

CITY OF NEWTON  
IN BOARD OF ALDERMEN  
FINANCE COMMITTEE REPORT

MONDAY, JUNE 8, 2009

Present: Ald. Coletti (Chair), Salvucci, Parker, Schnipper, Johnson, Freedman

Absent: Ald. Lennon and Gentile

City Staff: Chief Joseph LaCroix (Newton Fire Department), Chief Matthew Cummings (Newton Police Department), Dolores Hamilton (Director of Human Resources), Josh Morse (HVAC Technician Public Buildings Department), Art Cabral (Budget & Project Specialist Public Buildings Department), Bob DeRubeis (Deputy Commissioner Parks & Recreation Department), Alice Ingerson (Community Preservation Program Manager), Brian Lever (Sr. Preservation Planner), Judy Jacobson (Community Preservation), Jeanne Strickland (Executive Director Newton Community Development Foundation) and John Daglian (Engineering Department)

Re-appointment by His Honor the Mayor

#116-09      MARIA BIANCHI ROSEN, 41 Aspen Avenue, Auburndale, re-appointed as a Constable for the City of Newton for a term to expire May 1, 2012.  
(60 days: 06/20/09) [04/13/09 @ 1:04 PM]

**ACTION:**      **APPROVED 5-0 (Ald. Freedman not voting)**

**NOTE:**      Ms. Rosen was not present this evening for her re-appointment as a Constable.

Ald. Coletti stated the Mayor has recommended Ms. Rosen's re-appointment as Constable in the City of Newton in a letter dated April 9, 2009. Ms. Bianchi has been a long-time resident and was previously appointed in 1995 to serve as a Constable in the City. Ms. Bianchi's expertise is typically serving eviction notices and other legal documents for the Newton Housing Authority.

Committee members expressed their concerns regarding the status of appointments of Constables in the City. Concerns raised were in regards to applicants who have requested serving as a Constable however has not heard from the Executive office. These concerns did not affect Ms. Bianchi's re-appointment.

Committee member received and reviewed copies of Ms. Rosen's CORI check, resume and \$5,000.00 surety bond. Based on the information received Ald. Parker made the motion for approval and the Committee voted in favor of 5-0 without debate.

**REFERRED TO PUB. SAFETY & TRANS. AND FINANCE COMMS**

#158-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend from Budget Reserve the sum of thirty one thousand one hundred seventeen dollars twenty cents (\$31,117.20) for the purpose of testing, clothing, and equipping eight new Fire Department recruits. [05/26/09 @ 5:52 PM]

**PUBLIC SAFETY & TRANSPORTATION APPROVED 6-0 (Ald. Harney and Vance not voting) on 06-03-09**

**ACTION: APPROVED 5-0 (Ald. Freedman not voting)**

**NOTE:** Chief LaCroix, Newton Fire Department joined the Committee for discussion on this item.

Chief LaCroix stated this appropriation of \$31,117.20 is to purchase clothing, bunking gear, training manuals, and the necessary equipment for eight new firefighter recruits scheduled to begin on July 6, 2009.

The approximate breakdown costs for the candidate are as follows: The initial clothing cost is approximately \$5,000.00, Fire suppression gear including facemasks, costs and other necessary gear that is required is approximately \$21,000.00. Approximately \$4,000 for their psychological testing which has been determined this year that trainees will undergo a psychiatric evaluation prior to being hired by the City.

Ald. Parker made the motion for approval and the Committee voted in favor of 5-0 without hesitation.

**REFERRED TO PUB SAF & TRANSPORTATION AND FINANCE COMMS.**

#117-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend eighty-eight thousand dollars (\$88,000) from Free Cash for the purpose of supplementing the Fire Department overtime account. [04/14/09 @ 5:33 PM]

**PUBLIC SAFETY APPROVED 6-0 on 5-20-09**

**ACTION: APPROVED 5-0 (Ald. Freedman not voting)**

**NOTE:** Chief LaCroix, Newton Fire Department once again joined the Committee for discussion on this item.

Chief LaCroix reviewed with Committee members a fire suppression overtime account memorandum that was attached to the agenda.

Chief LaCroix stated currently the Fire Department overtime account is in arrears and this amount will clear the deficit and be able to cover the projected overtime needs between now and the remainder of the fiscal year. The information provided showed that this year a total of \$701,546.00 in overtime funds was expended by the Fire Department. In May 2009, a deficit was made up by transferring from the administrators' salaries and fire suppression accounts leaving a \$25,654.00 deficit. The additional appropriation of \$88,000.00 will leave approximately a \$62,346.00 balance for the last remaining six weeks in the Fire Department overtime account.

Ald. Coletti stated Chief LaCroix's memorandum justifies this appropriation of \$88,000 therefore, making the motion for approval and the Committee voted in favor of 5-0 without debate.

