

CITY OF NEWTON

IN BOARD OF ALDERMEN

FINANCE COMMITTEE AGENDA

WEDNESDAY, MARCH 27, 2013

7:00 PM  
Room 222

**ITEMS SCHEDULED FOR DISCUSSION:**

- #118-13     HIS HONOR THE MAYOR requesting authorization to expend of ninety-six thousand dollars (\$96,000) from the Federal Emergency Management Agency (FEMA) FY 2012 Assistance to Firefighter Grant Program and to transfer the sum of twenty-four thousand dollars (\$24,000) from Fiscal Year 2013 Fire Department Operating Budget to meet the local match requirement for the purpose of training and certifying 24 Fire Department personnel to the highest level of “Technical Rescue” specialization. [03/11/13 @ 5:43 PM]
- #116-13     HIS HONOR THE MAYOR requesting authorization to appropriate the sum of four hundred thirty five thousand five hundred ten dollars (\$435,510) from the March 7, 2013 Declaration of Overlay Surplus as declared by the Chairman of the Board of Assessors to the Reserve for Statutory Interest on Property Tax Abatements. [03/11/13 @ 5:43 PM]
- #117-13     HIS HONOR THE MAYOR requesting authorization to appropriate the sum of five hundred thousand dollars (\$500,000) from the March 7, 2013 Declaration of Overlay Surplus as declared by the Chairman of the Board of Assessors to the Rainy Day Stabilization Fund. [03/11/13 @ 5:43 PM]
- #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 PUBLIC SAFETY/TRANSPORTATION & FINANCE COMMITTEES**

- #119-13     ALD. CICCONE, on behalf of the Police Department requesting that **Sec. 19-174. Parking of Commercial Vehicles and Trailers** be amended to increase fines. [03/06/13 @ 2:49 PM]  
**PS&T APPROVED 5-0 (Fuller, Kalis not voting) on 03/20/13**

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The location of this meeting is handicap accessible, and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, please contact the Newton ADA Coordinator Trisha Guditz, 617-796-1156, via email at [TGuditz@newtonma.gov](mailto:TGuditz@newtonma.gov) or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting date.

**REFERRED TO PUBLIC SAFETY/TRANSPORTATION & FINANCE COMMITTEES**

- #279-10(2) ALD. LINSKY requesting an amendment to the City of Newton Ordinances Chapter 19 to establish fees for permit parking stickers for the proposed Newton North Area Parking Plan. [03-14-13@ 2:08 PM]  
**PS&T APPROVED 6-0 (Fuller not voting) on 03/20/13**
- #209-10(4) HIS HONOR THE MAYOR requesting that the Board of Aldermen establish an irrevocable Other Post Employment Benefits Trust Agreement. [02/25/13 @ 6:32 PM]
- #209-10(5) HIS HONOR THE MAYOR requesting that the Board of Aldermen direct the City Treasurer/Collector acting as custodian of the City's OPEB trust to invest all City OPEB trust funds with the State Retiree Benefits Trust Fund pursuant to Massachusetts General Law Chapter 32A, Section 24. [03/12/13 @ 4:03 PM]
- #14-13(2) HIS HONOR THE MAYOR requesting amendment of the Municipal Whistleblower Policy, which was approved by the Board of Aldermen on February 4, 2013, to provide a more consistent policy. [03/11/13 @ 5:43 PM]
- #78-10(2) HIS HONOR THE MAYOR requesting amendments to the Financial Management Guidelines approved by the Board of Aldermen on April 12, 2011. [03/11/13 @ 5:43 PM]
- #115-13 HIS HONOR THE MAYOR requesting an amendment to the City of Newton Ordinances §7-91(3b) by deleting the requirement that independently audited annual financial statements be provided to the City after the conclusion of each fiscal year by Newton Community Farm, Inc. [03/11/13 @ 5:44 PM]

**REFERRED TO PROG & SERV, PUB FACIL. & FINANCE COMMITTEES**

- #130-11 PAUL COLETTI, ALD. SANGIOLO, DANBERG, & JOHNSON requesting Home Rule Legislation to create a Capital Preservation Fund for the City of Newton modeled on the Community Preservation Fund to address the capital needs of the City. [04/11/11 @9:42 PM]  
**PUBLIC FACILITIES NO ACTION NECESSARY 6-0 (Lennon not voting) on 10/18/11**  
**PROGRAMS & SERVICES APPROVED 5-0-3 (Fischman, Baker, Blazar abstaining) on 03/21/12**
- #130-11(A) PROGRAMS & SERVICES COMMITTEE requesting the Finance Committee review alternate proposed Home Rule Legislation language related to the creation of a Capital Preservation Fund.  
**PROGRAMS & SERVICES APPROVED & REFERRED TO FINANCE 7-0-1 (Blazar abstaining) on 03/21/12**

**REFERRED TO PUBLIC SAFETY&TRANS & FINANCE COMMITTEES**

- #363-10(2) ALD. ALBRIGHT proposing a trial of parking meter free Saturdays between Thanksgiving and New Year for the shopping areas to support shopping at local businesses in Newton. [02-10-12 @9:13 AM]  
**PS & T VOTED NO ACTION NECESSARY on 02/06/13**

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

- #383-11(4) HIS HONOR THE MAYOR recommending that Section 29-80 (b)(1) of the City of Newton Revised Ordinances, 2007 be amended by revising the stormwater rates as follows: single-family residences \$25 per year, two-family residences \$37.50 per year, and multi-family (3 units or more), commercial, industrial, and institutional properties (to include non-profits) would be charged at a rate of \$25 per Equivalent Residential Unit of 2,600 square feet of impervious surface on the property to take effect on July 1, 2012. [04-09-12 @ 2:39 PM]  
**PUBLIC FACILITIES VOTED NO ACTION NECESSARY 6-0-1 (Albright abstaining) on 03/20/13**

**ITEMS NOT SCHEDULED FOR DISCUSSION:**

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

- #316-12(2) COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of four hundred seventy-five thousand dollars (\$475,000) to the Planning and Development Department to continue the Newton Homebuyer Assistance Program as described in the proposal amended in December 2012. [01/25/13 @ 12:33 PM]  
**ZONING & PLANNING APPROVED 6-0 ON 02/11/13**
- #40-13(2) FINANCE COMMITTEE requesting an amendment to the City of Newton Ordinances to establish a fine for failure to comply with the sidewalk café ordinance. [02/28/13 @ 4:17PM]

**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]
- #15-13 FINANCIAL AUDIT ADVISORY COMMITTEE requesting review and acceptance of the revised City of Newton Investment Policy. [12/18/12 @ 9:31 AM]

**REFERRED TO PUBLIC SAFETY & TRANS. AND FINANCE COMMITTEES**

- #428-12 ALD. CICCONE & FULLER requesting a discussion with the Executive Office and the Police Department regarding police staffing and overtime costs. [12/07/12 @ 1:34 PM]

#412-12 HIS HONOR THE MAYOR requesting a discussion regarding updating the City's departmental fees and fines. [11/27/12 @ 12:45 PM]

**REFERRED TO FINANCE AND APPROPRIATE COMMITTEES**

#322-12 HIS HONOR THE MAYOR submitting the FY14-FY18 Capital Improvement Program pursuant to section 5-3 of the Newton City Charter. [10/09/12 @ 2:38 PM]

**REFERRED TO PUBLIC SAFETY/TRANSPORTATION & FINANCE COMMITTEES**

#281-12 HARRY SANDERS requesting creation of an ordinance to allow pawnbrokers in the City of Newton pursuant to G.L. c. 140 section 70 with potential for non-fixed location of business. Secured property storage would not entail retail walk-in; model would entail possible satellite locations enabling the possibility of integrating Newton students. [08-31-12 @12:25 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. [09-10-12 @1:17 PM]

**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 ALD. HESS-MAHAN, SANGIOLO, DANBERG, KALIS, CROSSLEY proposing an ordinance relating to plastic bag reduction that would add a fee to single-use plastic and paper bags that are not at least 40% post-consumer recycled content, at certain retail establishments in Newton. [07/18/12 @4:34 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.

**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. [06/11/12 @ 11:23 PM]  
**PROG & SERV APPROVED 6-0 on 07/11/12**

#102-12 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of five hundred thousand dollars (\$500,000) from cable contract receipts for the purpose of constructing Phase I of III to connect all city facilities with high-speed fiber infrastructure for continued reliance on the IT network. [04-09-12 @ 3:40 PM]

#140-11 ALD. HESS-MAHAN requesting acceptance of MGL Chapter 59 §5c which allows communities to shift the tax burden away from homeowners who live in lower than average valued single and multi-family homes to owners of higher valued homes, second homes, and most apartment buildings. {04-15-11 @ 3:07 PM]

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

#311-10(A) HIS HONOR THE MAYOR requesting an appropriation in the amount of three million three hundred thirty-five thousand dollars (\$3,035,000) from bonded indebtedness for the purpose of funding the FY 2011 Capital Improvement Plan projects as follows: [11/29/ 10 @ 3:23 PM]  
Architectural Design and Engineering/ Next Scheduled Fire Station \$400,000  
A-2 - HELD 6-0 \$270,000 for final design bidding and construction admin on 12/08/10

**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.

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

#245-06      ALD. JOHNSON AND HESS-MAHAN requesting an amendment to the City Charter to require the Mayor annually to prepare and submit to the Board of Aldermen a long-term financial forecast of anticipated revenue, expenditures and the general financial condition of the City, including, but not limited to identification of any factors which will affect the financial condition of the City; projected revenue and expenditure trends; potential sources of new or expanded revenues; anticipated municipal needs likely to require major expenditures; and a strategic plan for meeting anticipated municipal needs, to include, but not be limited to, any long or short-term actions that may be taken to enhance the financial condition of the City.

Respectfully submitted,

Leonard J. Gentile, Chairman

#118-13

Telephone  
(617) 796-1100

Facsimile  
(617) 796-1113

TDD/TTY  
(617) 796-1089

E-mail  
swarren@newtonma.gov



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

RECEIVED  
Newton City Clerk  
2013 MAR 11 PM 5:43  
David A. Olson, CMC  
Newton, MA 02459

March 11, 2013

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

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to accept and appropriate the sum of \$96,000 for an "Assistance to Firefighters Grant" (AFG). Per the attached request from Fire Chief Proia, this grant has been awarded for the purpose of training and certifying 24 Newton Fire Department personnel to the highest level of specialization, "Technical Rescue".

This grant is an 80/20 split of \$120,000, leaving \$24,000 to be covered by the City of Newton. The \$24,000 is available in the FY2013 Fire Department Budget.

Thank you for your consideration of this matter.

Sincerely,

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

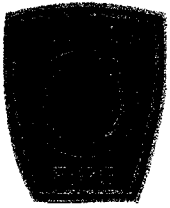
Setti D. Warren  
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

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



DEDICATED TO COMMUNITY EXCELLENCE



Bruce A. Proia  
Chief

**CITY OF NEWTON, MASSACHUSETTS**  
**FIRE DEPARTMENT HEADQUARTERS**

**1164 Centre Street, Newton Center, MA 02459-1584**  
**Chief: (617) 796-2210 Fire Prevention: (617) 796-2230**  
**FAX: (617) 796-2211 EMERGENCY: 911**



Setti D. Warren  
Mayor

To the Honorable Mayor Setti D. Warren

Dear Mayor Warren,

The Newton Fire Department has been awarded an Assistance to Firefighters Grant (AFG) in the amount of \$120,000. The grant has been awarded for the purpose of training and certifying 24 Newton Fire Department personnel to the highest level of specialization, "Technical Rescue". Among the subject matters covered in the training are:

- \* High angle rescue
- \* Low angle rescue
- \* Confined space rescue
- \* Rope rescue
- \* Trench rescue
- \* Structural collapse
- \* Water and ice rescue
- \* Specialized extrication.

Once the personnel have been trained, they will be able to assist in training the rest of the department to the operational level of Technical Rescue to further the proficiency of support at incidents requiring specialized rescue. This will serve the dual purpose of raising the professional level of skill at the Department, and increasing Newton's self-sufficiency, so that we are less reliant on emergency assistance from outside the Department in the future. Prior to this Administration's tenure, we have experienced multiple ceiling collapses, including those at the Atrium Mall and the former Jordan Marsh warehouse on Grove Street. In addition, personnel certified in Technical Rescue would have significantly expedited the recovery operations at the fatal MBTA Greenline crash; Technical Rescue certified firefighters will be able to improve efficiency and reduce risks to victims and Newton Firefighters in future rescue endeavors.

We are also experiencing severe weather events on a more frequent basis. As you know, this year alone witnessed many storms, two of which were categorized as historical weather events by Massachusetts Emergency Management Agency (MEMA). This severe weather trend is expected to continue.

As Fire Chief, I share your vision of unparalleled public safety. This training award will go a long way in upholding your administration's ongoing commitment to public safety, if you approve the matching portion of this grant. FEMA (DHS) offers an 80/20 split, covering \$ 96,000 of the training costs, leaving a contribution of only \$ 24,000 by the City of Newton.



#118-13

I request that you approve the complementary portion of this grant, so that we may advance the mission of the Newton Fire Department, and continue to improve service to the community. This grant was awarded on March 8th and has a 30 day term of acceptance.

Thank you, very much, for your consideration.

A handwritten signature in black ink, appearing to read 'B. Proia', with a stylized flourish at the end.

Bruce A. Proia  
Chief of Department

Cc: Maureen Lemieux  
Robert Rooney  
File

U.S. Department of Homeland Security  
Washington, D.C. 20472**FEMA**

Mr. Bruce Proia  
NEWTON FIRE DEPARTMENT  
1164 centre street  
Newton, Massachusetts 02459-1584

Re: Grant No.EMW-2012-FO-04625

Dear Mr. Proia:

On behalf of the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS), I am pleased to inform you that your grant application submitted under the FY 2012 Assistance to Firefighters Grant has been approved. FEMA's Grant Programs Directorate (GPD), in consultation with the U.S. Fire Administration (USFA), carries out the Federal responsibilities of administering your grant. The approved project costs total to \$120,000.00. The Federal share is 80 percent or \$96,000.00 of the approved amount and your share of the costs is 20 percent or \$24,000.00.

As part of your award package, you will find Grant Agreement Articles. Please make sure you read and understand the Articles as they outline the terms and conditions of your grant award. Maintain a copy of these documents for your official file. **You establish acceptance of the grant and Grant Agreement Articles when you formally receive the award through the AFG online system.** By accepting the grant, you agree not to deviate from the approved scope of work without prior written approval from FEMA.

If your SF 1199A has been reviewed and approved, you will be able to request payments online. Remember, you should request funds when you have an immediate cash need.

If you have any questions or concerns regarding the awards process or how to request your grant funds, please call the helpdesk at 1-866-274-0960.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy W. Manning".

Timothy W. Manning  
Deputy Administrator for National Preparedness and Protection

## Agreement Articles



# FEMA

U.S. Department of Homeland Security  
Washington, D.C. 20472

## AGREEMENT ARTICLES

### ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM - Operations and Safety program

**GRANTEE: NEWTON FIRE DEPARTMENT**

**PROGRAM: Operations and Safety**

**AGREEMENT NUMBER: EMW-2012-FO-04625**

**AMENDMENT NUMBER:**

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Article IX	FEMA Officials
Article X	Central Contractor Registration (CCR)

#### Article I - Project Description

The purpose of the Assistance to Firefighters Program is to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards. After careful consideration, FEMA has determined that the grantee's project submitted as part of the grantee's application, and detailed in the project narrative as well as the request details section of the application - including budget information - is consistent with the program's purpose and worthy of award. Therefore, the grantee shall perform the work described in the approved grant application as itemized in the request details section of the application and further described in the grant application's narrative. These sections of the application are made a part of these grant agreement articles by reference. The grantee may not change or make any material deviations from the approved scope of work outlined in the above referenced sections of the application without prior written approval from FEMA.

#### Article II - Grantee Concurrence

By providing the Primary Contact's electronic signature and indicating acceptance of the award, the grantee accepts and agrees to abide by the terms and conditions of the grant as set forth in this document and the documents identified below. Grantees agree that they will use the funds provided through the Fiscal Year 2012 Assistance to Firefighters Grant Program in accordance with these Articles of Agreement and the program guidelines provided in the Fiscal Year 2012 Assistance to Firefighters Grant program guidance. All documents

submitted as part of the application are made a part of this agreement by reference.

### Article III - Period of Performance

The period of performance shall be from **01-MAR-13 to 28-FEB-14**.

