

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

WEDNESDAY, JANUARY 23, 2013

7:00PM – NOTE TIME CHANGE

Room 222

Programs & Services and Public Facilities Committees will meet jointly on the following two items in Room 209:

REFERRED TO PUB.FAC, ZONING&PLANNING, PROG & SERV COMMITTEES

#316-12 DEPARTMENT HEADS HAVENS, ZALEZNIK, LOJEK requesting amendments to **Sec. 26-30. Licenses for cafe furniture on sidewalks.** to streamline the procedure allowing businesses to place café furniture on public sidewalks. [09/24/12 @3:17 PM]

REFERRED TO PUBLIC FACILITIES AND PROGRAMS & SERVICES COMMITTEES

#231-12 RECODIFICATION COMMITTEE recommending that **Sec. 11-11. Permit to cart trash and/or recyclable materials.** be deleted as G.L.c.111 §31A authorizes the Health Department to require registration for “garbage,” which is addressed in Sec. 11-5.

Re-appointment by His Honor the Mayor

#407-12 LANE SOFMAN, 336 Lexington Street, Newton, re-appointed as a member of the BOARD OF TRUSTEES OF THE HORACE COUSENS INDUSTRIAL FUND for a term to expire November 9, 2015 (60 days 02/04/13) [11/19/12 @ 9:51 AM]

Re-appointment by His Honor the Mayor

#32-13 JULIA MALAKIE, 50 Murray Road, Newton, re-appointed as a member of the URBAN TREE COMMISSION for a term to expire December 13, 2015. (60 days 03/23/13) [01/04/13 @ 2:24 PM]

Re-appointment by His Honor the Mayor

#33-13 KATHLEEN McCARTHY, 524 California Street, Newton, re-appointed as a member of the LICENSING BOARD for a term to expire June 8, 2019. (60 days 03/23/13) [01/11/13 @ 12:47 PM]

The location of this meeting is handicap accessible, and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, please contact the Newton ADA Coordinator Trisha Guditz, 617-796-1156, via email at TGuditz@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting date.

Appointment by His Honor the Mayor

#31-13 NANCY LEVINE, 379 Central Street, Auburndale, appointed as a member of the ELECTION COMMISSION for a term to expire March 31, 2015.
(60 days 03/23/13) [01/07/13 @ 10:56 AM]

Appointment by His Honor the Mayor

#329-12 NANCY LEVINE, 379 Central Street, Auburndale, appointed as a member of the ELECTION COMMISSION for a term to expire March 31, 2015.
(60 days 01/04/13) [10/22/12 @ 3:17 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#43-13 HIS HONOR THE MAYOR requesting authorization to transfer the sum of sixty two thousand dollars (\$62,000) from Free Cash to Parks & Recreation Forestry Tree Services for the purpose of removing defective trees. [01/14/13 @ 5:34 PM]

#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]

#7-13 HIS HONOR THE MAYOR seeking Home Rule Legislation relative to the acquisition from the Commonwealth of the Waban Hill Reservoir located on Manet Road. [12/31/12 @ 12:50 PM]

#336-12 HIS HONOR THE MAYOR, ALD. BAKER, FULLER AND LAREDO, requesting a discussion to include possible uses, process, timeline, opportunity for community input and funding sources, with the affected neighborhood community and with members of the Board of Aldermen, on the potential acquisition for passive or active recreational uses of the five acre parcel in Ward 7 on Manet Road currently held by the MWRA as an obsolete open water reservoir.
[10/3/12 @ 6:57PM]

ITEMS NOT YET SCHEDULED FOR DISCUSSION:

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]

#335-12 DAVID OLSON requesting a discussion of Mayor Warren’s Executive Order #1 which authorizes the use of remote participation for City Boards and Commissions as it relates to and effects the Board of Aldermen’s Committee and Full Board meetings, and to make any necessary changes to the Board Rules to allow and regulate remote participation should it be deemed acceptable. [10/3/12 @ 4:56PM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#322-12 HIS HONOR THE MAYOR submitting the FY14-FY18 Capital Improvement Program pursuant to section 5-3 of the Newton City Charter. [10/09/12 @ 2:38 PM]

REFERRED TO PROGRAMS & SERV. AND PUBLIC FACILITIES COMMITTEES

#315-12 ALD. FULLER, RICE AND GENTILE of the Angier School Building Committee providing updates and discussion on the Angier School Building project as it develops through the site plan approval process. [10/02/12 @ 3:37PM]

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 ALD. HESS-MAHAN, SANGIOLO, DANBERG, KALIS, CROSSLEY proposing an ordinance relating to plastic bag reduction that would add a fee to single-use plastic and paper bags that are not at least 40% post-consumer recycled content, at certain retail establishments in Newton. [07/18/12 @4:34 PM]

#230-12 ALD. SANGIOLO requesting the establishment of guidelines and policies regarding the creation of Neighborhood Area Councils particularly with respect to (1) boundary delineations and (2) description of area council authority. [08/06/12 @ 4:39PM]

#228-12 RECODIFICATION COMMITTEE recommending that **Chapter 28 VETERANS' SERVICES** be amended by deleting **Secs. 8 through-10**, which refer to “a physician to the department of veterans’ services” – a position that no longer exists.

- #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.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

- #165-12 HIS HONOR THE MAYOR submitting (1) the report prepared by Kopelman & Paige PC, the consultant engaged to review the city's election procedures, and (2) proposing that Charter Sections 2-1(b) and 4-1(b) be amended to establish a particular date by which nomination papers are made available. [05/25/2012 @ 1:35PM]
- #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]
- #144-12 ALD. HESS-MAHAN proposing to repeal the time restrictions for filing special permit applications/site plan reviews for Major Projects during July and August in Article X Section 5 of the Rules and Orders of the Board of Aldermen.
- #68-12(2) ALD. YATES requesting that a detailed inventory of the more than 100 photographs, paintings, drawings and other images of the Civil War, World War I, World War II in the office section of the War Memorial Hall be prepared and a plan be developed for their public display in whole or in part before or during the city's observance of the 150th anniversary of the Civil War through 2015 and the centennial of World War I from 2014-2015. [03/23/12 @ 1:43 PM]
- #68-12 ALD. YATES, MERRILL asking that the Executive Department develop a detailed plan for the storage of the veterans archives currently housed in the War Memorial that allows for proper access to the records by veterans, their families, and historians, both amateur and professional. [03/05/12 @ 9:40 PM]
- #67-12 ALD. ALBRIGHT seeking a discussion with the Executive Department regarding a plan and timeline for funding an archivist/records manager position for the city to oversee the preservation, cataloguing, and organization of the city archives; provide guidance and assistance to city departments that are maintaining their own archives in order to ensure that records are preserved, accessible, and maintained; and, plan for future storage needs as the collection continues to expand. [03/12/12 @ 10:28 AM]

REFERRED 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]

FINANCE VOTED NO ACTION NECESSARY on 10/12/11

PUBLIC FACILITIES VOTED NO ACTION NECESSARY on 11/18/11

REFERRED TO PROG & SERV AND PUBLIC FACILITIES COMMITTEES

#245-10 ALD. SCHNIPPER requesting discussion with National Grid regarding the possible damage to trees as a result of gas leaks. [09/01/10 4:00 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#273-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that the Executive and Human Resources Departments develop a comprehensive human capital strategy for the city to include: performance management, talent development, succession planning, and compensation. [07/17/08 @ 9:53 AM]

