



Finance Committee Agenda

City of Newton **In City Council**

Monday, January 23, 2017

7:00 PM
Room 211

Please bring your CIP and 5-year Financial Forecast Books

Items Scheduled for Discussion:

#441-16 Mayor's appointment of Daniel Kunitz as a trustee of the Cousens Fund
DANIEL KUNITZ, 51 Pratt Drive, West Newton appointed as a trustee of the Cousens Fund for a term of office to expire on January 30, 2019. [11/29/16 @ 9:21 AM]

#14-17 Expend Wells Ave Mitigation Funds for improvements @ Wells Ave/Nahanton St
HIS HONOR THE MAYOR requesting authorization to appropriate and expend sixty-seven thousand five hundred dollars (\$67,500) from the Wells Avenue/Nahanton Street and Winchester Street traffic improvement mitigation funds for the completed design and installation of updated pavement markings to decrease congestion at the intersection of Wells Avenue and Nahanton Street. [01/09/17 @ 11:20 AM]

Referred to Public Facilities and Finance Committees

#15-17 Transfer \$1 million for snow and ice removal expenses
HIS HONOR THE MAYOR requesting authorization to transfer the sum of one million dollars (\$1,000,000) from the Budget Reserve – Snow and Ice Removal Account to the following accounts:

Personnel Costs – Overtime

(0140110-513001) \$300,000

Sand & Salt

(0110410-5532) \$700,000

[01/09/17 @ 11:20 AM]

Public Facilities Approved 6-0 (Lennon not voting) on 01/18/17

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.

Referred to Land Use and Finance Committees

#10-17 **Appropriate \$2 million for development of housing units at 70 Crescent Street**
HIS HONOR THE MAYOR requesting authorization to appropriate two million dollars (\$2,000,000) from the November 16, 2016 Overlay Surplus Declaration for the purpose of funding the City's share of the development of market rate and affordable housing units at 70 Crescent Street. {12/28/16 @ 4:48 PM]

#248-12 **Ordinance amendments to Article IV Purchases and Contracts**
RECODIFICATION COMMITTEE recommending that **ARTICLE IV. PURCHASES AND CONTRACTS, Secs. 2-182 through 2-205**, be amended to make it consistent with state law.

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]

#353-16 **Review/Acceptance of the FY 2018 – FY 2022 5-year Financial Forecast**
HIS HONOR THE MAYOR submitting the Fiscal Years 2018 to 2022 5-Year Financial Forecast for City Council review/acceptance. [10/11/16 @ 11:28 AM]

#173-16 **Interest charges on late payment of utility bills**
COUNCILOR SANGIOLO requesting creation of a policy or ordinance related to interest charges on late payments of utility bills to the City and proportional return of interest charges if or when the utility bill is abated. [04/27/16 @ 1:39 PM]

#40-16 **Request to accept MGL 149 Sec 148C related to earned sick time for employees**
COUNCILOR SANGIOLO requesting that City of Newton formally accept and/or take all necessary steps to accept Massachusetts General Law Chapter 149, Section 148C, in order to qualify full-time, part-time, seasonal, and temporary employees coverage under the earned sick time regulation, 940 CMR 33, as approved by the voters of Massachusetts in the 2014 Election as Ballot Question 4 – Earned Sick Time for Employees. [01/19/16 @ 2:35 PM]

#190-15 **Discussion of policy to record all meetings and post meeting materials online**
ALD. SANGIOLO requesting a discussion with the Executive Department relative to creating a policy to require audio recordings of all meetings of boards and commissions and requiring them to be posted to the City's website, as well as posting of all documentation that is reviewed by boards and commissions and/or by their designated City staff member.

Items Not Scheduled for Discussion at this Meeting:

Referred to Zoning & Planning and Finance Committees

- #444-16** **Amendment add fines for certain violations of the Accessory Apartment Ord.**
COUNCILOR BAKER AND COMMISSIONER OF INSPECTIONAL SERVICES proposing an amendment to Chapter 20 of the City of Newton Revised Ordinances to allow non-criminal ticketing of certain violations of the Accessory Apartment Ordinance. [12/16/16 @ 1:40 PM]
- #209-16** **Discussion of expenditures related to the Complete Streets Grant**
COUNCILOR FULLER requesting discussion regarding expenditures related to the Complete Streets grant with representatives of the Department of Public Works. [05/26/16 @ 1:11 PM]
- #397-16** **Discussion w School Administration re \$1.2 million budget deficit**
COUNCILOR GENTILE requesting a discussion with the School Department and members of the School Committee regarding the \$1.2 million deficit in the School Department budget as outlined in the 2017 Fiscal and Operational Update Memo dated October 24, 2016. [11/16/16 @ 10:48 AM]

Referred to Programs & Services, Public Facilities and Finance Committees

- #387-16** **Appropriate \$250,000 for renovation of 1st Floor of the Ed Center**
HIS HONOR THE MAYOR requesting authorization to appropriate and expend two hundred fifty thousand dollars (\$250,000) from the Override Capital Stabilization Fund for the purpose of renovating the space on the 1st floor of the Ed Center which has been vacated by the relocation of the Pre-K Program to the Aquinas site to house the Central High School Program, additional professional development meeting space, and general office space. [10/31/16 @ 2:05 PM]
Programs & Services Approved 4-0 on 11/09/16
Public Facilities Held on 11/09/16

Referred to Public Facilities and Finance Committees

- #386-16** **MWRA loan financing for homeowners to replace lead service lines**
COUNCILORS CROSSLEY AND GENTILE proposing to establish policies and procedures for the use of approved Massachusetts Water Resource Authority (MWRA) no interest loan financing to encourage homeowners to participate in the lead service line replacement program. [10/26/16 @ 3:12 PM]
Public Facilities Held on 11/09/16

Referred to Public Facilities and Finance Committees

- #385-16** **Discussion about the Community Solar Share Program**
PUBLIC FACILITIES COMMITTEE requesting discussion with the Administration and Public Buildings Department about the Community Solar Share Program,

which intends to provide credits resulting from solar power generated at 70 Elliot Street to qualifying low income residents. [10/26/16 @ 4:20 PM]

Public Facilities Held on 11/09/16

Referred to Public Facilities and Finance Committees

#384-16

Appropriate \$71,000 to build an observation deck on the greenway

HIS HONOR THE MAYOR requesting authorization to appropriate and expend seventy-one thousand dollars (\$71,000) from Free Cash for the purpose of construction an observation on the greenway walking corridor. [10/31/16 @ 2:05 PM]

Public Facilities Held on 11/09/16

Referred to Public Facilities and Finance Committees

#357-16

Reallocate \$250,467.24 for decommissioning two elevated storage tanks

HIS HONOR THE MAYOR requesting authorization to reallocate the sum of two hundred fifty thousand four hundred sixty-seven dollars and twenty-four cents (\$250,467.24) from the Waban Hill Reservoir Improvements Account to be used for the decommissioning of the Stanton Avenue and Winchester Street elevated storage tanks. [10/11/16 @ 11:29 AM]

Public Facilities Approved 6-0 on 10/19/16

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]

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]

#112-16

Appropriation of mitigation funds for pedestrian and traffic improvements

HIS HONOR THE MAYOR requesting authorization to appropriate and expend the following Mitigation Funds:

A. Village Café at 719 Washington Street

\$2,500

B. 258 Nevada Street at Linwood Street	\$1,500
C. Cherry Street at Washington Street	\$2,000
D. O'Hara's Restaurant, Newton Highlands	\$2,500
E. Rox Diner Parking & Pedestrian Improvements	\$2,500
G. Canton Circle LLC, 714-724 Beacon Street	\$10,000

Referred to Public Facilities and Finance Committees

#223-15 Discussion on the process of licensing the use of city buildings

ALD. LAREDO requesting a discussion of the process of licensing the current and future use of city building, including: (a) how licensees may request the use of city buildings; (b) the process for determining which licensees will get the use of city buildings; (c) how the fees for the use of city buildings are set; and (d) how the current process compares to the process for permitting the use of school buildings. [08/13/15 @ 11:20 AM]

Referred to Zoning & Planning, Land Use and Finance Committees

#104-15 Qualification of affordable units developed at Comm Ave, Pearl St, and Eddy St

ALD. JOHNSON, LAREDO, AND GENTILE requesting a report from the Planning Department re how many of the affordable units developed at Commonwealth Avenue, Pearl Street, and Eddy Street qualify for inclusion on the State's Subsidized Housing Inventory List; if a property is not on the list, what can be done to make it eligible. [04/09/15 @ 12:00 PM]

Referred to Land Use and Finance Committees

#49-14 Implementation of technology to monitor compliance with special permits

LAND USE COMMITTEE requesting discussion with the Chief Financial Officer and the Chief Information Officer regarding the critical need to implement technology which enables the development, management and use of shared, searchable, mobile-accessed (both read and write) database which contains parcel-based information that can be accessed by all city departments (including Planning, Inspectional Services (ISD), Assessing, Engineering, Fire, Police, Health), the Board of Aldermen and the community. This technology must support the work of ISD and other departments in both the office and the field to more effectively and efficiently monitor and enforce compliance with approved special permits and other related Board Orders. [02/10/14 @ 6:47 PM]

Respectfully submitted;

Leonard J. Gentile, Chair



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

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(617) 796-1100

Facsimile
(617) 796-1113

TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov

November 28, 2016

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

Ladies and Gentlemen:

I am pleased to appoint Daniel Kunitz of 51 Pratt Drive, Newton as a new trustee of the Cousens Fund. He would be replacing Mark Derby, whose term expired, for a three-year appointment ending January 30, 2019 subject to your confirmation.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Setti D. Warren".

Setti D. Warren
Mayor

2016 NOV 29 AM 9:21
Daniel A. Cousens, Jr.
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

DANIEL P. KUNITZ
51 Pratt Drive
Newton, MA 02465

EDUCATION:

University of Chicago, Chicago, Illinois
M.A. Division of the Social Sciences: Major Field, Sociology, 1961
A.B. Social Sciences, 1956
B.A. Liberal Arts, 1955

National Defense Education Act Fellowships

Clark University	Experienced Teacher Fellowship (Training Teachers of Teachers) History and the Social Sciences, 1969-70 School Year
Dartmouth College	Fellowship in Political Science, Summer, 1968

National Endowment for the Arts Fellowships

Brown University	National Endowment for the Humanities Seminar - "George Kennan: Diplomat, Historian, Commentator" with Professor Charles Neu - Summer, 1989
Tufts University	National Endowment for the Humanities Seminar - "Road to Hitler through Literature" with Professor Sol Gittleman, Summer, 1986
Tufts University	(Fletcher School of Law and Diplomacy) "America and the Modern World" with Professor Seyom Brown, Summer 1985
Boston University	Advanced graduate credits in Education and Sociology
Harvard University	"Case Studies of Innovation and Intervention in Educational Settings"
Tufts University, (Lincoln Filene Center)	"Economic Education Workshop: Games and Simulations in Economics"
American Academy of Arts and Sciences	Cambridge, MA - Nuclear Issues Seminar
University of Mass.	Inclusion: Integrating students with Special Needs; Use of Portfolios and Alternative Means of Assessment
Commonwealth Literacy Corps	English as a Second Language Volunteer Tutor Training

EXPERIENCE:

2013-2015 - Newton Community Education - "Life Time Learning" - The Decades (20's, 30's, 40's, 50's and 60,s)

December, 2008 - June, 2009 - EDCO, Watertown, MA - North Crossing - U.S. History and Western Civilization, ages 13 to 18 years; Special Needs

2008 One Marking Period - Modern European History (9th grade)
Lincoln Sudbury Regional High School

2007 One Marking Period - African History and US Special Needs
Lincoln Sudbury Regional High School

2006 Three weeks Economics
Newton Public Schools, Newton North High School, Newton, MA

Academic Year 9/05 - 2/06
Lincoln Sudbury Regional High School
Teacher of Twentieth Century United States History - part time

1965 - 1997

Harvard University, Cambridge, Massachusetts

1995-97 - Supervisor of Mentors: Monitored the mentor training program, provided training to mentors, mediated problems between the mentors and their interns.