### Article IV - Amount Awarded

The amount of the award is detailed on the Obligating Document for the Award attached to these articles. Following are the budgeted estimates for each object class of this grant (including Federal share plus grantee match):

Personnel	\$0.00
Fringe Benefits	\$0.00
Travel	\$0.00
Equipment	\$0.00
Supplies	\$0.00
Contractual	\$120,000.00
Construction	\$0.00
Other	\$0.00
Indirect Charges	\$0.00
Total	\$120,000.00

### NEGOTIATION COMMENTS IF APPLICABLE

Any questions pertaining to your award package, please contact your GPD Grants Management Specialist: Ramesa Pitts at Ramesa.Pitts@dhs.gov

### Article V - Financial Guidelines

The grantee and any subgrantee shall comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit Requirements. A non-exclusive list of regulations commonly applicable to FEMA grants are listed below:

#### A. Administrative Requirements

1. 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
2. 2 CFR Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations (OMB Circular A-110)

#### B. Cost Principles

1. 2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87)
2. 2 CFR Part 220, Cost Principles for Educational Institutions (OMB Circular A-21)
3. 2 CFR Part 230, Cost Principles for Nonprofit Organizations (OMB Circular A-122)
4. Federal Acquisition Regulations (FAR), Part 31.2 Contract Cost Principles and Procedures, Contracts with Commercial Organizations

#### C. Audit Requirements

## 1. OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations

**Article VI - Prohibition on Using Federal Funds**

Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA.

**Article VII - GPD Allocations**

The recipient agrees that all allocations and use of funds under this grant will be in accordance with the FY 2012 Assistance to Firefighters Grant Program guidance and application kit.

**Article VIII - Financial Reporting**

Recipients of any Assistance to Firefighters Grants will be required to submit a semi-annual Federal Financial Report (FFR) via the automated system on the Standard Form 425. The FFR is intended to provide Federal agencies and grant recipients with a standard format and consistent reporting requirements throughout the government. The FFR, to be submitted using the online e-grant system, will be due semi-annually based on the calendar year beginning with the period after the award is made. Grant recipients will be required to submit a FFR throughout the entire period of performance of the grant.

The reporting periods for the FFR are January 1 through June 30 (Report due by July 31), and July 1 through December 31 (Report due by January 30).

At the end of the grant's period of performance, all grantees are required to produce a final report on how the grant funding was used and the benefits realized from the award. Grantees must submit a final financial report and a final performance report within 90 days after the end of the period of performance.

**Article IX - FEMA Officials**

**Program Officer:** Catherine Patterson is the Program Officer for the Assistance to Firefighters Grant Program. The Program Officer is responsible for the technical monitoring of the stages of work and technical performance of the activities described in the approved grant application.

**Grants Assistance Officer:** Andrea Day is the Assistance Officer for this grant program. The Assistance Officer is the Federal official responsible for negotiating, administering, and executing all grant business matters. If you have any questions regarding your grant please call ASK-GMD at 866-927-5646 to be directed to a specialist.

**Grants Management Division POC:** The Grants Management Specialist shall be contacted to address all financial and administrative grant business matters for this award. If you have any questions regarding your grant please call ASK-GMD at 866-927-5646 to be directed to a specialist.

**Article X - Central Contractor Registration (CCR)**

Recipients of an AFG grant are required Central Contractor Registration (CCR) in the SAM.gov system. Active registration in the Central Contractor Registry ensures grantees are compliant with Federal regulations under Federal Financial Accountability and Transparency Act (FFATA). CCR registration is free, and may take up to 5 to 10 business days to process. For help with registering in the CCR, please visit SAM.gov for more information.

**FEDERAL EMERGENCY MANAGEMENT AGENCY  
OBLIGATING DOCUMENT FOR AWARD/AMENDMENT**

1a. AGREEMENT NO. EMW-2012-FO-04625  
 2. AMENDMENT NO. 0  
 3. RECIPIENT NO. 04-6001404  
 4. TYPE OF ACTION AWARD  
 5. CONTROL NO. W279230N  
 6. RECIPIENT NAME AND ADDRESS  
 NEWTON FIRE DEPARTMENT  
 1164 Centre Street  
 Newton  
 Massachusetts, 02459-1584  
 7. ISSUING OFFICE AND ADDRESS  
 Grant Programs Directorate  
 500 C Street, S.W.  
 Washington DC, 20528-7000  
 POC: Andrea Day  
 8. PAYMENT OFFICE AND ADDRESS  
 FEMA, Financial Services Branch  
 500 C Street, S.W., Room 723  
 Washington DC, 20472  
 9. NAME OF RECIPIENT PROJECT OFFICER  
 Bruce Proia  
 PHONE NO. 6177962210  
 10. NAME OF PROJECT COORDINATOR  
 Catherine Patterson  
 PHONE NO. 1-866-274-0960  
 11. EFFECTIVE DATE OF THIS ACTION  
 01-MAR-13  
 12. METHOD OF PAYMENT  
 SF-270  
 13. ASSISTANCE ARRANGEMENT  
 Cost Sharing  
 14. PERFORMANCE PERIOD  
 From:01-MAR-13 To:28-FEB-14  
 Budget Period  
 From:01-NOV-12 To:30-SEP-13

15. DESCRIPTION OF ACTION

a. (Indicate funding data for awards or financial changes)

PROGRAM NAME ACRONYM	CFDA NO.	ACCOUNTING DATA (ACCS CODE) XXXX-XXX-XXXXXX-XXXX- XXXX-XXXX-X	PRIOR TOTAL AWARD	AMOUNT AWARDED THIS ACTION + OR (-)	CURRENT TOTAL AWARD	CUMMULATIVE NON- FEDERAL COMMITMENT
AFG	97.044	2013-1C-C111-P4000000- 4101-D	\$0.00	\$96,000.00	\$96,000.00	\$24,000.00
TOTALS			\$0.00	\$96,000.00	\$96,000.00	\$24,000.00

b. To describe changes other than funding data or financial changes, attach schedule and check here.  
N/A

16a. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address)

Assistance to Firefighters Grant recipients are not required to sign and return copies of this document. However, recipients should print and keep a copy of this document for their records.

16b. FOR DISASTER PROGRAMS: RECIPIENT IS NOT REQUIRED TO SIGN

This assistance is subject to terms and conditions attached to this award notice or by incorporated reference in program legislation cited above.

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title)  
N/A  
DATE  
N/A  
18. FEMA SIGNATORY OFFICIAL (Name and Title)  
Andrea Day  
DATE  
22-FEB-13

[Go Back](#)

#116-13

Telephone  
(617) 796-1100

Facsimile  
(617) 796-1113

TDD/TTY  
(617) 796-1089

E-mail  
swarren@newtonma.gov



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

RECEIVED  
Newton City Clerk  
2013 MAR 11 PM 5:43  
David A. Olson, CMC  
Newton, MA 02459

March 11, 2013

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

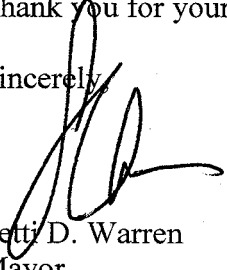
Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to appropriate the sum of \$435,510 from Overlay Surplus as declared on March 7, 2013 by Elizabeth Dromey, Chairman, Board of Assessors, to the Reserve for Statutory Interest on Property Tax Abatements.

As you know, I have submitted a request to amend the City's Financial Management Guidelines to establish a reserve for statutory interest on property tax abatements to cover interest obligations of the City that result from property tax refunds ordered by the Courts or the Massachusetts Appellate Tax Board (ATB). The requested amount would cover all interest that would be due from the City through June 30, 2013, should the ATB rule against the City in each of the City's Utility Abatement cases.

Thank you for your consideration of this matter.

Sincerely,

  
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

# ASSESSMENT ADMINISTRATION

Elizabeth Dromey, Director

Telephone  
(617) 796-1160  
Telefax  
(617) 796-1179  
tdd-tty  
(617) 796-1089

Email  
assessing@newtonma.gov  
dromey@newtonma.gov

March 7, 2013

David C. Wilkinson, Comptroller  
City of Newton  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Dear Mr. Wilkinson:

In accordance with Chapter 59, Section 25 of the Massachusetts General Laws, please accept this letter as formal notification of declaration of overlay surplus. This declaration covers the overlay account delineated in the table below:

ACCOUNT	AMOUNT DECLARED SURPLUS
FY 2012	\$ 386,100
FY 2011	\$ 395,000
FY 2010	\$ 300,000
FY 2007	\$ 36,200
FY 2006	\$ 26,000
FY 2005	\$ 49,000
FY 2003	\$ 2,200
FY 2002	\$ 800
FY 2001	\$ 300
FY 2000	\$ 2,500
FY 1999	\$ 800
FY 1998	\$ 900
FY 1997	\$ 200

The total amount declared surplus is **\$1,200,000**.

If you require additional information regarding this matter, please let me know.

Sincerely,

Elizabeth Dromey, Director  
Assessment Administration

1000 Commonwealth Avenue, Newton, MA 02459-1449  
www.newtonma.gov



#117-13

Telephone  
(617) 796-1100

Facsimile  
(617) 796-1113

TDD/TTY  
(617) 796-1089

E-mail  
swarren@newtonma.gov



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

March 11, 2013

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

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to appropriate the sum of \$500,000 from Overlay Surplus as declared on March 7, 2013 by Elizabeth Dromey, Chairman, Board of Assessors, to the Rainy Day Stabilization Fund. Approval of this request will bring the fund balance to just over \$8,500,000.

Thank you for your consideration of this matter.

Sincerely,

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

Setti D. Warren  
Mayor

RECEIVED  
Newton City Clerk  
2013 MAR 11 PM 5:43  
David A. Oison, CMC  
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

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



DEDICATED TO COMMUNITY EXCELLENCE



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#117-13

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(617) 796-1100

Facsimile  
(617) 796-1113

TDD/TTY  
(617) 796-1089

E-mail  
swarren@newtonma.gov

March 22, 2013

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

RECEIVED  
Newton City Clerk  
2013 MAR 22 PM 1:42  
David A. Olson, CMC  
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board amend *Docket #117-13 HIS HONOR THE MAYOR requesting authorization to appropriate the sum of five hundred thousand dollars (\$500,000) from the March 7, 2013 Declaration of Overlay Surplus as declared by the Chairman of the Board of Assessors to the Rainy Day Stabilization Fund. [03/11/13 @ 5:43 PM]* by also transferring the sum of five-hundred-thousand dollars (\$500,000) from June 30, 2012 Free Cash to the Rainy Day Stabilization Fund.

Success passage of this request will increase to Rainy Day Stabilization fund to \$9,000,000.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

City of Newton



Setti D. Warren  
Mayor

# ASSESSMENT ADMINISTRATION

Elizabeth Dromey, Director

Telephone  
(617) 796-1160  
Telefax  
(617) 796-1179  
tdd-tty  
(617) 796-1089

Email  
assessing@newtonma.gov  
dromey@newtonma.gov

March 7, 2013

David C. Wilkinson, Comptroller  
City of Newton  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Dear Mr. Wilkinson:

In accordance with Chapter 59, Section 25 of the Massachusetts General Laws, please accept this letter as formal notification of declaration of overlay surplus. This declaration covers the overlay account delineated in the table below:

ACCOUNT	AMOUNT DECLARED SURPLUS
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FY 2000	\$ 2,500
FY 1999	\$ 800
FY 1998	\$ 900
FY 1997	\$ 200

The total amount declared surplus is **\$1,200,000**.

If you require additional information regarding this matter, please let me know.

Sincerely,

Elizabeth Dromey, Director  
Assessment Administration

1000 Commonwealth Avenue, Newton, MA 02459-1449  
www.newtonma.gov

**CITY OF NEWTON  
LAW DEPARTMENT  
MEMORANDUM**

DATE: May 22, 2012  
TO: Recodification Committee  
FROM: Robert J. Waddick  
RE: Chapter 18

---

In 2007, the General Court passed Chapter 75 of the Acts of 2007, which addressed the investment of trust funds by the City of Newton. A copy of the legislation is attached.

An intent of the legislation was to provide the City of Newton with greater flexibility in terms of its investments. Section 54 of Chapter 44 sets forth the permissible investments for municipal trust funds. The legislation exempted the City of Newton from this statute. However, the legislation did a bit more. For instance, the legislation required professional fund management for all trust funds. In addition, it appears that the legislation shifted investment authority from the trustees of the funds to the treasurer.

One approach to incorporating the provisions of Chapter 75 of the Acts of 2007 into Chapter 18 would be to modify the unique provisions of each of the 16 trust fund sections in Chapter 18. However, it did not appear that this approach would be wise given concerns about the special legislation. The approach that was chosen was to add a section to Chapter 18 which applied the provisions of the special legislation to all of the trust funds while leaving the unique provisions intact. The primary reason for this approach was to provide the City with an opportunity to reassess the provisions of the special legislation and determine if modifications to it are appropriate.

It appears that the requirement for professional fund managers may not necessarily be cost effective for all of the funds. Moreover, the apparent shift of investment authority from the trustees to the treasurer appears to modify the role of the trustees as set forth under Chapter 18. It is not clear that city intended this shift of investment authority, but it appears to be a result of the special legislation.

The addition of the proposed Article XVII to Chapter 18 will provide the city with the flexibility to reassess the special legislation while following its provisions and maintaining the unique terms relating to each trust. Changes to the special legislation may obviate the need to modify the provisions of the 16 sections of Chapter 18 relating to the individual trusts. Moreover, if the special legislation is amended, the city could simply modify the proposed Article XVII.



<b>Acts</b> <b>2007</b> <b>CHAPTER 75</b> AN ACT RELATIVE TO THE INVESTMENT OF TRUST FUNDS FOR THE CITY OF NEWTON.
--

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, the treasurer of the city of Newton may invest the funds of the city in the custody of the treasurer in accordance with the investor rule, and sections 3, 4, 5, 8 and 9 of chapter 203C of the General Laws. The treasurer, in consultation with each trust fund board of trustees, shall develop investment policies which shall include an asset allocation policy for each trust fund and shall select professional investment advisors to manage the funds.

**SECTION 2.** Section 54 of chapter 44 of the General Laws shall not apply to the city of Newton.

**SECTION 3.** This act shall take effect upon its passage.

*Approved July 25, 2007.*

Chapter 18

**MEMORIAL FUNDS AND TRUSTS\***

- Art. I. John C. Chaffin Education Fund, §§ 18-1—18-21
  - Art. II. Horace Cousens Industrial Fund, §§ 18-22—18-46
  - Art. III. Eliot Memorial, §§ 18-47—18-69
  - Art. IV. Read Fund, §§ 18-70—18-91
  - Art. V. Twombly House Fund, §§ 18-92—18-110
  - Art. VI. Arnold S. Daniels, Jr., Fund, §§ 18-111—18-131
  - Art. VII. Conservation Fund, § 18-132—18-139
  - Art. VIII. Newton Commonwealth Fund, §§ 18-140—18-144
  - Art. IX. Oak Hill Park Association Trust, §§ 18-145—18-150
  - Art. X. Kennard Park Trust, §§ 18-151—18-159
  - Art. XI. Nahanton Park Trust Fund, §§ 18-160—18-163
  - Art. XII. Emerson Community Center Trust, §§ 18-164—18-167
  - Art. XIII. Mayor Theodore D. Mann/Fig Newtons@Trust Fund, §§ 18-168—179
  - Art. XIV. Newton Board of Aldermen Scholarship Fund, §§ 18-180—180-189
  - Art. XV. Lawrence W. Gorin (Class of 1955) Scholarship Fund, §§ 18-190—180-195
  - Art. XVI. Mabel Louise Riley Trust Fund, §§ 18-196--18-200
  - Art. XVII. Investment of Funds in Custody of Collector-Treasurer, §§ 18-230—18-232
- 

**ARTICLE I. JOHN C. CHAFFIN EDUCATIONAL FUND**

**Sec. 18-1. Designation.**

The gift by the will of the late John C. Chaffin shall be known as the John C. Chaffin Educational Fund. (Rev. Ords. 1973, § 12-1)

**Sec. 18-2. Board of trustees—Composition; appointment, removal, compensation and terms of members.**

The John C. Chaffin Educational Fund shall be in charge of, and shall be administered by, a board of seven (7) trustees, serving without compensation, one of whom shall be the chairman of the school committee of the city by virtue of his office. The other six (6) shall be appointed by the mayor subject, within fourteen (14) days from the date of appointment, to confirmation by the board of aldermen. Such appointment shall be for life, subject to removal by the mayor by reason of disability, removal from the city or other sufficient cause. (Rev. Ords. 1973, § 12-2)

**Sec. 18-3. Same—Treasurer.**

The city collector-treasurer, by virtue of his office, shall be the treasurer of the John C. Chaffin Educational Fund board of trustees and shall receive and take charge of all money or property arising from or a part of such fund. (Rev. Ords. 1973, § 12-3)

**Cross reference**—City collector-treasurer, Ch. 2, Art. III, Div. 2

**Sec. 18-4. Purpose.**

The income of the John C. Chaffin Educational Fund shall be paid out by the city collector-treasurer as directed by

**\* Editor's note:** The investment provisions of each article should be read in concert with the provisions of Art. XVII of this chapter.

without compensation. One trustee shall be the director of human services, or his/her designee. One trustee shall be the commissioner of the health department or his/her designee. One trustee shall be a resident of the city, knowledgeable about elder-care services in the city, appointed by the mayor subject to confirmation by the board of aldermen, for a term of three (3) years. The city collector-treasurer shall be treasurer of the board of trustees. (Ord. No. X-42, 2-18-03)

**Sec. 18-199. Same--Duties.**

The board of trustees of the Mabel Louise Riley Trust Fund shall have charge and management of such fund, investing the same only in securities permitted by law for the investment of municipal trust funds.

