

CITY OF NEWTON
IN BOARD OF ALDERMEN
PROGRAMS AND SERVICES COMMITTEE AGENDA

WEDNESDAY, JUNE 4, 2014

7:45 PM
Room 222

ITEMS SCHEDULED FOR DISCUSSION:

Appointment by His Honor the Mayor

#172-14 ELIZA BETH, Woodcliff Road, Newton Highlands, appointed as a member of the YOUTH COMMISSION for a term to expire May 1, 2017 (60 days 7/18/14) [04/28/14 @ 4:33PM]

Appointment by His Honor the Mayor

#173-14 ALEXA LYONS, Devonshire Road, Waban, appointed as a member of the YOUTH COMMISSION for a term to expire May 1, 2017 (60 days 7/18/14) [04/28/14 @ 4:33PM]

Appointment by His Honor the Mayor

#174-14 ANTON MALIN, Howe Road, Newton Centre, appointed as a member of the YOUTH COMMISSION for a term to expire May 1, 2017 (60 days 7/18/14) [04/28/14 @ 4:33PM]

Appointment by His Honor the Mayor

#175-14 JESSICA THARAUD, Watertown Street, appointed as a member of the YOUTH COMMISSION for a term to expire May 1, 2017 (60 days 7/18/14) [04/28/14 @ 4:33PM]

Appointment by His Honor the Mayor

#176-14 JOHN KUSIAK, Ardmore Road, West Newton, appointed as a member of the YOUTH COMMISSION for a term to expire May 1, 2017 (60 days 7/18/14) [04/28/14 @ 4:33PM]

Appointment by His Honor the Mayor

#177-14 MIRA LI, Fredana Road, Waban, appointed as a member of the YOUTH COMMISSION for a term to expire May 1, 2017 (60 days 7/18/14) [04/28/14 @ 4:33PM]

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, please contact John Lojek, at least two days in advance of the meeting: jlojek@newtonma.gov, or 617-796-1064. For Telecommunications Relay Service dial 711.

Appointment by His Honor the Mayor

#178-14 SEUNGWAN KANG, Claflin Place, Newtonville, appointed as a member of the YOUTH COMMISSION for a term to expire May 1, 2017 (60 days 7/18/14) [04/28/14 @ 4:33PM]

Appointment by His Honor the Mayor

#179-14 BEN SIMON, Lake Avenue, appointed as a member of the FARM COMMISSION for a term to expire May 31, 2017. (60 days 7/18/14) [05/12/14 @ 4:41PM]

Re-appointment by His Honor the Mayor

#180-14 INDIRA DESAI, 14 Clements Road, Newton, re-appointed as a member of the ADVISORY COUNCIL OF HEALTH for a term to expire May 15, 2017. (60 days 7/18/14) [05/12/14 @ 4:41PM]

Re-appointment by His Honor the Mayor

#181-14 LUCY CALDWELL-STAIR, Woodcliff Road, Newton Highlands, re-appointed as a Trustee of the JACKSON HOMESTEAD for a term to expire February 1, 2017.(60 days 7/18/14) [05/12/14 @ 4:41PM]

Re-appointment by His Honor the Mayor

#182-14 MARIETTA MARCHITELLI, Waverley Avenue, Newton, re-appointed as a Trustee of the JACKSON HOMESTEAD for a term to expire February 1, 2017. (60 days 7/18/14) [05/12/14 @ 4:41PM]

Re-appointment by His Honor the Mayor

#183-14 RUSSEL FELDMAN, Langley Road, Newton Centre, re-appointed as a Trustee of the JACKSON HOMESTEAD for a term to expire February 1, 2017. (60 days 7/18/14) [05/12/14 @ 4:41PM]

#184-14 NEWTON ELECTION COMMISSION requesting the Board of Aldermen approve a change of polling location for Ward 2, Precinct 2 from the Cabot School to Cabot Park Village at 280 Newtonville Avenue, Newtonville. [05/12/14 @ 9:06AM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#200-14 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of two hundred eight thousand seven dollars (\$208,007) from the Community Preservation Fund's historic resources fund balance or reserve, to the control of the Jackson Homestead, for repair of tombs in the East Parish Burying ground (Centre & Cotton Streets), as detailed in the proposal submitted in November 2013 and revised in November 2014. [05/08/14 @ 11:01 AM]

#60-14

HIS HONOR THE MAYOR, HEALTH AND HUMAN SERVICES COMMISSIONER ZALEZNIK, ALD. RICE, SCHWARTZ, LEARY, HARNEY AND DANBERG proposing amendments to Chapter 20 to include and regulate nicotine delivery products (such as e-cigarettes) in the same manner as tobacco products; to prohibit use of nicotine delivery products in places where use of tobacco products is prohibited; to regulate the sale of tobacco products and nicotine delivery products contain flavoring other than regular or menthol; to increase the minimum age for purchasing tobacco and nicotine delivery products to 21; to further regulate signage; and to regulate minimum cigar pricing and packaging, blunt wrappers and roll-your-own machines. [02/24/14 @ 4:53 PM]

ITEMS NOT SCHEDULED FOR DISCUSSION:**REFERRED TO PROGRAMS & SERVICES AND PUBLIC FACILITIES COMMITTEES**

#119-14 ALD. ALBRIGHT AND CROSSLEY requesting discussion with the Inspectional Services Department to explain the development of short and long term plans to identify and correct buildings, sidewalks, playgrounds, etc...that do not conform to American Disability Act (ADA) standards. The discussion should include information on how improvements will be incorporated into the Capital Improvement Plan or if less than \$75,000 into a comprehensive budget plan to

#59-14 ALD. HESS-MAHAN AND BLAZAR requesting discussion with the Executive Department and the Health Care Advisory Committee concerning plans to implement recommendations contained in the First Report of the Health Care Advisory Committee to control the cost of health insurance while improving or maintaining the quality of care. [02/18/14 @ 6:39 PM]

#199-13 ALD. JOHNSON AND SANGIOLO requesting an update from the School Committee and School Department regarding the request from the Board of Aldermen to reduce the family cap on activity fees. [05/20/13 @ 11:05 PM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#403-13 HIS HONOR THE MAYOR submitting the FY15-FY19 Capital Improvement Plan and Long Range Projection pursuant to section 5-3 of the Newton City Charter. [10/21/13 @ 9:59 AM]

REFERRED TO FINANCE AND PROGRAMS & SERVICES COMMITTEE

#402-13 ALD. FULLER, GENTILE, RICE and LINSKY requesting a Home Rule Petition to amend Article 9 of the Charter to clarify that Neighborhood Area Councils shall maintain and control their own financial accounts and records, independent of City finances; and to further clarify that such independent financial accounts and records shall remain subject to City audit. [10/28/13 @ 10:18 AM]

#399-13 ALD. LINSKY, HESS-MAHAN, ALBRIGHT, CROSSLEY, DANBERG, BLAZAR, LAREDO & SCHWARTZ requesting to re-charge a task force to devise recommendations as to best practices and/or potential regulatory approaches to achieve improvements regarding the use of leaf blowers in the City of Newton. [10/28/13 @ 7:01 PM]

#398-13 ALD. BAKER & DANBERG requesting a discussion of a possible ordinance, regulations or otherwise, to complement zoning regulation of any licensed Registered Marijuana Dispensaries to respond to any secondary impacts so as to make the operation of such dispensaries as successful as possible. [10/28/13 @ 10:00 AM]

#95-13(2) THE PROGRAMS & SERVICES COMMITTEE requesting an update from the Health Care Advisory Committee. [09/12/13 @ 9:49AM]

#34-13 ALD. DANBERG, ALBRIGHT, BLAZAR, RICE, LINSKY AND CROSSLEY requesting a prohibition on polystyrene-based disposable food or beverage containers in the City of Newton if that packaging takes place on the premises of food establishments within the City. [01/03/13 @ 11:01 AM]

#334-12 ALD. SWISTON AND LINSKY requesting a discussion with the Licensing Board regarding the licensing and permit requirements for non-profit organizations. [10/10/12 @ 3:52 PM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#257-12 RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates.

REFERRED TO PROG & SERV, PUB. FAC., ZAP, AND FINANCE COMMITTEES

#256-12 ALD. HESS-MAHAN, SANGIOLO & SWISTON proposing an ordinance promoting economic development and the mobile food truck industry in the City of Newton. [08/06/12 @4:46 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#254-12 (3) PROGRAMS & SERVICES COMMITTEE proposing an ordinance to require a fee, charged to consumers, for the use of paper bags at certain retail establishments in the City of Newton. [01/10/14 @ 3:36 pm]

#254-12(2) THE PROGRAMS & SERVICES COMMITTEE recommending an ordinance to ban single-use plastic bags at certain retail establishments in the City of Newton. [01/10/14 @ 3:36 PM]

#229-12 RECODIFICATION COMMITTEE recommending a review and possible amendment to the *Board of Aldermen Rules & Orders 2012-2013* relative to review of draft ordinances by the Law Department.

#145-12 ALD JOHNSON requesting a review by the Solicitor's office as to what constitutes "reorganization" per our City Charter. [05/16/12 @ 10:24PM]

TO PROG. & SERV AND PUBLIC FACILITIES COMMITTEES

#36-12 ALD. CROSSLEY & FULLER requesting Home Rule legislation or an ordinance to require inspections of private sewer lines and storm water drainage connections prior to settling a change in property ownership, to assure that private sewer lines are functioning properly and that there are no illegal storm water connections to the city sewer mains.

- A) Sewer lines found to be compromised or of inferior construction would have to be repaired or replaced as a condition of sale;
- B) Illegal connections would have to be removed, corrected, and re-inspected in accordance with current city ordinances and codes, as a condition of sale.
[01/24/12 @ 8:07 AM]

REFERRED TO PROG & SERV, PUB. FACIL. AND FINANCE COMMITTEES

#312-10 ALD. LENNON, LAPPIN, SCHNIPPER, SANGIOLO requesting a discussion with the School Committee on its plans to address space needs in the Newton public schools. [10/27/10 @ 11:07 AM]

Respectfully Submitted,

Amy Mah Sangiolo

Everything concerning politics, government policy, the passage of laws- basically everything that goes on "behind the curtain" in government, is incredibly interesting to me. I am interested in joining the Newton Youth Commission because I believe that as an active and engaged teen, I can contribute something hopefully unique to the Commission, and thus help to benefit the youth of newton. Throughout my life, I try actively to pick up on the problems and difficulties that I know are constantly occurring around me, and (definitely with effort) I pull my view out of the small crazy bubble that is my own life. As a commission member, I would hope to contribute what I've observed and learned about teens in newton, at the academic, social, and future levels. I would try to contribute a perspective that exceeds my own, and to bear in mind the diverse population we have in our town, many facets of which I believe often go under-represented. Additionally, I hope to gain some learning from this experience, in that by understanding a bit more of the behind the scenes work, I can better understand the outward changes and actions that take place in the state and federal governments as well. Going off of this, should I (in later life) feel the injustice or the inaccuracy of something imposed upon me, I would have the educated means to actively try and change/improve it. Ultimately, I believe that I would bring a helpful, motivated, organized piece to the Youth commission, and would love to be considered for the application.

