



David B. Cohen  
Mayor

## Newton Parks & Recreation Commission



Fran L. Towle  
Commissioner

### Meeting Minutes

Newton City Hall, Room 209

July 20, 2009

Attending: Fran Rice, *Chairman*, Walter Bernheimer, *Vice-Chairman*, Arthur Magni, Kathleen Heitman, Lee Mottard, Jack Neville, *Alternate*, Michael Clarke, *Alternate*, Peter Kastner, *Alternate*, Fran Towle, *Commissioner*, Bob DeRubeis, *Deputy Commissioner*, Robin McLaughlin, *Secretary*

Absent: Peter Johnson

Also Attending: John O'Connell, *Newton Police Dog Officer*, Amy Koel, *Chairman*, Dog Off-Leash Advisory Committee (DOLAC).

Commission Meeting began at 6:58 pm.

Chairman Rice announced to the audience they are welcome to listen to the meeting but there will be no comments from the audience. If there is any outbursts or disorder from the audience the meeting will be over. Tonight two new off-leash dog park sites will be presented by Chairman Koel of the Dog Off-Leash Advisory Committee (DOLAC). Abutters of the two applicant parks will be sent notification for a future meeting.

1. The Minutes from the June 15, 2009 Commission Meeting were accepted 8-0
2. Off-Leash Dog Park

#### Applications for off-leash dog parks

- Chairman Rice introduced DOLAC Chairman Amy Koel. Chairman Koel thanked Chairman Rice, the Commission, Officer O'Connell and the Newton Police Department.
- Chairperson Koel presented the off-leash dog park applications for Braceland Park on Chestnut Street in Newton Upper Falls and Nahanton Meadow Field at 525 Winchester Street.
- Chairperson Rice recommended notification be sent to abutters of both applicant locations for the September Commission meeting.

Chairman Rice made a motion to accept the applications and send letters to the abutters of both applicant locations for a second meeting in September. Ms. Heitman seconded the motion. Motion passed 8-0.

## Cold Spring Park

- Chairman Rice opened the discussion for the off-leash dog park at Cold Spring Park. Chairman Rice asked Mr. Bernheimer for his comments.
- Mr. Bernheimer stated this meeting was scheduled because of the struggle with the off-leash dog park experiment at Cold Spring Park. An experiment is only useful if you learn from it. If we are going to have off-leash dog parks in Newton we must learn how to implement them the right way. We cannot have just one park in Newton, there needs to be several dog parks in Newton or no dog parks in Newton. The question is what have we learned and how do we apply what we have learned to other dog parks. Questions we should ask are should a dog park area be fenced, or should we charge a fee, require a license, or limit the hours of use. Chairman Rice asked Mr. Bernheimer for his recommendations and Mr. Bernheimer stated he would like to hear from the other Commission members.
- Ms. Heitman commented that the rules and regulations should be put in place and enforced before another dog park is opened.
- Mr. Magni commented fencing may not be necessary. The issue at Cold Spring Park is the dog's off-leash on the trails on their way to the dog park. Future dog parks should not be located near residential neighborhoods.
- Mr. Neville commented the Town of Brookline has done it's homework on dog parks. Brookline currently has a dog park and is two to three years ahead of Newton. Chairman Rice asked if Brookline had problems when the dog parks opened. Mr. Neville responded yes and they still have issues. Chairman Rice inquired if Brookline is charging a fee and what is the fee. Mr. Neville responded currently there is no fee for the use of the dog parks but Brookline is discussing fees around \$100-\$200. Mr. Bernheimer asked if the fee would be annual and Mr. Neville responded yes.
- Mr. Kastner stated he has visited other dog parks in Boston. These dog parks are small, fenced in, supply water for dogs and waste disposal sites. The dog parks are also considered an amenity. Mr. Kastner realizes the applicant group has good intentions but can you really expect a citizen's group to hold up an ordinance. Mr. Kastner stated there is a direct relationship to the number of signs and compliance to the rules. There are not enough signs for Cold Spring off-leash Dog Park. Fortunately, the Police have helped with enforcement but there needs to be more police involvement.
- Mr. Mottard commented in a micro sense there are issues but in a macro sense there is now a focus on Cold Spring Park creating parking and traffic issues. The micro issues are the fencing, cleanup, and enforcement. If the experiment is shutdown now there would be a blowback that would exasperate the issues. The e-mails from abutters are about the minority of owners who do not control their dogs. Mr. Mottard agrees there should be fencing. Fencing creates a membrane between the dog park and the rest of the park. Fees are a good idea and barrels' being emptied more often is also good idea. Enforcement is the key, the police have an entire city to manage and enforcement is difficult.

