

CITY OF NEWTON
IN BOARD OF ALDERMEN
FINANCE COMMITTEE AGENDA
SPECIAL MEETING

TUESDAY, SEPTEMBER 7, 2010

7 PM
Room 222

ITEMS SCHEDULED FOR DISCUSSION:

#227-10 HIS HONOR THE MAYOR requesting authorization to transfer the sum of one million three hundred seventy-eight thousand three hundred fifty-three dollars (\$1,378,353) from Wage Reserve and ninety-five thousand dollars (\$95,000) from FY'11 Budget Reserve to the FY11 Police Department Personnel Budget to meet the retroactive obligation of the City of Newton under the Joint Labor Management Committee's settlement decision regarding the Newton Patrol Officers. [08/02/10 @ 5:00 PM]

Chairman's Note: The Finance Committee will meet jointly with the Committee on Community Preservation to discuss the following item:

REFERRED TO CMTE. ON COMM. PRESERV. & FINANCE COMMITTEE

#88-07(4) COMMUNITY PRESERVATION COMMITTEE recommending that the sum of four hundred fifty two thousand dollars (\$452,000) be appropriated from the fiscal 2011 general reserve of the Community Preservation Fund and expended under the direction and control of the Director of Planning and Development, to satisfy a court judgment adjusting the price paid in 2007 for 20 Rogers Street as an addition to public recreation land at Crystal Lake. [08/23/10 @ 3:21 PM]

All other items will be held without discussion.

Respectfully Submitted,

Leonard J. Gentile, Chairman

The location of this meeting is handicap accessible, and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, please contact the Newton ADA Coordinator Kathleen Cahill, 617-796-1125, via email at KCahill@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting date.



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#227-10

Telephone
(617) 796-1100

Facsimile
(617) 796-1113

TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov

August 4, 2010

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

10 AUG -4 PM 1:16
CITY CLERK
NEWTON, MA 02159

Ladies and Gentlemen:

I write to amend a request that was originally submitted to your Honorable Board on August 2, 2010.

The original request was to transfer the amount of \$1,325,727 from Wage Reserve and \$145,000 from Anticipated FY10 Free Cash to the FY11 Police Department Personnel Budget, in order to meet the retroactive obligation of the City of Newton under the Joint Labor Management Committee's settlement decision regarding the Newton Patrol Officers.

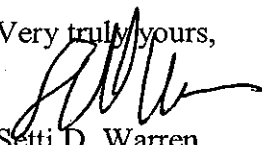
The City has since received FY2010 police salary funds from a state grant reimbursement for dispatch salaries and has added this to the funds previously carried forward from FY2010 retro pay. Additionally, it is anticipated that the Board will take up this docket item prior to the actual certification of FY2010 free cash. Therefore, I request that my original request be amended to the following:

- Transfer the amount of \$1,378,353 from Wage Reserve to FY11 Police Department Personnel Budget, and
- Transfer the amount of \$95,000 from FY11 Budget Reserve to the FY11 Police Department Personnel Budget.

Please note, upon the certification of free cash in the fall, I will submit a docket item to replenish the Budget Reserve Account by the \$95,000.

Thank you for your consideration of this matter.

Very truly yours,


Setti D. Warren
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE



Jim

City of Newton, Massachusetts
Office of the Mayor

#227-10

Telephone
(617) 796-1100

Facsimile
(617) 796-1113

TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov

SETTI D. WARREN
MAYOR

August 2, 2010

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

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to transfer the amount of \$1,325,727 from Wage Reserve and \$145,000 from Anticipated FY10 Free Cash to the FY11 Police Department Personnel Budget, in order to meet the retroactive obligation of the City of Newton under the Joint Labor Management Committee's settlement decision regarding the Newton Patrol Officers.

The entire retroactive and current year amount due to the Patrol Officers totals \$1,994,000. Funds are available in Wage Reserve totaling \$1,325,727 and the FY2011 Police Department Budget of \$525,000, leaving a shortfall in the amount of approximately \$145,000.

A copy of the decision is attached.

Thank you for your consideration of this matter.