The board of trustees shall use the income of the fund as provided in Sec. 18-197 and as may be further defined by the Attorney General of the Commonwealth of Massachusetts. (Ord. No. X-42, 2-28-03)

**Sec. 18-200. Duties of the city collector-treasurer.**

All investments, changes in investment and expenditures for the fund approved in writing by a majority of the trustees shall be made by the city collector-treasurer who shall, by virtue of his office, receive and take charge of all monies, securities or other investments constituting this fund. (Ord. No. X-42, 2-18-03)

**Secs. 18-201—18-229 Reserved.**

**ARTICLE XVII INVESTMENT OF FUNDS IN THE CUSTODY OF THE COLLECTOR-TREASURER\***

**Sec. 18-230. Fund management.**

Notwithstanding the provisions of this Chapter 18 relating to how trust funds shall be invested to the contrary, the collector-treasurer, in consultation with each trust fund board of trustees, shall develop investment policies which shall include an asset allocation policy for each trust fund and shall select professional investment advisors to manage the trust funds.

**Sec. 18-231. Permitted investments.**

Notwithstanding the provisions of this Chapter 18 to the contrary, the collector-treasurer, after consultation with the trustees of a fund hereunder, may invest funds in his custody as a prudent investor would, considering the purposes, terms and other circumstances of the trust, exercising reasonable skill, care and caution, and acting in accordance with the provisions of sections 3, 4, 5, 8 and 9 of chapter 203C of the general laws which pertain to the prudent investment of trust funds.

**Sec. 18-232. Exemption from G.L. c. 44, § 54**

Notwithstanding the provisions of this Chapter 18 to the contrary, section 54 of chapter 44 of the general laws shall not apply to the City of Newton and to the investment of trust funds in the custody of the collector-treasurer.

State law references – G.L. c. 203C, §§ 3, 4, 5, 8, and 9; G.L. c. 44, § 54; and chapter 75 of the Acts of 2007.

\* Editor's note: This article should be read in concert with the investment provisions of the preceding articles in this chapter.

DIVISION 2. COLLECTOR-TREASURER

**Sec. 2-132. Powers and duties generally.**

There is hereby established a treasury and collecting department. The city collector-treasurer shall have charge of the treasury and collecting department and the books, documents and papers thereof. (Rev. Ords. 1973, § 2-184)

**Charter reference**—Collector-treasurer, § 3-3(b)

**State law reference**—Treasurers and collectors generally, G.L. c. 41, § 35 et seq.

**Sec. 2-133. Official bond; custodian of money, etc.**

The city collector-treasurer shall give bond, with sufficient sureties, to the satisfaction of the mayor, for the faithful performance of his duties as treasurer and collector. He shall receive, receipt for and have the care and custody of the current funds of the city and of all money, property and securities which may be in his charge by virtue of any law, ordinance, gift, devise, bequest or deposit. He shall negotiate all loans authorized by the board of aldermen and shall sign all bonds, notes and certificates of indebtedness issued for such loans. (Rev. Ords. 1973, § 2-185)

**Cross reference**—Investment of funds in the custody of collector-treasurer, § 18-230 et seq.

**Sec. 2-134. Payments out of treasury; report to comptroller; cancellation of bonds, etc.**

The city collector-treasurer shall pay all warrants drawn by the comptroller of accounts and countersigned and approved by the mayor for the payment of accounts and claims duly approved as provided in this volume, and shall pay no money from the treasury without a warrant from the comptroller of accounts duly countersigned and approved by the mayor, or from the board of assessors, except for final judgments of courts, rebates, refunds or abatements of water bills and special deposits, with interest on such as have been paid prior to such rebate, refund or abatement. Within forty-eight (48) hours, Sundays and holidays excepted, after any payment made by the city collector-treasurer for which the warrant of the comptroller of accounts is not required, the city collector-treasurer shall certify to the comptroller of accounts the amount so paid and the purpose for which payment was made. The city collector-treasurer shall make the comptroller of accounts a daily report of his gross expenditures, gross receipts and daily cash balances, and at the end of each month a report of his receipts in such detail as may be required by the comptroller of accounts. The city collector-treasurer shall cancel all bonds, coupons and certificates of indebtedness when the same are paid. (Rev. Ords. 1973, 2-186)

**Sec. 2-135. Collection of claims due the city.**

The collector-treasurer, whenever an account is delivered to him for collection as provided in this chapter, shall demand payment of the same. If any such account remains unpaid after three (3) months, he shall proceed to collect the same by legal process, which he may do at any time before the expiration of such three (3) months if, in his judgment or the opinion of the city solicitor, the interests of the city so require. (Rev. Ords. 1973, § 2-187)

**Sec. 2-136. Method of keeping books; crediting accounts of departments.**

The city collector-treasurer shall keep in books provided for that purpose an accurate and true account of all his receipts and payments as city collector-treasurer, making the same conform as nearly as may be with the accounts kept by the comptroller of accounts. He shall, unless otherwise provided, credit to an income account of each department all sums received on its account. (Rev. Ords. 1973, § 2-188)



**Chapter 15 – Law Department**  
**No Changes Were Made to this Chapter**

**Chapter 16 - Library**  
**No Changes Were Made to this Chapter**

**Chapter 17 – Licensing and Permits Generally**

Ordinances Incorporated

Z-21	382-07	April 7, 2008	17-8	Fees for permits
Z-36	305-08	Nov. 17, 2008	27-22 17-23	Senior Services

Technical Changes Made

None

Suggested Substantive Changes to be Docketed with the Board

Review of Chapter to make sure that fees stated in ordinances are what departments are charging.  
 See #76

**\* Chapter 18 – Memorial Funds and Trusts**

Ordinances Incorporated

None

Technical Changes Made

A new Article XVII. INVESTMENT OF FUNDS IN THE CUSTODY OF THE COLLECTOR-TREASURER was added to Chapter 18. In 2007, the General Court passed Chapter 75 of the Acts of 2007, which addressed the investment of trust funds by the City of Newton. To incorporate the provisions of this act in the ordinances, Article XVII was added to Chapter 18 to allow the unique provisions of each trust fund to remain intact while applying the provisions of the special legislation.

Suggested Substantive Changes to be Docketed with the Board

Review the Special Legislation: Chapter 75 of the Acts of 2007, to see if the requirement of professional fund management makes sense for all trust funds.

**Chapter 19 – Motor Vehicles and Traffic**

Ordinances Incorporated

Z-1	12-07(2)	October 1, 2007	19-96	No Turn on Red; Crafts Street
Z-2	89-07	October 1, 2007	19-92 19-85	Vehicles Prohibited on Parkview Avenue One-way Streets; Bridges and Parkview Ave
Z-3	77-07	October 1, 2007	19-176	Parking Regulations; Chapel Street

## #4

<b>Problem:</b>	"(c) The trustees shall have charge and management of such fund, investing the same only in securities permitted by law for the investment of municipal trust funds."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-113(c)
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	<p>2/22 - Check with David Wilkinson. Potentially add section in Chapter 18 to cover all Trusts.</p> <p>3/21 – Bob Waddick presented memo. He suggested an additional article to cover all Trust Funds. Some amendments were suggested. He will redraft.</p> <p>In 2007, the General Court passed Chapter 75 of the Acts of 2007, which addressed the investment of trust funds by the City of Newton. An intent of the legislation was to provide the City of Newton with greater flexibility in terms of its investments. Section 54 of Chapter 44 sets forth the permissible investments for municipal trust funds. The legislation exempted the City of Newton from this statute. However, the legislation did a bit more. For instance, the legislation required professional fund management for all trust funds. In addition, it appears that the legislation shifted investment authority from the trustees of the funds to the treasurer.</p> <p>One approach to incorporating the provisions of Chapter 75 of the Acts of 2007 into Chapter 18 would be to modify the unique provisions of each of the 16 trust fund sections in Chapter 18. However, it did not appear that this approach would be wise given concerns about the special legislation. The approach that was chosen was to add a section to Chapter 18 which applied the provisions of the special legislation to all of the trust funds while leaving the unique provisions intact. The primary reason for this approach was to provide the City with an opportunity to reassess the provisions of the special legislation and determine if modifications to it are appropriate.</p>
<b>Suggested Changes</b>	<p>Add New Article to Chapter 18</p> <p><b>ARTICLE XVII INVESTMENT OF FUNDS IN THE CUSTODY OF THE COLLECTOR-TREASURER*</b>  <b>Sec. 18-230. Fund management.</b>  Notwithstanding the provisions of this Chapter 18 relating to how trust funds shall be invested to the contrary, the collector-treasurer, in consultation with each trust fund board of trustees, shall develop investment policies which shall</p>

	<p>include an asset allocation policy for each trust fund and shall select professional investment advisors to manage the trust funds.</p> <p><b>Sec. 18-231. Permitted investments.</b> Notwithstanding the provisions of this Chapter 18 to the contrary, the collector-treasurer, after consultation with the trustees of a fund hereunder, may invest funds in his custody as a prudent investor would, considering the purposes, terms and other circumstances of the trust, exercising reasonable skill, care and caution, and acting in accordance with the provisions of sections 3, 4, 5, 8 and 9 of chapter 203C of the general laws which pertain to the prudent investment of trust funds.</p> <p><b>Sec. 18-232. Exemption from G.L. c. 44, § 54</b> Notwithstanding the provisions of this Chapter 18 to the contrary, section 54 of chapter 44 of the general laws shall not apply to the City of Newton and to the investment of trust funds in the custody of the collector-treasurer. <b>State law references</b> – G.L. c. 203C, §§ 3, 4, 5, 8, and 9; G.L. c. 44, § 54; and chapter 75 of the Acts of 2007. * Editor's note: This article should be read in concert with the investment provisions of the preceding articles in this chapter.</p>
<b>Further Information</b>	<b>Appendix B</b>

## #5

<b>Problem:</b>	"invest the proceeds of said funds in savings banks, trust companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation, or national banks, or invest it in paid-up shares of federal savings and loan associations or in savings or loan associations doing business in the commonwealth, and any income therefrom shall be credited to the fund."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-132
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	Appendix B

## #6

<b>Problem:</b>	"As custodian of the income of the trust, the city collector-treasurer may deposit or invest the rent heretofore or hereafter received in return for the use and occupancy of the house and outbuildings located on the property in savings banks and trust companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks or invest it in paid up shares of federal savings and loan associations or in savings and loan associations doing business in the commonwealth" . . .
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-154
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	Appendix B

## #7

<b>Problem:</b>	"As custodian of the income of the Emerson Community Center Trust, the city collector-treasurer may deposit or invest the funds paid to the Newton parks and recreation department upon the sale of the former Emerson School and any funds afterwards received for a similar purpose in savings banks and trust companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks or invest it in paid up shares of federal savings and loan associations or in savings and loan associations doing business in the commonwealth and any income therefrom shall be credited to the trust."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-167
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	<b>Appendix B</b>

**#8**

<b>Problem:</b>	The board of trustees shall manage the Board of Aldermen Scholarship Fund and invest the fund's principal in accordance with the provisions of G.L. c.44, § 54.
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-183
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	<b>Appendix B</b>

## #9

<b>Problem:</b>	"The trustees shall administer, manage and invest the Fund in accordance with the provisions of the Uniform Management of Institutional Funds Act,"
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-194
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	See Appendix B



**#10**

<b>Problem:</b>	Trustees of the Riley Fund One trustee is the Health Department Commissioner and other trustee is the Director of Human Services.
<b>Submitted by:</b>	Ouida Young
<b>Chapter:</b>	18-198
<b>Suggested Correction:</b>	Need to correct since these departments are now 1.
<b>Type of Correction:</b>	Technical
<b>Assigned to:</b>	
<b>Research:</b>	2/22 - Recommend changing text from "Human Services" to "Senior Services" as there is no longer a separate Human Services director.
<b>Suggested Changes</b>	Trustees of the Riley Fund "One trustee shall be the director of senior services, or his/her designee. One trustee shall be the commissioner of the health department or his/her designee."

## #11

<b>Problem:</b>	... "which are legal investments for savings banks under the statutes of the commonwealth."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-5
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	Appendix B

**#12**

<b>Problem:</b>	... "as may be permitted by law for the investment of the funds of savings banks in the commonwealth."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-72
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	Appendix B

## #13

<b>Problem:</b>	... "investing the same only in securities permitted by law for the investment of the funds of savings banks in the commonwealth."
<b>Submitted by:</b>	Jim Reardon
<b>Chapter:</b>	18-94
<b>Suggested Correction:</b>	Needs revision under Chapter 75 of the Acts of 2007
<b>Type of Correction:</b>	Technical Docket Special Act Text for Review
<b>Assigned to:</b>	Bob Waddick
<b>Research:</b>	See #4
<b>Suggested Changes</b>	See #4
<b>Further Information</b>	Appendix B

118, 1-7-91; Ord. No. T-209, 12-2-91; Ord. No. T-256, 12-21-91, Ord. No. V-30, 7-10-95; Ord. No. Z-19, 03-17-08; Ord. No. Z-111, 06-18-12)

(Sec. 19-172 (c) and (d) moved to Traffic and Parking Regulations (Ord. No. Z-19, 03-17-08))

**Sec. 19-173. Parking vehicles for sale.**

It shall be unlawful for any person to park upon a street or highway any vehicle displayed for sale. (Rev. Ords. 1973, § 13-143)

**Sec. 19-174. Parking of commercial vehicles and trailers.**

(a) *Parking of commercial vehicles and trailers.*

(1) For the purposes of this section, the following definition shall be used:

*Commercial vehicle:* Any vehicle which is used in the commercial transportation of goods, wares, merchandise, materials or other property, or which has a commercial registration plate, and which has one or more of the following characteristics:

- a) has a carrying capacity in excess of two and one-half (2 1/2) tons;
- b) is more than eighteen (18) feet in length or seven (7) feet in width;
- c) has more than four wheels or more than two axles;
- d) contains more than four square feet of advertising.

*Trailer:* Any vehicle or object on wheels and having no motive power of its own, but which is drawn by, or used in combination with, a motor vehicle.

(2) It shall be unlawful year round for any commercial vehicle or trailer to be parked on any street, way, highway, road, parkway or private way dedicated or open to the use of the public for a period of time longer than two hours, provided, however, that this regulation shall not apply in the following instances:

- a) a commercial vehicle or trailer parked at a metered parking space;
- b) a commercial vehicle or trailer parked temporarily during the actual loading or unloading of materials;
- c) a commercial vehicle or trailer acting in an emergency; or
- d) a commercial vehicle or trailer parked within 500 feet of the work site of the driver of such vehicle or trailer. This exemption shall not apply where the work site of the driver or owner of the vehicle or trailer is also the residence for the driver or owner.

(3) The penalty for violation of subsection (2) of this section shall be as follows: for the first offense, a warning; for the second offense, twenty-five dollars (\$25.00); and for each subsequent offense, the vehicle or trailer shall be towed to a convenient place and the owner of the vehicle or trailer towed away shall be liable for the towing and storage charges, if any, within the limits set forth in section 19-226. The owner of any vehicle removed or towed under the provisions of this section shall also be subject to the penalties provided in section 19-8 of this chapter.

## Proposal for Changes to Newton City Ordinance Sec. 19-174 Parking of Commercial Vehicles and Trailers

Under the current ordinance, it shall be unlawful year round twenty four hours a day that any commercial vehicle or trailer (as described in the ordinance) cannot be parked on any public way or area used by the public for a period no longer than two hours.

