

CITY OF NEWTON

IN BOARD OF ALDERMEN

FINANCE COMMITTEE REPORT

MONDAY, SEPTEMBER 22, 2014

Present: Ald. Gentile (Chairman), Ciccone, Norton, Rice, Blazar, Fuller, and Lappin; 1 vacancy  
Also present: Ald. Johnson, Leary, Hess-Mahan, Sangiolo, Yates, Danberg, Kalis, and Lennon  
City staff present: Maureen Lemieux (Chief of Staff), Alice Ingerson (Community Preservation Planner), James Freas (Interim Director of Planning), Donnalyn Kahn (City Solicitor) Maura O'Keefe (Assistant City Solicitor), Greg Ansaldi (Deputy Director of Information Technology), James Reardon (Treasurer/Collector), Elizabeth Dromey (Director of Assessing), David Olson (City Clerk/Clerk of the Board), and Carol Stapleton (Recreation Program Manager),

**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]

**ZONING & PLANNING APPROVED 7-0 on 09/22/14**

**ACTION:** **APPROVED 7-0**

**NOTE:** The Committee met jointly with the Zoning and Planning Committee to discuss this item. The agenda for the Finance Committee meeting included backup material with extensive information on the project and the Community Preservation Committee's recommendation. Chair of the Community Preservation Committee Joel Feinberg presented the Community Preservation Committee's recommendation to provide \$300,000 for phase I of the preservation and rehabilitation of the Allen House in West Newton. The Community Preservation Committee is pleased with the project, as it is the type of project that the Community Preservation Act Fund was created to help fund. The challenge was to make the project economically feasible and present it in a way to develop community support and generate donations. In order to make the renovation of the house and grounds achievable, it was decided that the project should be done in two phases.

Phase I of the rehabilitation of the Allen House is estimated to cost \$1 million and will fund the rehabilitation of a portion of the main house and yard and include life safety work, envelope stabilization, and accessibility. The Cultural Alliance will be funding the remaining \$700,000 through a bank mortgage and private donations. The Cultural Alliance expects to raise \$350,000 for Phase I.

The plan is to rehabilitate the first floor and existing caretaker's apartment to be used as program space and office space. When this portion of the project is complete it will allow partial

occupancy of the Allen House. This phase of the project also includes the demolition of a porch and removal of a spiral fire stairway. The porch and stairway were an addition to the original house and have rotted creating a safety issue.

The Newton Cultural Alliance is expected to request additional Community Preservation funds to continue with the rehabilitation once Phase 1 is completed. The Community Preservation Committee will review this phase of the project before recommending any further funding. Phase II of the project is expected to cost around \$4,100,000. The Newton Cultural Alliance (NCA) anticipates requesting \$1,700,000 from Community Preservation Act funds to fund a portion of Phase 2, which would encompass the full preservation and rehabilitation of the Allen House.

Adrienne Hartzell, Acting Managing Director of the NCA, explained the three-pronged mission of the NCA. The Alliance focuses on advocating for and promoting cultural non-profits, promoting economic development through arts and cultural partnerships with business and the City, and building space for offices, classrooms, rehearsal and performances to bring artists and performance groups together. The NCA looked at a number of spaces until it found the Allen House. The Allen House is a historic resource and a national landmark that would benefit from rehabilitation and would become a community resource.

There are a number of organizations and programs interested in sharing space at the Allen House. NCA originally thought that there would be one large program at the Allen House but now the planned offered programs will be much broader.

Members of both Committees voiced concern regarding the parking plan for the Allen House. Ms. Hartzell explained that she has spent time working on a parking plan with the neighbors. The current plan has 26 spaces on site, which have been approved by the Historical Commission. Parking availability is likely the biggest challenge for the project; however, the NCA has a purchase and sale on 406 Cherry Street, which is adjacent to the Allen House and provides an opportunity for additional parking. Ms. Hartzell has also spoken with representatives of the nearby Newton Community Service Center and they are willing to share their parking with the Allen House

The NCA has held two meetings with the abutters to the Allen House and has been at the Elm Street Farmers' Market to provide information and promote the Allen House project. NCA notified residents and businesses including the Greater Boston Chinese Cultural Association, which offers a number of programs. In addition, a community clean-up event was held at the Allen House. Several Aldermen suggested that NCA do further community outreach about the intended uses for the Allen House and a parking plan. It is very important for the project to garner community support.

