

CITY OF NEWTON

IN BOARD OF ALDERMEN

FINANCE COMMITTEE AGENDA

MONDAY, SEPTEMBER 8, 2014

7 PM  
Room 222

- #271-14      CITY CLERK requesting authorization to accept and expend a Massachusetts Civil War Sesquicentennial Commission FY 2014 Preservation Grant in the amount of seven thousand five hundred dollars (\$7,500) from the Massachusetts Department of Veterans service to undertake preservation of select records of the Grand Army of the Republic, Charles Ward Post #62 held in the City Archives. [06/30/14 @ 1:30 PM]
- #330-14      HIS HONOR THE MAYOR requesting authorization to expend a reimbursable grant in the amount of ten thousand dollars (\$10,000) for participation in the Fiscal Year 2015 Public Safety Answering Point or Dispatch Center Leadership Scholarship Program. [08/25/14 @ 4:52 PM]
- #313-14      HIS HONOR THE MAYOR requesting Board of Aldermen approval to increase an existing part-time payroll administrator position in the Human Resources Department to a full-time position to enable increased accuracy and efficiency in payroll processing. There is no additional funding required. [08-04-14 @4:30 PM]
- #329-14      HIS HONOR THE MAYOR requesting authorization to transfer the sum of thirty-five thousand dollars (\$35,000) from the Staffing Reserve Account to the Inspectional Services Department's Full-time Salaries Account and approval to increase the existing ADA Coordinator position from part-time to a full-time position [08/08/14 @ 4:43 PM]
- #331-14      HIS HONOR THE MAYOR requesting authorization to settle a legal claim and expend the sum of twelve thousand dollars (\$12,000) from the Law Department's Legal Claims & Settlements, as full and final settlement for violations of Department of Environmental Protection regulations at the Rumford Avenue Landfill. [08/25/14 @ 4:52 PM]

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, please contact John Lojek, at least two days in advance of the meeting: [jlojek@newtonma.gov](mailto:jlojek@newtonma.gov), or 617-796-1064. For Telecommunications Relay Service dial 711.

- #332-14 COMMUNITY PRESERVATION COMMITTEE requesting approval of a revised Fiscal 2015 program budget of four million two hundred twenty-eight thousand seventy dollars (\$4,228,070), as documented in the Community Preservation Committee's August 12, 2014 submission to the Mayor and Board of Aldermen. [08/12/14 @ 11:12 AM]

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #334-14 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of three hundred thirty-five thousand dollars (\$335,000) from Fiscal Year 2015 Budget Reserve to fund immediate building needs at the Police Annex at 25 Chestnut Street. [08/25/14 @ 4:52 PM]  
**PUBLIC FACILITIES APPROVED 4-0-2 (Albright, Lappin abstaining) on 09/03/14**

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #314-14 HIS HONOR THE MAYOR requesting authorization to use up to one million six hundred four thousand dollars (\$1,604,000) in additional sewer operating reserve funds to allow the Department of Public Works to implement a portion of the sewer improvements outlined in the FY2015-19 Capital Improvement Plan, in particular construction of sewer project area 2, which is currently under final design and will be bid shortly for a projected October 2014 start date. [08/04/14 @ 4:30 PM]  
**PUBLIC FACILITIES APPROVED 5-0 (Gentile not voting) on 09/03/14**

**ITEMS NOT SCHEDULED FOR DISCUSSION:**

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

- #333-14 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of four hundred seventy-six thousand seven hundred eighty dollars (\$476,780) to the Parks and Recreation Department to preserve, restore, and rehabilitate historic Farlow Park, as described in the proposal and supplemental materials submitted to the Community Preservation Committee from November 2013 to April 2014. [08/06/14 @ 4:16 PM]

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

- #277-14(2) COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of three hundred thousand dollars (\$300,000) to the Planning and Development Department for a grant to the Newton Cultural Alliance to preserve and rehabilitate the historic Nathaniel Allen House, as described in the July 2014 proposal for "partial occupancy" as Phase 1, Part 1 of a planned larger project. 08/06/14 @ 4:16 PM]

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

- #315-14 ALD. HESS-MAHAN, ALBRIGHT, CROSSLEY AND DANBERG proposing an amendment to Chapter 2 of the City of Newton Ordinances setting forth requirements for procurement of materials and services by non-governmental

recipients of federal, state or local funds administered by the City, such as CDBG and CPA funds. In order to encourage non-profit and other private organizations to participate in affordable housing, cultural and other public-private collaborations, such procurement requirements should accommodate the needs of non-governmental recipients for flexibility given the multiple public and private sources of funds necessary for any project by not placing undue or unreasonable burdens on them. [08/04/14 @ 5:08PM]

#255-14 HIS HONOR THE MAYOR recommending that 1316 Beacon Street, 1330 Beacon Street, and 1338 Beacon Street, including trees and structures on the properties, be acquired through purchase or by friendly takings ~~eminent domain~~ for the purpose of expanding the Zervas Elementary School site. [06/16/14 @11:17 AM]

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

#216-14 ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, NORTON AND SANGIOLO proposing the following amendments to Chapter 12 Health and Human Services of the Revised Ordinances to:

- require owners of dwellings requiring a Certificate of Habitability under Section 12-1 and real estate agents/brokers who receive compensation in connection with the particular real estate transaction to notify the Commissioner of Health and Human Services whenever an apartment, tenement, or room in a lodging house is vacated by the occupant or when an area in an existing building is converted to a condominium prior to being reoccupied by a new tenant, lodger or occupant;
- require educational institutions to disclose addresses of undergraduates living off-campus in Newton;
- require a fee for certification; and
- impose a fine for violation of these provisions. [05/14/14 @11:51 AM]

#256-14 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of two million seven hundred thousand dollars (\$2,700,000) from the Capital Stabilization Fund-Operating Override Account Fund for purposes of funding all costs associated with the acquisition of 1316 Beacon Street, 1330 Beacon Street, and 1338 Beacon Street including any relocation obligations the City may have pursuant to Massachusetts General Law Chapter 79A. [06/16/14 @11:17 AM]

#104-14 ALD. JOHNSON requesting that the Executive Department conducts a complete review and analysis of the policies governing data privacy and the security of resident/business information on the Treasurer's website to be followed with an action plan to protect our residents' data to be completed by the end of Fiscal Year 2014. [02/26/14 @ 9:07 AM]

**REFERRED TO LAND USE AND FINANCE COMMITTEES**

- #49-14 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]
- #34-14 ALD. FULLER requesting a discussion with the Executive Office regarding the current status and challenges related to the City of Newton pension and retiree healthcare (OPEB) systems. [01/11/14 @ 5:22 PM]

**REFERRED TO FINANCE AND PROGRAMS & SERVICES COMMITTEE**

- #402-13 ALD. FULLER, GENTILE, RICE and LINSKY requesting a Home Rule Petition to amend Article 9 of the Charter to clarify that Neighborhood Area Councils shall maintain and control their own financial accounts and records, independent of City finances; and to further clarify that such independent financial accounts and records shall remain subject to City audit. [10/28/13 @ 10:18 AM]

**REFERRED TO ZAP, PROG & SERV AND FINANCE COMMITTEES**

- #397-13(3) ALD. SANGIOLO AND DANBERG requesting creation of an ordinance to protect trees deemed historic by the Historical Commission and the City's Tree Warden. [05-05-14 @ 4:32 PM]

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #288-13 PUBLIC FACILITIES & FINANCE COMMITTEES requesting that the Administration update the Board of Aldermen when a funding source is determined for the Zervas Elementary School Feasibility Study. [07-11-13 @ 10:10 AM]

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #41-13 ALD. CROSSLEY, FULLER AND SALVUCCI requesting a discussion with the administration to review how the city inventories, plans for, budgets and accounts for needed smaller capital expenditures (currently set at under \$75,000), which are excluded from the Capital Improvement Plan (CIP); how to make these non-CIP capital maintenance items visible, and how to integrate them with the overall planning, CIP, and budgeting processes. [01/14/13 @ 5:02 PM]

**REFERRED TO ZONING & PLANNING, LAND USE & FINANCE COMMITTEES**

- #273-12 ALD. CROSSLEY & HESS-MAHAN requesting a restructuring and increase in fees for permits charged by the Inspectional Services Department and fees charged by the Planning Department and City Clerk to assure that fees are both sufficient to fund related services provided and simple to administer.

**REFERRED TO FINANCE AND APPROPRIATE COMMITTEES**

#257-12 RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates.