1965-1995 - Supervisor of Student Teachers: Observation and supervision of Harvard graduate students in the Graduate School of Education; provided training in the development of learning strategies, lesson planning, classroom management, assessments of students and all aspects of the teaching process.

1979-81

Lesley College, Cambridge, Massachusetts

Adjunct Faculty Member - Advisor in Independent Study Program

1971 -72

Brookline Public Schools, Brookline, Massachusetts

Teacher of Honors U.S. History in the 11th grade; Honors World History, 9th grade; General Social Science, 9th grade.

1970 - 71

Overseas School of Rome, Rome, Italy Teacher of U.S. History and American Culture to juniors and seniors; teacher of course called "Topics in Social Science" in which all participants are teacher-learners involved in an educational enterprise with decisions made by consensus. Extra curricular: Student Government, Table Tennis, Softball.

1963 - 69

Newton Public Schools, Newton, MA

Coordinator of Social Studies; Interdisciplinary Team Leader; (See section on Curriculum Development) Teacher of Social Studies, 8th grade; Supervisor of Practice Teachers,

1959 - 63

Calumet Park Public Schools,

Calumet Park, Illinois Teacher of Academically Talented Students; designed and taught special program for academically talented students - 6th, 7th and 8th grades. Program emphasized communication skills and was project centered. All day field trips on Saturdays enlarged scope of activities. Master's thesis based on interpretation and analysis of this program; contains descriptive material on various projects, pupil selection, teacher reaction, etc. Extracurricular: Interest Groups, Coach, Basketball.

1958 - 59

Calumet City Public Schools, Calumet City, Illinois - Elementary school teacher; experimented with project centered interdisciplinary approach to learning in self-contained 5th grade class.

1957 - 58

Filpaco Industries, Chicago, Illinois Purchasing Agent.

LECTURES AND PRESENTATIONS

2006 and 2007 - Brandeis University - Lectures on the Art of Teaching

2006 - Boston University - Lecture on Student Teaching

1987 - Tufts University - National Education Policy and Local School Development: The United States of America in the 1980's - Presentation to Swedish educators - "Stimulating Innovation in Schools".

1983, 1984 Summers - Tufts University

Curriculum Advisor to experienced teacher-participants - National Endowment for the Humanities Summer Institute for Secondary Teachers - "The Shaping of American Communities".

1979 - Lesley College Graduate School - "Varied Approaches to Global and Future Studies". Presenter

1978, Conference on Psychological Education - "Living History: A Ninth Grade Experiential Social Studies Program for the Enhancement of Self" - Presenter.

Academic Year 2004-05
Newton Public Schools, Newton North High School, Newton, MA
Teacher of United States History - part time

Academic Years 2002-04
Wellesley Public Schools, Wellesley, MA, Wellesley High School
Teacher of World History and U.S. History -- Part time teacher

Boston University 2001-09
Supervisor of Student teachers and cooperating teachers at F.A. Day Middle School, Wellesley High School, Newton North High School, Quincy High School, Somerville High School and Bedford High School - provided training, mediated problems between the cooperating teachers and their interns.

September 2000 - 2002
Newton Public Schools, Newton, MA -- Newton North High School
Teacher of World History -- 9th and 10th Grades (part-time)

Harvard University, Cambridge, MA (2000-01) Supervisor of Mentors and student teachers at Arlington High School.

April - June 2000
International Executive Service Corps - Jalalabad, Kyrgyzstan (Volunteer Consulting Project)
The client was a privately owned school, elementary through high school, with 160 students and 24 faculty. The goals of the project included bringing the school up to international standards, introducing a preschool component, reorganizing administration and management, introducing a marketing plan, establishing an elective program and creating the position of guidance counselor. The language of instruction in the school is Russian. All work was accomplished through a translator.

1999 - 2000
American Educational Consultants: Consultant to American schools abroad -- providing professional development, assistance with curriculum goals and instruction, accreditation and general educational consultation (Egypt, Kyrgyzstan, Palestine).

1997-1999
Thebes American College in Cairo, Cairo, Egypt
(An American Style school Pre-K through 12th Grade for Egyptian students. For most students, English is a second language.)
Academic Dean: Responsible for designing the curriculum and syllabus development K-12, selecting and purchasing the texts and establishing the library. Recruited teachers, provided staff development, inservice training, classroom observations, supervision of lesson plans and teacher performance. Supervised student academic planning. Taught courses in U.S. History and Political Science. Coordinated and supervised the accreditation process for Thebes American College in Cairo as well as the Integrated Thebes Language Schools. Schools were accredited by the Northwest Association of Schools and Colleges in 1998.

1972 -1997
Newton Public Schools, Newton, Massachusetts-- Newton North High School
Teacher of U.S. History (all levels including Advanced Placement), Contemporary Problems (seniors) and World History (9th grade - including Facing History Unit); founder and member of Human Rights Committee and Chairperson of The Global High School Committee for the development of a public International High School. Served as Advisor to the Model United Nations Club; mentor to two African-American students (part of efficacy program). Designed and taught an American Studies program. F.A. Day Junior High School - Coordinator of the Social Studies Department; Teacher of Social Studies, 7th and 9th grades; developed and taught 7th grade World History course; Supervisor of Practice Teachers; Chairperson of the Symposium Committee On Education; Interdisciplinary Team Leader.

1977 - United Nations Association - Model U.N. - Teacher workshop - "Teaching International Relations through Simulation". Presenter.

1976 - Tufts University - "Teaching Social Studies through Simulations and Games". Lecturer.

1970, Summer - Clark University, Worcester, MA - "Leader" and participant in cross-cultural Interaction Model involving students, teachers and members of the community.

1969 - Tufts University - Methods of Teaching in the Junior High School". Lecturer.

1968 - State College at Westfield - "Simulations, Educational Games and Role Playing". Lecturer.

1967, Summer - Newton Public Schools, Newton, MA - Consultant on Junior High School educational philosophy and its implementation in conjunction with planning for a new school.

CURRICULUM DEVELOPMENT

- American Studies Program: designed for use with 11th grade U.S. History and English courses.
- The Middle Ages: Religion (Judaism, Christianity and Islam),
- The Renaissance,
- Discovery and Exploration of the New World.
- Economics in the Junior High School. 1981 Sabbatical Project - Project Leader- Curriculum Workshop - "Integrating Economic Concepts into Junior High School Social Studies Curriculum".
- 9th Grade course - Black Studies - 1900 - 1920.
- Science, Technology and Change - A unit dealing with the interdependence of science and technology and its effects on current society.
- "The 19th Century American City: Case Study - Chicago in the 1890's" - 9th Grade Course
- Political science, conceptual scheme- power model. Game developed in conjunction with unit: "Success"
- "Our Town", a three-month simulation in which students relive history from 1896 through the 1930's.
- Future Studies, a 9th Grade course which had three major components:
 - I Personal Futures
 - II Post Industrial Society
 - III The Global Village

Education Development Center

Project: From Subject to Citizen, - 8th Grade Course developed for national distribution.

MEMBERSHIPS

Harvard University Teacher Center for Global Studies,
 Board of Directors OXFAM - Member of Curriculum Group.
 New England History Teachers Association, Board of Directors
 Newton Human Rights Committee, Board of Directors
 New England American Studies Association, Board of Directors

PUBLICATIONS

1980, Author: Workbook for Holt, Rinehart and Winston: People, Places and Change.
 1976, The Co-Evolution Quarterly, published by Stewart Brand. "Another Classroom Dictatorship" (description of simulation on revolution)

HONORS AND AWARDS

City of Newton, Human Rights Award
 Newton North High School Human Rights Award
 Elicker Award for Excellence in Teaching

ADDITIONAL RELEVANT EXPERIENCE**Summers 1962-64 - American Friends Service Committee, Philadelphia, PA -**

Director, High School Work Camps and Service Projects A group living/working experience comprised of approximately 20 high school students. Provided leadership for consensus building approach to problem solving, community relations, intense group living situations, etc.

- 1962 - self-help urban renewal project in inner-city Philadelphia
- 1963 - Institutional Service/Work Project, Crotched Mountain Rehabilitation Center, Greenfield, NH (rehabilitation center for physically handicapped adults and children)
- 1964 - Institutional Service Unit, Brandon State Training School, Brandon, VT (state training school for the retarded)

Newton Public Schools

Summer School, 1975, 1981, 1991, 1992, including a program (in 1992) through the Jobs Training and Placement Act for students at risk.

TRAVEL

1970 - Italy, Greece, Austria, Germany, Switzerland, The Netherlands, England ; 1987 - Soviet Union
1992 - France; 1994 - Germany; 1995 - Spain; 1996 - Israel; 1997-99 - Egypt, Malta, Cyprus, Italy, Spain, Jordan
2000 - Turkey, Uzbekistan, Kyrgyzstan; 2002 - Austria, Germany, Czech Republic; 2007 - Northern Italy



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#14-17

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(617) 796-1100

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(617) 796-1113

TDD
(617) 796-1089

E-mail
swarren@newtonma.gov

January 9, 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 authorize the appropriation and expenditure of \$67,500 from the Wells Ave/Nahanton Street and Winchester Street Traffic Improvement Develop Mitigation Funds by the Department of Public Works for the design and installation of updated pavement markings to decrease congestion at the intersection of Wells Avenue and Nahanton Street.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren
Mayor

RECEIVED
CITY OF NEWTON
2017 JAN -9 AM 11:20
DAVID A. OLSON, CHM
NEWTON, MA 02459



City of Newton, Massachusetts
Office of the Mayor

SETTI D. WARREN
MAYOR

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E-mail
swarren@newtonma.gov

January 9, 2017

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

RECEIVED
Newton City Clerk
2017 JAN -9 AM 11:20
DAVID A. OLSEN, CMC
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Council docket for consideration a request to transfer the sum of one million dollars (\$1,000,000) from Acct # 0110498-5794 Budget Reserve/Snow & Ice to the following accounts:

Sand & Salt	Acct # 0140110-5532	\$700,000
Regular Overtime	Acct # 0140110-513001	\$300,000

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren
Mayor

From: [Jack Cowell](#)
To: [Shawna Sullivan](#)
Cc: [James McGonagle](#); [Robert Symanski](#)
Subject: Snow Backup
Date: Wednesday, January 11, 2017 3:31:42 PM
Attachments: [image002.png](#)

Shawna,

Here are our snow numbers as of 1/11/17

The expenses are as follows

We have had 14.5 inches of snow over 6 Snow Events and have spent an average of \$101,234 per inch of snowfall.

	Budgeted	YTD Expenses
Personnel	\$ 283,300	\$ 438,343
Contractors	\$ 211,158	\$ 561,073
Salt	\$ 269,666	\$ 373,951
Equipment	\$ 556,979	\$ 94,521
Total	\$ 1,321,103	\$ 1,467,887

Please let me know if you have any questions

Jack Cowell
Financial Analyst – City of Newton, MA
617-796-1082



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#10-17

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(617) 796-1089

E-mail
swarren@newtonma.gov

December 28, 2016

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

2016 DEC 28 PM 4:48

Ladies and Gentlemen:

I write to request that your Honorable Council docket for consideration a request to authorize the appropriation of two million dollars (\$2,000,000) from the November 16, 2016 Overlay Surplus Declaration for the purpose of funding the City's share of the development of market rate and affordable housing units at 70 Crescent Street.

Additionally, an application has been submitted to the Community Preservation Committee requesting funding in the amount of \$1,400,000 (\$350,000 ea for 4 units) for the affordable units and \$1,300,000 for development of the Reverend Ford Park.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren
Mayor

ARTICLE IV. PURCHASES AND CONTRACTS

Sec. 2-182. Definitions.

For the purposes of this article the following words and phrases shall have the meanings respectively ascribed to them by this section:

Agent or purchasing agent: The purchasing agent appointed pursuant to the provisions of this article or an acting purchasing agent appointed pursuant to law or to any ordinance of the city.

Contractual services: All public utility services; collection and disposal of garbage; towel and cleaning services; insurance; leases for all grounds, buildings, offices or other space required by the using agencies; the repair, maintenance or operation by other than city employees and the rental, with or without attendant personnel, of equipment, machinery and other personal property. Such term shall include contractual services in the construction or repair of public buildings, highways and other public works but shall not include professional expert consultant or other contractual services which are in their nature unique and not subject to competition.

