



City Council Actions

In City Council

Monday, November 21, 2022

Present: Councilors Baker, Bowman, Crossley, Danberg, Downs, Gentile, Grossman, Humphrey, Kalis, Kelley, Krintzman, Laredo, Leary, Lipof, Lucas, Malakie, Noel, Norton, Oliver, Ryan, Wright & Albright.

Absent: Councilors Greenberg and Markiewicz

Clerk's Note: The full Council meeting can be viewed on the following link:

<https://newtonma->

[gov.zoom.us/rec/share/W6I5jIYxp9L5JfL_t2LwEkVA1JukiXXQP5_Ehga3HF3hQyM49sA7n277rkWwWRFz.CtoNS3rGBpfzUev5?startTime=1669074369000](https://newtonma.gov.zoom.us/rec/share/W6I5jIYxp9L5JfL_t2LwEkVA1JukiXXQP5_Ehga3HF3hQyM49sA7n277rkWwWRFz.CtoNS3rGBpfzUev5?startTime=1669074369000)

The City Council discussed the following item on Second Call:

The City Council voted with discussion 21 Yeas, 1 Nay (Gentile), 2 Absent (Councilors Markiewicz and Greenberg)

#482-22 Authorization to present the levy limit override and debt exclusion ballot questions to the voters

HER HONOR THE MAYOR requesting the following:

- To present the following levy limit override and debt exclusion ballot questions to the voters in accordance with the procedure prescribed by Massachusetts General Law Chapter 59, Section 21C(g) and (k):
- Shall the City of Newton be allowed to assess an additional \$9,175,000 in real estate and personal property taxes for the purposes of funding Public Schools for student needs, street and sidewalk paving and safety improvements, tree planting and maintenance, park and recreational facility improvements and maintenance, improvements to Horace Mann Elementary School, sustainability and climate resiliency actions, and Senior Services programming and operations for the fiscal year beginning July 1, 2023?

Yes _____ No _____

Committee of the Whole voted to Approve as Amended 22 yeas, 0 nays, 2 absent

The City Council voted with discussion 21 Yeas, 1 Nay (Gentile), 2 Absent

(Councilors Markiewicz and Greenberg)

- Shall the City of Newton be allowed to exempt from the provisions of Proposition 2 1/2, so called, the amounts required to pay for the bonds issued in order to renovate or replace the Countryside Elementary School?

Yes _____ No _____

Committee of the Whole voted to Approve 22 yeas, 0 nays, 2 absent

**The City Council voted with discussion 21 Yeas, 1 Nay (Gentile), 2 Absent
(Councilors Markiewicz and Greenberg)**

- Shall the City of Newton be allowed to exempt from the provisions of Proposition 2 1/2, so called, the amounts required to pay for the bonds issued in order to renovate or replace the Franklin Elementary School?

Yes _____ No _____

Committee of the Whole voted to Approve 22 yeas, 0 nays, 2 absent

**The City Council voted with discussion 21 Yeas, 1 Nay (Gentile), 2 Absent
(Councilors Markiewicz and Greenberg)**

- A request to call a special election to present the levy limit override and debt exclusion ballot questions to the voters and set a date of March 14, 2023 for such special election.

Committee of the Whole voted to Approve 22 yeas, 0 nays, 2 absent

**The City Council voted with discussion 21 Yeas, 1 Nay (Gentile), 2 Absent
(Councilors Markiewicz and Greenberg)**

- A request to appropriate from Budget Reserve the sum of two hundred and ten thousand dollars (\$210,000) for the purpose of funding the costs of a special election to present the levy limit override and debt exclusion ballot questions to the voters.

Committee of the Whole voted to Approve 22 yeas, 0 nays, 2 absent

**The City Council voted without discussion 22 Yeas, 0 Nays, 2 Absent
(Councilors Markiewicz and Greenberg) to Accept the Committee
Recommendations on the following items:**

- #486-22** **Request for Extension of Time to Exercise Special Permit #33-21(3) at 275 Grove Street**
ALEXANDRIA REAL ESTATE EQUITIES, INC. petition for an EXTENSION OF TIME to November 15, 2024 to EXERCISE Special Permit Council Order #33-21(3) to amend Special Permit

Council Orders #40-97, #40-97(2) and #33-21 to amend the site plan, to allow a lab and research facility use and to allow height up to 96' and 8 stories at 275 Grove Street, Ward 4, Auburndale, on land known as Section 43 Block 29 Lot 24, containing approximately 487,578 sq. ft. of land in a district zoned BUSINESS USE 4. Ref: Sec. 7.3.3, 7.4, 4.4.1, 6.5.9.A, 4.1.3, 4.1.2.B.3 of the City of Newton Rev Zoning Ord, 2017.