Very truly yours,

Setti D. Warren
Mayor

10 AUG 02 PM 5:00
CITY CLERK
NEWTON, MA, 02159

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

July 1, 2006 - June 30, 2009 (FY 2007 to 2009) Police arbitration award:

Retroactive payroll liability - thru June 30, 2010	\$	1,380,097
July 1, 2010 - June 30, 2011		613,903
Projected contract cost	\$	<u>1,994,000</u>

FY 2010 municipal wage reserve-continued from FY 2010 {1}	\$	881,022
FY 2010 police department salary reserve - continued from FY 2010 {2}		497,331
FY 2011 police department salary reserve {3}		525,000
Projected supplemental 2011 supplemental appropriation		90,647
Projected contract funding	\$	<u>1,994,000</u>

{1} *Intended for July 1, 2006 - June 30, 2009 retro pay obligations*

{2} *FY 2010 police salaries were budgeted at June 30, 2006 pay rates.
This line item in the 2010 police budget was intended to adjust
pay rates to June 30, 2009 levels (assuming pattern settlement)*

{3} *FY 2011 police salaries were budgeted at June 30, 2006 pay rates.
This line item in the 2011 police budget was intended to adjust
pay rates to June 30, 2009 levels (assuming pattern settlement)*

**Commonwealth of Massachusetts
Joint Labor-Management Committee for Police and Fire**

In the matter of the arbitration between:

NEWTON POLICE ASSOCIATION

- and -

JLMC -9-23P

CITY OF NEWTON, MASSACHUSETTS

DECISION AND AWARD

For the Union

Alan J. McDonald, Esquire
Jason R. Powalisz, Esquire
John Daly, President

For the City

Keith McCown, Esquire
Matthew Cummings, Chief of Police
Delores Hamilton, Human Resources

I. Background

This case was heard before a tripartite interest arbitration panel pursuant to an order of the Joint Labor-Management Committee for Municipal Police and Fire to resolve a collective bargaining impasse between the parties. A hearing was held on February 8, 2010, at which the parties presented several dozen exhibits and following which they submitted extensive briefs.¹ The arbitration panel met on June 1 and reached agreement on an award.

In dispute are terms and conditions for the parties' collective bargaining agreement for the period July 1 2006 – June 30, 2009. Their previous contract was the product of successful negotiations.

The City of Newton is an affluent, largely middle class suburb of Boston. The Union's statistical data reflect that Newton ranks high in family income and property values among American cities with population over 75,000. While the Union's evidence emphasizes Newton's relative wealth, the City's evidence emphasizes its efforts to maintain fiscal balance during this period of economic distress. Both parties are right: Newton is an affluent city, but it is also a city that faces significant fiscal challenges in common with other communities in Massachusetts. Two citizens groups have concluded that the City and its

¹ In the opinion of the Chairman of this arbitration panel, who has heard several thousand arbitration cases, the parties' post-hearing briefs in this case were extraordinary, among the best he has seen.

schools face an overall budget deficit of \$9-10 million in FY 2011. And its non-wage benefits, especially health insurance costs (increasing at a rate of 1% to 1½% annually) are rising rapidly.

Although there are half a dozen issues in dispute, the main dispute concerns wages. And at the heart of the wage dispute is sharp disagreement over the relative importance that should attach to "the pattern." The Union, which represents 90 patrol officers, seeks wage gains that would exceed the "pattern" negotiated by the City with its other labor organizations, notably the firefighters' union.

The following specific issues are in dispute:

1. Wages for 2006-2009
2. Night shift differentials
3. Longevity differentials
4. Conversion of differentials from cash to percentages.
5. A weapons stipend.
6. Conversion of the weekly payroll to bi-weekly.

Our decision is governed by MGL c. 150E, sec. 4(A) and sub. sec. 3(a).

The guiding criteria of the statute are ability of the municipality to pay, the public

interest, hazards and other conditions and qualifications of employment, internal and external comparability considerations, overall compensation, changes in the cost of living and other relevant factors.

II. The Parties' Wage Proposals

The City proposes a general wage increase of 8% spread over three years. Its proposal is based on "the pattern" either agreed to in bargaining or awarded in arbitration to other Newton unions:

July 1, 2006 -- 2%

July 1, 2007 -- 2%

Jan. 1, 2008 -- 1%

July 1, 2008 -- 2%

Jan. 1, 2009 -- 1%

This 8% across-the-boards pattern was awarded in 2008 by an interest arbitration panel chaired by Arbitrator Gary Altman involving the firefighters union. JLMC 06-19F. It has also been agreed to by these other unions in negotiations with the City: Police Superior Officers; City Hall Associates; DPW Foremen; Traffic Supervisors; DPW Engineers; Newton Teachers Association and School Nurses. (A more complicated settlement was reached with the Newton Municipal Employees Association that the City characterizes as "cost

neutral," a characterization that the Union disputes.)