Obsolete, unsuitable for use and surplus: Supplies which have been determined to be such by the head of the using agency, and which he has decided should be replaced or disposed of; provided, that in the case of replacement, an appropriation has been made therefor.

Supplies: All supplies, materials, commodities and equipment.

Using agency: Any department, agency, commission, bureau or other unit in the city government using supplies or contractual services as provided in this article. (Rev. Ords. 1973, § 2-231)

Cross reference—Rules of construction and definitions generally, § 1-3

Sec. 2-183. Applicability and effect of article.

All purchases of supplies and contractual services shall be made in accordance with the provisions of this article to the extent required thereby, notwithstanding any inconsistent provision of any other ordinance. (Rev. Ords. 1973, § 2-232)

Sec. 2-184. Control of purchasing department.

There is hereby established a purchasing department which shall be under the charge of a purchasing agent. (Rev. Ords. 1973, §2-233)

Sec. 2-185. Purchasing agent—functions; bond required.

The purchasing agent shall be the head of and have general supervision of the purchasing department. The purchasing agent shall perform all duties required of a department head by law or by ordinance and shall have the responsibilities, powers and duties prescribed by this article. He shall give bond in an amount and with sureties satisfactory to the mayor for the faithful performance of his duties. (Rev. Ords. 1973, § 2-234)

Sec. 2-186. Same—Powers and duties generally.

(a) The purchasing agent shall have the power and it shall be his duty to purchase or contract for all

supplies and contractual services needed by any using agency which derives its support wholly or in part from city funds in accordance with purchasing procedures as prescribed by this article and such rules and regulations as may be prescribed by the mayor. Except as otherwise expressly provided in this article, the authority of the purchasing agent to negotiate all purchases for all using agencies shall not be abridged by excepting any particular using agency and it shall be unlawful for any city officer to order the purchase of any supplies or make any contract for supplies or for contractual services other than through the purchasing department. Any purchase order or contract made contrary to the provisions of this article shall not be approved by the city officials and the city shall not be bound thereby. The mayor shall have the right to exempt any category of purchases for any using agency from the provisions of this article to the extent he shall deem advisable and to revoke or modify such exemptions at any time, stating in writing his reasons therefor; however, no using agency shall be exempt, as such, from the provisions of this article.

(b) In addition to the purchasing authority conferred in this section and in addition to any other powers and duties conferred by this article, the purchasing agent shall:

- (1) Act to procure for the city the highest quality in supplies and contractual services at the least expense to the city.
- (2) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.
- (3) Establish and amend, when necessary, with the approval of the mayor, all rules and regulations authorized by this article and any others necessary to the operation of the purchasing department.
- (4) Prescribe and maintain, with the approval of the mayor, such forms for the use of either the purchasing department or the using agencies as he shall find reasonably necessary to the operation of the purchasing department.
- (5) Have the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the city for a stated period of time.
- (6) Have the power to transfer supplies, with the approval of the mayor, from one using agency to another as he may deem advisable, and to determine the resultant charge and credit to the appropriations of the respective agencies.
- (7) Have the power to sell, by public auction or competitive bid if possible, exchange or trade any supplies which have become obsolete, overage, unsuitable for use, or surplus. (Rev. Ords. 1973, § 2-235)

Sec. 2-187. Standards and specifications.

(a) The purchasing agent shall prepare and secure with the cooperation of the various department heads standards and written specifications for supplies used by the using agencies.

(b) It shall be the duty of the purchasing agent to classify supplies used in the various using agencies, to adopt as standards the minimum number of qualities, sizes and varieties of supplies consistent with the successful operation of the city government, and to prepare and adopt written specifications of all such standard supplies. Except in the cases of noncompetitive types and kinds of supplies, all specifications shall be definite and certain and shall permit of competition. After its adoption, each standard specification shall, unless revised or rescinded, apply alike in terms and effects to any future purchase

order or contract for the supply described in such specifications, except that the agent shall have the authority, with the written approval of the mayor, to exempt any using agency of the city from the use of any supply described in such specifications. The agent shall consult with the heads of the using agencies to determine their precise requirements and shall endeavor to prescribe those standards which best meet the needs of the majority of those agencies. For the purpose of complying with the requirements of this subsection, the purchasing agent shall have authority to make use of the laboratory and engineering facilities of the city and the technical staffs thereof. The purchasing agent shall enforce the written specifications adopted pursuant to this section.

(c) In all cases where supplies to be purchased are peculiar to the field of education, the school committee's determination as to the specifications of supplies to be purchased shall be conclusive upon the purchasing department. (Rev. Ords. 1973, § 2-236)

Sec. 2-188. Requisitions.

Except as provided in section 2-200, requisitions for the purchase of supplies or contractual services for any using agency shall be received by the purchasing department prior to the issuance of a purchase order or contract for such supplies or contractual services and shall be signed by the head of the using agency or his authorized agent. The purchasing agent shall examine each requisition and shall have the authority, only after consultation with the head of the using agency, to revise it as to the quantity, quality or estimated cost, but revision as to quality shall be in accordance with standards and specifications provided pursuant to section 2-187. The purchasing agent shall promptly and in writing notify the head of the requisitioning agency of any such revisions, and if dissatisfied therewith, the head of such agency shall have the right, at any time within forty-eight (48) hours after the receipt of such notice, to cancel the requisition, which cancellation shall also be in writing. (Rev. Ords. 1973, § 2-237)

Sec. 2-189. Estimates of using agencies.

All using agencies of the city shall file with the purchasing department detailed estimates of their requirements for supplies and contractual services in such manner, at such times and for such future periods as the purchasing agent shall prescribe. This shall not prevent the using agency from filing with the purchasing department at any time a requisition for any supplies or contractual services the need for which was not foreseen when the detailed estimates were filed. (Rev. Ords. 1973, § 2-238)

Sec. 2-190. Certification of unencumbered funds.

Except in cases of emergency, the purchasing agent shall not issue any order for delivery on a contract or open market purchase, or for transfer of supplies from one using agency to another, until the comptroller of accounts shall have certified that there is to the credit of the using agency concerned or to the credit of the purchasing department, a sufficient unexpended and unencumbered appropriation balance to defray the amount of such order. (Rev. Ords. 1973, § 2-239)

Sec. 2-191. Inventory; surplus stock.

All using agencies shall submit to the purchasing department at such times as the purchasing agent shall prescribe, and in any event at each calendar year end, full and complete inventories of the personal property under the charge of such using agency for each such item of property with a value of one hundred dollars (\$100.00) or more. All using agencies shall submit to the purchasing agent at such times as he shall prescribe reports showing stocks on hand of all supplies which are no longer used or shall have become obsolete, overage, unsuitable for use, or surplus. The purchasing agent shall have the authority, with the approval of the mayor, to transfer surplus stock to other using agencies. The purchasing agent

shall require a perpetual inventory to be maintained and prescribe procedures, rules and regulations for so doing. (Rev. Ords. 1973, § 2-240; Ord. No. U-9, 5-2-94)

Sec. 2-192. Storerooms, warehouses, etc.; storerooms revolving fund.

The purchasing agent may formulate policies and procedures for the purpose of establishing, coordinating and consolidating storage and warehouse procedures and practices among the various using agencies. Policies and procedures so established, when approved by the mayor, shall be put into effect under instructions from the purchasing agent. The purchasing agent shall control and supervise all storerooms and warehouses assigned to the purchasing department. The board of aldermen may provide a storerooms revolving fund for the purchase and storage of supplies which are used in large quantities and which may be purchased and stored advantageously. Such funds shall be under the control of the purchasing agent who shall also be responsible and accountable for all supplies in the custody of the purchasing department and shall maintain a perpetual inventory record thereof. Requisitions for supplies purchased from the storerooms revolving fund shall be credited by the purchasing agent to the storerooms revolving fund by a charge against the appropriation of the using agency. The filling of such requisitions shall be made only after certification of the comptroller of accounts as provided in section 2-190. (Rev. Ords. 1973, § 2-241)

Sec. 2-193. Purchases and sales of more than two thousand dollars—Competitive bids required; exception.

All purchases of and contracts for supplies and contractual services and all sales pursuant to this article involving a sum of two thousand dollars (\$2,000.00) or more shall be based upon competitive bids unless the mayor gives written authority to do otherwise, stating his reasons therefor. (Rev. Ords. 1973, § 2-242; Ord. No. 25, 11-4-74)

Sec. 2-194. Same—Solicitation of bids.

Proposals for contracts under section 2-193 shall be invited by advertisements in not less than two (2) newspapers published in the city or of general circulation therein at least one week preceding the date specified for the opening of such proposals. Such notice shall include a general description of the articles to be purchased or sold, shall state where the bid blanks and specifications may be secured and the time and place for opening bids, and shall reserve to the city the right to reject any such proposals. The purchasing agent shall also solicit sealed bids from responsible prospective suppliers or purchasers, including those who have requested their names to be added to a "bidders' list" which the purchasing agent shall maintain, by sending them a copy of such or such other notice as will acquaint them with the proposed purchase or sale, but invitations sent to the suppliers on the bidders' list shall be limited to commodities which are similar in character to those ordinarily handled by the trade group to which the invitations are sent. The purchasing agent shall also advertise all pending purchases or sales by notice published on a bulletin board in the office of the department. (Rev. Ords. 1973, § 2-243)

Sec. 2-195. Same—Submittal of bids; when security required; return of security.

All bids for purchases under section 2-193 shall be submitted sealed to the purchasing department and, when deemed necessary by the purchasing agent, shall be accompanied by security in the form of a check, cash or bond in such amount as shall be prescribed in the public notice inviting bids. Unsuccessful bidders shall be entitled to return of the security where the purchasing agent has required such. A successful bidder shall be entitled to the return of his security upon his entering into a contract within ten (10) days after written notice to him of the award, but shall, at the discretion of the purchasing agent, forfeit any such security upon failure on his part to enter into a contract within such time. (Rev. Ords.

1973, § 2-244; Ord. No. 35, 1-6-75)

Sec. 2-196. Same—Opening and tabulation of bids.

Bids for purchases under section 2-193 shall be opened in public at the time and place stated in the newspaper notice which shall also be the closing time for bids. A tabulation of all bids received shall be posted for public inspection in the purchasing agent's office and a record of same maintained by the purchasing agent. (Rev. Ords. 1973, § 2-245)

Sec. 2-197. Same—Rejection of bids generally.

The purchasing agent shall have the authority to reject any bids or parts of bids or bids for any one or more supplies or contractual services included in the proposed contract under section 2-193 when he shall deem that the public interest shall be served thereby. (Rev. Ords. 1973, § 2-247)

Sec. 2-198. Same—Award of contract.

Contracts for purchases under section 2-193 shall be awarded to the lowest responsible bidder and contracts for sales shall be awarded to the highest responsible bidder. In determining the lowest or highest responsible bidder, the purchasing agent may consider, in addition to price, the quality, the cost of maintenance and availability of parts, the terms of delivery offered, the experience of the bidder, the sufficiency of the financial resources of the bidder, and the reputation of the bidder for ability, integrity, judgment and performance, as well as the ability of the bidder to provide future maintenance and service. In the case of tie bids, the purchasing agent shall have the authority to award the contract to one of the tie bidders; except when quality, price and service are equal, preference shall be given to bidders doing business in the city or to bidders who have already established a satisfactory service reputation with the city. When the award is not given to the lowest bidder or the highest bidder, as the case may be, a full and complete statement of the reasons for awarding the contract elsewhere shall be prepared by the purchasing agent and filed with the other papers relating to the transactions. (Rev. Ords. 1973, § 2-249)

Sec. 2-199. Purchases and sales involving less than two thousand dollars.

All purchases and sales where the amount involved is less than two thousand dollars (\$2,000.00) may be made in the open market without newspaper advertisement and without observing the procedure prescribed by sections 2-193 to 2-198 for the award of contracts. All open market purchases or sales shall, when feasible, be based on at least three (3) competitive bids and shall be awarded to the lowest or highest responsible bidder, as the case may be. The purchasing agent may solicit bids, preferably by direct mail request to prospective vendors or by telephone, and shall solicit bids by public notice posted on a bulletin board in the office of the purchasing department as long as possible before the contemplated purchase date. The purchasing agent shall keep a record of all open market orders and the bids submitted in competition therein, which record shall be open to public inspection. (Rev. Ords. 1973, § 2-250)

Sec. 2-200. Purchases in emergencies.