#157-09 HIS HONOR THE MAYOR requesting acceptance of and authorization to expend a PSAP Training Grant in the amount of thirty-one thousand one hundred eleven dollars (\$31,111) to provide dispatch training, fees and overtime costs. [05/26/09 @ 5:53 PM]

**ACTION:** **APPROVED 5-0 (Ald. Freedman not voting)**

**NOTE:** Chief Cummings, Newton Police Department joined the Committee for discussion on this item.

Chief Cummings stated this grant is from the State and is renewable each year. Chief Cummings provided appropriate backup material, which was attached to the agenda justifying the funds, would be used for dispatcher training purposes including vendor fees, training overtime, backfill overtime, training, testing materials and membership fees for professional associations.

Committee members expressed their concerns and requested from Chief Cummings a budget be submitted from Captain Anastasia breaking out the various costs, costs for personnel and benefits and other related items stating the personnel hired under this grant are conditioned from year to year of the grant funding. It was the Committee members understanding if the grant funding is seized the position will not become a permanent position in the Police Department.

Ald. Johnson made the motion for approval and the Committee voted in favor of 5-0 pending receiving additional information from the Police Department.

Committee Clerk's Note: A FY10 State 911 Department Training Grant Worksheet was received from the Police Department on June 9, 2009. Attached to this report.

**REFERRED TO PUB. SAFETY & TRANS. AND FINANCE COMMS**

#159-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend from Budget Reserve the sum of fifty-five thousand dollars (\$55,000) for the purpose of supplementing the Police Department overtime account. [05/26/09 @ 5:52 PM]

**PUBLIC SAFETY & TRANSPORTATION APPROVED 5-0 (Ald. Ciccone, Harney and Vance not voting) on 06-03-09**

**ACTION:** **APPROVED 5-0 (Ald. Freedman not voting)**

**NOTE:** Chief Cummings, Newton Police Department once again joined the Committee for discussion on this item.

Chief Cummings stated ten positions were eliminated in the Police Department last year. Allowing the Police Department a small amount of funds, they could transfer into the overtime account. The Police Department anticipated running short in overtime funds this year and asks for additional appropriation of \$55,000.00 in order to cover overtime costs in the department.

Ald. Johnson made the motion for approval and the Committee voted in favor of 5-0 without debate.

#149-09      HONOR THE MAYOR requesting a transfer of twelve thousand dollars (\$12,000) from Unemployment in Human Resources to Legal Services and an additional four thousand dollars (\$4,000) from Unemployment to the Human Resources Consultants. These transfers will allow Human Resources to pay legal and consulting fees related to multiple pending arbitrations through FY09. [05-12-09 @ 5:02 PM]

*Note: A letter from His Honor the Mayor was received on 05/26/09 requesting to increase the transfer from Unemployment in Human Resources to legal and consulting in Human Resources from \$16,000 to \$25,000.*

**ACTION:**      **APPROVED 5-0 (Ald. Freedman not voting)**

**NOTE:**      Dolores Hamilton, Director Human Resources joined the Committee for discussion on this item.

Letters dated May 12, 2009 and May 26, 2009 were submitted as backup material from the Executive Office and attached to the agenda. A May 26, 2009 letter indicates a correction to increase this item from \$16,000.00 to \$25,000.00. These funds are being requested as a transfer from the unemployment account in the Human Resources Department to legal services account. Approximately \$21,000.00 is to cover legal services paying for arbitration hearings.

Committee members reviewed with Ms. Hamilton a FY09 Grievance and Arbitration Log filed by City employees from the past year through May 2009. Attached to this report.

Ms. Hamilton explained some concerns Committee members expressed at their last meeting relative to the cancellations of arbitration hearings on the morning of the hearing and the impact it has caused the City to pay the cost of the arbitrators. Arbitrators make approximately \$1,000.00 per day; stenographers make approximately \$2,000.00 per day. To pay the arbitrator the City shares this cost with the grieving union. When an arbitration meeting is cancelled, these funds are wasted even though not anticipated.

Ald. Coletti stated unfortunately, in Ms. Hamilton's explanations on this item she indicated the information requested by the City from the other party is usually not forthcoming until the day of the hearing. In most cases, when the City arrives at the arbitration hearing it is only because the City has not had any information prior to the hearing due to the strategy used by the various unions who file the grievances.

After Committee members reviewed the grievance and arbitration log they were made aware that the City does not typically cancel an arbitration hearing and in most cases, the hearings are in fact dismissed or cancelled neutrally by the union and the City.

Due to the large number of grievances that have been filed this year this additional appropriation of \$25,000.00 is necessary of which \$21,000.00 will be used for the hearings. Approximately \$4,000.00 is for consultant fees and the additional training in the Human Resources Department.

Ald. Coletti made the motion for approval and the Committee voted in favor of 5-0.

#128-09      HIS HONOR THE MAYOR requesting authorization to appropriate and expend from Budget Reserve the sum of ten thousand dollars (\$10,000) for the purpose of installing an additional heating coil in the air handler at the Senior Center.  
[04/28/09 @ 6:04 PM]

**ACTION:**      **APPROVED 6-0**

**NOTE:**      Josh Morse, HVAC Technician Public Buildings Department joined the Committee for discussion on this item.

Mr. Morse indicated this appropriation of \$10,000.00 is necessary in order to purchase the heating coil in the air handler for the modification to improve the overall air quality at the Senior Center.