Land Use Approved 7-0

#487-22

Request to allow for-profit educational use at 49-51 Winchester Street

DAVE CARROLL, THE CONSERVATORY AT HIGHLANDS petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow a for-profit education use at 49-51 Winchester Street, Ward 5, Newton, on land known as Section 51 Block 28 lot 30, containing approximately 79,500 sq. ft. in a district zoned MIXED USE 1. Ref: 7.3.3, 7.4, 4.4.1, 6.3.14.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Land Use Approved 7-0; Public Hearing Closed 11/15/2022

#488-22

Request to amend Special Permit #135-18 to convert office space into a dwelling unit at 429 Cherry St

429 CHERRY STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to convert office space into a fourteenth residential unit at 429 Cherry St, Newton, Ward 3, on land known as Section 33 Block 12 Lot 12, containing approximately 13,617 sq. ft. of land in a district zoned BUSINESS 1. Ref: 7.3.3, 7.4 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Land Use Approved 7-0; Public Hearing Closed 11/15/2022

#446-22

Request to allow rear-lot subdivision and variance from rear-lot definition at 113 Grove Street

113 GROVE STREET, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to allow a rear lot subdivision to construct a single-family dwelling, relocate the existing dwelling forward and waive the definition of "rear-lot" at 113 Grove Street, Ward 4, Newton, on land known as Section 43 Block 31 Lot 15, containing approximately 23,063 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.1.5, 3.1.10, 1.5.2.G.1 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Land Use Approved 7-0; Public Hearing Closed 11/15/2022

#489-22

Requesting review and discussion for the creation of as-of-right zoning for animal service establishments

HER HONOR THE MAYOR requesting amendment to Chapter 30, Newton Zoning Ordinance, to allow animal service establishments by-right in BU1 and BU2 zones.

Zoning & Planning Held 8-0; Public Hearing set for 12/12/2022

#38-22

Discussion and review relative to the draft Zoning Ordinance regarding village centers

ZONING & PLANNING COMMITTEE requesting review, discussion and possible ordinance amendments relative to Chapter 30 zoning ordinances pertaining to Mixed Use, business districts and village districts relative to the draft Zoning Ordinance. (formerly #88-20)

Zoning & Planning Held 8-0

- #490-22 Reappointment of Michael Kaufman to the Urban Design Commission**
HER HONOR THE MAYOR reappointing Michael Kaufman, 24 Turner Terrace, Newtonville as a full member of the Urban Design Commission for a term of office to expire on December 31, 2025. (60 Days: 01/06/2023)
Zoning & Planning Approved 8-0
- #491-22 Reappointment of Visda Saeyan to the Urban Design Commission**
HER HONOR THE MAYOR reappointing Visda Saeyan, 7 Marcellus Drive Newton Centre as a full member of the Urban Design Commission for a term of office to expire on December 31, 2025. (60 Days: 01/06/2023)
Zoning & Planning Approved 8-0
- #404-22 Discussion on Athletic Field Surfaces, Natural, and Artificial Turf**
COUNCILORS KELLEY, OLIVER, LEARY, ALBRIGHT, GROSSMAN, LUCAS, MARKIEWICZ, AND BAKER requesting a meeting with the Parks, Recreation and Culture Department to discuss best practices and materials used for athletic field surfacing, both natural, and synthetic. Topics to be covered include playability, safety, durability, environmental impacts, replacement, maintenance, and cost over time
Programs & Services No Action Necessary 8-0
- #411-22 Request for Amendment to Chapter 21, Art III Trees to extend tree protection and update permits**
COUNCILORS MALAKIE, NORTON, LEARY, RYAN, WRIGHT, LUCAS, HUMPHREY, BOWMAN, MARKIEWICZ, OLIVER, DOWNS, AND LAREDO requesting revisions and amendments to Chapter 21, Art. III Trees (sec. 21-60 through 21-89) to extend tree protection to all trees 6 inches DBH (diameter at breast height) and greater within the City (with no exempt lots); to update tree removal permits, fees, and compensation; and to strengthen protection for existing and replacement trees.
Programs & Services Held 7-0 (Councilor Ryan not voting)
- #412-22 Request for Review and Amendments to Chapter 21, Art. III, Division 3**
HER HONOR THE MAYOR requesting review and amendments to Chapter 21, Art. III, Division 3, Tree Preservation to increase replacement requirements for larger trees, add protections for smaller trees, limit removal of trees without replacement, enhance procedures for protecting trees, increasing payment required for trees cut without replacement, protect trees on lots adjacent to construction, provide Tree Warden with additional professional input on trees on private properties.
Programs & Services Held 7-0 (Councilor Ryan not voting)
- #483-22 Request to transfer \$800,000 from the June 30, 2022, Certified Free Cash**
HER HONOR THE MAYOR requesting authorization to transfer the sum of eight-hundred