In case of apparent emergency which requires the immediate purchase of supplies or contractual services for the protection of the health or safety of persons or property, the purchasing agent may, with the written approval of the mayor, or in his absence the acting mayor, acquire such supplies or contractual services by open market procedure in accordance with section 2-199, regardless of the amount of the expenditure. In case of an actual emergency, the head of any using agency may, with the approval in writing of the purchasing agent or the mayor, purchase directly any supplies or contractual services immediate procurement of which is essential to the health or safety of persons or property. The head of

such using agency shall send to the purchasing department a requisition and a copy of the delivery record. In every case of the purchase of supplies or contractual services under this section, a full written report of the circumstances of the emergency shall be made by the purchasing agent or the head of the using agency, as the case may be, and shall be filed by the purchasing department as a permanent and public record of the purchase. (Rev. Ords. 1973, § 2-251)

Sec. 2-201. Inspection and testing of purchases.

The purchasing agent shall inspect or supervise the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract. The purchasing agent shall have the authority to authorize any using agency having the staff and facilities for adequate inspection to inspect all deliveries made to such using agency under rules and regulations prescribed by the purchasing agent. The purchasing agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformity with the specifications. To perform such tests the purchasing agent shall have the authority to make use of laboratory facilities of any agency of the city government or of an outside laboratory. (Rev. Ords. 1973, § 2-252)

Sec. 2-202. Splitting requisitions, orders, etc., to avoid requirements.

No requisition, order or contract shall be subdivided to avoid any of the requirements of this article. (Rev. Ords. 1973, § 2-253)

Sec. 2-203. Financial interest of city employees in purchases.

Any purchase order or contract made on behalf of the city under this article or otherwise in which the purchasing agent or any employee of his department, the heads of using agencies or any other officer or employee of the city having a part in the placing of such order or contract is financially interested, directly or indirectly, shall be void. (Rev. Ords. 1973, § 2-254)

Sec. 2-204. Mayor to give written notice to the board of aldermen in certain instances.

Whenever the board of aldermen approves special appropriations for a city contract based on factual representations and written provisions as to the nature and content of said contract, it shall be the obligation of the mayor to give written notice to the clerk of the board of aldermen of any and all subsequent changes or amendments to said original contract prior to the execution by the mayor of such contract amendment. (Ord. No. R-303, 4-19-83)

Sec. 2-205. Installation of synthetic in-filled turf athletic fields on city-owned property.

The installation of synthetic in-filled turf athletic fields on city-owned property shall use sustainable, recyclable, lead-free, non-toxic products to the maximum extent feasible. The department responsible for the project, in conjunction with the city's chief procurement officer, shall make the determination of the maximum extent feasible for installation in any particular site. The determination shall take into account the best available technology, cost effectiveness, public health and safety, and environmental risks and benefits, and shall consider each proposed installation in light of site conditions, engineering feasibility, commercial availability, public safety, environmental impact and cost. Cost, however, shall not be the overriding factor in determining maximum extent feasible, and a determination of cost shall include consideration of projected life cycle costs including maintenance, repair, replacement, recycling and/or disposal costs over the estimated useful life of the installation. (Ord. No. Z-96, 11-07-11)

RECEIVED
Newton City Clerk

CITY OF NEWTON

2016 APR 27 PM 1:39

DOCKET REQUEST FORM

DEADLINE NOTICE: Council Rules require items to be docketed with the Clerk of the Council NO LATER THAN 7:45 P.M. ON THE MONDAY PRIOR TO A FULL COUNCIL MEETING.

To: Clerk of the City Council

Date: April 27, 2016From (Docketer): Councilor Sangiolo

Address: _____

Phone: _____

E-mail: _____

Additional sponsors: _____

1. Please docket the following item (it will be edited for length if necessary):

Councilor Sangiolo requesting creation of a policy or ordinance related to interest charges on late payments of utility bills to the City and proportional return of interest charges if or when the utility bill is abated.

2. The purpose and intended outcome of this item is:

- ☐ Fact-finding & discussion
☐ Appropriation, transfer,
☐ Expenditure, or bond authorization
☐ Special permit, site plan approval,
☐ Zone change (public hearing required)

- ☒ Ordinance change
☐ Resolution
☐ License or renewal
☐ Appointment confirmation
☐ Other: _____

3. I recommend that this item be assigned to the following committees:

- ☐ Programs & Services
☐ Zoning & Planning
☐ Public Facilities

- ☒ Finance
☐ Public Safety
☐ Land Use

- ☐ Real Property
☐ Special Committee
☐ No Opinion

4. This item should be taken up in committee:

- ☐ Immediately (Emergency only, please). Please state nature of emergency:

- ☒ As soon as possible, preferably within a month
☐ In due course, at discretion of Committee Chair
☐ When certain materials are made available, as noted in 7 & 8 on reverse
☐ Following public hearing

PLEASE FILL OUT BOTH SIDES

5. I estimate that consideration of this item will require approximately:

#173-16

- | | |
|------------------------------------------------|----------------------------------------------------------------|
| <input type="checkbox"/> One half hour or less | <input type="checkbox"/> Up to one hour |
| <input type="checkbox"/> More than one hour | <input type="checkbox"/> An entire meeting |
| <input type="checkbox"/> More than one meeting | <input type="checkbox"/> Extended deliberation by subcommittee |

6. The following people should be notified and asked to attend deliberations on this item. (Please check those with whom you have already discussed the issue, *especially relevant Department Heads*):

City personnel

Citizens (include telephone numbers/email please)

- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____

- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____

7. The following background materials and/or drafts should be obtained or prepared by the Clerk's office prior to scheduling this item for discussion:

8. I ☐ have or ☐ intend to provide additional materials and/or undertake the following research independently prior to scheduling the item for discussion. *

(*Note to docketer: Please provide any additional materials beyond the foregoing to the Clerk's office by 2 p.m. on Friday before the upcoming Committee meeting when the item is scheduled to be discussed so that Councilors have a chance to review all relevant materials before a scheduled discussion.)

Please check the following:

9. ☐ I would like to discuss this item with the Chairman before any decision is made on how and when to proceed.
10. ☐ I would like the Clerk's office to contact me to confirm that this item has been docketed. My daytime phone number is:
11. ☐ I would like the Clerk's office to notify me when the Chairman has scheduled the item for discussion.

Thank you.

Amy Sangiolo
Signature of person docketing the item

[Please retain a copy for your own records]

CITY COUNCIL

RECEIVED
Newton City Clerk

CITY OF NEWTON

DOCKET REQUEST FORM

2016 JAN 19 PM 2:35

DEADLINE NOTICE: Council Rules require items to be docketed with the Clerk of the Council NO LATER THAN 7:45 P.M. ON THE MONDAY PRIOR TO A FULL COUNCIL MEETING.

Newton, MA 02459

To: Clerk of the City Council

Date: January 15, 2016From (Docketer): Councilor Sangiolo

Address: _____

Phone: _____

E-mail: _____

Additional sponsors: _____

1. Please docket the following item (it will be edited for length if necessary):

Councilor SANGIOLO requesting that City of Newton formally accept and/or take all necessary steps to accept Mass General Law chapter 149 section 148C, in order to qualify full-time, part-time, seasonal, and temporary employees coverage under the earned sick time regulation, 940 CMR 33, as approved by the voters of Massachusetts in the 2014 Election – Ballot question 4 – Earned Sick Time for Employees

2. The purpose and intended outcome of this item is:

- ☐ Fact-finding & discussion
☐ Appropriation, transfer,
☐ Expenditure, or bond authorization
☐ Special permit, site plan approval,
☐ Zone change (public hearing required)

- ☒ Ordinance change
☐ Resolution
☐ License or renewal
☐ Appointment confirmation
☐ Other: _____

3. I recommend that this item be assigned to the following committees:

- | | | |
|----------------------------------------------|---------------------------------------------|--------------------------------------------|
| <input type="checkbox"/> Programs & Services | <input checked="" type="checkbox"/> Finance | <input type="checkbox"/> Real Property |
| <input type="checkbox"/> Zoning & Planning | <input type="checkbox"/> Public Safety | <input type="checkbox"/> Special Committee |
| <input type="checkbox"/> Public Facilities | <input type="checkbox"/> Land Use | <input type="checkbox"/> No Opinion |

4. This item should be taken up in committee:

- ☐ Immediately (Emergency only, please). Please state nature of emergency:

- ☒ As soon as possible, preferably within a month
☐ In due course, at discretion of Committee Chair
☐ When certain materials are made available, as noted in 7 & 8 on reverse
☐ Following public hearing

PLEASE FILL OUT BOTH SIDES

[Print](#)**PART I** ADMINISTRATION OF THE GOVERNMENT**TITLE XXI** LABOR AND INDUSTRIES**CHAPTER 149** LABOR AND INDUSTRIES**Section 148C** Earned sick time

[Text of section added by 2014, 505, Sec. 1 effective July 1, 2015. See 2014, 505, Sec. 4.]

Section 148C. (a) As used in this section and section 148D, the following words, unless the context clearly requires otherwise, shall have the following meanings:?

"Child", a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person who has assumed the responsibilities of parenthood.

"Earned paid sick time", the time off from work that is provided by an employer to an employee as computed under subsection (d) that can be used for the purposes described in subsection (c) and is compensated at the same hourly rate as the employee earns from the employee's employment at the time the employee uses the paid sick time; provided, however, that this hourly rate shall not be less than the effective minimum wage under section 1 of chapter 151.

"Earned sick time", the time off from work that is provided by an employer to an employee, whether paid or unpaid, as computed under subsection (d) that can be used for the purposes described in subsection (c).

"Employee", any person who performs services for an employer for wage, remuneration, or other compensation, except that employees employed by cities and towns shall only be considered Employees for purposes of this law if this law is accepted by vote or by appropriation as provided in Article CXV of the Amendments to the Constitution of the Commonwealth.

"Employer", any individual, corporation, partnership or other private or public entity, including any agent thereof, who engages the services of an employee for wages, remuneration or other compensation, except the United States government shall not be considered an Employer and cities and towns shall only be considered Employers for the purposes of this law if this law is accepted by vote or by appropriation as provided in Article CXV of the Amendments to the Constitution of the Commonwealth.

#40-16

"Health care provider", the meaning given this term by the Family and Medical Leave Act of 1993, 29 U.S.C. sections 2601 to 2654, inclusive, as it may be amended and regulations promulgated thereunder.

"Parent", a biological, adoptive, foster or step-parent of an employee or of an employee's spouse; or other person who assumed the responsibilities of parenthood when the employee or employee's spouse was a child.

"Spouse", the meaning given this term by the marriage laws of the commonwealth.

(b) All employees who work in the commonwealth who must be absent from work for the reasons set forth in subsection (c) shall be entitled to earn and use not less than the hours of earned sick time provided in subsection (d).

(c) Earned sick time shall be provided by an employer for an employee to:

(1) care for the employee's child, spouse, parent, or parent of a spouse, who is suffering from a physical or mental illness, injury, or medical condition that requires home care, professional medical diagnosis or care, or preventative medical care; or

(2) care for the employee's own physical or mental illness, injury, or medical condition that requires home care, professional medical diagnosis or care, or preventative medical care; or

(3) attend the employee's routine medical appointment or a routine medical appointment for the employee's child, spouse, parent, or parent of spouse; or

(4) address the psychological, physical or legal effects of domestic violence as defined in subsection (g1/2) of section 1 of chapter 151A, except that the definition of employee in subsection (a) will govern for purposes of this section.

(d)(1) An employer shall provide a minimum of one hour of earned sick time for every thirty hours worked by an employee. Employees shall begin accruing earned sick time commencing with the date of hire of the employee or the date this law becomes effective, whichever is later, but employees shall not be entitled to use accrued earned sick time until the 90th calendar day following commencement of their employment. On and after this 90 day period, employees may use earned sick time as it accrues.

(2) Nothing in this chapter shall be construed to discourage or prohibit an employer from allowing the accrual of earned sick time at a faster rate, or the use of earned sick time at an earlier date, than this section requires.

