

CITY OF NEWTON

IN BOARD OF ALDERMEN

RULES SUBCOMMITTEE REPORT

WEDNESDAY, APRIL 21, 2010

Present: Ald. Baker (Chairman), Blazar, Linsky, Hess-Mahan

Also Present: Ald. Danberg and Sangiolo

Others Present: Clint Schuckel (Traffic Engineer), Marie Lawlor (Assistant City Solicitor) and David Koses (Transportation Planner)

#394-09      ALD. BAKER requesting clarification of the Rules of the Board regarding referrals to Committee of appeals of decisions of the Traffic Council.  
[11/30/09 @ 9:34 AM]

**ACTION:**      **APPROVED 2-1-1 (Ald. Linsky opposed; Ald. Blazar abstaining)**

**NOTE:** Ald. Baker explained that this was discussed preliminarily at a previous subcommittee meeting. Aside from some housekeeping items to bring the Rules into conformity with the operation of the Traffic Council, was the provision relating to appeals of decision of the Traffic Council. The ordinance provides that Traffic Council items that are discussed and disposed of by the Traffic Council may be appealed to the Board of Aldermen. There have only been three appeals so far, however.

Mr. Schuckel presented the draft language that was attached to the agenda. Two elements were supported by consensus of the Committee: clarification of the appeal process when an item is presented to the appropriate committee of the Board; and clarifying the change in the name of the Engineering Department to the Engineering Division.

The bulk of the discussion revolved around the discretion of the president to assign an appeal to different committees or whether it should always go to only one committee, like Public Safety and Transportation, for example.

The Traffic Engineer indicated that some items might be appropriate for the Land Use Committee if part of a prior special permit; to the Public Facilities Committee if road design or prior experience was important; or to the Public Safety and Transportation Committee if a safety related feature was involved. Ald. Linsky and Ald. Sangiolo argued for having one committee to hear every appeal to avoid forum shopping. Ald. Linsky also thought it just added another layer to the process that was unnecessary. He also felt there was something to be said for gaining expertise in one committee and the process would remain consistent. All the appeals would be related to traffic in one way or the other and he felt strongly that the Public Safety and Transportation Committee was the place to hear appeals. Ald. Hess-Mahan and Ald. Baker felt discretion by the president was wise considering that all referrals were subject to appeal to the Board in any event. Ald. Hess-

Mahan felt that expertise could be better found in the committee that was more involved with a particular issue or area, as in Land Use with special permits.

David Koses said it would be the preference of the Planning Department that if the Board overturned a decision of the Traffic Council, that that would be the final word. He noted that in a previous appeal, the Board did overturn the decision and then it had to come back to Traffic Council as laid out in the ordinance. The Traffic Council then had to change their vote and it was very uncomfortable. Ald. Danberg agreed. Ms. Lawlor said that would require a change in the ordinance. The Board does not have the power to impose regulations, only ordinances. Therefore, they can only direct the Traffic Council to vote in accordance with their decision.

Since this is a policy issue which will ultimately be decided by the full Board, the Subcommittee voted to approve the item with the proposed language to grant discretion to the president regarding the committee to which an appeal would go, the steps of the appeal process, as well as the housekeeping changes in the language. This recommendation will go to the Programs & Services Committee. In the meantime, Ald. Baker reported that his understanding from the Law Department is that the current rules allow discretion in the president as to where to assign traffic council appeals, but this change would make that explicit. The approved language can be found online with the Friday packet information.

*Since Ald. Johnson was unable to attend the meeting, the following items were held 4-0. The intent is to discuss them at a later subcommittee meeting when she can attend.*

- #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]
- #99-10      ALD. JOHNSON requesting amendment of the Rules of the Board to include the definition of “substantive committee” as referenced in **Section 3. Referral of business to Committees**. [03/21/10 @ 9:12 PM]
- #100-10      ALD. JOHNSON AND SANGIOLO requesting amendment of the Rules of the Board, **Section 6. Committee Reports, A.** to “It shall be the duty of any committee to whom a subject may be specifically referred to take this item up and report thereon within three weeks from the time said subject is referred to them, or at the next meeting thereafter, or to ask for further time. No committee and hence Board action (Approved, Denied, No Action Necessary) may be taken without a discussion with the primary docketer at a minimum, or with the substantive committee.” [03/21/10 @ 9:12 PM]

Respectfully Submitted,  
R. Lisle Baker, Chairman