FINANCE VOTED NO ACTION NECESSARY on 3/8/10

Respectfully Submitted,

Stephen M. Linsky, Acting Chairman



Setti D. Warren
Mayor

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

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Candace Havens
Director

MEMORANDUM

DATE: January 11, 2013

TO: Marcia Johnson, Chair of Zoning and Planning Committee
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
John Lojek, Commissioner of Inspectional Services
Bob Rooney, Chief Operating Officer
Dori Zaleznik, Commissioner of Health and Human Services

SUBJECT: Sidewalk Cafés

MEETING DATE: January 14, 2013

CC: Bruce Proia, Fire Chief
Dave Turocy, Commissioner of Public Works
Chief Mintz, Police Department
Donnalyn Kahn, City Solicitor
Linda Plaut, Director of Cultural Affairs
Ana Gonzalez, Director of Community Engagement

BACKGROUND

Over the summer of 2012, department heads from Planning, ISD, Health and Human Services, and the Executive Office (Economic Development Cluster) met to discuss the potential for sidewalk cafés to enliven our streetscapes and enhance the vitality of our commercial areas. Consistent with other current initiatives of the Mayor, the Zoning and Planning Committee and Economic Development Commission, as well as the objectives of the *Comprehensive Plan*, the Economic Development Cluster has developed a proposal that also incorporates the health, safety and general welfare interests of various City departments, which could be crafted into ordinance language, if supported by the Zoning and Planning Committee.

Several City departments oversee activities that occur on City sidewalks, particularly with regards to restaurants. The Department of Health and Human Services monitors licensing of food and liquor sales, as well as “extensions of premises” through the Board of License Commissioners. The Commissioner of Public Works is generally responsible for maintenance of City sidewalks and for anything placed on them. The Fire Department oversees occupancy limits and fire safety features, especially in restaurant kitchens. The Planning Department evaluates allowed uses, with

particular attention paid to parking requirements that may be triggered by additional seating. Inspectional Services staff enforces compliance with the zoning and building codes, including accessibility standards.

The Economic Development Cluster reviewed sidewalk café ordinances from Boise, ID; Chicago, IL; Charleston, SC; Hoboken, NJ; San Luis Obispo, CA; Port Huron, MI; Lodi, CA; San Francisco, CA; Philadelphia, PA; Brookline, MA; Banff, Alberta; and several boroughs in Manhattan, NY. The group identified some common characteristics and gained insights into the kinds of controls others have used to oversee their cafés. After thorough review of these documents, the group concluded it would be best to designate one department to accept the applications and obtain feedback from the other departments noted previously. Because the Health and Human Services Commissioner is the liaison to the Board of License Commissioners, all agreed that the Health and Human Services Department would be an appropriate place for restaurateurs to apply for sidewalk café permits. The Commissioner of HHS would route proposals to Police, Fire, DPW, ISD, and Planning and schedule appropriate reviews for licensing before the Licensing Board, and would make a determination as to whether all agreed-upon standards are met.

PROGRAM FEATURES

Accessibility. There must be a minimum of four feet of unobstructed sidewalk to allow clear access for people of all abilities between the outdoor dining area (including tables, chairs, umbrellas, signs, and other dining amenities that are placed on the sidewalk adjacent to the eatery) and any other permanent or temporary structures or devices (including but not limited to trees, parking meters, utility poles, bike racks, trash cans, flower beds, or other items that may be placed between the building and the curb line).

Parking. Restaurants with parking that conforms to City standards may request up to eight chairs or 10% more seating than the maximum allowed by the Zoning Regulations, whichever is greater. If the restaurant desires more than this number of seats, parking must be provided in conformance with the City's parking regulations and may be subject to a special permit. The staff of the Departments of Planning or Inspectional Services can assist applicants in determining the parking required for a business, as well as ways to meet the requirement. No new parking spaces will be required if legally allowed seats from inside the restaurant are moved outside, and no more than eight new seats or 10% more seating than allowed by ordinance are added in order for the restaurant to begin operations; however, the "extra" outdoor spaces may not be moved inside, thus increasing their total interior seat count without requiring a recalculation of the parking requirement and assessment as to whether the extra seating triggers a requirement for additional parking and/or a special permit.

Serving of Alcohol. A restaurant that has a license to sell alcohol inside the premises may also serve alcohol outdoors within an approved area designated for restaurant service. Prior to selling alcohol outside, the restaurant must appear before the Board of License Commissioners to request an extension of the premises. All legal requirements for sale of alcohol must be honored. Such establishments must post a sign at all exits that reads, "*It is unlawful to consume alcoholic beverages not purchased on the premises or to remove them from the boundaries of this sidewalk café.*" There must also be an unobstructed view of the outdoor seats from inside the restaurant.

Designated dining area. Where alcohol is served, the area where it is consumed and/or served must be clearly delineated with a barrier such as a planter, rope, handrail, or other feature that separates it from the sidewalk or publicly accessible way and is no less than three feet in height, stable, removable, and not fastened to the sidewalk. No alcohol may be served or carried beyond this designated area. Where alcohol is not served, such barriers are allowed, but not required. Only those areas immediately adjacent to the building where the restaurant is located may be used for outdoor dining and dining may not spill over to areas in front of adjacent properties.

Maintenance. The area surrounding the café shall be free of litter, debris, food, and wrappers and sidewalks shall be washed down on a daily basis. Food from the café shall not be disposed of in city containers.

Sun protection. Umbrellas and awnings that offer protection from the elements and enliven the streetscape are encouraged, and must be fastened, weighted, and stable. Building permits may be required for awnings, so applicants should provide a rendering of any proposed awning to the Department of Inspectional Services to make that determination in advance of ordering or installing such features.

Sidewalk expansions. Restaurants located on a corner, by a mid-block crosswalk, or where an expansion of the sidewalk would be complementary to the physical design of the streetscape, may request permission to expand the sidewalk at their own expense in order to create additional seating outdoors. The applicant shall be responsible for designing the proposed expansion subject to the approval of the Traffic Council (if parking is removed), the Planning and Development Director, and the Commissioner of Public Works. Plans for the sidewalk extension shall be submitted with the application to the Commissioner of Health and Human Services, who will route the plans to the Engineering Division of the Public Works Department for review. The Department of Public Works will be responsible for installing such sidewalk extensions, if plans meet with the approval of the aforementioned departments. The cost of installations will vary, but would be charged at the current rate of construction.

ADMINISTRATION

Permit Required. A sidewalk café permit shall be required to allow sales and consumption of food and/or beverages at a sidewalk café. To be eligible for a permit, applicants must comply with the requirements listed below. Failure to comply with these requirements may result in denial of the application. Once issued, a permit is valid for one year and expires at midnight on March 31 of each year unless application for annual renewal has been made prior to the expiration date.

Renewals. Sidewalk Café permits must be renewed annually to remain in effect and are due on April 1 of each year. If conditions change, a new application must be submitted to the Commissioner of Health and Human Services, noting the changes requested, including change of ownership.

Filing Fee. A filing fee is required at the time of application for sidewalk café permit and is nonrefundable. Thereafter, an annual renewal fee shall be required. Both fees shall be as established by the Board of Aldermen.