#40-16

(3) Employees who are exempt from overtime requirements under 29 U.S.C. section 213(a) (1) of the Federal Fair Labor Standards Act shall be assumed to work 40 hours in each work week for purposes of earned sick time accrual unless their normal work week is less than 40 hours, in which case earned sick time shall accrue based on that normal work week.

(4) All employees employed by an employer of eleven or more employees shall be entitled to earn and use up to 40 hours of earned paid sick time from that employer as provided in subsection (d) in a calendar year. In determining the number of employees who are employed by an employer for compensation, all employees performing work for compensation on a full-time, part-time or temporary basis shall be counted.

(5) Notwithstanding section 17 of chapter 15D, sections 70-75 of chapter 118E, or any other special or general law to the contrary, the PCA Quality Home Care Workforce Council shall be deemed the Employer of all Personal Care Attendants, as defined in section 70 of chapter 118E, for purposes of subsection (d)(4) of this section, the Department of Medical Assistance shall be deemed the Employer of said Personal Care Attendants for all other purposes under this section, and the Department of Early Education and Care shall be deemed the Employer of all Family Child Care Providers, as defined in section 17(a) of chapter 15D, for purposes of this section.

(6) All employees not entitled to earned paid sick time from an employer pursuant to subsection (d)(4)-(5) shall be entitled to earn and use up to 40 hours of earned unpaid sick time from that employer as provided in subsection (d) in a calendar year.

(7) Earned sick time shall be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time. Employees may carry over up to 40 hours of unused earned sick time to the next calendar year, but are not entitled to use more than 40 hours in one calendar year. Employers shall not be required to pay out unused earned sick time upon the separation of the employee from the employer.

(e) If an employee is absent from work for any reason listed in subsection (c) and, by mutual consent of the employer and the employee, the employee works an equivalent number of additional hours or shifts during the same or the next pay period as the hours or shifts not worked due to reasons listed in subsection (c), an employee shall not be required to use accrued earned sick time for the employee's absence during that time period and the employer shall not be required to pay for the time the employee was so absent. An employer shall not require such employee to work additional hours to make up for the hours during which the employee was so absent or require that the employee search for or find a replacement employee to cover the hours during which the employee is utilizing earned sick time.

#40-16

(f) Subject to the provisions of subsection (n), an employer may require certification when an earned sick time period covers more than 24 consecutively scheduled work hours. Any reasonable documentation signed by a health care provider indicating the need for earned sick time taken shall be deemed acceptable certification for absences under subsection (c) (1), (2) and (3). Documentation deemed acceptable under subsection (g1/2) of section 1 of chapter 151A shall be deemed acceptable documentation for absences under subsection (c) (4). An employer may not require that the documentation explain the nature of the illness or the details of the domestic violence. The employer shall not delay the taking of earned sick time or delay pay for the period in which earned sick time was taken for employees entitled to pay under subsection (d), on the basis that the employer has not yet received the certification. Nothing in this section shall be construed to require an employee to provide as certification any information from a health care provider that would be in violation of section 1177 of the Social Security Act, 42 U.S.C. 1320d?6, or the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d?2 note.

(g) When the use of earned sick time is foreseeable, the employee shall make a good faith effort to provide notice of this need to the employer in advance of the use of the earned sick time.

(h) It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under or in connection with this section, including, but not limited to, by using the taking of earned sick time under this section as a negative factor in any employment action such as evaluation, promotion, disciplinary action or termination, or otherwise subjecting an employee to discipline for the use of earned sick time under this section.

(i) It shall be unlawful for any employer to take any adverse action against an employee because the employee opposes practices which the employee believes to be in violation of this section, or because the employee supports the exercise of rights of another employee under this section. Exercising rights under this section shall include but not be limited to filing an action, or instituting or causing to be instituted any proceeding, under or related to this section; providing or intending to provide any information in connection with any inquiry or proceeding relating to any right provided under this section; or testifying or intending to testify in any inquiry or proceeding relating to any right provided under this section.

(j) Nothing in this section shall be construed to discourage employers from adopting or retaining earned sick time policies more generous than policies that comply with the requirements of this section and nothing in this section shall be construed to diminish or impair the obligation of an employer to comply with any contract, collective bargaining agreement, or any employment benefit program or plan in effect on the effective date of this

#40-16

section that provides to employees greater earned sick time rights than the rights established under this section.

(k) Employers required to provide earned paid sick time who provide their employees paid time off under a paid time off, vacation or other paid leave policy who make available an amount of paid time off sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under this section are not required by this section to provide additional earned paid sick time.

(l) The attorney general shall enforce this section, and may obtain injunctive or declaratory relief for this purpose. Violation of this section shall be subject to paragraphs (1), (2), (4), (6) and (7) of subsection (b) of section 27C and to section 150.

(m) The attorney general shall prescribe by regulation the employer's obligation to make, keep, and preserve records pertaining to this section consistent with the requirements of section 15 of chapter 151.

(n) The attorney general may adopt rules and regulations necessary to carry out the purpose and provisions of this section, including the manner in which an employee who does not have a health care provider shall provide certification, and the manner in which employer size shall be determined for purposes of subsection (d)(4).

(o) Notice of this section shall be prepared by the attorney general, in English and in other languages required under clause (iii) of subsection (d) of section 62A of chapter 151A. Employers shall post this notice in a conspicuous location accessible to employees in every establishment where employees with rights under this section work, and shall provide a copy to their employees. This notice shall include the following information:

(1) information describing the rights to earned sick time under this section;

(2) information about the notices, documentation and any other requirements placed on employees in order to exercise their rights to earned sick time;

(3) information that describes the protections that an employee has in exercising rights under this section;

(4) the name, address, phone number, and website of the attorney general's office where questions about the rights and responsibilities under this section can be answered; and

(5) information about filing an action under this section.

Earned Sick Time in Massachusetts Frequently Asked Questions

These FAQs are based upon the Massachusetts Earned Sick Time Law, M.G.L. c. 149, § 148C, and its accompanying regulations, 940 CMR 33.00.

The Earned Sick Time Law sets minimum requirements; employers may choose to provide more generous policies.

Table of Contents

Section 1: Introduction, Applicability & Eligibility	2
Subsection A: Introduction	2
Subsection B: Employees Eligible for Earned SickTime.....	2
Subsection C: Which Employers Need to Provide Earned SickTime?	4
Section 2: Paid versus Unpaid Earned Sick Time	5
Section 3: General Rules.....	6
Subsection A: How is Earned Sick Time Accrued?	6
Subsection B: Carryover of hours from one year to the next.....	7
Subsection C: Permissible Uses of Earned SickTime	8
Subsection D: Payment of Earned Sick Time	9
Section 4: Implementing the Earned Sick Time Law.....	11
Section 5: Using Other Paid Time Off (PTO) Policies	14
Section 6: Notification Requirements and Options for Employees Using Earned Sick Time	16
Section 7: Documentation Requirements and Options for Employers	17
Section 8: Recordkeeping and Disclosure Obligations for Employers	18
Section 9: Retaliation Prohibited.....	19
Section 10: Violations	19
Section 11: Additional Information (www.mass.gov/ago/earnedsicktime).....	20

Massachusetts Attorney General's Office – Earned Sick Time FAQs
December 17, 2015

Section 1: Introduction, Applicability & Eligibility

Subsection A: Introduction

Q: When do employers have to start complying with the law?

A: All employers must begin complying with the Earned Sick Time Law on July 1, 2015.

Some employers who already offer paid sick leave or paid time off can keep those policies in place until December 31, 2015, provided they meet the requirements of the Attorney General's safe harbor provision (section 33.03 of the regulations).

Q. What does the Earned Sick Time Law do?

A. The law entitles Massachusetts employees to earn up to 40 hours per year of sick leave to address certain personal and family needs. The number of hours to which an employee is entitled is related to the number of hours worked. An employee would be entitled to 40 hours of sick leave per year if the employee worked enough hours to earn 40 hours of earned sick time.

All employers must provide earned sick time, but only employers of 11 or more employees must provide earned sick time that is paid. Smaller employers must also provide earned sick time, but it may be unpaid.

Q: Where can I find more information about the law?

A: The Attorney General's website has more information about the law and regulations:
www.mass.gov/ago/earnedsicktime.

Subsection B: Employees Eligible for Earned Sick Time

Q: Which employees are eligible for earned sick time?

A: Most employees who work in Massachusetts are eligible, including full-time, part-time, seasonal, per-diem, and temporary employees. To be eligible, an employee's **primary place of work** must be in Massachusetts.

Q: Are any employees exempted from earned sick time?

A: There are several types of workers who are not eligible for earned sick time under the law:

- 1) an employee of the United States government;
- 2) a student attending a public or private institution of higher education in Massachusetts who is:
 - a. participating in a federal work-study program or a substantially similar financial aid or scholarship program;
 - b. providing support services to residents of a residence hall, dormitory, apartment building, or other similar residence operated by the institution at which the student is matriculated in exchange for a waiver or reduction of room, board, tuition, or other education-related expenses; or
 - c. exempt from Federal Insurance Contributions Act (FICA) tax pursuant to 26 U.S.C. § 3121(b)(10);
- 3) a school-aged student under 20 U.S.C. § 1400 et. seq., the Individuals with Disabilities Education Act (IDEA); or
- 4) an adult client participating in a Massachusetts licensed program and performing work duties within the program setting as part of bona fide educational or vocational training.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
December 17, 2015

Q: Does this law apply to independent contractors?

A: No. Properly classified independent contractors are not employees.

Determining if someone is an employee or independent contractor depends on several factors. These factors include how much supervision, direction, and control the employer has over the services being provided. Workers may meet the legal standard for classification as employees but may be misclassified as independent contractors by their employer and improperly denied access to earned sick time and other benefits.

For more information, please visit: <http://www.mass.gov/ago/doing-business-in-massachusetts/labor-laws-and-public-construction/massachusetts-independent.html>.

Q: Does the law apply to municipal employees?

A: No. Employees of a city or town, as well as local public employers not covered by the term cities and towns, such as school committees, including regional schools and educational collaboratives, are not eligible for earned sick time. Municipalities can, consistent with the state constitution, opt in to the law.

Q: Does the law apply to state employees?

A: Yes.

Q: Are non-profit employees eligible for Earned Sick Time?

A: Yes.

Q: Are unionized employees eligible for Earned Sick Time?

A: Yes.

Q: Are domestic workers eligible for Earned Sick Time?

A: Yes.

Q: Are per-diem workers eligible for Earned Sick Time?

A: Yes.

Q: Are county employees eligible for Earned Sick Time?

A: Yes.

Q: Is there a minimum amount of hours that must be worked in order for an employee to be eligible for earned sick time?

A: No. Employees working very few hours will simply accrue more slowly.

Q: How do I know if my primary place of work is in Massachusetts?

A: For most employees, the location where they do most of their work for their employer is their primary place of work.

- 1) If the employee spends work hours traveling outside Massachusetts (making deliveries, engaging in sales, etc.) but returns regularly to a Massachusetts base of operations before resuming a new travel schedule, Massachusetts is the primary place of work.
- 2) If an employee is constantly switching locations of work, the primary place of work may be determined by assessing the state in which the employee spent the plurality of his or her working

Massachusetts Attorney General's Office – Earned Sick Time FAQs
December 17, 2015

time over the previous benefit year. For new employees, employers should make a reasonable assessment of the primary place of work.

- 3) If an employee telecommutes through an arrangement with his or her employer to a Massachusetts worksite, Massachusetts is the primary place of work even though the employee does not physically spend those telecommuting hours in Massachusetts.
- 4) It is not necessary for an employee to spend 50% of the employee's working time in Massachusetts for it to be the employee's primary place of work.
- 5) If an employee permanently relocates into Massachusetts, the employee's primary place of work will become Massachusetts on the first date of actual work in Massachusetts.

Q: What if an employee moves between worksites often enough that the employer cannot determine a primary place of work, for example, in the construction industry? How should the employer determine the primary place of work?

A: Such an employee's "primary place of work" for a benefit year will be the state in which the employee worked for the most hours during the previous twelve-month benefit year. If the employee did not work for the employer during the previous benefit year and the employer cannot otherwise determine a primary place of work, then the employer need only allow the employee to accrue earned sick time on hours worked in Massachusetts.

