

CITY OF NEWTON

IN BOARD OF ALDERMEN

FINANCE COMMITTEE REPORT

WEDNESDAY, MARCH 27, 2013

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

City staff present: Elizabeth Dromey (Director of Assessing), Sergeant Jay Babcock (Police Department), Captain Marc Gromada (Police Department), Robert Waddick (Assistant City Solicitor), James Reardon (Treasurer) Marie Lawlor (Assistant City Solicitor), Donnalyn Khan (City Solicitor), Maureen Lemieux (Chief Financial Officer)

#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]

**ACTION:**      **HELD 8-0**

**NOTE:**      The Administration requested that the Committee hold the item, as there are further details that should be discussed before the City accepts the grant. Therefore, the Committee voted unanimously to support a motion to hold the item.

#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]

**ACTION:**      **HELD 8-0**

**NOTE:**      Chairman of the Board of Assessors Elizabeth Dromey has declared a total of \$1.2 million surplus from a number of Overlay Accounts. The Chief Financial Officer Maureen Lemieux plans to use \$264,490 of that money for next year’s budget and another \$500,000 of the surplus funds will be appropriated to the Rainy Day Stabilization Fund. The Administration is requesting that the remaining \$435,510 be used to create a reserve fund for statutory interest on property tax abatements, as proposed in the below request to amend the financial guidelines.

Over the past year, the City has paid over \$600,000 in interest to Verizon after a dispute over taxes was settled in favor of Verizon. In order to pay the interest to Verizon, the Board of Assessors met and made a declaration of overlay surplus. It is more appropriate and transparent to place funds for possible statutory interest payments in a dedicated account.

The \$435,510 represents possible interest payments for tax disputes with three utilities. The attached handout provides the name of the utility, the tax years in dispute, the amount of taxes disputed, and the interest through June 30, 2014. The \$435,510 represents the greatest loss the City is likely to sustain. Should the cases be resolved in the City's favor, the funds would be appropriated to Free Cash.

Ald. Fuller moved hold on the item, as the below request to amend the Financial Management Guidelines to establish guidelines for the establishment of the Reserve for Statutory Interest on Property Tax Abatements was held.

#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]

**ACTION:**     **HELD 8-0**

**NOTE:**       The Administration is requesting amendments to the Financial Management Guidelines to establish a reserve account for statutory interest on property tax abatements to provide for possible interest obligations that result from property tax refunds ordered by the courts or the Appellate Tax Board. If the City loses a tax case, the City must pay the statutory interest of 8%, which cannot be paid directly through the Assessor's Overlay Account or the Allowance for Abatement and Exemption Reserve. By establishing a reserve account, the City would have funds readily available to satisfy the interest payment without further appropriation. The amendments also include language that when the Board of Assessors votes an Overlay Surplus declaration, they will also estimate the interest liability associated with abatement exposures that are likely to be resolved in favor of the taxpayer in the next year. The estimated funds would be set aside in the statutory interest reserve fund. If the reserve funds were not needed in the twelve-month period, they would be appropriated to Free Cash.

The Committee asked that the Finance Committee be notified of interest payments made from the account and when the funds in the account are declared Free Cash. The Committee supported Ald. Fuller's motion to hold the item for a review of the language for the proposed amendments to the policy and further input from the Comptroller.

#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]

**ACTION:**     **APPROVED AS AMENDED 8-0**

**NOTE:**       Chief Financial Officer Maureen Lemieux presented the request to appropriate \$500,000 from the declaration of overlay surplus to the Rainy Day Stabilization Fund. The Mayor is requesting that the item be amended by appropriating an additional \$500,000 from Free Cash to increase the total appropriation to the Rainy Day Stabilization Fund to \$1 million. If the Board of Aldermen passes the amended request, the Rainy Day Stabilization Fund will contain \$9 million.

With this appropriation, a balance of \$306,735 remains in Free Cash. The \$306,735 takes into account pending appropriations like \$750,000 for snow and ice control and \$200,000 for police department computers. Ms. Lemieux added that the Administration would not be using any Free Cash to balance the Fiscal Year 2014 budget.

Committee members were pleased with the growth of the Rainy Day Stabilization Fund since its inception three years ago. With that, Ald. Lappin moved approval of the item as amended to include the additional appropriation of \$500,000 from Free Cash. The motion carried by a vote of eight in favor and none opposed.

**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**

**ACTION:**      **APPROVED 8-0**

**NOTE:**      Police Sergeant Jay Babcock and Captain Marc Gromada presented the request to amend the ordinance to increase fines for illegally parking commercial vehicles and trailers on City roadways and parking lots. The Police Department has had trouble with commercial vehicles unlawfully parking on roadways and in municipal lots for the entire day to advertise their businesses. The current ordinances state that the police should issue a warning for the first offense, a \$25 fine for the second offense, and for subsequent offenses, the vehicle may be towed. The commercial vehicles owners move their vehicles to different parking spots in order to avoid penalties.

The Police Department is recommending that the fees be increased to \$100 for the first offense, \$200 for the second offense, and \$300 for subsequent offenses. After the second offense, the vehicle would be towed at the vehicle owner's expense.

The Committee members asked if the Police Department now had software to handle graduated fines. The Traffic Enforcement Officers have handheld ticketing devices that now have software to handle graduated fines. However, Police Officers still use paper tickets and would need to use the laptops in their cruisers or call the station to determine if the truck has been previously ticketed. With that, Ald. Lappin moved approval, which carried by a vote of eight in favor and none opposed.

#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.

**ACTION:**      **HELD 8-0**

**NOTE:** Assistant City Solicitor Bob Waddick reviewed his memo, which was attached to the agenda. Chapter 44, Section 54 of the Massachusetts General Laws provides the permissible investments for municipal trust funds. The City sought and was granted Home Rule Legislation to provide greater flexibility in investing for municipal trust funds in 2007. The special legislation includes language that requires all of the City's trust funds have professional fund management and it shifted investment authority for all trust funds to the Treasurer from trustees of the fund.