**REFERRED TO PROG & SERV, PUB. FAC., ZAP, AND FINANCE COMMITTEES**

#256-12 ALD. HESS-MAHAN, SANGIOLO & SWISTON proposing and ordinance promoting economic development and the mobile food truck industry in the City of Newton. [08/06/12 @4:46 PM]

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

#254-12 (3) PROGRAMS & SERVICES COMMITTEE proposing an ordinance to require a fee, charged to consumers, for the use of paper bags at certain retail establishments in the City of Newton. [01/10/14 @ 3:36 pm]

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

#247-12 RECODIFICATION COMMITTEE recommending that Chapter 18 MEMORIAL FUNDS AND TRUSTS be reviewed relative to the consequences and practices of special legislation passed by the General Court in 2007, Chapter 75 of the Acts of 2007, in which the City sought and was granted an exemption from G.L. Chapter 44 §54, which intent was to allow the City greater flexibility in terms of investments.

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

#185-12 ALD. BAKER, BLAZAR, SANGIOLO, LINSKY, ALBRIGHT & DANBERG requesting that the Board of Aldermen adopt a RESOLUTION to His Honor the Mayor asking that, when the Mayor seeks future Board approval for bonding the cost of additional capital facilities or equipment for the schools, he include in that funding request, as well as in the city-wide Capital Improvement Plan, the estimated costs needed for funding the capital technology needs of the Newton Schools, including the appropriate portions of the estimated project costs of the School Committee's three-year district-wide technology plan not anticipated to be funded by the Information Technology Department budget; the anticipated technology grants from Boston College for the elementary schools; and/or estimated revenue from the E-rate Technology Reimbursement Program.  
**PROGRAMS & SERVICES APPROVED 6-0 on 07/11/12**

**REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES**

- #102-11 ALD. HESS-MAHAN, JOHNSON, COMMISSIONER LOJEK, AND CANDACE HAVENS requesting an amendment to Chapter 17 to establish a fee for filing a notice of condo conversion. [03-29-11 @ 4:55PM]  
**ZONING & PLANNING APPROVED 6-0 on 6/10/13**

**REFERRED TO ZONING AND PLANNING AND FINANCE COMMITTEES**

- #95-11 ALD. HESS-MAHAN proposing an ordinance requiring that a notice of conversion to condominium ownership be filed with the Inspectional Services Department and that the property be inspected to determine compliance with all applicable provisions of the state and local codes, ordinances and the rules and regulations of all appropriate regulatory agencies. [03-24-11 @ 9:30AM]  
**ZONING & PLANNING APPROVED 6-0 on 6/10/13**

- #41-11(2) ALD. CICCONE requesting implementation of the fees associated with the Winter Overnight Parking Pilot Program. [09/19/13 @ 3:49 PM]

**REFERRED TO LAND USE & FINANCE COMMITTEES**

- #276-10 ALD. FULLER, CROSSLEY, DANBERG, LINSKY requesting a review of guidelines for mitigation fund provisions to maximize the use of such funds on behalf of the city together with mechanisms by which the city can better track such funds to ensure they are used in a timely fashion.

Respectfully submitted,

Leonard J. Gentile, Chairman



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#330-14  
Telephone  
(617) 796-1100  
Facsimile  
(617) 796-1113  
TDD/TTY  
(617) 796-1089  
E-mail  
swarren@newtonma.gov

RECEIVED  
Newton City Hall  
2014 AUG 25 PM 4:52  
DAVID A. OLSON, CNO  
Newton, MA 02459

August 25, 2014

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to accept and expend a reimbursable grant in the amount of \$10,000 for participation in the FY2015 PSAP (Public Safety Answering Point or Dispatch Center) Leadership Scholarship Program.

Thank you for your consideration of this matter.

Very truly yours,

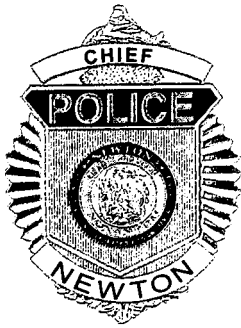
Setti D. Warren  
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



DEDICATED TO COMMUNITY EXCELLENCE



*City of Newton*  
*Police Department*



TELEPHONE  
(617) 796-2101  
FAX # (617) 796-3679

*Office of the Chief of Police*

HEADQUARTERS  
1321 WASHINGTON STREET  
NEWTON, MASSACHUSETTS 02465

HOWARD L. MINTZ  
CHIEF OF POLICE

August 12, 2014

Mayor Setti Warren  
Newton City Hall  
1000 Commonwealth Ave.  
Newton, MA. 02459

Dear Mayor Warren,

The Police Department has been awarded a reimbursable grant, allowing us to participate in the FY2015 PSAP Leadership Scholarship Program.

The grant is for \$10,000.00 and a separate account has been set up for this (19HHA2115).

I am respectfully requesting permission to accept and expend this grant. Thank you for your consideration.

Very truly yours,

A handwritten signature in cursive script, appearing to read "H. L. Mintz".

Howard L. Mintz  
Chief of Police







SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

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RECEIVED  
NEWTON DIVISION  
2014 AUG -4 PM 4:31  
DAVID A. OLSON, CHIEF  
NEWTON, MA 02459

August 04, 2014

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to increase the part-time payroll administrator position in the Human Resources Department from .4 FTE to 1.0 FTE. The additional hours worked will enable increased accuracy and efficiency in payroll processing. Please note – this is only a request to increase the FTE. No additional funding is required.

Thank you for your consideration of this matter.

Very truly yours,

Setti D. Warren  
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



DEDICATED TO COMMUNITY EXCELLENCE

City of Newton



Setti D. Warren  
Mayor

**DEPARTMENT OF HUMAN RESOURCES**

1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449

Telephone (617) 796-1260

Fax (617) 796-1272

Wesley Layne, Director

August 4, 2014

Mayor Setti D. Warren and  
Honorable Board of Alderman  
City of Newton  
1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449

RE: Payroll Administrator – P/T to F/T Request  
Human Resources Department  
Fiscal Year 2015

Dear Mayor Warren and Honorable Board of Alderman,

I respectfully request your approval to increase the current Payroll Administrator's position from a part-time to full-time position within the human resources department.

The increased hours are essential to timely, accurate and efficient payroll processing and employee on-boarding. Additionally, the position will be instrumental in auditing all payroll records for integration with an HRM system to automate the City's recruiting process.

I would appreciate your docketing this item with the Board of Alderman as soon as possible.

Respectfully submitted,

  
Wesley M. Layne M.B.M., SPHR  
Director of Human Resources

**APPROVED**

8/4/14



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#329-14  
Telephone  
(617) 796-1100  
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(617) 796-1089  
E-mail  
swarren@newtonma.gov

August 7, 2014

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to authorize the transfer of \$35,000 from Acct # 0110499-5794A FY15 Staffing Reserve - to Acct # 0122001-511001 and increase the FTE allocation by .5 for the ADA Coordinator Position. The ADA Coordinator will be responsible for coordinating activities necessary to ensure compliance with all disability rights related to Federal and Massachusetts laws, regulations, policies and procedures of the ADA/ 504 and creating and promoting equal opportunity and access to the City's employees and citizens seeking programs, activities and services offered by the City of Newton.

Thank you for your consideration of this matter.

Very truly yours,

Setti D. Warren  
Mayor

RECEIVED  
NEWTON CITY CLERK  
2014 AUG -8 PM 4:43  
DAVID A. OLSON, OMC  
NEWTON, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



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SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

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swarren@newtonma.gov

August 25, 2014

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to authorize the expenditure of \$12,000 from Acct # 0110893-5725 Legal Claims & Settlements, as full and final settlement for violations of DEP regulations at Rumford Avenue Landfill. A copy of the draft settlement agreement detailing the violations and corrective action is attached.

Thank you for your consideration of this matter.

Very truly yours,

Setti D. Warren  
Mayor

RECEIVED  
NEWTON CITY OFFICE  
2014 AUG 25 PM 4: 52  
DAVID A. DISCOLI, ONC  
NEWTON, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.newtonma.gov](http://www.newtonma.gov)



DEDICATED TO COMMUNITY EXCELLENCE

LAW DEPARTMENT



CITY OF NEWTON, MASSACHUSETTS

CITY HALL

1000 COMMONWEALTH AVENUE

NEWTON CENTRE, MA 02459

TELEPHONE (617) 796-1240

FACSIMILE (617) 796-1254

CITY SOLICITOR

DONNALYN B. LYNCH KAHN

---

ASSOCIATE CITY SOLICITOR

OUIDA C.M. YOUNG

ASSISTANT CITY SOLICITORS

MARIE M. LAWLOR  
ANGELA BUCHANAN SMAGULA  
ROBERT J. WADDICK  
MAURA E. O'KEEFE  
JEFFREY A. HONIG  
ALAN D. MANDL  
JULIE B. ROSS

August 19, 2014

Mayor Setti D. Warren and Board of Aldermen  
City of Newton  
1000 Commonwealth Avenue  
Newton Centre MA 02459

Re: *In the Matter of City of Newton (Rumford Avenue Landfill)*  
*City of Newton File No. 14-375*

Dear Mayor Warren and Honorable Board of Aldermen:


On May 27, 2014, the City of Newton, through its Department of Public Works ("DPW"), was notified by the Department of Environmental Protection ("DEP") of certain violations of DEP regulations and a prior existing Administrative Consent Order by and between the City and DEP. The DEP issued an Administrative Consent Order with Penalty and Notice of Noncompliance outlining the violations, as well as a corrective course of action.

