

CITY OF NEWTON

IN BOARD OF ALDERMEN

FINANCE COMMITTEE REPORT

MONDAY, JANUARY 25, 2010

Present: Ald. Gentile (Chairman), Linsky, Salvucci, Rice, Danberg, Fuller and Freedman;

Absent: Ald. Ciccone

Also present: Donnalyn Khan (Interim City Solicitor), Ouida Young (Associate City Solicitor), Arthur Cabral (Interim Public Buildings Commissioner), Joshua Morse (Facilities and Operations Supervisor; Public Buildings), Robert Rooney (Chief of Operations), Dolores Hamilton (Director of Human Resources), Elizabeth Dromey (Director of Assessing) and Eileen McGettigan (Assistant City Solicitor)

CHAIRMAN'S NOTE: After the joint public hearing on Docket Item #412-09 with the Zoning & Planning Committee and Planning Board, the Committee convened in Room 222 to take up the following items and continue discussion of Docket Item #412-09:

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#13-10 HIS HONOR THE MAYOR requesting authorization to appropriate and expend one hundred thousand dollars (\$100,000) from Budget Reserve for the purpose of supplementing the Law Department legal assistance account. [12/22/09 @ 10:09 AM]

PROG & SERV HELD \$50,000 AND APPROVED \$50,000 6-0 on 01/20/10

ACTION: APPROVED 6-1 (Linsky opposed)

NOTE: Donnalyn Lynch Khan, City Solicitor, spoke on the item. It is a request for additional funds to pay legal costs associated with hiring outside counsel for labor related legal services. The Programs & Services Committee only approved \$50,000 of the request for \$100,000 and held the other \$50,000 because they wished to have further discussion with the Law Department regarding curtailing future invoices and a long-term plan to address the increased costs of outside counsel.

The Law Department has used all of the \$120,000 of previously encumbered funds to pay outside counsel invoices up until November of 2009. The Law Department received the November 2009 invoice for \$27,256.39 and determined that in order to pay the invoice they would need an additional \$17,442.15. The invoice for December 2009 has not been received but Ms. Khan estimates that it is in the \$26,000 range. The department is also requesting the additional funding to pay the outside legal counsel for the remainder of the year.

Ms. Khan explained that the cost of the outside labor counsel has increased every year. She would suggest that the City investigate hiring an in-house labor lawyer. It would be much more cost effective for the city. The City will spend over \$200,000 for outside legal services this year and the cost of an in-house labor attorney's salary would be approximately \$85,000 per

year. Ms. Khan intends to make an emergency plea to the administration to fill the Associate City Solicitor position with a labor attorney.

The Chairman asked if Ms. Khan was looking at ways to curb the costs of outside counsel, such as limiting who in the city has access to outside counsel. Ms. Khan has been looking at ways to control the costs, such as restricting phone calls to outside counsel to one point person. She is in the process of looking at the past three years of outside counsel invoices to determine how to best control costs. Ald. Salvucci has heard that the costs are associated with delays in arbitration. Ms. Khan responded that it is one of the reasons that legal fees rise, however, the delays are not purposeful, and it is very difficult to try to curtail delays created through the arbitration process. She pointed out that the costs of delays are another reason to hire an in-house attorney, as a delay would no longer cost the city legal fees.

The Committee agreed that it is appropriate to look at hiring an in-house labor attorney. The Chief Operating Officer, Robert Rooney, stated that the Executive Office would work on tightening the controls regarding outside counsel and investigate the possibility of hiring an in-house attorney. There are conversations that need to happen between the Law Department and Executive Office to come up with a clear policy on who is authorized to make phone calls to outside legal counsel. The Chairman pointed out that the Finance Committee could approve the entire request instead of holding \$50,000, as at this point the Law Department has already spent \$50,000 of the requested money. The Committee concurred that the full amount of the request should be approved, as it appears that the Law Department would require all of the requested funds. Ald. Salvucci moved approval of the item, which carried unanimously.