The special legislation is in conflict with the City's ordinances. Chapter 18 of the Ordinances provides individual language for each of the City's sixteen trusts. In order for the City to comply with the special legislation, each of the sixteen trust fund sections would need to be amended to reflect the requirements of the special legislation. The Recodification Committee suggested that a new article be added to Chapter 18 to apply the provisions of the special legislation while maintaining the unique provisions for individual trust funds.

Many of the City's trust funds contain a limited amount of funds and do not require professional management. The smaller trusts have incorporated into the General Fund; however, there are seven major trusts that are affected by the special legislation in terms of fund management and investment authority. Treasurer Jim Reardon explained that he works with the trustees of each fund to determine how funds are invested.

It was suggested that it might be appropriate to look at changing the special legislation instead of adding a new article to Chapter 18. The Committee requested that Assistant City Solicitor Bob Waddick, Treasurer Jim Reardon, Comptroller David Wilkinson, and Chief Financial Officer Maureen Lemieux meet to develop the best solution, whether it is to seek further special legislation, add an article to Chapter 18 of the Ordinances, or a combination of both options and report to the Finance Committee with a recommendation. With that, Ald. Lappin moved hold, which carried unanimously.

**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**

**ACTION:** **APPROVED 8-0**

**NOTE:** The request is to amend the ordinances to establish a \$25 fee for permit parking stickers associated with the Newton North Area Parking Plan. The Public Safety and Transportation Committee has approved the \$25 fee and the proposed parking plan. Sergeant Babcock and Captain Gromada of the Police stated that they believe that the \$25 will cover the cost of administration of the parking sticker program. However, if the \$25 is not enough to cover the administration the Police will request an increase for all sticker parking programs, including the tiger permit program, residential parking programs and the newly establish Newtonville parking program.

The \$25 fee includes two permits and two visitor-parking permits per dwelling. There was discussion regarding whether Newtonville residents in the area of the high school should receive permits free due to the inconvenience of living near the Newton North High School. It was pointed that residents are receiving a benefit and that they do not have to participate in the program. In addition, by charging everyone for a permit, it creates equity. People in other areas of the City that have resident parking on their streets because of commuters over parking the streets pay the same \$25 fee.

Ald. Ciccone moved approval, which carried by a vote of eight in favor and none opposed.

#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]

**ACTION:** **HELD 5-0 (Fuller recused, Lappin, Linsky not voting)**

**NOTE:** Docket Items #209-10(4) and #209-10(5) were discussed together as they are both related to Other Post-Employment Benefits (OPEB). The City adopted Chapter 32B, Section 20, which authorized the City to establish an OPEB liability trust fund and a funding schedule for the fund. The City believed that by adopting the legislation it had established an irrevocable trust in October 2010; however, the language in the Board Order was not clear that it was an irrevocable trust. The above docket item is a request to establish an irrevocable OPEB fund through a trust agreement. A redlined version of the draft trust agreement was attached to the agenda and a clean version and draft board order, which are attached, were provided at the meeting. Assistant City Solicitor Marie Lawlor reviewed the proposed trust agreement with the Committee. The Comptroller has had the trust agreement reviewed by the City's external auditor, who feels that it is an appropriate agreement and complies with all the Government Accounting Board Standards related to establishing an irrevocable trust.

The proposed trust agreement establishes a 5-member board of trustees made up of the Mayor or his designee, the Comptroller, the Director of Human Resources, a member of the Board of Aldermen to serve a one-year term, and a registered voter of the City for a two-year term. The Treasurer would also serve a non-voting member. Committee members felt that the Chief Financial Officer should be designated as a member of the board of trustees instead of the Director of Human Resources. In addition, the Mayor may want to consider designating the City Solicitor as the Mayoral designee. The Committee recommended that the aldermanic term be increased to two years and the registered voter term be increased to three years. Ms. Lawlor will make the requested changes and provide a revised document.

The attached draft Ordinances creates a new Article under Chapter 18, which establishes the OPEB Trust in the ordinances. In addition, the draft designates the City Collector/Treasurer as the custodian of the OPEB trust fund and directs the Treasurer to invest those funds in a manner consistent with the prudent investor rule.

The City's current OPEB liability stands at \$600 million. There is currently \$350,000 in the City's OPEB Fund and Chief Financial Officer Maureen Lemieux expects to add an

additional \$300,000 this fiscal year. The OPEB Fund is expected to grow exponentially each year as the City is now funding OPEB costs for all newly hired City and School employees.

In 2011, the State further amended the legislation allowing municipalities to establish a liability trust fund for funding OPEB by allowing municipalities to invest their OPEB trust funds in the State's investment trust. The legislation also gives municipalities the option of designating the City Treasurer or the State's Health Care Security Trust Board of Trustees as custodian of the fund. The Chief Financial Officer, Comptroller, Treasurer, and Law Department discussed the options regarding custodianship of the OPEB Trust Fund and are in favor of the City's Treasurer as the custodian should the OPEB funds be invested in the State's investment trust, the State Retiree Benefits Trust Fund, which is what is recommended. It would be a relatively routing responsibility and almost no burden to the City and it would allow the City some control. If the City chooses to invest their OPEB trust funds in the State's investment trust, it can leave the State's after giving 30-day notice.

Paul Tedisco, Senior Client Service Officer of the Pension Reserves Investment Management Board provided the attached overview of the State Retiree Benefits Trust Fund (SRBTF). The State's Health Care Security Trust (HCST) oversees the administration and investment management of the SRBTF, which is the OPEB liability fund and the Pension Reserves Investment Management Board manages the investment and financial functions of the Pension Reserves Investment Trust (PRIT). If the City wishes to invest in the State's fund, it must meet the HCST Board approval requirements. The approval requires proof of authorization by the Mayor and Board of Aldermen, acknowledgement of risk, proof of designation of a fund custodian, and commitment to the fund.

The OPEB funds are not blended with pension funds. However, the allocations of the funds are the same. The PRIM has discussed the possibility of creating a separate portfolio for the OPEB within PRIT but the current amount of money is too small. As the funds grow, it may be an option down the road.

The Chairman asked that the items be held to give the opportunity for the Committee to fully review the trust agreement. Ald. Ciccone moved hold, which carried unanimously.