A thorough investigation into the matter was conducted by the DPW, after which the parties met to discuss a resolution and possible settlement.

As part of the Administrative Consent Order with Penalty and Notice of Noncompliance, the DEP imposed a fine of \$34,500.00. The parties agreed, pending approval and appropriation, that the City would remit \$12,000.00 at this time and suspend the balance of the fine. Pending compliance with the remainder of the terms of conditions of the Administrative Consent Order with Penalty and Notice of Noncompliance, the amount suspended would be forgiven.

Therefore, I respectfully request that you docket this item seeking to appropriate \$12,000.00 from the Reserve Account and authorize the expenditure thereof as full and final settlement of this claim against the City of Newton.

Respectfully submitted,



Maura E. O'Keefe  
Assistant City Solicitor

cc: Maureen Lemieux, Chief Financial Officer and Chief of Staff

COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of: )  
 )  
City of Newton )  
 )  
(Rumford Avenue Landfill) )

File No.: ACOP- NE-14-4001  
FMF #: 39662

DAVID A. OLSON, CHIEF  
NEWTON, MA 02459

2014 AUG 27 AM 10:38

RECEIVED  
NEWTON CITY HALL

ADMINISTRATIVE CONSENT ORDER WITH PENALTY  
AND  
NOTICE OF NONCOMPLIANCE

I. THE PARTIES

1. The Department of Environmental Protection ("Department" or "MassDEP") is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, § 7. MassDEP maintains its principal office at One Winter Street, Boston, Massachusetts 02108, and its Northeast Regional Office at 205B Lowell Street, Wilmington, Massachusetts.
2. The City of Newton ("Respondent") is a municipal corporation located in Middlesex County and duly organized under the laws of the Commonwealth of Massachusetts, with its principal offices located at Newton City Hall, 1000 Commonwealth Avenue, Newton, Massachusetts 02459. The City owns the Rumford Avenue Landfill located at 121 Rumford Avenue in Newton, Massachusetts (the "Landfill").

II. STATEMENT OF FACTS AND LAW

3. MassDEP is responsible for the implementation and enforcement of M.G.L. c. 111, §§ 150A and 150A1/2, the Solid Waste Management Regulations at 310 CMR 19.000, and the Site Assignment Regulations for Solid Waste Facilities at 310 CMR 16.00. MassDEP has authority under M.G.L. c. 21A, § 16 and the Administrative Penalty Regulations at 310 CMR 5.00 to assess civil administrative penalties to persons in noncompliance with the laws and regulations set forth above.
4. Respondent is the owner and operator of a capped and closed Landfill located at 121 Rumford Avenue in Newton Massachusetts.
5. The following facts and allegations have led MassDEP to issue this Consent Order:
  - A. On July 1, 1996, Respondent and MassDEP entered into an Administrative Consent Order, File No. ACO-NE-95-4005, (the "95 Order") for the closure of

the Landfill. The 95 Order provided for, but was not limited to, the capping of the Landfill and the post-closure use of a portion of the Landfill by the City of Newton Department of Public Works (the "DPW") as a composting facility and for the receipt, storage, processing, and recycling of materials including, but not limited to, excavate from DPW construction projects (the "Post-Closure Uses").

- B. On August 13, 1997, MassDEP approved Respondent's application, category BWP SW25 *Corrective Action Design*, Transmittal No. 103516 for the closure and capping of the Landfill (the "Closure Plan"), and the Respondent's application, category BWP SW37 *Minor Post-Closure Permit*, Transmittal No. 102385 (the "Post-Closure Permit"). The Post-Closure Permit approved the use of approximately 11 acres of the Landfill's plateau, designated as Area B, for the Post-Closure Uses.
- C. On October 12, 1999, MassDEP approved Respondent's report titled: "*Newton, Massachusetts, Certification Report, Closure of the Rumford Avenue Landfill, July 1998*" (the Certification Report), and notified Respondent that it had fulfilled the requirements of the 95 Order.
- D. On April 15, 2014, MassDEP received a complaint regarding excavate and concrete dumped by the DPW at the Landfill impacting a cove adjacent to the northern side of the Landfill.
- E. On April 15, 2014, MassDEP personnel inspected the Landfill and observed a large stockpile of soil, stone and concrete slabs ("Excavate") on the north side of the Landfill extending down the upper portion of the northern side slope. DPW personnel at the Landfill informed MassDEP that during 2013-2014 the DPW constructed the stockpile out of soil, asphalt and concrete from DPW road excavation work.
- F. On April 15, 2014, MassDEP personnel estimated the stockpile was from ten (10) to twenty (20) feet in height, approximately six-hundred (600) feet long, and from forty (40) to eighty (80) feet wide. MassDEP estimates that the volume of Excavate in the stockpile was approximately twenty-thousand (20,000) to thirty-thousand (30,000) cubic yards. Respondent had failed to manage the stockpiled Excavate within the area of the Landfill (Area B) approved by MassDEP in violation of the Post-Closure Use Permit and 310 CMR 19.000, including but not limited to, 310 CMR 19.143(5)(e): *Post-Closure Use of Landfills* and 310 CMR 19.043(5)(a) *Duty to Comply*.
- G. On April 15, 2014, MassDEP personnel, also, observed that Excavate from the stockpile had slid down the northern side slope of the Landfill into and blocked approximately one-hundred and fifty (150) feet of a rip rap drainage swale. Respondent had failed to implement measures to properly manage the material and maintain the storm water drainage system, including but not limited to, the rip rap drainage swale in violation of the requirements of 310 CMR 19.000, including



but not limited to, the requirements of 310 CMR 19.142(5)(a) and (b): *Landfill Post-Closure Requirements*

- H. On April 15, 2014, MassDEP personnel, also, observed Excavate had slid into and partially blocked Wabasso Road, the access road located at the base of the northern side slope. Respondent failed to implement measures to properly manage the Excavate and allowed it to impact the access road in violation of the requirements of 310 CMR 19.000, including but not limited to, the requirements of 310 CMR 19.142(5)(e): *Landfill Post-Closure Requirements*.
- I. On April 15, 2014, MassDEP observed two landfill gas vents that had been impacted by the stockpiled material. Respondent failed to maintain the landfill gas vents in violation of 310 CMR 19.000 including, without limitation, 310 CMR 19.142(5)(f).

6. Therefore, based upon the facts described above and the Respondent's activities of stockpiling and handling excavate material in non-compliance with approved permits, plans or approvals for the solid waste management facility, MassDEP has determined that Respondent has violated the following requirements of 310 CMR 19.000, the Massachusetts Solid Waste Management Facility Regulations:

- A. 310 CMR 19.043 (5): Conditions for Permits and Other Approvals that reads in part:

*"The following conditions shall apply to all owners and operators..."*

- (a) Duty to Comply. *The owner and operator shall comply at all times with the terms and conditions of the permit or other approval, 310 CMR 19.000, M.G.L. c. 111, § 150A, and all other applicable state and federal statutes and regulations, including, but not limited to, the permit review criteria at 310 CMR 19.038(2)(a)1. through 10.*
- (b) Duty to Maintain. *The owner and operator shall always operate and maintain all facilities, environmental control and monitoring systems, vehicles and equipment as required by 310 CMR 19.000 or by the facility permit or other approval..."*

- B. 310 CMR 19.142(5): Landfill Post-Closure Requirements that reads in part:

*"During the post-closure period the owner or operator (or successors or assigns thereto) shall perform the following activities on any closed portion of the facility:*

- (a) *take corrective actions to remediate and/or mitigate conditions that would compromise the integrity and purpose for the final cover;*
- (b) *maintain the integrity of the liner system and the final cover system;*
- (c) *collect leachate from and monitor and maintain leachate collection system(s);*
- (d) *monitor and maintain the environmental monitoring systems for surface water, ground water and air quality;*
- (e) *maintain access roads;*
- (f) *maintain landfill gas control systems;*

*(g) protect and maintain surveyed benchmarks; and  
(h) have the landfill inspected by a third-party inspector in accordance with 310 CMR 19.018 and such third-party inspection shall be conducted in accordance with the frequency and other requirements of 310 CMR 19.018, unless more frequent inspections or more stringent requirements are contained in the terms of any approval, order or other document issued by the Department pursuant to 310 CMR 19.000."*

III. DISPOSITION AND ORDER

For the reasons set forth above, MassDEP hereby issues, and Respondent hereby consents to, this Order:

7. The parties have agreed to enter into this Consent Order because they agree that it is in their own interests, and in the public interest, to proceed promptly with the actions called for herein rather than to expend additional time and resources litigating the matters set forth above. Respondent enters into this Consent Order without admitting or denying the facts or allegations set forth herein. However, Respondent agrees not to contest such facts and allegations for purposes of the issuance or enforcement of this Consent Order.