The exception to this language would be as follows:

- The commercial vehicle or trailer is parked at a metered space that was paid for.
- The vehicle is within 500 feet of a work site or is being actively used as part of the work site.
- The commercial vehicle or trailer is acting as part of an emergency situation.

The current penalties are as follows:

- First Offense = Warning
- Second Offense = \$25 Fine
- Subsequent Offenses = The vehicle or trailer is towed with the owner being liable for towing and storage fees.

The need for revision of the current penalties for commercial parking restrictions involve a number of reasons:

- The owners of these vehicles or trailers are continuously parking their equipment on either Newton Streets or in Newton Municipal Lots.
- They are using Newton's roadways as permanent parking spaces during non-business hours.
- These owners are avoiding the storage costs they would have to pay to park these vehicles in private lots.
- The risk of the current fines does not stop them from continuing to park in public areas.
- They also move the vehicles to different locations to avoid the penalties associated with commercial vehicle parking.
- The vehicles are being used as advertisements for their businesses while being parked on Newton's public ways.

## **Proposed Changes**

**The proposed changes to the Current Language and Penalties for Commercial Vehicles or Trailers parking on the City of Newton Public Ways are as follows:**

- **First Offense = \$100**
- **Second Offense = \$200**
- **Subsequent Offenses = \$300 as well as vehicle or trailer being towed with the owner being liable for towing and storage fees.**

### **Note:**

1. Commercial Vehicles or Trailers cannot park on any part of a public way. If in violation, the commercial vehicle or trailer would be cited under the revised ordinance.
2. Commercial Vehicles or Trailers cannot park within any part of the City of Newton's Municipal Parking Lots. If in violation, the commercial vehicle or trailer would be cited under the revised ordinance.

**NEWTON POLICE DEPARTMENT**  
**#119-13**  
**COMMERCIAL VEHICLE / TRAILER WARNING CARD**

**THIS VEHICLE IS ILLEGALLY PARKED**  
**AND IS SUBJECT TO A \$25.00 FINE AND TOWING CHARGES**

Newton City Ordinance 19-174, *Parking of Commercial Vehicles and Trailers*, states:

“It shall be unlawful for any commercial vehicle, other than one acting in an emergency, to be parked on any street, way, highway, road, parkway or private way dedicated or open to the use of the public *for a period of time longer than two hours*, provided, however, that this regulation shall not apply in the following instances: (a) a commercial vehicle or trailer parked at a metered parking space; (b) a commercial vehicle or trailer parked temporarily during the actual loading or unloading of materials; (c) a commercial vehicle or trailer acting in an emergency; or (d) a commercial vehicle or trailer parked within 500 feet of the work site of the driver of such vehicle or trailer. This exemption (Item d) shall not apply where the work site of the driver or owner of the vehicle or trailer is also the residence for the driver or owner.” Effective 11/05/2007.



**PROPOSED ORDINANCE LANGUAGE**

**Sec. 19-201. Resident sticker and visitor permit parking program.**

There shall be a resident, sticker and visitor permit parking program in the City of Newton to govern parking of residents' and-visitors' motor vehicles on designated city streets in restricted areas during designated times as follows:

A. Establishment of restricted area.

(1) One or more residents or property owners of the City of Newton, the chief of police or the commissioner of public works or his designee may petition the traffic council to establish, extend, reduce or delete an area in which parking shall be restricted to vehicles displaying valid resident stickers or visitor permits for that area. In order for a resident's or property owner's petition to establish or extend a restricted area to be considered by the traffic council, it must be submitted with signatures of one or more residents of each of at least fifty percent (50%) of the dwelling units located in the area in which parking restrictions are proposed. Such an area may be any portion or all of one or more streets, but the minimum proposed restricted area must be at least one street block in length, and any restricted area must be bordered only by properties the primary use of which is residential. In accordance with guidelines approved by the board of aldermen, the traffic council may consider a petition for a restricted area that is not bordered only by properties the primary use of which is residential or for a restricted area that is less than one block in length. In addition, no petition for a restricted area will be considered unless alternative parking restrictions, such as time limitations or parking prohibitions, covering the entire proposed restricted area, have been in effect for at least one (1) year immediately prior to such consideration. Permit parking restrictions shall not be established for any period between 2:00 a.m. and 6:00 a.m.

(2) Upon receipt of such a petition as specified above, the traffic council shall schedule a public hearing within ~~sixty (60)~~ ninety (90) days and notices of such hearing shall be sent to abutters and to those residents and property owners of record at all addresses within five hundred (500) feet of the proposed or existing restricted area. The traffic council shall not deny a petition because of defects in the notice procedure required by this section, unless a resident, property owner, or abutter has been prejudiced thereby.

(3) In reviewing the petition, the traffic council shall consider the following criteria:

- a) vehicular circulation and safety;
- b) pedestrian safety;
- c) lack of convenient off-street parking for residents of the area of the proposed restriction;
- d) level of demand for on-street parking by nonresidents of the area of the proposed restriction, including analysis of probable displacement of nonresidential parking to adjacent residential areas if the proposed restrictions should be implemented;
- e) extent to which existing and/or alternative parking regulations are ineffective to deal with parking problems in the area of the proposed restriction.

(4) The traffic council may establish a restricted area only in an area where alternative parking restrictions, such as time limitations or parking prohibitions, have been in effect for at least one (1) year immediately prior to the petition. The traffic council shall review the effectiveness of the existing restrictions prior to establishment of a new restricted area.

(5) Following the public hearing, the traffic council may adopt a regulation establishing or deleting one or more areas, as related to the petition, in which parking shall be restricted to residents of the particular restricted areas during time periods to be established as part of such ordinance.

(6) This paragraph shall not apply in neighborhood parking districts established pursuant to Section 19-202.

B. Issuance of resident parking stickers:

(1) Resident parking stickers shall identify the restricted area to which they apply and shall be of a design specified by the chief of police. One such sticker for a restricted area shall be issued by the chief of police or his designee to an owner of a motor vehicle which is registered in the Commonwealth of Massachusetts, with a registered gross weight of under two and one half (2½) tons, which is principally garaged in the City of Newton at an address which borders a restricted area or which is contiguous to a lot that borders said restricted area, as established in accordance with subsection (a) above, which is owned or used by a resident of the City of Newton at said address, and which otherwise qualifies for issuance of a sticker under this section. Notwithstanding the foregoing, the owner of a motor vehicle principally garaged at a lot which is contiguous to the rear lot line of a non-corner lot bordering the restricted area will not be entitled to a sticker.

(2) Upon establishment of a restricted area by the traffic council, the city engineer shall determine those addresses at which registered vehicles shall be eligible to receive resident parking stickers, and forward a list of such addresses to the chief of police and to the board of assessors. The board of assessors shall provide a description of the use at each address including the existing number of dwelling units as it appears in the assessing records, and forward that information to the chief of police.

(3) Acceptable proof of residency in subsection (1) hereof will be either (A) a current registration certificate issued by the Registry of Motor Vehicles, Commonwealth of Massachusetts, stating the information required in subsection (1); or (B) a current registration certificate issued by the Registry of Motor Vehicles, Commonwealth of Massachusetts, accompanied by a Massachusetts Registry of Motor Vehicles "Change of Address Form", properly completed and stating the information required in subsection (1). The police department may require the Registry of Motor Vehicles "Change of Address Form" to be completed by the applicant and left with the department for mailing directly to the Registry of Motor Vehicles if there is any doubt as to the authenticity of the applicant's proof under subsection (3)(B). The Registry form must contain the information required in subsection (1).

(4) The number of resident parking stickers issued to a resident at an eligible address shall be limited as follows: the maximum number of resident parking stickers for residents at eligible addresses shall be two (2) per dwelling unit. Motor vehicles not registered at the address shall not be eligible for a sticker.

(5) Other provisions governing resident sticker parking:

- a) Resident parking stickers shall show the registration number of the vehicle to which it is assigned, the sticker's effective year, and the area in which it is effective.
- b) The chief of police may establish rules governing the display of resident parking stickers. c) Resident parking stickers shall expire on December 31 of each year.
- d) Any outstanding fines for parking violations attributable to the motor vehicle for which a resident parking sticker is requested must be paid in full before said sticker is issued.
- e) The fee for resident parking stickers shall be twenty-five dollars (\$25.00) per year per vehicle.
- f) Notwithstanding the provisions of this section or any other provision in this chapter to the contrary, no penalty shall be imposed for the parking on any street designated as resident permit parking area of any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinctive number plate authorized by section 2 of chapter 90 of the General Laws or for the parking of any vehicle used to transport a disabled veteran or handicapped person who bears a properly displayed special parking identification placard as authorized by section 2 of chapter 90 of the General Laws.

C. Issuance of visitor parking permits:

- (1) Visitor parking permits shall be distinguished by area, shall be transferable between vehicles, and shall be of a design specified by the chief of police.
- (2) Two (2) such permits for a restricted area shall be issued by the chief of police or his designee to any resident eligible for the issuance of resident parking stickers. Notwithstanding the foregoing, the maximum number of visitor parking permits shall be two (2) per dwelling unit. For residents of a dwelling unit in a restricted area in which there exists a home office or home occupation permitted as an accessory use by sections 30-8(c) and 30-9(2)(i) of the Revised Ordinances, the maximum number of visitor parking permits may be increased by one (1), unless the home office is that of a physician or dentist, in which case the maximum number of visitor parking permits may be increased by two (2).
- (3) Visitor parking permits shall show the permit's effective year and shall expire on December 31 of each year.
- (4) Visitor parking permits will not be replaced if lost.
- (5) Visitor parking permits shall be issued to qualified residents free of charge.
- (6) The chief of police may establish rules governing the display of resident parking stickers.

D. Exemptions:

(1) Visitor parking permits for a restricted area may be issued by the chief of police or his designee in such a number, and to such institutions, organizations, or persons, as the ~~board of aldermen~~ traffic council shall authorize in establishing permit-parking restrictions in accordance with subsection (a) above.

the maximum number of resident parking stickers for residents at eligible addresses shall be two (2) per dwelling unit. Motor vehicles not registered at the address shall not be eligible for a sticker. (5) Other provisions governing resident sticker parking:

a) Resident parking stickers shall show the registration number of the vehicle to which it is assigned, the sticker's effective year, and the area in which it is effective.

b) The chief of police may establish rules governing the display of resident parking stickers.

c) Resident parking stickers shall expire on December 31 of each year.

d) Any outstanding fines for parking violations attributable to the motor vehicle for which a resident parking sticker is requested must be paid in full before said sticker is issued.

e) The fee for resident parking stickers shall be twenty-five dollars (\$25.00) per year per vehicle.

f) Notwithstanding the provisions of this section or any other provision in this chapter to the contrary, no penalty shall be imposed for the parking on any street designated as resident permit parking area of any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinctive number plate authorized by section 2 of chapter 90 of the General Laws or for the parking of any vehicle used to transport a disabled veteran or handicapped person who bears a properly displayed special parking identification placard as authorized by section 2 of chapter 90 of the General Laws.

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- (6) The chief of police may establish rules governing the display of resident parking stickers.

D. Exemptions:

- (1) Visitor parking permits for a restricted area may be issued by the chief of police or his designee in such a number, and to such institutions, organizations, or persons, as the ~~board of aldermen~~ traffic council shall authorize in establishing permit-parking restrictions in accordance with subsection (a) above.
- (2) Such additional visitor permits shall be issued, where authorized by the ~~board of aldermen~~ traffic council, free of charge.
- (3) The chief of police or the chief's designee may, at his discretion and upon request of any resident at an eligible address, waive the permit parking restrictions in a restricted area for a limited period of time.

E. Other provisions governing resident sticker parking and visitor permit parking:

- (1) Applications for resident stickers or visitor permits shall be made on a form prescribed by the chief of police or his designee.
- (2) Resident stickers and visitor permits and ordinances governing their use shall be effective in locations and during hours established in accordance with subsection (a) above. All other parking and traffic regulations and ordinances of the City of Newton shall remain in full force and effect and must be obeyed by sticker and permit holders.
- (3) Resident stickers and visitor permits do not authorize holders to park overnight in municipal lots.
- (4) All sticker or permit parking shall automatically be suspended upon the declaration of a snow emergency or any disaster in the city by the chief of police or his designee.
- (5) Resident stickers and visitor permits will automatically be revoked if a motor vehicle ceases to qualify under this ordinance, if the sticker or permit is applied to a vehicle other than the one so designated at the time of application, or if the applicant for a visitor permit ceases to qualify under this section.
- (6) Resident stickers and visitor permits if not properly affixed or displayed on the motor vehicle, shall be deemed to be of no effect.

(7) The fee for issuance of a replacement resident parking sticker shall be two dollars (\$2.00).

(8) No parking restrictions established hereunder shall be effective on legal holidays, on Sundays from 6:00 a.m. to 2:00 p.m., on Saturdays or on religious holidays on streets abutting any house of worship during hours of religious services at such house of worship, or during municipal or Newton Public Schools or Newton Community Schools events or functions in areas affected by said events or functions.

(9) If any provision of this ordinance or the application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of this ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

(10) This section, together with any amendments thereto, will be posted in the office of the city clerk. (Ord. No. S-155, 2-18-86; Ord. No. T-168, 9-3-91; Ord. No. T-169, 7-8-91; Ord. No. T-230, 6/1/92; Ord. No. T-236; 7/13/92; Ord. No. T-304; 11/1/93; Ord. No. V-154, 12-1-97; Ord. No. Z-12, 12-03-07; Ord. No. Z-38, 11-17-08; Ord. Z-39, 11-17-08; Ord. No. Z-48, 03-16-09)

**Sec. 19-202. Neighborhood parking district program.**

The traffic council may, from time to time, establish neighborhood parking districts in an area comprised of contiguous streets where demand for on-street parking necessitates a comprehensive approach to managing parking. The traffic council shall establish rules and requirements particular to that district for the purpose of creating consistent parking regulations and equitably distributing parking impacts throughout the district. Such districts shall be published in the traffic and parking regulations.

A. Establishment of neighborhood parking districts.

1) Following a public hearing, traffic council may establish a neighborhood parking district, and shall establish for each such district parking rules and regulations applicable within such districts, and may establish rules allowing for the issuance of resident, visitor and non-resident stickers and permits to override street regulations.

B. Issuance of neighborhood parking district parking stickers and permits:

(1) Resident parking permits. Upon establishment of a restricted area by the traffic council, the city engineer shall determine those addresses at which registered vehicles shall be eligible to receive resident parking stickers, and forward a list of such addresses to the chief of police and to the board of assessors. The board of assessors shall provide a description of the use at each address including the existing number of dwelling units as it appears in the assessing records, and forward that information to the chief of police. Such resident parking stickers shall otherwise be issued and enforced by the chief of police in accordance with the provisions and regulations establishing 19-201(B) (3), (4) and (5).

(2) Visitor parking permits. Visitor parking permits shall be issued in accordance with section 19-201(C).

(3) Non-resident parking stickers or permits.

(a) A limited number of non-resident parking stickers or permits may be made available for use on streets within a neighborhood parking district in accordance with the rules and regulations for that district. Traffic council may establish rules governing the maximum number of parking stickers or permits allocated to non-residents on each particular street, and rules related to where on the street a non-resident sticker or permit may be applicable, and which shall be included in the traffic and parking regulations.

(b) The chief of police may establish acceptable documentation required to obtain a non-resident sticker or permit.

(c) Non-resident parking stickers or permits shall be valid for a one year period. The chief of police may establish the month of the year in which the permit expires for any given neighborhood parking district.

(d) Any outstanding fines for parking violations attributable to the motor vehicle for which a non-resident parking sticker or permit is requested must be paid in full before said sticker is issued.

(e) Non-resident parking stickers or permits shall show the registration number of the vehicle to which it is assigned, the sticker or permit's effective year, and the area in which it is effective.

(f) Non-resident parking stickers or permits shall cost \$25.00 per year.

(g) Upon establishment of a neighborhood parking district by the traffic council, the city engineer or parking manager shall prepare a parking plan and report describing the non-resident parking permit or sticker rules applicable on a particular street, and shall forward these to the chief of police.

(h) The chief of police may establish rules governing the distribution of non-resident stickers or permits.

(i) The chief of police may establish rules governing the display of non-resident parking stickers or permits.

#### C. Exemptions:

(1) Visitor parking permits for a neighborhood parking district may be issued by the chief of police or his designee in such a number, and to such institutions, organizations, or persons, as the traffic council shall authorize in establishing permit-parking restrictions in accordance with subsection (a) above.

(2) Such additional visitor permits shall be issued, where authorized by the traffic council, free of charge.