(Sorry for the lateness)

Eliza Beth

Newton South High School Junior

Personal Statement – Alexa Lyons

I moved to Newton from New York City when I was nine years old. Newton was familiar to me because my mother grew up here, and we often came to visit my grandparents in Newton Center, but moving here wasn't what I had expected. I had lived my entire life in an apartment on the Upper East Side of Manhattan, and I expected the suburbs to be what I had read about in books, with block parties, friendly neighbors, and kids playing in each other's yards. I'm sure that does happen in some parts of Newton, but that wasn't really what I found when I got here. For the first few years we lived on a busy street, so there weren't many kids outside playing games, and because I didn't play town sports or go to the local school, I didn't have a chance to make a lot of friends from Newton.

I started to think a lot more about building communities last year when I was elected to be one of the heads of the lower school (grades 5-8) student council at my school, Winsor. I really enjoyed working with the council members from each grade and planning events for the lower school that would bring the 200 lower school students together. It was often challenging to stay within our very small event budget and manage everyone's ideas and expectations, but I discovered that I was very organized and liked having this type of leadership position.

Now I'm in the upper school, and while I am still interested in building my school's community, I've been thinking that I would like to take what I learned and apply it to my greater community. As someone who moved to Newton a few years ago and goes to school in Boston rather than Newton North or Newton South, I might have a different perspective about Newton and how teenagers can get involved and feel connected. I think that the Newton Youth Commission and Advisory Board would give me the opportunity to explore some of the issues that affect local teens and come up with solutions that might help my peers. I would be interested in planning programs and events that would be available to all Newton teens, wherever they go to school. I think it's great that Newton has this program that encourages teenagers to get involved, and I hope that I have a chance to make a difference.

Alexa Lyons



Teenage life is, without a doubt, one of the most brutal phases of human existence. Before being able to face the real world head-on and discover what it truly means to be an adult, departing from the net of safety their parents have toiled for them long and hard to create, these blooming flowers have a lot on their plate to handle. From learnings things about oneself - your ambitions, your fears, who or what you love - to exploring different kinds of friendships and relationships, to attempting to strike a balance between gaining freedom and keeping your parents sane, to dealing with the stress of burdensome academic, extracurricular, and college-planning work - all while having to deal with strange and sometimes awkward physical and mental changes - life as a teenager soaking it all in can be incredibly difficult. As a teenager myself, I understand how stressful this can be, and how many problems can result thereof. The recent death of a dear friend of mine unfortunately proves just how devastating the struggles of teenage life can be.

I know how cheesy this sounds, but ever since I've been a kid, I've always wanted to impact the world and make it a better place. To have a fulfilling life, the moral code I live by drives me to help other people whenever I can - and I think this commission can be a great channel for these pursuits. To be able to implement programs to empower youth and solve all of these numerous youth problems I see on a daily basis would be an honor, and I would gladly dedicate myself to this venture as part of my lifelong passion to help others. There is no exercise better for the heart than reaching down and lifting people up, and for these reasons, I would love to be a part of the youth commission.

Newton Youth Commission Personal Statement – Jessica Tharaud

As teenagers, many of us feel so trapped in our problems that we forget to reach out to our community for help. We forget that that's even an option, thinking that no one will listen to us because of our age—but I want to change that mindset. High school shouldn't be confused with purgatory, with everyone just trying to get by until we begin our lives as adults. We can't wait for someone else to solve our problems, because if we don't speak up about what needs to be changed, then who will?

For as long as I can remember, I have always been interested in politics and government. I watch the news and deeply care about the issues that are facing our country. The partisanship in the federal government has reached its breaking point, and our elected officials are often unable to make a real difference. Local government is incredibly important because it is intrinsically connected to the community as a whole, and much more accountable for its actions than representatives at the federal level. Allowing teenagers to have a voice in our community through the Youth Commission is integral to having a functioning local government, and it would be a great honor for me to be a part of that.

Last year, my mom and I moved to Newton from a suburb of Houston, Texas. We found it very difficult adjusting to the climate, the housing, and the way of life, but what kept us going through the tough times was the knowledge that we wanted to be here. While moving has definitely been a hard experience, I think it gives me a bit more insight into what could be better in Newton because I lived in a place the complete opposite and can compare the two.

Despite the friendliness of the people, I felt very lost and on my own when I started school, and I think that there should be more resources for people transitioning to the community. More help needs to be available for depression, especially considering the three suicides this year, and the stressful overachiever culture needs to be altered. I see changes being made, for example the change in name from Curriculum I and II to Advanced College Prep and College Prep, respectively, but these changes aren't always the right ones.

These are just a few of the ideas that come to mind. But overall, I really want to be able to help other teenagers in Newton and to participate in our local community. I want to be part of the Youth Commission to allow my peers to speak out for what they need changed, and to recognize their own power. All it takes is one person to start a chain reaction, and I greatly appreciate this opportunity to make a difference in Newton.

John Kusiak Application for Newton Youth Commission

I want to become a part of the Newton Youth Commission for several reasons. First, I want to be able to be able to advocate for kids my age, so that I can help make their lives easier. Also, I want to be a member of the Newton Youth Commission because I want to have a say in what rules are being made for kids in Newton.

Being a student and an athlete in Newton is great, but it comes sometimes with a lot of pressure. I feel like there should be some options for kids to spend time in a way that reduces the pressure on them—for example, create a place or an event for kids to go have fun with no expectation of competition or performance. For example, after school for one or two hours, the schools could have a couple classrooms open with food and drinks where the kids could just hang out. Kids don't always have time to get to the Y or another place. Having something right at school, just a quick place to connect and talk to friends, might be an easy way to help kids decompress a bit.

Dear Mrs. O'Leary,

My name is Mira and I'm currently a Junior at Newton South High School. I've always adored singing and performing, and when the start of High School brought a schedule too packed to make space for theater, I decided to join my High School Speech Team. At first I was frightened by the prospect of performing not as a character, not as a singer, but as myself. But these past three years of speech have passed like a dream, not in spite of but because of my initial fear. My speech allowed me to raise awareness about issues that I cared about to an audience who would listen. When my high school emailed me about the Newton Youth Commission, I realized my school was giving me an opportunity to not only talk about issues I cared about, but to bring about a meaningful change in my community.

The wellbeing of our community and the youth in our community matters to me deeply, and I believe that the goals of the Youth Commission are solid ways to make our youth more active members of our community. Specifically, I would love to address the issue of creating more leadership opportunities within the middle schools, as well as helping students transition from eighth to freshman to sophomore years. These years are especially difficult because teachers suddenly give their students increased responsibility, something that me and many of my friends have struggled with. Also, encouraging students to join activities outside of their comfort zones would be a great unifying force in our schools. Students often only join extracurricular activities/sign up for classes because they see students with similar backgrounds and academic records doing the same. But further encouraging a diverse set of students to sign up for clubs and classes would help students meet and respect people they normally wouldn't, and students would feel connected to their general student body rather than simply the people in their social group.

Thank You!

Mira Li



#15B.14

SEUNG WAN #178A1406

I would be grateful to serve on the Youth Commission primarily because my involvement would address issues that I have found to be especially relevant in my life as a high school junior, including stress management and wellness. For the past several months, I have struggled with maintaining an upbeat attitude in the midst of my school work, extracurriculars, and loss of sleep; it was during this time that I realized the importance of seeking guidance from peers and parents alike, especially for high school students who are and will be going through the same struggles that I went through. While I was lucky enough to find that support, I understand that other students might not have that same access to it. It is with this knowledge that I am determined to act as a commissioner on behalf of those who are looking for youth-centered help from the community. In addition, I am also interested in the opportunity to learn how a government commission operates, as I plan to pursue a career in government-related work. From what I saw of my first board meeting back in January, I was thrilled at how professional the meeting was, especially because it involved the interaction of teenagers with government officials and administrative members of the community. I found the communication aspect particularly intriguing, and with my experience of frequently communicating with the team advisor and coaches of my school Mock Trial team and rival teams as the Newton North captain, I know for sure that I would find the time I serve on the commission to be invaluable.



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

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(617) 796-1089

David A. Olson, CMC
Newton, MA 02459

E-mail
swarren@newtonma.gov

2016 MAY 12 PM 4:39

RECEIVED
Newton City Clerk

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

Ladies and Gentlemen:

I am pleased to appoint Ben Simon of Lake Avenue, Newton as a member of the Farm Commission. His term of office shall expire May 31, 2017 and his appointment is subject to your confirmation.

Thank you for your attention to this matter.

Very truly yours,

Setti D. Warren
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

Reenie Murphy

From: Ben Simon [REDACTED]
Sent: Friday, April 04, 2014 4:01 PM
To: Reenie Murphy
Subject: Re: Farm Commission

Hi Reenie,

I am interested in joining the Newton Community Farm commission. I have attended a couple meetings already and I find them to be interesting and informative. In my past I have worked on several agricultural related projects including a sustainable farm in Ecuador that teaches young people how to grow food in way that is beneficial for the environment. In middle school I started Simon Lawn Care, an environmentally conscious lawn care and landscaping service. I am very interested in getting more involved in the community farm and I believe I would be a valuable member of the commission. I go to school in the Boston area so I can commit to being in the area for at least a few more years. If any other information would be helpful I would be happy to provide it. Thank you for thinking of me and I look forward to joining the commission.

Sincerely,
Ben Simon

On Mar 27, 2014, at 5:17 PM, Reenie Murphy <rmurphy@newtonma.gov> wrote:

Hi Ben ,

Your name was passed on to me as someone who might be interested in the Farm Commission. There are two openings at the moment.

If you have a resume, can you send it to me? If not, maybe you can send a letter of interest. After I hear back from you, I will schedule a time for you to come in and meet with me and Alexandra Ananth who is the Planning Department staff member who works directly with the Farm Commission.

Looking forward to hearing back from you.

Reenie Murphy

Coordinator, Boards and Commissions
City of Newton
617-796-1271

When responding, please be aware that the Massachusetts Secretary of State has determined that most email is public record and therefore cannot be kept confidential.



SETTI D. WARREN
MAYOR

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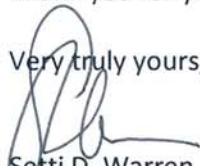
Honorable Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to reappoint Indira Desai of 14 Clements Road, Newton as a member of the Advisory Council of Health. Her term of office shall expire May 15, 2017 and her appointment is subject to your confirmation.

Thank you for your attention to this matter.

Very truly yours,



Setti D. Warren
Mayor

RECEIVED
Newton City Clerk
2014 MAY 12 PM 4:41
David A. Olson, CMC
Newton, MA 02459

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www.newtonma.gov



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RECEIVED
Newton City Clerk
2014 MAY 12 PM 4:38
David A. Oison, CMC
Newton, MA 02459

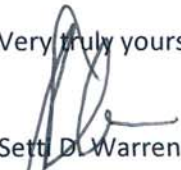
Honorable Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to reappoint Lucy Caldwell-Stair of Woodcliff Road, Newton as a Trustee of the Jackson Homestead. Her term of office shall expire February 1, 2017 and her appointment is subject to your confirmation.