Q: If an employee doesn't live in Massachusetts, could he or she be eligible to earn sick time?

A: Yes, if Massachusetts is his or her primary place of work.

Subsection C: Which Employers Need to Provide Earned Sick Time?

Q: Which employers have to provide earned sick time?

A: Nearly all employers in Massachusetts must provide their employees with the ability to accrue and use earned sick time.

The only employers not required to provide earned sick time are the United States government, Massachusetts cities and towns, and certain other local public employers, such as school committees, including regional schools and educational collaboratives.

Q: What happens to an employee's earned sick time if their employer sells the business?

A: If an employer sells its business or the business is otherwise acquired by another business, an employee will retain and may use all accrued sick time. If the successor employer has fewer than eleven employees, and the former employer had eleven or more employees, the employee is entitled to use and be compensated for unused sick time accrued while working for the former employer, until such sick time is exhausted.

Q: Do employers based outside of Massachusetts have to provide earned sick time?

A: If an employer has an employee or employees with a primary place of work in Massachusetts, then the employer must provide the employee or employees with earned sick time.

Q: Do employers with less than 50 employees have to provide earned sick time?

A: All employers, regardless of the number of employees, must provide earned sick time.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
December 17, 2015

Q: Does an employer have to provide earned sick time to employees who also work for other employers?

A: Yes. Each employer must provide each employee with the ability to accrue and use up to 40 hours of earned sick time in a benefit year.

Q: Do school committees have to provide earned sick time? How about regional school committees?

A: No, for the purposes of the Earned Sick Time law, school committees are an exception to the term “employer” and do not have to provide sick time unless the Earned Sick Time law is accepted by vote or by appropriation.

Section 2: Paid versus Unpaid Earned Sick Time

Q: Does the earned sick time need to be paid?

A: The employer's size determines if the earned sick leave must be paid. If an employer has 11 or more employees, then earned sick time **MUST** be paid. If an employer has 10 or fewer employees, then earned sick time **MAY** be unpaid.

Q: How do you determine the size of the employer?

Employers should count all employees who work for pay on a full-time, part-time, seasonal, per diem, or temporary basis. This includes employees in other states or countries. Owners and officers who are on the company's payroll count as employees for the purposes of these regulations.

Employers shall determine whether the employer has 11 or more employees by counting the number of employees, including full time, part-time, seasonal, and temporary employees, on the payroll during each pay period of the benefit year and dividing by the number of pay periods. If the employer has pay periods with no one on the payroll, the number of employees counted for that pay period is zero.

Q: How often does an employer have to determine employer size?

A: Once per year.

Q: If some employees don't live in Massachusetts, do they count toward the number of employees?

A: Yes, it does not matter where the employee lives. When determining employer size, employers are to count all employees in all locations.

Q: What if I am a new employer – how do I calculate the size of my new company?

A: The employer should use a real-time calculation of employees in the first year, recognizing that an employer is not required to provide paid sick leave until the number of employees is 11 or more.

Q: If the employer has multiple locations, do all employees count toward the number of employees?

A: It depends on the relationship between the entities, including how they operate and if the employees are interchangeable.

Q: Who is the employer of a “temp worker”?

A: Employees furnished to an employer by a temporary staffing agency and paid by the staffing agency count as employees of both the staffing agency and the employer for the purpose of determining employer

Massachusetts Attorney General's Office – Earned Sick Time FAQs
December 17, 2015

size.

Section 3: General Rules

Subsection A: How is Earned Sick Time Accrued?

Q: How do employees earn sick time?

A: Employers have several options to provide their employees earned sick time. Employees can accrue time as they work, or may be provided with a lump sum on a monthly or yearly basis.

Q: If accruing earned sick time based on number of hour worked, at what rate is it accrued?

A: One hour of earned sick time is accrued for every 30 hours worked. In other words: employers must allow employees to accrue at a rate no slower than 1 hour earned for every 30 hours worked.

Q: If employers provide earned sick time in a lump sum each month or year, how much earned sick time must be given to employees?

A: The amount must be the equivalent of no less than 1 hour of earned sick time for every 30 hours worked. For more options about earned sick time schedules, please see “Section 5: Using Other Paid Time Off (PTO) Policies Instead.”

Q: How much earned sick time do employees get?

A: An employee must be allowed to accrue 40 hours per benefit year if the employee works sufficient hours. For example, an employee who accrues on hourly basis would have to work 1,200 hours to accrue 40 hours of earned sick time. Employees must be allowed to use up to 40 hours per year for authorized purposes if they have earned that time.

Q: When does an employee start accruing?

A: Employees begin accruing earned sick time on their first date of actual work.

Q: What hours count towards accrual?

A: All hours worked by an employee, including overtime and hours worked outside of Massachusetts, count towards the accrual of earned sick time.

Example: If an employee for a catering company located in Massachusetts works 900 hours in Massachusetts and 150 hours in other states, that employee will earn sick time on all 1,050 hours worked for the company.

Q: Do employees accrue earned sick time while they are on vacation or other leave?

A: No. Employees are only entitled to accrue earned sick time for hours actually worked.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Subsection B: Carryover of hours from one year to the next

Q: How many hours of earned sick time can an employee carry over from one year to the next?

A: The method by which an employee earns sick time determines if an employer must allow carryover of unused earned sick time.

Employer's Policy	Employer's Carryover Obligation
The employee is provided earned sick time via accrual.	The employee must be allowed to carry over at least 40 hours of unused earned sick time into the next year.
The employee is provided earned sick time in a lump sum allocation of at least 40 hours at the beginning of each <i>benefit year</i> .	The employer <i>is not</i> obligated to allow an employee to carry over unused earned sick time into the next year.
The employee is provided earned sick time in a lump sum allocation at the beginning of each <i>month</i> .	The employer <i>is</i> obligated to allow an employee to carry over at least 40 hours of unused earned sick time into the next year.
The employee is paid out for unused earned sick time at end of benefit year (which is not required but employers may elect to do so).	<p>If the employer elects to pay out unused earned sick time to an employee, then the following rules apply:</p> <ul style="list-style-type: none"> If paying out 16 hours or more: must provide 16 hours of unpaid sick time until the employee accrues new paid time, which must replace the unpaid time as it accrues. If paying out less than 16 hours must provide an amount of unpaid sick time equivalent to the amount paid out until the employee accrues new paid time, which must replace the unpaid time as it accrues.

Q. If an employee carries over 40 hours of unused sick leave to a new benefit year, can the employee use 80 hours of sick leave in the next benefit year?

A. No. Employers are only required to allow employees to use up to 40 hours of earned sick time per benefit year.

Employers may cap the amount of earned sick time hours accrued at 40 hours, regardless of the additional hours worked by an employee. Once an employee possesses a bank of 40 hours of unused earned sick time, the employer may opt to delay further accrual until the employee draws down the bank of earned sick time to below 40 hours.

Example: An employee earns 40 hours of earned sick time in year 1 and rolls over these 40 hours into year 2. This employee starts year 2 with 40 hours and in year 2 uses all 40 of those hours and earns another 40 hours. During year 2, the employer may cap the amount of hours an employee uses at 40 hours.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Subsection C: Permissible Uses of Earned Sick Time

Q: When can an employee begin using earned sick time?

A: An employee may begin using earned sick time on the 90th calendar day after an employee starts working for the employer.

Example: Jasper's first date of actual work as a salesperson at a shop is October 1, 2016. Jasper will be eligible to use any accrued earned sick time 90 days later, which is December 30, 2016.

Q: What can earned sick time be used for?

A: Earned sick time can be used to care for the employee's child, spouse, parent, or parent of a spouse, who is suffering from a physical or mental illness, injury, or medical condition that requires home care, professional medical diagnosis or care, or preventative medical care.

Earned sick time can be used to care for the employee's own physical or mental illness, injury, or medical condition that requires home care, professional medical diagnosis or care, or preventative medical care.

Earned sick time can be used to attend a routine medical appointment or a routine medical appointment for the employee's child, spouse, parent, or parent of spouse.

Earned sick time can be used to address the psychological, physical or legal effects of domestic violence.

Earned sick time can be used to travel to and from an appointment, a pharmacy, or other location related to the purpose for which the time was taken.

Q: What is "preventative medical care"?

A: Preventative medical care typically is routine health care that includes screenings, checkups, and patient counseling to prevent illnesses, disease, or other health problems. For examples of preventative care, go to HealthCare.gov: <https://www.healthcare.gov/what-are-my-preventive-care-benefits/>.

Q: Who is considered a child under the law?

A child includes a biological, adopted, or foster child, as well as a stepchild, a legal ward, or a child for whom an employee has assumed the responsibilities of parenthood.

Q: Can employees use earned sick time for the health care of adult children?

A: Yes.

Q: Can an employee's use of earned sick time be counted toward leave under other laws?

A: Yes. An employee's use of earned sick time may be counted toward concurrent leave under federal or state law, such as the Family Medical Leave Act (FMLA).

Employees may choose to use, or employers may require employees to use, earned paid sick time to receive pay when taking other statutorily-authorized leave that would otherwise be unpaid.

Q: When can a per diem or on-call employee use earned sick time?

Per diem or on-call employees can use earned sick time only for hours they have been scheduled to work. Being "scheduled to work" does not include shifts for which an employee has been asked to be available or on call, unless the employee is required to remain on call on the employer's premises.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Subsection D: Payment of Earned Sick Time

Q: If earned sick time is paid, what is the pay?

A: Generally speaking, employees must be paid what they would have earned if they had worked instead of using earned sick time. Hourly workers must be paid their regularly hourly rate. Sick time hours are not paid at overtime or premium rates. To determine the proper rate of earned sick time pay for non-hourly employees, please review the definition of the “same hourly rate” in the final regulations.

Q: If an employee is scheduled to work overtime and calls out sick, does the employee get the overtime rate?

A: No. Workers using earned sick time do not receive overtime but do accrue earned sick time when working overtime.

Q: If a retail employee is scheduled to work on Sunday and calls out sick, does the employee get the Sunday premium rate?

A: No. Workers using earned sick time do not receive premium rates but do accrue earned sick time when working on a Sunday.

Q: What is the rate of pay for employees who receive a salary?

A: For employees paid a salary, the same hourly rate means the employee's salary in the previous pay period divided by the total hours worked in the employee's the previous pay period. For determining total hours worked during the pay period, executive, administrative and professional employees shall, and other salaried non-exempt employees may, be assumed to work 40 hours in each week unless their normal work week is less than 40 hours, in which case earned sick time shall accrue and the same hourly rate shall be calculated based on the employee's normal work week.

Q: What is the rate of pay for employees who are paid on a piece work or fee-for-service basis?

A: For employees paid on a piece work or a fee-for-service basis, the same hourly rate means a reasonable calculation of the wages or fees the employee would have received for the piece work, service, or part thereof, if the employee had worked. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage under M.G.L. c. 151, § 1, where applicable.

Q: What is the rate of pay for employees who work on commission?

A: Employees paid on commission (whether base wage plus commission or commission only) must be paid the greater of the base wage or the effective minimum wage under M.G.L. c. 151, § 1.

Q: What is the rate of pay for restaurant workers who derive income from tips?

A: Employees whose wages are based on tips or gratuities must be paid at least the Massachusetts minimum wage. Employees are not entitled to lost tips or gratuities during use of earned sick time.

Regardless of the measure used, an employee cannot be paid less than the state minimum wage. The Massachusetts minimum wage is \$9.00 per hour. On January 1, 2016 the minimum wage will be \$10.00 per hour. On January 1, 2017, the minimum wage will be \$11.00 per hour.

More information about the minimum wage is available here: <http://www.mass.gov/ago/doing-business-in-massachusetts/labor-laws-and-public-construction/wage-and-hour/minimum-wage.html>.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Q: What is the rate of pay for employees who receive different pay rates for hourly work from the same employer?

A: Employers may choose one of these methods:

- 1) the wages the employee would have been paid for the hours that, but for the use of earned sick time, the employee would have worked; or
- 2) the blended rate, determined by taking the weighted average of all regular rates of pay over the previous pay period, month, quarter or other established period of time the employer customarily uses to calculate blended rates for similar purposes.