Committee members asked Mr. Morse to provide them with advance notice in the future on a project and also made the suggestion to him to add this appropriation into the Public Building Department operating budget to pay for this project avoiding having Mr. Morse returning to the Committee for small amounts of funds necessary to make repairs to City buildings.

The committee was pleased that Mr. Morse would be working with the City's HVAC contractor to make this improvement and other improvements in City buildings. With that understanding, Ald. Johnson made the motion for approval and the Committee voted in favor of 6-0.

#### **REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

#36-08(2)      HIS HONOR THE MAYOR requesting to amend docket item #36-08 by appropriating an additional one hundred nine-thousand six hundred twenty-seven dollars (\$109,627) from Budget Reserve for the fuel tank replacements at the Elliot Street DPW yard. [04/28/09 @ 6:02 PM]

**PUBLIC FACILITIES APPROVED 5-0-2 (Gentile and Lennon abstaining)  
on 5-20-09**

**ACTION:**      **HELD 6-0**

**NOTE:**      Art Cabral, Budget & Project Specialist Public Buildings Department joined the Committee for discussion on this item.

Mr. Cabral reviewed with Committee members an analysis on what has taken place at the Elliot Street DPW yard. The analysis showed the removal of the underground 10,000-gallon fuel tanks, installation of two above ground tanks (with a canopy over the fuel distribution pumps in order to protect them in the winter months), the pump island, appropriate piping and equipment necessary to handle the fueling of all the trucks in the Public Works fleet.

This week, the City's private contractor removed the tanks. Unfortunately, as part of the renovation of the yard employees in charge of operations also decided to excavate a significant portion of the yard diverting funds from the actual installation. Funds were diverted and used for

other work to be performed on the site. Public Works Department now wants to divert over \$80,000.00 of this additional \$109,627.00 to resurface a large area of the Public Works yard.

Ald. Coletti stated that Committee members expressed their concerns that the Public Works Department is not keeping with the original proposal requiring these funds to be used to properly install the fuel tanks in the island and the pump dispensing equipment. After the tanks were to be removed, a very small portion of the funds was to be used where the tank pad once existed. There seems to be an abuse of the process and the program that was instituted by the Board for the renovation of the tanks and the installation of the new tanks. Committee members decided they were not prepared at this time to allow the Public Works Department approximately \$80,000.00 of this money to be used for paving when the Public Works employees are completing the work in-house. Ald. Coletti indicated this should have been part of the funding associated with a different project from a prior time.

Ald. Coletti made the suggestion to Mr. Cabral for him to ask the Public Works Department and Mr. Tachi, foreman/supervisor of the Elliot Street yard to attend a Committee meeting making a proposal to members on what exactly is going to be done in terms of completing this necessary project at the Elliot Street yard. Members would also like to receive information on the additional program that is being proposed for Craft Street, which will cost more than hundreds of thousands of dollars in work. At this time there appears to be no plan for the Public Works Department to present to the Board. As a result, Committee members do not intend to approve appropriations for the salt and sand sheds or for the additional surfacing of the Elliot Street yard until the persons responsible for this work attend a Committee meeting and address the concerns of the Committee members.

Ald. Salvucci made the motion to hold this item and the Committee voted in favor of 6-0.

#154-09      HIS HONOR THE MAYOR requesting authorization to appropriate and expend the sum of fifteen thousand dollars (\$15,000) from the Commonwealth Golf Course Mayor's Golf Day Receipts Reserved for Appropriation Fund to the Parks and Recreation Revolving Fund for the purpose of funding scholarships for youth attending Parks and Recreation camp programs. [05-29-09 @ 12:33 PM

**ACTION:**      **APPROVED 6-0**

**NOTE:**      Bob DeRubeis, Deputy Commissioner Parks & Recreation Department joined the Committee for discussion on this item.

Mr. DeRubeis explained to Committee members that there are approximately fifteen days per year in which the City uses the Commonwealth Golf Course for various outings in which the City raises funds to support various Parks & Recreation activities. The Commonwealth Golf Course is owned by the City although a private company manages it.

This year, the Mayor is requesting that the proceeds of \$15,000.00 from Mayor's Golf Day be authorized to be appropriated into a special revolving fund that will be used to assist in the funding of scholarships for youth attending camp programs during the summer.

Committee members were pleased these funds were being raised to help the children and therefore, Ald. Johnson made the motion for approval and the Committee voted in favor of 6-0.

#343-08(2) HIS HONOR THE MAYOR requesting a RESOLUTION from the Board of Aldermen pursuant to a letter from the Mayor dated July 3, 2001 relative to setting a fee of \$50 per trench under the new Trench Excavation Safety Permit requirements of the Commonwealth and ordinance Z-33, dated November 3, 2008. [4/28/09 @ 6:03 pm]

**ACTION:** **APPROVED 5-1 (Ald. Parker abstaining)**

**NOTE:** John Daglian, Engineering Department joined the Committee for discussion on this item.

Ald. Coletti stated last year, the City decided to enact a fee for the opening of trenches throughout the City on both public and private property.

