



Programs & Services Committee Agenda

Special Meeting

City of Newton

In City Council

Monday, September 25, 2017

7:00PM – Note Early Start
Room 211

Item Scheduled for Discussion:

Note: The Programs & Services Committee will meet jointly with the Finance Committee on the following item:

Referred to Programs & Services and Finance Committees

#259-17

Increase the number of years the City can lease Weeks House

HIS HONOR THE MAYOR requesting consideration of a request to petition the General Court for special legislation to increase the number of years the City of Newton is authorized to lease the Weeks House from the current period of sixty-five years, as authorized by the Acts of 1981, Chapter 330, to a period of up to ninety-nine years. [08/07/17 @ 2:23 PM]

Respectfully Submitted,

John B. Rice, Chair

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.

EXCERPT FROM 9/11/17 PROGRAMS & SERVICES AND FINANCE REPORT

Referred to Programs & Services and Finance Committees

#259-17 Increase the number of years the City can lease Weeks House

HIS HONOR THE MAYOR requesting consideration of a request to petition the General Court for special legislation to increase the number of years the City of Newton is authorized to lease the Weeks House from the current period of sixty-five years, as authorized by the Acts of 1981, Chapter 330, to a period of up to ninety-nine years. [08/07/17 @ 2:23 PM]

Programs & Services Held 6-0 (Schwartz not voting) on 09/11/17

Action: **Finance Held 7-0**

Note: The Committee met jointly with the Programs and Services Committee to discuss this item. Director of Newton Community Development Foundation (NCDF) Jeanne Strickland and Counsel for NCDF Alan Schlesinger joined the Committees for discussion of the request that the city petition the General Court for special legislation that authorizes the City to lease the Weeks School for a term not to exceed ninety-nine years and to grant a lease extension to NCDF. The City sought and received special legislation in 1981 to lease the Weeks House for a term of 65 years. In 1983, the City and NCDF signed a 65-year lease agreement.

Attorney Schlesinger went on to explain that an extension of the lease would require the City to go through the procurement process including soliciting requests for proposals for the additional 24 years added to the lease if the special legislation is approved. It is likely that the only bidder will be NCDF, as the additional 24 years would begin in 2048. Attorney Schlesinger pointed out that it makes sense for the City to request special legislation to authorize the City to grant the lease extension for Weeks House to NCDF.

NCDF is investigating all refinancing opportunities for the Weeks House. The 75-unit building needs significant capital improvements. HUD and other lenders require that leases extend at least 10 years beyond a 25-year term loan. If the General Court approves the special legislation, the request to extend the lease would come before the City Council for approval.

There was a question regarding whether NCDF has ever had to pay the City the additional 20% of the amount by which gross effective rent for any year exceeds the amount projected by the original lender as of the date of first occupancy, as required by the lease agreement. NCDF has paid the 20% payment every year except from 1996 to 2000 when the lease was amended to waive the 20% for five years.

Members of both Committees would like the Chief Procurement Officer's input before taking action on this item. Councilor Auchincloss moved hold in Programs & Services Committee and Councilor Lappin moved hold in the Finance Committee. The motions in both Committees were supported unanimously.



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#259-17

Telephone
(617) 796-1100
Telefax
(617) 796-1113

TDD
(617) 796-1089

E-mail
swarren@newtonma.gov

August 7, 2017

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Council docket for consideration a request to petition the General Court for special legislation to increase the number of years the City of Newton is authorized to lease the Weeks House, formerly the John W. Weeks School, from the current period of sixty-five years (as authorized by special legislation Acts 1981, c. 330) to a period of up to ninety-nine years. The building is leased to the Newton Community Development Foundation ("NCDF") for elderly and affordable housing.

In addition, I request that this Honorable Board docket for consideration a corresponding request to petition the General Court for special legislation to allow the City of Newton to grant an extension of the current lease to NCDF without the need to undertake a procurement process under M.G.L. c. 30B.

The need for this special legislation stems from a request from NCDF to extend their current lease beyond the original 65 year period so that they may obtain new financing from MassHousing for substantial capital maintenance and improvements over the next twenty years. HUD and lenders require that the lease be extended as a condition of the financing. Please see the attached memorandum for a more detailed background.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren
Mayor

RECEIVED
Newton City Clerk
2017 AUG -7 PM 2:23
David A. Olson, CMC
Newton, MA 02459

Weeks House –Special Legislation Request

Background:

- In 1983, the City leased the Weeks School, now known as the Weeks House, to Newton Community Development Foundation, Inc. (NCDF) as result of 1979 and 1980 re-use board orders and recommendations for its use for affordable and elderly housing. Currently, Weeks House provides 75 units of mixed income rental, 42 of which are rented to very low income seniors and families at or below 50% of area median income.
- The lease term is 65 years, commencing December 1, 1983. The current lease term will expire on November 30, 2048.
- In order to legally lease a municipal building for more than the 30 years allowed by statute (MGL c. 40 §3), the City, in 1981, obtained special legislation authorizing it to lease any of its municipal buildings for up to 65 years. (Acts 1981, c. 330).
- NCDF is current on its annual rent payment to the City in the amount of \$60,000 plus 20% of the amount by which gross effective rent for any year exceeds the amount projected by the original lender as of date of first occupancy.

1. Lease Extension Request

- NCDF wishes to obtain new financing (in the form of HUD/HFA Risk Share Financing) from MassHousing for substantial capital maintenance and improvements over the next twenty years. As a condition for the loan, HUD and lenders require that the lease from the City be extended at least through 2066 (an additional 18 years beyond the current expiration date of 2048).
- City action that would be required: in order to extend the lease beyond the original 65 years (the maximum allowed by the 1981 special legislation), the City will have to submit a new home rule petition to authorize it to lease a municipal building for more than the 65 years authorized in the 1981 special act.

RECOMMENDATION: seek home rule legislation allowing the City to lease the Weeks School for up to a 99 year term in order to provide the City with flexibility to extend the lease as required by HUD and lenders as a condition for NCDF's refinancing.

2. MGL c. 30B Procurement Issue

MGL Chapter 30B would require the City to undertake a procurement process in order to grant a lease extension for the property. Because the new lease interest would not even begin until 2048, when the current lease ends, no entity other than NCDF is likely to bid.

RECOMMENDATION: Rather than expend time and money on what would essentially be a meaningless procurement process, seek special legislation to specifically authorize the City to grant the lease extension for Weeks House to NCDF notwithstanding the requirements of Chapter 30B.

DRAFT

AN ACT AUTHORIZING THE CITY OF NEWTON
TO LEASE THE JOHN W. WEEKS SCHOOL
FOR A TERM OF YEARS NOT EXCEEDING
NINETY-NINE YEARS AND TO GRANT A LEASE EXTENSION TO THE
CURRENT LESSEE OF THE FORMER JOHN W. WEEKS SCHOOL
WITHOUT UNDERTAKING A PROCUREMENT PROCESS

Be it enacted as follows:

Section 1. Notwithstanding the provisions of section three of chapter forty of the general laws or chapter 330 of the Acts of 1981 or of any other law to the contrary, the City of Newton is hereby authorized to lease the John W. Weeks School for a term of years not exceeding ninety-nine years.

Section 2. Notwithstanding the provisions of chapter 30B of the general laws or of any other law to the contrary, the City of Newton is hereby authorized to grant a lease extension to Newton Community Development Foundation, Inc., the current lessee of the John W. Weeks School, without undertaking a procurement process

Section 3. This act shall take effect upon its passage.