Permit Determination. The Health and Human Services Department shall be given the authority to process, grant or deny all sidewalk café applications. The Department shall review the application for completeness, then will route the request to the Police Chief, Fire Chief, Commissioner of Public Works, Commissioner of Inspectional Services, Director of Planning and Development, and Commissioner of Health and Human Services. Each of the departments may recommend conditions or terms for approval that may be necessary to carry out the policies of the City and to protect the health, safety and welfare of the public, or to prevent disturbance or nuisance. In considering whether to approve an application, the Commissioner of Health and Human Services or designee shall verify that the applicant is qualified to apply, that all application requirements have been met, and all departments noted have been consulted and have recommended approval, with or without conditions.

Transferability. Sidewalk café permits may be transferred only to the successor in interest to any licenses or permits issued to the permittee, provided that the transferee has verified that s/he and the café meet application requirements.

Termination and Enforcement. Restaurants are expected to comply with the provisions of the ordinance. Violations will be enforced by Inspectional Services, which will contact other departments as needed to assure compliance with public health and safety violations. The restaurant will receive a warning upon the first violation; upon a second violation, the applicant must appear before the Health and Human Service Commissioner, who will consider revocation of the license and will have authority to take final action on permit approvals and renewals. Any

department shall have the authority to request revocation of a sidewalk café permit for failure to comply with the conditions of their permit or the requirements of the sidewalk café ordinance.

Liability insurance. The applicant shall be required to provide general liability insurance with limits of not less than \$500,000 for the term of the sidewalk café permit, which names the City as additional insured.

The ED Cluster also recommends a sidewalk café ordinance include:

Intent of Sidewalk Café Ordinance. Sidewalk cafes can enhance the use of public space and complement businesses operations from fixed premises, as well as to promote overall social and economic activity in the City’s villages and other commercial areas. They shall be allowed subject to the provisions of the Sidewalk Café Ordinance for legally established restaurants.

Sidewalk Café Definition. A sidewalk café is an outdoor dining or sitting area of a food retailer, contiguous to the food retailer’s premises, which is located in whole or in part on a sidewalk and containing removable tables, chairs, barriers, planters, or related appurtenances.

Sidewalk Definition. That portion of the public right of way, which is between the curb lines and adjacent property lines, and is designed for, improved, and ordinarily used for pedestrian travel.

At the present time, there are approximately 400 licensed food establishments in the City, many of which are not candidates for sidewalk seating, due to lack of frontage with sidewalks or due to the nature of the businesses. There are 26 restaurants that have requested sidewalk seating permits to date; a one-stop application process and some of the features of the ordinance are likely to incentivize other restaurants to consider setting out tables, chairs and benches in nice weather, so it is possible this number could double. Provided that the recommended standards are followed, the Economic Development Cluster does not anticipate any problems associated with this increase, particularly since seating will be limited by the space available on the sidewalks.

PREVIOUS REVIEW

In May 2012, the Zoning and Planning Committee considered two related proposals: one to waive parking requirements for outdoor seating and the other to allow additional seating in restaurants. The Board concurred that no action was necessary at that time, given that staff was reviewing parking, generally, and that the concept of sidewalk cafés merited considerations from various departments whose interests could be integrated into a more comprehensive approach.

NEXT STEPS

Staff welcomes the Board’s feedback on the proposed concept. If the Committee is generally satisfied with this proposal, staff can begin crafting suitable implementing language. If the Committee wishes to have additional information, it would be helpful to the working group if the Committee could identify their concerns so staff can perform the necessary research to further shape an appropriate ordinance. The Licensing Board normally hears requests for annual permits in April, and it would be ideal if an ordinance were in place for the upcoming requests this year.

Attachment A: Sample one-stop application





Setti D. Warren
Mayor

City of Newton, Massachusetts
1000 Commonwealth Avenue Newton, Massachusetts 02459

SIDEWALK CAFÉ PERMIT APPLICATION

ATTACHMENT A

Telephone
(617) 796-1120
Telefax
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TDD/TTY
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www.newtonma.gov

To applicants: Sidewalk cafés are an outdoor dining or sitting area of an existing indoor eating establishment which is located in whole or in part on a sidewalk and containing removable furnishings and dining amenities. A sidewalk café permit is required to allow sales of food and drink and may be issued by the Department of Health and Human Services provided that the sidewalk café meets all the requirements (listed on a separate sheet). Applicants should review the requirements, complete this application, and submit with the items noted below:

- Completed Application Form.** The fee shall be set by the Board of Aldermen. The recommended current fee is \$100 for a new application and \$50 for renewals.
- Explanation of Proposal.** A letter should be submitted with the application that describes the business, indicates proposed hours of operation, explains how additional required parking will be provided, and how the dining area will be separated from the public walkway. The explanation shall also include a detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, signs, lighting, and heaters; and any new construction of the façade of the facility or adjacent sidewalk to accommodate the sidewalk café.
- Site Plan.** The site plan should show property lines, structures on the property, layout and dimensions of the outdoor dining area, proposed number and location of tables, chairs and other furnishings to be included in the dining area; the relationship of the outdoor dining area to the indoor dining area; and all permanent and temporary fixtures or objects between the curb line and the restaurant (such as trees, utility poles, trash cans, bike racks, signs, etc.). Applicant shall submit three copies on 1"=10' minimum scaled with one set reduced to an 8 ½" x 11" sheet.
- License(s) to sell food and/or alcohol.** Existing licenses to sell food or alcohol must be in place before selling alcohol; the facility must apply for an extension of premises and appear before the Board of License Commissioners.
- Proof of Liability Insurance.** Liability insurance must meet City standards, naming the City as additionally insured for the term of the permit to the approval of the City Solicitor's Office.

Applicant's Name _____ Phone _____ E-mail _____

Address _____

Property Owner's Signature _____

STAFF USE ONLY

Please return to the Department of _____ by ____ (date) _____.

Please initial and date of sign-off in space beside department below, and attach any addition comments or conditions:

Health and Human Services _____ Public Works _____ Planning _____

Inspectional Services _____ Fire _____ Police _____

ACTION: Approved Denied Date _____ BY _____

(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 G.L. c. 272, § 59 by an officer authorized to serve criminal process in the place where the offense is committed.

(d) 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. (Ord. No. S-81, 8-13-84)

Cross reference—Temporary closing of streets, § 19-47

Sec. 26-30. Licenses for cafe furniture on sidewalks.

(a) The commissioner of public works may grant revocable licenses for the placement of certain cafe furniture upon designated areas of the public sidewalk, in accordance with the following standards:

- (1) Licenses may only be granted to the proprietor of the business premises which immediately abuts the sidewalk area affected by the license. Such cafe furniture may be placed upon the sidewalk only during the business hours of the licensed party. All cafe furniture and trash receptacles must be removed at the end of each business day and in addition, must be removed at any time upon the request of the commissioner or his designee when he determines, in his sole discretion, that public works operations or the public convenience and welfare require such removal.
- (2) Licenses may only allow for the placement of tables, chairs and/or benches. Shade umbrellas or tables which have shade umbrellas attached thereto shall not be allowed. The number and type of such tables, chairs and benches shall be subject to the approval of the commissioner. All such tables, chairs and/or benches shall be temporarily placed upon the sidewalk surface and shall not be affixed thereto.
- (3) Licenses may only be granted in those circumstances where the commissioner of public works, after consultation with the chief of police, has determined that the placement of such cafe furniture would not interfere with adequate pedestrian passage upon the public sidewalk at the site, taking into account the flow and level of pedestrian traffic and the location of other fixtures upon the sidewalk including utility poles, newspaper vending boxes and the like. In no event shall a license be granted in circumstances where the placement of such cafe furniture would result in a pedestrian passageway upon the public sidewalk of less than four feet (4') in width.