Whatever method the employer elects to determine the same hourly rate, (a) or (b) above, the employer must use a consistent method for each employee throughout a benefit year.

Q: When must an employee be paid after using earned paid sick time?

A: When used, earned paid sick time must be paid on the same schedule as regular wages are paid. Employers may not delay compensating employees for earned paid sick time.

Q: Are employers obligated to pay employees for unused earned sick time upon termination or at the end of employment?

A: No. Employers are not required to pay out unused earned sick time when an employee leaves, but may do so voluntarily.

Employers who use a vacation policy to meet the requirements of the earned sick time law should note that Massachusetts law requires unused vacation to be treated as any other wages. Employees must be paid for all earned vacation upon termination of employment. More information is available here:

<http://www.mass.gov/ago/doing-business-in-massachusetts/labor-laws-and-public-construction/wage-and-hour/vacation.html>.

Q: Can an employer pay out an employee for unused time at the end of the year?

A: Yes. An employer is allowed to offer an employee a pay out of up to 40 hours of unused earned sick time at the end of the benefit year.

Employers paying out 16 hours or more must provide 16 hours of unpaid sick time until the employee accrues new paid time, which must replace the unpaid time as it accrues.

Employers paying out less than 16 hours must provide an amount of unpaid sick time equivalent to the amount paid out until the employee accrues new paid time, which must replace the unpaid time as it accrues.

Q: Can an employee agree with an employer to be paid for earned sick time on an as-accrued basis instead of only at the end of the benefit year?

A: No.

Q: Can employees donate their earned sick time to a colleague who has exhausted his or her earned sick time?

A: The law does not require employers to permit donation of earned sick time. An employer may have a policy in place that permits employees to donate earned sick time. An employer cannot require employees to donate earned sick time.

Section 4: Implementing the Earned Sick Time Law

Q: What is the “benefit year” for tracking accrual, use, and carryover of earned sick time?

A: Any consecutive 12-month period of time, as determined by an employer.

Q: May an employer's sick leave policies differ from what the law requires?

A: The law establishes minimum requirements. An employer is permitted to have a policy that is *more* generous. For example, an employer may allow employees to earn or use more sick time than the law would require, give employees more than 40 hours of sick time up front at the beginning of the benefit year, or permit employees to use sick time before it has accrued.

Q: May employers provide different policies for different categories of employees?

A: Yes. The law provides the minimum requirements and employers may have more generous policies. Employers may have different policies for different categories of employees as long as the minimum requirements are met for all employees.

Q: May an employee work additional hours or shifts instead of using earned sick time?

A: Yes, but only if both the employer and employee agree to this arrangement. If, by taking on additional hours, the employee works more than 40 hours in a week, then he or she must be paid at the overtime rate.

Q: If an employee uses sick time, may the employer require the employee to find a replacement?

A: No. An employer can never require an employee to find a replacement.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Q: If an employee leaves the employer, and then returns, what happens to the employee's unused earned sick time?

A: An employee retains the right to use any accrued sick time after a break in service, whether voluntary or not, for up to one year from the last date of work if the employee returns to work.

Break in Service		
Duration of Employee's Break in Service	Employer's Obligation	Employee's Earned Sick Time
Four months or less.	Employer must reinstate all previously accrued earned sick time.	All previously earned sick time is reinstated to the employee.
More than four months, and up to 12 months.	<i>If employee had accrued 10 or more hours of earned sick time prior to the break in service, the employer must reinstate the earned sick time.</i>	All previously earned sick time is reinstated to the employee.
	<i>If employee had accrued less than 10 hours of earned sick time prior to the break in service, the employee is not entitled to reinstatement of any earned sick time.</i>	Employee has a zero balance of accrued earned sick time on the first day of reemployment.
More than 12 months.	The employee is not entitled to reinstatement of any unused earned sick time, regardless of amounts accrued.	Employee has a zero balance of accrued earned sick time on the first day of reemployment.

Example: An employee has accrued 20 hours of earned sick time and then goes on an unpaid sabbatical for 11 months. Upon the employee's return to employment, 11 months from the date the employee last worked for the employer, the employee shall have the right to use the 20 hours of sick time accrued prior to the sabbatical.

Q: If an employee leaves the employer, and then returns, when does he or she begin accruing earned sick time?

A: If an employee returns within 12 months, then the employee will immediately be able to accrue earned sick time. If the employee returns more than 12 months later then he or she could be treated like a new employee, and would have to wait 90 days before being able to access accrued earned sick time.

Q: If an employee is transferred to another division or location of the same employer in Massachusetts, is the employee entitled to earned sick time that was accrued at the previous location?

A: Yes. The employee gets to keep and can use all previously accrued earned sick time.

Q: If a temp worker is hired into a permanent position by the same company, does the temp worker get to keep their accrued time? Does the temp worker need to restart the 90-day vesting period?

A: A temp worker is a joint employee of the temporary staffing agency and the client company. If the temporary staffing agency pays the temp worker, then the accrued time applies only while the temp worker is

Massachusetts Attorney General's Office – Earned Sick Time FAQs**Friday December 4, 2015**

the employee of the temp agency, and the temp worker does not keep the accrued time once that employment is ended. However, the temp worker does not need to restart the 90-day vesting period.

Q: What increments of leave time can an employee take off?

A: The smallest amount of sick time an employee can use is one hour. For uses beyond one hour, employees may use earned sick time in hourly increments or in the smallest increment the employer's payroll system uses to account for absences or use of other time. However, if an employee's absence from work at a designated time requires the employer to hire a replacement and the employer does so, the employer may require the employee using sick time to take up to a full shift of earned sick time.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Q: Can an employer establish minimum amounts of time for use of earned sick time?

A: No. Employer policies that require, for example, an employee to take sick time in a four-hour or eight-hour block of time are not permissible.

Q: What if an employer hires a replacement?

A: If an employer hires a replacement to fill in for the employee using earned sick time, then the employer may require the employee to use an equal number of hours as the replacement employee works, up to a full shift of earned sick time.

If the employee lacks sufficient accrued earned sick time to cover such time away from work, the employer must provide sufficient job-protected unpaid leave to make up the difference in that shift.

Q: Can an employee use earned sick time before having accrued it?

A: Employers may arrange for employees to use earned sick time before they accrue it and for employers to count the use against future accrual.

Section 5: Using Other Paid Time Off (PTO) Policies

Q: Can other paid time off (PTO) policies satisfy an employer's obligation to provide earned sick time?

A: Yes, as long as employees can use the PTO (such as vacation time or personal leave) for the same purposes and with the same rights that they would be able to use earned sick time.

An employer may substitute an existing plan so long as employees:

- 1) accrue at the rate of at least one hour of PTO for every 30 hours worked;
- 2) may use up to 40 hours per year of PTO;
- 3) are paid at least the amount that would be required for earned sick time;
- 4) can use PTO for the same purposes as earned sick time;
- 5) receive a notice of their rights under the law; and
- 6) receive the same job protections.

Q: If an employer already offers a single pot of paid time off in a year, must it now have two separate leave policies? One for earned sick time and a second for other types of leave?

A: The law does not require employers to have separate leave policies. However, employers should have clear guidelines to ensure that their employees can accrue and use sick time consistent with the amounts and purposes articulated in the earned sick time law.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Q: If an employee uses up all of his or her paid time off, does the employer have to provide additional time if the employee gets sick?

A: Employers that provide 40 or more hours of paid time off that also may be used as earned sick time are not required to provide additional sick leave to employees who use their time for other purposes and have need of sick leave later in the year. Employers must provide notice to employees that additional time will not be provided.

Q: If an employer has a mix of full-time, part-time, seasonal or per diem employees, can it have different leave policies for each?

A: Yes. Employers can have different leave policies for different groups of employees, so long as all employees can use at least the same amount of time, for the same purposes, under the same conditions, and with the same job protections provided in the law.

Q: If an employee gets sick in the middle of a vacation, can the employee use earned sick time?

A: No. The employee was on vacation and not scheduled to work.

Q: I don't want to track accrual, can I provide a lump sum of earned sick time?

A: Yes. Employers who prefer not to track accrual of earned sick time over the course of the benefit year may use the following schedules for providing lump sums of sick leave or paid time off to their employees. Employers using these schedules will be in compliance even if an employee's hours vary from week to week. Employers may accelerate the accrual or increase hours if they choose. Employees accruing earned sick time on these schedules will have the right to roll over their earned sick time up to 40 hours and accrual may be delayed while an employee maintains an unused bank of 40 hours.

Acceptable Lump Sum Allocations Based on Hours Worked		
Average no. of Hours Worked in a Week	Employee is provided this number of hours per month, as a lump sum, to be used for Earned Sick Time	Employee will be provided this amount of Earned Sick Time for this many months
37.5-40 hours	8 hours per month	5 months
30 hours	5 hours per month	8 months
24 hours	4 hours per month	10 months
20 hours	4 hours per month	9 months
16 hours	3 hours per month	10 months
10 hours	2 hours per month	10 months
5 hours	1 hours per month	10 months

Q: What if I want to use the monthly lump sums, but my employees average 50 or more hours per week?

A: Employers may provide a lump sum at the beginning of the benefit year. They may also provide earned sick time on a schedule that is more generous.

Q: When do I have to provide these lump sums?

A: Employers who provide earned sick time on a monthly basis should have a uniform policy for all employees.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Q: If an employer who offers more Earned Sick Time than required by law changes their policy, can that employer take away sick days an employee has already earned?

A: No, an employer who offers more EST than required by law can make a prospective change to reduce it to the minimum amount required, but that change cannot be made retroactively if an employee has already “earned” (accrued) that time. An employer could prevent employees from accruing more time in the future but must allow employees to use the sick time they have already earned.

Section 6: Notification Requirements and Options for Employees Using Earned Sick Time

Q: Do employees need to notify their employers before they use earned sick time?

A: Yes. An employee must make a good faith effort to provide notice of the need in advance of the use of earned sick time.

Q: Does an employee have to reference “Earned Sick Time” in order to use earned sick time?

A: No. An employee does not need to reference the law or the term “earned sick time” to his or her employer in order to use earned sick time.

Q: What sort of notification system can an employer use?

A: Reasonable ones. Reasonable notice may include compliance with an employer’s reasonable notification system that the employee customarily uses to communicate with the employer for absences or requesting leave. If an employer does not have an existing policy and procedure for providing reasonable notice, the employer shall establish such a policy or procedure, preferably in writing. The policy or procedure should enable the employee to effectively provide reasonable notice in a way that can be documented.

Q: Can an employer require advance notice about a pre-scheduled use of earned sick time like an annual check-up?

A: Yes, employers may require up to seven days’ notice if the employee has a pre-scheduled or anticipated time the employee plans to take off to use earned sick time.

Q: What notice can an employer require for multi-day absences?

A: If an employee uses multiple earned sick days (more than one), an employer may require notification on a daily basis from the employee or the employee’s surrogate (e.g., spouse, adult family member, or other responsible party), unless the circumstances make such notification unfeasible.

Q: Can an employer require post-use written verification from employees?

A: Yes, employers may require employees to submit written verification that they used earned sick time for allowable purposes after using any amount of time. An example form may be found on the Attorney General’s Earned Sick Time webpage (www.mass.gov/ago/earnedsicktime).

In no event, however, may an employer request additional medical or other documentation from an employee substantiating the need to use earned sick time until the employee uses more than 24 consecutive hours or 3 days of earned sick time.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Q: Can an employee be disciplined for using earned sick time fraudulently?

A: If an employee is committing fraud or abuse by engaging in an activity that is not consistent with allowable purposes for earned sick time (e.g., being sick, caring for an ill family member) or by exhibiting a pattern of taking earned sick time on days when the employee is scheduled to perform duties perceived as undesirable, an employer may discipline the employee for misuse of earned sick time.

An employee may not be disciplined for using earned sick time for allowable purposes when following all other rules. Please see “retaliation” section of this document for more information.

Section 7: Documentation Requirements and Options for Employers

Q: May an employer require an employee to provide written documentation, like a doctor's note, when the employee uses earned sick time?

A: It depends.