#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]

**ACTION:** **HELD 5-0 (Fuller recused, Lappin, Rice not voting)**

**NOTE:** See the above note for Docket Item #209-10(4) for the report on this item.

#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]

**ACTION:** **APPROVED 6-0 (Lappin, Rice not voting)**

**NOTE:** The Board of Aldermen approved the current Whistleblower Policy February 14, 2013 after some amendments were made after discussion by the Aldermen at that meeting. The amendments were not reviewed by the Law Department until after the policy was approved. The Law Department had concerns regarding the amended language and recommended that the policy be further amended by deleting two of the amendments approved by the Aldermen. The Executive Department is also requesting the addition of language under the process heading of the policy.

The two deletions are found in the “Protection Against Retaliation” clause of the policy. The Law Department is concerned that many of the employee transfers are unwanted but necessary; therefore, the language should be deleted. In addition, “threats of physical harm” should be deleted, as that would be reported to the police. The Executive Department is suggesting the addition of language to make it clear reporting unlawful or unethical behavior to the Office of the Inspector General is an option.

City Solicitor Donnalyn Khan will provide a clean copy of the Whistleblower Policy with the proposed changes. Ald. Fuller moved approval, which carried unanimously.

#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]

**ACTION:**      **APPROVED 6-0 (Lappin, Rice not voting)**

**NOTE:** The request is to amend the ordinances to delete the requirement that Newton Community Farm, Inc. provide independently audited financial statements to the City each year. A Farm Commission Member recently joined the Board of Aldermen’s Financial Audit Advisory Committee to explain that the Newton Community Farm, Inc. spends approximately \$6,000 on an annual audit each year that is required by ordinance, which is a financial burden on the farm. The Farm generates revenues of approximately \$150,000. It seems ridiculous to require an audit on such a small amount of money. The City’s Farm Commission is satisfied with the quarterly statements, annual business plan, and other information provided by the farm operator, as stated in a memo from the Planning Department that was attached to the Agenda.

Comptroller David Wilkinson has contacted the external auditor to confirm that the City can exclude Newton Community Farm, Inc. from future CAFRs without an impact on the audit opinions. The e-mail from the external auditor stating that the farm is immaterial to the City’s financial statements and can be excluded from future CAFRS was attached to the agenda. A motion to approve the ordinance amendment was supported unanimously.

**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**

**ACTION: NO ACTION NECESSARY 6-0 (Lappin, Rice not voting)**

**NOTE:** The voters of Newton passed an operational override and two debt exclusion overrides, which address capital infrastructure needs. Therefore, the Committee unanimously supported a motion for no action necessary on the above request. It was noted that there were conflicting Committee votes but the Chairman will speak with the Chairman of the Programs & Services Committee before the item is voted by the Board of Aldermen.

#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**

**ACTION: NO ACTION NECESSARY 6-0 (Lappin, Rice not voting)**

**NOTE:** The voters of Newton passed an operational override and two debt exclusion overrides, which address capital infrastructure needs. Therefore, the Committee unanimously supported a motion for no action necessary on the above request. It was noted that there were conflicting Committee votes but the Chairman will speak with the Chairman of the Programs & Services Committee before the item is voted by the Board of Aldermen.

**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**

**ACTION: NO ACTION NECESSARY 6-0 (Lappin, Rice not voting)**

**NOTE:** As the issue is expected to be addressed as part of the Planning Department's comprehensive parking plan for the City, the Committee unanimously supported a motion for no action necessary.

**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 storm water 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**

**ACTION: NO ACTION NECESSARY 6-0 (Lappin, Rice not voting)**



**NOTE:** The Mayor is not ready to move forward with an increase in the storm water rate fees. The Administration needs further time to determine the most appropriate storm water rate structure for the City. During the Public Facilities Committee's discussion, Chief Operating Officer Robert Rooney stated that the Administration would commit to at least beginning the assessment of the storm water infrastructure this year. In addition, there are \$40,000 of storm water system repairs planned at Crystal Lake.

It was pointed out that a full assessment and not a phased approach is needed in order to fully understand the capital projects needed to improve the storm water system and develop a strategic plan to address the needs. The Administration should find a way to fully fund the capital assessment this fiscal year. With that, Ald. Ciccone moved no action necessary, which carried unanimously.

The Committee adjourned at 9:55 PM and all other items before the Committee were held without discussion. Draft Board Orders for the above items that are recommended for Board of Aldermen action are attached.

Respectfully submitted,

Leonard J. Gentile, Chairman

FISCAL YEAR

TAXPAYER

TAXES DISPUTED

INTEREST THRU 6/30/14

2010	VERIZON	\$368,120.40	\$122,801.05
2011		\$330,178.55	\$83,729.78
2012		\$371,562.43	\$64,417.46
2012	NSTAR	\$578,211.62	\$100,244.22
2012	NATIONAL GRID	\$370,985.99	\$64,317.79

**\$435,510.30**

CITY OF NEWTON  
IN BOARD OF ALDERMEN

2013

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chairman Alderman Leonard J. Gentile, appropriations of five hundred thousand dollars (\$500,000) from Overlay Surplus and five hundred thousand dollars (\$500,000) from FY 2012 Free Cash to the the Rainy Day Stabilization Fund be and is hereby approved as follows:

FROM:	Overlay Surplus (01-3497).....\$500,000
	Free Cash (01-3497).....\$500,000
TO:	Transfer to Rainy Day Stabilization Fund (0110499-5922A).....\$1,000,000

Under Suspension of Rules  
Readings Waived and Approved

(SGD) DAVID A. OLSON  
City Clerk

(SGD) SETTI D. WARREN  
Mayor

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

CITY OF NEWTON

IN BOARD OF ALDERMEN

2013

ORDINANCE NO.

BE IT ORDAINED BY THE BOARD OF ALDERMEN  
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2012, as amended, relative to **Chapter 19 MOTOR VEHICLES AND TRAFFIC**, are hereby further amended as follows:

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

1. Delete the following language from paragraph (a)(3):

- (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.

And

2. Insert in its place the following:

- (3) The penalty for violation of subsection (2) of this section shall be as follows: for the first offense, one hundred dollars (\$100.00), for the second offense, two hundred dollars (\$200.00); and for each subsequent offense, three hundred dollars (\$300.00) and 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.