8. MassDEP's authority to issue this Consent Order is conferred by the Statutes and Regulations cited in Part II of this Consent Order.

9. Respondent shall:

A. Upon the effective date of this Consent Order, take the actions necessary to return to compliance with the regulations set forth at 310 CMR 19.000: *Solid Waste Management*, including, without limitation, the following:

- i. Cease all stockpiling activities at the Facility that are not in compliance with the requirements of 310 CMR 19.000 and the approved 1998 landfill closure certification. These activities include, but are not limited to, stockpiling excavate material in a manner that impacts the final cover system, drainage swales, landfill gas controls and vegetative cover;
- ii. Ensure that no additional Excavate and other material moves down the north side slope of the Landfill or impacts the northern drainage swale, vegetative cover, access road or adjacent cove; and
- iii. Store and stockpile any additional Excavate and other material in accordance with all MassDEP regulations, permit approvals and in accordance with the requirements set forth in this Consent Order.

B. No later than <sup>sixty (60)</sup> ~~forty-five (45)~~ days after the effective date of this Consent Order, submit to MassDEP for review and approval as an application category BWP SW-22 *Minor Modification of Existing Landfill*, a scope of work (SOW) to conduct corrective actions at the Landfill that includes, without limitation, the following:

*mll*  
*8/27/14*

- i. A site plan and description of the locations of the types and quantities of material at the Landfill, including, without limitation, Excavate and compost;
  - ii. A plan for the removal of all Excavate and other materials from outside of Area B of the Landfill including, without limitation, the north side slope, drainage swale and access road;
  - iii. Inspection, identification, and evaluation of any damage to the final cap including, but not limited to, the vegetative cover, the storm water control system, landfill gas system, and the environmental monitoring systems;
  - iv. A plan for the restoration and repair of the landfill cap system including, without limitation, the landfill gas system, the storm water control system, the access road(s) and the environmental monitoring systems;
  - v. Identification of any potential public nuisances and adverse impacts from the proposed corrective actions and measures for controlling such public nuisances and impacts;
  - vi. Provide that the SOW shall be conducted under the supervision and direction of an independent Massachusetts Registered Professional Engineer experienced in solid waste landfill design and operation; and
  - vii. A schedule for implementation of the SOW.
- mll  
8/27/14
- C. No later than ~~sixty (60)~~ <sup>seventy-five (75)</sup> days after the effective date of this Consent Order, submit to MassDEP, as an application category BWP SW-37 *Post-Closure Use Minor*, for review and approval a plan for continuing the post-closure activities at the Landfill (the "PC-Use Plan"). The PC-Use Plan shall describe the procedures the Respondent proposes to implement to continue the Post-Closure Uses at the Landfill. The PC-Use Plan shall include, but not be limited to, the following:
- i. A description of the Post-Closure Uses including types and quantities of materials;
  - ii. A site plan that shows, without limitation, the areas within which each Post-Closure Use will occur;
  - iii. Procedures for delineating the area(s) in which the Post-Closure Use will be conducted; and
  - iv. Post-closure maintenance procedures.
- D. Respondent shall submit all applications required by this Consent Order to MassDEP pursuant to 310 CMR 4.00. The Respondent shall provide any additional information required by MassDEP on an application, without limitation, including that required by any Notice of Administrative or Technical Deficiency issued by MassDEP pursuant to 310 CMR 4.00 and this Consent Order, within thirty (30) days of the date of such notice or request, unless Respondent requests and MassDEP approves, at its sole discretion, an alternative schedule.

In the Matter of: Rumford Avenue Landfill  
ACOP No. ACOP- NE-14-4001

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10. Except as otherwise provided, all notices, submittals and other communications required by this Consent Order shall be directed to:

John A. Carrigan  
MassDEP-Northeast Regional Office  
Bureau of Waste Prevention  
205B Lowell Street  
Wilmington, MA, 01887

Such notices, submittals and other communications shall be considered delivered by Respondent upon receipt by MassDEP. In accordance with 310 CMR 16.07, any person, required by 310 CMR 16.00 or any order issued by the Department, to submit papers shall identify themselves by name, profession, and relationship to the Respondent and legal interest in the Facility, and make the following certification:

*"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties both civil and criminal for submitting false information including possible fines and imprisonment."*

11. Actions required by this Consent Order shall be taken in accordance with all applicable federal, state, and local laws, regulations and approvals. This Consent Order shall not be construed as, nor operate as, relieving Respondent or any other person of the necessity of complying with all applicable federal, state, and local laws, regulations and approvals.

12. For purposes of M.G.L. c. 21A, § 16 and 310 CMR 5.00, this Consent Order shall also serve as a Notice of Noncompliance for Respondent's noncompliance with the requirements cited in Part II above. MassDEP hereby determines, and Respondent hereby agrees, that any deadlines set forth in this Consent Order constitute reasonable periods of time for Respondent to take the actions described.

13. Respondent shall pay to the Commonwealth the sum of **thirty-four thousand, five hundred dollars (\$34,500.00)** as a civil administrative penalty for the violations identified in Part II above, as follows:

A. **Within sixty (60) days of the effective date** of this Consent Order, Respondent shall pay to the Commonwealth **twelve thousand dollars (\$12,000.00)**; and

B. MassDEP hereby agrees to suspend payment of the sum of **twenty-two thousand, five hundred dollars (\$22,500.00)**; provided, however, that if Respondent violates any provision of this Consent Order, or further violates any of the regulations cited in Part II above within **three years** of the effective date of this Consent Order, Respondent shall pay to the Commonwealth the remaining amount of **twenty-two thousand, five hundred dollars (\$22,500.00)** within thirty (30) days of the date MassDEP issues Respondent a written demand

In the Matter of: Rumford Avenue Landfill  
ACOP No. ACOP- NE-14-4001

for payment. This paragraph shall not be construed or operate to bar, diminish, adjudicate, or in any way affect, any legal or equitable right of MassDEP to assess Respondent additional civil administrative penalties, or to seek any other relief, with respect to any future violation of any provision of this Consent Order or any law or regulation.

Respondent shall pay all civil administrative penalties due under this Consent Order, including suspended and stipulated penalties, by certified check, cashier's check, or money order made payable to the Commonwealth of Massachusetts, or by electronic funds transfer. If payment is made by certified check, cashier's check, or money order, Respondent shall clearly print on the face of its payment Respondent's full name, the file number appearing on the first page of this Consent Order, and Respondent's Federal Employer Identification Number, and shall mail it to:

Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 3982  
Boston, Massachusetts 02241-3982

14. Respondent understands, and hereby waives, its right to an adjudicatory hearing before MassDEP on, and judicial review of, the issuance and terms of this Consent Order and to notice of any such rights of review. This waiver does not extend to any other order issued by the MassDEP.

15. This Consent Order may be modified only by written agreement of the parties hereto.

16. The provisions of this Consent Order are severable, and if any provision of this Consent Order or the application thereof is held invalid, such invalidity shall not affect the validity of other provisions of this Consent Order, or the application of such other provisions, which can be given effect without the invalid provision or application, provided however, that MassDEP shall have the discretion to void this Consent Order in the event of any such invalidity.

17. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting (i) any legal or equitable right of MassDEP to issue any additional order or to seek any other relief with respect to the subject matter covered by this Consent Order, or (ii) any legal or equitable right of MassDEP to pursue any other claim, action, suit, cause of action, or demand which MassDEP may have with respect to the subject matter covered by this Consent Order, including, without limitation, any action to enforce this Consent Order in an administrative or judicial proceeding.

18. This Consent Order shall not be construed or operate as barring, diminishing, adjudicating, or in any way affecting, any legal or equitable right of MassDEP or Respondent with respect to any subject matter not covered by this Consent Order.

19. This Consent Order shall be binding upon Respondent and upon Respondent's heirs, successors and assigns. Respondent shall not violate this Consent Order and shall not allow or suffer Respondent's members, managers, employees, agents, contractors or consultants to violate

In the Matter of: Rumford Avenue Landfill  
ACOP No. ACOP- NE-14-4001

this Consent Order. Until Respondent has fully complied with this Consent Order, Respondent shall provide a copy of this Consent Order to each successor or assignee at such time that any succession or assignment occurs.