Mr. Daglian stated the City has two engineering inspectors available in order to utilize the trench excavation safety permit requirements under Chapter 5-20 of the State Law. Under this law, the Public Works Commissioner has the authority to set a fee for the issuance of these permits. When the City adopted Chapter 40, Sec. 22F, the Public Works Commissioner stated that the City would institute accepting a fee in order to attempt recovering the costs for reviewing trench work being completed.

Attached to the agenda was a letter dated April 15, 2009 from Thomas Daley, Commissioner of Public Works regarding the Trench Excavation Safety Permit Fee. Attached to this report. Mr. Daley's letter explains how the program will be administered and the option of being able to pull an emergency permit in the event a trench needs to be opened on a weekend. Committee members understood this requirement and are aware of the need to control both the frequency and safety of trenches that are dug throughout the City. Sometimes trenches are left open for large periods and are unsafe and in fact, young children can fall in and suffocate.

Committee members also reviewed the state law Chapter 40-Section 22 F and agreed to vote at this time a fee of \$50.00 per trench under the safety permit requirements to be monitored by the Engineering Department. Attached to this report.

Ald. Schnipper made the motion for approval and the Committee voted in favor of 5-1, Ald. Parker abstaining.

**REFERRED TO CMTE ON COMM. PRES & FINANCE COMMITTEE**

#132-09 THE COMMUNITY PRESERVATION COMMITTEE recommending that one million eighty-two thousand five hundred dollars (\$1,082,500) be appropriated and expended from the Community Preservation Fund's historic and general reserves for the preservation and rehabilitation of Warren House. [04/27/09 @ 9:04 AM]

**COMMUNITY PRESERVATION APPROVED 7-0 on 05-26-09**

**ACTION:** **APPROVED 6-0**

**NOTE:** Alice Ingerson, Community Preservation Program Manager; Brian Lever, Sr. Preservation Planner; Judy Jacobson, Community Preservation Committee and Jeanne Strickland, Executive Director Newton Community Development Foundation joined the Committee for discussion on this item.

Ms. Strickland provided Committee members with an email from David Wilkinson, Comptroller dated May 12, 2009 regarding Warren House financial reports. Attached to this report.

In 1992, the Warren House was converted into housing units. There are fifty-nine apartments in the building; twenty-one are affordable housing units and thirty-eight are at market rate. The Newton Community Development Foundation (NCDF) manages the Warren House.

Committee members reviewed the provided material attached to the agenda on this project indicating the project is to accomplish phase 1. Ald. Coletti stated this appropriation is for the preservation and rehabilitation project of the Warren House.

The City holds a sixty-five year ground lease and a special permit agreement with the owner operator of the NCDF to rent space to a day care center serving twenty-five children. The NCDF also maintains eighty-two parking spaces and assists in the maintenance of the parking spaces for the recreation fields and tennis courts.

The NCDF pay taxes on the rents received at the Warren House with a schedule of lease payments to the City over the life of the lease as well as the funds that are necessary to maintain and upgrade the Warren House. Unfortunately, to date the NCDF only cover costs each year since they have been in operation. At this time, the NCDF needs to arrange the refinancing with Mass Housing. In the meantime, there are architectural improvements necessary to the roof and the structure above the roofline in order to keep moisture from entering.

Ald. Coletti stated it is very clear that phase 2 will be handled in a refinance project that will be completed in the next few years. The Community Preservation Committee is not intending to return to the Finance Committee asking for additional City funds to accomplish phase 2.

Ald. Coletti indicated the City is proposing to give this additional funding to assist in the historical renovation and preservation of the Warren House. Twenty-one affordable housing units request at this time that the NCDF extend the affordability of these units for a full term of the ground lease in order to maintain and plan that these units will always be made available to low and moderate income people. Ms. Strickland informed committee members that the owners of the Warren House plan to agree to this proposal.

Committee members did not review the preservation and rehabilitation scope of work and estimates that were reviewed by the Community Preservation sub-committee. Committee members listened to several residents who offered testimony to them on the quality and housing provided by the Warren House. These residents stated they truly enjoy being residents and are looking forward to improvements being made at the Warren House.

Ald. Coletti made the motion for approval and the Committee voted in favor of 6-0.



**REFERRED TO CMTE ON COMMUNITY PRES. AND FINANCE COMMITTEE**

#91-09 COMMUNITY PRESERVATION COMMITTEE requesting to appropriate and expend \$37,750, including \$750 for legal costs, from the FY09 Community Preservation Fund's historic resources and general reserves, to survey undocumented archaeological resources throughout the City including a ground-penetrating radar survey of the East Parish Burying Ground, and produce a report of the findings. [03/06/09 @ 2:20 PM]  
**COMMUNITY PRESERVATION APPROVED (Ald. Parker abstaining; Ciccone not voting) on 5-26-09**

**ACTION: APPROVED 6-0**

**NOTE:** Alice Ingerson, Community Preservation Program Manager; Brian Lever, Sr. Preservation Planner; Judy Jacobson, Community Preservation Committee and Jeanne Strickland once again joined the Committee for discussion on this item.