In reality, this 8% pattern does not fully portray increases granted to these other bargaining units for the reason that their separate agreements contain a variety of special economic and non-economic benefits that represent value to employees and added cost to the City that exceed 8%. These include such benefits as clothing allowances, longevity and training bonuses. Measuring the value and cost of these benefits would require a complex econometric analysis that is not possible on the record before us.

The Union proposes these general wage increases:

July 1, 2006 -- 2%

July 1, 2007 -- 2%

Jan. 1, 2008 -- 1%

Additionally, the Union proposes to revise the current four-step wage system by adding three additional steps, creating a seven-step system. The Union maintains that under its proposal no officer would receive a total salary increase greater than 8.2% over the three-year period in question. The Union proposes this weekly salary schedule as of July 1, 2008:

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
\$833	\$906	\$968	\$987	\$1,002	\$1,017	\$1,033

To implement this proposed new step schedule, the Union proposes that any officer who has been on Step 4 for more than one year as of June 30, 2008 would move to Step 5 on July 1, 2008, and would move to the next step a year later.

In the event the arbitration panel declines to award its proposed increase of three steps, the Union proposes these contract changes:

Night Differential: The parties' expired contract provided for a night shift differential of 7% of an officer's base salary. The Union proposes to increase the night shift differential to 8% in FY '08 and to 9% in FY '09.

Longevity Differential: The parties' expired contract provides these longevity pay stipends: \$450 between 10 - 14 years; \$650, between 17 - 19 years; \$975 between 20 - 24 years; and \$1,075 over 25 years. The Union proposes converting these cash stipends to percentages and added to base salary as follows: 1.2% of base salary for 10 - 14 years; 2% of base salary between 15 - 19 years; 3% of base salary between 20 - 24 years; and 6% of

base salary after 25 years. The effect of this conversion would permit inclusion of the longevity differential in an officer's salary for retirement calculation purposes, offsetting a recent regulation by PERAC, the State retirement agency, that excludes longevity bonuses from pension calculations.

Percentage Conversions: The Union proposes converting the expired contract's defibrillator stipend and technology and training differentials to percentage payments based on the corresponding percentage of Step 4 of base salary.

Fire Arms Differential: The Union proposes a new benefit -- a firearms differential of 1% to be added to base pay.

III. Wage Award

The City's wage proposal is an 8% base salary increase for officers over the three-year life of the contract, 2006-2006, consistent with the pattern established with other unions in Newton. The Union's wage proposal would add three new steps to the patrol officers' current four-step system.

In support of its wage proposal, the City argues that the pattern has been

well established and that departing from it would cause chaos in the City's labor relations by encouraging its other unions to seek catch-up increases to break the pattern. In essence, the City's main argument is that factors of "internal comparability" – *i.e.*, comparisons with other bargaining units in Newton – favor its proposal.

The Union, by contrast, relies, in part, on wage data involving other communities in support of its wage proposal -- external comparability.

Under the statute, as well as practice and experience in the field of interest arbitration, both internal and external comparisons are important.

Police and fire departments, the uniformed services, historically have been closely linked in municipal labor relations because their work is directly related to public safety. Both groups perform essential and dangerous work. There is, however, some rivalry between them as to whose work is harder or more dangerous. In this case, the Union argues that police work is more demanding. Both groups deserve great respect because they safeguard public safety in circumstances that are sometimes very dangerous. We decline to enter into the fruitless debate over which group's risks and job demands are greater.

External comparisons among communities are difficult to make, notably because no two communities are entirely alike. The Union emphasizes external comparisons and has selected ten Eastern Massachusetts communities with populations in excess of 50,000 for comparison to Newton. Of these, Newton would rank fourth behind Boston, Somerville and Cambridge under either the City's or the Union's wage proposals. In 2009, the top step for day patrol officers in Boston was \$68,176, in Somerville was \$64,286 and in Cambridge was \$63,704, whereas under the Union's proposal Newton day patrolmen would receive only \$59,305 and under the City's proposal they would receive \$57,380. But day patrol officers in 2009 in the six other communities received less than Newton day patrolmen would receive for 2009 under either the Union's or the City's proposals: Medford - \$55,988, Brookline - \$54,709, Malden - \$53,989, Quincy - \$53,735, Waltham - \$53,231 and Revere \$50,204.²