(3) The chief of police or the chief's designee may, at his discretion and upon request of any resident at an eligible address, waive the permit parking restrictions in a neighborhood parking district for a limited period of time.

D. All stickers and permits issued pursuant to this section shall be subject to the provisions of section 19-201 (E).

E. Notwithstanding the provisions of this section or any other provision in this chapter to the contrary, no penalty shall be imposed for the parking on any street designated as resident permit parking area of any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinctive number plate authorized by section 2 of chapter 90 of the General Laws or for the parking of any vehicle used to transport a disabled veteran or handicapped person who bears a properly displayed special parking identification placard as authorized by section 2 of chapter 90 of the General Laws.

F. If any provision of this ordinance or the application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of this ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.





SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#209-10(4)

Telephone  
(617) 796-1100

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(617) 796-1113

TDD/TTY  
(617) 796-1089

E-mail  
swarren@newtonma.gov

February 25, 2012

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

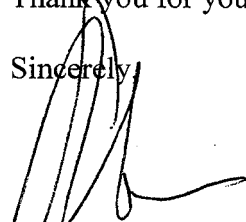
Ladies and Gentlemen:

On October 4, 2010 through Board Order #209-10(2) the Board of Aldermen in accordance with the recommendation of the Mayor and the Finance Committee accepted M.G.L. Chapter 32B, Section 20, which authorizes a local option to establish an Other Post Employment Benefits Liability Trust Fund and a funding schedule for the fund.

I now write to request that your Honorable Board docket for consideration a request to establish an "Other Post Employment Benefits Trust Agreement" with the intent that this Trust shall constitute a so called "Qualified OPEB Trust" according to the standards set forth in GASB 43 and 45 and that it further qualify as an Integral Part Trust for all purposes under Article 115(c) of the code or under any comparable provision of future legislation that amends, alters, or supersedes the Code

Thank you for your consideration of this matter.

Sincerely,

  
Seth D. Warren  
Mayor

RECEIVED  
Newton City Clerk  
2012 FEB 25 PM 6:33  
David A. Olson, CMC  
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE



SETTI D. WARREN  
MAYOR

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Office of the Mayor

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E-mail  
swarren@newtonma.gov

To: Alderman Leonard Gentile, Chairman, Finance Committee *ml*

From: Maureen Lemieux, Chief Financial Officer

Subject: OPEB Trust Agreement

Date: March 1, 2013

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I am attaching the draft OPEB Trust Agreement for your information. I have intentionally not submitted it with the actual docket request as it is still in draft format.

We welcome any comments from you or any of your colleagues. I will include it in the Board packet as soon as it is finished and obviously prior to its scheduled discussion at the Finance Committee.

Cc: Finance Committee  
Alderman Lennon  
David Wilkinson  
James Reardon  
Marie Lawlor

1000 Commonwealth Avenue Newton, Massachusetts 02459

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



DEDICATED TO COMMUNITY EXCELLENCE

**DRAFT 2/28/2013**

CITY OF NEWTON

OTHER POST-EMPLOYMENT BENEFITS (“OPEB”) TRUST  
AGREEMENT

TRUST AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2013 by and between the City of Newton, acting through its Mayor (the “City”) and the duly serving members of the Board of Trustees (the “Trustees”).

WITNESSETH:

WHEREAS, the City has established certain other post-employment benefits (“OPEB”), other than pensions, for eligible former employees of the City; and

WHEREAS, the City has accepted the provisions of G.L. c. 32B, Section 20 as amended by Acts 2011, Chapter 68, Section 57; and

WHEREAS, the City wishes to establish an irrevocable trust (hereinafter the “Trust”) for the purpose of funding OPEB obligations as required to be reported under [Government General Accounting Standards Board \(“GASB”\) Statements 43 and 45 or as may be required under any superseding Statements](#); and

WHEREAS, the Trust is established by the City with the intention that it qualify as a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Code and Regulations issued thereunder and as a trust for OPEB under G. L. c. 32B, §20.

NOW, THEREFORE, in consideration of the foregoing promises and the mutual covenants hereinafter set forth, the City and the Trustees hereby agree as follows.

ARTICLE I

DEFINITIONS

As used herein, the following terms shall have the following meanings:

- 1.1 “Code” means the Internal Revenue Code of 1986, as amended from time to time.
- 1.2 “ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time and any successor statute.

1.3. "GASB 43 and 45" shall mean Government Accounting Standards Board, Statement No. 43 and Statement No. 45, Accounting and Financial Reporting by Employers for Post-Employment Benefits Other Than Pensions.

1.4. "Other post-employment benefits" or "OPEB," shall mean post-employment benefits other than pensions as that term is defined in GASB 43 and 45 including post-employment healthcare benefits, regardless of the type of plan that provides them, and all post-employment benefits provided separately from a pension plan, excluding benefits defined as termination offers and benefits.

1.5. "Retired Employee" means those persons who have retired from employment with the City and who are qualified to receive retirement benefits pursuant to G.L. c. 32 or as otherwise provided by law.

1.6. "Trust" means the City of Newton OPEB Trust as hereby established.

1.7. "Trustee" means the duly serving members of the Board of Trustees, and any successor Trustee appointed as provided pursuant to Article 5.

1.8. "Trust Fund" means all the money and property, of every kind and character, including principal and income, held by the Trustees under this Trust.

1.9. "HCST Board" means the Health Care Security Trust board of trustees established pursuant to G.L. c. 29D, Section 4.

1.10. "SRBTF" means the State Retiree Benefits Trust Fund established pursuant to G.L. 32A, Section 24.

## ARTICLE 2

### PURPOSE

2.1. The Trust is created for the sole purpose of providing funding for OPEB, as determined by the City, or as may be required by collective bargaining agreement, or by any general or special law providing for such benefits, for the exclusive benefit of the City's Retired Employees and their eligible dependents and for defraying the reasonable administrative, legal, actuarial and other expenses of the Trust. The assets held in the Trust shall not be used for or diverted to any other purpose, except as expressly provided herein.

2.2. It is intended that the Trust shall constitute a so called "Qualified OPEB Trust" according to the standards set forth in GASB 43 and 45 and that it further qualify as an Integral Part Trust

for all purposes under Article 115(c) of the Code or under any comparable provision of future legislation that amends, alters, or supersedes the Code.

ARTICLE 3

ESTABLISHMENT OF TRUST

- 3.1 In order to implement and carry out the provisions of G.L. c. 32B, §20, the City hereby establishes this Trust which shall be known as the “City of Newton OPEB Trust.”
- 3.2 The Trust shall be irrevocable, and no Trust funds shall revert to the City until all OPEB owed to retired City employees have been satisfied or defeased.
- 3.3 The principal location of the Trust shall be City of Newton, 1000 Commonwealth Avenue, Newton, Massachusetts 02459.
- 3.4 The Trustees hereby accept the trusts imposed upon them by this Trust Agreement and agree to perform said trusts as a fiduciary duty in accordance with the terms and conditions of this Trust Agreement.
- 3.5 The Trustees shall hold legal title to all property of the Trust and neither the City, nor any employee, official, or agent of the City, nor any individual, shall have any right, title, or interest to the Trust.
- 3.6 The Trust shall consist of such sums of money as shall from time to time be paid or delivered to the Trustees by the City, which together with all earnings, profits, increments and accruals thereon, without distinction between principal and income, shall constitute the Trust hereby created and established. Nothing in this Agreement requires the City to make contributions to the Trust to fund OPEB. Any obligation of the City to pay or fund benefits shall be determined in accordance with applicable law and any agreement to provide OPEB.

ARTICLE 4

TRUST FUNDING

- 4.1 The Trust Fund shall be credited with all amounts appropriated or otherwise made available by the City and employees of the City as a contribution to the Trust for the purposes of meeting the current and future OPEB costs payable by the City, or any other funds donated or granted specifically to the City for the Trust, or to the Trust directly.

4.2. The Trustees shall be accountable for all delivered contributions but shall have no duty to determine that the amounts received are adequate to provide the OPEB Benefits determined by the City.

4.3. The Trustees shall have no duty, expressed or implied, to compel any contribution to be made by the City, but shall be responsible only for property received by the Trustees under this Trust Agreement.

4.4. The City shall have no obligation to make contributions to the Trust to fund OPEB, and the size of the Trust may not be sufficient ant any one time to meet the City's OPEB liabilities. This Trust Agreement shall not constitute a pledge of the City's full faith and credit or taxing power for the purpose of paying OPEB, and no retiree or beneficiary may compel the exercise of taxing power by the City for such purposes. The obligation of the City to pay or fund OPEB obligations, if any, shall be determined by the City or applicable law. Distributions of assets in the Trust are not debts of the City within the meaning of any constitutional or statutory limitation or restriction.

4.5. Earnings or interest accruing from investment of the Trust shall be credited to the Trust. Amounts in the Trust Fund, including earnings or interest, shall be held for the exclusive purpose of, and shall be expended only for, the payment of the costs payable by the City for OPEB obligations to Retired Employees and their dependents, and defraying the reasonable expenses of administering any plan providing OPEB Benefits as provided for in this Trust Agreement.

4.6. Amounts in the Trust Fund shall in no event be subject to the claims of the City's general creditors. The Trust Fund shall not in any way be liable to attachment, garnishment, assignment or other process, or be seized, taken, appropriated or applied by any legal or equitable process, to pay any debt or liability of the City, or of retirees or dependents who are entitled to OPEB.

## ARTICLE 5

### TRUSTEES

5.1. The Trust shall be administered by a Board of Trustees consisting of five members as follows: (1) The Mayor or his designee, the City Comptroller, and the Director of Human Resources shall serve as *ex officio* members; (2) the Board of Aldermen shall annually appoint one member of the Board of Aldermen to serve as a Trustee for a term of one year; and (3) the Mayor, with the consent of the Board of Aldermen, shall appoint one (1) individual, who shall be a registered voter of the City, for a term of two (2) years. Upon the resignation or removal of the Mayor, the City Comptroller, or the Director of Human Resources, the position of Trustee shall be deemed vacant until such time as the underlying City position is filled on either a permanent or temporary basis. The City Treasurer shall serve as a non-voting member of the Board of

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Trustees. Any member of the Board of Trustees may be removed by the Mayor with the consent of the Board of Aldermen for cause.

5.2. The Mayor shall call for the first meeting of the Trustees and shall serve as the initial Chairperson of the Trustees to facilitate the organization of the Trustees.

5.3. A Trustee may resign by providing the City Clerk and Board of Trustees Chairperson with written notice thereof.

5.4. In the event a Trustee resigns, is removed, or is otherwise unable to serve, the Mayor shall appoint a Trustee to fill the vacancy for the remainder of the term.

5.5. Whenever a change occurs in the membership of the Board of Trustees, the legal title to property held by this Trust shall automatically pass to those duly appointed successor Trustees.

5.6. Each future Trustee shall accept the office of Trustee and the terms and conditions of this Trust Agreement in writing.

5.7. Upon leaving office, a Trustee shall promptly and without unreasonable delay, deliver to the Trust's principal office any and all records, or other documents or other items in his possession or under his control belonging to the Trust.

5.8. The Trustees shall be special municipal employees for purposes of G.L. c. 268A and shall be subject to the restrictions and prohibitions set forth therein.

## ARTICLE 6

### POWERS OF THE TRUSTEES

6.1. The Trustees shall have the power to control and manage the Trust and the Trust Fund and to perform such acts, enter into such contracts, engage in such proceedings, and generally to exercise any and all rights and privileges, although not specifically mentioned herein, as the Trustees may deem necessary or advisable to administer the Trust and the Trust Fund or to carry out the purposes of this Trust. In addition to the powers set forth elsewhere in this agreement, the powers of the Trustees, in connection with their managing and controlling the Trust and its General Fund, shall include, but shall not be limited to the following:

~~6.1.1. To enter into an administrative services contract or other contracts with one or more insurance companies, nonprofit hospital, medical or dental service corporations, or with one or more health care organizations or health maintenance organizations, or with one or more third-party administrators or other entities to organize, arrange, or provide for the delivery or payment of health care coverage or services (including dental services), whereby the funds for the payment of claims of eligible persons, including~~

~~appropriate service charges of the insurance carrier, third party administrator or other intermediary, shall be furnished by the Trustees from the Trust Fund for the payment by such intermediary to the health care vendors or persons entitled to such payments in accordance with the terms and provisions of said contract.~~

~~6.1.2. To purchase contracts of insurance or reinsurance through such broker or brokers as the Trustees may choose and to pay premiums on such policies.~~

6.1.31. To receive, hold, manage, invest and reinvest all monies which at any time form part of the Trust, whether principal or income, provided however that there shall be no investment directly in mortgages or in collateral loans and further provided that the Trustees shall comply with the provisions of Article 7 of this Trust Agreement, applicable law and any investment policy adopted by the Trustees concerning the investment and management of Trust assets.

~~6.1.4. To borrow or raise money for the purposes of the Trust, in such amount, and upon such terms and conditions as the Trustees shall deem advisable, subject to applicable law and statutes; and for any sum so borrowed to issue the promissory note of the Trust, and to secure the repayment thereof by creating a security interest in all or any part of the Trust or Trust Fund; and no person lending such money shall be obligated to see that the money lent is applied to Trust purposes or to inquire into the validity, expedience or propriety of any such borrowing.~~

6.1.52. To hold cash, uninvested, for such length of time as the Trustees may determine without liability for interest thereon.

6.1.3 To develop and recommend an actuarially determined funding schedule subject to approval of the Board of Aldermen and Mayor and subject to the City 's appropriation process.

6.1.64. To employ suitable agents, advisors and counsel as the Trustees may deem necessary and advisable for the efficient operation and administration of the Trust, to delegate duties and powers hereunder to such agents, advisors and counsel, and to charge the expense thereof to the Trust. The Trustees are entitled to rely upon and may act upon the opinion or advice of any attorney approved by the Trustees in the exercise of reasonable care. The Trustees shall not be responsible for any loss or damage resulting from any action or non-action made in good faith reliance upon such opinion or advice. All delegated authority shall be specifically defined in any by-laws adopted by the Trustees or the written minutes of the Trustees' meetings.

6.1.75. To hire ~~employees or~~ independent contractors as the Trustees may deem necessary or advisable to render the services required and permitted for the proper operation of the Trust, and to charge the expense thereof to the Trust.



6.1.86. To continue to have and to exercise, after the termination of the Trust and until final distribution, all of the title, powers, discretions, rights and duties conferred or imposed upon the Trustees hereunder, by any by-laws adopted by the Trustees or by law.

6.1.97. To construe and interpret this Trust Agreement and other documents related to the purposes of the Trust.

6.1.108. To ~~maintain bank accounts for the administration of the Trust and the Trustee Fund and to~~ authorize certain Trustees or other appropriate persons to make payments from any appropriate account for purposes of the Trust and to authorize disbursements of funds accumulated in the trust to the City for the sole purpose of payment of OPEB in accordance with an actuarially determined funding schedule.

6.1.118. To receive and review reports of the financial condition and of the receipts and disbursements of the Trust and the Trust Fund.

6.1.129. To adopt by-laws, rules, regulations, formulas, actuarial tables, forms, and procedures by resolution from time to time as they deem advisable and appropriate for the proper administration of the Trust, including participation criteria, provided the same are consistent with the terms of this Trust Agreement and applicable laws.

6.1.1013. To purchase as a general administrative expense of the Trust so-called director's liability insurance and other insurance for the benefit of the Trust and/or the protection of the Trustees, Trust officers, employees, or agents against any losses by reason of errors or omissions or breach of fiduciary duty or negligence.

6.1.114. To enter into any and all contracts and agreements for carrying out the terms of this Trust Agreement and for the administration and operation of the Trust and to do all acts as they, in their discretion, may deem necessary or advisable. Except as otherwise directed by the Trustees, all such contracts and agreements, or other legal documents herein authorized, shall be executed by the Chairperson, or Secretary as may be voted by the Trustees.

6.1.125. To receive contributions or payments from any source whatsoever but such contributions or payments may not be utilized for any purpose unrelated to the provision of OPEB as herein provided or properly authorized expenses.

6.1.136. To pay taxes, assessments, and other expenses incurred in the collection, care, administration, and protection of the Trust.

6.1.147. To do all acts, whether or not expressly authorized herein, which the Trustees may deem necessary or proper in connection with the administration of the Trust, although the power to do such acts is not specifically set forth herein.

6.1.158. To compromise, settle or arbitrate any claim, debt, or obligation of or against the Trust or Trust Fund; to enforce or abstain from enforcing any right, claim debt or obligation, and to abandon any shares of stock, bonds, or other securities, or interests determined by it to be worthless; to prosecute, compromise and defend lawsuits, but without the obligation to do so, all at the risk and expense of the Trust.