Thank you for your attention to this matter.

Very truly yours,


Setti D. Warren
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

Lucy Caldwell-Stair
 46 Woodcliff Road
 Newton, MA 02461

Education

BA., University of North Carolina, Chapel Hill 1971
 MBA, Boston University 1978

Publishing & Business

Longwood Information, LLC 1994-2000

Started a publishing company to inform financial services executives about information technology and e-commerce. Offered subscription newsletters, reports, and web site to over 700 subscribers.

Thompson Publishing Group, Washington, DC 1988-1994

VP and Publisher of a business unit dedicated to newsletters and manuals on environmental science and regulations for industry readers. Founded 12 subscription services and acquired others. Led a staff of 35 journalists, attorneys, and editors and expanded sales to \$6.5 million

Business Skills: Marketing, product acquisitions, supplier relationships, finance, new product development, information technology, training

Non-Profit Boards

Historic Newton

Trustee, Nominating committee, Finance & investment committee – revised endowment investment Policies. Worked to start the advisory council. Served on search committee for executive director. Continue to create and lead historic walking tours

Mother Caroline Academy & Education Center, Roxbury

Trustee

Union of Concerned Scientists, Cambridge, MA

Advisory council

Trustees of Reservations, Massachusetts

Education and Engagement Committee, Advisory Council, President's Council

Newton Conservators (land trust)

President, 2002-2004, Lobbied for adopting CPA in Newton, Created *Walking Trails*, 60-page guide; sold 5,000 copies, Lead walking tours of conservation areas

Newton Community Farm

Lead farm tours

Organized fund raisers: “farm to fork” dinner and restaurant fund raiser

Wrote brochures on farm's history

Other boards: American Red Cross, Washington, DC Chapter; Charles River Watershed Ass'n, Weston



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MAYOR

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RECEIVED
Newton City Clerk
2014 MAY 12 PM 4:38
David A. Olson, CMC
Newton, MA 02459

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

Ladies and Gentlemen:

I am pleased to reappoint Marietta Marchitelli of Waverly Ave, Newton as a Trustee of the Jackson Homestead. Her term of office shall expire February 1, 2017 and her appointment is subject to your confirmation.

Thank you for your attention to this matter.

Very truly yours,

Setti D. Warren
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

Marietta Marchitelli

Trustee of The Jackson Homestead, Newton Massachusetts

Marietta Marchitelli initially joined the staff of the gyro testing department of the MIT Instrumentation Laboratory. During her employment she worked on many aerospace programs associated with the laboratory, writing scientific computer programs for the analysis of data. When the Instrumentation Lab divested from MIT in 1972, she continued with C. S. Draper Laboratory until her retirement. She is a member of a number of organizations associated with museums and historic preservation. In June of 1990 she donated a gift of circa 1935-1948 children's toys and games to the Newton Historical Society. In the early 1990's she was asked to assist with the Historical Society's initial membership database. In 1993 she joined the Directors of the Newton Historical Society and served until 2008 when she became a Trustee of the Jackson Homestead. Through the years she has served on a number of committees. The committees on which she has served the longest are the Collections Committee and the Historic Burying Grounds committee. She has had an active and specific interest in the restoration of the historic Durant-Kenrick House on Waverley Avenue. She has been a resident of Newton for more than sixty years.



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Newton, MA 02459

2014 MAY 12 PM 4:38

RECEIVED
Newton City Clerk

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

Ladies and Gentlemen:

I am pleased to reappoint Russel Feldman of Langley Road, Newton as a Trustee of the Jackson Homestead. His term of office shall expire February 1, 2017 and his appointment is subject to your confirmation.

Thank you for your attention to this matter.

Very truly yours,

Setti D. Warren
Mayor

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

Mark Russel Feldman, AIA, NCARB

Registration: Registered Architect: Commonwealth of Massachusetts, States of New York, Rhode Island and Florida; Certified by the National Council of Architectural Registration Boards
Certified by the Massachusetts Certified Public Purchasing Official Program

Education: Kennedy School of Government, Harvard University
Masters Degree in Public Policy
Syracuse University, Syracuse, New York
Bachelor of Architecture Degree, *cum laude*
Bachelor of Arts Degree in Architectural History, *magna cum laude*

Professional Experience:

TBA Architects, Inc., Waltham, Massachusetts

1986 - Principal with responsibilities in project management, planning and historic preservation; firm operating standards and professional practice.

Selected Project Experience

- . Plymouth County Land Records Facility, Plymouth MA
 - . Master Plan, Mt Auburn Cemetery, Watertown MA
 - . Swenson Field Facilities, Bridgewater State University, Bridgewater MA
 - . Edward J Sullivan Courthouse Master Plan, State Division of Capital Asset Management
 - . Plymouth County Sheriff's Department Headquarters, Plymouth MA
 - . Peter Y Flynn Correctional Facility, Plymouth MA
 - . Ground Zone Shop & Tractor Repair Facilities, U Mass, Amherst and South Deerfield MA
 - . Lexington High School Modular Expansion, Lexington MA
- Consulting to the Profession: procurement , contracts and professional practice.

Awards:

Award for Excellence in Teaching, Boston Society of Architects College of Fellows
City of Newton Historic Preservation Award (three years)
City of Newton Mayor's Beautification Awards (two years)
Honorary Member; Honorary Alumnus, Boston Architectural College, Boston MA
Massachusetts Historic Preservation Award - Project: Washington Mills, Lawrence, Massachusetts
Governor's Commendation for Economic Development - Bostonian Industrial Complex, Whitman, MA
Golden Shovel Award, First Place, Professional Category (three years)
Sandcastle Competition Cranes Beach, Ipswich, Massachusetts

Presentations:

Mass Municipal Association, Mass Mayors Association, Build Boston, World Organization of Building Officials, Construction Specification Institute, U Mass - Amherst, American Institute of Architects, etc.

Public Service:

American Institute of Architects
Member, Board of Directors; 2006 President, Massachusetts Chapter
Boston Society of Architects, Boston, Massachusetts
Designee to the Mass Construction Industry Council; Delegate to AIA State Government Network
Member and past Chair, Government Affairs Committee
Boston Architectural College, Boston, Massachusetts
Overseer Emeritus
past Chair, Board of Trustees 2009-2014
past Overseer; Chair of Thesis, Student Affairs and Academic Appeals Committees
faculty member 1979 - present
Commonwealth of Massachusetts, Boston, Massachusetts
Member, Special Commission on Construction Reform
Member, Construction Reform Implementation Working Group (CRIWG)
Policy author, District Improvement Financing, MGL c 149A Construction Management at Risk
past Governor's Appointee and Chairman, State Designer Selection Board.
City Museum of Newton, Newton, Massachusetts
Trustee and member of the Executive Board; past President



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

#200-14
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www.newtonma.gov
Candace Havens
Director

**Community Preservation Committee
FUNDING RECOMMENDATION for
Historic Burying Grounds, Phase 3**

DOCKET
ITEM
200-14

date: 15 May 2014
from: Community Preservation Committee
to: The Honorable Board of Aldermen

PROJECT GOALS & ELIGIBILITY

This project will restore from 10 to 16 tombs in Newton’s historic East Parish Burying Grounds, at Centre and Cotton Streets. This site was established in the 1660s and is listed on the National Register of Historic Places. The eligibility of Newton’s municipally owned historic burying grounds for CPA funding as historic resources has already been confirmed through two prior proposals and appropriations.

As the CPA Engineer in Newton’s Department of Public Works, Frank Nichols will be the primary project manager. Mr. Nichols provided project management support for the most recent phases of work in Newton’s historic burying grounds and served as the primary project manager for the restoration of the City’s Civil War Monument in the private Newton Cemetery. He will oversee a consulting engineer with extensive experience in the restoration and preservation of historic cemeteries, who will be hired with CPA funds to provide biddable specifications and construction administration.

Historic Newton staff will work closely with Mr. Nichols, with the project’s consulting engineer and with Historic Newton’s volunteer Burying Grounds Committee to plan and publicize the project and to pursue a matching grant of \$50,000 from the Massachusetts Historical Commission (MHC).

RECOMMENDED FUNDING

On 30 April 2014 by a unanimous vote of 8-0 (member Dan Green absent), the Community Preservation Committee recommended that the requested \$208,007 be appropriated from the Community Preservation Fund’s historic resources balance to the control of the Jackson Homestead for this project. All funds should be allocated as historic resources. Funds may be used for all CPA-eligible purposes included implicitly or explicitly in the following summary budget:

Historic Burying Grounds, Phase 3					
Uses			Sources		
		%			%
Tree work	\$2,800	1.0%	CPA funds	\$208,007	75.3%
Repair of tombs	\$218,200	79.0%	Massachusetts Historical Commission -	\$50,000	18.1%
Project management & specifications	\$37,007	13.4%	Preservation Projects Fund **		
Historic Newton: director and assistant, fund-raising and financials	\$18,203	6.6%	City of Newton operating budget	\$18,203	6.6%
Total	\$276,210		Total	\$276,210	

website www.newtonma.gov/cpa
contact Alice E. Ingerson, Community Preservation Program Manager
email aingerson@newtonma.gov phone 617.796.1144

***CPC Funding Recommendation for
Historic Burying Grounds, Phase 3***

15 May 2014
page 2 of 2

SPECIAL ISSUES CONSIDERED BY THE CPC

Project management: The CPC was particularly anxious to ensure that this project would avoid the delays experienced during some past projects for the historic burying grounds, for which management responsibility was shared among volunteers and City staff who, though highly motivated, did not always have directly relevant technical training or experience, or in some cases adequate time to oversee the project on a daily basis. In response to that concern, Historic Newton accepted the Committee's suggestion to designate CPA Engineer Frank Nichols as the lead project manager for this phase.

Maintenance vs. capital improvements: The CPC felt that some of the tree work in the November 2013 proposal crossed the line from CPA-eligible capital improvements into CPA-ineligible maintenance. In response to that concern, the only tree work in the April 2014 revised proposal recommended for funding here is to remove trees growing next to or actually through the tombs scheduled for restoration or rebuilding.

Project bidding and funding leverage: Some past phases of work on the burying grounds were delayed when even the lowest bid received exceeded the funds available. This required re-dividing the scope of work into smaller units and re-bidding the project. To avoid this, the scope of work for this phase will be divided into minimal sets of tasks, each of which can be contracted for separately. This will make it possible to contract separately for the work that can only be done if the MHC grant is awarded.

ADDITIONAL RECOMMENDATIONS *(funding conditions)*

1. After appropriated funds become available, complete plans and specifications suitable for public bidding shall be submitted within 3 months, and all tomb restoration work shall be completed within 2 years, or by any extension of either deadline granted in writing by the Community Preservation Committee.
2. The project manager and Historic Newton will assist the CPC in publicizing the project; respond to the CPC's regular requests for project status updates; and prior to expending the final 10% of the appropriated funds will provide the CPC with an in-person and written final report, including photographs, a brief project narrative, and a comparison of budgeted to actual expenditures, for posting online.
3. Any funds appropriated for this project but not used for the purposes described in the April 2014 proposal to the CPC will be returned to the Newton Community Preservation Fund.