The Union is quite right that the pattern in Newton is not controlling. Depending on the circumstances, a pattern might be more or less persuasive. And it is also true, as the Union argues, that in the City's settlements with other unions it as agreed to stipends and other economic benefits that, as noted above, make it hard to make a nose-to-nose comparison. For example, traffic supervisors received the 8% pattern wage increase but also received a clothing

² See Union exhibit 20.

allowance, increased longevity pay and an ambulance transport benefit. But patrol officers in Newton also have a variety of special economic benefits that have been negotiated over the years.

We have great respect for the work of Newton's patrol officers. Every day they face real dangers and perform invaluable public safety duties. And, while under the Town's pattern proposal, they would not be paid as well as police in Boston, Cambridge and Somerville, they will be better paid than police in the six other communities in the Union's group of comparable communities.

We have given close attention to the Union's proposal to add three steps to the patrol officers' current schedule. That would make it more like the multi-step salary schedules of city hall clerks, public health nurses, engineers, workers' comp analysts and building inspectors. The Union makes appealing arguments for this added steps proposal. While it is true that some other groups of City employees enjoy a multi-step wage scale with the potential for higher long-term earnings, it is also true that police officers, unlike other employees, have overtime and detail opportunities to enhance their earnings substantially. We are also mindful that the firefighters have only a three step salary system. Nor does the record show that any of the other communities in the Union' universe of ten comparable communities have a seven-step salary structure. We are not persuaded that this proposal should be imposed through interest arbitration. It

would be an important, structural change more properly addressed in face-to-face bargaining when the parties can study its long-term implications in depth. Furthermore, as the City emphasizes, the Union's seven-step proposal was presented only days before the arbitration hearing and did not benefit from extensive discussions at the bargaining table.

Weighing the evidence on the record, the equities, the precedents and the economic climate, the panel concludes that awarding the Town's wage proposal – the 8% pattern – is fair and appropriate. The panel does **not** award the Union's proposal to add three new steps to the patrol officers' salary schedule.

WAGE AWARD FOR 2006 - 2009

July 1, 2006 -- 2%

July 1, 2007 -- 2%

Jan. 1, 2008 -- 1%

July 1, 2008 -- 2%

Jan. 1, 2009 -- 1%

IV. Night Shift Differential Award

The Union seeks an increase in the night shift differential from 7% to 8% in FY 2008 and to 9% in FY 2009. It bases this proposal on a number of

considerations, including recent scientific studies showing the long-term, harmful effects of night work. Although we are unable to evaluate the scientific studies with confidence, they support the Union's position. We also appreciate that night shift assignments are inevitably harmful to an officer's personal life.

Comparative data from other communities do not offer much support for the Union's proposal for a 2% increase in the night shift differential. On the other hand, there is a striking inequity that school custodians receive a 10% night shift differential.

We are persuaded that there is merit in the Union's proposal for some increase. The panel awards an increase of 1% in the night shift differential in the final year of the contract – effective July 1, 2008.

NIGHT SHIFT DIFFERENTIAL AWARD

The night shift differential shall be increased by 1% from 7% to 8% in the final year of the contract effective July 1, 2008.

V. Longevity and Other Proposed Conversions.

The Union proposes to convert the contract's longevity payments from flat dollar amounts to percentages to be included in base salaries.

The Union's proposal to convert longevity payments from flat dollar amounts to percentages to be included in base wages is a reaction to a ruling by the PERAC to exclude such payments from retirement calculations, reducing the size of pensions and saving the City the cost of making higher, proportionate contributions to pensions. In order to circumvent the PERAC ruling, the Union proposes to increase base salaries by approximately the amount as the longevity payments as follows: 10 – 14 years, instead of \$550 cash payment annually, increase base salary by 1.2%; 15 – 19 years, instead of \$650 cash payment annually, increase base salary by 2%; 20 -24 years, instead of \$975 cash payment annually, increase base salary by 3%; 25 years or more, instead of \$1,075 cash payment annually, increase base salary by 6%. In exchange for this proposal, the Union agrees to waive its contract's Exceptional Service Recognition Plan (ESRP), a good attendance plan.