6.1.169. To hire one or more consultants, actuaries, accountants, attorneys, or other professionals to assist with the administration of the Trust Fund and to pay such amounts that the Trustee deems to be reasonable, including, without limiting the generality of the foregoing, third party firms to provide legal, tax, accounting and audit services to the Trust.

6.1.1720. To comply with all requirements imposed by applicable provisions of law.

6.1.18 If so authorized by vote of the Board of Aldermen with approval of the Mayor in accordance with G.L. c. 32A, Section 24 to direct the Treasurer/Custodian to take all steps necessary to invest the funds in the SRBTF.

6.1.1921. If so directed by vote of the Board of Aldermen with approval of the Mayor in accordance with G.L. c. 32B, Section 20, to take all steps necessary to designate HCST Board as custodian of the Trust assets and thereby invest the funds in the SRBTF.

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## ARTICLE 7

### LIMITATION OF TRUSTEES' POWERS, DUTIES AND RESPONSIBILITIES

7.1. Nothing contained in the Trust Agreement, either expressly or by implication, shall be deemed to impose any powers, duties or responsibilities on the Trustees other than those set forth in this Trust Agreement.

7.2. The Trustees shall have such rights, powers and duties as are provided to a named fiduciary for the investment of assets under ERISA. The Trustees shall not be liable for the making, retention or sale of any investment or reinvestment made by the Trustees as herein provided or for any loss to or diminution of the Trust Fund or for anything done or admitted to be done by the Trustees with respect to the Trust Agreement or the Trust Fund except as and only to the extent that such action constitutes a violation of the law or gross negligence.

7.3. The Trustees, in their discretion, may purchase as an expense of the Trust Fund such liability insurance for themselves or any other fiduciary selected by the Trustees as may be reasonable. The City, in its discretion, may also purchase liability insurance for the Trustees, and as the City may select, for any person or persons who serve in a fiduciary capacity with respect to the Trust.

7.4. The City shall not assume any obligation or responsibility to any person for any act or failure to act of the Trustees, any insurance company, or any beneficiary of the Trust Fund. The Trustees shall have no obligation or responsibility with respect to any action required by this Trust Agreement to be taken by the City, any insurance company, or any other person, or for the result or the failure of any of the above to act or make any payment or contribution, or to otherwise provide any benefit contemplated by this Trust Agreement.

7.5. Neither the Trustees nor the City shall be obliged to inquire into or be responsible for any action or failure to act on the part of the other. No insurance company shall be a party to this Trust Agreement, for any purpose, or be responsible for the validity of this Trust Agreement, it being intended that such insurance company shall be liable only for the obligations set forth in the policy or contract issued by it.

7.6. The Trustees shall invest and manage Trust assets as a prudent investor would, using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital, pursuant to G.L. c. 203C.

#### ARTICLE 8

##### ACTIONS BY THE TRUSTEES

8.1. A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees.

8.2. The Trustees may, by instrument executed by all of the Trustees, delegate to any attorney, agent or employee such other powers and duties as they deem advisable, including the power to execute, acknowledge or deliver instruments as fully as the Trustees might themselves and to sign and endorse checks for the account of the Trustees of the Trust.

8.3. No Trustee shall be required to give bond.

#### ARTICLE 9

##### LIABILITY OF THE TRUSTEES

9.1. A Trustee shall not be liable for any mistake of judgment or other action made, taken or omitted by the Trustee in good faith, nor for any action taken or omitted by any other Trustee or any agent or employee selected with reasonable care, and the duties and obligations of the Trustees hereunder shall be expressly limited to those imposed upon them by this Trust Agreement.

9.2. No successor Trustee shall be held responsible for an act or failure of a predecessor Trustee.

9.3. Trustees are public employees for purposes of G.L. c. 258, and shall be indemnified by the City against any civil claim, action, award, compromise, settlement or judgment by reason of an intentional tort to the same extent and under the same condition as other public employees of the City.

9.4. A Trustee shall not be liable for any mistake of judgment or other action made, taken or omitted

#### ARTICLE 10

##### MEETINGS OF THE TRUSTEES

10.1. The Trust may meet at such times and at such places as the Trustees shall determine.

10.2. The Trustees shall comply with the Open Meeting Law, G.L. c. 30A, §§18-25 and its implementing regulations.

10.3. A quorum at any meeting shall be a majority of the Trustees then in office.

#### ARTICLE 11

##### TAXES, EXPENSES, AND COMPENSATION

11.1. It is intended that the Trust will be a Code Article 115 trust. As such, it is expected that there will be no income taxes owed by the Trust. To the extent that any taxes are imposed on the Trust, the Trustees shall use the assets of the Trust Fund to pay for any taxes owed.

11.2. All reasonable costs and expenses of managing and administering the Trust and the Trust Fund, ~~including such compensation for the Trustees as may be approved by the Board of Aldermen from time to time,~~ and reimbursement for reasonable fees incurred through the use of third party vendors or agents, shall be paid from the Trust unless the City chooses to pay the expenses directly.

#### ARTICLE 12

##### ACCOUNTS

12.1. The Trustees shall keep complete and accurate accounts of all of the Trust's receipts, investments, and disbursements under this Trust Agreement. Such records, as well as all other Trust records, shall be retained and made available for public inspection and or copying in accordance with the requirements of the Public Records Law, G.L. c. 66, §10 and G.L. c. 4, §7, clause 26<sup>th</sup> and their implementing regulations. The person or persons designated by the City shall be entitled to inspect such records upon request at any reasonable time.

12.2. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices. The results of the audit shall be provided to the City at the same time as it is presented to the Trustees.

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12.3. The Trust Fund shall be subject to the Commonwealth of Massachusetts Public Employee Retirement Administration Commission's triennial audit, or as otherwise may be required by applicable law.

## ARTICLE 13

### ANNUAL REPORTS

13.1. The Trustees shall furnish to the City annually, or more frequently if the City so requests, a statement of account showing the condition of the Trust Funds and all investments, sales, income, disbursements and expenses of the Trust and the Trust Fund. The Trustees shall comply with all reporting requirements as set forth in G.L. c. 32B, section 20.

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## ARTICLE 14

### INVESTMENTS OF TRUST FUNDS

14.1. The Trustees hereby authorize and direct the City Treasurer to invest and reinvest the amounts in the Trust Fund not needed for current disbursement, consistent with the prudent investor rule, and as provided in the Investment Policy which is attached to this instrument and hereby incorporated; provided, however, that if directed by vote of the Board of Aldermen with approval of the Mayor, the City Treasurer shall be authorized to invest said amounts in the Trust Fund in the SRBTF; and further provided that if HCST is appointed as custodian of the trust as provided in Paragraph 15.1 below, HCST shall be authorized to invest and reinvest said amounts in the Trust Fund in accordance with its Investment Policy.

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14.2. In no event shall the funds be invested directly in mortgages or in collateral loans.

ARTICLE 15

CUSTODY OF THE TRUST

15.1. The Trustees hereby appoint the City Treasurer as custodian of the Trust Fund and authorize the Treasurer to employ an outside custodial service to maintain custody of the Trust Funds. All funds in the Trust Fund shall be accounted for separately from all other funds of the City. Such appointment shall be in effect unless and until, by vote of the Board of Aldermen with approval of the Mayor in accordance with G.L. c. 32B, Section 20, and ~~by~~ subject to acceptance of HCST, HCST is appointed as custodian of the Trust assets. In the event such appointment of HCST as custodian is revoked or otherwise terminated, the City Treasurer shall automatically be reappointed as custodian of the Trust Fund without further necessary action.

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15.2. The City Treasurer, with the authorization of the Trustees, shall establish one or more checking accounts, which may be interest bearing or non-interest bearing accounts. Such checking account or accounts shall be funded solely from the Trust Funds, and the Trustees may authorize the City Treasurer to draw on such checking accounts for the payment of OPEB and for the administrative expenses of the Trust.

ARTICLE 16

TERMINATION OF THE TRUST

16.1. The Trust shall continue unless and until terminated pursuant to law or by an instrument in writing signed by at least three trustees, provided, however, that continuance of the Trust shall not be deemed to be a contractual obligation of the City.

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16.2. Upon termination of the Trust, subject to the payment of or making provision for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the City and held by the city Treasurer to be used exclusively for providing OPEB to Retired Employees and their eligible dependents and for no other purpose.

16.3. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

ARTICLE 17

AMENDMENTS

17.1. The Trust may only be amended as set forth herein. The City may amend the Trust at any time as may be necessary to comply with the requirements for tax exemption under Section

115 of the Code, to conform the Trust to the laws of the Commonwealth of Massachusetts and to meet the standards set forth in GASB 43 and GASB 45 to be treated as funded through a qualifying trust or equivalent arrangement.

17.2. This Trust Agreement may be amended, but not revoked, from time to time by the City, subject to the following limitations:

17.2.1. The assets of the Trust may not be used for or diverted to any other purposes prior to satisfaction of the City's OPEB obligations, and reasonable expenses of administering the Trust.

17.2.2. The duties and liabilities of the Trustees cannot be substantially changed without their written consent.

17.2.3. Any amendment to this Trust shall be executed in writing.

## ARTICLE 18

### MERGER

18.1. The City may provide for the merger of the Trust with one or more other trusts established by the City or other government entities for similar purposes as may be provided by law.

## ARTICLE 19

### SEVERABILITY OF INVALID PROVISIONS

19.1. If any provision of this Trust Agreement is determined invalid, illegal, or unenforceable for any reason, then the provision shall be severed from the remaining provisions of the Trust Agreement for any reason, and the remaining parts of the Agreement shall be construed to give the maximum practical effect to the purposes stated herein, as if the invalid, illegal, or unenforceable provision was never a part.

## ARTICLE 20

### MISCELLANEOUS

20.1. This Trust Agreement shall be interpreted, construed and enforced, and the Trust hereby created shall be administered in accordance with and governed by the laws of the United States and of the Commonwealth of Massachusetts.

20.2. The titles to Articles of this Trust Agreement are placed herein for convenience of the reference only, and the Trust Agreement is not to be construed with reference thereto.

20.3. No person shall be obliged to see to the application of any money paid or property delivered to the Trustees, or as to whether or not the Trustees have acted pursuant to any authorization herein required, or as to the terms of this Trust Agreement. In general, each person dealing with the Trustees may act upon any advice, request or representation in writing by the Trustees, or by the Trustees's duly authorized agent, and shall not be liable to any person in so doing. The certification of the Trustees that they are acting in accordance with this Trust Agreement shall be conclusive in favor of any person relying thereon.

20.4. This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute but one instrument, which may be sufficiently evidenced by any counterpart.

20.5. Until advised to the contrary, the Trustees may assume this Trust is entitled to exemption from taxation under Section 115 of the Internal Revenue Code of 1986 or under any comparable section or sections of future legislation that amend, supplement or supersede one or both of those sections of the Internal Revenue Code.

IN WITNESS WHEREOF, the parties hereto have caused this Trust Agreement to be executed in their respective names by their duly authorized officers as of the day and year first above written.

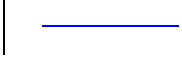
BOARD OF TRUSTEES:

\_\_\_\_\_  
Trustee



#209-10(4)

Trustee



Etc.

COMPTROLLER'S OFFICE  
CITY OF NEWTON, MASSACHUSETTS  
[dwilkinson@newtonma.gov](mailto:dwilkinson@newtonma.gov)  
(617) 796-1305

March 21, 2013

TO: Finance Committee

FROM: David Wilkinson

SUBJECT: **OPEB Trust – Docket Items #209-10(4) and #209-10(5)**

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Moody's Investor Service has identified two important issues that the City needs to address in order to continue to qualify for an Aaa credit rating. The first is the funding of adequate reserves to meet extraordinary and unforeseen general operating requirements. The City has accumulated \$8 million in a Rainy Day Stabilization fund and expects to add an additional \$1 million prior to June 30, 2013. The \$9 million in accumulated Rainy Day Stabilization Fund resources will represent 56% of the City's goal of establishing a general reserve of 5% of the General Fund operating budget.

The second issue of particular concern to those who independently and objectively evaluate Newton's credit, is the need to develop a plan for advance funding of long term employee benefit commitments, principally post-retirement health benefits (OPEB).

In October of 2010 Newton accepted General Law Chapter 32, Section 20, which allows the City to begin funding OPEB obligations as they are earned. Since adoption of the statute, the City has accumulated \$434,000 for OPEB purposes. Beginning on July 1, 2012 the City also established a policy of contributing 2.5% of compensation for all newly hired employees and it is expected that as more progress is made in funding the Rainy Day Stabilization Fund, additional resources will become available to fund OPEB obligations.

In order to assure that resources set aside for OPEB liabilities are used only for that purpose, the Governmental Accounting Standards Board (GASB) requires that the City formally adopt an irrevocable trust for OPEB assets. A management working group consisting of the City's CFO; Treasurer; HR Director; Associate City Solicitor; and Comptroller has prepared a trust agreement that we are recommending for approval by the Mayor and Board of Aldermen in docket item #209-10(4).

Since investment income on trust assets is expected to be a significant source of OPEB funding, we are also recommending (docket item #209-10(5) that the Mayor and Board of Aldermen direct the City Treasurer (as custodian of the OPEB fund) to invest all OPEB assets with the Commonwealth of Massachusetts State Retiree Benefit Trust Fund, pursuant to General Law Chapter 32A, section 24. This is the same approach that the City has taken to the management of Retirement System assets, and allows the City to invest in a professionally managed and well diversified portfolio in a much more efficient manner than would be the case with a separately managed account.

CITY OF NEWTON, MASSACHUSETTS

Notes to the Basic Financial Statements

Fiscal Year Ended June 30, 2012

\* Subsequent to year end, \$6,329,692 in high school improvement bond authorizations were rescinded due to project completion and \$3,979,000 in new long term debt has been authorized for the following purposes: water main cleaning & relining - \$2,700,000; public building energy conservation improvements - \$400,000; municipal building repairs - \$707,000; and public works equipment - \$172,000.

Note 11 – Landfill Closure and Post-closure Care Costs

State and federal laws and regulations mandated that the City close its old landfill site when it ceases accepting waste and to perform certain maintenance and monitoring activities at the site after closure. On June 28, 1996 the City signed a consent agreement with the Commonwealth of Massachusetts’ Department of Environmental Protection that established a schedule for closure of the Rumford Avenue landfill. This landfill ceased operations in 1976 and was capped during 1998, which was in compliance with the consent agreement. The City has recorded a liability of \$564,000 at June 30, 2012 for future year landfill site monitoring and maintenance. Estimated costs per year total \$35,000. The current estimate is based upon current costs and may require modification in future years due to price inflation, changes in technology or changes in state/federal law and regulations.

Note 12 – Other Post Employment Benefits

Plan Description – The City provides health and life insurance coverage for its retirees and their survivors (hereinafter referred to as the “Plan”) as a single-employer defined benefit Other Post Employment Benefit (OPEB) plan. Chapter 32B of the MGL assigns authority to establish and amend benefit provisions. Changes to plan design and contribution rates must be accomplished through the collective bargaining process. The Plan does not issue a stand alone financial report since there are no assets legally segregated for the sole purpose of paying benefits under the Plan.

The number of participants as of June 30, 2012, the latest actuarial valuation, is as follows:

Active employees.....	2,320
Retired employees and beneficiaries.....	<u>3,236</u>
Total.....	<u><u>5,556</u></u>

Funding Policy - The contribution requirements of Plan members and the City are established and may be amended by the City. The required health insurance contribution rates of Plan members and the City are 25%/30% and 75%/70%, respectively. In addition, the City reimburses 80% of the Medicare Part B premiums paid by retirees. The Plan members and City each contribute 50% towards a \$5,000 term life insurance premium. The City currently contributes enough money to the Plan to satisfy current obligations on a pay-as-you-go basis. The costs of administering the Plan are paid by the City.

Annual OPEB Cost and Net OPEB Obligation - The City’s annual OPEB cost (expense) is calculated based on the annual required contribution (ARC) of the employer, an actuarially determined amount that is calculated in accordance with the parameters set forth in GASB Statement #45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities (or funding excess) over a period not to exceed thirty years.