20. In addition to the penalty set forth in this Consent Order (including any suspended penalty), Respondent shall pay stipulated civil administrative penalties to the Commonwealth in accordance with the following schedule if Respondent violates any provision of this Consent Order:

For each day, or portion thereof, of each violation, Respondent shall pay stipulated civil administrative penalties in the following amounts:

<u>Period of Violation</u>	<u>Penalty per day</u>
1 <sup>st</sup> through 15 <sup>th</sup> days	\$1,000 per day
16 <sup>th</sup> through 30 <sup>th</sup> days	\$2,000 per day
31 <sup>st</sup> day and thereafter	\$4,000 per day

Stipulated civil administrative penalties shall begin to accrue on the day a violation occurs and shall continue to accrue until the day Respondent corrects the violation or completes performance, whichever is applicable. Stipulated civil administrative penalties shall accrue regardless of whether MassDEP has notified Respondent of a violation or act of noncompliance. All stipulated civil administrative penalties accruing under this Consent Order shall be paid within thirty (30) days of the date MassDEP issues Respondent a written demand for payment. If simultaneous violations occur, separate penalties shall accrue for separate violations of this Consent Order. The payment of stipulated civil administrative penalties shall not alter in any way Respondent's obligation to complete performance as required by this Consent Order. MassDEP reserves its right to elect to pursue alternative remedies and alternative civil and criminal penalties which may be available by reason of Respondent's failure to comply with the requirements of this Consent Order. In the event MassDEP collects alternative civil administrative penalties, Respondent shall not be required to pay stipulated civil administrative penalties pursuant to this Consent Order for the same violations.

Respondent reserves whatever rights it may have to contest MassDEP's determination that Respondent failed to comply with the Consent Order and/or to contest the accuracy of MassDEP's calculation of the amount of the stipulated civil administrative penalty. Upon exhaustion of such rights, if any, Respondent agrees to assent to the entry of a court judgment if such court judgment is necessary to execute a claim for stipulated penalties under this Consent Order.

21. Respondent shall pay all civil administrative penalties due under this Consent Order, including suspended and stipulated penalties, by certified check, cashier's check, or money order made payable to the Commonwealth of Massachusetts, or by electronic funds transfer. If payment is made by certified check, cashier's check, or money order, Respondent shall clearly print on the face of its payment Respondent's full name, the file number appearing on the first page of this Consent Order, and the Respondent's Federal Employer Identification Number, and shall mail it to:

In the Matter of: Rumford Avenue Landfill  
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Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 3982  
Boston, Massachusetts 02241-3982

If payment is made by electronic funds transfer, Respondent must complete the attached form "Electronic Funds Transfer Request" and, within 10 days of the effective date of this Consent Order, submit it to Director, BAS Division of Fiscal Management via Facsimile at the MassDEP Revenue Fax Number 617-292-5824 or via mail to:

Department of Environmental Protection  
Attn: Revenue Unit  
1 Winter Street, 4th Floor  
Boston, MA 02108

In the event Respondent fails to pay in full any civil administrative penalty as required by this Consent Order, then pursuant to M.G.L. c. 21A, § 16, Respondent shall be liable to the Commonwealth for up to three (3) times the amount of the civil administrative penalty, together with costs, plus interest on the balance due from the time such penalty became due and attorneys' fees, including all costs and attorneys' fees incurred in the collection thereof. The rate of interest shall be the rate set forth in M.G.L. c. 231, § 6C.

22. Failure on the part of MassDEP to complain of any action or inaction on the part of Respondent shall not constitute a waiver by MassDEP of any of its rights under this Consent Order. Further, no waiver by MassDEP of any provision of this Consent Order shall be construed as a waiver of any other provision of this Consent Order.

23. To the extent authorized by the current owner, Respondent agrees to provide MassDEP, and MassDEP's employees, representatives and contractors, access at all reasonable times to the Facility for purposes of conducting any activity related to its oversight of this Consent Order. Notwithstanding any provision of this Consent Order, MassDEP retains all of its access authorities and rights under applicable state and federal law.

24. This Consent Order may be executed in one or more counterpart originals, all of which when executed shall constitute a single Consent Order.

25. The undersigned certify that they are fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the party on whose behalf they are signing this Consent Order.

26. This Consent Order shall become effective on the date that it is executed by MassDEP.

27. Respondent's obligations under this Consent Order shall cease upon Respondent's completion of all actions and payments required pursuant to Paragraphs 9 through 21 of this

In the Matter of: Rumford Avenue Landfill  
ACOP No. ACOP- NE-14-4001

Consent Order and MassDEP's issuance of a return to compliance letter stating that Respondent has completed the requirements of said Paragraphs.

Consented to by:  
City of Newton

By: Maureen Lemieux 8/27/14

~~Setti Warren~~ Maureen Lemieux  
Mayor Chief Financial Officer/Chief of Staff  
1000 Commonwealth Avenue  
Newton, MA 02459

Date: August \_\_, 2014

Issued by:  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: \_\_\_\_\_

Eric S. Worrall  
Acting Regional Director  
MassDEP – Northeast Regional Office  
205B Lowell Street  
Wilmington, Massachusetts

Date: August \_\_, 2014



In the Matter of: Rumford Avenue Landfill  
ACOP No. ACOP- NE-14-4001

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ATTACHMENT

(Respondent Letterhead required)

Department of Environmental Protection  
Attn: Revenue Unit  
1 Winter Street, 4th Floor  
Boston, MA 02108

RE: Electronic Funds Transfer Request  
[Respondent fills in Enforcement Document Number, e.g. ACOP-CE-11-3A006]

Director, BAS Division of Fiscal Management:

In order to complete a wire transfer for payment of the penalty assessed under (list enforcement number here), (put Respondent name here) requests the following information:

DEP's legal address,  
DEP's Federal Tax Identification Number,  
The name and address of DEP's bank,  
DEP's account name and number, and  
The ABA/routing number for DEP's account.

Please mail or fax this information to:  
Respondent's contact name:  
Address:

Fax number:

Sincerely,

Signed:  
Print name:  
Title:  
Work number:

Date:

**BOARD OF ALDERMEN  
CITY OF NEWTON**

**DOCKET REQUEST FORM**

**DEADLINE NOTICE: Aldermanic Rules require items to be docketed with the Clerk of the Board NO LATER THAN 7:45 P.M. TUESDAY, PRIOR TO THE MONDAY FULL BOARD MEETING in order to be voted to be assigned to Committee(s) that evening.**

RECEIVED  
2014 AUG 12 AM 11:11  
Dana A. O'Brien, Clerk  
Newton, MA 02459  
Newton City Hall

**To: Clerk of the Board of Aldermen**

**Date:** 12 August 2014

**From (Docketer):** Alice E. Ingerson, for Community Preservation Committee

**Address/phone/email:** Planning & Development Dept., Newton City Hall, aingerson@newtonma.gov,

617.796.1144

**Additional sponsors:**

**1. Please docket the following item (edit if necessary):**

The COMMUNITY PRESERVATION COMMITTEE requesting approval of a revised fiscal 2015 program budget of \$4,228,070, as documented in the Committee's 12 August 2014 submission to the Mayor and Board of Aldermen.

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

- |  |   |
|--|---|
| <input type="checkbox"/> Fact-finding & discussion   | <input type="checkbox"/> Ordinance change         |
| <input checked="" type="checkbox"/> <b>Appropriation, transfer, expenditure, or bond authorization</b> | <input type="checkbox"/> Resolution               |
| <input type="checkbox"/> Special permit, site plan approval, zone change (public hearing required)     | <input type="checkbox"/> License or renewal       |
|  | <input type="checkbox"/> Appointment confirmation |
|  | <input type="checkbox"/> 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        |

Please let me know if any additional committees would like to consider this item.

**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.
- Please note that approval of this budget is a prerequisite for setting the City's fiscal 2015 tax rate.
- In due course, at discretion of Committee Chair
- When certain materials are made available, as noted in 7 & 8 below
- Following public hearing

**PLEASE FILL OUT REVERSE SIDE**

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

- One half hour or less
- More than one hour
- More than one meeting
- Up to one hour
- An entire meeting
- 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

Alice Ingerson, CPA Program Manager,  
x1144. [aingerson@newtonma.gov](mailto:aingerson@newtonma.gov)

Community Preservation Committee,  
via Alice Ingerson

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. \*

Revised fy15 program budget, including revenue, expenditures, and detail for program administration, as approved by the CPC on 5 August 2014.

(\*Note to docketer: Please provide any additional materials beyond the foregoing to the Clerk's office by 2 p.m. on Thursday before the upcoming Committee meeting when the item is scheduled to be discussed so that Aldermen have a chance to review all relevant materials before a scheduled discussion. Materials not submitted 48 hours in advance of a meeting to discuss an item will require a vote to suspend the rules the night of the Committee's 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,  and inform me of the docket item number.

Email contact preferred: [aingerson@newtonma.gov](mailto:aingerson@newtonma.gov)

My daytime phone number is: 617.796.1144

11.  I would like the Clerk's office to notify me when the Chairman has scheduled the item for discussion.

Thank you.