Approved as to legal form and character:

**DRAFT 2/28/2013 (clean copy)**

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 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 at 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



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 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.

- 6.1.2. 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.
- 6.1.4. 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.
- 6.1.5. To hire 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.
- 6.1.6. 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.
- 6.1.7. To construe and interpret this Trust Agreement and other documents related to the purposes of the Trust.
- 6.1.8. 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.
- 6.1.8. To receive and review reports of the financial condition and of the receipts and disbursements of the Trust and the Trust Fund.
- 6.1.9. 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.
- 6.1.10. 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.

6.1.11. 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.

6.1.12. 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.

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

6.1.14. 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.

6.1.15. 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.

6.1.16. 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.

6.1.17. 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.

6.1.19. 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.

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, 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.

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.

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.

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 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.

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.

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

---

Trustee

Etc.

#209-10(4)  
#209-10(5)

DRAFT FOR DISCUSSION PURPOSES:

CITY OF NEWTON  
IN BOARD OF ALDERMEN

ORDINANCE NO.

April , 2013

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby further amended with respect to Chapter 18 as follows:

1. Insert a new ARTICLE XVII as follows:

ARTICLE XVII CITY OF NEWTON OTHER POST-EMPLOYMENT  
BENEFITS TRUST

18-230 Designation and purpose.

This trust is established to administer the fund known as the City of Newton Other Post-Employment Benefit Trust Fund in conformity with the provisions of G.L. c. 32B, section 20 and with the terms of The City of Newton Other Post-Employment Benefits Trust Agreement (OPEB Trust), a copy of which shall be kept on file with the city clerk. In accordance with its terms, the OPEB Trust shall be irrevocable, and its sole purpose is to provide funding for the City's other post-employment benefits for the exclusive benefit of the City's retired employees and their eligible dependents and for defraying the reasonable expenses of the Trust.

18-231 Board of Trustees

There shall be a board of trustees, with the powers and duties set forth in the OPEB Trust, 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 Alderman shall annually appoint one member of that Board to serve 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 corresponding position of Trustee shall be deemed vacant until such time as the underlying City position is filled on either a permanent or temporary basis. Upon resignation or removal of an appointed Trustee, the Mayor shall appoint a Trustee to fill the vacancy for the remainder of the term. The City Collector-Treasurer shall serve as a non-voting member of the Board of Trustees. Any member of the Board of Trustees may be removed by the Mayor with the consent of the Board of Aldermen for cause.

18-232 Custodian

The City Collector-Treasurer, by virtue of his office, shall be the custodian of the OPEB trust fund, and shall invest and reinvest the funds consistent with the prudent investor rule established in G.L. c. 203C. As provided in G.L. c. 32A, Section 24(d) the Collector-Treasurer is hereby authorized to invest all or a portion of the fund, as directed by the Trustees, in the State Retiree Benefits Trust Fund established in G.L. c. 32A, Section 24.

2. Renumber current ARTICLE XVII to ARTICLE XVIII and renumber its paragraphs accordingly.

Approved as to legal form and character:

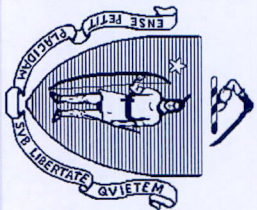
DONNALYN B. LYNCH KAHN  
City Solicitor

Under Suspension of Rules  
Readings Waived and Adopted

EXECUTIVE DEPARTMENT  
Approved:

(SGD) DAVID A. OLSON  
City Clerk

(SGD) SETTI D. WARREN  
Mayor



**The Commonwealth of Massachusetts**  
**Health Care Security Trust**  
**Board of Trustees**

**City of Newton Finance Committee**

**Overview of the**

**State Retiree Benefits Trust Fund**

**March 27, 2013**

**Health Care Security Trust**

## *The State Retiree Benefits Trust Fund*

- Chapter 68 of the Acts of 2011, the FY 2012 state budget, was signed into law in July 2011. Sections 50 and 57 of Chapter 68 amend **Section 24 of Chapter 32A** and **Section 20 of Chapter 32B**, respectively, of the General Laws allowing municipalities, authorities, and certain other government entities of the Commonwealth to establish a liability trust fund for funding retiree benefits (other than pension), also known as Other Post-Employment Benefits (OPEB). The legislation also ensures that these entities have access to the state's investment trust, the State Retiree Benefits Trust Fund (SRBTF), for purposes of investing OPEB funds. Further, Section 20 of Chapter 32B, as amended, designates the entities eligible to serve as custodian of such funds: 1) a designee appointed by the board of a municipal lighting plant, 2) the treasurer of any governmental unit, or 3) the Health Care Security Trust (HCST) Board of Trustees, which oversees the SRBTF.
- The seven-member Health Care Security Trust (HCST) Board, established by **Section 4 of Chapter 29D** of the General Laws, is responsible for the administration and investment management of the SRBTF. The HCST Board is comprised of the Secretary of Administration & Finance or a designee, the Executive Director of the Group Insurance Commission or a designee, the Executive Director of the Public Employee Administration Commission (PERAC) or a designee, the State Treasurer or a designee, the Comptroller or a designee, an appointee of the Governor, and an appointee of the State Treasurer (both appointment members are required to have investment, financial management, legal, or public management experience).
- In August 2011, the HCST Board voted to assign full investment management of the SRBTF assets to the nine-member Pension Reserves Investment Management (PRIM) Board, which manages the approximately \$50 billion Pension Reserves Investment Trust (PRIT) Fund, the state pension fund. PRIM and PRIT were established in 1983 to address the Commonwealth's unfunded pension liabilities.