- Mr. Clarke commented we are committed to this experiment. He agrees with fencing the area and the fence should be paid for by the dog owners. There should also be a fee to use the dog park. Mr. Clarke stated dog parks should not be extended to other areas until the experiment at Cold Spring Park is working. If we are going to do this it must be enforced, if the dog park rules are not enforced, we should not have a dog park. Mr. Bernheimer commented enforcement is important if the city is not going to enforce the law then the whole city is an off-leash dog area. Mr. Clarke stated he lived in Washington DC near a dog park and there were never any issues because dogs remained on leash until they reached the park. Dog parks can work and enhance the community.
- Chairman Rice stated the issue seems to be the off-leash dogs going into the park. Chairman Rice asked Officer O'Connell for his comments and observations at Cold Spring Park.
- Officer O'Connell stated he and Officer Torres, the new dog officer, patrol Cold Spring Park once per shift. The Officers walk the trails and the dog park area. They patrol at different times of the day. Recently the Officers have been patrolling Cold Spring Park in the morning. The Officers are writing citations and have written a few warnings. Chairman Rice asked if the Officers patrol Cold Spring Park in civilian clothes. Officer O'Connell responded yes.
- Chairman Rice asked if things have improved in the last four weeks. Officer O'Connell responded he has seen a drop off in incidents in the last four weeks, but now the rain has stopped he will make new observations.
- Chairman Rice asked if the parking in the area has improved. Officer O'Connell stated there is less parking on Dunklee Street and Beverly Road. Last week there were ten cars parked on Dunklee Street and Beverly Road and only two cars belonged to individuals using the park. Today he wrote two parking tickets. Last week he also wrote two parking tickets.
- Chairman Rice asked if there were any changes with dogs being off-leash on the trails. Officer O'Connell responded last week he wrote two citations to repeat offenders. These individuals do not use the dog park they only use the trails.
- Mr. Bernheimer inquired how many tickets Officer O'Connell has written for off-leash dogs that makes money for the City. Officer O'Connell responded they have written five tickets in Cold Spring Park and three tickets in the rest of the City.
- Mr. Magni asked if the Officers work during the week-ends. Officer O'Connell responded yes they work a rotating schedule, four days on and two days off.
- Mr. Bernheimer asked Officer O'Connell if he had any recommendations on enforcement since we obviously do not have the man power to cover the current dog park. How will the rules and regulations be enforced at any additional dog parks. Officer O'Connell responded we will do the same thing we are doing now, random patrols. Mr. Bernheimer inquired if there is any way other people can be authorized to enforce the rules. Officer O'Connell responded no, only the Police can enforce the rules and he would not recommend anyone else confronting people on the trails.

- Mr. Neville inquired if the volume is down due to vacation. Officer O’Connell responded it could be, but he believes the mystique has worn off about the off-leash park. He has spoken with other people and they have told him because the Officers are on the trails in Cold Spring Park giving tickets they have gone to other parks, the Officers are now going to the other parks.
- Peter Kastner stated the Commission can hire Municipal Police or Park Rangers. Peter asked Officer O’Connell if this would help with enforcement. Officer O’Connell responded there is no advantage and he is not sure what a Park Ranger does.
- Chairman Rice stated when the Police are called they respond. He had an incident at Cold Spring Park with an off-leash dog owner, he called the Police and they responded immediately.
- Mr. Bernheimer commented most people walking their dog’s off-leash on the trail know the rules. A Park Ranger walking the trail and handing out tickets would help. His children live in different parts of the country near dog parks. The dog parks in these areas are fenced and the leash law is strictly enforced. Mr. Bernheimer asked about the idea of restricted hours.
- Chairman Rice commented this experiment seems to be improving. There should be restricted hours and signage. A few people are spoiling it for the majority.
- Mr. Kastner stated when he visited Cold Spring Park at different times, 20-30% of the dogs were off-leash. We should discuss limiting the number of dogs allowed in the Dog Park with an individual. Chairman Rice commented there is a limit of three dogs per person. Officer O’Connell stated this rule is enforced.
- Mr. Magni is not sure we have scientific data to prove the experiment is improving. This program should be a benefit to the community. As we discuss and implement rules we need to be aware the rules will only be as good as the enforcement of the rules.
- Officer O’Connell stated the issue at Cold Spring Park is the off-leash dogs on the trails. Establishing other parks will create different issues.
- Chairman Rice asked the Commission Members if Cold Spring Dog Park should remain open.
- Mr. Bernheimer stated we should not change anything right now but we should think about the ordinance when it is ready to expire.
- Mr. Kastner stated the report from DOLAC is overdue. Chairman Koel stated the report was submitted to the Alderman in June. Mr. Kastner asked what we could do to make this situation easier for the neighbors. Picking up the trash more often would make things easier for the neighbors.
- Chairman Rice asked Commissioner Towle for her comments. Commissioner Towle stated when this item came before the Commission she had stated this needed to be a win-win-win situation. There is obviously a need for dog parks in Newton and we must learn from this pilot project. Mistakes may be made but we must learn from them.