It was pointed out that it is difficult to know if the full budget is adequate to complete the project. There are also no financial reserves included in the project budget for future maintenance. It would be helpful to have any available information on Phase II of the project and to know what the plan is if fundraising goals are not met.

Ms. Hartzell stated that there will be a business plan for the project particularly for the barn. There are a number of opportunities for the barn such as space for an after school program, performances, or a black box theater. It is not clear yet how the space will be used but the Community Preservation Committee and the Board of Aldermen will be informed as part of the request for funds for Phase II. If the fundraising goals are not met for either phase of the project, the phases would not move forward and the Community Preservation Act funds would be returned back to the City. With that, Ald. Yates moved approval in Zoning and Planning Committee and Ald. Rice moved approval in the Finance Committee. Both motions carried by unanimous votes in favor.

#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]

**ACTION:**      **HELD 7-0**

**NOTE:**      Ald. Johnson docketed this item when she learned how easy it was to obtain any citizen's personal information as it pertains to municipal bills including bill amount and payment history through the City's website. She was very concerned that the City was storing credit card information, employee social security numbers, and bank account numbers in its databases that could be vulnerable to a security breach. The purpose of the docket item is to determine if there is any financial information connected to the data available on the web, what data protection the City has in place and if there needs to be further security measures taken. Ald. Johnson provided the attached information on data privacy and data security.

Deputy Director of Information Technology Greg Ansaldi assured Ald. Johnson that there is no financial information attached to any of the data on the City website. The City does not store any license or credit card information. If a citizen pays a municipal bill by credit card it is handled by a third party vendor and the City only receives the funds for the bill but no credit card numbers or other personal information. The database used for the website is a partial database that only provides public information. The use of the partial database protects against hackers. The City also restricts access in the software that provides employee data and there are many layers of restriction. The City also has a firewall to protect against intrusion, which is updated on a regular basis. The data contained in the City's financial software, FinancePlus, is encrypted. Mr. Ansaldi will also provide information on what other data is encrypted.

Chief of Staff Maureen Lemieux added that a couple of years ago the City purchased a citizen self-service module to allow people to view their payment history including the amount. The information provided is public record and therefore accessible to anyone that requests it. The self-service module was added as a customer service. When Ald. Johnson approached Ms. Lemieux regarding her concerns, Ms. Lemieux deactivated the module and agreed to only turn it on when a discussion had taken place. Since the module has been deactivated the City has received over 1000 complaints in regards to the unavailability of information. The Treasurer's

Office and Assessor's Office have been flooded with phone calls looking for the information. The City has never had a security breach.

Treasurer/Collector Jim Reardon stated that when the self-service module was implemented it became a widely used product. It was used by residents and real estate professionals. When access to the data was blocked the call volume in the Treasurer's Office increased over 100%. The department also received multiple complaints regarding having to call for the information. The Administration would like to reactivate the self-service module and take some of the call burden of the Treasurer's Office and Assessor's Office.

There was a suggestion that if the City reactivates the self-service module, it may be appropriate to provide a disclosure statement before access to information is provided. The disclosure should state that all information that can be accessed is public information. Ald. Johnson added that the Administration may want to develop a policy related to electronic information protection and policy for a data breach. Governor Patrick has issued an Executive Order (attached) to require state agencies develop data security programs and breach of information protocol. It would be nice if the City took the lead on data protection as it relates to municipalities. Chair of the Financial Audit Advisory Committee Ald. Fuller felt that development of the policies could be done in Financial Audit Advisory Committee with input from the Executive Office and Ald. Johnson. Ald. Johnson was amenable to both suggestions and felt that once the disclosure statement is in place the self-service module can be reactivated. Chief of Staff Maureen Lemieux agreed to work with the Financial Audit Advisory Committee to develop polices. Ald. Ciccone made a motion to hold the item until the disclosure statement was added to the website and policies developed. The Committee voted unanimously in favor of holding the item. .