(b) As a condition of the issuance of any such license the commissioner shall require the licensed party to indemnify, hold harmless and defend the City of Newton from any claims arising out of the licensed activity; and the commissioner shall require the licensed party to provide proof of adequate liability insurance and/or bond, in such form, amount, and with an insurance carrier or surety satisfactory to the commissioner for the performance by the licensed party of the requirements of the license and this section.

(c) The term of each license shall be one year and the fee for each such annual license shall be twenty-five dollars (\$25.00).

(d) Upon receipt of each license application the commissioner shall consult with the board of license commissioners, or its designee, and the commissioner- of inspectional services and commissioner of health and human services for their determinations that the placement of cafe furniture, as described in the application, would not violate existing licensing, zoning and public health requirements, respectively.

(e) All licenses granted pursuant hereto must include the following provisions:

- (1) That the licensed party shall place exterior trash receptacles in the sidewalk area and, at its expense, properly

dispose of the trash deposited therein.

- (2) That the licensed party shall be responsible for the clean-up of trash and debris from the sidewalk area and the neighboring area within a radius of twenty-five feet (25') of the sidewalk area affected by the license.

(f) The commissioner of public works may revoke or suspend any license granted pursuant to this section for any violation of the terms of such license or the provisions of this section. (Ord. No. T-305, 11-1-93; Ord. No X-175, 05-26-05)

Sec. 26-31. Sidewalk vending machines; permit required.

(1) Statement of purpose: The board of aldermen has determined that the increasing proliferation of sidewalk vending machines throughout the city requires that the placement and location of such machines be regulated in the interest of promoting public safety, in particular safe pedestrian, wheelchair and vehicular passage. In addition, the board has determined that regulation as to the size, type, and appearance of such machines is necessary in order to preserve the aesthetic character of neighborhoods throughout the city.

(2) Definitions: For the purposes of this section, the words and phrases used herein shall have the following meanings:

Bus Stop: An area in the roadway set aside for the boarding of or alighting from and the parking of buses.

Commissioner: Commissioner of public works or his/her designee.

Crosswalk: That portion of a roadway ordinarily included within the prolongation or connection of curblines and property lines at intersections, or at any portion of a roadway clearly indicated for pedestrian crossing by lines on the road surface or by other markings or signs.

Fire lane: That portion of a public or private parking lot, private driveway or private road which is designed to provide access to fire trucks.

Parking meter: Any mechanical device, not inconsistent with the provisions of Chapter 19 of these Revised Ordinances, placed or erected on any public way or municipal off-street parking area within the city for the regulation of parking.

Person: A person, firm, corporation, distributor, publisher, non-profit organization or other legal entity.

Public street or highway: The entire width between property lines of every way open to the use of the public for purposes of travel.

Roadway: That portion of a public street or highway between the regularly established curb line or that part, inclusive of shoulders, improved and intended to be used for vehicular traffic.

Sidewalk: That portion of a public street or highway set aside for pedestrian travel.

Sidewalk vending machine: Any coin or token operated box, or other container, stand, rack, storage unit or other dispenser or device installed, placed, used, operated or maintained for the display and sale or free distribution of newspapers, periodicals, magazines, advertisements or other printed matter.

Taxi stand: An area in the roadway in which certain taxicabs are authorized and required to park while waiting to be engaged.

LAW DEPARTMENT MEMORANDUM

To: Recodification Committee

From: Marie Lawlor, Assistant City Solicitor 

Date: May 2, 2012

Re: Trash and Recycling: Summary and redlines of Law Department's recommended recodification changes to Chapter 11 and to corresponding portions of Chapter 20, § 20-21

SECTION	RECOMMENDED CHANGES	REASON
§11-5	<ol style="list-style-type: none"> 1. Caption: add "trash"; delete "exceptions"; add "recycling services required." 2. Text: Add "trash"; insert "such" before "collection" and delete "of trash" after "collection." 	Conform to G.L. c. 111 §31A, Paragraph 1 (health dept. permit required for garbage collected within Newton) and to clarify that persons collecting garbage or trash (which includes materials other than garbage) in Newton are required to offer recycling services.
§11-6	Remove italics for "Non-profit rubbish"	Consistency of style
§§11-7(h); 11-8(i); 11-9(a); 11-10(c)	<ol style="list-style-type: none"> 1. Add language counting the graduated offenses per 365 day period; 2. Add cross-reference to §1-6 (general penalty); 3. Change format of cross-references 	<ol style="list-style-type: none"> 1. Conform to Board intent and to §20-21(f); 2. Cross-reference to general provision that every day an ordinance offense continues constitutes a separate offense; 3. Consistency of style
§11-11	<ol style="list-style-type: none"> 1. Caption: Delete misleading caption & replace with "Registration for transporting garbage through Newton." 2. Text: delete "trash and/or recyclables"; replace with "garbage" 	Conform to G.L. c. 111 §31A, Paragraph 2 (registration for transporting non-Newton trash through Newton streets); distinguish from §11-5 which applies only to collection of trash & garbage within Newton (see above)
§20-21(f) (for each listed offense)	Delete all references to "first day", "second day", third day and each day thereafter" for each offense.	Clarity; instead, add cross reference to §1-6 (each day an ordinance offense continues constitutes a separate offense) to penalty sections of Chapter 11 (see above)

Sec. 11-4. Reserved.

Sec. 11-5. Trash, Garbage—Permit required to transport; ~~exceptions~~ recycling services required.

All persons transporting trash or garbage through the public ways of the city from places within or to destinations within the city shall first obtain from the health department a permit therefor. All persons offering these services are required to offer full recycling services to all places where such collection of trash occurs within the city. All persons shall show evidence of such recycling plan of services, which plan must be approved by the commissioner of public works or his/her designee and recommended to the commissioner of health and human services at the time of the annual permit request. All such permits shall expire at the end of the calendar year in which they are issued. No permit may be transferred without approval of the health and human services department. (Rev. Ords. 1973, § 8-38(a); Ord. No. 59, 2-20-75; Ord. No. S-1, 7-11-83; Ord. No. X-175, 05-26-05; Ord. No. Z-68, 06-21-10)

Cross reference—Licensing and permits generally, Ch. 17; G.L. c. 111, sec. 31A.

Sec. 11-6. Collection, processing, and disposal of Non-Profit Rubbish for a fee.

~~Non-profit rubbish from religious and charitable organizations may be set out for collection for a fee that reflects the total cost of removal and disposal as determined by the commissioner of public works or his/her duly authorized agent. All non-profit rubbish shall be placed for collection in accordance with this chapter. All non-profit rubbish collected by the city under this section shall comply with all requirements of this chapter. (Ord. No. Z-68, 06-21-10)~~

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Sec. 11-7. How trash to be placed for collection; weight of receptacles.