An employer can require written documentation if: (1) the employee is absent from work for more than 24 consecutively-scheduled work hours; (2) the employee is absent for three consecutively-scheduled work days; (3) the employee's absence occurs within two weeks prior to an employee's final scheduled day of work before termination of employment, except in the case of temporary workers; or (4) the employee's absence occurs after four unforeseeable and undocumented absences within a three-month period.

Q: Are there any documentation requirements for teenage workers?

A: Yes. An employer can request documentation from an employee aged 17 and under, if there are three unforeseeable and undocumented absences within a three-month period.

Q: What kind of documentation can an employer require?

A: If the employee is absent for medical reasons, the employer may require a statement from a health care provider that the absence was for a purpose covered by the law. An employee who does not have a health care provider may sign a written statement that earned sick time was needed for a reason covered by the law. The Attorney General's Office provides a model statement on its website at www.mass.gov/ago/earnedsicktime that employers can use as a guide.

An employer may **never** require further information about the details of a medical condition.

Q: What if an employee is absent from work due to domestic violence?

A: If the employee is absent from work due to domestic violence, the employer must accept any of the following documentation:

- 1) a restraining order or court document;
- 2) a police record documenting the abuse;
- 3) documentation that the perpetrator of the abuse has been convicted of one or more of the offenses enumerated in M.G.L. c. 265 where the victim was a family or household member;
- 4) medical documentation of the abuse;
- 5) a statement provided by a counselor, social worker, health worker, member of the clergy, shelter worker, legal advocate, or other professional who has assisted the employee in addressing the effects of the abuse on the employee or the employee's family; or
- 6) a signed written statement from the employee attesting to the abuse.

An employer may **never** require further information about the details of the domestic violence.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Q: I work in an industry that requires an employee to certify that he or she is healthy enough to return to work. Can I still ask for documentation?

A: An employer may require an employee to provide a fitness-for-duty certification, a work release, or other documentation from a medical provider before an employee returns to work after an absence during which earned sick time was used if such certification is customarily required and consistent with industry practice or state and federal safety requirements and reasonable safety concerns exist regarding the employee's ability to perform duties. "Reasonable safety concerns" means a reasonable belief of significant risk of harm to the employee or others.

Q: How long does an employee have to provide documentation?

A: Employers may require employees to submit required documentation within seven days after the taking of earned sick time, unless, for good cause shown, an employee requires more time to provide such documentation.

Q: Can an employer delay compensating an employee for earned paid sick time until the employer receives documentation?

A: No. However, if an employee fails to comply without reasonable justification with the documentation requirements of the employer, the employer may recoup the sum paid for earned sick time from future pay, as an overpayment. Employees must be put on notice of this practice.

Q: What happens if an employee fails to provide documentation for use of unpaid earned sick time?

A: The employer can deny the future use of an equivalent number of hours of earned sick time until documentation is provided.

Section 8: Recordkeeping and Disclosure Obligations for Employers

Q: Does an employer have to include accrued earned sick time and use on an employee's paycheck?

A: No. Employers are not required to provide earned sick time information on **paychecks**.

Q: Does an employer have to give employees access to their own earned sick time records?

A: Yes.

Q: Do employers have to keep track of the sick time employees earn and use?

A: If an employer's policy provides earned sick time that is separated from any other time off, yes, employers have to maintain records of the sick time that employees accrue and use for at least three years.

If an employer provides time off to employees under a paid time off, vacation or other policy that complies with the Earned Sick Time Law, the employer is not required to track and keep a separate record on accrual and use of earned sick time.

Q: Do employers have to post a notice about earned sick time rights for their employees?

A: Yes, employers must post a notice of the Earned Sick Time Law where employees are likely to see it and in languages spoken by employees. The poster is available for download here in several languages: www.mass.gov/ago/earnedsicktime.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Q: Do employers have to give a copy of this notice or a copy of the employer's policy to employees?

A: Yes. Employers must provide a hard copy or electronic copy of this notice to all eligible employees, or include the employer's policy on earned sick time or the employer's allowable substitute paid leave policy in any employee manual or handbook.

Q: What other information about earned sick time do employers have to give employees?

A: Employers must notify all employees at least 30 days in advance in writing if earned sick time will be changing from paid to unpaid, or from unpaid to paid sick time, based on a change in employer size.

Section 9: Retaliation Prohibited

Q: Can an employer retaliate against an employee for using earned sick time?

A: No. Retaliation is illegal. An employer cannot retaliate against an employee for exercising or attempting to exercise rights under the law, including: requesting and using earned sick time; filing a complaint for alleged violations of the law; communicating with any person, including coworkers, about any violation of the law; participating in an administrative or judicial action regarding an alleged violation of the law; or informing another person of that person's potential rights.

Q: What constitutes retaliation?

A: Retaliation includes any threat, discipline, discharge, demotion, suspension, or reduction in employee hours, or any other adverse employment action against any employee for exercising or attempting to exercise any right guaranteed under the law.

Q: Does the law protect an employee from retaliation if the employee mistakenly, but in good faith, alleges a violation?

A: Yes.

Q: What about reward based attendance policies?

A: Attendance policies that reward employees for good attendance and holiday pay incentives that provide extra compensation for coming to work on the days immediately before and after a holiday are permissible so long as employees are not subject to any adverse actions for exercising their rights under the Earned Sick Time law and its regulations.

An employee's inability to earn a reward for good attendance or to receive a holiday pay incentive based on an employee's absence occasioning use of earned sick time shall not constitute an adverse action or interference with an employee's rights.

Section 10: Violations

Q: How will the Earned Sick Time Law and regulations be enforced?

A: The law grants the Attorney General the authority to go to court to halt a violation. It also grants the Attorney General the ability to issue civil citations against employers.

Q: Can employees file a complaint?

A: Employees can file a complaint with the Attorney General's Office. The complaint form is available online at www.mass.gov/ago by clicking on "file a complaint," or by contacting (617) 727-3465.

Massachusetts Attorney General's Office – Earned Sick Time FAQs
Friday December 4, 2015

Q: Can employees sue their employers?

A: Employees must first file a complaint with the Attorney General, before they may file a private lawsuit in court. Employees must then either wait 90 days after filing with the Attorney General before filing in court, or receive permission from the Attorney General's Office to proceed with a private suit before the 90-day period expires. In order to do this, employees must request a private right of action from the Attorney General's Office. Employees will need proof of filing the complaint with the Attorney General in order to pursue a lawsuit.

Q: Will the Attorney General ask an employee about immigration status or legal right to work?

A: No. All workers in Massachusetts are entitled to the protections of the earned sick time law. The Attorney General will never inquire about immigration status.

Section 11: Additional Information (www.mass.gov/ago/earnedsicktime)

Questions: Additional questions can be addressed to earnedsicktime@state.ma.us.

Final regulations: Regulations written by the Attorney General's Office to provide guidance on employees' and employers' rights and responsibilities under the Earned Sick Time Law.

Sample Policy: A sample Earned Sick Time policy for employers.

Sample Verification Form: A sample form employers may use to ask employees to verify their use of earned sick time.

Summary of the Law: The Earned Sick Time Law is summarized in English, Spanish, and Portuguese (as of August 2015).

Notice of Employee Rights: This is available for download in English, Portuguese, Spanish, Russian, Italian, Haitian Creole, Vietnamese, Laotian and Chinese (as of August 2015).

Shawna Sullivan

From: David A. Olson
Sent: Tuesday, June 28, 2016 8:48 AM
To: Shawna Sullivan
Subject: FW: #40-16 Request to accept MGL 149 Sec 148C related to earned sick time for employees

From: Vandana Sodder [<mailto:vandana@sodder.us>]
Sent: Monday, June 27, 2016 5:35 PM
To: citycouncil; Setti D. Warren
Subject: #40-16 Request to accept MGL 149 Sec 148C related to earned sick time for employees

Dear Members of City Council,

I am writing to ask that you support #40-16 Request to accept MGL 149 Sec 148C related to earned sick time for employees proposed by Councilor Amy Sangiolo.

The Massachusetts Earned Sick Time Law, M.G.L. c. 149, § 148C, enacted in 2015, provides that part-time employees can earn one hour of sick time for every 30 hours worked, up to 40 hours of sick time a year.

Adopting the law will give Newton's part-time workers a minimum amount of sick leave per year, approximately 2 - 4 days per year, based on a maximum of 19 hours worked, per week.

Accepting The Massachusetts Earned Sick Time Law would bring progressive Newton in line with neighboring towns that are doing the right thing. This minimal financial outlay would be a step in the right direction, in acknowledging the dedication and long term service of part time workers, to the city of Newton.

Best,

Vandana Sodder

Shawna Sullivan

From: David A. Olson
Sent: Monday, June 27, 2016 9:36 AM
To: Shawna Sullivan
Subject: FW: Sick leave for part-time city employees

From: Janet Linder [<mailto:janlinder@verizon.net>]
Sent: Monday, June 27, 2016 9:31 AM
To: citycouncil; Setti D. Warren
Subject: Sick leave for part-time city employees

Dear City Council Members and Mayor Warren,

I am writing to ask the Newton City Council to take a progressive step and opt in to the Massachusetts Earned Sick Time Law, M.G.L. c. 149, § 148C, enacted in 2015. The law provides that part-time employees can earn one hour of sick time for every 30 hours worked, up to 40 hours of sick time a year.

Adopting the law will give Newton's part-time workers a minimum amount of sick leave per year, probably about 2 - 4 days per year, based on a maximum of 19 hours-per week.

Sometime within approximately the past 5-10 years, Newton quietly eliminated 20 hour a week part-time jobs, which required prorated benefits. Employees already working 20 hours per week were grandfathered in and continued to receive prorated benefits. Employees currently working up to 19 hours a week or fewer no longer had any opportunity to be given 20-hour a week jobs.

As a result, there are part-time employees for the city, some of whom have worked for 10 years or more, who work up to the maximum of 19 hours a week and receive no benefits. No vacation days, no paid holidays, no longevity pay or other bonuses, and not one sick day. These are hard-working, dedicated employees who serve the city well.

Adopting the Massachusetts Earned Sick Time Law would provide these employees with a few sick days a year. Is the city unwilling to offer that minimum benefit to these part-time employees?

Newton likes to think of itself as a progressive city that cares about its people. A progressive city should treat its employees equitably. Eliminating 20-hour a week part-time positions has denied dedicated employees a chance to receive any minimal benefits at all, including pro-rated health insurance contributions, vacation pay, holiday pay, and sick time, benefits that are granted to 20-hour a week grandfathered employees with whom they work side-by-side.

Newton should take the minimal step of providing these employees with the benefit of the sick leave law, which grants one hour, that is one hour, of sick leave for every 30 hours worked, up to a maximum of 40 hours accrued sick time. For less than 20-hour a week employees, adopting the law will give these employees about 3- 4 sick days a year. That would be the *only* benefit the city grants to employees who work less than 20 hours a week, who were cut-off from becoming 20-hour a week employees by a policy quietly put into place with no public discussion.

The city has claimed that providing the benefits will be too difficult because of determining sick leave for seasonal employees. Is Newton not up to the challenge of doing the math and administrative work required to grant its part-time employees a few sick days a year, when they earn absolutely no other benefits? Is Newton truly a progressive city if it will not follow Massachusetts' lead and adopt the state law for the benefit of part-time employees?

Thank you for your time and consideration,
Janet Linder
348 Central Street
Auburndale

Karyn Dean

FINANCE
#190-15

From: Amy Sangiolo <aldermansangiolo@gmail.com>
Sent: Monday, August 03, 2015 3:16 PM
To: Karyn Dean; David A. Olson
Subject: One more docket item

Ald. Sangiolo requesting a policy discussion with the Administration, IT and the Planning Department regarding posting of tape recordings of meetings for all boards and commissions onto the City website as well as the posting of supporting documentation for all requests that come before the various boards and commission that are reviewed either by the authoritative body or administratively by the designated staff member.

*See amended
hangtag
attached*

RECEIVED
Newton City Clerk
2015 AUG -3 PM 3:16
David A. Olson, CMC
Newton, MA 02459

#

ALD. SANGIOLO requesting a discussion with the Executive Department relative to creating a policy to require audio recordings of all meetings of boards and commissions and requiring them to be posted to the City's website, as well as posting of all documentation that is reviewed by boards and commissions and/or by their designated City staff member.