**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.

**ACTION:**      **HELD 7-0**

**NOTE:**      City Clerk/Clerk of the Board David Olson, City Solicitor Donnalyn Kahn, and Chief of Staff Maureen Lemieux joined the Committee for the discussion of this item. During the recodification of the City's ordinances in 2012, it became clear that the fees in the ordinances do not match what is actually being charged by departments. Up until 2001, the Board of Aldermen approved any changes to the City's fees; however, in July 2001 the Board of Aldermen approved the acceptance of legislation that allowed department heads to set the fees related to their department. Since that time several departments have changed their fees and the ordinances no longer reflect the fee being charged.



David Olson, Donnalyn Kahn, and Maureen Lemieux have been working on updating and consolidating the fees so they can be found in one place. The group would like direction from the Finance Committee regarding whether the Board of Aldermen would prefer that all fees are part of the City's ordinances, which would require repeal of the acceptance of the legislation or whether a review of departmental fees at budget time would suffice. In addition, whether the fees are in the ordinances or set by each department it would make sense for all of the fees to be consolidated into an ordinance chapter or fee list.

The consensus of the Committee was to repeal the approval and require all fees to be set or amended by ordinance. It was pointed out that if the fees are done by ordinance it will be much easier to track fee changes than if changes are done administratively. The Committee had no problem with the consolidation of the fees into one chapter of the ordinances.

David Olson, Donnalyn Kahn, and Maureen Lemieux will collect all of the current fees and any recommended fee changes and come back with a list of ordinances for review and acceptance by the Finance Committee and, ultimately, the Board of Aldermen. Ald. Lappin moved hold on the item, which carried unanimously.

**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]

**PROGRAMS & SERVICES APPROVED 7-0 on 09/17/14**

**ACTION:**      **APPROVED 7-0**

**NOTE:**      Chair of the Community Preservation Committee Joel Feinberg presented the request of the Friends of Farlow Park for Community Preservation Act (CPA) funds to restore the historic pond and construct a pedestrian bridge over the pond that is similar in design to the park's previous historic bridge located in Farlow Park in Newton Corner. The project will also include accessibility updates to meet current standards and a new irrigation system for the playing fields. The project has had a long gestation period and several public meetings have been held to address any concerns. The Community Preservation Committee also voted to recommend the release of design funds prior to the commitment of non-Community Preservation funds in the belief that final design plans would help the Friends of Farlow Park raise funds for the project.

The pond and irrigation system will draw water from well water, which will save the Parks and Recreation Department an estimated \$4,000 a year in MWRA assessments. Therefore, the Parks and Recreation Department has committed to providing \$4,000 a year in maintenance for the park. However; the Community Preservation recommended that the Friends of Farlow Park, which is a 501(c)3 nonprofit, hold at least \$30,000 of funding raised through donations in an operating reserve for future park needs. There has been contention between the Community

Preservation Committee and the Friends of Farlow Park regarding whether a \$30,000 reserve fund is necessary. The Friends of Farlow Park are looking to generate \$90,000 in non-Community Preservation Act funds, which does not include \$30,000 for a reserve fund. The Friends of Farlow Park hope to use future Community Development Block Grant funds for any extraordinary maintenance requirements that may occur. The project also includes \$5,600 in Parks and Recreation Department staff time and \$10,000 in Community Development Block Grant (CDBG) funds.

President of the Friends of Farlow Park Keith Jones, 109 Vernon Street, stated that he moved to the Newton Corner neighborhood in 1994 and noticed the features of the park and researched its history. It is the first public park in Newton and was designed by George Meecham, who designed the Boston Public Gardens. Farlow Park is an important piece of the City of Newton's history and a wonderful Community Preservation Act restoration project.

Mr. Jones stated that he felt that the Community Preservation Committee pressured the Friends of Farlow Park to agree to the \$30,000 reserve fund. The Friends of Farlow Park agreed to the \$30,000 fund to ensure that the park received the CPA funding. Mr. Jones also pointed out that the Newton Corner Advisory Group recently voted to contribute an additional \$65,000 in CDBG funds to the project. When the request was discussed in the Programs and Services Committee, the Committee supported the use of the additional CDBG funds on the project. It would be very helpful in meeting the \$90,000 needed to fund the project. Mr. Feinberg responded that the Community Preservation Committee did not care about the use of CDBG funds on the project as long as it was deemed reasonable. It is up to the Planning Board to approve the use of CDBG funds in the Newton Corner target area. If the Planning and Development Board does not approve the \$65,000 in CDBG funding the community will be responsible for raising it. Mr. Feinberg made it clear that there is also no requirement that the Friends of Farlow Park establish a \$30,000 reserve fund to receive CPA funding.