## ***Composition of the Health Care Security Trust Board***

- Secretary of Administration & Finance,  
or designee (Chair) Gregory R. Mennis, CFA
- State Treasurer, or designee Alan F. Gordon
- State Comptroller, or designee Martin J. Benison
- Treasurer's appointee Michael Tow
- Governor's appointee Terrence Finn
- Executive Director, Group Insurance Commission,  
or designee Dolores L. Mitchell
- Executive Director, Public Employee Retirement  
Administration Commission, or designee Joseph E. Connarton

## Summary of Legislation

- Section 20 of Chapter 32 B provides a Road-Map for entities to establish an OPEB trust without a special act and without a funding schedule requirement:
  - Government entities setting up an OPEB Trust should adopt Section 20
  - Identifies HCST and entity treasurer as options for custodian (not retirement systems)
  - Provides “turn-key” option to invest in SRBTF by appointing the HCST as custodian
  - If the treasurer is custodian, Section 24 of Chapter 32A allows investment in SRBTF
  - HCST Board Approval required in either case
  
- Section 24 of Chapter 32A (as amended) provides entities who already have an OPEB Trust fund with the ability to invest in the SRBTF
  - Must have appropriate investment authority
  - Retirement systems are grandfathered
  - HCST Board Approval required



## *Application of Legislation*

- HCST Board Approval Requirements
  - Evidence of authorization
  - Acknowledgement of investment risk, understanding of agreements
  - Acknowledgement of fiduciary obligation (HCST as custodian or custodial designee)
  - Indication of commitment to fund

## ***State OPEB Reporting Requirements***

### **MGL 32B:20 (d)**

- Shall annually submit to the PERAC on or before December 31, a summary of its OPEB cost and obligations and all related information required under GASB 45, covering the last fiscal or calendar year for which this information is available.
- On or before June 30 of the following year, PERAC shall notify any entity submitting this summary of any concerns that the commission may have or any areas in which the summary does not conform to the requirements of GASB 45 or other standards that the commission may establish.
- PERAC shall file a summary report of the information received under this subsection with the chairs of the house and senate committees on ways and means, the secretary of administration and finance and the board of trustees of the Health Care Security Trust.

## ***Documents Posted to SRBTF Web Page***

- <http://www.mass.gov/anf/srbtf.html>
- Frequently Asked Questions (FAQ).
- Custodian and Investment Agreement, Exhibits, and Opinion of Counsel.
  - Exhibit A – Sample language of resolution/vote of a government entity authorizing the HCST to invest such government entity's OPEB liability funds. Vote must be certified.
  - Exhibit B – Investment Services Agreement (ISA) between HCST and PRIM.
  - Exhibit C – PRIM Operating Trust Agreement.
  - Exhibit D - HCST and PRIM Administrative Services Agreement.
  - Exhibit E – HCST Policies and Procedures.
  - Sample of boilerplate language for government entity's Opinion of Counsel letter, i.e., what should be included in the letter.
- Draft of Certificate of the Clerk of City/Town. May be customized for type of entity (e.g., an authority, county, district, light department).
- Checklists for government entities investing in SRBTF under Chapter 32B, §20, under Chapter 32A, §24, or under Special Legislation.

## ***Composition of the PRIM Board***

<input type="checkbox"/> Treasurer or designee (Chair)	Treasurer Steven Grossman
<input type="checkbox"/> Governor or designee	Gregory R. Mennis, CFA
<input type="checkbox"/> Treasurer's private citizen appointee	Alexander E. Aikens, III, Esq.
<input type="checkbox"/> Governor's private citizen appointee	Anthony E. Hubbard
<input type="checkbox"/> Governor's public safety union appointee	Dana A. Pullman
<input type="checkbox"/> Teachers' Retirement Board's Elected Member	Dennis J. Naughton
<input type="checkbox"/> State Retirement Board's Elected Member	Theresa F. McGoldrick, Esq.
<input type="checkbox"/> Member elected by Teachers	Robert L. Brousseau
<input type="checkbox"/> Member elected by State Employees	Paul E. Shanley, Esq.

## *PRIM Board Advisory Committees*

### *Investment Committee*

Treasurer Steven Grossman  
 C. LaRoy Brantley  
 Michael Even, CFA  
 Constance M. Everson, CFA  
 Edward W. Kane  
 Gregory R. Mennis, CFA  
 Paul E. Shanley, Esq.  
 Glenn P. Strehle, CFA  
 Timothy L. Vaill

PRIM Board Chair  
 Cambridge Associates  
 President/CEO Numeric  
 Capital Markets Outlook  
 HarbourVest Partners  
 PRIM Board Member  
 PRIM Board Member  
 MIT (Retired)  
 Chair/CEO Boston  
 Private Financial Holdings

### *Audit & Administration Committee*

Treasurer Steven Grossman  
 Robert L. Brousseau, Chair  
 Theresa F. McGoldrick, Esq.  
 Theodore C. Alexiades  
 Patrick E. Brock  
 Karen E. Gershman, CPA  
 Shanti A. Fry  
 Renée M. Landers, Esq.  
 Michele A. Whitham, Esq.

PRIM Board Chair  
 PRIM Board Member  
 PRIM Board Member  
 Hingham Retirement  
 Hampshire County  
 COO, Health Advances  
 Finance Professional  
 Suffolk University Law  
 Foley Hoag

### *Real Estate Committee*

Treasurer Steven Grossman  
 Alexander E Aikens, III, Chair  
 Jill S. Hutton, CRE  
 Garlan Morse, Jr. CRE  
 William F. McCall, Jr.  
 Peter F. O'Connell  
 Jack Lutz, PhD

PRIM Board Chair  
 PRIM Board Member  
 Blackrock (Retired)  
 Morris & Morse Co, Inc.  
 McCall & Almy, Inc.  
 Marina Bay Company  
 Forest Research Group

### *Compensation Committee*

Treasurer Steven Grossman  
 Robert L. Brousseau  
 Patrick E. Brock  
 Shanti A. Fry  
 Ruthanne Fuller  
 Gregory R. Mennis, CFA  
 Michele A. Whitham, Esq.

PRIM Board Chair  
 PRIM Board Member  
 Hampshire County  
 Finance Professional  
 Newton Alderman / Ward 7  
 PRIM Board Member  
 Foley Hoag

# External Advisors

10

## **Fund Advisors**

- ❑ Callan – Long Only (Public Markets).
- ❑ NEPC – Asset Allocation.
- ❑ Cliffwater LLC – Direct Hedge Funds Program.
- ❑ Hamilton Lane – Private Equity.
- ❑ The Townsend Group – Real Estate.

