

CITY OF NEWTON

IN BOARD OF ALDERMEN

RULES SUB-COMMITTEE REPORT

WEDNESDAY, APRIL 22, 2009

Present: Ald. Freedman (Chairman), Johnson, and Baker

Absent: Ald. Brandel

#50-09 CLERK OF THE BOARD requesting that Article IX, Section 2 of the Rules of the Board be updated to reflect the use of the most current version of Robert's Rules Newly Revised 10th Edition (Cambridge, Mass; Perseus Publishing, 2000) [02/05/09 @ 12:21 PM]

ACTION: **APPROVED 3-0**

NOTE: This item is meant to update the Rules of the Board to reference the most recent edition of Robert's Rules. The subcommittee voted to recommend approval.

#154-08 ALD. JOHNSON requesting to establish a definition and appropriate usage of the Committee of the Whole of the Board of Aldermen as are all committees of the Board. [4-10-08 @ 9:09 AM]

ACTION: **APPROVED 3-0**

NOTE: Ald. Freedman explained that since the last discussion of these following items, City Solicitor, Dan Funk provided some potential language to clarify the rules in question. It was attached to the agenda and is attached to this report for reference.

Ald. Freedman felt the language that Mr. Funk crafted provided the necessary clarification for the definition of Committee of the Whole and the rest of the subcommittee agreed. This language would amend Art. II Sec 11 by adding Subsection D as follows:

The Committee of the Whole consists of the entire body of members of the Board in attendance, meeting as if it were in a committee setting and subject to the rules of committee procedure. The results of votes taken in Committee of the Whole are not final decisions of the Board but have the status of recommendations which the Board is given the opportunity to consider further and which it votes on finally under its regular rules.

The subcommittee voted to recommend approval of this language.

#153-08 ALD. JOHNSON requesting to establish a definition and appropriate usage of the Long Range Planning Committee of the Board of Aldermen as are all committees of the Board. [4-10-08 @ 9:09AM]

ACTION: **NO ACTION NECESSARY 3-0**

NOTE: Ald. Johnson said the Long Range Planning Committee has been in existence for 6 years and did not consider that a “special committee” any longer. She thinks it does not have adequate representation by ward even though she thinks the concept for the committee is a good one. She would like to see it have equal representation. Ald. Baker was hesitant about making this another standing committee. Ald. Johnson felt that there was also probably a better way of reconfiguring the Real Property Reuse Committee, Post Audit & Oversight Committee and the Committee on Community Preservation. She may docket an item to look at the committees that meet less frequently. Ald. Johnson moved to vote No Action Necessary for this item and she will work on something new. The subcommittee voted in favor of No Action Necessary.

#130-08 ALD JOHNSON, SANGIOLO AND BRANDEL requesting establishment of a new Rule of Board of Aldermen requiring that referral of any and all new business, communications, petitions and orders docketed before the Board of Aldermen be restricted to one or more of the standing committees of the Board of Aldermen: Land Use, Programs and Services, Public Safety and Transportation, Zoning and Planning, Finance, Real Property Reuse, Post Audit and Oversight, Public Facilities and Committee on Community Preservation. [03-24-08 @ 9:11 AM]

ACTION: **APPROVED Alternative 1A 2-1-0 (Ald. Johnson opposed)**
MOTION TO APPROVE Alternative 1B FAILED TO CARRY 1-2 (Ald. Baker and Freedman opposed)

NOTE: Ald. Freedman explained that Mr. Funk drafted two versions of an amendment to the Rules. Both versions clarify the process of referring items to committees. One of the versions strengthens the role of the President, and the other restricts the role of the President requiring any referral of an item to Committee of the Whole go to 2nd call.

Discussion of Alternative 1B

Ald. Baker said one role of the President is to get as much work done in committees as possible. He felt that there might be situations in which an item going to multiple committees would be more appropriately dealt with in Committee of the Whole. This would be more efficient in certain circumstances. He would like to have clarified that the President has authority to refer all business to any committees, but any referral is automatically subject to an appeal. Ald. Freedman said the new language clarifies what will happen to an item if an objection or appeal is made to its referral. Ald. Baker said that if a vote is tied on an appeal, the ruling of the President stands. But if the objection stands, he felt it did not make clear what then happens to the item.