Committee members were provided with Newton Pre-1820 Architectural Heritage and Archaeology Project Outline Phase 1 and 2. Attached to this report.

Committee members reviewed the project outline of Phases 1 and 2, which involve working with consultants who will work with the City's Sr. Preservation Planner, Brian Lever to conduct a citywide survey in order to identify areas of archaeological sensitivity. The consultants Mr. Lever will use ground-penetrating radar survey to ensure areas where fencing will eventually be installed are that they are not infringing in the burial ground area or penetrating into graves, which may extend beyond the property lines.

Once the survey is completed, a technical report will be provided to the Planning Department and the Historical Commission for their use and the report will be used to evaluate proposals on the protection of these resources. There will also be a public summary report of the findings for use by the Newton History Museum and the Newton Public Schools.

Committee members reviewed the following fees: Archaeological consultant fee of \$30,000.00, ground penetrating radar fee of \$5,000.00, the Planning staff program management fee of \$2,000.00 and the Law Departments allocation fee of \$750.00.

Committee members accepted the recommendation of the Community Preservation Committee sub-committee which approved the item therefore, Ald. Coletti made the motion for approval and the Committee voted in favor of 6-0.

#156-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend from Budget Reserve the sum of seventy-five thousand dollars (\$75,000) for the purpose of supplementing the Law Department Legal Assistance Account.  
[05/26/09 @ 5:52 PM]

**ACTION: APPROVED 6-0**

**NOTE:** Committee members reviewed a letter and legal assistance work sheet dated June 4, 2009 from City Solicitor, Daniel Funk. Attached to this report.

The provided material indicated the FY09 Law Department budget contained \$142,000.00 in its legal assistance account. Of that sum, \$120,000.00 was set aside and encumbered for the services of labor counsel, Morgan Brown and Joy. In addition, \$6,500.00 was set aside and encumbered for the services of Cable TV counsel, Epstein and August. The remaining \$15,500.00 was available for other outside counsel possibilities and or to supplement one or both of the existing outside counsel contracts.

As of December 31, 2008, the Law Department had expended \$88,287.00 on Morgan Brown and Joy and \$780.00 on Epstein and August.

As of April 2009 the Law Department expended the entire contractual encumbrance of \$120,000.00 for Morgan and Brown and Joy, but the City had received bills totaling an additional \$40,916.00. Although the Law Department has yet to be billed for the final two months of the fiscal year, Mr. Funk anticipates that these bills will likely total another \$50,000.00

Mr. Funks asked for this appropriation of \$75,000.00 anticipating with the remaining \$15,500.00 in the legal assistance account will be used to cover the payment of these additional costs for labor counsel.

Once backup material was received from the Law Department Ald. Coletti was satisfied and recommended that this item be approved therefore, Ald. Parker made the motion to approve this item, and the Committee voted in favor by a vote of 6-0.

At approximately, 9:50 pm Ald. Salvucci moved for adjournment, which was approved 6-0.

Respectfully submitted,

Paul E. Coletti, Chairman

#157-09

FISCAL YEAR 2010 STATE 911 DEPARTMENT TRAINING GRANT  
*Newton Police Department*

**FY 2010 BUDGET WORKSHEET**

CATEGORY	AMOUNT	NARRATIVE
A. FEES	\$ 8,111.00	Instructor vendor fees for various SETB approved training courses, EMD certification fees, APCO & NENA membership fees.
B 1. Personnel Costs: Training Participants	\$ 15,000.00	Overtime costs to send 22 staff to various SETB approved training courses, Dispatch Academy attendance costs for any new hires.
B 2. Personnel Costs: Replacement	\$ 9,000.00	Replacement (back-fill) for on-duty staff to attend various SETB approved training courses.
B 3. Fringe and/or Indirect Costs associated with Personnel	\$ 0.00	
C. Training Software and Other Products	\$ 1,000.00	Various training software, training materials, skill and ability testing software, new hire testing, books, QA guides
D. Lodging	\$ 0.00	
<b>TOTAL*</b>	<b>\$ 33,111.00</b>	

