the CPC, then it would be by a majority vote, not that it was required to approve any recommendation that was made.

Ald. Lappin was concerned that people might not want this legislation because it's more flexible, and they would be worried that money from the CPA would be used for things that should come from the operating budget. Mr. Krintzman said that the intention of this was to keep the routine operating budget intact and distinguish between the two. He said that he would make these concerns known during the legislative process.

Ald. Parker wanted an explanation of the decile ranking system that is proposed in the bill as he felt it was throwing out the more simple ranking system based on local percentage. Under the proposed system, he felt Newton would not do well. Mr. Krintzman said he would look into the decile system.

Alice Ingerson said that there were many bills that are being filed at any particular time and that it would be time-prohibitive to keep close track. She said that these are constantly in flux.

Ald. Parker said that anything they could do to improve the stability of the fund that was able to reimburse communities as close to the 100% rate as possible was a positive development. He said that reasonable adjustments to the flexibility for communities would be best. Making things clear about what is allowed or not allowed is also key. He said he did not think changing the structure of the local approval process was merited, nor did he like changing the ranking system. He pointed out that many communities had passed or not passed it based on the rules of the game and it would be unfair to change those rules after voters have voted. He felt a radical overhaul of the statute was not called for or wise.

Ald. Hess-Mahan said that this new legislation would significantly change how things were done, and how funds were spent. He asked Mr. Funk if once they adopted the new legislation, if all the amendments were incorporated therein and would then go back to voters. Mr. Funk said that it would not go back to the voters. Ald. Parker said that if they ever wanted to lock in a statute's language, the home rule amendment would allow them to adopt something by ordinance that says they accept a particular version as of this time.

Mr. Krintzman was thanked for being at the meeting and said that Senator Creem was interested in making this a bill that people are comfortable with and would certainly like her home City of Newton to be pleased.

**REFERRED TO COMMITTEE ON COMMUNITY PRESERVATION
AND FINANCE COMMITTEE**

#96-06 CITY SOLICITOR requesting an executive session to discuss status of lawsuit challenging expenditure of CPA funds for phase I of the Stearns/Pellegrini Parks projects. [5-1-07 @4:34 PM]

ACTION: **HELD 7-0 (Sangiolo absent, not voting)**

NOTE: By a vote of 7-0 (Sangiolo not present and voting) the Committee voted to convene in Executive Session. Ald. Hess-Mahan made a motion to hold with the understanding than an update, either written or oral from the Law Department, be made on the passage of the legislation.

The Committee voted to hold the item by a vote of 7-0 (Sangiolo not present and voting).

**REFERRED TO COMMITTEE ON COMMUNITY PRESERVATION
AND FINANCE COMMITTEE**

#150-07 **ALD. HESS-MAHAN, PARKER, JOHNSON, LINSKY, VANCE**
requesting discussion with the Community Preservation Committee regarding (1) the anticipated impact of the adoption of the Community Preservation Act by other municipalities on the allocation of matching state funds under G.L. c. 44B, Â§10, with respect to accomplishing the goals of the City of Newton's Community Preservation Plan, and (2) the impact and desirability of amending the provisions of the Community Preservation Act, as approved by voters in November 2001, to maximize Newton's share of state matching funds as follows: (a) by increasing the amount of the surcharge on real property to up to 3 per cent of the real estate tax levy against real property, as determined annually by the board of assessors; and (b) by adopting one or more of the exemptions permitted under G.L. c. 44B, Â§3(e), including exemptions for (i) property owned and occupied as a domicile by a person who would qualify for low-income housing or low-or moderate-income senior housing in the city or town, (ii) class three, commercial, and class four, industrial, properties as defined in G.L. c. 59, Â§2A, or (iii) \$100,000 of the value of each taxable parcel of residential real property. [5-1-07 @2:23 PM]

ACTION: **NO ACTION NECESSARY 7-0 (Sangiolo absent, not voting)**

NOTE: The Committee was joined by Judy Jacobson and Charles McMillan from the Community Preservation Committee and by Alice Ingerson from the Planning Department.

Ald Hess-Man represented that the genesis of the docketing of this item came from a discussion in the Programs and Services Committee when another item was taken up regarding possible options for either amending or repealing the CPA in Newton. The item did not have much support and never went forward, but the consensus of the Programs and Services Committee was that they should get the advice of the CPA Committee on whether the funding formula was going to be sufficient for their needs; and if not, whether there were any options to amending the legislation that would make any sense and should be considered.