KEY OUTCOMES

The Community Preservation Committee will evaluate this project based on the on-time, within-budget completion of the scope of work described in the April 2014 proposal, without a request for additional CPA funds.

ATTACHMENTS

(delivered to the clerks of the Programs & Services Committee and Finance Committee)

- ◆ CPC project webpage: www.newtonma.gov/gov/planning/cpa/projects/burying.asp#phase3
- ◆ Proposal as revised in April 2014, including capital & operating budgets and project manager qualifications
- ◆ Maps & photographs from public hearing presentation
- ◆ Historic Newton organizational operating budget & financial statement *(online only)*
- ◆ Letters of support submitted by Historic Newton *(online only)*



Phase 3 appears on page 3.

Community Preservation Program Historic Burying Grounds

locations: East Parish Burying Ground (Cotton & Centre Streets, Newton Centre)
West Parish Burying Ground (River & Cherry Streets, West Newton)
South Parish Burying Ground (Winchester Street, Newton Highlands/Newton Upper Falls)

goals: For: pruning and where necessary, removal of trees that are diseased or threaten integrity of gravestones or tombs; for conservation, repair, stabilization, and cleaning of over 130 historic headstones, rootstones, and monuments (in phase 1), and of approximately 30 historic tombs (in phases 2 and 3); and for improved public access, including historically appropriate ornamental fencing and interpretive signage.

funding: Master Plan (all phases), November 2004
\$445,672 CPA funds appropriated (historic resources)
\$208,007 CPA funds requested
\$50,000 Massachusetts Historical Commission (to be requested)

funding phases phase_1 (2002) phase_2a (2004) phase_2b (2010) phase_3 (2013-14)

contacts: Cynthia Stone, Director
Historic Newton/Jackson Homestead
527 Washington Street
Newton Corner, MA 02458
email: cstone@newtonma.gov
phone: 617.796.1451

Frank Nichols, CPA Engineer
City of Newton Dept. of Public Works
1000 Commonwealth Avenue
Newton Centre, MA 02459
email: fnichols@newtonma.gov
phone: 617.796.1034

Bob DeRubeis, Commissioner
City of Newton Parks & Recreation Dept.

124 Vernon Street
Newton Corner, MA 02458
email: bderubeis@newtonma.gov
phone: 617.796.1500

Proposal Review & Appropriations Historic Burying Grounds 2002-03, Phase 1

Phase 1 proposal (gravestones)
Full project letters of support. Includes letters from Parks & Recreation Dept. and Newton Historical Commission.
Phase 1 schedule & budget updated (gravestones)
Letter addressing maintenance concerns
Phase 1 CPC funding recommendation
Phase 1 Board order (appropriation): \$188,277
updated Master Plan (all phases)
updated recommendations for fencing
updated full project budget (all phases)
Nov 2004 - Jan 2005

Historic Burying Grounds 2004-2011, Phases 2A and 2B

Phase 2a proposal (tombs)
Phase 2a budget, also showing future phases
Phase 2a CPC funding recommendation
Phase 2a Board order (appropriation): \$257,395
Phase 2b proposal (tombs & fencing), \$624,461.13 requested
Main proposal above includes summary, project budget, annual budget for the City partner (Jackson Homestead/Newton History Museum) within Historic Newton & project manager's qualifications; separate additional attachments below.
Phase 2b maps & photos
Phase 2b analysis of historic significance
Newton Historical Society annual financial statements (unintentionally omitted from October 2010 proposal)
Phase 2b public hearing presentation, with photos (long file, may be slow to load)
City of Newton Law Dept. confirmation of eligibility for line items in project budget
Phase 2b proposal revisions & updates (includes photos):
• minimum scope of work & additional funding required to begin using funds remaining from prior appropriation
• fencing
• volunteer training

October 2002
1 November 2002
3 January 2003
7 April 2003
22 April 2003
November 2004
12 January 2005
19 April 2005
12 October 2010
6 March 2011
15 December 2010
4 January 2011
6 March 2011

all contracted work completed, \$60,652 unspent balance of previously appropriated funds remains in project accounts

December 2011

- maintenance commitment by Parks & Recreation Dept.
 - total revised funding request
- revised proposal [presentation](#), with photos (*long file, may load slowly*)

The CPC declined to recommend funding for this or any future proposal for the Burying Grounds until Historic Newton has completed bid restructuring, rebidding, and all site work that can be done with remaining already appropriated funds.

Historic Burying Grounds 2013-14, Phase 3

3 June 2013 Phase 3 [pre-proposal](#) (tree work & tombs), \$410,987 anticipated request

15 November 2013 Phase 3 [full proposal](#), \$290,207 request, including these attachments:

- project budgets (capital and operating/maintenance)
- proposal sponsor operating budgets & financial statements
- project manager qualifications

Phase 3 proposal [maps & photographs](#)

Phase 3 proposal [letters of support](#)

9 January 2014 Phase 3 proposal [presentation](#) (including photographs and budget)

11 April 2014 Phase 3 proposal [updates](#), including revised funding request for **\$208,007** and updated project manager information

15 May 2014 Phase 3 [CPC funding recommendation](#)

Project News

- 2000 Dept. of Conservation & Recreation historic cemeteries handbook, [recommendations for Newton](#)
- ongoing Historic Burying Grounds page on [Historic Newton](#) website
- 23 May 2008 [process for approving revisions to workplan & budget](#)
- 16 April 2008 project [budget update](#)
- December 2009 written [project work update](#)
- Dec 2009-Jan 2010 [preservation consultants'](#) recommendations (from Building & Monument Conservation and Structures North, who helped to develop the May 2010 invitation for bids)
- 26 May 2010 [revised workplan & budget, with CPC approval](#)
In contrast to May 2008 process above, Board of Aldermen determined that their approval was not required.
- 16 December 2009 project update presentation - part of [Historic Newton overall/project updates](#), with photos
- July 2010 [invitation for bids and plans](#) (*long documents, will load slowly*)
- August 2010 Phase 2a/2b [bid received](#)
- 21 April 2011 revised [invitation for bids and plans](#) (*long documents, will load slowly*)



Setti D. Warren
Mayor

Newton, Massachusetts Community Preservation Program FUNDING REQUEST

#200-14

*(For staff use)
date rec'd:*

PRE-PROPOSAL

PROPOSAL

Form last updated April 2013.

For full instructions, see www.newtonma.gov/cpa or contact:

Community Preservation Program Manager,

City of Newton Planning & Development Department, 1000 Commonwealth Ave., Newton, MA 02459

aingerson@newtonma.gov 617.796.1144

REVISED
VERSION
rec'd by CPC
staff 23 April
2014

You may adjust the space for each question, but the combined answers to all questions on this page must fit on this page.

Project TITLE	Restoration of Newton's Historic Burying Grounds 2014-2015			
Project LOCATION	East Parish Burying Ground: Corner of Centre and Cotton Streets, Newton Center, MA 02459			
Project CONTACTS	Name & title or organization	Email	Phone	Mailing address
Project Manager	Frank Nichols, Engineer., Dept. of Public Works	fnichols@newtonma.gov	617-796-1034	Newton City Hall, 1000 Comm. Ave., Newton, MA 02459
Other Contacts	Cindy Stone, Director, Historic Newton	cstone@newtonma.gov	617-796-1451	Jackson Homestead, 527 Washington St. Newton, MA
	Marc Welch, Superintendent of Forestry	mwelch@newtonma.gov	617-796-1516	Newton Parks & Recreation Dept., 124 Vernon St., Newton Corner, MA 02458
	Bridget Jeffs , Assistant to the Director	bjeffs@newtonma.gov	617-796-1453	Jackson Homestead (see above)
	Stephanie Davis, Project Engineer, Structures North	sdavis@structures-north.com	978-745-6817 Ext.18	P.O. Box 01971-8560 Salem, MA.
Project FUNDING	CPA funds requested: \$208,007 over two years	Other funds to be used: \$68,203 (HN Staff & MHC grant)	Total project cost: \$276,210	
Project SUMMARY	Summarize the project's main tasks, components or features, and explain why it is eligible for CPA funds. You may provide more information in attachments, but your SUMMARY MUST FIT IN THE SPACE BELOW.			
	<p>Over the next two years, city staff and volunteer members of the Historic Newton Historic Burying Grounds Committee would like to continue the progress they have made on these important historic resources. Our aim is to address these repairs in units of annual projects outlined below.</p> <p>A) Tree Work: Members of the Burying Grounds team surveyed the grounds and identified two trees which are posing eminent threat to tombs and gravestones. Marc Welch, will oversee this work: \$2800 (year 1).</p> <p>B) Complete repairs to East Parish Burying Ground: 1) Tomb E-1047 requires rebuilding: \$44,000 (year 1); 2) Table top monument, E-S Jackson and Table Top 1 in poor condition. \$16,200 (year 1) 3) Tombs E-A to E-H: \$108,000 (year 2); 4) Tombs E-211, E-220, E-Kenrick, E-T Jackson, E-Rogers: \$50,000 (year 2).</p> <p>C) Oversight/Management of Project: 1) Frank Nichols, city engineer, oversight: \$7500 (year 1) \$7687 (year 2). 2) Structures North to update construction drawings and provide construction administration: 10% of total tomb budget: \$6020 (year 1), \$15,800 (year 2).</p> <p>These projects are eligible for funding from the CPA as both historic preservation and open space. Funds previously appropriated by the CPC have been used to repair hundreds of gravestones and to complete restoration of the tombs in South Burying Ground.</p>			

You may adjust the space for each question, but the combined answers to all questions on this page must fit on this page.