The City's objection to the longevity conversion to percentages is that no other City employees – including firefighters and police superiors -- enjoy that benefit and that it would increase proportionately over the years far in excess of the current flat rate. The City calculates that the cost of the conversion would be \$70,000 a year, whereas a fully subscribed ESRP would be under \$50,000 annually. Moreover, the ESRP rewards good attendance, whereas converting longevity pay to a percentage of base would not benefit the City with good attendance.

The Union proposes also to convert the annual defibrillator allowance of \$425 to .88% of fourth step base pay, to convert the technology differential of \$1,215 to 2.52% of step four base pay and to convert the training differential \$500 to 1.2% of base pay. The dollar equivalents would be the same. The City objects to these proposed conversions primarily on the ground that to grant them would break parity.

We have given this proposal close and sustained consideration. We are mindful of the PERAC's ruling which, in effect, reduces a retiree's benefits. We regard that as unfair. Although the question is not an easy one, we agree to convert longevity pay into a percentage to be added to base salary, *provided* that the dollar cost of doing so each year does not create added costs to the Town. We leave it to the parties to compute the conversion costs on a year by year basis that will not increase the dollar costs to the Town.

LONGEVITY CONVERSION AWARD

Longevity payments shall be converted to percentages of base salaries and added to base salaries, provided that the cost of doing so does not exceed the dollar amount of longevity payments. We leave to the parties the computation of that conversion each year. This conversion shall be effective in the final year of the contract on July 1, 2008.

VI. The Proposed Firearms Differential.

The Union proposes a firearms differential of 1% of base pay in

recognition of the unique dangers of police work. Of the ten communities in the Union's universe of comparables, all but Newton and Quincy have some form of weapons or hazardous duty stipend, ranging from \$250 in Brookline to 3.25% in Boston. Additionally, the Union contends that a 1% firearms differential would help it achieve parity with the Superior Officers \$500 training stipend.

The City objects to this proposal on the ground that it is in reality an unwarranted 1% base pay increase. It would break parity with other employee groups, especially the firefighters. As for the \$500 training stipend received by Superior Officers, the City contends that that benefit was granted to the Superiors as a catch up with the patrol officers \$500 training stipend in the 2004 - 2006 contract.

In the absence of more compelling evidence of a need for a firearms differential, we decline to award it. It should be dealt with at the bargaining table in the context of an overall review of stipends and special benefits. The panel does **not** award this proposal.

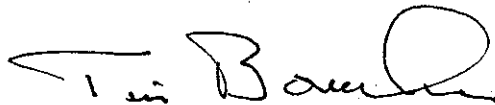
VII. Conversion to Bi-Weekly Payroll.

The City proposes, as a matter of administrative efficiency, to convert its

payroll to a semi-monthly or bi-weekly payroll system. It maintains that such change would reduce the workload in the Treasurer's Office. Although Newton teachers have agreed to this change, only the DPW foremen have agreed to it among municipal employees.

The Union objects on several grounds, including that it has not been justified by objective evidence and not reviewed fully in bargaining.

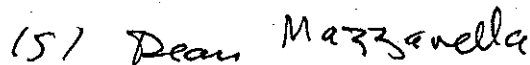
Because this proposal is supported by little evidence, the panel does not award this proposal.



Tim Bornstein, Impartial Chairman



Paul J. Birks,
Union Panel Member



Dean J. Mazarella
Management Panel Member

July 13, 2010

BOARD OF ALDERMEN

CITY OF NEWTON

DOCKET REQUEST FORM

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

To: Clerk of the Board of Aldermen

Date: 23 August 2010

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

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

617.796.1144

CITY CLERK
NEWTON, MA 02459

10 AUG 23 P 3:21

Additional sponsors:

From: CPA GENERAL RESERVE
21110498-J790

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

To: 20 ROGERS LAND ACQ.
21111409-J810

The COMMUNITY PRESERVATION COMMITTEE recommending that the sum of \$452,000 be appropriated from the fiscal 2011 general reserve of the Community Preservation Fund and expended under the direction and control of the Director of Planning and Development, to satisfy a court judgment adjusting the price paid in 2007 for 20 Rogers Street as an addition to public recreation land at Crystal Lake.