The Chair of Finance pointed out that it may be a good idea for the Friends of Farlow Park to voluntarily establish a reserve fund for future maintenance of the park. Mr. Jones will discuss this with the Parks and Recreation Commissioner. Ald. Ciccone moved approval of the item with the understanding that the Friends of Farlow Park can use the \$65,000 in CDBG funds if approved by the Planning Board and a \$30,000 operating reserve is not required. The Committee voted unanimously to support the motion.

#343-14      HIS HONOR THE MAYOR requesting authorization to appropriate the sum of three million dollars (\$3,000,000) from the September 8, 2014 Declaration of Overlay Surplus as declared by the Chairman of the Board of Assessors to the Rainy Day Stabilization Fund. [09-11-14 @ 1:23 PM]

**ACTION:**      **APPROVED 7-0**

**NOTE:**      Chief of Staff Maureen Lemieux presented the request to appropriate \$3 million from the September 8, 2014 Declaration of Overlay Surplus to the Rainy Day Stabilization Fund. The appropriation will bring the Rainy Day Stabilization Fund balance to \$17,045,000. Ms. Lemieux will be docketing a request in the near future to appropriate an additional \$206,343

from Fiscal Year 2014 Free Cash, once it is certified, to Rainy Day Stabilization Fund to bring the total of the account to the target of 5% of the operating budget. Once the target is met, the Administration will move on to a developing more robust funding plans for the pension and other post-employment benefit liabilities.

The 5% target number for the Rainy Day Stabilization Fund will grow each year as the operating budget increases every year. The Committee members asked how the Administration planned to increase the funds each year to meet the 5% target in the Rainy Day Stabilization account. Ms. Lemieux responded that it can be done through a budget line item or the City can look at safe vehicles in which to invest the Rainy Day Stabilization Fund money. The Chairman added that he would like to docket an item to establish an investment advisory group, which would consist of the Chief of Staff, the Chair of Finance, the Comptroller, the Treasurer and four members of the public. The Chair believes that this type of group could be a real benefit to the City when it looks to invest funds.

Ald. Ciccone moved approval, which carried unanimously.

**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]

**PUBLIC FACIL VOTED NO ACTION NECESSARY 5-0 ON 09/17/14**

**ACTION:**      **NO ACTION NECESSARY 7-0**

**NOTE:**      The Zervas Feasibility Study is complete; therefore, this item is no longer necessary. Ald. Rice moved no action necessary, which carried unanimously.

The Committee adjourned at 9:05 PM and all other items before the Committee were held without discussion. Draft Board Orders for the above items that are recommended for Board of Aldermen action are attached.

Respectfully submitted,

Leonard J. Gentile, Chairman

CITY OF NEWTON  
IN BOARD OF ALDERMEN

2014

ORDERED:

That, in accordance with the recommendation of the Zoning and Planning and the Finance Committees through their respective Chairmen Marcia T. Johnson and Leonard J. Gentile, the sum of three hundred thousand dollars (\$300,000) be appropriated from the Community Preservation Act Fund historic preservation fund balance and expended under the control of the Planning & Development Department for a grant to the Newton Cultural Alliance for preservation and rehabilitation of the historic Nathaniel Allen House, as detailed in the proposal submitted to the Community Preservation Committee in July 2014 proposal for partial occupancy, phase 1, part 1 of a planned larger project, is hereby approved as follows:

From:	CPA Fund Balance – Historic Preservation	
	21-3321B.....	\$300,000
To:	Nathan Allen Preservation/Rehabilitation	
	21B11419-5797.....	\$300,000

Under Suspension of Rules  
Readings Waived and Approved

(SGD) DAVID A. OLSON  
City Clerk

(SGD) SETTI D. WARREN  
Mayor

Date: \_\_\_\_\_



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## Information management is more important than ever

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April 1, 2010

Municipalities have long been challenged by the need to maintain, secure and reproduce public records. Long-standing laws dictate how a municipality must keep and make available notes of public meetings and discussions among elected officials.