Ald. Parker said Ald. Salvucci asked to put on the ballot a repeal of CPA after 5 years. The Programs and Services Committee didn't want to do that as it would put them on record as opposing CPA, which they don't. They did respect Ald. Salvucci's concern about getting public input on the issue, but at the same time they wanted to look at increasing percentages and/or adding exemptions. They thought they'd put an advisory question on the ballot, but that could get very confusing. They decided instead to docket this discussion item and perhaps come out with a recommendation.

Ald. Parker said that he would not support the second exemption in the item of commercial and industrial properties, but would support the other two – for low income

housing /senior housing; and \$100,000 of the value of residential property. He said he believed that if they applied these exemptions and raised the percentage to 2%, that it would generate the same revenue as 1% without the exemptions. This would then rank Newton as a 2% community without actually increasing the total amount of taxes. The taxes would in fact be lowered on some people who fell below the breakpoint in terms of house value. Those people in much higher valued houses would pay more, and those in lesser valued houses would pay less – the net result would be zero. He went on to say that if the percentage were raised to 3% and exemptions were put in place, the net impact on taxes would be as if the percentage were raised to 1.5% without the exemptions. This would provide Newton with more state match money and allow for acquisition of open space properties that are on the market. He said that not making these changes would dramatically reduce the amount of state match funds the City would receive in the future.

Judy Jacobson said they the City and the CPC have been very lucky to receive 100% match for so long. Ald. Hess-Mahan stated that the levy always goes up by 2.5% and by new growth over time, therefore, the total amount they could collect on the surcharge would go up as well. He asked the CPC members if they were very concerned about a drop in the funding and whether there projects in the pipeline that they wouldn't be able to accomplish. Ms. Jacobson indicated there were a number of continuing obligations – Angino Farm, Kessler Woods, Crystal Lake – so every year there will be money that comes right off the top for those. The CPC had been worried about how they would manage this year, but they got the higher priority things taken care of.

Mr. McMillan said that over the course of 6 years, the number of projects and applications was not going up, nor were dollars going down in any precipitous way. He thought that by now they'd have 50 or 60 applications coming up and they'd have to turn down many of them. It hasn't happened that way, so keeping the total amount of expenditures at about \$4M a year would be a good and feasible level. Ms. Jacobson said they would probably end the year with \$1.2M left over.

Ald. Parker said that perhaps people feared there was not enough money and therefore did not apply. Mr. McMillan thought that could be true. Ald. Parker said that they originally felt the big draw of adopting the CPA was open space acquisition. He wanted to have a process in place that would make it easy to act on acquiring appropriate parcels should they present themselves. He said the Warren Street parcel was offered to the City for sale and the owner was told that money was not available. He would like to bring people associated with appropriate parcels to the CPC meeting the next evening. He said if they don't act during FY08, their next opportunity to put this question on the ballot (without permission from the Secretary of State or a special election) would be FY09. He said this would be too late to get the CPA amendment passed and get bumped up the priority list. Ald. Lappin was concerned that putting that question on the ballot would invite people wanting to put a question on about repeal as well. Ald. Parker said the only way to put repeal on the ballot was to recommend appeal, and they could just not recommend it.

Ald. Hess-Mahan thought the process the City has right now works well. He thought it was likely that the Mayor was going to ask to put an override on the ballot and no amendment, increase or any other change in CPA would be added without the Mayors support for it. He would want to know where the Mayor stood on this.

Mr. McMillan said they would be asking anyone who has been a part of the CPA process, anyone who's had a project, aldermen, etc., to give them feedback about their process at their next meeting in June. It will be an evaluative feedback kind of meeting and they hope to generate a lot of publicity for it. Also, the CPC was going to be changing membership. Terms are expiring and new people are coming in and will have to take responsibility as all the earlier members have.

Ald. Parker would like to get more current information on when the City's match is expected to drop off. He said he would like to have that information before deciding whether action is necessary on this item or not. In terms of total amounts of funds available, he felt that less than the approximate \$4M funds for the CPA would not be sufficient for their needs. He wanted to know what the process would be for properties that are placed on the market. The CPC members said that in their plan, they do have a process that allows for action on properties.

Mr. McMillan said that setting aside funds is an issue of planning. Anticipating setting aside funds for open space, contingent on housing funds – those are discussions they have all the time but they haven't been able to come to consensus that they should set aside more than 10% for open space. He also said that money is not held in abatements. They don't believe in that.

Ald. Hess-Mahan moved No Action Necessary. The Committee voted 7-0 (Sangiolo not present and voting) in favor.

Upon a motion by Ald. Hess-Mahan, by a vote of 7-0 the Committee adjourned at 10:00 PM.

Respectfully Submitted,

Stephen M. Linsky, Chair