\*Total amount must exactly match amount requested on application page

09 JUN -9 AM 9:02  
CITY CLERK  
NEWTON, MA. 02159

FY 09 Grievance and Arbitration Log

Arbitrations:				
Date:	Union:	Department:	Issue:	Decision:
6/23/2008	IAFF	Fire	Failure to make temporary promotions	scheduled day 2 for 11/21/08
7/1/2008	AFSCME, 2913	Police	Wrongful termination	Upheld City's decision
7/6/2008	IAFF	Fire	Temporary promotions	Union Cancelled
8/5/2008	IAFF	Fire	JLMC Award	Split decision
8/8/2008	AFSCME 2443	DPW	Wrongful termination	Union Withdrew
8/28/2008	IAFF	Fire	denial of IOD	IOD awarded to FF
9/3/2009	AFSCME, 3092	Police	Unjust discipline	Union withdrew
10/10/2008	NPOA	Police	Denial of IOD	Union cancelled-rescheduled to 1/6/09
11/21/2009	IAFF	Fire	Failure to make temporary promotions	Upheld City's decision
1/2/2009	IAFF	Fire	Failure to promote Capt in Training Div	Upheld City's decision
1/6/2009	NPOA	Police	denial of IOD	cancelled by Union-rescheduled to 5/8/09
1/12/2009	NSOA	Police	denial of vacation time	cancelled by Union
1/26/2009	NPOA	Police	denial of vacation time	cancelled by Union
3/30/2009	IAFF	Fire	denial of IOD	postponed by City upon receipt of new medicals on 3/26/09
4/1/2009	IAFF	Fire	By-pass of two FF's	continued to day 2
4/22/2009	IAFF	Fire	denial of IOD	City settled upon receipt of new medicals from 3/30/09 \$700 fee
5/1/2009	IAFF	Fire	Temporary promotions	Union withdrew
5/4/2009	IAFF	Fire	MD would not clear to RTW	Union Cancelled
5/5/2009	NPOA	Police	denial of vacation time	Union Cancelled
5/8/2009	NPOA	Police	denial of IOD	postponed by City upon receipt of new medicals
5/9/2009	NSOA	Police	denial of vacation time	Union Cancelled
5/14/2009	IAFF	Fire	By-pass of two FF's	no decision yet
5/30/2009	IAFF	Fire	denial of IOD	Settled upon review of new medicals-no fee
6/4/2009	NSOA	Police	denial of vacation time	Cancelled by City \$75 fee
6/10/2009	IAFF	Fire	denial of IOD	5/21 City discussed settlement-no response from Union to date
6/17/2009	IAFF	Fire	Unjust discipline	
6/23/2009	IAFF	Fire	RTW after long term IOD	
6/24/2009	IAFF	Fire	City physician	
	NMEA	DPW	Snow and Sanding Premium Pay	filed for arbitration - no date scheduled yet
	IAFF	Fire	Electronic Direct Deposit For Stipends	filed for arbitration - no date scheduled yet
	IAFF	Fire	RTW Requirement	filed for arbitration - no date scheduled yet
				NEWTON, MA 02159
				CITY CLERK

09 JUN -5 PM 4:39

#149-08

FY 09 Grievance and Arbitration Log

Grievances:				
Date:	Union:	Department:	Issue:	Status:
08-07	NMEA	DPW	Not filling vacancies	pending
08-08	NMEA	DPW	Demotion	pending
08-09	NMEA	Parks & Rec	Failure to assign and pay stipend	pending
08-09	NMEA	DPW	Suspension	settled
08-10	NMEA	DPW	Use of vacation time	settled
08-11	NMEA	DPW	Discipline without just cause	settled
08-12	NMEA	DPW	Failure to adjust pay for out of grade work	pending
08-13	NMEA	DPW	Working in higher classification	pending
08-14	NMEA	Parks & Rec	Failure to promote	pending
09-01	NMEA	DPW	Ordering Chasers to Plow on 1/7/09	pending
09-02	NMEA	DPW	Bonus Personal Day	pending
09-03	NMEA	DPW	Vacation Benefits	pending
09-04	NMEA	DPW	Discipline w/o Just Cause	pending
09-05	NMEA	DPW	Bypassed Usual Overtime Procedures	may settle
09-06	NMEA	DPW	Working Foreman Chase Contractors	pending
09-07	NMEA	DPW	Unjust Discipline	pending
09-08	NMEA	DPW	Failure to Honor overtime Procedures	should settle
09-09	NMEA	DPW	Unjust Discipline	pending
09-10	NMEA	Parks and Rec	Hiring at Step 3	pending
09-11	NMEA	DPW	denial of overtime as disciplinary measure	under investigation
09-12	NMEA	DPW	Unjust Discipline	pending
09-13	NMEA	DPW	Unjust Discipline	pending
09-14	NMEA	DPW	Unjust Discipline	pending

07-01	NPA	Police	Vacation benefits	
07-02	NPA	Police	Work-related injury/illness	
07-03	NPA	Police		
08-01	NPA	Police	Use of Auxiliary Officers for Details	

07-01	NPSOA	Police	Vacation carry-over	
09-01	NPSOA	Police	Violating Police Detail Policy	

08-07	IAFF	Local 863	Physician Would Not Clear Him for Work	
08-08	IAFF	Local 863	Return to Work after Injured on Duty	
08-09	IAFF	Local 863	Seeing City Physician	
08-10	IAFF	Local 863	Suspension	
08-11	IAFF	Local 863	Stipends in Electronic Form	