## **Independent Auditors**

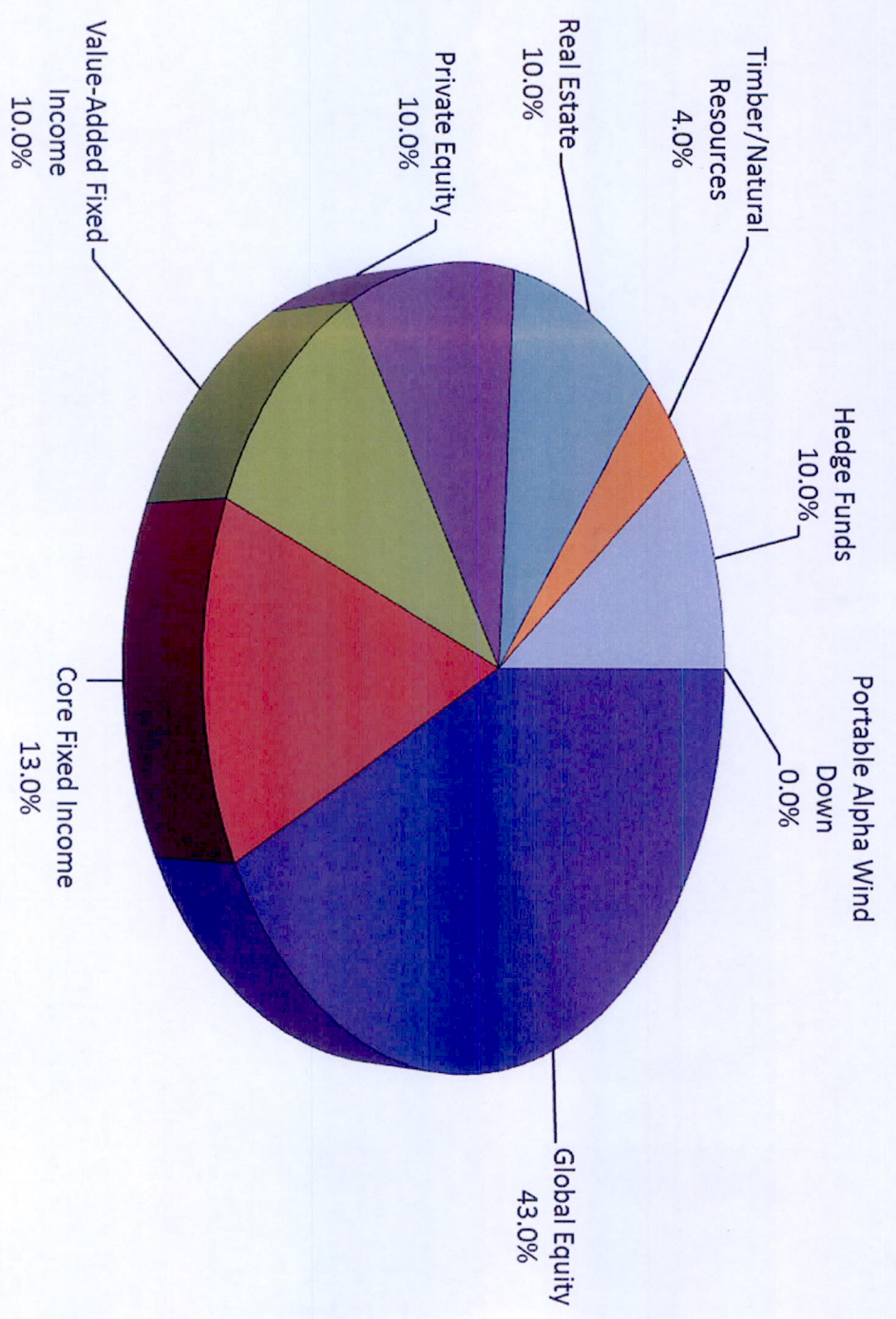
- ❑ KPMG, LLP – PRIM Board and PRIT Fund.
- ❑ KPMG, LLP – Real Estate/Timberland and Hedge Funds Portfolios.
- ❑ Deloitte & Touche, LLP – Tax Advisory Services.

## **Custodian**

- ❑ BNY Mellon.