## CITY OF NEWTON, MASSACHUSETTS

Notes to the Basic Financial Statements

Fiscal Year Ended June 30, 2012

The following table shows the components of the City's annual OPEB cost for the year, the actual amount contributed to the plan, and changes in the total net OPEB obligation:

	Amount (in thousands)
Annual required contribution.....	\$ 49,811
Interest on net OPEB obligation.....	2,362
Adjustment to annual required contribution.....	<u>(5,754)</u>
Annual OPEB cost.....	46,419
Contributions made.....	<u>(16,603)</u>
Increase in net OPEB obligation.....	29,816
Net OPEB obligation at beginning of year.....	<u>118,063</u>
Net OPEB obligation at end of year.....	<u>\$ 147,879</u>

Trend information regarding annual pension cost, the percentage of the annual pension cost contributed and the net pension obligation is as follows:

Fiscal Year Ending	Dollar Amounts in Thousands		
	Annual OPEB Cost (AOPEBC)	Percentage of AOPEBC Contributed	Net OPEB Obligation
June 30, 2010.....	\$ 43,384	31.4%	\$ 83,473
June 30, 2011.....	49,898	32.6%	118,063
June 30, 2012.....	46,419	35.3%	147,879

*Funded Status and Funding Progress* – The funded status of the Plan at June 30, 2012, the most recent actuarial valuation, was as follows:

Actuarial Valuation Date	Dollar Amounts in Thousands					
	Actuarial Value of Assets (A)	Actuarial Accrued Liability (AAL) Projected Unit Credit (B)	Unfunded AAL (UAAL) (B-A)	Funded Ratio (A/B)	Covered Payroll (C)	UAAL as a Percentage of Covered Payroll ((B-A)/C)
06/30/12	\$ -	\$ 601,300	\$ 601,300	-	\$ 176,525	341%

## CITY OF NEWTON, MASSACHUSETTS

Notes to the Basic Financial Statements

Fiscal Year Ended June 30, 2012

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future. Examples include assumptions about future employment, mortality, and the healthcare cost trend. Amounts determined regarding the funded status of the plan and the annual required contributions of the employer are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents multi-year trend information that shows whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for benefits.

*Methods and Assumptions* - Projections of benefits for financial reporting purposes are based on the substantive Plan (the Plan as understood by the employer and plan members) and include the types of benefits provided at the time of each valuation and the historical pattern of sharing of benefit costs between the employer and Plan members to that point. The actuarial methods and assumptions used include techniques that are designed to reduce short-term volatility in actuarial accrued liabilities and the actuarial value of assets, consistent with the long-term perspective of the calculations.

The significant methods and assumptions as of the latest actuarial valuation are as follows:

Valuation date:	June 30, 2012
Actuarial cost method:	Projected Unit Credit
Amortization method:	Level dollar
Remaining amortization period:	26 years (closed)
Interest discount rate:	2.00%
Healthcare/Medical cost trend rate:	0.0% for 2012; 1.53% for 2013; 3.05% for 2014; 4.58% for 2015; 6.10% for 2016; 6.07% for 2017; 6.03% for 2018; 6.00% for 2019; 5.97% for 2020; 5.84% for 2025; 5.97% for 2030; 5.33% for 2040; 5.03% for 2050; 4.87% for 2060; 4.76% for 2070; 4.42% for 2080; 4.24% starting in 2085 to an ultimate level of 4.24% per year



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#209-10(5)

Telephone  
(617) 796-1100

Facsimile  
(617) 796-1113

TDD/TTY  
(617) 796-1089

E-mail  
swarren@newtonma.gov

March 12, 2013

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

RECEIVED  
Newton City Clerk  
2013 MAR 12 PM 4:03  
David A. Oison, CNC  
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to The Mayor and Board of Aldermen direct the City Treasurer, acting as custodian of the City's OPEB trust, to invest all City OPEB trust funds with the State Retiree Benefits Trust Fund, pursuant to GL 32A, section 24.

This request is in conjunction with my request of February 25<sup>th</sup> that your Honorable Board docket for consideration a request to establish an "Other Post Employment Benefits Trust Agreement" with the intent that this Trust shall constitute a so called "Qualified OPEB Trust" according to the standards set forth in GASB 43 and 45 and that it further qualify as an Integral Part Trust for all purposes under Article 115(c) of the code or under any comparable provision of future legislation that amends, alters, or supersedes the Code.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor

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

#14-13

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(617) 796-1100

Telefax  
(617) 796-1113

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(617) 796-1089

E-mail  
[swarren@newtonma.gov](mailto:swarren@newtonma.gov)

March 11, 2013

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

Ladies and Gentlemen:

I request your support in amending the City of Newton's *Municipal Whistleblower Policy* (docket item #14-13) which became effective February 4, 2013. There were changes made to the policy at the vote of the full Board which were not vetted by staff of the substantive departments. The amendments provided herein (Enclosure A) provide for a more consistent policy that can be clearly implemented.

Thank you for your consideration of this matter.

Sincerely,

Setti D. Warren  
Mayor

Encl.

Cc: Donnalyn Kahn, City Solicitor  
Dolores Hamilton, Director of Human Resources

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Newton City Clerk  
2013 MAR 11 PM 5:43  
David A. Olson, CMC  
Newton, MA 02459

#14-13

March 11, 2013

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**Municipal Whistleblower Policy**

**Purpose:**

The City of Newton is committed to providing a safe workplace with high standards of personal ethics and legal conduct. The City of Newton investigates all complaints by employees of violations of City policies, as well as unethical conduct, illegal conduct or conduct that violates high standards of personal ethics. This policy is intended to provide a process to raise concerns about such conduct and reassurance that employees reporting such conduct are protected from retaliation.

**Definition:**

A whistleblower, as defined by this policy, is an employee of the City of Newton who, in good faith, reports an activity that he/she considers to be a violation of a City of Newton policy or unethical, illegal, or a violation of high standards of personal ethics, such as stealing, incorrect financial reporting or other serious improper conduct. The whistleblower has neither the authority, nor the responsibility, for investigating any questionable activity or for determining fault or corrective measures.

Examples of unlawful activities are violations of federal, state or local laws. Examples include discrimination, harassment, billing for services not performed, requesting pay for hours not worked, stealing City property, reporting injuries that did not occur in the course of employment, falsifying payroll records, other fraudulent financial reporting and any other unlawful conduct.

**Process:**

If an employee has knowledge of or a concern regarding unlawful, unethical activities or fraudulent financial reporting, the employee should report it to his/her supervisor or department head unless one or both are implicated in such activities or reporting. The employee can also report directly to Director of Human Resources, City Solicitor, Chief Financial Officer or Mayor. If the report involves a supervisor, department head or other high level public official, it may be made to the Office of the Inspector General. -In addition, the employee can report directly to the Chair of the Financial Audit Advisory Committee, in person, or via the internet by filling out the confidential form on the City of Newton website located at <http://apps.newtonma.gov/whistle-blower-form>.

When the City receives a complaint, there will be a prompt, complete and thorough investigation into the allegations. The City will take an initial statement to determine the need for an independent investigation. If it is determined that an independent investigation is warranted, the City will arrange for an independent investigator as soon as possible. Any employee (referred to above as a whistleblower) will be expected to cooperate, if necessary, to provide information to the independent investigator.

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Enclosure A



#14-13

**Reporting:**

The City Solicitor and the Director of Human Resources will jointly report to the Mayor and the Financial Audit Advisory Committee, via its Chair, on a quarterly basis or sooner when necessary. The report will include all inquiries, activity on cases and resolution of complaints. ~~If a whistleblower has reported directly to the Chair of the Financial Audit Advisory Committee, the Chair of the Financial Audit Advisory Committee will inform the Chair of the Finance Committee as soon as possible.~~

**Safeguards:**

Whistleblower protections include confidentiality whenever possible. However, identity may be disclosed to conduct a thorough investigation and to comply with the law. The Whistleblower will be advised if it becomes necessary to disclose his/her identity and the reason why disclosure is necessary. The City will not retaliate against any employee who engages in protected whistleblower activity. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing.

**Anonymity** - The City investigates all complaints. Concerns expressed anonymously will be investigated appropriately, but consideration will be given to the seriousness of the issue, the credibility of the concern and the likelihood of confirming the allegations. It is difficult to investigate an anonymous claim because, in most cases, it is impossible to ask appropriate follow-up questions or to get accurate information.

**Protection Against Retaliation** - This policy includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, decreases in job duties, adverse comments in the employment record, ~~unwanted transfers to new locations or units, or negative reviews, or threats of physical harm.~~ Any whistleblower who believes he/she is being retaliated against must contact the Human Resources Director, City Solicitor, Chief Financial Officer or Mayor immediately. ~~The whistleblower can also report to the Chair of the Financial Audit Advisory Committee.~~ The City will take an initial statement to determine the need for an independent investigation. If it is determined that an independent investigation is warranted, the City will arrange for an independent investigator as soon as possible. Any whistleblower will be expected to cooperate, if necessary, to provide information to the independent investigator.

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**Resolution:**

When the investigation is complete, the employee who initiated the complaint will be informed, to the extent appropriate and allowable by law, of the results of the investigation. If it is determined that inappropriate or illegal conduct has occurred, the City will act promptly to correct or eliminate the offending or illegal conduct and, if appropriate, will impose disciplinary action, up to and including termination.

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Enclosure A



City of Newton, Massachusetts  
Office of the Mayor

Telephone  
(617) 796-1100  
Facsimile  
(617) 796-1113  
TDD/TTY  
(617) 796-1089

SETTI D. WARREN  
MAYOR

E-mail  
swarren@newtonma.gov

RECEIVED  
Newton City Clerk  
2013 MAR 11 PM 5:43  
DAVID A. OLSON, CMC  
Newton, MA 02459

March 11, 2013

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

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to amend the City's Financial Management Guidelines that were approved by the Board of Aldermen on April 12, 2011 under Board Order #78-10 as follows:

Page 11 – Closing out overlay surplus balances not needed for funding ongoing revaluation activity **and statutory interest obligations of the City related to measurable and probable tax refunds that are expected to be made within the following twelve month period** to Free Cash.

Page 12 – Add new paragraph 2, following Property tax allowance abatements and exemptions as follows:

***Reserve for statutory interest on property tax abatements:*** *In order to provide for statutory interest obligations of the City that result from property tax refunds ordered by the Courts or the Massachusetts Appellate Tax Board (ATB), the City needs an appropriation from which such liabilities can be extinguished. Massachusetts municipal finance laws do not allow statutory interest to be charged directly to the Assessor's "Overlay" or Allowance for Abatement and Exemption Reserve.*

*At the same time that the Board of Assessors votes an Overlay Surplus declaration, the Board will make an estimate of the statutory interest liability of the City associated with all abatement exposures that the Board determines are likely to be resolved in the favor of taxpayers over the course of the next twelve month period. To the extent that resources have not previously been set aside to meet the statutory interest obligations, the Board shall recommend to the Mayor that all or a portion of the Overlay Surplus declaration be appropriated to a Reserve for Statutory Interest on Property Tax Abatements. All funds that are subsequently appropriated*

1000 Commonwealth Avenue Newton, Massachusetts 02459

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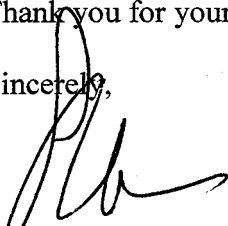


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*by the Mayor and Board of Aldermen shall be available to satisfy statutory interest obligations of the City without any further appropriation.*

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott D. Warren". The signature is fluid and cursive, with a large initial "S" and "W".

Scott D. Warren  
Mayor

#115-13

Telephone  
(617) 796-1100

Facsimile  
(617) 796-1113

TDD/TTY  
(617) 796-1089

E-mail  
swarren@newtonma.gov



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

March 11, 2013

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

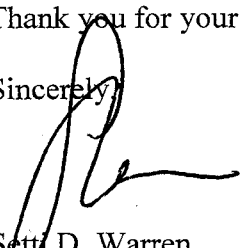
Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to amend the City of Newton Ordinances to delete the requirement that independently audited annual financial statements be provided to the City after the conclusion of each fiscal year by the Newton Community Farm Inc.

Per Chris Rogers, the City auditor from Sullivan, Rogers & Company, LLC, the Farm is immaterial to the City's financial statements and he "has no problem excluding it from future CAFR's".

Thank you for your consideration of this matter.

Sincerely,

  
Setti D. Warren  
Mayor

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Newton City Clerk  
2013 MAR 11 PM 5:44  
David A. Olson, CMC  
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

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



DEDICATED TO COMMUNITY EXCELLENCE



Setti D. Warren  
Mayor

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

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Candace Havens  
Director

---

**MEMORANDUM**

**DATE:** February 26, 2013

**TO:** Mayor Setti D. Warren

**FROM:** Candace Havens, Director of Planning and Development  
Alexandra Ananth, Staff to Farm Commission 

**SUBJECT:** Annual Audit Requirement

**CC:** Newton Farm Commission  
Newton Community Farm Inc.  
Bob Rooney, Chief Operating Officer  
Maureen Lemieux, Chief Financial Officer  
David Wilkinson, Comptroller

---

At its February 7, 2013 meeting, the Newton Farm Commission voted 5-0, to request a change in the City of Newton's Ordinance X-148 paragraph (3)(ii), to delete the requirement that an audit of the Farm Operator's finances be performed annually.

The Commission is requesting this for the following reasons:

1. The Farm Commission is satisfied with the quarterly statements, Annual Business Plan, and other information that are routinely provided by the Operator for the past six years.
2. The City Comptroller and Auditor were consulted and concur that the City may exclude Newton Community Farm Inc. from the City's reporting entity (**ATTACHMENT A**).
3. The Operator is unnecessarily burdened by the approximately \$6,000 annual expense for the Audit which is required for no other purpose.

The Farm Commission respectfully requests that the Executive Office docket our request with the Board of Aldermen. See attached draft docket language (**ATTACHMENT B**) and existing Ordinance 148-X (**ATTACHMENT C**).

Please let me know if you have any concerns or questions.

**Comptroller City of Newton**

---

**From:** Chris Rogers <crogers@sullivan-rogers.com>  
**To:** Comptroller City of Newton <dwilkinson@newtonma.gov>  
**Date sent:** Mon, 14 Jan 2013 10:50:28 -0500  
**Subject:** RE: Newton Community Farm Inc

Hi David,

I agree that the Farm is immaterial to the City's financial statements and have no problem excluding it from future CAFR's.

Christian J. Rogers, CPA  
Shareholder  
Sullivan, Rogers & Company, LLC  
Corporate Place I , 99 South Bedford Street, Suite 204  
Burlington, Massachusetts 01803  
P: (781) 229-5600  
C: (617) 548-4613  
F: (781) 229-5610  
[crogers@sullivan-rogers.com](mailto:crogers@sullivan-rogers.com)  
[www.sullivan-rogers.com](http://www.sullivan-rogers.com)

This email and its contents may contain confidential or privileged material and are intended solely for the use of the intended recipient.

-----Original Message-----

**From:** Comptroller City of Newton [mailto:dwilkinson@newtonma.gov]  
**Sent:** Thursday, January 10, 2013 11:06 AM  
**To:** Chris Rogers  
**Subject:** Newton Community Farm Inc

Chris,

I discussed the issue of excluding the Newton Community Farm Inc from future CAFR reporting with the audit committee. Their position is that this is a decision that the Comptroller with the approval of the Auditor, should make. They only want to exclude it. Attached is a communication to you on the issue. If you agree, please note agreement and return to me so I can make arrangements.

Thank you.

David Wilkinson, Comptroller  
City of Newton, Massachusetts  
(617) 796-1305  
[dwilkinson@newtonma.gov](mailto:dwilkinson@newtonma.gov)

When responding, please be aware that the Massachusetts Secretary of State has determined that most email is public record.

COMPTROLLER'S OFFICE



## CITY OF NEWTON, MASSACHUSETTS

CITY HALL

1000 COMMONWEALTH AVENUE

NEWTON CENTRE, MA 02459

TELEPHONE (617) 796-1305

dwilkinson@newtonma.gov

David Wilkinson, Comptroller

January 10, 2013

Chris Rogers  
Sullivan, Rogers & Company, LLC  
Corporate Place I, Suite 204  
99 South Bedford Street  
Burlington, Massachusetts 01803

Dear Chris,

Some years ago we decided to include the Newton Community Farm Inc. (the Farm) as a discretely presented component unit of the City for external financial reporting purposes. The Farm is a not-for-profit organization, separate from the City, which has been licensed to operate the City owned Angino Farm property.

For the Farm's fiscal year ended December 31, 2011, the organization had revenues of \$157,254; expenses of \$147,744; and net assets of \$378,513, \$233,269 of which represent investments in equipment and leasehold improvements. The value of the farm property itself and improvements funded with City resources is accounted for separately and reported as assets of the City.