thousand dollars (\$800,000) from June 30, 2022 Certified Free Cash to fund the replacement of Fire Engine 7.

Public Safety & Transportation Approved 8-0

#495-22

Request to transfer \$55,000 from Financial Services Full Time Salaries

HER HONOR THE MAYOR requesting authorization to transfer the sum of fifty-five thousand dollars (\$55,000) from Acct #0111049-511001 Financial Services Full Time Salaries to a Department 111-Non-Lapsing Police Technology Upgrade Account.

Public Safety & Transportation Approved 8-0

#492-22

Eversource petition for Grant of Location in Hammond Street

EVERSOURCE ENERGY petitioning for a grant of location to install 65'± of conduit in a northwesterly direction from manhole MH 11192, approximately 345' northwest of Essex Road to provide underground service to #393 Hammond Street (Ward 7).

Public Facilities Approved 8-0

#493-22

Eversource petition for Grant of Location in Walnut Street

EVERSOURCE ENERGY petitioning for a grant of location to install one (1) JO pole #437/34 w/ anchor guy and remove one (1) JO pole #437/34 on the westerly side, near the intersection of Walnut Place (Ward 2).

Public Facilities Approved 8-0

494-22

Request for water main extensions in Cross Hill Road

Aurel Garban, on behalf of 45 Cross Hill LLC, 14 Rangely Rd, Brookline, MA 02467 petitioning for drain main extension in CROSS HILL ROAD. to extend the drain main from the point it terminates to +/- 85 feet up to the frontage of #45 Cross Hill Road.

PETITIONER TO PAY ENTIRE COST

Public Facilities Approved 8-0

#499-22

Appropriate \$150,000 from Certified Free Cash

HER HONOR THE MAYOR requesting authorization to appropriate and expend the sum of one hundred and fifty thousand dollars (\$150,000) from June 30, 2022, Certified Free Cash for the purpose of purchasing the replacement of a 2004 trackless sidewalk clearing tractor.

Public Facilities Approved 8-0

#499-22

Appropriate \$150,000 from Certified Free Cash

HER HONOR THE MAYOR requesting authorization to appropriate and expend the sum of one hundred and fifty thousand dollars (\$150,000) from June 30, 2022 Certified Free Cash for the purpose of purchasing the replacement of a 2004 trackless sidewalk clearing tractor.

Finance Approved 6-0 (Councilor Norton not voting)

#495-22

Request to transfer \$55,000 from Financial Services Full Time Salaries

HER HONOR THE MAYOR requesting authorization to transfer the sum of fifty-five thousand dollars (\$55,000) from Acct #0111049-511001 Financial Services Full Time Salaries to a Department 111-Non-Lapsing Police Technology Upgrade Account.

Public Safety & Transportation Committee Approved 8-0 on 11/9/22

Finance Approved 7-0

#483-22 Request to transfer \$800,000 from the June 30, 2022 Certified Free Cash

HER HONOR THE MAYOR requesting authorization to transfer the sum of eight-hundred thousand dollars (\$800,000) from June 30,2022 Certified Free Cash to fund the replacement of Fire Engine 7.

Public Safety & Transportation Committee Approved 8-0 on 11/9/22

Finance Approved as amended to include fire trucks and equipment 7-0

498-22 Appropriate \$33,333 from Transportation Mitigation funds

HER HONOR THE MAYOR requesting approval to spend thirty-three thousand, three hundred thirty-three dollars (\$33,333) in transportation mitigation funds from the 15 Riverdale Avenue development for NewMo operations consistent with the transportation demand management plan set out in Special Permit #01-20 and the approved Request for Determination of Insubstantial Change dated 2/2/22.

Finance Approved 7-0

#484-22 Amendments to Sec. 27-10 to the City of Newton Ordinances

HER HONOR THE MAYOR requesting an amendment to City Ordinance Sec. 27-10 increasing the income limit of the tax deferral program to match the current maximum allowable circuit breaker amount of \$93,000 for the local M.G.L c. 59 sec. 5cl. 41A tax deferral program.