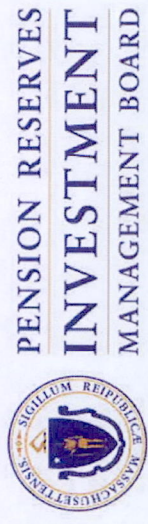
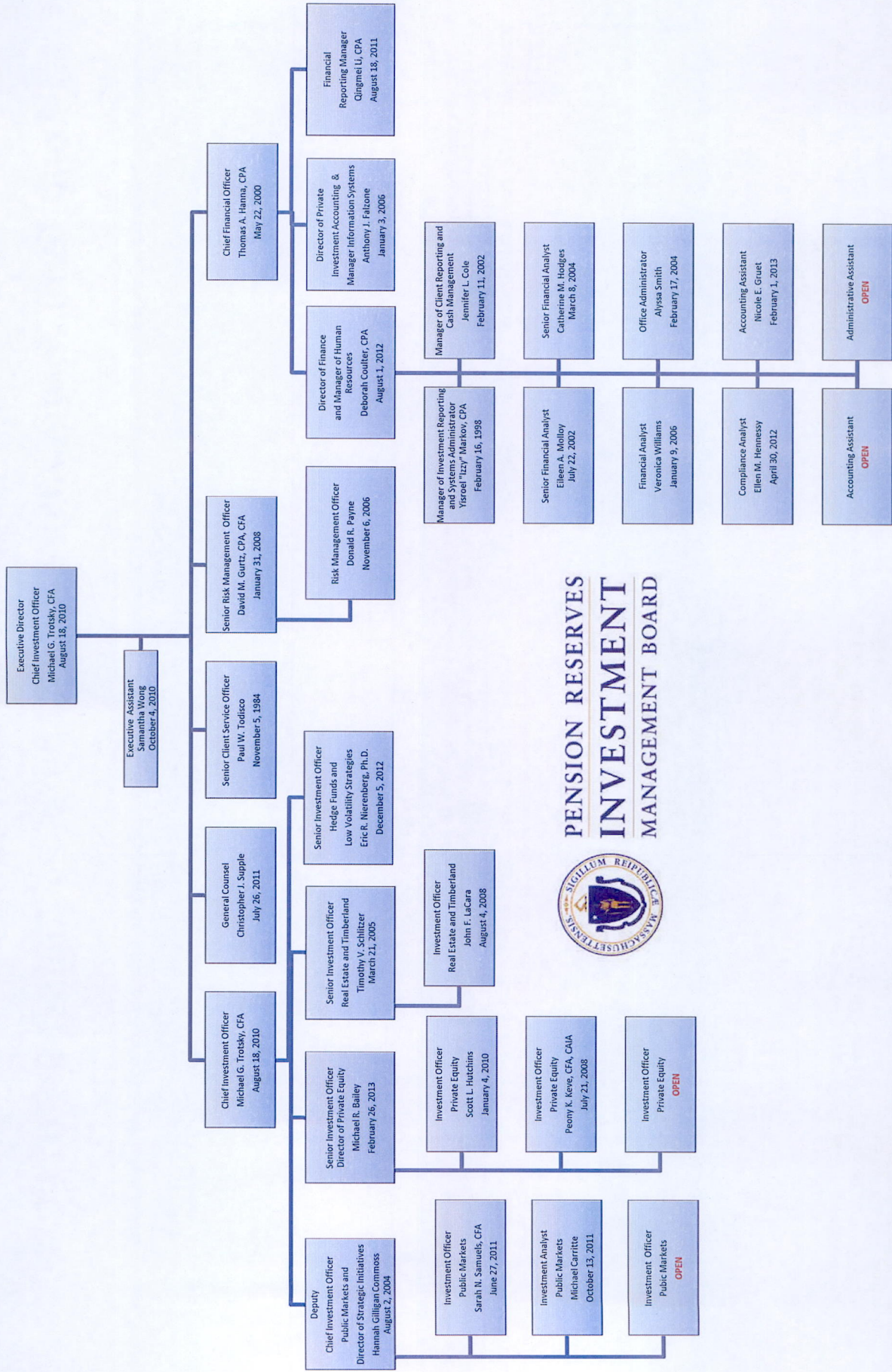
# PRIT Fund Asset Allocation

## Long Term Target Allocation – Approved August 2, 2011\*



\*Long Term Target Allocation shown on this page reflects the target asset allocation accepted by the PRIM Board on 8/2/11. Asset allocation was reviewed at the February 5, 2013 PRIM Board Meeting.

# Organizational Chart





**Total HCST/ SRBTF Performance**  
**Gross of Fees**  
**As of February 28, 2013**  
**Assets: \$425.7 Million**

	NAV \$ (M)	Actual Allocation %	Month	QTD	FY'13	Calendar					Since Inception
						YTD	1 Year	3 Year	5 Year	10 Year	
GENERAL ALLOCATION ACCOUNT	425,630	100.0%	0.19	2.60	10.25	2.60	9.56				14.13
CLOSED PORTFOLIOS	57	0.0%									
CASH	23	0.0%									
TOTAL	425,709	100%	0.19	2.60	10.22	2.60	9.55	11.04	5.12	9.00	7.19
PARTICIPANTS CASH	-		0.00								
<b>TOTAL FUND</b>	<b>425,709</b>	<b>100%</b>	<b>0.19</b>	<b>2.60</b>	<b>10.22</b>	<b>2.60</b>	<b>9.55</b>	<b>11.04</b>	<b>5.12</b>	<b>9.00</b>	<b>7.19</b>
POLICY BENCHMARK			0.22	2.74	9.91	2.74	8.21	9.70	4.29	7.99	6.35

During fiscal 2012 all separately managed investment accounts were transitioned to investment in the PRIT Fund General Allocation Account (GAA) and, as such, returns for these accounts are no longer comparable to their respective benchmarks. The inception date for the GAA investment is 10/31/2011, and the inception date for the Total Fund dates to 11/30/2001.