Project TITLE		Restoration of Newton's Historic Burying Grounds 2014-2015				
USE of CPA FUNDS		HISTORIC RESOURCES	OPEN SPACE	or	RECREATION LAND	COMMUNITY HOUSING Contact staff for separate form.
Check all that apply.	acquire					
	create	not allowed				
	preserve	X	X		X	
	rehabilitate/restore	X	Consult staff.			
COMMUNITY NEEDS	From at least 2 of the community-wide plans linked to <i>Guidelines & Forms</i> from www.newtonma.gov/cpa , provide the plan title, year, page number and a brief quote showing how this project meets needs already recognized in these plans. You may also list other community benefits not mentioned in any plan.					
<p>Several community-wide plans attest to the importance of the Historic Burying Grounds. "Some properties combine aspects of community space and historic design such as the city's Historic Burying Grounds or City Hall. The historic burying grounds are the final resting places for many of Newton's s early settlers and prominent citizens and provide both historic architecture with the tombs and headstones as well as community history, and historical information through inscriptions." (pages 10-11, Section 4, <i>2013-2019 Recreation and Open Space Plan Update</i>). Newton's 3 Historic Burying Grounds constitute 3 of the 5 burial grounds and cemeteries listed in the <i>Heritage Landscapes Report</i>, 2010 pages 43-44. The Historic Burying Grounds are also listed in last year's <i>Capital Improvement Plan</i> for the city.</p> <p>Newton's three City-owned historic burying grounds are important civic and cultural resources whose significance stems both from the local history and the national events they embody. Recognizing the historical, cultural, social, and environmental importance of Newton's old burying grounds, Historic Newton and Newton's Parks and Recreation Department launched a long-range program in 2003 to secure site stabilization and gravestone and tomb restoration. Once the burying grounds are stable and secure, we can address interpretation of these properties.</p>						
COMMUNITY CONTACTS	List 3 Newton residents or organizations that can comment on the project and its manager's qualifications. No more than 1 of these contacts should be a Board member, supervisor, employee or current work colleague of the project manager. Formal letters of support may also be attached but are not required.					
Name & title or organization		Email	Phone	Mailing address		
Russel Feldman		rfeldman@tbaarchitects.com	781-893-5828	85 Langley Rd., Newton Centre, 02459		
Constance Kantar		cgk@kantartfinearts.com	617-332-7495	382 Kenrick St. , Newton, 02458		
Jane Galli		jgalli@shelleybulfinch.com	617-467-4443	101 River St., West Newton, MA 02465		
Donald Lang		donald@dlaboston.com	617-969-8400	999 Chestnut St. , Newton Upper Falls, MA 02464		
Brian Yates		byates@newtonma.gov	617-244-2601	1094 Chestnut St. Newton Upper Falls, MA 02464		
NON-CPA FUNDING	Source of funds		Amount requested	Date of funding decision (confirmed or expected)		
Funding from Historic Newton for project financial oversight and fund-raising			\$18,203	City budget		
Mass. Historic Commission Projects Preservation Fund if granted			\$50,000	May 2015		

You may adjust the space for each question, but the combined answers to all questions on this page Full proposals must also include a full, detailed budget in addition to this page.

#200-14
 REVISED VERSION
 rec'd by CPC staff 23
 April 2014

Project TITLE	Restoration of Newton's Historic Burying Grounds 2014-2015		
Project BUDGET	USES of Funds (major expense categories)		SOURCES of Funds (CPA & others)
CAPITAL/DEVELOPMENT COSTS			
Tree Work	\$2,800	CPA	\$208,007
Complete repairs to East Parish Burying Ground Tombs	\$218,200	<i>Note: Amount requested from CPA reduced from November 2013 proposal by \$32,200 not being spent on tree work and \$50,000 being requested from MHC.</i>	
Structures North --Engineering	\$ 21,820	Mass Historic Commission Preservation Projects Fund	\$50,000
Frank Nichols—Project Manager	\$15,187	City budget	\$18,203
Historic Newton: director and assistant; fund-raising and financials	\$18,203		
TOTAL	\$276,210	TOTAL	\$276,210
ANNUAL OPERATIONS & MAINTENANCE (cannot use CPA funds)			
Parks and Recreation Dept.	\$6,145	City General Fund Budget	\$6,145
Historic Newton: volunteers on clean-ups and staff on administration.	\$11,126	City General Fund Budget for Jackson Homestead	\$ 11,126
TOTAL	\$ 17,271	TOTAL	\$ 17,271
Project TIMELINE	Phase or Task	Notes (required fundraising, permits, bidding, etc.)	Season & Year
	Develop RFP for tomb work		Summer 2014
	Implement tree work		Summer/Fall '14
	Implement year 1 tomb work		Spring-Fall 2015
	Implement Year 2 tomb work		Spring-Fall '16
	Final report to CPC		Winter '16

Project TITLE		Restoration of Newton's Historic Burying Grounds 2014-2015	
Required or Optional?	Check if included	Attachment Title & Description	
REQUIRED for all proposals	X	PHOTOS	of existing site or resource conditions (2-3 photos may be enough)
	X	MAP	of site in relation to nearest major roads (omit if project has no site)
		PROJECT FINANCES printed and as computer spreadsheets, with both uses & sources of funds	
	X	development pro forma/capital budget: include total cost, hard vs. soft costs and contingencies, and project management – amount and cost of time from contractors or staff (in-kind contributions by existing staff must also be costed)	
	X	10-year annual operating & maintenance budget (CPA funds may not be used here)	
	X	non-CPA funding: commitment letters, letters of inquiry to other funders, fundraising plans, etc., including both cash and est. dollar value of in-kind contributions	
	Not required	purchasing of goods & services: short email or letter summarizing sponsor's understanding of applicable statutes (MGL ch. 30, 30B and/or 149) and City policies	
		SPONSOR FINANCES & QUALIFICATIONS	
	X	for sponsoring department or organization, most recent annual operating budget (revenue & expenses) & financial statement (assets & liabilities); each must include both public (City) and private resources ("friends" organizations, fundraising, etc.)	
	X	for project manager: relevant training & track record of managing similar projects	
OPTIONAL for all proposals	X	LETTERS of SUPPORT	from Newton residents, organizations, or businesses
REQUIRED for all proposals that involve City govt., including real estate acquisitions	X	CAPITAL IMPROVEMENT PLAN	current listing/ranking & factors for this project
	X	COVER LETTER	from head of City department, board or commission confirming: current custody, or willingness to accept custody, of the resource and commitment of staff time for project management
NOT REQUIRED – established by previous projects.		HISTORIC SIGNIFICANCE	see separate instructions for 3 required attachments analyzing significance and showing how project meets national preservation standards
NOT REQUIRED		SITE CONTROL, VALUE & DEED RESTRICTIONS	
		legally binding option, purchase & sale agreement or deed	
		appraisal by an independent, certified real estate appraiser (the CPC may also commission its own, separate appraisal)	
		owner's agreement to a permanent deed restriction (for affordability, historic preservation or land conservation)	
		ZONING & PERMITTING	
		short email confirmation of review by the Development Review Team (DRT)	
		brief property history: at least the last 30 years of ownership & use	
		environmental mitigation plans (incl. lead paint, asbestos, underground tanks)	
		zoning relief and permits required (incl. parking waivers, demolition or building permits, comprehensive permit or special permit)	
		other approvals required (Newton Conservation Commission, Newton Historical Commission, Newton Commission on Disabilities, Massachusetts Historical Commission, Massachusetts Architectural Access Board, etc.)	
To be produced with CPA funds.		DESIGN & CONSTRUCTION	
		professional design & cost estimates: include site plan, floor plans & elevations	
		materials & finishes; highlight "green" or sustainable features & materials	

**Historic Burying Grounds
Capital Budget and Non-CPA Funding**

Total Project	Year 1	Year 2	Project Total	Changes from Nov 2013 Proposal
Tree Work	\$2,800		\$2,800	Due to concerns about maintenance, this is for removal of two trees which impact tombs directly. Reduced from \$35,000.
Tomb Work				
Tomb E-1047	\$44,000			This project will be put out to bid with a number of alternates delineated in priority order. We will repair as many tombs as funding will allow.
E-S Jackson and Table Top 1	\$16,200			
Tombs E-A through E-H		\$108,000		
Tombs E-211, E-220, E-Kenrick, E-T Jackson, E-Rogers		\$50,000	\$218,200	
Administrative and Engineering				
Structures North @ 10%	\$6,020	\$15,800	\$21,820	
Frank Nichols, Project Manager	\$7,500	\$7,687	\$15,187	
Historic Newton: director and assistant, fund-raising and financials	\$9,011	\$9,192	\$18,203	vs. \$16,492 total cost listed Nov 2013
Total Expense	\$85,531	\$190,679	\$276,210	
Non-CPA Support				
Historic Newton: director fund-raising and managing, assistant processing	\$9,011	\$9,192	\$18,203	vs. \$16,492 total cost listed Nov 2013
Parks & Rec Dept				\$17,069 total cost listed here in Nov 2013 has been removed because it was for maintenance or oversight of tree work, which has been significantly reduced.
Historic Newton volunteers				\$2,880 total value listed here in Nov 2013 has been removed because it was for maintenance (cleanups).
Mass Preservation Projects Fund	\$50,000		\$50,000	If this grant is awarded, it will be used to repair additional tombs.
Total Non-CPA Support	\$59,011	\$9,192	\$68,203	
Total CPA Request (= Total Expense – Total Non-CPA Support)	\$26,520	\$181,487	\$208,007	

Historic Burying Grounds Proposal to Newton Community Preservation Committee

Ten Year Maintenance Budget

	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022	FY 2013
Parks and Rec.										
leaf removal	\$2,392	\$2,452	\$2,513	\$2,576	\$2,640	\$2,706	\$2,774	\$2,843	\$2,914	\$2,987
mowing	\$3,753	\$3,847	\$3,943	\$4,042	\$4,143	\$4,246	\$4,352	\$4,461	\$4,573	\$4,687
Historic Newton										
clean ups	\$1,440	\$1,476	\$1,513	\$1,551	\$1,589	\$1,629	\$1,670	\$1,712	\$1,755	\$1,798
other	\$1,345	\$1,379	\$1,413	\$1,448	\$1,485	\$1,522	\$1,560	\$1,599	\$1,639	\$1,680
Total	\$8,930	\$9,153	\$9,382	\$9,617	\$9,857	\$10,103	\$10,356	\$10,615	\$10,880	\$11,152

Rec'd by CPC staff 23 April 2014

HISTORIC BURYING GROUNDS

Management of Project

Frank Nichols of the city engineering department is the project manager. He has worked with Historic Newton on the burying grounds restoration for several years now. He recently completed oversight of the restoration of the Civil War Monument in Newton Cemetery.

Assisting Frank will be Cindy Stone, Director of Historic Newton. She will provide oversight of finances of the project, seek additional funds, and serve as liaison between city departments and citizen volunteers of the Historic Burying Grounds Committee. Bridget Jeffs, her assistant, will process payments.

Stephanie Davis of Structures North is the project engineer. She will create the specifications to put the project out to bid and will provide engineering oversight of the contractor.

Frank Nichols, PE
Department of Public Works
Engineering Division

CPC Project Management Summary

Brigham House – June 2008 to December 2008

Provided construction management for the restoration of the Brigham House in Newton Highlands. Duties included attending weekly construction meetings with the project Architect, Contractor and other City Departments

Burial Tombs – May 2008 to May 2011

Assisted in the development of the Request for Proposals (RFP) and provided construction management for the South Burial Cemetery located on Winchester Street. Provided construction oversight including regular on-site meetings with the Contractor and Consultant, reviewed contractor change orders and invoices

Durank-Kenrick House – April 2012 to March 2013

Provided construction management for the restoration of the Durank-Kenrick House located on Waverly Avenue. Duties included attending weekly construction meetings with the project Architect and Contractor, reviewed project change orders and payments

Civil War Monument – May 2013 to June 2014

Working with the Consultant developed project Plans and Specifications for Public bidding to restore the Civil War Monument located at the Newton Cemetery on Walnut Street. Provided construction management that included regular site visits with the Consultant and Contractor. Reviewed and approved change orders and project invoices for both Consultant and Contractor. Due to the project timeline, provided administrative duties to extend contracts for both Consultant and Contractor thru June 2014

Municipal Tobacco Control Technical Assistance Program

Donald J. Wilson, Director
c/o Massachusetts Municipal Association
One Winthrop Square
Boston, Massachusetts 02110

(617) 426-7272
FAX (617) 695-1314
djwilson@mma.org

PROPOSED FDA RULES AND NEWTON PROPOSAL

POLICIES THAT ONLY THE FEDERAL GOVERNMENT CAN ACT ON:

Advertising – WE DON'T RECOMMEND LOCALS DEAL WITH THIS

POLICIES THAT FEDERAL GOVERNMENT IS BARRED FROM ACTING ON:

Prohibiting usage
Prohibiting sales altogether
Requiring all nicotine be eliminated from products
Prohibiting sales in specific categories of retail outlets (ex: pharmacies)
Requiring a prescription for tobacco products
Raising the minimum age beyond 18

POLICIES IN NEWTON DRAFT AND LIKELY TO BE IN FDA REGULATION:

No sales to minors
Face-to-face sales only (vending machines and self-service displays banned)
Free sampling ban
Prohibition on characterizing flavors (except menthol)

POLICIES NOT IN NEWTON DRAFT AND...