#25-10 ALD. ALBRIGHT, LINSKY & JOHNSON requesting that the increase in Resident Sticker Parking Fees recently approved through Ordinance Z-48 be postponed for those residents on streets that have the Tiger Parking Permit Program restrictions until the Tiger Parking Permit Program is eliminated.
[01/11/10 @ 11:53 AM]

ACTION: **APPROVED 4-2-1 (Freedman, Salvucci opposed)**

NOTE: Ald. Linsky presented the item to the Committee. It is a request to reduce the recent increase in the resident parking sticker program for the residents who reside within the Tiger Permit Parking Program zone around Newton North High School. The Tiger Permit Parking Program was put in place in July of 2007 when construction began on the new Newton North High School and parking on site was no longer available. The city needed to find alternative parking for school staff and students.

The Ward Two Aldermen have received several complaints from constituents that they are already negatively impacted by the Tiger Parking Permit Program and feel that the increase to the resident sticker parking program are not justified in their case. There are eight streets or portions of streets that have both resident sticker parking and Tiger Permit parking. The Ward Two Aldermen would like to postpone the increase to the resident sticker-parking fee for those residents living on streets with both resident sticker parking and Tiger permit parking until the conclusion of the Tiger Permit Parking Program.

Associate City Solicitor Ouida Young explained that if the Board of Aldermen wishes to pursue postponing the fee, it would need to approve an ordinance making the reduced fee retroactive to January 1, 2010. Ms. Young has spoken with the Comptroller and he is in favor of this approach. Ms. Young pointed out that in 2011 there would be some parking available on the Newton North High School site. She suggested that the Board might want to look at the Tiger Permit Program again in the late summer and determine whether to continue with the reduced fee.

Ald. Freedman felt that there are parking hardships within resident sticker parking streets throughout the city and that those residents could also justify a reduction in the fee. Ald. Salvucci agreed with Ald. Freedman and felt that in order to make the fee equitable it should remain the same for all participants in the resident sticker program. Ald. Linsky moved approval of the item, which carried by a vote of four in favor, two opposed and one abstention.

Clerk's Note: Attached is a letter in opposition of the item from the Chief of Police, which was received on January 26, 2010.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#420-09 **HIS HONOR THE MAYOR** requesting acceptance of and authorization to expend a grant of seven hundred ninety-nine thousand six hundred dollars (\$799,600) from the U.S. Department of Energy to be used to replace the heating system in Cabot, Zervas Elementary Schools and Emerson Community Center; replace the automatic temperature control system in the Newton Free Library and replace the HVAC system in both the Crafts and Elliot Street Garages. [12/15/09 @ 4:05 PM]

PUBLIC FACILITIES APPROVED 7-0 on 01/20/10

ACTION: **APPROVED 7-0**

NOTE: Public Buildings Commissioner Arthur Cabral and Joshua Morse of the Public Buildings Department were present for the discussion of the item. The Public Facilities Committee approved the item unanimously at their last meeting. Mr. Cabral stated that the grant is part of federal stimulus funds that the Public Buildings Department applied for in the spring of 2009. The grant provides enough money to fund six of the highest priority energy projects in city and school buildings. David Tannozzini, the Energy Officer within the Public Buildings Department, will be responsible for all of the reporting to the federal government associated with receiving the grant.

Comptroller David Wilkinson stated that the grant requires the submittal of invoices for reimbursement of expended funds. He urged that the Public Buildings Department seek reimbursement immediately. Mr. Wilkinson also felt that the grant would almost certainly be part of the city's yearly audit and that would require approximately \$4,100 for audit fees. He requested that the Public Buildings Department check with the granting authority to determine if the grant fees could be used for audit fees. If it is possible for the grant to be used for audit fee purposes, Mr. Wilkinson requested that the Public Buildings Department reserve \$4,100 for audit fees. Mr. Morse stated that it would not be a problem for the Public Buildings Department to reserve the funds.