(a) The city shall provide, or cause to be provided, one receptacle to each residential premises which receives municipal rubbish disposal services. The receptacle size shall be determined by the commissioner of public works. The receptacle shall be owned by the city. The residents of each such premises shall:

- (1) take proper care to protect such receptacle from misuse, loss, and damage as the city may require the resident to pay for any replacement carts due to such misuse, loss and/or damage; and
- (2) return such receptacle to the city, or its contractor, upon request of the commissioner of public works; and
- (3) in the event that they vacate the premises, shall leave such receptacle with the premises for use by the subsequent residents or if taken the city may require payment for such cart.

(b) If additional receptacles are required, additional receptacles shall be provided at the request of the homeowner at an annual charge established by the commissioner of public works. Only city authorized receptacles will be accepted for collection.

(c) Residents may also purchase trash bags, designated by the city for the sole purpose of trash collection, at a cost per bag established by the commissioner of public works. Only city authorized bags will be accepted for collection. Bags shall not exceed fifty (50) pounds in weight.

(d) All material set out for collection must be in the city supplied receptacle, additional city supplied receptacle, as requested, or designated bags. Loose material will not be collected. All material put out must fit within the receptacle provided so that the receptacle lid remains closed.

(e) Receptacles and designated bags shall be placed for collection in a manner and on days of the week as designated by the commissioner of public works or his/her designee which does not obstruct vehicular and / or pedestrian passage. All receptacles must be placed so that they are easily accessible for collection by the city, and/or in such a place as the commissioner of public works, or his/her duly authorized agent, may designate or

permit.

(f) The commissioner of public works may determine if a multiple residential site (apartment building, condominium units, townhouses, etc.) currently being collected from will require a dumpster. The commissioner will determine the size and location of the dumpster. Multiple unit locations will abide by the same standards as for collection in single residential sites.

(g) No person except those individuals and companies authorized by the commissioner of public works shall collect or pick up or cause to be collected or picked up, trash which has been placed for collection pursuant to Section 11-7.

(h) Failure to comply shall result in the imposition of a written warning for the first offense, fifty dollar (\$50.00) civil fine for the second offense and seventy-five dollar (\$75.00) civil fine for the third and subsequent offenses occurring in any three hundred sixty-five (365) day period. (Ord. No. Z-68, 06-21-10)
(see Article III, Section 20-21). (Ord. No. Z-68, 06-21-10)

Cross reference – general penalty, §1-6; civil fines, §20-21

Sec. 11-8. How recyclable materials to be placed for collection.

(a) The city shall provide, or cause to be provided, one recycling receptacle to each residential premises which receives municipal rubbish disposal services. The receptacle size shall be determined by the commissioner of public works. Only city authorized receptacles will be accepted for collection. The residents of each such premises shall:

- (1) take proper care to protect such recycling container from misuse, loss and damage as the city may require the resident to pay for any replacement carts due to such misuse, loss and/or damage; and
- (2) return such recycling container to the city, or its contractor, upon request of the commissioner of public works; and
- (3) in the event that they vacate the premises, shall leave such recycling container with the premises for use by the subsequent residents or, if taken the city may require payment for such cart.

(b) If additional receptacles are required, additional receptacles shall be provided at the request of the homeowner at an annual charge established by the commissioner of public works. Only city authorized receptacles will be accepted for collection.

(c) Recyclable materials are to be set out in containers as directed by the rules and regulations of the commissioner of public works.

(d) Leaf and yard waste is to be set out in containers as directed by rules and regulations of the commissioner of public works.

(e) All recyclable material set out for collection must be in the city supplied receptacle. Loose material will not be collected. All material put out must fit within the receptacle provided so that the receptacle lid remains closed.

(f) Receptacles shall be placed for collection in a manner and on days of the week as designated by the commissioner of public works or his/her designee which does not obstruct vehicular and / or pedestrian passage. All receptacles must be placed so that they are easily accessible for collection by the city, and/or in such a place as the commissioner of public works, or his/her duly authorized agent, may designate or permit.

(g) The commissioner of public works may determine if a multiple residential site (apartment building, condo

NEWTON CODE ONLINE RECYCLING AND TRASH

§ 11-10

units, townhouses, etc.) currently being collected from will require a dumpster for single stream recycling. The city will determine the size and location of the dumpster. Multiple unit locations will abide by the same standards as for collection in single residential sites.

(h) No person except those individuals and companies authorized by the commissioner of public works shall collect or pick up or cause to be collected or picked up, recyclable materials which have been placed for collection pursuant to Section 11-8.

(i) Failure to comply shall result in the imposition of a written warning for the first offense, fifty dollar (\$50.00) civil fine for the second offense and seventy-five dollar (\$75.00) civil fine for the third and subsequent offenses occurring in any three hundred sixty-five (365) day period. (see Article III, Section 20-21). (Rev. Ords. 1973, § 8-42; Ord. No. 11, 8-15-74; Ord. No. 90, 10-6-75; Ord. No. R-105, 12-15-80; Ord. No. T-92, 6-18-90; Ord. No. Z-68, 06-21-10)

Cross reference – general penalty, §1-6; civil fines, §20-21.

Sec. 11-9. Participation in and enforcement of recycling and trash program.

(a) All persons whose trash is collected by the city shall comply with sections 11-7 and 11-8 when placing materials for collection, unless specifically exempted pursuant to the provisions of subsection (b). Failure to comply with section 11-9 shall result in the imposition of a written warning for the first offense, fifty dollar (\$50.00) civil fine for the second offense and seventy-five dollar (\$75.00) civil fine for the third and subsequent offenses occurring in any three hundred sixty-five (365) day period. (see Article III, Section 20-21)

Cross reference – general penalty, §1-6; civil fines, §20-21.

(b) If compliance with the requirements of subsection (a) imposes undue hardship upon a person, that person may request an exemption from this ordinance from the commissioner of public works. (Ord. No. R-105, 12-15-80; Ord. No. S-249, 3-16-87; Ord. No. T-92, 6-18-90; Ord. No. Z-68, 06-21-10)

Sec. 11-10. When trash and recyclable materials to be placed for collection; carts to pass through streets only once.

(a) Trash and recyclable materials shall be placed for collection on such day or days as may be designated for collection by the commissioner of public works. The commissioner of public works may designate the specific days of collection for particular areas of the city and/or types of trash and/or recyclable materials. Trash and recyclable materials shall be placed for collection between 4:00 p.m. of the day preceding collection and 7:00 a.m. of the day of collection. Collection vehicles having passed through the street will not be sent back to collect any such materials placed for collection after 7:00 a.m.

(b) All empty receptacles, barrels, cans or rubbish containers of any kind shall be removed from the area of collection and returned to the private property of the person(s) who owns or is assigned to the specific receptacle(s) prior to midnight of the day of collection.

(c) Any occupant of a building who places or causes to be placed trash or recyclable materials for collection at times other than those designated in subsection (a) of this section or fails to remove said trash containers or recycling containers or receptacles from the area of collection prior to midnight of the day of collection shall be subject to the following penalties for offenses occurring in any three hundred sixty-five (365) day period. (see Article III, Section 20-21):

NEWTON CODE ONLINE RECYCLING AND TRASH

§ 11-14

- (1) For the first offense—a written warning;
- (2) Second offense-fifty dollars (\$50.00);
- (3) Third and subsequent offenses-seventy-five dollars (\$75.00)

The written warning for each first offense shall be attributable to the dwelling unit occupied by the offending party. Any subsequent offense by any occupant of said dwelling unit shall result in the fine referred to above and shall be attributable to the head of the household.