60-641 #

FY 09 Grievance and Arbitration Log

08-12	IAFF	Local 863	RTW Requirements for Injured on Duty	
08-13	IAFF	Local 863	HAW/WUCC Prior to Own Physician	
09-01	IAFF	Local 863	Seeing City Physician	
09-02	IAFF	Local 863	Seeing City Physician	
09-03	IAFF	Local 863	Fire Prevention & Training Pay Stipend to be On Call	
09-04	IAFF	Local 863	Not Placed on 111F/ I.O.D.	
09-05	IAFF	Local 863	Unfair distribution of overtime	
09-06	IAFF	Local 863	Denail of Educational Compensation	should settle

08-01	AFSCME	Local 2443	Denial of Vacation	
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09-01	AFSCME	3092	Suspension	
09-02	AFSCME	3092	Harassment	

#149-09

#343-08(2)

City of Newton



DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE COMMISSIONER

1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449

David B. Cohen  
Mayor

To: Honorable Mayor David B. Cohen  
Thru: Mr. Sanford Pooler / Chief Administrative Officer  
Ms. Susan Burstein / Chief Financial Officer  
Fr: Thomas E. Daley, P.E. / Commissioner of Public Works  
Date: 4/15/09  
Re: Trench Excavation Safety Permit Fee (520 CMR 14.00)

09 APR 28 PM 6:03  
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NEWTON, MA 02459

Dear Mayor Cohen:

The new Trench Excavation Safety Permit requirements, as issued by the Department of Public Safety (DPS) and the Division of Occupational Safety (520 CMR 14.00), went into effect on March 1, 2009. Refer to Chapter 82A of the General Laws, and 520 CMR 14.00. As the Permitting Authority, the Commissioner of Public Works has the right to charge an administrative fee for each permit issued.

The Engineering Division recommends charging an administrative fee of \$50.00 per TRENCH. Multiple trenches, and multiple trench permits, may be required on any particular project, as there may be different contractors and different excavators for different trenches (both in the public way and on private property).

The administrative fee covers Engineering Division's efforts in administering the permits, including filing, tracking (on a database), periodic reporting to state agencies, responding to citizen's concerns, and inspection of trenches if required.

**BLANKET PERMITS:**

For those entities that make several trenches over the course of a single project, such as Department of Public Works Utilities Division and Highway Division, and contractors performing work for the City (installation of water, sewer, and drain pipes), the permit requirement may be onerous. We recommend the City enact an ordinance providing for a blanket permit that will allow these entities working on large projects with multiple trenches to obtain a blanket permit (either annual for Utilities and Highway, or per project for City contractors). The entity would add to the list of trench locations daily as the permit holder becomes aware that a trench is required. The benefits of the blanket permit include a reduction in paperwork and increased efficiency. The blanket permit in no way absolves the permit holder from the information required by the regulations. The blanket permit helps eliminate some hurdles to the efficient completion of the work.

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Other public utilities, including National Grid, Nstar Electric, and Verizon, would obtain a blanket permit on a per project basis. Most trenches excavated by these utilities are less than 3 feet deep.

**TRENCH EXCAVATION SAFETY PERMIT REQUIREMENTS:**

1. Trench - an excavation that is in the public way or on private property, and is:
  - $\geq 3'$  in depth
  - all excavation walls consist of "soils" (excavation for foundation N/A)
  - the width is "narrow" compared to its length
  - the width at the bottom is less than 15'
  
2. The City has the authority to:
  - Charge an Administrative fee (suggested as \$50.00 per trench)
  - Shut down unsafe excavations
  - Perform work necessary to ensure public safety (permit holder to reimburse)
  - Issue "blanket" permits for large / on-going projects. Contractor is responsible to provide updated information as necessary (different operators, locations, etc)
  - Issue blanket permits for municipal agencies (i.e. water, sewer, etc)
  
3. The City is required to:
  - Establish a Permitting Authority (Commissioner of Public Works)
  - Issue permits, both public and private
  - Track permits and copy (electronically) to Dept. of Public Safety
  - Shut down trenches where violations are found
  - Regulate Municipal departments
  - No inspections are required (unless complaint is received)
  
4. The Contractor is required to:
  - Completely fill out permit (see Item 5 below)
  - Provide proof of General Liability Ins. (minimum of 100K / 300K)
  - Post the permit in a visible location at the work area
  - Adhere to permit requirements
  
5. Information required on Permit (see attached sample Application):
  - Dig-Safe number
  - Name & contact info of Permit Holder (person obtaining permit)
  - Name & contact info of excavator (company performing the work)
  - Name of operator (including hoisting license number)
  - Name of the competent person
  - Specific location of the trench(s)
  - Name & contact number of the insurer (100K/300K Liability Ins)
  
6. To secure an excavation the Contractor must do one of the following:

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- Erect a fence (min. 6' high) with openings no more than 4" between vertical supports
- Plate the excavation with minimum 3/4" steel plates (or equivalent)
- Post an attendant (police, flag man or worker)
- Backfill the trench

I hereby recommend that the fee we charge is \$50.00 per trench. If you concur please let the Board of Alderman know.