Ald. Gentile informed the Committee that the Public Facilities Committee requested information regarding the possible reuse of the new heating systems at the elementary schools, as there is a possibility that the schools would be renovated or reconstructed in the near future. The Public Buildings Department provided a letter, which was attached to the agenda, stating that dependant on when the schools would be renovated or reconstructed most parts of the system could be reused at other school facilities. Ald. Gentile requested that Mr. Cabral also provide a letter from the School Committee and Superintendent of Schools acknowledging their awareness of the heating system replacements at the Cabot and Zervas Elementary Schools. Mr. Cabral responded that both of the projects are reflected as part of the School Department's Capital Improvement Program for this year but he will request a letter. Ald. Fuller moved approval of the item, which carried unanimously.

#27-10 HIS HONOR THE MAYOR requesting authorization to appropriate and expend one hundred twenty-five thousand dollars (\$125,000) from Budget Reserve for the purpose of supplementing the unemployment account in the Human Resources Department. [01/12/10 @ 4:50 PM]

ACTION: **APPROVED 7-0**

NOTE: Director of Human Resources, Dolores Hamilton, presented the request for an additional appropriation of \$125,000 to supplement the Human Resource Department's unemployment account. The original appropriation for the unemployment account was for \$110,000. The department has spent approximately \$119,000 to this point in the fiscal year. The Human Resources Department could not predict that unemployment benefits would be extended by the federal government thereby creating a shortfall in the unemployment accounts. The additional \$125,000 should provide enough funds for the rest of the fiscal year. Mr. Wilkinson pointed out that there is also a shortfall in the School Department's unemployment accounts of approximately \$169,000. Committee members asked if there was any opportunity for the City rein in some of the expenses related to unemployment. Ms. Hamilton explained that the City is legally obligated to provide unemployment if a person qualifies for it. Ald. Freedman moved approval of the item, which carried unanimously.

#26-10 HIS HONOR THE MAYOR requesting a transfer of twenty-five thousand dollars (\$25,000) from the severance budget in the Human Resources Department to the Executive Department for the purpose of covering current year severance expenses. [01/12/10 @ 4:50 PM]

ACTION: **HELD 7-0**

NOTE: The Chair requested that the item be held to discuss in conjunction with the Mayor's request to fund two additional positions in the Executive Office. Ald. Gentile would like to start the next meeting of Finance on February 8, 2010 early in order to begin discussions with the Mayor regarding both items. He also provided committee members with the attached analysis of the Mayor's Office Payroll Appropriation for their review before the next meeting. If the Executive Office waits until March 29, 2010 to fill all of the vacant positions within the Executive Office, it would mean that the \$25,000 in the severance budget in the Human Resources Department would not be required.

Ald. Fuller felt that it is not in the City's best interest to wait until March 29, 2010 to fill the positions in the Mayor's Office. Chief of Operations Robert Rooney explained that although

the Mayor would like to fill the positions immediately, the reality is that it will take some time to hire people for the positions. There was some concern among committee members that the Chief Financial Officer position is not filled. Mr. Rooney responded that Sarah Ecker is currently taking on the responsibility of the Chief Financial Officer.

Director of Human Resources, Dolores Hamilton, informed the committee that only two people have accepted their severance package but the others have until mid-February to respond to the severance offers. Committee members inquired if the Human Resources Department required the severance money for the two people who accepted the severance package. Ms. Hamilton explained that the money is not required in the near future, as the two individuals are still using earned vacation time.

Ald. Salvucci moved hold for discussion on February 8, 2010, which carried unanimously.

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

#412-09 **HIS HONOR THE MAYOR** requesting approval of an amended 121A Tax Agreement between the City of Newton and the New Falls Associates Limited Partnership ('the owner'), dated November 13, 2009, whereby the City will receive \$2,537,500 in deferred taxes upon the completion of refinancing by the owner and 41 affordable housing units will be extended for an additional 22 years, until 2040.

