



Programs & Services Committee Agenda

City of Newton **In City Council**

Wednesday, February 8, 2017

7:45PM

Room 205

Items Scheduled for Discussion:

*The Programs & Services and Public Safety & Transportation Committees will meet jointly on the following items. **PLEASE NOTE:** The Chairs will not be taking public comment at this meeting.*

#443-16(3) Ordinance amendment to create a “Welcoming City” Ordinance

HIS HONOR THE MAYOR, CHIEF OF POLICE, PRESIDENT LENNON, COUNCILOR ALBRIGHT, AUCHINCLOSS, BLAZAR, BROUSAL-GLASER, CROSSLEY, DANBERG, FULLER, HARNEY, HESS-MAHAN, KALIS, LAREDO, LEARY, LIPOF, NORTON, RICE, SANGIOLO AND FORMER MAYOR COHEN requesting an ordinance amendment that reaffirms the City’s commitment to fair treatment for all and codifies current community policing practices. One of the city’s most important objectives is to enhance relationships with all residents and make all residents, workers and visitors feel safe and secure regardless of immigration status.

Referred to Programs & Services Public Safety & Transportation Committees

#443-16 Ord. amendment re immigration status and guidelines for community policing

HIS HONOR THE MAYOR, CHIEF OF POLICE, PRESIDENT LENNON, AND COUNCILOR KALIS proposing an amendment to the City of Newton Revised Ordinances Chapter 12, Article V; Human Rights Commission and Advisory Council, to add a new section (C) to §12-50 defining: 1) the Policy of the City of Newton regarding immigration status and 2) the final Foundational Guidelines for Community Policing. [12/16/16 @10:45 AM]

Referred to Programs & Services Public Safety & Transportation Committees

#443-16(2) Ordinance amendment to protect undocumented residents

COUNCILORS ALBRIGHT, AUCHINCLOSS, HESS-MAHAN, NORTON, CROSSLEY, BROUSAL-GLASER AND HARNEY proposing an amendment to the City of Newton

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton’s ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city’s TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

Revised Ordinances to protect undocumented residents which at a minimum does the following:

- 1) No city official will request or seek information regarding a person's immigration status.
- 2) No city official will report to, respond to or cooperate with Immigration Customs Enforcement with regard to status of any persons who has contact with a city official or employee except in the case where that person has been convicted of a felony, is on a terrorist watch list, poses a serious substantive threat to public safety, or is compelled to by operation of law except as required by law.

[12/16/16 @ 9:11 AM]

Clerk's Note: *The docketer has requested that this item be voted No Action Necessary*

#336-16

Request for a Resolution embracing Free Speech

COUNCILOR AUCHINCLOSS requesting a Resolution reflecting the will of the City Council that punishing Newton North High School students for displaying the Confederate Flag is contrary to Newton's embrace of free speech, and that the display does not rise to the Supreme Court's standard of protecting schools from substantial disruption to educational program or discipline. [09/30/16 @ 9:45 AM]

Referred to Finance and Appropriate Committees

#257-12

RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates.

#229-12

RECODIFICATION COMMITTEE recommending a review and possible amendment to the *Board of Aldermen Rules & Orders 2012-2013* relative to review of draft ordinances by the Law Department.

Items not Scheduled for Discussion at this meeting:

#24-17 Recommendation to approve 2017 Preliminary Election date

THE NEWTON ELECTION COMMISSIONERS recommending the City Council approve the date of Tuesday, September 12, 2017 as the date for the 2017 Preliminary Election, if needed. [01/30/17 @ 1:28PM]

Referred to Programs & Services, Land Use and Finance Committees

#35-17 Appropriation of CPA funds for design of the Crescent Street Project

COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of two hundred sixty thousand dollars (\$260,000) from the Community Preservation Fund to the Public Buildings Department for feasibility and design work on affordable housing and playground expansion and improvements at 70 Crescent Street, as envisioned by Council Order #384-11(4) and as described in the December 2016 proposal to the Community Preservation Committee and the Community Preservation Committee's detailed funding recommendation. [01/23/17 @ 5:19 PM]

#37-16 Resolution to state officials requesting a carbon fee

COUNCILOR NORTON requesting a Resolution to state officials calling for a fee on carbon to curb climate change. [01/22/16 @ 10:34 AM]