Recent developments in both governing statutes and judicial rulings will significantly affect the manner in which municipalities now manage their documents.

On March 1, a state regulation (201 CMR 17) took effect that is intended to ensure the security of personal information. The new regulation, promulgated by the Office of Consumer Affairs and Business Regulation, requires any business that obtains personal information to create specific safeguards for the use, storage and disposal of that information.

"Personal information," as defined by the regulation, includes any combination of names, social security numbers and drivers' license numbers. Any business that possesses such personal information must create and maintain appropriate safeguards against its loss or theft. Violations are subject to significant fines and/or penalties.

Each entity is required to have a Written Information Security Plan that outlines the manner in which it protects personal information in its care, custody and control.

The promulgation of 201 CMR 17 is well-known to private industry, but is less familiar to many public employers. When enacting the law that called for the regulation, the Legislature decided to exempt municipalities from its requirements. Because of this exemption, many municipalities have viewed 201 CMR 17 as unrelated to their operations.

It is important to note, however, that 201 CMR 17 was created under existing statutes (M.G.L. Ch. 93H and 93I) that serve as the enforcement provisions and dictate what steps an organization must take to notify consumers and regulatory authorities in the event of a loss or theft of personal information. The statutes create specific notification requirements that must be followed by any entity that has lost personal information.

Even though municipalities are specifically exempted from 201 CMR 17, there is no such assured exemption from chapters 93H or 93I. Therefore, while municipalities are not expected to create and maintain rigorous procedures to prevent the loss or theft of personal information, they are required to provide detailed information on the method of loss, level of loss and significance of loss of any personal data in their control.

A good data management policy would consider the suggestions contained within 201 CMR 17 to help safeguard the municipality against any penalties that could be incurred by a loss of personal data.

### Guarding against liability

An additional development affecting the management of municipal documents and communications arises from a U.S. District Court ruling in *Committee of the University of Montreal Pension Plan, et al. v. Banc of America Securities LLC, et al.* In this case, which did not involve a municipality, a federal judge ordered significant sanctions against a defendant who did not thoroughly reproduce e-mail and other documents in connection with a discovery order.

In her decision, issued on Jan. 11, the judge ruled that, even though the defendant's failure to maintain the records was neither intentional nor malicious, the failure to maintain them was improper and created the need for sanctions. Included among the sanctions was an instruction to the jury to deem the failure of the defendant to maintain the records as an indication that those records would have been detrimental to the defendant's position. In short, even an erroneous failure to maintain a record is now viewed by the court as a violation of record maintenance and required discovery.

While the federal court ruling was levied against a private corporation, it applies to all potential defendants, including municipalities. It is increasingly apparent that municipalities need to have a clear and effective policy for the preservation of all records, including electronic communications. The failure to maintain those records, even if accidental, can have major consequences for a municipality involved in litigation.

Managers should ensure that their city or town has a clearly defined records retention program. Those retention efforts should extend, in some cases, to the use of personal e-mail by elected or appointed officials. If otherwise "private" e-mail is used in the conduct of municipal business, it becomes subject to public record laws and should be preserved for inclusion among documents related to potential litigation. Public officials should consider whether they wish to use their private e-mail account to conduct municipal business, as that account may become subject to public review.

A strategy that may benefit all defendants – municipal defendants in particular – is the concept of a "pre-litigation hold." A pre-litigation hold would require anyone potentially involved in likely litigation to preserve all communications until such time as it is clear that the litigation will not occur.

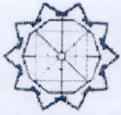
In many circumstances, potential plaintiffs advise municipalities of their intention to litigate an issue. When the municipality first learns of the potential for litigation, it should advise all involved staff persons to preserve and maintain any communications or documents that may be relevant to that litigation. [Beginning in 2010, MMLA has begun asking member municipalities to preserve all written and electronic communications related to specific claims.]

As information becomes easier to share, the need to protect privacy and secure private information is more critical than ever. Consumer expectations and governmental regulations are increasing the demands for safeguarding public information. Municipal managers will continue to be challenged by the need to protect and reproduce information.