## Total PRIT Fund Core Performance

### Gross of Fees

As of February 28, 2013

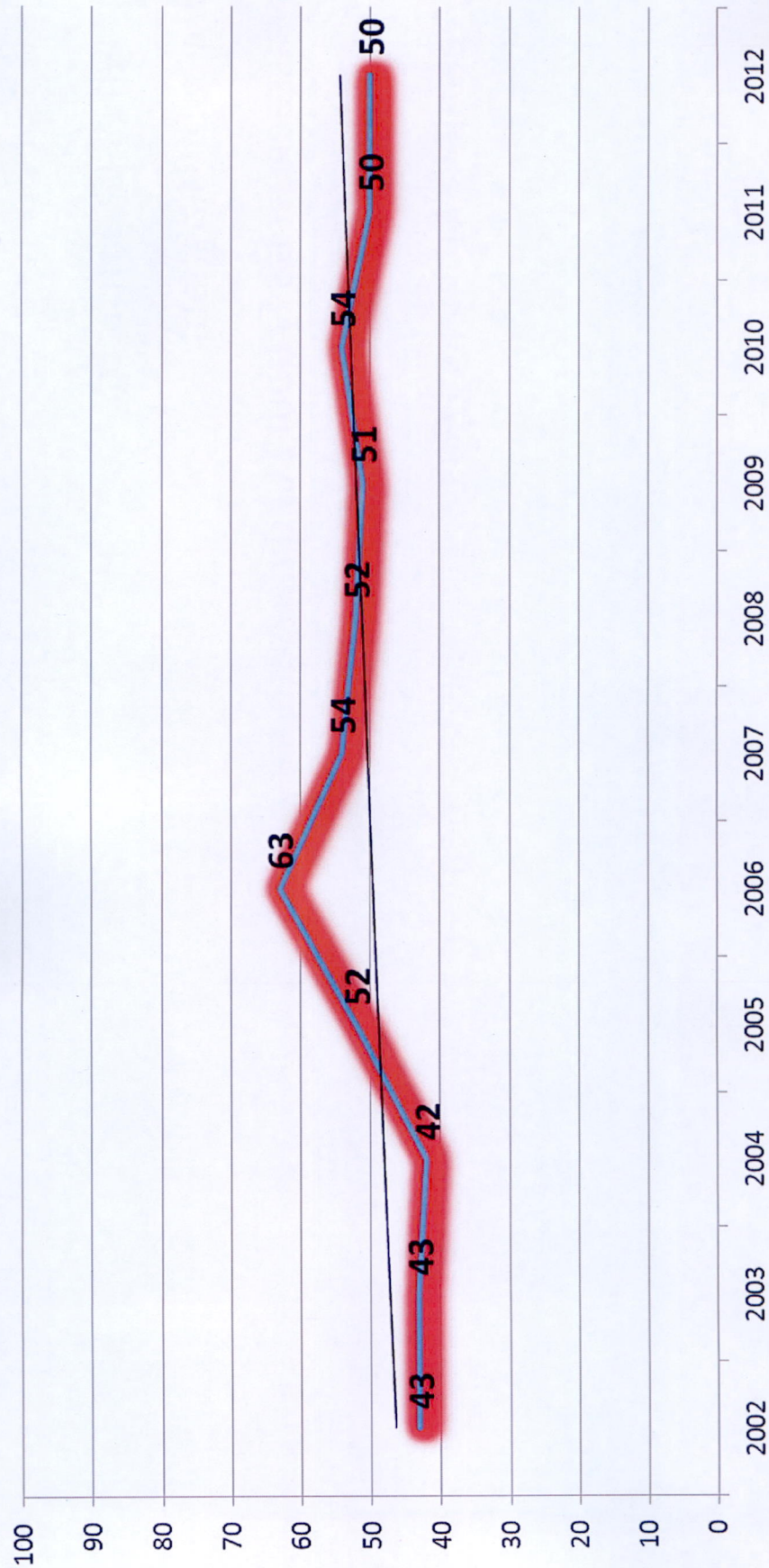
Assets: \$52.8 Billion

	NAV \$ (M)	Long Term Target Allocation %	Actual Allocation % Month	FY '13	Calendar YTD	1 Year	3 Year	5 Year	10 Year	Since Inception
GLOBAL EQUITY	23,679,366	43.0%	44.8%	16.17	5.05	10.69	10.77	2.32	9.67	4.75
CORE FIXED INCOME	6,687,895	13.0%	12.7%	2.96	-0.02	4.67	6.66	4.52	5.22	8.04
VALUE-ADDED FIXED INCOME	4,411,537	10.0%	8.4%	7.91	0.47	11.96	12.10	9.40	11.22	10.05
PRIVATE EQUITY	6,144,726	10.0%	11.6%	4.67	-0.46	14.92	16.86	6.71	16.88	13.94
REAL ESTATE	4,806,712	10.0%	9.1%	8.64	1.13	12.15	13.58	2.73	11.02	5.90
TIMBER/NATURAL RESOURCES	2,050,992	4.0%	3.9%	6.29	0.57	1.75	5.18	-0.67	8.51	8.72
HEDGE FUNDS (NET OF FEES)	4,956,946	10.0%	9.4%	8.89	3.05	8.24	4.67	1.23		4.38
PORTABLE ALPHA WIND DOWN (NET OF FEES)	80,704	0.0%	0.2%	0.99	-0.14	-0.91	0.21	-9.55		-6.31
<b>TOTAL CORE</b>	<b>52,818,879</b>	<b>100%</b>	<b>100%</b>	<b>10.49</b>	<b>2.61</b>	<b>10.02</b>	<b>10.33</b>	<b>2.77</b>	<b>9.14</b>	<b>9.54</b>
INTERIM POLICY BENCHMARK				9.88	2.56	8.93	9.39	3.21	8.95	10.19

***Governmental Entities Participating in the SRBTF***

- Town of Boxford
- Town of Chelmsford
- Town of Hingham
- Massachusetts School Building Authority
- Town of Wakefield
- Wakefield Municipal Gas & Light Department

## PRIT Fund Ratio of Expenses in Basis Points



**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.

#### 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.
- (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.

CITY OF NEWTON

IN BOARD OF ALDERMEN

2013

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chairman Leonard J. Gentile, the amended *Whistleblower Policy*, adopted on February 4, 2013 is hereby amended and approved, and on file with the Clerk of the Board of Aldermen and attached hereto.

Under Suspension of Rules  
Readings Waived and Approved

(SGD) DAVID A. OLSON  
City Clerk

(SGD) SETTI D. WARREN  
Mayor

Date \_\_\_\_\_

CITY OF NEWTON

IN BOARD OF ALDERMEN

2013

ORDINANCE NO.

BE IT ORDAINED BY THE BOARD OF ALDERMEN  
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2012, as amended, relative to **Chapter 7 Boards and Commissions**, are hereby further amended as follows:

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

1. Delete the following paragraph (b)(3) b):

Independently audited annual financial statements within 90 days after the conclusion of each fiscal year.

Approved as to legal form and character:

CITY OF NEWTON

IN BOARD OF ALDERMEN

, 2013

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chairman Leonard J. Gentile, the following item be and is hereby voted NO ACTION NECESSARY:

**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]

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

(SGD) DAVID A. OLSON, City Clerk

#130-11(A)

CITY OF NEWTON

IN BOARD OF ALDERMEN

, 2013

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chairman Leonard J. Gentile, the following item be and is hereby voted 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.

Under Suspension of Rules

Readings Waived and Item Voted NO ACTION NECESSARY

(SGD) DAVID A. OLSON, City Clerk



CITY OF NEWTON

IN BOARD OF ALDERMEN

, 2013

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chairman Leonard J. Gentile, the following item be and is hereby voted NO ACTION NECESSARY:

**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]

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

(SGD) DAVID A. OLSON, City Clerk

CITY OF NEWTON

IN BOARD OF ALDERMEN

, 2013

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chairman Leonard J. Gentile, the following item be and is hereby voted NO ACTION NECESSARY:

**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]

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

(SGD) DAVID A. OLSON, City Clerk