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

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

3. I recommend that this item be assigned to the following committees:

- | | | |
|---|---|--|
| <input type="checkbox"/> Programs & Services | <input checked="" type="checkbox"/> Finance | <input type="checkbox"/> Real Property |
| <input type="checkbox"/> Zoning & Planning | <input type="checkbox"/> Public Safety | <input type="checkbox"/> Special Committee |
| <input type="checkbox"/> Public Facilities | <input type="checkbox"/> Land Use | <input type="checkbox"/> No Opinion |
| <input type="checkbox"/> Post Audit & Oversight | | |
| <input checked="" type="checkbox"/> Committee on Community Preservation | | |

To minimize accruing interest costs, the CPC hopes these two Committees will consider meeting jointly on this item.

4. This item should be taken up in committee:

- Immediately (Emergency only, please). Please state nature of emergency: _____
- As soon as possible, preferably within a month
- In due course, at discretion of Committee Chair
- When certain materials are made available, as noted in 7 & 8 below
- Following public hearing

PLEASE FILL OUT REVERSE SIDE

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

- One half hour or less
- More than one hour
- More than one meeting
- Up to one hour
- An entire meeting
- Extended deliberation by subcommittee

6. The following people should be notified and asked to attend deliberations on this item. (Please check those with whom you have already discussed the issue, especially relevant Department Heads):

City personnel

Alice Ingerson, CP Program Manager, x1144.
aingerson@newtonma.gov

Donnalyn Kahn or Angela Smagula, Law Dept., x1240
Bob DeRubeis, 617.695.1500, bderubeis@newtonma.gov

Citizens (include telephone numbers/email please)

Community Preservation Committee, designated members (via Alice Ingerson)

7. The following background materials and/or drafts should be obtained or prepared by the Clerk's office prior to scheduling this item for discussion *:

8. I have or intend to provide additional materials and/or undertake the following research independently prior to scheduling the item for discussion. *

Funding recommendation from the Community Preservation Committee and supplemental funding request from Mayor Warren.

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

Please check the following:

9. I would like to discuss this item with the Chairman before any decision is made on how and when to proceed.

10. I would like the Clerk's office to contact me to confirm that this item has been docketed, and inform me of the docket item number.

Email contact preferred: aingerson@newtonma.gov

My daytime phone number is: 617.796.1144

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

Thank you.

Alice E. Ingerson

Signature of person docketing the item

[Please retain a copy for your own records]

City of Newton



City of Newton, Massachusetts Community Preservation Committee



DOCKET ITEM NO.

Setti D. Warren
Mayor

FUNDING RECOMMENDATION

DATE: 20 August 2010

TO: The Honorable Board of Aldermen

FROM: Community Preservation Committee

RE: recommended supplemental Community Preservation funding for
20 ROGERS STREET (Crystal Lake)

10 AUG 23 10 21
 CITY CLERK
 NEWTON, MA 02459

In May 2007 the City of Newton acquired 20 Rogers Street by eminent domain as recreation land, using community preservation funds. The purchase price of \$2.3 million was based on an independent appraisal. The Board of Aldermen authorized 10-year debt financing of this purchase (see attachments).

In June 2010 a jury determined that the fair market value of the property was \$2,720,000. In the attached letter, the Mayor has requested supplemental funding of \$452,000 to cover the costs of this court-ordered adjustment, plus the anticipated interest that would accrue to December 2010.

On 19 August 2010, the Community Preservation Committee voted 5-0 to recommend this supplemental funding. The CPC further recommends

- ◆ drawing these funds directly from the Community Preservation Fund's general reserve for fiscal 2011, to avoid the additional costs involved in debt financing (attached tables summarize currently available funds and principal + interest on original debt financing)
- ◆ allocating this appropriation 100% to recreation land, among the allowable uses of community preservation funds (as was prior funding for this acquisition)

The Committee regrets the need for this additional funding. However, all members participating in the August 2010 vote agreed that this acquisition has provided invaluable community benefits. Several members noted that they would have supported the now-contemplated total cost of this acquisition in 2007, if that total had been requested initially and supported by an appraisal.

Finally, all members expressed the hope that the Board will act on this recommendation as quickly as possible, to minimize accrued interest costs. If funds are appropriated more quickly than the Mayor anticipates, he will return any unspent amount to the Community Preservation Fund, so it can be used for other projects.