*Michael Cusack is MMLA's Claims Manager.*



Written by Michael Cusack



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DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

By His Excellency

DEVAL L. PATRICK  
GOVERNOR

EXECUTIVE ORDER NO. 504

**ORDER REGARDING THE SECURITY AND  
CONFIDENTIALITY OF PERSONAL INFORMATION**

**(Revoking and Superseding Executive Order 412)**

SECRETARY OF STATE  
GENERAL RECORDS DIVISION

2008 SEP 19 PM 1:41

WHEREAS, identity theft is a serious crime that, according to current Federal Trade Commission statistics, affects as many as 9 million Americans each year and costs consumers and businesses approximately \$52 billion annually;

WHEREAS, the Commonwealth of Massachusetts has recognized the growing threat of identity theft and taken steps to safeguard the personal information of its residents by, among other things, enacting Massachusetts General Laws Chapter 93H ("Chapter 93H");

WHEREAS, pursuant to Chapter 93H, the Massachusetts Office of Consumer Affairs and Business Regulation has promulgated regulations, effective January 1, 2009, defining security standards that must be met by persons, other than state entities, who own, license, store or maintain personal information about residents of the Commonwealth;

WHEREAS, also pursuant to Chapter 93H, the Secretary of the Commonwealth, through his Supervisor of Public Records, is charged



with establishing rules or regulations designed to safeguard personal information that is owned or licensed by state executive offices and authorities;

WHEREAS, the Executive Department recognizes the importance of developing and implementing uniform policies and standards across state government to safeguard the security, confidentiality and integrity of personal information maintained by state agencies; and

WHEREAS, the implementation of such policies and standards will further the objectives of Chapter 93H and will demonstrate the Commonwealth's commitment to adhere to standards equal to or higher than those that govern the private sector.

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. 1, do hereby revoke Executive Order 412 and order as follows:

Section 1. This Executive Order shall apply to all state agencies in the Executive Department. As used in this Order, "state agencies" (or "agencies") shall include all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established.

Section 2. It shall be the policy of the Executive Department of the Commonwealth of Massachusetts to adopt and implement the maximum feasible measures reasonably needed to ensure the security, confidentiality and integrity of personal information, as defined in Chapter 93H, and personal data, as defined in Massachusetts General Laws Chapter 66A, maintained by state agencies (hereafter, collectively, "personal information"). Each executive officer and agency head serving under the Governor, and all state employees, shall take immediate, affirmative steps to ensure compliance with this policy and with applicable federal and state privacy and information security laws and regulations.

Section 3. All state agencies shall develop, implement and maintain written information security programs governing their collection, use,



dissemination, storage, retention and destruction of personal information. The programs shall ensure that agencies collect the minimum quantity of personal information reasonably needed to accomplish the legitimate purpose for which the information is collected; securely store and protect the information against unauthorized access, destruction, use, modification, disclosure or loss; provide access to and disseminate the information only to those persons and entities who reasonably require the information to perform their duties; and destroy the information as soon as it is no longer needed or required to be maintained by state or federal record retention requirements. The security programs shall address, without limitation, administrative, technical and physical safeguards, and shall comply with all federal and state privacy and information security laws and regulations, including but not limited to all applicable rules and regulations issued by the Secretary of State's Supervisor of Public Records under Chapter 93H.

Section 4. Each agency's written information security program shall include provisions that relate to the protection of information stored or maintained in electronic form (hereafter, "electronic security plans"). The Commonwealth's Chief Information Officer ("CIO") shall have the authority to:

- Issue detailed guidelines, standards, and policies governing agencies' development, implementation and maintenance of electronic security plans;
- Require that agencies submit their electronic security plans to ITD for review, following which ITD shall either approve the plans, return them for amendment, or reject them and mandate the preparation of a new plan;
- Issue guidelines specifying when agencies will be required to prepare and submit supplemental or updated electronic security plans to ITD for approval;
- Establish periodic reporting requirements pursuant to which all agencies shall conduct and submit self-audits to ITD no less than annually, assessing the state of their implementation and compliance with their electronic security plans, with all guidelines, standards, and policies issued by ITD, and with all applicable federal and state privacy and information security laws and regulations;



- Conduct reviews to assess agency compliance with the governing plans, guidelines, standards, policies, laws and regulations. At the discretion of ITD, reviews may be conducted on site or electronically, and may be announced or unannounced;
- Issue policies requiring that incidents involving a breach of security or unauthorized acquisition or use of personal information be immediately reported to ITD and to such other entities as required by the notice provisions of Chapter 93H; and
- Where necessary and appropriate, and with the approval of the Secretary for Administration and Finance, determine and implement remedial courses of action to assist non-compliant agencies in achieving compliance with the governing plans, guidelines, standards, policies, laws and regulations. Such actions may include, without limitation, the imposition of terms and conditions relating to an agency's information technology ("IT")-related expenditures and use of IT capital funding.