... LIKELY TO BE IN FDA REGULATION:

Restrictions on adulterated products
Prohibitions related to misbrand products
Disclosure of health information (ingredients, health effects documentation)
Registration of tobacco product manufacturers
Disclosure of products list with labeling and advertising
Premarket review of all products
Restrictions on making claims about modified risk
User fees

... MAY BE IN FDA REGULATION:

Minimum package size
Mandatory warning labels
Prohibition on brand name sponsorship of events

A NOTE ON LOCAL AUTHORITY TO ENACT

The federal Family Smoking and Prevention Tobacco Control Act permits local action regarding “time, place and manner”, including sales, as supported by the US. Court of Appeals decision in favor of Providence’s city ordinance (National Association of Tobacco Outlets et al v. City of Providence et al):

In 2009, Congress enacted an exception to the §1334(b) preemption provision that permits some restrictions on promotional activity. See Family Smoking Prevention and Tobacco Control Act, Pub. L. 111-31, § 203, 123 Stat. 1776, 1846 (2009) (codified at 15 U.S.C § 1334(c)). This exception states that: Notwithstanding [§ 1334(b)], a State or locality may enact statutes and promulgate regulations, based on smoking and health, that take effect after the effective date of the [FSPTCA], imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes. 15 U.S.C. § 1334(c). Notably, § 1334(c) was enacted in response to a portion of the Lorillard Supreme Court decision (separate from the First Amendment portion discussed above), which held that various Massachusetts regulations restricting outdoor and point-of sale cigarette advertising were preempted by the Labeling Act. See Lorillard, 533 U.S. at 551. This portion of Lorillard concluded that any tobacco advertising regulation motivated by concerns relating to smoking and health was preempted by the Labeling Act, even though the regulations merely “govern[ed] the location [i.e., place], and not the content, of [the] advertising.” Id. at 548-49. National Association admitted at oral argument, and commentators have agreed, that this provision was designed to “essentially reverse” the Lorillard preemption ruling.

PROJECTED TIMELINE OF NEW FDA REGULATION (USING THREE OUTSTANDING FDA PROPOSED RULES AS A GUIDELINE)

The public comment period ends on July 9, 2014. At that time, the FDA will need to review all submissions and formulate final regulations afterwards. When the FDA asked for public comment about banning menthol in cigarettes, they received approximately 170,000 documents. It is expected that this public comment will result in much higher numbers. After the final regulations are approved within the FDA, they must go to the federal Office of Management and Budget (OMB) for review. This same OMB review was required for the proposed regulations that are the subject of the current public comment. That review took 6 months. A conservative projection would be that from the end of the public comment period to the new rules going into effect would be two years, barring any legal challenges.

Of the three outstanding FDA proposed rules (not tobacco-focused), the longest had its comment period close in June of 2011, the other two were after that date.

Municipal Tobacco Control Technical Assistance Program

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STATEWIDE STATUS OF SELECT POLICIES UNDER CONSIDERATION IN NEWTON

1. CIGAR SALES REGULATED (§20-2(i))

50 municipalities (10 cities) require minimum pricing on cigars. Statewide youth surveys find youth are using cheap, flavored single cigars more than cigarettes. Minimum pricing thwarts youth initiation to tobacco. A quarter of the state's population lives in municipalities with this policy, including Boston. Unlikely to be in the proposed FDA regulation.

2. PROHIBITION OF THE SALE OF BLUNT WRAPS (§20-2(k))

A blunt wrap is a sheet of reconstituted tobacco, usually flavored, used primarily to make marijuana cigarettes. 61 municipalities (16 cities) ban the sale of blunt wraps. Boston has since February 2009. Police departments usually support this policy because of the product's connection to drug use. The Mass. Supreme Judicial Court sided with Boston when sued by blunt wrap manufacturers. The federal government is prohibited from banning tobacco products so this will not be in the proposed FDA regulation.

3. BAN ON NON-RESIDENTIAL ROLL-YOUR-OWN MACHINES (§20-2(g))

81 municipalities (17 cities) ban roll-your-own (RYO) machines in commercial and/or private club locations (sale of RYO machines for in-home use is permitted). The deep discounted price of these RYO cigarettes undercut the long-held proven strategy that higher prices discourage smoking, especially among youth. Federal law bans commercial use of RYO except in private clubs. The proposed policy eliminates this loophole, making for a "level playing field" among all cigarette vendors in Newton.

4. RAISING MINIMUM LEGAL SALES AGE (MLSA) TO 21 (definition change)

18 municipalities (1 city) have raised the minimum legal sales age from 18 to 21. Needham was the first jurisdiction in the U.S. to do so in April 2005. There have been no lawsuits to date. New York City's ordinance will go into effect in mid-May. Brookline will vote at town meeting at the end of May. The federal government is prohibited from raising the MLSA so it will not be in the proposed FDA regulation.

5. REQUIRING RETAILER TO POST CESSATION INFORMATION (§20-2(c)(2)(b))

55 cities and towns require retailers to also post a sign indicating the state's Quitline information for smokers contemplating a quit attempt. Boston has this policy. The state provides free signage. No such signage requirement is in the current FDA regulation. It is unlikely it will be in the proposed one.

6. E-CIGARETTE USAGE – LOCATIONS PROHIBITED (§20-8)

52 municipalities (12 cities) ban the use of e-cigarettes in those smoke-free locations included in the state's Smoke-Free Workplace Law (MGL Ch. 270 §22) and in those smoke-free locations found in their local second-hand smoke measures. Boston has this policy. The public health rationale is that e-cigarettes are unregulated and therefore the exhaled vapor's content is unknown, especially if the solution used is purchased on-line or is homemade. The federal government is prohibited from banning usage and therefore this policy will not be in the proposed FDA regulation.

7. FLAVORED PRODUCT BAN (WITH EXCEPTIONS) (§20-2(J))

In 2009, the federal government banned flavored cigarettes nationwide. Providence enacted a city ordinance, relying on the federal government's public health rationale for the cigarette flavor ban, and extended that ban to include all other tobacco products and e-cigarettes, with an exception for certain retail outlets. Providence prevailed in a lawsuit in the U.S. Court of Appeals in the same district that serves Massachusetts. It is unclear if the FDA will include this policy in their proposed regulation.



Tobacco 21

Protecting youth by raising the minimum sale age for tobacco products from 18 to 21 years old

Tobacco Use—Especially Among Young People—Is a Critical Public Health Problem

- Although tobacco use has decreased, tobacco is still a leading cause of preventable, premature death in the United States and New York City, killing thousands of New Yorkers each year.^{1,2}
- 20,000 public high school students currently smoke in NYC.³
- Almost 100,000 young adults between the ages of 18-24 currently smoke in NYC.⁴
- About 80% of NYC smokers started before the age of 21.⁵
- The transition from experimental to regular smoking typically occurs around age 20.⁶
- Use of electronic cigarettes, which contain the highly addictive drug nicotine, more than doubled among U.S. high school students between 2011 and 2012 from 4.7% to 10%.⁷

Raising the Minimum Sale Age Reduces Access to Tobacco Products in Stores

- In NYC, 25% of public high school students under 18 who smoke reported purchasing cigarettes in stores.⁸
- Currently, teenagers who look older than 16 years old are significantly more likely to succeed in a purchase attempt than those who look younger.⁹
- The NYS driver license clearly indicates “Under 21”, making it easier for retailers to identify youth at that age threshold.

Raising the Minimum Age Reduces Access to Social Means of Purchasing Tobacco Products

- Friends are a common source of tobacco among underage youth.^{10,11}
- Between 1997 and 2011, the proportion of public high school students buying their own cigarettes from stores dropped, while the percentage who obtain cigarettes from someone else increased from 40% to 52%.¹²
- 90% of people purchasing cigarettes for minors were between 18 and 20.¹³
- High schools students are less likely to come into contact with 21 year olds than 18 year olds in their social circles, reducing opportunities to access tobacco from current legal buyers.¹⁴

Raising the Minimum Age Will Save Lives

- After the minimum sale age was increased from 16 to 18 in England, there was a 30% decline in smoking among youth ages 16-17;¹⁵ younger students ages 11-15 were also less likely to be regular smokers afterwards than before the law.¹⁶
- By one estimate, raising the minimum age would decrease smoking prevalence by 67% for 14-17 year olds and 55% for 18-20 year olds.¹⁷ Smoking prevalence for those over 21 would decline slowly over time as these youth age, ultimately falling 30%.¹⁸

Public Support and Precedent

- Needham, MA raised the tobacco sale age to 21 in 2005.¹⁹ Between 2006 and 2012, high school students in Needham who reported smoking in the past month declined over 50%.²⁰
- Neighboring states and counties have raised the tobacco sale age to 19, including New Jersey in 2005²¹, Nassau County in 2006²², Onondaga County in 2009²³ and Suffolk County in 2005.²⁴
- Two-thirds of New Yorkers favor raising the minimum age for sale of cigarettes from 18 to 21, with 69% of non-smokers and 60% of smokers supporting this policy.²⁵