Provided, however, that when the collection of trash or recyclable materials is delayed due to weather conditions, holidays, or other causes, no penalty shall be imposed for placement thereof in accordance with the time periods established for collection as set forth in subsection (a) above. (Rev.Ords. 1973, § 8-42; Ord. No. 11, 8-15-74; Ord. No. 90, 10-6-75; Ord. No. R-56, 3-17-80; Ord. No. S-1, 7-11-83; Ord. No. T-92, 6-18-90; Ord. No. T-168, 9-3-91; Ord. No. Z-68, 06-21-10)

Cross reference—Licensing and permits generally, Ch. 17; general penalty, §1-6; civil fines, §20-21.

Sec. 11-11. Permit to cart trash and/or recyclable materials. Registration for transporting garbage through Newton.

All persons transporting ~~trash and/or recyclable materials~~ garbage on public ways of the city from points outside the city and to destinations outside the city shall register with the city health and human services department pursuant to Mass. Gen. Laws c. 111, § 31A. Such garbage shall be transported in accordance with such rules and regulations as the health and human services department shall make. (Rev. Ords. 1973, § 8-43; Ord. No. 11, 8-15-74; Ord. No. 90, 10-6-75; Ord. No. S-1, 7-11-83; Ord. No. X-175, 5-26-2005; Ord. No. Z-68, 06-21-10)

Sec. 11-12. Definition of pickup point, placement of refuse for collection from mixed-use buildings, persons responsible for fee.

For buildings utilizing dumpsters, each dumpster location shall constitute a pickup point. Refuse from non-residential and residential units shall not be placed into the same dumpster for collection. For receptacle or bag collection, each street address shall constitute a pickup point, provided however, that in the case of multi-unit buildings, each unit shall constitute a pickup point, and provided further, that the refuse and recycling generated by each non-residential unit in such building shall not be set out for collection.

Nothing herein shall be deemed to render any person liable for charges incurred by a previous owner. (Rev. Ords. 1973, § 8-45; Ord. No. 11, 8-15-74; Ord. No. 90, 10-6-75; Ord. No. R-105, 12-15-80; Ord. No. R-201, 12-7-81; Ord. No. S-1, 7-11-83; Ord. No. Z-68, 06-21-10)

Sec. 11-13. Tipping over, etc.; slippery substances.

No person shall willfully or maliciously disturb or handle the contents of or tip over or upset containers or receptacles standing upon the sidewalk or within the street limits or throw or place upon any sidewalk, crosswalk, street or way any banana skin, orange peel or other slippery substance. (Rev. Ords. 1973, § 8-48; Ord. No. 11, 8-15-74; Ord. No. 90, 10-6-75; Ord. No. S-1, 7-11-83; Ord. No. Z-68, 06-21-10)

Sec. 11-14. Large, bulky, etc., refuse.

(a) Large and/or bulky items such as discarded or broken furniture, large toys, mattresses, rugs, and other large or unwieldy refuse which cannot be placed in the assigned receptacle shall be considered bulky waste. The department of public works may remove and dispose of up to five (5) bulky waste items per household per week without charge. All the materials put out for removal shall be of such form and so prepared and placed as the

#407-12



City of Newton, Massachusetts
Office of the Mayor

SETTI D. WARREN
MAYOR

Telephone
(617) 796-1100

Facsimile
(617) 796-1113

TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov

November 9, 2012

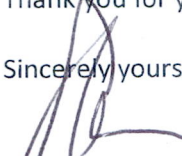
Honorable Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to reappoint Lane Sofman of 336 Lexington Street, Newton as a member of the Board of Trustees of the Horace Cousens Industrial Fund. His term of office shall expire November 9, 2015 and his appointment is subject to your confirmation.

Thank you for your attention to this matter.

Sincerely yours,


Setti D. Warren
Mayor

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Newton City Clerk
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David A. Olson, CMC
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

THE HORACE COUSENS INDUSTRIAL FUND

**CITY HALL
1000 COMMONWEALTH AVENUE
NEWTON, MA 02459
(617) 796-1324**

TRUSTEES

**Doris F. Breay
Mark Derby
Lane S. Sofman, DDS**

DIRECTOR

Sally Pellegrom EdD

May 22, 2012

Mayor Setti Warren
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Dear Mayor Warren:

The term of trustee Lane Sofman will end next month. His fellow trustees and I hope that you will reappoint him to another three-year term.

Lane first became interested in the Cousens Fund when he was a member of the Board of Alderman. His long-time commitment to the goals of the Fund; his prudent management of our resources; and, most importantly, his good counsel in our monthly meetings makes him an important asset to the Cousens Fund.

If you have any other questions, please let me know.

Sincerely,

Sally Pellegrom

Application for Committee Appointment City of Newton, MA

#407-12
#257-08



Please submit this completed application, or a copy of your resume with a letter stating committee of interest, to Mayor David B. Cohen, Newton City Hall, 1000 Commonwealth Avenue, Newton, MA 02459.

Name: LANE Sofman Date: 8-11-06

Home Address: 336 Lexington St Home Phone: _____

Business Address: 86 Bowers St Bus. Phone: _____

Email: _____ Fax: _____

Occupation, if applicable: _____

Committee(s) you might wish to serve on: The Horace Cozens Industrial Fund

What activities or issues interest you? _____

Relevant expertise, experience, and education: Trustee on the fund for more than 20 yrs

List your community activities with offices held, if any: ALDERMAN at Large w/4, Trustee Cozens fund.

Please provide the names of three references:

Name	Address	Phone Number
<u>David Cohen, Mayor</u>	<u>1000 Com Ave</u>	_____
<u>Paul Coletti, Ald</u>	<u>1000 Com Ave</u>	_____
<u>Thomas G. Michaels</u>	<u>18 First St, Melrose</u>	_____

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CITY CLERK
NEWTON, MA 02

Feel free to add any additional information in support of this application.



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#32-13

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(617) 796-1100

Facsimile
(617) 796-1113

TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov

December 14, 2012

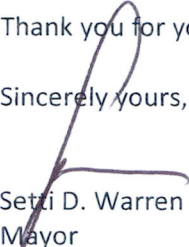
Honorable Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to reappoint Julia Malakie of 50 Murray Road, Newton as a member of the Newton Urban Tree Commission. Her term of office shall expire December 14, 2015 and her appointment is subject to your confirmation.

Thank you for your attention to this matter.

Sincerely yours,


Setti D. Warren
Mayor

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David A. Oison, CMC
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

June 4, 2012

Mayor Setti D. Warren
Newton City Hall
1000 Commonwealth Avenue
Newton MA 02459

Dear Mayor Warren,

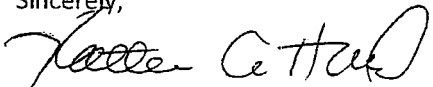
As the Chair of the City's Urban Tree Commission (UTC), I write to ask you to re-appoint Ms. Julia Malakie to the UTC. Her resume is attached.

Julia has been a UTC member since 2003, and has shown herself to be a valuable member and dedicated to Newton's tree program. She is very hard working, has rarely had to miss a meeting, and always volunteers for the extra work and projects outside the meetings. For example, she helped the City develop the Citizen Pruner program, which has grown into an army of volunteers caring for the city's trees, and continues to help publicize and promote that effort. Julia has strong technical skills, of great benefit to our activities, and strong people skills helping us to work together harmoniously and interface well with the city and the community.

Please re-appoint Julia - we need her!