Section 5. Each agency shall appoint an Information Security Officer ("ISO"), who may also hold another position within the agency. ISOs shall report directly to their respective Agency heads and shall coordinate their agency's compliance with the requirements of this Order, applicable federal and state laws and regulations, and ITD security standards and policies. All agency security programs, plans, self-audits, and reports required by this Order shall contain certifications signed by the responsible ISO and the responsible agency head attesting to the accuracy and completeness of the submissions.

Section 6. All agency heads, managers, supervisors, and employees (including contract employees) shall attend mandatory information security training within one year of the effective date of this Order. For future employees, such training shall be part of the standardized orientation provided at the time they commence work. Such training shall include, without limitation, guidance to employees regarding how to identify, maintain and safeguard records and data that contain personal information.



Section 7. The Enterprise Security Board ("ESB"), as presently established, shall advise the CIO in developing the guidelines, standards, and policies required by Section 4 of this Order. Consistent with the ESB's current framework, the precise members and make-up of the ESB shall be determined by the CIO, but its membership shall be drawn from state employees across the Executive Department with knowledge and experience in the fields of information technology, privacy and security, together with such additional representatives from the Judicial and Legislative Branches, other constitutional offices, and quasi-public authorities who accept an invitation from the CIO to participate. The ESB shall function as a consultative body to advise the CIO in developing and promulgating guidelines, standards, and policies that reflect best practices to ensure the security, confidentiality and integrity of the electronic personal information collected, stored, used, and disseminated by the Commonwealth's IT resources.

Section 8. The CIO shall develop mandatory standards and procedures for agencies to follow before entering into contracts that will provide third parties with access to electronic personal information or information technology systems containing such information. Such standards must require that appropriate measures be taken to verify the competency and integrity of contractors and subcontractors, minimize the data and systems to which they will be given access, and ensure the security, confidentiality and integrity of such data and systems.

Section 9. All contracts entered into by state agencies after January 1, 2009 shall contain provisions requiring contractors to certify that they have read this Executive Order, that they have reviewed and will comply with all information security programs, plans, guidelines, standards and policies that apply to the work they will be performing for their contracting agency, that they will communicate these provisions to and enforce them against their subcontractors, and that they will implement and maintain any other reasonable and appropriate security procedures and practices necessary to protect personal information to which they are given access as part of the contract from unauthorized access, destruction, use, modification, disclosure or loss. The foregoing contractual provisions shall be drafted by ITD, the Office of the Comptroller, and the Operational



Services Division, which shall develop and implement uniform language to be incorporated into all contracts that are executed by state agencies. The provisions shall be enforced through the contracting agency and the Operational Services Division. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.

Section 10. In performing their responsibilities under this Order, ITD, the CIO and the Operational Services Division shall have the full cooperation of all state agencies, including compliance with all requests for information.

Section 11. This Executive Order shall take effect immediately and shall continue in effect until amended, superseded or revoked by subsequent Executive Order.



Given at the Executive Chamber in Boston this 19th day of September in the year of our Lord two thousand and eight, and of the Independence of the United States of America two hundred and thirty-two.

A handwritten signature in black ink, appearing to read "Deval Patrick", written over a horizontal line.

DEVAL L. PATRICK  
GOVERNOR  
Commonwealth of Massachusetts

A handwritten signature in black ink, appearing to read "William Francis Galvin", written over a horizontal line.

WILLIAM FRANCIS GALVIN  
Secretary of the Commonwealth

**GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS**



# Data Privacy

Alderman Marcia  
Johnson

September 22, 2014



## Personal Information

- First & Last Name in combination with one or more of the following:
  - SSN
  - Drivers license or other state issued ID number
  - Financial account number, credit or debit card number
- In April 2013 A Massachusetts Supreme Court decision interpreted the law to include a consumer's ZIP code as it could be used to obtain personal identification information
- The intent of the law is to protect the privacy of personal information from identity theft.