Ald. Baker said that the current Rules state that the President has the authority to assign an item to any of the nine standing committees, the Committee of the Whole, or a special committee. There is also currently a mechanism where objection can be made and then the referral is subject to a challenge. He thinks if they are trying to make that clearer, that’s fine. But he felt the President should have the authority to make the referral to

standing committees, the Committee of the Whole, or special committees. Any member of the Board may object if they so desire. Ald. Johnson said if the President makes a decision to send an item to other than one of the nine standing committees, having the item on second call allows the President to explain his/her rationale for that decision. If someone disagrees, then there can be a challenge. This brings items that might be considered out of the ordinary to the forefront at the Board meeting by having them on second call. Ald. Johnson said she gets concerned when an item bypasses referral to any of the standing committees and gets referred straight to Committee of the Whole.

Ald. Johnson moved to approve the language in 1B.

Motion to Approve 1B Failed to Carry 1-2. (Ald. Baker and Freedman opposed).

Discussion of Alternative 1A

Ald. Freedman suggested changing the language in Alternative 1A to:

The President shall refer new business to one or more of the nine permanent committees, to a special committee, or to the Committee of the Whole, but such referral upon objection by a member of the Board shall be subject to appeal to the Board who can vote to reassign such new business to alternate committees.

Ald. Johnson said she might be able to support this if they also include language that a written explanation for the rationale for the referral is required. Ald. Baker said he wasn't sure it was necessary to have it in writing and that it could just be a conversation. Ald. Johnson said it was an onerous task to object to an item from the docket. If it were on 2nd call, it would automatically provide a forum for a discussion.

Ald. Baker said he would like Ald. Freedman to work with the Law Department to make sure this language will work and coordinate it with other language in the Rules regarding referral of items to committees. Ald. Baker would like to have two alternatives before the Programs & Services committee.

Ald. Baker moved to approve the language in 1A as modified above.

Approved 2-1 (Ald. Johnson opposed)

#129-08 ALD. JOHNSON, SANGIOLO AND BRANDEL requesting establishment of a new Rule of Board of Aldermen stating that any new item submitted but not yet approved or accepted by the Full Board of Aldermen is prohibited from any formal or informal discussion by any formal, informal or special committee of the Board.

[03-24-08 @ 9:11 AM]

ACTION: APPROVED 3-0

NOTE: Ald. Johnson said that she was satisfied with the language that Mr. Funk provided regarding late file docket items. This would pertain to an item that came in after the docket deadline and was not accepted to the docket under suspension of the rules. Until the item was accepted to a docket (typically, 2 weeks later) it could not be discussed by any committee of the Board. Ald. Johnson noted that the Board has never

refused to accept an item to a docket that was filed on time. It would amend Art. V Sec. 2B of the Rules of the Board by adding after the fourth sentence therein:

If the item is not admitted to the docket under suspension of the rules, it may not be discussed by any committee of the Board until after it has been admitted to a subsequent docket in accordance with these rules.

Ald. Baker said that in a Chairmen's meeting a variety of topics may be discussed. He felt it was an appropriate place to have discussions of issues that may not be on a docket. If an item were docketed, he thought it would be out of order to discuss that item in a Chairmen's meeting. He felt the proposed language was acceptable.

The subcommittee also agreed upon the language from Mr. Funk regarding new docket items and their acceptance or rejection. This language would amend Art. II of the Rules of the Board by adding Sec. 2B(3) as follows:

Upon approval of the first call vote, all new docket items appearing on the docket bearing the date of the Board's first call vote shall be considered accepted for Board consideration with corresponding committee assignments as noted on the docket. However, the acceptance of any new docket item is subject to being placed on 2nd call for Board discussion at the same meeting at which the item first appears on the docket. At 2nd call, the Board may accept or reject the item for docketing, or postpone to a date certain the decision on whether to accept or reject it as a docket item.

The subcommittee voted to recommend approval of the above language in both instances.

#33-09 ALD. LAPPIN requesting an amendment to the Rules of the Board of Aldermen so that appointments requiring confirmation to the Farm Commission be referred to the Committee on Community Preservation.
[01/22/09 @ 9:03 AM]

ACTION: **APPROVED 3-0**

NOTE: Ald. Freedman noted that he has had conversations with both Ald. Lappin and Ald. Yates. Ald. Lappin would like these appointments to come through the Committee on Community Preservation, and Ald. Yates was agreeable to transferring them, as was the rest of the Zoning and Planning Committee. The subcommittee voted to approve this item.