Thank you for your consideration. Please do not hesitate to contact me by email (howard_katherine@hotmail.com) or by phone (617-527-1796).

Sincerely,



Katherine A. Howard
Chair, Newton Urban Tree Commission

Julia Malakie

50 Murray Road, Newton, MA 02465

**Community
Activities**

- Member of City of Newton Urban Tree Commission since 2003
- Founding member and director of Newton Tree Conservancy, established in 2008
- Helped organize annual Community Tree Plantings beginning in 2009
- Newton Citizen Pruner since beginning of program in 2005
- Participant in Newton Conservators invasive weed pulls
- Blogger at Village14 since 2012

Education

S. I. Newhouse School of Public Communication, Syracuse University
Coursework for Master of Science in Photojournalism, 1987-1988

Graduate School of Business Administration, University of Chicago
M.B.A. degree with concentrations in finance and accounting, 1979

Massachusetts Institute of Technology
B.S. in Economics, 1977

Work history**Lowell Sun**

- Online assistant/videographer, shooting and editing photos, video and slideshows and updating website content on lowellsun.com, 2006-present
- Part-time staff photographer, covering local and regional news, sports and features, 1989-2006

Associated Press

- Photo stringer in Boston bureau, covering local, regional and national stories, 1988-2006

General Motors Corporation, Detroit, Michigan.

- Corporate financial analyst on Comptroller's and Treasurer's Staffs, 1979-1985

Background & interests

- Raised in Newton, 1973 graduate of Newton High School, and resident of Newton since 1988
- Member, West Suburban YMCA, and National Press Photographers Association
- Interests include public affairs, political, environmental and legal issues, music and theatre, and physical fitness.



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#33-13

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E-mail
swarren@newtonma.gov

January 8, 2013

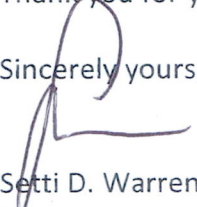
Honorable Board of Aldermen
City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to reappoint Kathleen McCarthy of 524 California Street, Newton as a member of the Licensing Board. Her term of office shall expire June 8, 2019 and her reappointment is subject to your confirmation.

Thank you for your attention to this matter.

Sincerely yours,


Setti D. Warren
Mayor

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Newton City Clerk
2013 JAN 11 PM 12:47
David A. Oison, CMC
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE

KATHLEEN M. McCARTHY
McCARTHY & GOLDEN, LLC
Attorneys and Counselors at Law
275 Grove Street, Suite 2-400
Newton, Massachusetts 02666

EDUCATION

BOSTON UNIVERSITY

Graduate Tax Program, 1981-1983

Completed graduate level courses in real estate, probate and business taxation

VERMONT LAW SCHOOL, South Royalton, Vermont

Juris Doctor, June 1981

Honors designation for student advocacy

Editor, Yearbook

Teaching Assistant, Legal Writing Program

UNIVERSITY OF NEW HAMPSHIRE

B.A. Philosophy, December 1977

DARTMOUTH COLLEGE

Special Student, 1975-1977

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Newton City Clerk
2013 JAN 11 PM 12:49
David A. Olson, CMC
Newton, MA 02459

EXPERIENCE

McCARTHY & GOLDEN LLC

2007- Present

Estate Planning, Probate Administration, Trust Administration,
Real Estate and Business Law

McCARTHY & GORDON LLC

1998-2007

Estate Planning, Probate Administration, Trust Administration,
Real Estate, Business and Family Law

McCARTHY & WAYLAND

1988-1998

Real Estate, Business, Probate and Family Law

FITZPATRICK & McCARTHY

1987-1989

Real Estate, Commercial, Contract and Probate Law

KERRISSEY & McCARTHY

1983-1987

Real Estate, Probate, Criminal and Family law

BAR ADMISSION

Admitted to practice in Florida, Massachusetts, and New Hampshire, Federal District Court and US Court of Appeals First Circuit

PROFESSIONAL ASSOCIATIONS

Massachusetts Bar Association
Boston Bar Association
Massachusetts Conveyancer's Association
Collier County Bar Association

PROFESSIONAL LICENCES

Licensed Real Estate Broker, Massachusetts

COMMUNITY ORGANIZATIONS

Commissioner, Newton Licensing Board, 1997- Present



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#31-13

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(617) 796-1089

E-mail
swarren@newtonma.gov

January 4, 2013

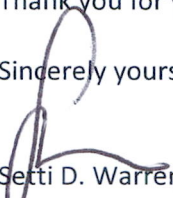
Honorable Board of Aldermen
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I am pleased to appoint Nancy Levine of 379 Central Street, Newton as a member of the Election Commission for the City of Newton. Her term of office shall expire March 31, 2015 and her appointment is subject to your confirmation.

Thank you for your attention to this matter.

Sincerely yours,


Setti D. Warren
Mayor

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Newton City Clerk
2013 JAN - 7 AM 10: 56
David A. Olson, CMC
Newton, MA 02459



Nancy M. Levine, LICSW
379 Central Street
Auburndale, Massachusetts 02466

February 8, 2012

Honorable Setti Warren, Mayor
City of Newton
1000 Commonwealth Avenue
Newton, Massachusetts 02459

Dear Mayor Warren,

I am writing to express my interest in the vacancy on the Newton Election Commission. As a former elected official in Newton (School Committee, 2000-2006) I understand intimately the importance of the Election Commission. This past summer's issue of a candidate's residency further illustrated the importance of a fair, impartial committee able to hear cases and make difficult decisions.

I believe I have the experience to fill this seat. I have chaired the Mass. Chapter of the National Association of Social Workers Ethics Hotline committee for almost 20 years and I have sat on the National (NASW) Ethics Committee for almost 6 years. In my role of the Nat'l Ethics committee I have sat on hearing panels and mediations. I understand the use of policy and guideline to inform decisions and have the training to decide these kinds of issues. I have experience serving as an expert witness in State Licensing Board (Social Workers) hearings as well. All of this leads me to the opinion that I would be an asset to the Commission in these sorts of issues.

Voting is a critical and under-exercised right that must be safeguarded to the utmost. As Newton moves forward, so must those who administer, certify and safeguard our elections. This has not been truer in a long time than now as we focus on one of the biggest and most contested elections in years. I look forward to the opportunity to serve on the Commission in November as we elect President, Senator, Rep. etc.

I have been unable to stay in public service due to personal reasons in the past few years, and appreciate the chance to return to serving my beloved city now that I am able. I would be most happy to discuss this position with you at your first opportunity.

Sincerely yours,

Nancy M. Levine

Nancy M. Levine, LICSW
 379 Central Street
 Auburndale, Massachusetts 02466-2232

CURRICULUM VITAE

EDUCATION:

B.A. University of Rhode Island
 Majors: Psychology, French, Education

M.S. Simmons College School of Social Work

ACCREDITATION AND LICENSURE:

LICSW Mass. License # 101436
 ACSW
 ABECSSW Board Certified Diplomate

EMPLOYMENT HISTORY:

EXPERT WITNESS:

Board of Registration in Social, Massachusetts 2007-present
 Committee for Public Counsel Services 2011-
 Private work for counsel 2011-

ACADEMIC POSITIONS: 1994-present

SIMMONS COLLEGE SCHOOL OF SOCIAL WORK

Adjunct Professor teaching Clinical Practice I; Assessment and Diagnosis;
 Social Work Practice and Ethics. Field and Academic Advisor for 12 graduate students.