#36-16 Resolution to state officials supporting fossil fuel divestment

COUNCILOR NORTON requesting a Resolution to state officials supporting fossil fuel divestment. [01/22/16 @ 10:34 AM]

#158-16 Ordinance to require notice on gas pumps relative to climate change

COUNCILORS NORTON AND SANGIOLO requesting an ordinance that requires a notice posted on retail gas station pumps within the City of Newton that informs consumers that burning gasoline contributes to climate change; and a link to a City website page offering information regarding alternatives to gasoline powered transportation, including walking, biking, public transit and electric vehicles. [04/25/16 @ 9:02 AM]

Referred to Programs & Services Committees and Public Facilities

#12-17 Request for updates on the Library Expansion Project

COUNCILORS CROSSLEY, ALBRIGHT AND BLAZAR requesting periodic updates from the Library Trustees and Library Director on the Library expansion project. [01/03/2017 @ 3:55 PM]

Referred to Programs & Services Committees and Public Facilities

- #13-17 Request for updates on the Archive Expansion Project**
COUNCILORS CROSSLEY, ALBRIGHT, AND BLAZAR requesting periodic updates from the City Clerk on the Archives expansion project. [01/03/2017 @ 3:56 PM]
- #363-16 Amendment to the City Council Rules for yearly review of City Clerk's salary**
PRESIDENT LENNON AND VICE PRESIDENT LAPPIN requesting an amendment to Article XI of the Rules and Orders of the City Council to require an annual review of the salary of the City Clerk/Clerk of the Council. [10/26/16 @ 3:58 PM]

Referred to Land Use, Programs & Services, and Finance Committees

- #256-16 Request to extend notification area of notice for special permit petitions**
COUNCILORS COTE, NORTON, HARNEY, BLAZER, BROUSAL-GLASER, AND LEARY requesting an amendment to the City Council Rules, Article X; Section 6 – Additional Notification Requirements, to include that the area of notice for special permit petitions be expanded beyond the abutters to abutters within 300' required by Massachusetts General Law Chapter 40A to also include property owners within 600' of the subject property. This notification will apply to all classes of building except for residential 1 and 2-family units that will remain 1 or 2-family units after receiving a special permit. Only abutters to abutters within 300' will be entitled to the rights conferred by Massachusetts General Law Chapter 40A [07/01/16 @2:09 PM]
- #300-16 Ordinance to register lobbyists**
COUNCILORS COTE, NORTON AND HARNEY proposing an ordinance to register lobbyists in the City of Newton. [08/10/16 @ 3:11 AM]

Referred to Finance and Appropriate Committees

- #359-16 Submittal of the FY 2018 to FY 2021 Capital Improvement Plan**
HIS HONOR THE MAYOR submitting the Fiscal Years 2018 to 2022 Capital Improvement Plan pursuant to section 5-3 of the Newton City Charter. [10/11/16 @ 11:28 AM]

Referred to Programs & Services and Public Facilities Committees

- #344-16 Discussion regarding oversight of all city/school buildings to improve efficiencies**
COUNCILOR LAPPIN requesting a discussion regarding the Public Buildings Department overseeing all public buildings, including School Department facilities, to improve efficiencies. [10/07/16 @ 10:47 AM]
- #301-16 Amendment to the Tree Preservation Ordinance**
COUNCILOR SANGIOLO requesting an amendment to the Tree Preservation Ordinance so that any tree removal requested by a city department be forwarded to

the Urban Tree Commission and all tree removal requests under the Tree Preservation Ordinance be posted online to give residents and interested citizens notification. [08/09/16 @10:30 PM]

- #264-16** **Ord. requiring Councilor notice of and involvement in street tree waiver requests**
COUNCILORS HESS-MAHAN, NORTON, KALIS, COTE, DANBERG, HARNEY, SANGIOLO, LEARY AND YATES requesting an ordinance requiring that Councilors from each respective ward be given notice and a meaningful opportunity to object to granting a hardship waiver or permit to remove a street tree. [07/21/16 @ 11:40 AM]