Alice E. Ingerson

Signature of person docketing the item

[Please retain a copy for your own records]

City of Newton



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1120  
**#332-14**  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
[www.newtonma.gov](http://www.newtonma.gov)

James Freas  
Interim Director

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**Community Preservation Committee**  
**MEMORANDUM**

**date:** 12 August 2014  
**from:** Community Preservation Committee  
c/o Alice Ingerson, Community Preservation Program Manager  
**to:** Mayor Setti D. Warren  
The Honorable Board of Aldermen  
**about:** **requesting approval of revised Fy15 CPA program budget**

Dear ladies and gentlemen,

On 5 August 2014, the Community Preservation Committee voted 6-0 (members Michael Clarke and Thomas Turner absent) to request approval of the attached revised program budget for fiscal 2015, using the Dept. of Revenue's estimate of a 23% fiscal 2015 state match (\$622,706) for Newton's certified fiscal 2014 local CPA surcharge revenue.

With this revision, total budgeted new CPA revenue for fiscal 2015 will be \$4,228,070.

Please see attached detail for revisions in budgeted expenditures and reserves consistent with this revised revenue projection, including changes to keep the program's administrative expenditures below the statutory maximum 5% of annual new CPA revenue.

Please also note that approval of this revised fiscal 2015 CPA program budget is a prerequisite for Dept. of Revenue approval of the City's tax rates for fiscal 2015.

5 August 2014, approved 6-0 by the CPC for submission to Mayor and Board of Aldermen

City of Newton, Massachusetts COMMUNITY PRESERVATION FUND Program Budget		Fiscal 2015 Approved Budget, May 2014	Fiscal 2015 Revised, based on DoR-recommended state match estimate	Notes
<b>REVENUE</b>				
fy15 local CPA surcharge		\$2,774,541	\$2,774,541	Fy15 as 2.5% increase over projected fy14 local revenue.
fy15 state matching funds		\$1,363,435	\$622,706	Fy15 revised from orig. budgeted 50% of projected fy14 local revenue to DoR-recommended 23% of certified fy14 local revenue.
undesignated fund balance		\$830,824	\$830,824	Confirmed and anticipated fy14 revenue omitted from the fy14 budget, part of which must be allocated to restricted reserves (includes 1% surcharge on override revenue + excess of confirmed 52.22% actual state match in addition to 26% budgeted state match).
<b>TOTAL REVENUE</b>		<b>\$4,958,799</b>	<b>\$4,228,070</b>	
<b>EXPENDITURES</b>				
<b>PROGRAM ADMINISTRATION &amp; DEBT SERVICE</b>				
Program Administration		(\$182,409)	(\$152,559)	Fy15 budgeted as 4.5% of annual new funds. Statutory maximum under CPA is 5%. At year end, fy08-fy13 actual has averaged 3-3.5%.
Debt Service: Kessler Woods (open space - amount due in addition to open space reserve)		\$0	\$0	Final payment was in fy14.
Debt Service: 20 Rogers St. (recreation)		(\$280,500)	(\$280,500)	Final payment will be in fy17.
<b>BUDGETED RESERVES</b>				
Community Housing Reserve (10% of annual new funds)		(\$495,880)	(\$422,807)	
Historic Resources Reserve (10% of annual new funds)		(\$495,880)	(\$422,807)	
Open Space Reserve (10% of annual new funds)		(\$495,880)	(\$422,807)	
General Reserve (all annual new funds not budgeted for debt service or program administration)		(\$3,008,250.46)	(\$2,526,590.20)	
<b>TOTAL EXPENDITURES</b>		<b>(\$4,958,799)</b>	<b>(\$4,228,070)</b>	

Newton, Massachusetts COMMUNITY PRESERVATION PROGRAM

Program Administration		Fiscal 2015 Approved Budget, May 2014	Fiscal 2015 Revised using DoR- recommended 23% state match	NOTES
<b>PERSONNEL</b> <i>(after budget approval, funds may be transferred among lines or to non-personnel lines only with Board approval)</i>				
Prog Mgr. FULL TIME SALARIES	\$89,811.89	\$88,945.00	From fy15 budget book.	
Prog Mgr. CONTRIBUTORY RETIREMENT	\$9,217.00	\$9,217.00	From fy15 budget book.	
Prog Mgr. DENTAL INSURANCE	\$0.00	\$0.00		
Prog Mgr. HEALTH INSURANCE	\$0.00	\$0.00		
Prog Mgr. BASIC LIFE INSURANCE	\$59.03	\$57.00	From fy15 budget book.	
Prog Mgr. MEDICARE PAYROLL TAX	\$1,302.28	\$1,290.00	From fy15 budget book.	
Program Manager (salary plus benefits)	\$100,390.20	\$99,509.00	From fy15 budget book.	
Work by Other Depts.	\$6,500.00	\$6,200.00	Project mgmt assistance from staff in Planning & Development Dept. (primarily Housing staff), costs for use of City-owned mtg spaces outside City Hall.	
Transfer to General Fund (work by Engineering staff)	\$6,500.00	\$6,200.00	Project mgmt/oversight from Engineering Division for projects that involve construction.	
<b>SUBTOTAL Personnel</b>	<b>\$113,390.20</b>	<b>\$111,909.00</b>		
<b>OTHER</b> <i>(after budget approval, the CPC or its staff may transfer funds among these lines, or to new lines in this category, w/o seeking Board approval)</i>				
Consultants	\$53,500.00	\$25,000.00	To support CPC decision-making & program evaluation: appraisals, project budget analyses or peer review, etc. FY14 budget included \$3,528.52 of fy12 funds carried over to complete fy13 website & online data conversion/verification project.	
Advertising/ Publications	\$500.00	\$500.00	Allows for purchase of a portable/mini projector for use at community meetings, or replacement digital recorder if the current 5-year-old one stops working.	
Audiovisual Equipment	\$500.00	\$500.00	Newton's Community Preservation Coalition dues were raised for the first time in fy14, from \$7500 to \$7900. Coalition staff does not expect another increase in fy15.	
Dues & Subscriptions	\$7,900.00	\$7,900.00		
Office Supplies & Equipment	\$500.00	\$500.00		
Postage	\$3,000.00	\$3,000.00	City of Newton mailroom, plus direct-mail costs for possible special mailing in fy15 (see printing line item for details).	
Printing	\$2,500.00	\$2,000.00	City & outside printing services. FY12 color inserts for 25,000 water bills cost \$1,458. In fy15, budget for a direct-mail postcard to all Newton taxpayers (or all Newton households?) explaining what the CPA is, summarizing recent grants & available funds, referring people to website for more info. Ideally, the CPC should do this mailing every other year.	
Signs	\$1,500.00	\$1,250.00	Design & purchase new project site signs that will be easier to move and store and less expensive to replace if damaged.	#32-14
<b>SUBTOTAL Other Expenses</b>	<b>\$69,900.00</b>	<b>\$40,650.00</b>		
<b>TOTAL All Expenses</b>	<b>\$183,290.20</b>	<b>\$152,559.00</b>	4.5% of new funds, incl. projected fy14 local revenue and 23% state match for certified fy14 local funds, but excl. transfer from fy14 "undesignated fund balance" (fy14 state funds rec'd in addition to state funds budgeted) = \$152,876.	



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#334-14  
Telephone  
(617) 796-1100  
Facsimile  
(617) 796-1113  
TDD/TTY  
(617) 796-1089  
E-mail  
swarren@newtonma.gov

August 25, 2014

Honorable Board of Aldermen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to appropriate the sum of \$335,000 from FY15 Budget Reserve to fund immediate building needs at the Police Annex at 25 Chestnut Street. The building suffered significant damage during the recent torrential rainstorms. That damage prompted further inspection and several building components were identified as needing immediate repair to preserve the building envelope and to provide an appropriate work environment.

Representative photos of the damage are attached. Thank you for your consideration of this matter.