Thank you

CC: Dave Turocy / Deputy Commissioner  
Lou Taverna / City Engineer

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# The General Laws of Massachusetts

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## PART I. ADMINISTRATION OF THE GOVERNMENT

### TITLE VII. CITIES, TOWNS AND DISTRICTS

#### CHAPTER 40. POWERS AND DUTIES OF CITIES AND TOWNS

##### ORDINANCES, BY-LAWS AND REGULATIONS

#### Chapter 40: Section 22F. License fees; service charges; acceptance of section

Section 22F. Any municipal board or officer empowered to issue a license, permit, certificate, or to render a service or perform work for a person or class of persons, may, from time to time, fix reasonable fees for all such licenses, permits, or certificates issued pursuant to statutes or regulations wherein the entire proceeds of the fee remain with such issuing city or town, and may fix reasonable charges to be paid for any services rendered or work performed by the city or town or any department thereof, for any person or class of persons; provided, however, that in the case of a board or officer appointed by an elected board, the fixing of such fee shall be subject to the review and approval of such elected board.

A fee or charge imposed pursuant to this section shall supersede fees or charges already in effect; or any limitations on amounts placed thereon for the same service, work, license, permit or certificate; provided, however, that this section shall not supersede the provisions of sections 31 to 77, inclusive, of chapter 6A, chapter 80, chapter 83, chapter 138, sections 121 to 131N, inclusive, of chapter 140 or section 10A of chapter 148. The provisions of this section shall not apply to any certificate, service or work required by chapters fifty to fifty-six, inclusive, or by chapter sixty-six. The fee or charge being collected immediately prior to acceptance of this section for any license, permit, certificate service or work will be utilized until a new fee or charge is fixed under this section.

The provisions of this section may be accepted in a city by a vote of the city council, with the approval of the mayor if so required by law, and in a town by vote of the town meeting, or by vote of the town council in towns with no town meeting.

#132-09

**jeanne**

**From:** "Wilkinson David, Comptroller City of Newton" <dwilkinson@newtonma.gov>  
**To:** <dwilkinson@newtonma.gov>; "Comptroller City of Newton" <dwilkinson@newtonma.gov>  
**Cc:** <jeanne.ncdf@verizon.net>  
**Sent:** Wednesday, May 20, 2009 4:16 PM  
**Subject:** Re: Warren House Ground Lease Receivable

On 12 May 2009 at 11:51, [aingerson@newtonma.gov](mailto:aingerson@newtonma.gov) wrote:

- > Alice,
- >
- > Warren House Associates Limited Partnership has filed copies of their
- > audited December 31, 2008 financial statements and their March 15, 2009
- > financial report with the City.
- >
- > Based upon my understanding of the lease agreement and information provided
- > by Warren House Associates Limited Partnership, I believe that they are in
- > compliance with the terms of the lease agreement.
- >
- > The City's current receivable for the ground lease is \$2,269,927, of which
- > \$1,349,106 represents deferred lease payments and \$920,821 represents
- > accrued interest. Warren House Associates Limited Partnership has deferred
- > all lease payment obligations, as authorized by their agreement with the City,
- > except for an \$894 payment that was made in 2003.
- >
- > I hope this helps.
- >
- >
- >
- >

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

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#91-09

**Newton Pre-1820 Architectural Heritage and Archaeology Project Outline:**

**Phase 1 City-wide Archaeological Survey:**

Funding: Request for CPA funding underway to hire an outside consultant.

Products: Technical report on the city's archaeological potential including an archaeological sensitivity map (Under state law not for public distribution), one for Planning Department, Newton Historical Commission, State Archaeologist, DCR, and local tribal historic preservation offices.

Popular report for public and educators on archaeology in Newton.

Two community programs to receive input from community on potential sites and educate public on archaeology.

Ground penetrating radar survey of East Parish Burying Ground and report available to the public.

**Phase 2 Pre-1820 Architectural Survey:**

Funding: Staff time/request for Massachusetts Historical Commission (MHC) funding for 2010. The 2009 (MHC) request was not funded. Staff will continue to seek outside funding and continue with project at a reduced rate.

Products: Updated survey forms for 1820 and earlier historic properties.

Updated Newton City GIS information mapping locations of historic properties.

Updated and corrected Assessor's information for surveyed properties.

Evaluation of preservation protection level on surveyed properties.

National Register eligibility determinations for surveyed properties if applicable.

Information provided to property owners of surveyed properties on preservation options.

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LAW DEPARTMENT  
LEGAL ASSISTANCE ACCOUNT

FY 2009 BUDGET AMOUNT: \$142,000.00

	FY 2009 Encumbrance	Payments Made thru 12/31/08	Payments Made + Billings Received thru 4/30/09
LABOR COUNSEL Morgan Brown & Joy	\$120,000.00	\$88,287.10	\$160,915.84
CABLE TV COUNSEL Epstein & August	\$6,500.00	\$780.00	\$2,252.25

Unencumbered account balance: \$15,500.00