Committee of the Whole voted to Approve by Voice Vote

#485-22 Requesting a Home Rule Petition

HER HONOR THE MAYOR requesting to seek Home Rule legislation allowing the City to increase the maximum real property tax exemptions and reductions for certain programs authorized under M.G.L c. 59 beyond that amount currently allowed by the state. The requested enhancements for the following tax assistance programs:

VETERAN - EXEMPTION - G.L. c. 59, sec. 5, cl. 22

Clause 22 authorizes an exemption for the real property taxes of qualifying veterans or spouses of veterans in the maximum amount of \$400. The maximum allowable exemption is requested to be increased to \$800.

VETERAN - EXEMPTION - G.L. c. 59, sec. 5, cl. 22

Clause 22 authorizes an exemption for the real property taxes of qualifying veterans or spouses of veterans in the maximum amount of \$500. The maximum allowable exemption is requested to be increased to \$1,000.

DISABLED VETERAN - EXEMPTION - G.L. c. 59, sec. 5, cl. 22E

Clause 22E authorizes an exemption for the real property taxes of qualifying veterans determined to have suffered total disability in the line of duty in the maximum amount of \$1,000. The maximum allowable exemption is requested to be increased to \$2,000.

BLIND PERSON - EXEMPTION - G.L. c. 59, sec. 5, cl. 37A

Clause 37A authorizes an exemption for the real property taxes of a blind person in the maximum amount of \$500. The maximum allowable exemption is requested to be increased to \$1,000.

SENIOR CITIZENS -EXEMPTION - G.L. c. 59, sec. 5, cl. 41C

Clause 41C authorizes an exemption for the real property taxes of seniors over the age of 65 in the maximum amount of \$1,000. The maximum allowable exemption is requested to be increased to \$2,000.

SENIOR CITIZENS - REDUCTION - G.L. c. 59, sec. 5K and VETERANS -REDUCTION - G.L. c. 59, sec. 5N

Section 5K and 5N, respectively, authorize a reduction for the real property taxes of seniors over the age of 60 or veterans in exchange for volunteer services to the city. The statute permits a maximum reduction based on either 125 volunteer service hours or \$1,500. The City currently allows a reduction based on the maximum 125 volunteer service hours. It is requested that the maximum reduction in exchange for volunteer services be increased to 200 volunteer services hours or \$3,000.

ELDERLY SURVIVING SPOUSE, MINOR CHILD -EXEMPTION - G.L. c. 59, sec. 5, cl. 17D

Clause 17D authorizes an exemption for the real property taxes of a surviving spouse, a minor child whose parent is deceased, or seniors over the age of 70, in the maximum amount of \$219. It is requested that the maximum be doubled, increasing the exemption amount to \$438.

Committee of the Whole voted No Action Necessary by Voice Vote

#500-22

Accepting Massachusetts General Laws Chapter 59, Section 5C1/2

HER HONOR THE MAYOR requesting to accept Massachusetts General Laws Chapter 59, Section 5C1/2, which provides for an additional real estate exemption for taxpayers who are granted personal exemptions on their domiciles under Massachusetts General Laws Chapter 59, Section 5, including certain blind persons, veterans, surviving spouses and seniors, and provide an additional exemption up to 100 percent of the personal exemption, to be effective for exemptions granted for any fiscal year beginning on or after July 1, 2023. This will double the current level of tax assistance that the City of Newton provides to eligible residents with these programs. A 100 percent increase is the maximum additional exemption permitted under Section 5C1/2.

Committee of the Whole voted to Approve by Voice Vote

#501-22

Requesting a Home Rule Petition

HER HONOR THE MAYOR requesting to seek Home Rule legislation allowing the City to

increase the maximum real property tax reductions for certain programs authorized under M.G.L c. 59 beyond that amount currently allowed by the state. Given the high cost of living in the metro Boston area, and specifically with the City of Newton, this is requesting the enhancements for the following tax assistance programs which will double the assistance available to eligible City of Newton residents:

SENIOR CITIZENS-REDUCTION- G.L. c. 59 sec. 5K and VETERANS-REDUCTION-G.L. c. 59, sec. 5N

Section 5K and 5N, respectively, authorize a reduction for the real property taxes of seniors over the age of 60 or veterans in exchange for volunteer services to the city. The statute permits a maximum reduction based on either 125 volunteer service hours or \$1,500. The City currently allows a reduction in exchange for volunteer services be increased to 200 volunteer services hours or \$3,000

Committee of the Whole voted to Approve by Voice Vote

Motion to suspend the Rules to accept late filed items to be referred to Committee:

Referred to Finance Committee

#529-22

Request to transfer \$7,000 from Disability Commission Receipts Reserved

HER HONOR THE MAYOR requesting authorization to transfer the sum of seven thousand dollars (\$7,000) from Acct # 5500-335518 Disability Commission Receipts Reserved for Appropriation to Acct # 01C10802-513010 Operation Access – Disability Commission for the purpose of funding targeted enforcement during the holidays by the Police of accessible parking violations.