Referred to Programs & Services, Public Facilities and Finance Committees

- #175-16** **Authorization to enter into a settlement agreement with National Grid.**
HIS HONOR THE MAYOR requesting authorization for the City to enter into a settlement agreement with Boston Gas Company d/b/a National Grid. [04/25/16 @ 6:52 PM]
- #56-16** **Ordinance amendment to add statutory references to policy on housing practices**
COUNCILOR HESS-MAHAN requesting an amendment to Chapter 12, Section 50(b) *Policy of the city regarding housing practices*, to add statutory references to Title VI of the Civil Rights Act of 1964; the Americans with Disabilities Act; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act; and any other applicable state or federal laws that were inadvertently omitted from the current ordinance. [02/08/16 @ 1:51 PM]

Referred to Programs & Services and Public Facilities Committees

- #27-16** **Updates from the Administration on the renovations at the Aquinas site**
PROGRAMS & SERVICES AND PUBLIC FACILITIES COMMITTEES requesting that the School Department and/or Executive Department provide updates on removal of asbestos and other toxic materials that were identified at the Aquinas site, the scope and timing of window replacement in particular, and renovations that may be necessary to facilitate short and long-term plans for uses and operations at the site. [01/10/16 @ 1:14 PM]

Referred to Programs & Services and Public Safety & Transportation Committees

- #312-15** **Update from Health Department on opiate overdose epidemic**
ALD. COTE, HARNEY AND NORTON, requesting a review and discussion of the opiate overdose epidemic including an update from the Health Department appraising the board on the current situation to include comparative statistics from previous years as to the number of opiate overdoses handled by first responders. In addition, what is being done immediately to take this on and what support can the Board provide.

Referred to Programs & Services and Public Facilities Committees

- #201-15** **Discussion of the condition of the Kennard Estate on Dudley Road**
ALD. SANGIOLO requesting a discussion with the Commissioner of Public Buildings, the Commissioner of Parks and Recreation, and the Executive Department regarding the condition of the property located at 246 Dudley Road (Kennard Estate) and how much, if any, repairs and upgrades will be needed as the City relocates the Parks and Recreation Department to that location. [09/01/15 @ 4:00 PM]

Referred to Programs & Services and Public Facilities Committees

- #141-15** **Discussion on tracking the gas utility infrastructure in Newton**
ALD. BROUSAL-GLASER, SANGIOLO, HESS-MAHAN, COTE, NORTON AND ALBRIGHT requesting a discussion with *the Director of Urban Forestry*, a representative of the Department of Public Works and a representative of the Law Department about tracking and improving the condition of the gas utility infrastructure in Newton, new state statutes governing infrastructure repairs, coordination of increased repair work with city operations, the status of negotiations with National Grid to compensate for tree deaths resulting from gas leaks, and the possibility of creating a utilities working group to monitor progress on these and related issues.
05/26/15 @ 2:53 PM]

Referred to Public Facil, Programs & Services and Public Safety & Trans Committees

- #46-15** **Discussion of parking options and permits at municipal & school parking lots**
ALD. JOHNSON & CICCONE, requesting a discussion with the Commissioner of Department of Public Works and the School Department to determine and discuss parking options including use of school properties based on the current municipal parking lot programs including the issuance of permits. [02/11/15 @1:35 PM]
- #483-14** **Resolution to promote cooperative programs with food establishments**
PROGRAMS & SERVICES COMMITTEE proposing a RESOLUTION to promote a cooperative program with food establishments in the City, the Newton-Needham Chamber of Commerce, the Economic Development Commission, the Director of Economic Development and members of the Board of Aldermen, to find opportunities for these establishments to provide their food services for events in the City. [12/02/14 @ 3:56 PM]
- #377-14** **Discussion of proposed changes of use of the Senior Center**
THE PROGRAMS & SERVICES COMMITTEE requesting a discussion with the Director of Senior Services, the Council on Aging and the Executive Department relative to changes in the use of the Senior Center at 345 Walnut Street. [10/16/14 @ 5:43 PM]

Referred to Programs & Services and Finance Committees

#216-14

ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, NORTON AND SANGIOLO

proposing the following amendments to Chapter 12 Health and Human Services of the Revised Ordinances to:

- require owners of dwellings requiring a Certificate of Habitability under Section 12-1 and real estate agents/brokers who receive compensation in connection with the particular real estate transaction to notify the Commissioner of Health and Human Services whenever an apartment, tenement, or room in a lodging house is vacated by the occupant or when an area in an existing building is converted to a condominium prior to being reoccupied by a new tenant, lodger or occupant;
 - require educational institutions to disclose addresses of undergraduates living off-campus in Newton;
 - require a fee for certification; and
 - impose a fine for violation of these provisions. [05/14/14 @11:51 AM]
- FINANCE VOTED NO ACTION NECESSARY 7-0 12/14/15

Referred to Programs & Services and Public Facilities Committees

#119-14

ALD. ALBRIGHT AND CROSSLEY requesting discussion with the Inspectional Services Department to explain the development of short and long term plans to identify and correct buildings, sidewalks, playgrounds, etc., that do not conform to American Disability Act (ADA) standards. The discussion should include information on how improvements will be incorporated into the Capital Improvement Plan or if less than \$75,000 into a comprehensive budget plan to correct ADA deficiencies. [03/12/14 @ 4:18 PM]

#398-13

ALD. BAKER & DANBERG requesting a discussion of a possible ordinance, regulations or otherwise, to complement zoning regulation of any licensed Registered Marijuana Dispensaries to respond to any secondary impacts so as to make the operation of such dispensaries as successful as possible. [10/28/13 @ 10:00 AM]

#34-13

ALD. DANBERG, ALBRIGHT, BLAZAR, RICE, LINSKY AND CROSSLEY requesting a prohibition on polystyrene-based disposable food or beverage containers in the City of Newton if that packaging takes place on the premises of food establishments within the City. [01/03/13 @ 11:01 AM]

Referred to Programs & Services, Public Facilities and Finance Committees

#312-10

ALD. LENNON, LAPPIN, SCHNIPPER, SANGIOLO requesting a discussion with the School Committee on its plans to address space needs in the Newton public schools. [10/27/10 @11:07 AM]

Respectfully Submitted,
John B. Rice, Chair



SETTI D. WARREN
MAYOR

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February 3, 2017

Dear City Councilors:

We have docketed a new version of the Welcoming City Ordinance today after several weeks of collaborative work on this new draft. All other items, drafts and documents linked to the other two docket items are being withdrawn and we will focus our committee work on Feb 8 on this version. We would expect an action of No Action Necessary on the prior two versions, and the draft foundational guidelines have been supplanted with this new draft.

We believe this collaborative proposed ordinance accomplishes the shared goals of affirming Newton as a safe and welcoming city for all regardless of immigration status as well as codifying our current community policing approach. Police Chief David MacDonald has reviewed this language and supports this document.

We look forward to the discussion and we hope we will have agreement on this proposed ordinance.

Sincerely,

Mayor Setti D. Warren
Former Mayor David Cohen
Chief David MacDonald
Council President Scott Lennon
Councilors:
Susan Albright
Jake Auchincloss
Richard Blazer
Barbara Brousal-Glaser
Deborah Crossley
Victoria Danburg
Ruthanne Fuller
Jay Harney

Ted Hess-Mahan
David Kalis
Marc Laredo
Alison Leary
Rick Lipof
Emily Norton
John Rice
Amy Sangiolo

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DEDICATED TO COMMUNITY EXCELLENCE

***Be it ordained by the City Council of the City of Newton as follows:**

That the Revised Ordinances of the City of Newton, 2012, as amended, are hereby further amended with respect to Chapter 2 by inserting after Article VI the following new article:

Article VII. Welcoming City

Sec 2-400. Purpose and Intent. The City of Newton has long derived strength from its diverse community, including those who identify as immigrants. Through the City's commitment to social justice and inclusion, one of the City's most important objectives is to enhance relationships with all residents, including immigrants, and to make all residents, workers and visitors feel safe and secure regardless of immigration status. We believe it is critical to reaffirm in this ordinance, the City's commitment to fair treatment for all.

Sec 2-401. Definitions.

"Administrative warrant" means an immigration warrant issued by ICE, or a successor or similar federal agency charged with enforcement of civil immigration laws, used as a non-criminal, civil warrant for immigration purposes.