In light of the immaterial level of Farm resources and the annual cost of an independent financial audit of Farm activities in order to allow the City to obtain a clean audit opinion on our financial statements, I believe excluding the Farm from future external financial reports of the City is appropriate. I believe we can work with the Farm to provide an alternative financial reporting solution that meets accountability needs in a cost-effective manner. The purpose of this communication is to seek your concurrence. If you do not disagree with my conclusion, please sign and return a copy of this communication and I'll formally notify both the Newton Community Farm, Inc. and the City's Audit Committee.

Thank you.

Respectfully,

David C. Wilkinson  
Comptroller

members shall include at least one citizen who has expertise or demonstrated interest in open space, at least one citizen who has expertise or demonstrated interest in recreation; at least one citizen who has expertise or demonstrated interest in historic preservation and at least one citizen who has expertise or demonstrated interest in affordable housing. In making such appointments, the mayor shall be guided by the goal that the membership of the committee include persons with professional expertise in real estate development, finance, architecture and law.

(b) There shall be a ward residency requirement for the appointed members. One appointed member shall be appointed from ward 1 or 2; one from ward 3 or 4; one from ward 5 or 6; and one from ward 7 or 8. In order to qualify, an appointee must be a resident of such ward on the effective date of the appointment. An appointed member who subsequently removes his or her residence to another location in the city may continue to serve for the remainder of the term. However, an appointed member who removes his or her residence from the city shall be considered thereby to have resigned from the committee. (Ord. No. W-66, 11-19-01; Rev. Ord. 2007, § 2-351)

#### Sec. 7-82. Terms of office; limits

(a) Members shall serve for terms of three (3) years or until their successors shall take office. However, in order to provide for staggered terms, the initial appointments shall be as follows:

- (1) Statutory members: The planning and development board shall designate one member for a one (1) year term. The parks and recreation commission and historic commission shall each designate one statutory member for a two (2) year term. The housing authority and the conservation commission shall each designate a statutory member for a three (3) year term.
- (2) Appointed members: Two appointed members shall be appointed for a one year term; one appointed member shall be appointed for a two year term; and one appointed member shall be appointed for a

three year term.

(b) No person shall be eligible to serve as a member for more than two (2) consecutive full terms. For purposes of this clause, the initial one (1) and two (2) year appointments shall be deemed not to constitute full terms. (Ord. No. W-66, 11-19-01; Rev. Ord. 2007, § 2-352)

*Editor's note*—Ord. No. W-66 provided that sections 2-350 through 2-352 take effect on January 1, 2002.

**Secs. 7-83—7-89. Reserved.**

### ARTICLE IX. NEWTON FARM COMMISSION

#### Sec. 7-90. Purpose; definitions.

(a) This section establishes the Newton Angino Community Farm (“the Farm”) and sets forth operating parameters for the Farm.

(b) The Farm shall be located on the parcel of land located at the corner of Nahanton Street and Winchester Street purchased by the city from the Angino family in 2005 using Community Preservation Act funds (“the Site”).

(c) The Farm shall be operated by the city for the purposes of:

- (1) Making locally-grown produce available to Newton residents and the surrounding community;
- (2) Educating the public about sustainable and ecologically-sound agriculture and environmental practices, including serving as an outdoor classroom for Newton students to learn about locally-grown produce and ecologically-sound agriculture practices; and
- (3) Preserving the historic character and culture of the last working farm in Newton.

(d) For purposes of this section, “locally-grown produce” shall refer to farm products originating on the Farm or elsewhere in Massachusetts. (Ord. No. X-148, 05-02-05; Rev. Ord. 2007, § 2-360)



**Sec. 7-91. Farm Commission; establishment; duties; composition.**

(a) The Newton Farm Commission ("the Commission") is hereby established. The Commission shall implement the purposes set forth in this section and manage the operation of the Farm, as herein described.

(b) The Commission's authority and duties shall include but not be limited to:

- (1) Developing a business plan for the operation of the Farm that is designed to achieve the purposes set forth in this section without placing an additional burden on the operating budget of the city;
- (2) In the event that the decision is made to contract the Farm's operation to an outside entity, the Commission shall establish a procedure for the selection of said entity, which procedure shall be provided in writing to the board of aldermen. The Commission shall conduct the selection process, at the conclusion of which the Commission shall execute a written agreement between the city and said entity, subject to the approval of the mayor;
- (3) Any such contract, as described in paragraph 2, shall require that the contractor at its expense provide the Commission with the following financial reports:
  - a) detailed quarterly revenue and expenditure reports, in a format approved by the City Comptroller, not later than 30 days after the end of each calendar quarter;
  - \* b) independently audited annual financial statements within 90 days after the conclusion of each fiscal year.
- (4) The Commission shall meet with the Commissioner of Public Buildings at least semi-annually to review with him the condition and needs of the existing buildings on the Site and to discuss the construction of any contemplated future

buildings for the Site.

- (5) The Commission shall oversee the operating expenses and revenue associated with the operation of the Farm and provide to the mayor and board of aldermen annual written reports pertaining to the Farm's operation and performance with regard to the Farm's purposes, as set forth in this section.
- (6) The Commission shall develop policies and procedures for the operation of the Farm. The Commission shall hold a public hearing on the initial set of policies and procedures prior to their adoption. This public hearing requirement shall be applicable to subsequent amendments to substantive matters of policy but shall not be applicable to amendments to matters of procedure. The Commission shall also provide in writing to the mayor, board of aldermen, and city clerk the final version of the policies and procedures upon their adoption.
- (7) The Commission shall make all reasonable efforts to comply with the standards for organic processes outlined by the Baystate Organic Certifiers.
- (8) The Commission shall afford the public the opportunity to purchase produce at the Site.
- (c) The Commission shall consist of nine (9) members as follows:
  - (1) One at-large citizen appointee of the board of aldermen who will serve a three (3) year term.
  - (2) One (1) member of the Conservation Commission, one (1) member of the Historical Commission, and one (1) member of the Parks & Recreation Commission, each of whom shall be selected by the members of the body they represent. They shall each serve for terms of three (3) years or until their successors shall take office. However, in order to provide for staggered terms, the initial appointments shall be as follows:

- a) The designee of the Historical Commission shall serve for a one (1) year term; the designee of the Conservation Commission shall serve for a two (2) year term and the designee of the Parks and Recreation Commission shall serve for a three (3) year term.
- (3) The remaining five members shall be appointed in accordance with section 2-8 of the city ordinances. The appointed members shall include at least one citizen with expertise in farming or agriculture, at least one citizen with expertise in finance or accounting, at least one citizen with expertise in operating a retail or wholesale business, and at least one member with expertise in sustainable environmental practices.
- (d) Appointed members shall serve for terms of three (3) years or until their successors shall take office. However, in order to provide staggered terms for appointed members, the initial appointments shall be as follows: One member shall be appointed for a one year term; two

members shall be appointed for a two year term; and two members shall be appointed for a three year term. (Ord. No. X-148, 05-02-05; Ord. No. X-166, 08-08-05; Rev. Ord. 2007, § 2-361)

**Sec. 7-92. Historical Commission Review of Farm Improvements.**

Proposed changes to the exterior of structures on the Site as well as any proposed new construction on the Site shall be subject to review by the Newton Historical Commission for consistency with the Farm's historic character. Prior to implementation of proposed improvements, the Farm Commission shall consider any recommendations of the Historical Commission and provide, in writing, to the Historical Commission, mayor, and board of aldermen its reasons for rejecting any such recommendations that are not accepted. The provisions of this paragraph will be superseded by any ordinance adopted to provide Historical Commission authority over city owned properties of a historic nature. (Ord. No. X-148, 05-02-05; Rev. Ord. 2007, § 2-362)

**Secs. 7-93—7-99. Reserved.**

CITY OF NEWTON

IN BOARD OF ALDERMEN

FINANCE COMMITTEE REPORT

MONDAY, APRIL 9, 2012

Present: Ald. Gentile (Chairman), Ciccone, Linsky, Salvucci, Rice, Blazar, Fuller, and Lappin

Also present: Ald. Baker

City officials present: Ann Cornaro (Payroll/Administration Information Systems Manager), John MacGillivray (Veterans' Agent and Administrative Director of the Licensing Board), Matt Cummings (Chief of Police), Elizabeth Dromey (Director of Assessing), Maureen Lemieux (Chief Financial Officer), and David Wilkinson (Comptroller)

**REFERRED TO PROG & SERV, PUB FACIL. & FINANCE COMMITTEES**

#130-11 PAUL COLETTI, ALD. SANGIOLO, DANBERG, & JOHNSON requesting Home Rule Legislation to create a Capital Preservation Fund for the City of Newton modeled on the Community Preservation Fund to address the capital needs of the City. [04/11/11 @9:42 PM]

**PUBLIC FACILITIES VOTED NO ACTION NECESSARY 6-0 on 10/19/11  
PROGRAMS & SERVICES APPROVED & REFERRED TO FINANCE 5-  
0-3 (Fischman, Baker, Blazar abstaining) on 03/21/12**

**ACTION: HELD 6-1-1 (Salvucci opposed, Ciccone abstaining)**

**NOTE:** Docket items #130-11 and #130-11(A) were discussed together as they are essentially the same request to submit a Home Rule Petition to the State Legislature to establish a Capital Preservation Fund modeled after the Community Preservation Fund. The establishment of the fund would require voter approval if the legislature grants the petition. Approval of either item does not commit to the establishment of such a fund but allows the City the option of creating that type of fund.

The main differences between the two items are that the language related to #130-11 proposes a 1% surcharge on real estate with language that would allow a 2.5% surcharge by a ¾ vote of the Board of Aldermen and approval of the Mayor without going back to the voters for approval. Docket Item #130-11(A) language proposes a surcharge of up to 3% on property tax with language that provides for exemptions for property owners of moderate income.

Ald. Baker explained that he had drafted this version based on the proposed State Legislation filed by Representative Ruth Balser requesting the establishment of a Massachusetts Infrastructure Improvement Act. The Chairman suggested that if the Committee wished to approve the concept, it only approve one version and vote no action necessary on the other version to avoid any confusion.

Committee members raised concerns regarding both proposals. Some members felt that a new surcharge was not appropriate when residents are facing an increase in water/sewer rates this year and last year the School Department imposed new fees or increased fees for transportation and student activity fees. It is also likely that a debt exclusion override proposal is on the horizon. The City will need a substantial amount of money in the next two or three years to address its capital needs at the Angier Elementary School. If either of the two docket items is approved, it may create confusion and reflect negatively on a proposed debt exclusion override.

The Programs and Services Committee wanted to give the Executive Department another option to look at if there was interest. The Executive Office did not indicate that it was unwilling to consider this option or that there was an override on the horizon.

Other members felt that establishing this type of fund was similar to proposing a general override. Further information would be needed, such as a financial analysis, which includes the amount of debt service over the next three years, how much revenue would the new fund generate and how the generated revenue meets the City's year-to-year capital needs. The City needs a capital investment strategy that has been thought through.

It was suggested that both items be held for further discussion to allow the Administration to come forward with a plan and funding mechanism to address the City's capital needs for the next few years. Ald. Lappin moved hold, which carried by a vote of six in favor, one opposed, and one abstention. Ald. Salvucci voted against holding the item, as he felt that it was more appropriate to vote the items no action necessary.

#130-11(A) PROGRAMS & SERVICES COMMITTEE requesting the Finance Committee review alternate proposed Home Rule Legislation language related to the creation of a Capital Preservation Fund.

**PROGRAMS & SERVICES APPROVED 7-0-1 (Blazar abstaining) on 03/21/12**

**ACTION: HELD 6-1-1 (Salvucci opposed, Ciccone abstaining)**

**NOTE:** See above note for discussion of this item.

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC SAFETY & TRANSPORTATION COMMITTEE REPORT

WEDNESDAY, FEBRUARY 6, 2013

Present: Ald. Ciccone (Chair), Yates, Swiston, Fuller, Schwartz, Harney, Johnson and Kalis  
City Staff: Candace Havens, Director, Planning & Development Department; Captain Marc Gromada and Sgt. Jay Babcock, Newton Police Department and David Koses, Transportation Planner

#300-12      DIRECTOR OF PLANNING & DEVELOPMENT, requesting amendments to Chapter 19 to establish parameters around which parking meter “holidays” may be allowed and identifying the authority for making determinations of eligibility. [09/24/12 @ 3:17 PM]

**ACTION:**      **HELD 5-1-0, Ald. Johnson opposed, Ald. Fuller and Yates not voting**

**NOTE:**      Items #300-12 and #363-10(2) were discussed together. See # 363-10(2) summary below.

**REFERRED TO PUBLIC SAFETY&TRANSPORTATION & FINANCE COMMITTEES**

#363-10(2)      ALD. ALBRIGHT proposing a trial of parking meter free Saturdays between Thanksgiving and New Year for the shopping areas to support shopping at local businesses in Newton. [02/10/12 @ 9:13 AM]

**HELD 7-0, Ald. Johnson voting on 06/20/12**

**ACTION:**      **NO ACTION NECESSARY 6-0, Ald. Fuller and Yates not voting**

**NOTE:**      This item was discussed with #300-12.

Candace Havens, Director, Planning & Development Department joined the Committee for discussion on these items.

Chair Ciccone said that item #363-10(2) was docketed by Ald. Albright to support shopping at local businesses in Newton’s shopping districts. This proposal would allow free parking on Saturdays encouraging customers to shop in Newton, rather than shopping malls hoping to generate local business. He then said that the Austin Street parking lot is free on Saturdays.

Ms. Havens provided a PowerPoint presentation, attached to this report. Ms. Havens reviewed the previous study on the cost of bagging meters and sign issues. This presentation includes cost estimates to implement the program, revenue loss, status and options available for consideration. She said that the City’s Law Department has stated the City must recoup any lost revenue for providing free parking. The Nonantum Neighborhood Association supports this item and is interested in promoting business. The proposed Pilot Program did not come to fruition because the fundraising efforts (due to inclement weather) did not cover costs to provide free parking

during the holidays. Nonantum is hopeful that marketing assistance, parking management, relief from ticketing, eliminating time limits and manage through parking rates and co-hosting village days will bring the village vitality.

Enforcement, education, flyers and signage are important ways to inform patrons to encourage turnover, which is important to both merchants and patrons. It is hopeful drivers may change their driving patterns. Additional signage is preferred, rather than bagging meters directing patrons to the municipal parking lots.

Committee members expressed their concerns, questions, requests and suggestions regarding these items.

### **#300-12 and #363-10(2)**

#### Concerns

Committee members said that they are most concerned regarding enforcement and promoting the program carefully. They agree free parking does not support businesses.

#### Questions

Committee members asked how the Police Department could enforce a 2-hour limit and how would the Parking Control Officers identify a 2-hour period. They then asked if free parking benefits merchants and how could the program be promoted and beneficial.

#### Requests/Suggestions

Committee members suggested installing additional signs informing patrons where free parking is available in the municipal parking lots to encourage shopping. They then suggested discussing these items during the Budget process, as it appears to be a financial issue to determine what could be done to support a Pilot program and if a program should be supported and pursued. A suggestion was made requesting the Chamber of Commerce for their input.

Sgt. Babcock answered that the Police Department does not/will not chalk tires as a way to enforce time limits to allow turnover. A citation is issued only if warranted. He then said that if a program were to come to fruition by allowing parking considerations or free parking, vehicles would not be ticketed. It is necessary for people to obey meter time limits to allow turnover, although this would be difficult for the Parking Control Officers to enforce. He agreed that the Police and Public Work Departments should discuss the proposal during the budget.

Chair Ciccone stated he is concerned with parking issues. Nonantum merchants are interested and support a Pilot Program. He suggested increasing meter times from one to two-hours in the area benefiting both merchants and patrons. He then said that fundraising efforts are necessary to cover costs. In the future, initiate a roundtable discussion with the merchants to gauge the success of the project determining if free parking benefited them. He then suggested docketing an item as a Pilot Program of free holiday parking. Chair Ciccone is hopeful the Planning Department will continue discussion with the merchants hoping to implement a program, as he feels it is worthy of a trial.

Ms. Havens answered that the next step would include drafting necessary ordinance language to determine if this proposal should be pursued. The ordinance language would reflect amendments to Chapter 19, Sections 188 and 189 establishing parameters around which parking meter “holidays” may be allowed and identifying the authority for making determinations of eligibility.

Ald. Schwartz made the motion to hold item # 300-12 pending draft ordinance language. Committee members agreed 5-1-0, Ald. Johnson opposed, Fuller and Yates not voting.

Ald. Johnson made the motion for no action necessary on #363-10(2), as #300-12 supersedes this item. Committee members agreed 6-0, Ald. Fuller and Yates not voting.