Very truly yours,

Setti D. Warren  
Mayor

RECEIVED  
NEWTON CITY OFFICE  
2014 AUG 25 PM 4:52  
DAVID A. OLSON, CHIC  
NEWTON, MA 02459



City of Newton



**PUBLIC BUILDINGS DEPARTMENT**

Joshua R. Morse, Commissioner

Telephone (617) 796-1600

FAX (617) 796-1601

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52 ELLIOT STREET

NEWTON HIGHLANDS, MA 02461-1605

**Setti D. Warren**

**Mayor**

August 25, 2014

Mayor Setti D. Warren  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

RE: Funding request for improvements to the Police Annex at 25 Chestnut Street

Dear Mayor Warren:

The Public Buildings Department respectfully requests \$335,000.00 to fund the immediate building needs at the Police Annex. The roof, exterior masonry, fascia, gutters, and downspouts are in serious need of significant work. The failure of these components has just recently been identified as creating less than ideal working conditions within the building. In addition, the HVAC system is not providing an adequate level of air exchange or fresh air introduction. To protect this building asset, maintain its integrity, and provide an acceptable working environment, I ask that these funds be docketed. The following is a breakdown of the request:

- Masonry - \$60,000.00
- Roof/Fascia/Gutters - \$30,000.00
- HVAC - \$75,000.00
- Ceiling/Lights - \$50,000.00
- Paint - \$10,000.00
- Ivy/Cleanup - \$10,000.00
- Drywall/Demo - \$40,000.00
- Design - \$30,000.00
- Contingency - \$30,000.00
  
- Total - \$335,000.00

Should you have any questions or concerns regarding the above, please feel free to contact me at (617) 796 1600. Thanks.

Sincerely,

Josh Morse  
Building Commissioner  
Maureen Lemieux, Chief Financial Officer  
Alex Valcarce Director of Project Management



## **Police Annex Scope of Proposed Work**

### **Masonry:**

The scope of the masonry work will include repointing of the exterior envelope in all joints that show signs of degradation with the potential for water infiltration. The full scope of work will be determined once the remainder of the ivy has been removed from the building. This will include caulking of any and all joints around doors, windows, and fascia as needed. The nosings on the stairs leading up to the building will also be replaced as they have failed and present a tripping hazard. We have a locked in square foot cost for this work already under contract.

### **Roof/Fascia/Gutters:**

The roof project will include replacement of slate and flashing as required. A good portion of the roof is in a salvageable condition and has already been evaluated by our professional roofing contractor in conjunction with myself. We did an identical roof project at the Nonantum Branch Library last year, so we have a very good handle on the scope and costs. The fascia will be repaired/replaced as needed, and will then be scraped/painted. The gutters and downspouts need to be replaced, as many of the gutters are wood in very rough condition, and the downspouts are no longer keeping water away from the building.

### **HVAC:**

The existing HVAC system is a combination of baseboard electric radiation, hot water boiler with baseboard radiation, forced hot air, and packed air handling units providing air conditioning. Air distribution takes fresh air from the parking lot at grade, mix it with return air from the basement, and supply it to the various parts of the building. The filtration system for this approach is inadequate and not serviceable. The temperature controls are inadequate and not placed in the correct locations for optimal occupant comfort. The electric baseboard radiation is very expensive to operate. Most of the bathrooms have no exhaust fans.

The new approach to the HVAC will be an Energy Recovery Ventilation System that will take clean fresh air from near the top of the building, and provide tempered filtered air to the various portions of the building. The electric baseboard will be removed and replaced with either forced hot air or fin tube radiation supplied by the hot water boiler depending on where the space is within the building. New temperature controls will be placed in logical areas where they are not negatively impacted by building systems. The old forced air system will no longer be needed, and will therefore be removed. The new system will be much more efficient, and will make the building much cleaner and more hospitable for the occupants. I have a contractor providing a proposal for this work through an existing fixed price contract.

**Ceiling/Lights:**

In order to achieve the installation of the new HVAC system, as well as to improve occupant comfort and light levels, a suspended ceiling will be installed with new lighting fixtures. The building and site do not provide adequate space for the ERV unit, and these are typically suspended above ceilings. This therefore required installation of a suspended ceiling. The high ceilings and ceiling features were very difficult to clean and identified as less than ideal by the occupants. Reducing the ceiling height also reduces the area required to be cooled and heated which therefore helps reduce energy costs. I have a contractor providing a proposal for this work through an existing fixed price contract.

**Paint:**

Although often seen as an aesthetic improvement, painting is needed in this case to protect and preserve both interior and exterior building components. The proposed cost is based on the square footage of space needed to be painted, while applying our in house labor costs as this is by far the most cost effective method of completing this work.

**Ivy/Cleanup:**

All of the ivy as well as a good portion of shrubs and organics need to be removed from the perimeter of the building to both protect the envelope, but also access the façade for masonry and roof repairs. The proposed cost is based on the scope of work, while applying our in house labor costs as this is by far the most cost effective method of completing this work.

**Drywall/Demo:**

There are a number of areas throughout the interior of the building that need to have drywall and or flooring removed and replaced. The proposed cost is based on the scope of work, while applying our in house labor costs as this is by far the most cost effective method of completing this work.

**Design and Contingency:**

Design costs are primarily reserved for specification of the proposed building systems, sequence of operations, and scope detailing as needed. These funds will only be expended as needed, and the remainder will be turned back as usual. The contingency is a percentage, appx 10%, to address any unforeseen conditions that may arise during the project. As with the design funds, unexpended money will be turned back.

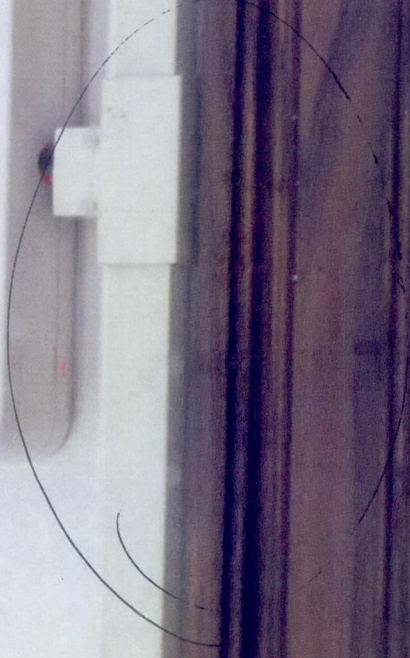
#334-14

EXIT

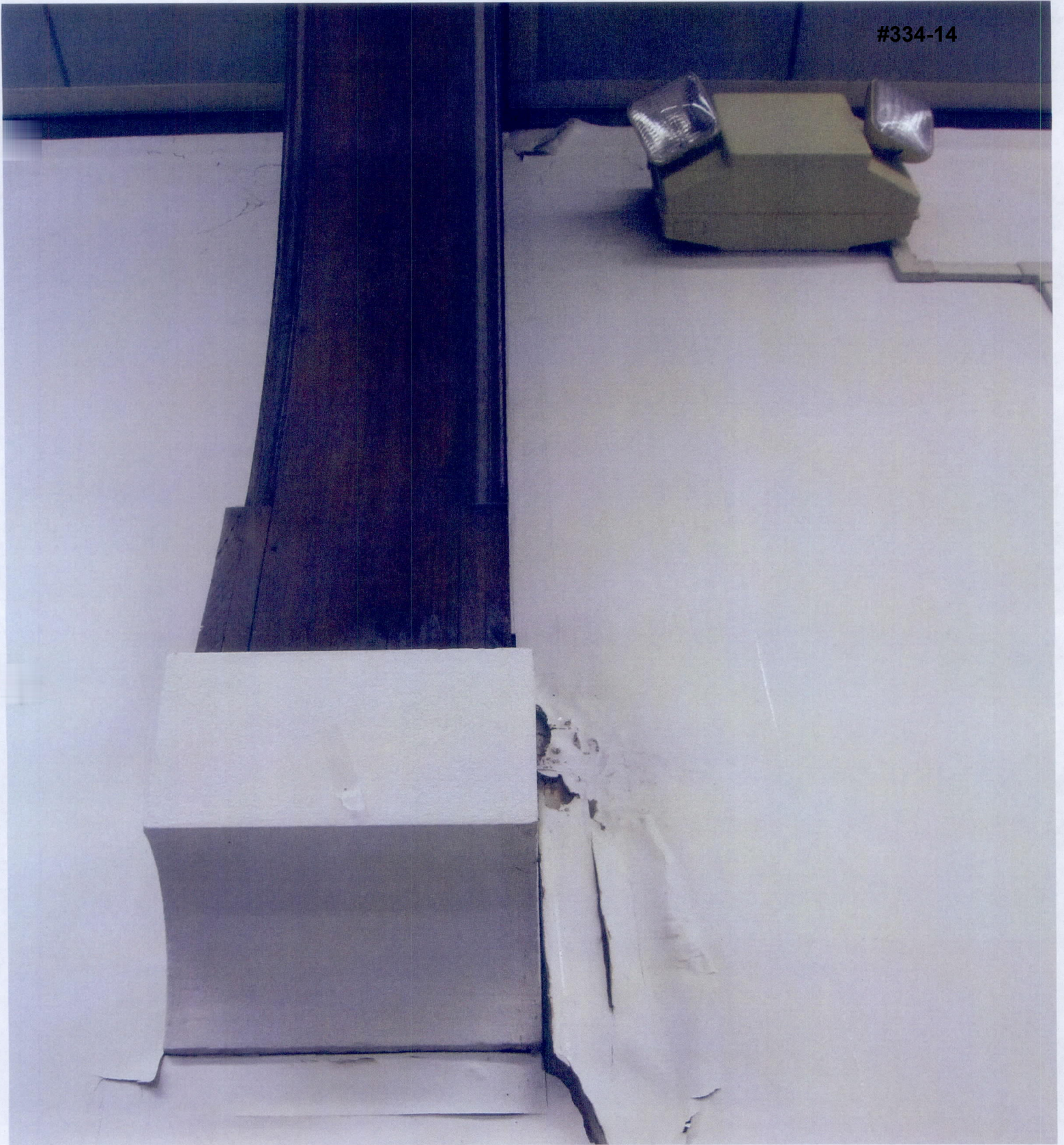


EXIT

Water dripping  
from sign



#334-14



#334-14



#334-14



#334-14





City of Newton



DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE COMMISSIONER

1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449

Setti D. Warren  
Mayor

August 29, 2014

DAVID A. OLSON, CMC  
Newton, MA 02459

2014 AUG -4 PM 4:30

RECEIVED  
Newton City Clerk

To: Mayor Setti D. Warren

From: David F. Turocy, Commissioner

Via: Maureen Lemieux, Chief of Staff and Chief Financial Officer

Subject: Request for Authorization of Additional Sewer Operating Reserve Funds  
Sewer CIP Project Area 2 Construction and Construction Services