Respectfully Submitted,

John Freedman, Chairman

CITY OF NEWTON
LAW DEPARTMENT
INTEROFFICE MEMORANDUM

09 MAR 18 PM 2:42
CITY CLERK
NEWTON, MA 02159

DATE: March 18, 2009
TO: Rules Sub-committee
FROM: Daniel M. Funk, City Solicitor
DMF
RE: **Draft Rules Amendments – four docket items**

Attached are proposed amendments to the Board's Rules in conjunction with the discussion that occurred at the Rules Sub-committee meeting of 2/4/09.

The first proposed change is designed to clarify under what circumstances the President of the Board may refer items to either the Committee of the Whole (COW) or to Special Committees. Item 1A clarifies and strengthens the president's authority in that regard. To the contrary, Item 1B requires the President to take additional steps to send docket items to the COW or to Special Committees. Note that in both versions I have drawn a distinction between those items that are otherwise headed to one of the nine standing committees pursuant to Board Rules and those items that do not fall squarely within the jurisdiction of one of those nine committees.

The second proposed amendment simply defines what a COW is.

The third proposed amendment clarifies the procedure as to how docket items are accepted or rejected for Board consideration on the docket.

The fourth proposed amendment makes clear that an item cannot be discussed until it is actually docketed.

Finally, at the February meeting there was some discussion about the Long Range Planning Committee and how it deals with undocketed items on a fairly regular basis. Thoughts were expressed about making it an established permanent committee in the Rules and/or describing and defining what it does and what it is. I sensed that the Rules Sub-committee was uncertain how it wished to proceed with this issue. Thus, at this time, I have not drafted any proposed amendments to the Rules pertaining to this issue.

Draft Rules Amendments – arising out of Rules Sub-Committee meeting of 2/4/09

Alternative 1A– Clarify and strengthen Board president’s authority to send items to Committee of the Whole.

-Amend Art I Sec.3 C. to read as follows:

Any other new business that does not fall within the jurisdiction of the nine established permanent committees as described above shall be referred by the president to such committees as he/she deems appropriate, including the Committee of the Whole. The President may also refer new business that is within the jurisdiction of one or more of the nine permanent committees to a special committee or to the Committee of the Whole, but such referral, upon objection by a member of the Board, shall be subject to appeal to the Board who can vote to reassign such new business to alternate committee(s).

Alternative 1B– Add requirement of 2nd call vote for certain new business to be referred directly to Committee of the Whole.

-Amend Art I Sec. 3 C to read as follows:

Any other new business that does not fall within the jurisdiction of the nine established permanent committees as described above shall be referred by the President to such committees as he/she deems appropriate, including the Committee of the Whole; however, upon objection by a member of the Board, such referral shall be subject to appeal to the Board who can vote to reassign such new business to an alternate committee or committees. In the event that the President wishes to refer new business that is within the jurisdiction of the nine permanent committees to a special committee or to the Committee of the Whole, the item shall be placed on 2nd call by the Clerk of the Board and the decision on the referral shall be subject to a majority vote of the Board.

2 – Define Committee of the Whole

-Amend Art II Sec. 11 by adding subsection D:

The Committee of the Whole consists of the entire body of members of the Board in attendance, meeting as if it were in a committee setting and subject to the rules of committee procedure. The results of votes taken in Committee of the Whole are not final decisions of the Board but have the status of recommendations which the Board is given the opportunity to consider further and which it votes on finally under its regular rules.

3 – New Docket Items – Acceptance/Rejection

- Amend Art. II by adding Sec 2B(3)

Upon approval of the first call vote, all new docket items appearing on the docket bearing the date of the Board's first call vote shall be considered accepted for Board consideration with corresponding committee assignments as noted on the docket. However, the acceptance of any new docket item is subject to being placed on 2nd call for Board discussion at the same meeting at which the item first appears on the docket. At 2nd call, the Board may accept or reject the item for docketing, or postpone to a date certain the decision on whether to accept or reject it as a docket item.

4 – Late File Docket Items

- Amend Art. V. Sec. 2B by adding after the fourth sentence therein:

If the item is not admitted to the docket under suspension of the rules, it may not be discussed by any committee of the Board until after it has been admitted to a subsequent docket in accordance with these rules.