ZONING & PLANNING APPROVED 8-0

ACTION: **FINANCE APPROVED 7-0**

NOTE: For the public hearing portion of the report, please refer to the joint report of the Zoning & Planning and Finance Committees. The Zoning and Planning Committee and the Planning and Development Board recommended approval of the amended tax agreement. The Planning and Development Board Minutes are attached. The Finance Committee resumed discussion of the item with Assistant Solicitor Eileen McGettigan, Chief Assessor Elizabeth Dromey, and the attorney for New Falls Associated Limited Partnership, Alan Schlesinger.

There was some discussion as to whether there was any possibility of retaining the affordable housing units in perpetuity. Mr. Schlesinger explained that the owner has extended the affordable housing by an additional twenty-two years. If the housing units were to remain affordable in perpetuity, it would have a negative impact on the assessment of the property, which would create a hardship for the owner. The owner originally offered a ten-year extension but eventually agreed to retain affordability for thirty years from the refinancing date; retaining the affordability of the units until 2040. Ald. Danberg inquired whether the owner would be interested in retaining the affordable units if there was a deferral of taxes involved. Ms. Dromey responded that the city would not be open to deferring the taxes on the property.

Ms. Dromey and Ms. McGettigan both felt that the best possible agreement had been reached between the owners and the city given the circumstances. Everybody involved made concessions but also made some gains in the conditions of the agreement. The city and owners are happy enough with the agreement. The city will receive \$2,537,500 in taxes and an extension of 41 affordable housing units. The remaining portion of the deferred taxes will accrue interest at the rate of 3% per annum and will be due at the end of the thirty-year affordability

period. The owner has the opportunity to make payments toward the unpaid balance of deferred taxes. In addition, the owner will no longer be able to defer payments in lieu of taxes to the city. The current owner has not received any money from the project, as it has not generated cash flow. However, once the payments to the city and the capital improvements to the property are made, it is expected that \$50,000 of the refinancing proceeds will be given to the owner.

Committee members had some concerns regarding the deferral of taxes should the property be foreclosed or the Department of Housing and Urban Development (HUD) failed. Ms. Dromey responded that the owner would still be responsible for the property taxes. Mr. Schlesinger stated that it seems unlikely that HUD will fail, as it has existed since 1965. The agreement with HUD has been approved but not yet funded. The refinancing of the property should be complete by June 30, 2010.

Ald. Gentile requested a report from the Assessing Department on payments from New Falls Associates on the excise and pilot payments made to the city and the amount deferred. Ms. Dromey provided the attached report that covers the payments and deferrals over the past nine years. Ald. Salvucci moved approval of the amended agreement, which carried unanimously.

The draft Board Orders are attached for each of the items that were approved. All other items were held without discussion and the meeting was adjourned at approximately 9:30 PM.

Respectfully Submitted,

Leonard J. Gentile, Chairman

CITY OF NEWTON
IN BOARD OF ALDERMEN

2010

ORDERED:

That in accordance with the recommendations of the Programs and Services Committee through its Chairman, Alderman Amy Mah Sangiolo, and the Finance Committee through its Chairman, Alderman Leonard J. Gentile, the sum of one hundred thousand dollars (\$100,000) to be appropriated from Budget Reserve, be and is hereby appropriated, granted, and expenditure authorized under the direction of the City Solicitor for the purpose of supplementing the Law Department Legal Assistance account as follows:

FROM:	Budget Reserve (0110498-5790).....\$100,000
TO:	Law Department Expenses (0110801-5309).....\$100,000

Under Suspension of Rules
Readings Waived and Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor

CITY OF NEWTON

IN BOARD OF ALDERMEN

, 2010

ORDERED:

That, in accordance with the recommendation of the Public Facilities Committee through its Chairman, Alderman Sydra Schnipper and the Finance Committee through its Chairman, Alderman Leonard J. Gentile, the authorization to expend the amount of seven hundred ninety-nine thousand dollars (\$799,000) received as grant funds from the United States Department of Energy to be used for projects in the Public Buildings Department that will enhance energy efficiency and conservation be and is hereby approved.