"Agency" means every City department, division, commission, council, committee, board, other body, or person established by authority of an ordinance, executive order, or City Council order.

"Agent" means any person employed by or acting in behalf of an agency but shall not include independent sub-contractors of the City.

"Citizenship or immigration status" means all matters regarding questions of citizenship of the United States or any other country, the authority to reside in or otherwise be present in the United States.

"ICE" means the United States Immigration and Customs Enforcement Agency and shall include any successor agency charged with the enforcement of civil immigration laws.

"Immigration detainer" means an official request issued by ICE, or other federal agency charged with the enforcement of civil immigration laws, to another federal, state or local law enforcement agency to detain an individual based on a violation of a civil immigration law.

“Serious violent felony” means a felony crime as defined in M.G.L. c. 265, *Crimes Against the Person*.

Sec 2-402. Prohibitions.

No Agency or Agent shall:

- (a) identify, investigate, arrest, detain, or continue to detain a person solely on the belief that the person is not present legally in the United States or that the person has committed a civil immigration violation or that the person is otherwise deportable;
- (b) arrest, detain, or continue to detain a person based on any immigration detainer, federal administrative warrant, or any other such order or request in any form whatsoever or otherwise honor any such detainer, warrant or request to detain, interview or transfer a person to federal authorities, provided however, the police department may arrest, detain or continue to detain a person in accordance with Sec 2-403;
- (c) notify federal authorities about the release or pending release of any person for immigration purposes except in accordance with Sec 2-403;
- (d) provide federal authorities with information about the upcoming release of a person in custody or the person’s home or work address for immigration purposes;
- (e) cooperate with or enforce any federal program requiring the registration of individuals on the basis of religious affiliation or ethnic or national origin.

Sec 2-403. Exceptions to Prohibitions. The prohibitions in Sec 2-402 shall not apply where the individual to whom such information pertains provides his or her informed consent as to how the information might be used (or if such individual is a minor, the informed consent of that person’s parent or guardian), where the information is necessary to provide a City service or where otherwise required by valid state or federal law. In addition, the Newton Police Department may detain or arrest an individual in cooperation with ICE only when an investigation conducted by or information received by any City Agency indicates that: the individual has an outstanding criminal warrant, has a prior conviction for a serious violent felony, is being investigated for terrorism, or if there is a law enforcement or public safety purpose to do so that is not related to the enforcement of civil immigration law provided that the arrest or detention is based upon valid Massachusetts arrest authority and is consistent with the 4th Amendment to the United States Constitution and Article XIV of the Massachusetts Constitution.

Sec 2-404. Requesting or Maintaining Information Prohibited. No Agency, or Agent shall request or maintain information about, or otherwise investigate or assist in the investigation of, the citizenship or immigration status of any person unless such inquiry is required by valid state or federal law.

Sec 2-405. Use of City Resources Prohibited. No Agency or Agent shall use City funds, resources, facilities, property, equipment, or personnel to assist in the enforcement of federal civil immigration law or to gather information regarding the citizenship or immigration status of any person, unless permitted under section 2-403. Nothing in this section shall prevent an Agency or Agent from lawfully discharging duties in compliance with and in response to a lawfully issued judicial warrant, judicial subpoena or immigration detainer.

Sec 2-406. Ordinance Not to Conflict with Federal Law. Nothing in this ordinance shall be construed or implemented to conflict with any otherwise valid and enforceable duty and obligation imposed by a court order or any valid federal or applicable law. Nothing in this subsection shall prohibit or restrain the Agency or Agent from sending to, or receiving from, any local, state, or federal agency, information regarding citizenship or immigration status, consistent with Section 1373 of Title 8 of the United States Code.

Sec 2-407. No Private Right of Action. This ordinance does not create or form the basis of liability on the part of the City, its Agencies or Agents. It is not intended to create any new rights for breach of which the City is liable for money or any other damages to any person who claims that such breach proximately caused injury. The exclusive remedy for violation of this ordinance shall be through the City's disciplinary procedures for employees under applicable City regulations, unless the Agency or Agent is lawfully discharging duties as set forth in Sec 2-402 and Sec 2-403.

Sec 2-408. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Newton hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions were to be declared invalid or unconstitutional.