# Massachusetts Law

MGL 93H and 93I:

- Duty to report known security breach or unauthorized use of personal information
- A person or agency that maintains or stores but does not own or license data that includes personal information shall provide notices as soon as practicable and without unreasonable delay when such person or agency:
  - Knows or has reason to know of a breach of security
  - When the person or agency knows or has reason to know that the personal information of such resident was acquired or used by an unauthorized person or used for an unauthorized purposes
  - The Attorney General may bring an action pursuant to section 4 of chapter 93A against a person or otherwise to remedy violations of this chapter and for other relief that may be appropriate.



# Regulation 201 CMR 17

- What it does..
  - Establishes minimum standards to be met in connection with the safeguarding of personal information contained in both paper and electronic records.
  - Insure security and confidentiality of customer information in a manner fully consistent with industry standards
  - Protect against anticipated threats or hazards to the security or integrity of such information and protect against unauthorized access to or use such information that may result in substantial harm or inconvenience to any customer



## Regulation 201 CMR 17

- From what is Newton exempt.
  - Develop and implement and maintain a comprehensive information security program that is written in one or more readily accessible parts and contains administrative, technical and physical safeguards that are appropriate.

## Regulation 201 CMR 17

- From what is Newton not exempt:
  - Reporting known security breach or unauthorized use of personal information

Are we prepared/ready to do this...should the unthinkable happen?



## **What is Newton doing to protect citizen's personal information ...**

- The law department states that “names, assessing data, and history of payments made to the City are not protected from disclosure.”
- Why would the City not hold itself to the same high standards to which state agencies are held through Governor Patrick's Executive Order 504
- Do you believe that the Citizens of Newton are well informed as to what we are doing to protect their personal information?
- Why has Newton not followed the recommendations of the MMA, April 2010, and voluntarily implemented Regulation 201 CMR 17?

# Leadership

- Should Newton take the lead...as it frequently does?
- Or should it wait until it is told to do the right thing?
- Just because we do not “have to do it” does it mean we should not?

CITY OF NEWTON  
IN BOARD OF ALDERMEN

2014

ORDERED:

That, in accordance with the recommendation of the Programs & Services and the Finance Committees through their respective Chairmen Amy Mah Sangiolo and Leonard J. Gentile, the sum of four hundred seventy-six thousand seven hundred eighty dollars (\$476,780) be appropriated from the Community Preservation Act Fund undesignated fund balance and expended under the control of the Parks and Recreation Department for preservation, restoration, and rehabilitation of historic Farlow Park, as detailed in the proposal submitted to the Community Preservation Committee in November 2013 and revised in April 2014, is hereby approved as follows:

From:	CPA Undesignated Fund Balance	
	21-3321 .....	\$476,780
To:	Farlow Park Preservation/Restoration	
	21D60209-586016 .....	\$476,780

Under Suspension of Rules  
Readings Waived and Approved

(SGD) DAVID A. OLSON  
City Clerk

(SGD) SETTI D. WARREN  
Mayor

Date: \_\_\_\_\_

CITY OF NEWTON

IN BOARD OF ALDERMEN

2014

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chairman Leonard J. Gentile, an appropriation of three million dollars (\$3,000,000) from Overlay Surplus to the Rainy Day Stabilization Fund be and is hereby approved as follows:

FROM:	Overlay Surplus (01-3497).....	\$3,000,000
TO:	Transfer to Rainy Day Stabilization Fund (0110499-5922A).....	\$3,000,000

Under Suspension of Rules  
Readings Waived and Approved

(SGD) DAVID A. OLSON

City Clerk

(SGD) SETTI D. WARREN

Mayor

Date: \_\_\_\_\_

CITY OF NEWTON  
IN BOARD OF ALDERMEN

, 2014

ORDERED:

That, in accordance with the recommendation of the Public Facilities and the Finance Committees through their respective Chairmen Deborah Crossley and Leonard J. Gentile, the following item be and is hereby voted NO ACTION NECESSARY:

**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.

Under Suspension of Rules  
Readings Waived and Item Voted NO ACTION NECESSARY

(SGD) DAVID A. OLSON, City Clerk