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- ¹ New York City Department of Health and Mental Hygiene. Preventing Non-Communicable Disease and Injuries: Innovative Solutions from New York City. New York: New York City Department of Health and Mental Hygiene, 2011.
- ² Danaei G, Ding EL, Mozaffarian D, Taylor B, Rehm J, Murray CJ, et al. The preventable causes of death in the United States: comparative risk assessment of dietary, lifestyle, and metabolic risk factors. *PLoS Med* 2009;6(4): e1000058.
- ³ Youth Risk Behavior Survey New York City Department of Health and Mental Hygiene, 2011.
- ⁴ Community Health Survey. New York City Department of Health and Mental Hygiene. 2011
- ⁵ New York City Community Health Survey 2004-2007. Internal analysis of data
- ⁶ Hammond D. (2005). Smoking behavior among young adults: Beyond youth prevention. *Tob Ctrl*14:181-185.
- ⁷ Centers for Disease Control and Prevention. Notes from the Field: Electronic Cigarette Use Among Middle and High School Students — United States, 2011–2012. *Morbidity and Mortality Weekly Report* 2013;62(35):729-30.
- ⁸ New York City Youth Risk Behavior Survey 2011. Internal analysis of data.
- ⁹ DiFranza JR, Savageau JA, Aisquith BF. Youth access to tobacco: the effects of age, gender, vending machine locks, and “it’s the law” programs. *American Journal of Public Health* 1996;86(2):221-4.
- ¹⁰ DiFranza J, and Coleman M (2001). Sources of tobacco for youths in communities with strong enforcement of youth access laws. *Tob Ctrl* 2001;10:323-328.
- ¹¹ Robinson, L. et al. (2006). Changes in adolescents’ sources of cigarettes. *JAdolesc Health* 39:861-867.
- ¹² New York City Department of Health and Mental Hygiene. Epiquery: NYC Interactive Health Data System -New York City Youth Risk Behavior Survey 1997-2011. April 19, 2013. <http://nyc.gov/health/epiquery>
- ¹³ DiFranza J, and Coleman M (2001). Sources of tobacco for youths in communities with strong enforcement of youth access laws. *Tob Ctrl* 2001;10:323-328.
- ¹⁴ Ahmad, S. (2005). Closing the youth access gap: The projected health benefits and cost savings of a national policy to raise the legal smoking age to 21 in the United States. *Health Policy* 75:74-84.
- ¹⁵ Fidler JA, West R. Changes in smoking prevalence in 16-17-year-old versus older adults following a rise in legal age of sale: findings from an English population study. *Addiction* 2010;105(11):1984-8.
- ¹⁶ Millett C, Lee JT, Gibbons DC, Glantz SA. Increasing the age for the legal purchase of tobacco in England: impacts on socio-economic disparities in youth smoking. *Thorax* 2011;66(10):862-865.
- ¹⁷ Ahmad, S. (2005). Closing the youth access gap: The projected health benefits and cost savings of a national policy to raise the legal smoking age to 21 in the United States. *Health Policy* 75:74-84.
- ¹⁸ Ahmad, S. (2005). Closing the youth access gap: The projected health benefits and cost savings of a national policy to raise the legal smoking age to 21 in the United States. *Health Policy* 75:74-84.
- ¹⁹ <http://www.needhamma.gov/documentcenter/view/4162>
- ²⁰ <http://www.wnyc.org/articles/wnyc-news/2013/apr/23/nyc-looks-boston-suburb-idea-cigarette-sales/>
- ²¹ http://www.njleg.state.nj.us/2004/Bills/PL05/384_PDF
- ²² http://www.nassaucountyny.gov/website/GenericServices/docs/NassauCountyAdminCode_Dec2010.pdf
- ²³ <http://www.nysac.org/legislative-action/documents/ProhibitingSaleofTobaccoProductsforAnyoneUnder19Onondaga.pdf>
- ²⁴ <http://ecode360.com/14948475>
- ²⁵ NYC DOHMH Tobacco Behavior and Public Opinion Survey, 2012.

Chapter 20

CIVIL FINES AND MISCELLANEOUS OFFENSES*

- Art. I Smoking, Tobacco Products, Nicotine Delivery Products and Alcoholic Beverages, §§ 20-1—20-12**
- Art. II. Noise, §§ 20-13—20-19**
- Art. III. Civil Fines/Non-criminal Disposition, §§ 20-20—20-22**
- Art. IV. Light Trespass, §§ 20-23—23-49**
- Art. V. Miscellaneous Offenses, §§ 20-50—20-63**

**ARTICLE I.
SMOKING, TOBACCO PRODUCTS AND ALCOHOLIC BEVERAGES**

Sec. 20-1. Distribution of Tobacco Products and Nicotine Delivery Products.

No person in the business of selling or otherwise distributing cigarettes, or other tobacco or smoking products, or nicotine delivery products for commercial purposes, or any agent or employee of any such person, shall in the course of such business distribute any cigarettes, or other tobacco or smoking products or nicotine delivery products free to any person on any public street or sidewalk, or in any public park or playground, or any other public ground, or in any public building.

Any person who violates the provisions of this section shall be punished by a fine of not less than twenty (\$20.00) nor more than fifty (\$50.00) dollars for each violation. Every hour or part thereof in which a person engages in the conduct prohibited by this section shall constitute a single and separate violation. (Ord. No. R-224, 3-1-82; Rev. Ords. 1995, § 20-18; Ord. No. X-59, 10-7-03)

Sec. 20-2. Sale of tobacco products and nicotine delivery products.

(a) *Declaration of findings and policy:* Whereas there exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and, whereas at least one-half of all smokers begin smoking before the age of eighteentwenty-one (~~1821~~); and, whereas an estimated three thousand (3,000) minors begin smoking every day in the United States; and, whereas nicotine in tobacco has been found by the Surgeon General to be a powerfully addictive drug; and, whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major problem; and, whereas a city ordinance to restrict the access of minors to tobacco products is in the interest of public health; now, therefore, it is the policy of the City of Newton to discourage minors from experimenting with tobacco and nicotine and to make tobacco products and nicotine delivery products less accessible to minors.

(b) *Definitions:* For the purposes of this section, the following words shall have the meanings respectively ascribed to them by this section:

Blunt wrap: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other

*Cross reference—General penalty for code violations, § 1-6; police, Ch. 24

fillers.

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment. *Business Agent:* An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Characterizing flavor: A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted either prior to or during consumption of a tobacco product or component part thereof, including but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings that do not contribute to the distinguishable taste or aroma or because of the provision of ingredient information.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under M.G.L. Chapter 64C, Section 1, Paragraph 1.

City: City of Newton.

Commissioner: The commissioner of health and human services of the City of Newton.

Component part: Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

Constituent: Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacture or packing of the tobacco product. Such term shall include a smoke constituent.

Distinguishable: Perceivable by either the sense of smell or taste.

E-Cigarette: Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid, with or without nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, or under any other product name.

Employee: Any individual who performs services for an employer.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

Flavored tobacco product: Any tobacco product or component part thereof that contains a constituent that imparts a characterizing flavor. A public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is flavored.

Health care provider: An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services or employs health care providers licensed, or subject

to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112. Health care provider includes hospitals, clinics, health centers, pharmacies, drug stores and doctor and dentist offices.

~~*Self-service display:* Any display of tobacco products which is so located such that said products are accessible to customers without assistance from an employee or store personnel.~~

Minor: Any individual who is under the age of ~~eighteen~~ twenty-one (~~18~~21).

Nicotine delivery product: Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes.

Non-residential roll-your-own (RYO) machine: A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines located in private homes used for solely personal consumption are not non-residential RYO machines.

Person: A person, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale of tobacco products or nicotine delivery products.

Retail tobacco store or retail nicotine delivery product store: An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and tobacco paraphernalia, or nicotine delivery products, in which the entry of persons under the age of 21 is prohibited at all times, and maintains a valid tobacco and nicotine delivery product sales permit.

Self-service display: Any display of tobacco products or nicotine delivery products which is so located such that said products are accessible to customers without assistance from an employee or store personnel.

Smoke constituent: Any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

Vending machine: Any automated or mechanical self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product or nicotine delivery product.

Tobacco products: Cigarettes, cigars, chewing tobacco, pipe tobacco, snuff or tobacco in any of its forms.

(c) ~~Sales~~ or gift to minors prohibited:

(1) No person shall sell tobacco products or nicotine delivery products or permit the same to be sold to a minor; ~~or not being the minor's parent or legal guardian, give tobacco products or nicotine delivery products to a minor~~

(2) Required Signage and Notice of prohibition:

(a) In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Commissioner. The notice shall be at least forty-eight (48) square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

(b) The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post signage provided by the Commissioner that discloses current referral information about smoking cessation.

(c) The owner or other person in charge of a shop or other place used to sell nicotine delivery products at retail shall conspicuously post a sign stating "The sale of nicotine delivery products to minor under 21 years of age is prohibited." The owner or other person in charge of a shop or other place used to sell e-cigarettes at retail shall conspicuously post a sign stating "The use of e-cigarettes at indoor establishments may be prohibited by local law." The notices shall be posted conspicuously in such a manner that they may be readily seen by a person standing at, or approaching the cash register. The signs will be provided by the Commissioner.

(3) *Identification:* Each person selling or distributing tobacco products shall verify the age of the purchaser by means of government-issued photographic identification containing the bearer's date of birth that the purchaser is ~~18~~²¹ years old or older. Verification is required for any person under the age of 27.

(d) *Tobacco and nicotine delivery product sales permit:*

(1) No person shall sell or otherwise distribute tobacco or nicotine delivery products within the city without first obtaining a tobacco and nicotine delivery product sales permit issued by the commissioner. Only owners of establishments with a permanent, non-mobile location in Newton are eligible to apply for a permit and sell tobacco and/or nicotine delivery products at the specified location in Newton.

(2) As part of the tobacco and nicotine delivery product sales permit application process, the applicant will be provided with a copy of this section. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco or nicotine delivery product sales regarding both state laws regarding the sale of tobacco to minors and this regulation.

(3) Each applicant selling or distributing tobacco is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a tobacco and nicotine delivery product sales permit can be issued.

(4) The fee for an initial tobacco and nicotine delivery product sales permit shall be determined by the commissioner based on the cost of administering the permit process. All such permits shall be renewed annually, ~~no later than June 1~~. The annual renewal fee shall be in an amount determined by the commissioner based upon the actual cost of administering the permit renewal process.

- (5) A separate permit is required for each retail establishment selling tobacco and/or nicotine delivery products.
- (6) Each tobacco and nicotine delivery product sales permit shall be displayed at the retail establishment in a conspicuous place.
- (7) No tobacco and nicotine delivery product sales permit holder shall allow any employee to sell cigarettes, ~~or~~ other tobacco products, or nicotine delivery products until such employee reads this regulation and state laws regarding the sale of tobacco to minors and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state laws.
- (8) A tobacco and nicotine delivery product sales permit is non-transferable. A new owner of an establishment that sells tobacco or nicotine delivery products must apply for a new tobacco and nicotine delivery product sales permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.
- (9) Issuance of a tobacco and nicotine delivery product sales permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.
- (10) A tobacco and nicotine delivery product sales permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired.

(e) *Tobacco products or nicotine delivery products vending machines:*

No person shall distribute or sell tobacco products or nicotine delivery products by the use of a vending machine.

(f) *~~Self-service~~ Self-service displays:*

No person shall sell or offer for sale tobacco products or nicotine delivery products by means of a ~~self service~~ self-service display.

(g) *Ban on Free Distribution, ~~and on~~ Single Cigarettes and on non-residential roll-your-own machines:*

No person shall distribute, or cause to be distributed, any free samples of tobacco products or nicotine delivery products. No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes. or any non-residential roll-your-own machine.

(h) *Prohibition of the Sale of Tobacco Products or Nicotine Delivery Products by Health Care Providers:*

No health care provider located in the City of Newton shall sell tobacco products or nicotine delivery products or cause tobacco products or nicotine delivery products to be sold. No retail establishment that operates maintains or employs a health care provider within it, such as a pharmacy or drug store, shall sell tobacco products or nicotine delivery products or cause tobacco products or nicotine delivery products to be sold.