Under Suspension of Rules
Readings Waived and Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor

CITY OF NEWTON
IN BOARD OF ALDERMEN

2010

ORDERED:

That, in accordance with the recommendation of the Finance Committee through its Chairman Leonard J. Gentile, the sum of one hundred twenty-five thousand dollars (\$125,000) to be appropriated from Budget Reserve, be and is hereby appropriated, granted, and expenditure authorized under the direction of the Director of Human Resources for the purpose of supplementing the unemployment account in the Human Resources Department as follows:

FROM:	Budget Reserve (0110498-5790).....\$125,000
TO:	HR Fringe Benefits (01109011-5702).....\$125,000

Under Suspension of Rules
Readings Waived and Approved

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor

CITY OF NEWTON
IN BOARD OF ALDERMEN

2010

ORDERED:

That, after a Public Hearing held in conjunction with the Planning and Development Board on Monday, January 25, 2010 and in accordance with the subsequent recommendation of the Planning and Development Board and that of the Zoning and Planning and Finance Committees of the Board of Aldermen, the Board of Aldermen hereby approves, in accordance with General Laws Chapter 121A, Section 6, and His Honor the Mayor is hereby authorized to amend the 121A Tax Agreement between the City of Newton and the New Falls Associates Limited Partnership, whereby the City will receive \$2,537,500 in deferred taxes upon the completion of refinancing by the owner and 41 affordable housing units will be preserved until 2040, and whereby, the agreement will allow New Falls Associates Limited Partnership to obtain financing for deferred maintenance at the property known as “New Falls” located at 2251-2311 Washington Street.

Under Suspension of Rules
Readings Waived and

(SGD) DAVID A. OLSON
City Clerk

(SGD) SETTI D. WARREN
Mayor

Date: _____

#25-10



City of Newton Police Department

TELEPHONE
(617) 796-2101
FAX # (617) 796-3679
TDD/TTY: 617-796-1089

Office of the Chief of Police

HEADQUARTERS
1321 WASHINGTON STREET
NEWTON, MASSACHUSETTS 02465

MATTHEW A. CUMMINGS
CHIEF OF POLICE

January 26, 2010

Board of Aldermen
1000 Commonwealth Avenue
Newton Centre, MA. 02459

Dear Members of the Board:

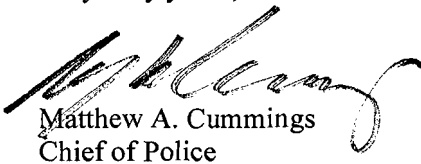
I am writing to address the issue of refunding money to citizens for resident parking permits.

The fee for a resident parking permit is currently \$25.00. This amount was based on information given to the PS&T committee on the costs of purchasing the stickers and the manpower to administer the program. Prior to this increase, the fee was \$10.00 and had not been raised in over 15 years. It was never the intent to make money on this program, however, to offer permits/placards at the old rate would put the City in the same position it was prior to the rate increase. We must keep in mind that there is a cost to administer this program. To identify all residents that have already been issued permits/placards and then notify them that they are entitled to a refund would be a giant undertaking, costing the city many manpower hours.

When a resident receives a resident parking permit, they are issued a permit to park on their street. There is nothing to guarantee them a parking spot in front of their home; a neighbor could just as well park there. The issue of the Tiger Permit Program was brought up. To my knowledge the Tiger Permit Program, by City ordinance will end once the Newton North project is completed. If we refund money to these citizens, I'm afraid it will be a snowball effect. We would have to look at areas such as Boston College and refund money to individuals that have resident parking permits because they are unable to park on their streets when there is a B.C. game.

For the reasons stated above, I am not in favor of refunding money for resident parking permits.