ATTACHMENTS

	<u>page</u>
◆ supplemental funding request from Mayor Setti Warren	2
◆ resources available in Newton's Community Preservation Fund as of 9 August 2010	3
◆ scheduled debt service for 20 Rogers Street	4
◆ Community Preservation Program web page for Crystal Lake (all projects)	5



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

Telephone
(617) 796-1100

Facsimile
(617) 796-1113

TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov

To: Community Preservation Committee
From: Mayor Setti D. Warren
Re: Supplemental Request for CPC Funding
20 Rogers Street, Newton
Date: July 26, 2010

10 AUG 23 P 3:21
CITY CLERK
NEWTON, MA 02459

The City of Newton took property at 20 Rogers Street in Newton (adjacent to the Crystal Lake bathhouse), by eminent domain for recreational purposes, in May 2007. The City had the property appraised and determined the fair market value to be \$2,300,000 at the time of the taking. The cost of this acquisition was covered by the Community Preservation Fund.

The prior owner of 20 Rogers Street, Patrick Hannon, sued the City in Superior Court and initially claimed that the fair market value of the property was between \$4,000,000 and \$5,000,000. A six-day jury trial in June 2010 determined the fair market value of property to be \$2,720,000.

The difference between the City's acquisition price of \$2,300,000 and the fair market value as determined by the jury is \$420,000. The amount owing with interest as of June 25, 2010 was \$451,164.94. Interest, however, is accruing from June 25, 2010 at a rate of approximately \$4.49 per day.

I am therefore requesting a supplemental appropriation of \$452,000, enough to cover principal and accrued interest if the CPC recommends this funding, and the Board of Aldermen votes to implement that recommendation, by early December 2010. If funds are appropriated more quickly than this, any difference between this request and the City's actual costs will of course be returned to the Community Preservation Fund.

The wisdom and community benefits of this acquisition have been proven many times over since 2007. I hope you will act promptly to recommend this necessary additional investment in Crystal Lake, one of our Garden City's most cherished special places and one that serves our entire population.

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

Contact: Alice E. Ingerson, Program Manager, aingerson@newtonma.gov, 617.796.1144

<i>updated 9 August 2010, A. Ingerson</i>	
City of Newton, Massachusetts	Fiscal 2011
COMMUNITY PRESERVATION FUND	<i>state match as budgeted, not yet confirmed</i>
REVENUE	
local CPA surcharge	\$2,353,480
state matching funds	\$681,605
additional local revenue:	
fund balance <i>(not budgeted, but available when calculated & forwarded from previous year)</i>	\$2,285,442
bonds	
interest	\$54,000
other - tax liens	
other - funds returned from completed or canceled projects	
TOTAL REVENUE	\$5,374,527
EXPENDITURES	
PROGRAM ADMINISTRATION & DEBT SERVICE	
program administration	(\$146,418)
debt service for Angino Farm <i>(final payment in fiscal 2010)</i>	\$0
debt service for Kessler Woods <i>(final payment in fiscal 2014)</i>	(\$555,750)
debt service for 20 Rogers St. <i>(final payment in fiscal 2017)</i>	(\$327,038)
TOTAL Program Administration & Debt Service	(\$1,029,206)
AVAILABLE FUNDS after program administration + debt service	\$4,345,321
CPC RECOMMENDATIONS PENDING with Board of Aldermen	
20 Rogers Street - Supplemental	(\$452,000)
Museum Archives <i>(remaining funds from 2008 recommendation, held in Finance Committee)</i>	(\$321,900)
TOTAL Recommendations Pending	(\$773,900)
AVAILABLE FUNDS with pending recommendations were added in full	\$3,571,421

last updated 29 January 2009, A. Ingerson

City of Newton, Massachusetts						
DEBT-FINANCED COMMUNITY PRESERVATION PROJECTS						
Project Title	Individual Board Orders	Date(s) of Board Orders	Total Appropriated by Individual Board Orders	Debt Authorized	Total Principal + Interest	TOTAL PROJECT COST
20 Rogers St. (Crystal Lake)	88-07, 88-07(2), 88-07(3)	5/21/2007	\$2,334,500	\$2,300,000	\$2,793,213	\$2,827,713

DEBT SERVICE SCHEDULES										
fy08	fy09	fy10	fy11	fy12	fy13	fy14	fy15	fy16	fy17	fy18
\$48,869	\$352,538	\$337,238	\$327,038	\$317,156	\$306,000	\$293,250	\$281,000	\$269,844	\$260,281	paid off