- Mr. Magni concurred with Commissioner Towle, there is a need and we may eventually close Cold Spring Park. We should spend our energy looking for a location where there will be no head butting between neighbors and dog owners.
- Chairman Rice stated no matter what we need more signs at all entrances of the park. Let the trial run as is and get more signs.
- Mr. Bernheimer asked who would be responsible for the signs. Chairman Rice stated Chairman Koel has signs. Chairman Koel responded she has the information for the existing signs put up in Cold Spring Park.
- Mr. Bernheimer stated let Cold Spring Park run as is, do not do anything else. Later we can decide what to do at Cold Spring Park and the other applicant parks. Chairman Rice agreed.
- Mr. Bernheimer asked if we want to charge a fee, can the Commission establish a fee, if so where would the funds go. Chairman Rice stated Commissioner Towle has information on fees. Commissioner Towle stated if you charge a fee you have to enforce the fee, meaning who is going to pay, how are you going to collect the fee and what are you going to do if someone does not pay. It is not like a class people sign up for and then attend the class. Chairman Rice asked Chairman Koel to review the idea of fees and could she speak to the Law Department. Chairman Koel stated DOLAC has already discussed fees but they would revisit the idea.
- Mr. Bernheimer stated the Commission should be investigating fees not the volunteers. Commissioner Towle stated she would like to work with the DOLAC regarding fees. Mr. Bernheimer & Mr. Kastner asked why. We have learned we cannot rely on volunteers. The Commission Members are the decision makers. Chairman Rice stated Commissioner Towle has already contacted the Law Department. Mr. Bernheimer stated we need to know how to establish a fee and how to enforce the fee. Chairman Rice requested Commissioner Towle submit a report at the September Commission Meeting regarding fees.
- Mr. Kastner stated the City has been level funded and if there is a cost to this program we should establish a fee.
- Mr. Clarke commented we will need to know what we are charging a fee for, such as a fence or enforcement. How much is the fee? Commissioner Towle commented if you charge a fee you will need someone to enforce the fee.
- Mr. Bernheimer wants to know what the fee system will look like. Mr. Clarke stated you will need to know the cost for enforcement and figure that cost into the fee. Without enforcement a fee system will not work.
- Mr. Magni commented going forward we need to give the neighbors some peace of mind. At this point the experiment is over in December. Mr. Bernheimer stated the ordinance expires in December and at that point it will be illegal to have a dog off-leash in Cold Spring Park. The decision is in the hands of the Alderman to extend the ordinance and Mr. Bernheimer does not want the ordinance to be extended as is, he wants to see it improved.
- Mr. Neville asked a question of Chairman Koel from Alderman Yates. Has the DOLAC Report been sent to the Alderman? Chairman Koel responded yes in

June. Chairman Rice asked if a report could be submitted to the Commission. Chairman Koel responded yes.

- Chairman Koel commented it would be terrific if the government got involved, the volunteers should not be responsible to establish and pay for the dog parks on their own. Mr. Bernheimer agreed. Chairman Koel stated data collection from Cold Spring Dog Park would also be helpful.
- Chairman Rice concluded the discussion and thanked Officer O'Connell and Chairman Koel.