Very truly yours,


Matthew A. Cummings
Chief of Police

10 JAN 28 AM 10:31
CITY CLERK
NEWTON, MA 02459

FIRST ACCREDITED CITY POLICE DEPARTMENT IN MASSACHUSETTS



CITY OF NEWTON, MASSACHUSETTS
MAYOR'S OFFICE PAYROLL APPROPRIATION ANALYSIS
Fiscal Year 2010

	Annual Salary	Severance	Annual Salary
Mayor	\$ 97,500	-	-
Mayor {1}	-	-	97,500
Chief Administrative Officer	130,568	45,197	-
Chief Operating Officer {1}	-	-	126,732
Chief of Policy and Communications	102,826	23,729	-
Director of Community Relations {1}	-	-	88,583
Chief Budget Officer	102,826	20,961	-
Chief Financial Officer	-	-	123,688
Executive Assistant	67,743	25,273	-
Executive Assistant and Scheduler {1}	-	-	45,178
Citizens Assistance Officer	73,840	25,560	-
Citizens Assistance Officer {1}	-	-	54,168
Performance Manager	-	-	88,583
Performance Analyst	-	-	45,178

Payroll Appropriation Forecast

FY 2010 Salary appropriation	\$ 579,248
Disbursed thru December 31, 2009	(283,732)
Projected to June 30, 2010	
Week ended January 1, 2010-Cohen administration	(11,064)
Severance costs -Cohen administration	(140,720)
January 4 - June 30, 2010 new staff- Warren administration current staff {1}	(202,909)
March 29 - June 30, 2010 new staff - Warren administration	(67,333)
Projected June 30, 2010 Salary appropriation balance	<u>\$ (126,510)</u>

Wage reserve transfer needed to close projected appropriation gap (\$138,268 available)

\$ 126,510

PLANNING AND DEVELOPMENT BOARD MINUTES
January 25, 2010 City Hall, Planning and Development Department
Aldermanic Chambers, 7:00 p.m.
1000 Commonwealth Avenue, Newton, Massachusetts 02459

Full Members Present:

Tabetha McCartney, Chair
Joyce Moss, Vice Chair
David Banash
Leslie Burg
Doug Sweet

Alternate Members Present:

Howard Haywood

Planning Board [7:30]

1. #412-09 HIS HONOR THE MAYOR requesting approval of an amended 121A Tax Agreement between the City of Newton and the New Falls Associates Limited Partnership ('the owner'), dated November 13, 2009, whereby the City will receive \$2,537,500 in deferred taxes upon the completion of refinancing by the owner and 41 affordable housing units will be extended for an additional 22 years, until 2040.

D. Banash made a motion that the Planning Board approve the amended 121A Tax Agreement between the City of Newton and the New Falls Associates Limited Partnership, as outlined in the letter from the Assessor's Department. L. Burg seconded the motion and the Board voted 6-0-0 to approve the amendment.

NEW FALLS 121A EXCISE AND PILOT PAYMENTS MADE AND AMOUNT DEFERRED SINCE 2001

FISCAL YEAR	121A STATE EXCISE PAID TO NEWTON	PILOT PAYMENT MADE DIRECTLY TO NEWTON	TOTAL PAYMENTS TO NEWTON	AMOUNT DEFERRED
2001	\$41,145	\$44,688	\$85,833	\$81,746
2002	\$42,780	\$44,990	\$87,770	\$83,591
2003	\$44,624	\$45,764	\$90,388	\$86,084
2004	\$43,731	\$48,075	\$91,806	\$87,434
2005	\$44,398	\$50,774	\$95,172	\$90,640
2006	\$44,374	\$51,436	\$95,810	\$91,443
2007	\$43,968	\$53,751	\$97,719	\$93,066
2008	\$42,250	\$53,254	\$95,504	\$90,958
2009	\$42,420	\$55,921	\$98,341	\$93,658

REPORT PREPARED BY THE NEWTON ASSESSORS
1/26/2010