I respectfully request an authorization to use up to \$1,604,000 in additional sewer operating reserve funds. This proposed funding will allow Public Works to implement a portion of the sewer improvements as outlined in the Capital Improvement Plan. In particular, the construction of sewer project area 2, which is currently under final design, will be bid in the late summer for an October 2014 start date.

We are currently authorized \$2,296,000 in MWRA loan/grant, plus \$1,100,000 in sewer operating reserves, for this project. These funds were requested this past spring, based on a preliminary estimate from our design consultant (Weston & Sampson Engineers) prior to completion of final design. They are now completing the 100% design of the project, and have expanded the scope of the construction project. The expanded scope is related to an increase in the number of necessary sewer line rehabilitations identified in the Project 2 assessment, and a higher than anticipated number of sewer main excavation type repairs (27 total open cut sewer point repairs). The excavations include seven (7) urgent repairs identified during the Project 3 & 4 Investigation. This has resulted in the following cost estimates:

Project 2 Base Bid = \$4,500,000 (Includes the original \$3,396,000 as estimated in the spring, additional rehabilitations identified during Project 2 Design, and seven (7) sewer main excavations discovered during the Project 3 & 4 Investigation.)

Construction Services = \$500,000 (This includes Weston & Sampson's construction inspection efforts.)

Total Project 2 construction and construction services = \$5,000,000

The requested \$1,604,000 makes up the shortfall in authorized funding.

This project will be constructed to reduce sewer infiltration and inflow sources and provide improvement to sewer structures in the sewer project area 2. The construction includes sewer main cleaning and lining, manhole rehabilitations, and some spot repairs on crushed and collapsed sewer pipes. The funds will be used for construction, and construction services.

Respectfully,

David F. Turocy, DPW Commissioner

**APPROVED**

cc: David Wilkinson, Comptroller  
Louis M. Taverna, City Engineer  
Ted Jerdee, Utilities Superintendent

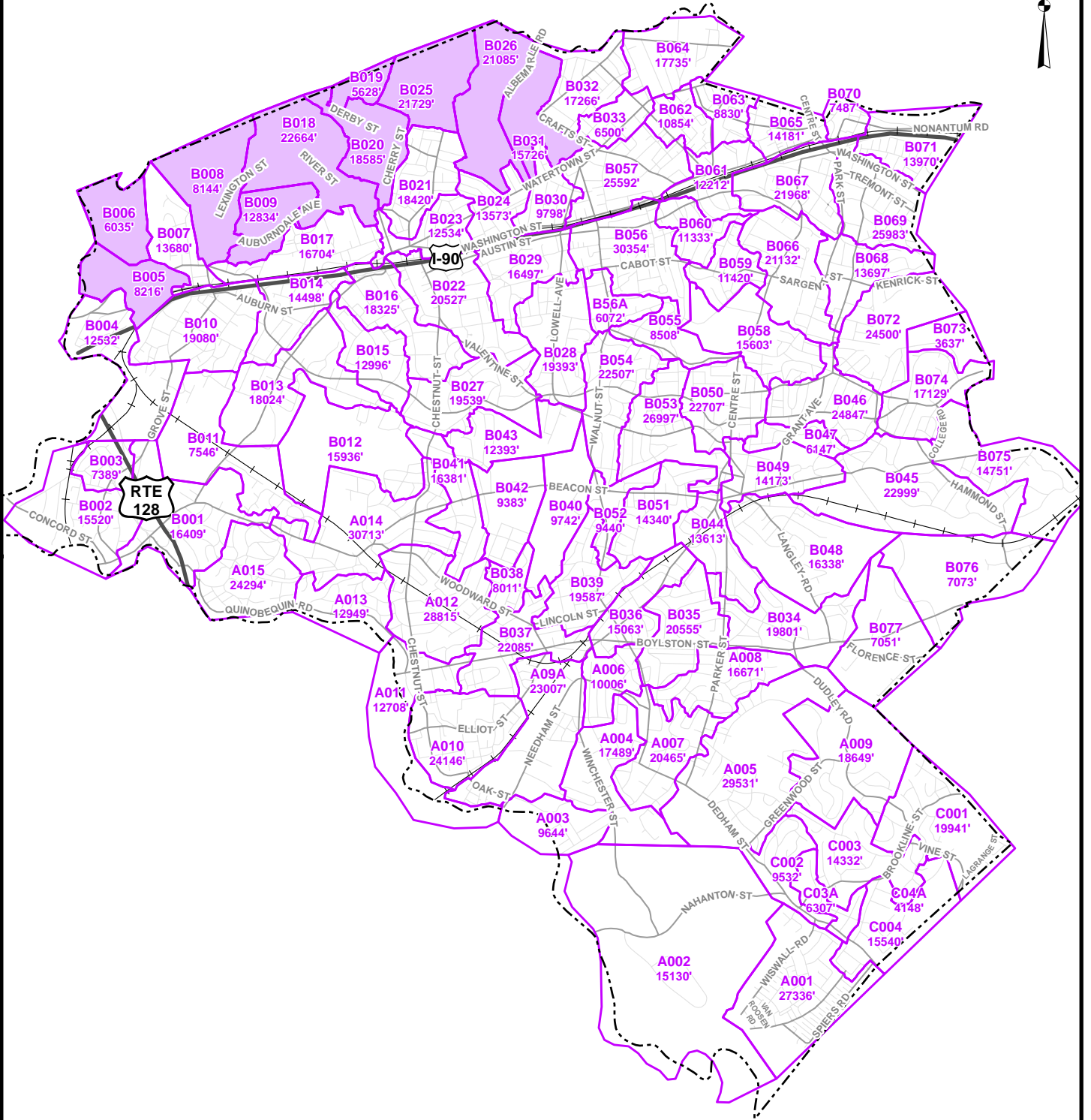
# Sewer System Capital Improvement Program Costs

#314-14

Project Area #1	Activity	Completion %	Estimated Cost	Actual Cost	Delta
	Inspection & Assessment	100%	\$537,250	\$537,216	\$34
	Design	100%	\$166,000	\$166,000	\$0
	Construction	90%	\$3,481,848	\$3,126,267	\$355,581
	Construction Services	72%	\$496,200	\$354,917	\$141,283
	<b>Total</b>		<b>\$4,681,298</b>	<b>\$4,184,400</b>	<b>\$496,898</b>
Location: Newtonville, West Newton, Auburndale					

Project Area #2	Activity	Completion %	Estimated Cost	Actual Cost	Delta
	Inspection & Assessment	100%	\$601,105	\$482,300	\$118,805
	Design	95%	\$181,500	\$172,425	\$9,075
	Construction	0%	\$4,500,000		
	Construction Services	0%	\$500,000		
	<b>Total</b>		<b>\$5,782,605</b>	<b>\$654,725</b>	<b>\$5,127,880</b>
Location: Auburndale, Lower Falls, West Newton					

Project Area #3 & #4	Activity	Completion %	Estimated Cost	Actual Cost	Delta
	Inspection & Assessment	65%	\$1,126,993	\$729,416	\$397,577
	Design	0%			\$0
	Construction	0%			\$0
	Construction Services	0%			\$0
	<b>Total</b>		<b>\$1,126,993</b>	<b>\$729,416</b>	<b>\$397,577</b>
Location: Lower Falls, Chestnut Hill, Newton Centre, Newtonville					



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NEWTON, MA  
SANITARY SEWER SYSTEM

CIP - PROJECT 2  
INSPECTION AND ASSESSMENT

Legend

 Project 2 Areas