Referred to Finance Committee

#530-22

Transfer \$174,000 to the Building Demolition/Other Repairs

HER HONOR THE MAYOR requesting authorization to transfer the sum of one-hundred and seventy-five thousand dollars (\$174,000) from June 30, 2022, Certified Free Cash, to 01C2202-524130 Building Demolition/Other Repairs for the emergency demolition of a residential structure located at 91 Newtonville Avenue.

Public Hearings were assigned for the following Items:

Public Hearing to be Assigned for November 22, 2022

#497-22

Request to allow an oversized principal wall sign at 45 Crescent Street

ANDY LAYMAN, SIGN ART INC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to replace an existing sign facing the Massachusetts Turnpike with a larger sign at 45 Crescent St, Newton, Ward 4, on land known as Section 44 Block 23 Lot 16, containing approximately 43,850 sq. ft. of land in a district zoned BUSINESS 2. Ref: 7.3.3, 7.4, 5.2.8, 5.2.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Public Hearing to be Assigned for November 22, 2022

#502-22 Request to exceed FAR and to allow oversized dormers at 270 Auburndale Avenue
JEFFREY AND STEPHANIE MCNEIL petition for SPECIAL PERMIT/SITE PLAN APPROVAL to make additions to the first and second stories at 270 Auburndale Avenue, Newton, Ward 4, on land known as Section 44 Block 29 Lot 13, containing approximately 5,722 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.1.3, 3.1.9, 1.5.4.G.2.b, 1.5.4.G.2.c of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Public Hearing to be Assigned for November 22, 2022

#503-22 Request to allow five single-family attached at 24 Wilson Circle
SCHIAVONE WILSON CIRCLE TRUST petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing single-family dwelling and construct five single-family attached dwellings at 24 Wilson Cir, Newton, Ward 6, on land known as Section 54 Block 22 Lot 19, containing approximately 28,513 sq. ft. of land in a district zoned MULTI RESIDENCE. Ref: 7.3.3, 7.4, 3.4.1, 6.2.3.B.2, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Public Hearing to be Assigned for December 6, 2022

#504-22 Request to allow six single-family attached dwellings at 71 Commonwealth Avenue and 15 Algonquin Road
71 COMMONWEALTH, LLC petition for SPECIAL PERMIT/SITE PLAN APPROVAL to raze the existing single-story dwelling at 15 Algonquin Rd and construct five single-family attached dwellings with reduced setbacks, which exceeds the maximum lot coverage, a retaining wall greater than 4 feet in height within a setback and to allow parking dimensional relief at 71 Commonwealth Ave, Newton, Ward 7, on land known as Section 63 Block 01 Lots 13 and 13A, containing approximately 32,980 sq. ft. of land in a district zoned MULTI RESIDENCE 1. Ref: 7.3.3, 7.4, 3.4.1, 3.2.4, 6.2.3.B.1, 5.1.8.B.6, 5.1.13, 5.1.8.D.1, 6.2.3.B.2, 5.4.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

Public Hearing to be Assigned for December 6, 2022

#505-22 Request to extend a nonconforming two-family dwelling use, a nonconforming third story, to increase nonconforming height, to further reduce nonconforming open space, to allow an oversized dormer, to exceed FAR and to allow a retaining wall of four feet or more in a setback at 71-73 West Pine Street
JUSTIN AND LORENNA BUCK petition for SPECIAL PERMIT/SITE PLAN APPROVAL to construct an attached garage addition, dormer to the front elevation, and to reconfigure the roofline of the ell at 71-73 West Pine Street, Newton, Ward 4, on land known as Section 41 Block 31 Lot 35, containing approximately 8,997 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: 7.3.3, 7.4, 3.4.1, 7.8.2.C.2, 3.1.3, 3.1.9, 1.5.4.G.2.B, 5.4.2.B of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.