(i) Cigar sales regulated:

No retailer, retail establishment, or other individual or entity shall sell or distribute or cause to be sold or distributed any original package of two or more cigars, unless such package is priced for retail sale at \$5.00 or more. This section shall not apply to the sale or distribution of any cigar having a retail price of two dollars and fifty cents (\$2.50) or more; or to a person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Newton; or to a retail tobacco or retail nicotine delivery store.

(j) Sale of flavored tobacco or nicotine delivery products prohibited:

No retailer, or other individual or entity shall sell or distribute or cause to be sold or distributed or offer for sale any flavored tobacco or nicotine delivery product to a consumer. This provision shall not apply to a retail tobacco store or retail nicotine delivery product store.

(k) Prohibition of the sale of blunt wraps:

No retailer, retail establishment, or other individual or entity shall sell or distribute or cause to be sold or distributed or offer for sale blunt wraps.

(l) Violations and penalties:

- (1) A person who violates the provisions of subsection (d)(1) of this section shall be subject to a fine of three hundred dollars (\$300.00) for each violation. Every day in which a person engages in conduct prohibited by subsection (d)(1) of this section shall constitute a single and separate violation.
- (2) A violation of any provision of this section other than subsection (d)(1) shall be subject to:
 - (a) In the case of a first violation, a fine of one hundred dollars (\$100.00).
 - (b) In the case of a second violation within thirty-six (36) months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the tobacco and nicotine delivery product sales permit shall be suspended for seven (7) consecutive business days.
 - (c) In the case of a third violation within a thirty-six (36) month period, a fine of three hundred dollars (\$300.00) and the tobacco and nicotine delivery product sales permit shall be suspended for thirty (30) consecutive business days.
 - (d) In the case of four or more violations within a thirty-six (36) month period, a fine of three hundred dollars (\$300.00) and the tobacco and nicotine delivery product sales permit shall be revoked for sixty (60) consecutive business days or for the remainder of the permit term, whichever is longer.
 - (e) The tobacco permit holder shall be assessed a fine according to the schedule stated in this subsection for each violation of any provision of this section, other than subsection (d)(1), occurring on the premises governed by the permit. In the event of a sale or free distribution of a tobacco product or nicotine delivery product to a minor made by an employee of the permit

holder, such employee shall also be subject to a fine in accordance with the schedule stated in this paragraph.

(f) Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the tobacco and nicotine delivery product sales permit for thirty (30) consecutive business days.

(3) The commissioner shall suspend or revoke a tobacco and nicotine delivery product sales permit granted pursuant to this section upon determination that a permit holder has committed three (3) violations of this section within three (3) years, calculated from the date of the first offense. The commissioner shall provide notice to the permit holder of the intent to suspend or revoke a tobacco and nicotine delivery product sales permit, which notice shall contain the reasons therefore and establish a time and date for a hearing, which date shall be no earlier than seven (7) days after the date of said notice. The permit holder shall have an opportunity to be heard at such hearing and shall be notified of the commissioner's decision and the reasons therefore, in writing. All tobacco products and nicotine delivery products shall be removed from the premises upon suspension or revocation of the tobacco and nicotine -salesdelivery product sales permit. Failure to remove shall constitute a separate violation of this section. A permit holder whose permit has been revoked may not apply for a new permit prior to the expiration of one (1) calendar year following the date of revocation.

(jm) *Severability*: The provisions of this section are severable. If any provision of this section or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application. (Ord. No. T-241, 10-21-91; Ord. No. T-293, 8-9-93; Ord. No. T-295, 9-7-93; Rev. Ords. 1995, § 20-20-18A; Ord. No. X-59, 10-7-03; Ord. No. X-175, 05-26-05; Ord. No. Z-55, 11-06-09; Ord. No. Z-57, 11-16-09)

Sec. 20-3 – 20-4. Reserved.

Sec. 20-5. Public consumption of alcoholic beverages.

(a) No person shall drink, consume or possess an open bottle, can, or container of any intoxicating liquor or alcoholic beverage as defined in General Laws, chapter 138, section 1, while in or upon public parks, playgrounds, recreation or conservation areas, public buildings, public parking lots and public ways, private parking lots and private ways to which the public has access.

(b) The prohibition of subsection (a) of this section shall apply in, on or outside of an automobile or other motor vehicle but shall not apply in or upon:

(1) any private parking lot and private way to which the public has access where prior consent has been obtained from the owner or authorized person in control thereof, and provided further that no disturbance or annoyance is created thereby;

(2) any public property specified in subsection (a) where prior express consent by way of a permit has been issued from the chief of police or his duly authorized agent in accordance with the provisions of section 17-5 of the Revised Ordinances; and provided further that no disturbance or annoyance is created thereby.

(c) Whoever remains in, on, or upon any premises described herein in willful violation of this section may be arrested without a warrant, in accordance with chapter 272, section 59 of the General Laws by an officer authorized to serve criminal process in the place where the offense is committed, if such person is unknown

to such officer.

(d) All alcoholic beverages or intoxicating liquors being used in violation of this section shall be seized and safely stored until final adjudication of the charge against the person or persons affected, at which time they shall be returned to the person or persons entitled to lawful possession unless, as a result of said adjudication, such alcoholic beverages or intoxicating liquors are ordered confiscated or seized to be disposed of according to the General Laws or as the court directs.

(e) Anyone found guilty of a violation of this section shall be punished by a fine of not more than fifty dollars (\$50.00) for each such violation. (Rev. Ords. 1973, § 14-17; Ord. No. 13, 9-3-74; Rev. Ords. 1995, § 20-17)

Cross reference—Permits for the public consumption of alcoholic beverages, § 17-5

Sec. 20-6. Prohibition of alcoholic beverage and tobacco or nicotine delivery product advertising or promotion in or on city buildings, facilities, land, and in or on public transportation vehicles.

(a) *Definitions:* For the purposes of this section, the following words shall have the meanings respectively ascribed to them by this paragraph:

Alcoholic beverage advertisement: Any written word, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of alcoholic beverage, a trademark of an alcoholic beverage or a trade name associated exclusively with an alcoholic beverage; or any sign which is used for the purpose or effect of promoting the use or sale of an alcoholic beverage through such means as, but not limited to, the identification of a brand of an alcoholic beverage, a trademark of an alcoholic beverage or a trade name associated exclusively with an alcoholic beverage.

Nicotine delivery product: Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes.

Person: Any natural person, firm, partnership, association, corporation, limited liability corporation, company or organization of any kind, or other legal entity.

Public place: Any building, facility or other structure owned or operated by the city including school buildings and grounds or any land or property owned or operated by the city.

Public transportation vehicle: Buses, taxis, and other means of transportation the operation of which is subject to licensing or other grant of permission by the city pursuant to these revised ordinances or the general laws, including bus shelters and indoor platforms by which such means of transportation may be accessed.

Sign: A permanent or temporary structure, device, letter, word, two (2) or three (3) dimensional model, insignia, banner, streamer, display, emblem, or representation which is designed to attract attention.

Tobacco product: A cigarette, cigar, chewing tobacco, pipe tobacco, snuff or tobacco in any of its forms.

Tobacco or nicotine delivery product advertisement: Any written word, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of tobacco or nicotine delivery product, a trademark of a tobacco or nicotine delivery product or a trade name associated exclusively with a tobacco or nicotine delivery product; or any sign which is used for the purpose or effect of promoting the use or sale of a tobacco or nicotine delivery product through such means as, but not limited to, the identification of a brand of a tobacco or nicotine delivery product, a trademark of a tobacco or nicotine delivery product or a trade name associated exclusively with a tobacco or nicotine delivery product.

(b) Alcohol and tobacco or nicotine delivery products, advertising and promotion prohibited: No person shall place, caused to be placed, maintain or cause to be maintained a sign containing an alcoholic beverage advertisement or a sign containing a tobacco or nicotine delivery product advertisement in or on a public place or in or on a public transportation vehicle. This section is in addition to and not in substitution for the provisions of chapter 30 of these revised ordinances.

(c) Removal:

- (1) The city department or agency having control over a public place where a sign is posted in violation of subsection (b) is hereby authorized to remove such sign, provided that the city department or agency shall, as soon as reasonably possible, provide notice of such removal to the owner of the sign, if the name and address of the owner is readily ascertainable from the sign or if the city department or agency has received notice as to the name and address of the owner of the sign.
- (2) A sign so removed shall be stored for up to thirty (30) days during which time the sign owner or someone designated by the sign owner may reclaim the sign. If a sign removed pursuant to subsection (c)(1) is not reclaimed within thirty (30) days of removal, then the sign shall be declared to be unclaimed surplus property in the possession of the city department or agency which removed such sign and such sign shall be disposed of by the purchasing agent of the city pursuant to section 2-186(b)(7) of these revised ordinances.
- (3) In the case of a public transportation vehicle, the owner or operator of such vehicle shall remove a sign found to be in violation of subsection (b) within 24 hours of a request by the city to remove such sign. Failure to remove a sign within such timeframe shall be cause for revocation of any license or permission granted by the city in connection with the operation of such public transportation vehicle.

(d) Nuisance, abatement: A sign posted in violation of subsection (b) shall constitute a public nuisance and the city shall have the authority to abate such nuisance pursuant to the provisions of subsection (c) above. (Rev. Ords. 1995, Ord. V-184, 6-29-98)

Editor's note—Ordinance V-184 contained a detailed Declaration of legislative findings and intent, which is on file in the records of the Board of Aldermen.

Sec. 20-7: Smoking prohibited – Sidewalks and Other Public Property

(a) No person shall smoke, possess or carry a lighted or smoldering cigarette, cigar, or pipe of any kind or any other smoking article at the following locations:

- (1) Upon the sidewalk at:

Albemarle Road, East side of easterly roadway from its intersection with Watertown Street northerly 299 feet.

Edinboro Street, West side from its intersection with Watertown Street northerly 257 feet.

Watertown Street, North side from its intersection with Albemarle Road (easterly roadway) easterly to its intersection with Edinboro Street;

- (2) Upon the sidewalk or other public property within a nine hundred (900) foot perimeter of the property line of Newton North High School grounds.

(b) The Commissioner of Public Works shall erect and maintain signs indicating the locations designated for the smoking prohibition. Signs shall be erected so as to adequately notify the public of such prohibition and the areas affected thereby.

(c) The Commissioner of Health and Human Services and/or his or her designee(s) shall enforce the provisions of this ordinance. The Commissioner or his or her designee(s) shall, for an initial violation of this section, and may for any subsequent violation, afford the violator the option of enrolling in a smoking cessation/education program approved by the Commissioner and/or his or her designee(s). Proof of completion of a smoking cessation/education program approved by the Commissioner or his or her designee shall serve in lieu of the civil fines set forth in Section 20-21. (Rev. Ords. 2001, Ord. X-14, 4-1-02; Ord. No. Z-17, 12-17-07)

Sec. 20-8 E-cigarette usage – locations prohibited

The use of e-cigarettes is prohibited wherever smoking is prohibited under M.G.L Chapter 270, Section 22 (the Smoke-Free Workplace Law’), and in all locations listed in Section 20-7 of this ordinance. The Commissioner of Health and Human services and/or his or her designee(s) shall enforce this section in accordance with Sec. 20-7(c)

Secs 20-89—Sec. 20-12. Reserved.