NOTES

- Individual Board orders for this project included appropriations for an independent appraisal and legal work as well as the purchase itself.
- This purchase was financed through bond anticipation notes in the spring of 2007 (fiscal 2007), which were retired through the sale of regular 10-year bonds in the fall of 2007 (fiscal 2008).

webpage: www.newtonma.gov/cpa/crystal-lake/crystal-lake.htm

Newton, Massachusetts Community Preservation Program >> Proposals & Projects

Crystal Lake

location: Lake Avenue, Newton Centre, MA 02459
 & Rogers Street, Newton Highlands, MA 02461

goals: Expand public parkland and the public swimming area along the southwestern shore of Crystal Lake, through strategic land acquisitions.

total funding: \$3,219,500 *CP funds appropriated (historic resources, open space, recreation) including \$40,000 for City of Newton legal services*
 \$452,000 *CP funds requested (recreation)*

total projects: 2 (listed below in reverse chronological order)

contacts: City Solicitor
 Newton City Hall
 1000 Commonwealth Avenue
 Newton Centre, MA 02459
email: dkahn@newtonma.gov and asmagula@newtonma.gov
phone: 617.796.1240

Commissioner of Parks & Recreation
 City of Newton
 70 Crescent Street
 Auburndale, MA 02466
email: bderubeis@newtonma.gov and cschein@newtonma.gov
phone: 617.796.1500

Public Buildings Commissioner
 City of Newton
 52 Elliot Street
 Newton Upper Falls, MA 02464
email: acabrall@newtonma.gov
phone: 617.796.1602

June 2006 Crystal Lake history walk/slide show
 9 January 2008 community fundraising plans for Crystal Lake

continued

Crystal Lake 20 Rogers Street	
<i>location:</i>	20 Rogers Street Newton Highlands, MA 02461
<i>goals:</i>	Acquire this property, adjacent to the City's existing swimming facilities at Crystal Lake, for recreational purposes.
<i>funding:</i>	\$2,334,500 CP funds appropriated (recreation) including \$30,000 for City of Newton legal services
	\$452,000 CP funds requested (recreation)
PROPOSAL REVIEW & APPROPRIATIONS	
December 2006	<u>proposal</u>
8 December 2006	<u>appraisal (long file, will take time to load)</u>
January-March 2008	<u>letters of support</u>
13 March 2007	<u>CPC funding recommendation</u>
7 and 21 May 2007	<u>Board orders (appropriation)</u>
28 August 2007	<u>non-CPA funds used for demolition</u>
25 July 2010	<u>supplemental funding request</u>
August 2010	CPC funding recommendation

continued

Crystal Lake 230 Lake Avenue											
<i>location:</i>	230 Lake Avenue Newton Centre, MA 02459										
<i>goals:</i>	Acquire restrictions on or subdivisions of this property, between Levingston Cove and the city parkland and swimming facilities at Crystal Lake, for community recreation, open space, and historic preservation purposes.										
<i>funding:</i>	<table> <tr> <td style="text-align: right;">\$885,000</td> <td>CP funds appropriated</td> </tr> <tr> <td></td> <td>including \$10,000 for City of Newton legal services</td> </tr> <tr> <td style="text-align: right;">\$85,000</td> <td>historic resources</td> </tr> <tr> <td style="text-align: right;">\$134,064</td> <td>open space</td> </tr> <tr> <td style="text-align: right;">\$662,436</td> <td>recreation</td> </tr> </table>	\$885,000	CP funds appropriated		including \$10,000 for City of Newton legal services	\$85,000	historic resources	\$134,064	open space	\$662,436	recreation
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\$85,000	historic resources										
\$134,064	open space										
\$662,436	recreation										
PROPOSAL REVIEW & APPROPRIATIONS											
18 September 2007	<u>proposal</u>										
14 November 2007	<u>CPC funding recommendation</u>										
12 February 2008	revised <u>proposal</u>										
20 February 2008	revised <u>CPC funding recommendation</u>										
November 2008	<u>CPC recommendation for revised funding mechanism</u>										
April & November 2008	<u>Board orders (appropriation)</u>										
PROJECT NEWS											
9 January 2008	<u>historical background information</u>										

CONTACT	
Alice E. Ingerson, Ph.D., Community Preservation Program Manager Newton Planning & Development Department City Hall, 1000 Commonwealth Ave., Newton, MA 02459 phone 617.796.1144, email aingerson@newtonma.gov , TDD/TTY 617.796.1089	