### 3. Warren Street Proposal

- Chairman Rice introduced Mr. Jeff Goldman of 24 Warren Street. Mr. Goldman asked the Commission members if being part of the Commission is a volunteer position. The members responded yes. Everyone here does something for the City and it is nice to be recognized.
- Mr. Goldman has asked to install a sound barrier on the playground which abuts his property located at the end of Warren Street. The purpose of the sound barrier is to reduce the noise coming from the MBTA train tracks. Mr. Goldman began by asking how the sound barrier benefits the city:
  - Putting in a sound barrier is not setting a precedent for others to install sound barriers
  - He has offered to pay for the maintenance of the playground fields
  - He is relocating the utility lines underground, at his own expense, which benefits the City.
  - There is no negative impact from the sound barrier to anyone.
  - The question is how the construction will affect the area. Mr. Goldman stated he is not Engineer and is not sure how the barrier would be built but the construction would be sensitive to trees and wildlife.
- Chairman Rice asked Commissioner Towle for her opinion on the sound barrier. Commissioner Towle commented, as stated in the memo from the Law Department that was submitted to the Commission during the May 2009 meeting, before a vote is taken the members must determine the benefits of the sound barrier to the park. When the vote is taken the benefits of the barrier must be listed along with the vote. It is strictly the benefits of the barrier and not everything that comes with it that is to be voted on. Commissioner Towle stated the only benefit she sees is some muting of the train track sounds, but there is noise all around the City in all the parks from trains, traffic and children playing. The Commission Members must decide how important it is that the barrier mute the train sounds in the park.
- Chairman Rice commented the benefit of the barrier would be nil compared to the noise from the surrounding traffic. This wall becomes a model for everyone else that would like a barrier in their neighborhood. But Mr. Goldman is different

because he is willing to pay for the barrier. Others will not want to pay for a barrier.

- Mr. Mottard stated he has two viewpoints on the barrier. In opposition of the barrier, the noise from airplanes taking off and the noise from traffic are more intrusive than the sounds from the trains. On the other side, the barrier is a small concession compared to the benefits to the city such as the planned parking and maintenance of the grounds. Commissioner Towle repeated that those benefits cannot be considered when voting on the barrier, the benefits of the wall itself is all that can be considered. Mr. Mottard commented it is difficult to separate the entire project.
- Mr. Clarke commented there is no benefit. A 500' obstacle in the middle of the park is unattractive to park users and train riders.
- Ms. Heitman stated she is torn regarding the sound barrier. She commends Mr. Goldman for what he is trying to do and then there are the legal guidelines from the Law Department. Following the legal guidelines the barrier would have a negative impact on the park.
- Mr. Magni commented the intrusion of the wall is not worth the periodic sound from the train.
- Mr. Neville commented the barrier would hinder the park.
- Mr. Kastner commented the barrier is not an improvement to the park.
- Mr. Bernheimer has nothing to add.
- Mr. Goldman commented the length of the sound barrier was the idea of the Engineer and he would be willing to change the length going into the woods.
- Alderman Baker asked if the Commission has seen the aerial site photo. Chairman Rice replied yes. Alderman Baker commented Mr. Goldman has done a lot of work in the area, but he agrees with Commissioner Towle, the Commission must follow the guidelines from the Law Department.
- Jane Sender from the Newton Conservators commented private investments on public land should be held to a higher standard. There should be no private building on public space.
- Mr. Mottard commented knowing now what he already should have known, he cannot support the sound barrier in the playground area.

Mr. Clarke made the motion not to permit the wall on Warren Park Land. Chairman Rice seconded the motion. The Motion passed 8-0.

- Commissioner Towle inquired what Mr. Goldman is going to do with the road. Mr. Goldman stated the road will remain as is he is not making any changes.
- Alderman Baker commented there is currently a gravel surface on the road. When the house construction is completed will the road return to its original condition. Mr. Goldman confirmed the road would be returned to its original condition.

#### 4. Administrative Business

- At the request of the City Clerk's Office, the "City of Newton Appointed Committee Handbook" was passed out by the Commission Secretary to all Commission Members present. All members present signed the back page signature card of the handbook, as instructed. The Commission Secretary agreed to turn in the signed signature cards to the City Clerks Office Tuesday, July 21, 2009.

Meeting adjourned at 8:30 pm.

Respectfully submitted:

*Robin McLaughlin, Secretary*