LASELL COLLEGE

Senior Lecturer in Psychology and Human Services teaching Introduction to Human Services, Human Service Internship Seminar and field advisor to Interns, Honors Leadership Seminar, Intro. to Psychology; Lifespan Development; Contemporary Social Issues; Abnormal Psychology; and, Psychology of Adjustment.

MASS BAY AND MIDDLESEX COMMUNITY COLLEGES

Adjunct faculty teaching Introduction to Psychology, Abnormal Psychology, Contemporary Social Problems, Lifespan Development, and "Introduction to Human Behavior" in the Collegestart Program. Collegestart was a for credit program to engage the returning adult learner in college academics.

CLINICAL POSITIONS:

PRIVATE PRACTICE 1980-present

Individual, couple and family assessment and treatment. Short-term, focused group therapy. Consultation and supervision. Specialty areas include diagnosis, depression, severe psychiatric conditions (psychosis and severe character disorder), and crisis intervention.

Corizon Health Service @ Suffolk County House of Corrections, Boston Ma

Per Diem work performing crisis intervention, evaluation and assessment of inmates; staff supervision, consultation and training.

HAMPSTEAD HOSPITAL

Staff Social Worker on acute care in-patient units (locked & open). Treated adolescent and adult psychiatric and substance abuse patients. Provided family and individual treatment, discharge planning, and participated in the interdisciplinary treatment team.

LEVINE, NANCY M.

CURRICULUM VITAE

P.2

NEWW CENTER, INC. CLINICAL DIRECTOR

Full range of clinical, supervisory, and administrative duties for an agency providing day treatment program, social program, supportive employment program for individuals with chronic mental illness. Provided individual and group psychotherapy, clinical supervision of a multi-disciplinary staff of 6-8 mental health professionals, paraprofessionals, and interns; developed and taught profession development programs.

Developed and implemented program policies and procedures; developed and maintained interagency relationships; co-chaired search committee for executive director; guided clinical development for agency reorganization and fiscal expansion.

Accomplishments: expanded Day Treatment Program from a 3-day to 5-day per week milieu program; supervised development and implementation of family therapy services within the Day Treatment Program; increased successful placement and employment maintenance rates in Employment Placement Service to 95%; achieved licensure for the Day Treatment Program by the Ma. Depts. of Public Health and Public Welfare/Medicaid Division; upgraded staffing pattern to a fully professional staff in the Day Treatment Program.

FOXBOROUGH DAY TREATMENT CENTER

CLINICAL CO-ORDINATOR

Provided individual psychotherapy, program development, and supervision; coordinator of new staff training, Norwood and Foxborough Day Treatment Centers.

BUTLER HOSPITAL ACUTE DAY HOSPITAL

Staff Social Worker: Provided family assessment, discharge planning, short-term therapy in group, family and couple modalities (including multi-family group).

TRAINING SITES:

Marlboro Community Mental Health Center

Tufts University College Counseling Center

PUBLICATIONS AND PRESENTATIONS

"Working with (or against?) Family Support Systems" presented at New England Region: Partial Hospitalization Study Group

"Death in the Milieu" Proceedings of the Amer. Assn. for Partial Hospitalization: Presented at national conferences, American Partial Hospitalization Association

"Supervision Issues" presented at New England Region: Partial Hospitalization Study Group

"Individualization of Treatment within the Milieu Setting" presented at New England Region: PHSG and accepted for presentation at AAPH annual conference

Guest Consultant on Group Psychotherapy, Tufts University Counseling Center

Keynote Speaker, Mass. Assn. of Day Treatment Administrators Annual Conference; Worcester, Ma.;

Guest Consultant on Abortion Counseling, Mt. Ida College

Ethical Issues in Clinical Practice; NASW Conference on Ethics

Grand Rounds, Lemuel Shattuck Hospital "Advanced Social Work: Ethics and Boundaries"

VA Social Work Month Conference "The Role of Consultation in Ethical Dilemma"

Bradley Hospital Social Service Department Continuing Education Series: "Practice and Ethics: Navigating the Conflicts"

NASW Central Region, "Ethics and Ethical Issues"; "Navigating Ethical Waters"

AWARDS AND HONORS:

2012: The *Anne P. Ogilby Award* for creative social work practice granted by Simmons College SSW Alumnae/i

PROFESSIONAL ACTIVITIES:

Lasell College: Education Advisory Committee

New England Region: Partial Hospital Study Group President and member, Board of Directors

NASW:

Board of Directors, Massachusetts Chapter: 3 year term 2008-2011

National Ethics Committee: 2006-present

Chair, Mass. Chapter Ethics Hotline Committee 1993-present

Coordinator, Member-to-Member Supervision Program;

Chair, Awards Committee

Erna Gill Memorial Committee

Commonwealth of Massachusetts Board of Professional Licensure: Expert Witness for the Board in Hearings on cases involving ethics violations

Civic:

NEWTON SCHOOL COMMITTEE MEMBER elected on a citywide basis to an 8 member board that oversees fiscal, educational and administrative policies of the Newton School Department. Newton Public Schools educate 11,300 students with a budget over \$130,000,000.

Multiple leadership roles in City wide and local PTOs and school councils

Chair, Mayor's Task Force on Public Participation

Community Representative to Williams School Advisory Council

Newton 2000: NEWTON SERVES Steering Committee

Newton Democratic Ward 4 Committee member

REFERENCES available upon request

Revised: 7/2009; 5/2010; 10/2011; 2/2012



SETTI D. WARREN
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#43-13

Telephone
(617) 796-1100

Facsimile
(617) 796-1113

TDD/TTY
(617) 796-1089

E-mail
swarren@newtonma.gov

January 14, 2013

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

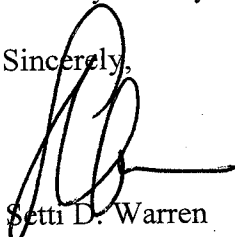
Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to transfer the sum of \$62,000 from June 30, 2012 Free Cash to Acct 01602011-5243 Parks & Recreation Forestry/Tree Services.

Following Hurricane Sandy, the City has made a concerted effort to remove the most defective trees (at least 120 of approximately 400) as categorized through the USDA Forest Service Tree Risk Assessment Guidelines. Fortunately, the mild weather has enabled our contractor to continue this effort so that most of the most defective trees will be removed this winter.

Thank you for your consideration of this matter.

Sincerely,


Setti D. Warren
Mayor

RECEIVED
Newton City Clerk
2013 JAN 14 PM 5:34
David A. Olson, CMC
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov



DEDICATED TO COMMUNITY EXCELLENCE



SETTI D. WARREN
MAYOR

NEWTON PARKS AND RECREATION DEPARTMENT

124 Vernon St, Newton, MA 02458
Office: (617) 796-1500 / Fax: (617) 796-1512
TDD/TTY: (617) 796-1089
parks@newtonma.gov



ROBERT J. DERUBEIS
COMMISSIONER

RECEIVED
Newton City Clerk
2013 JAN 15 PM 12: 50
David A. Olson, CMC
Newton, MA 02459

December 6, 2012

Honorable Mayor Setti D. Warren
Newton City Hall
1000 Commonwealth Avenue
Newton, Mass. 02459

Dear Mayor Warren:

I am writing to respectfully request that you docket with the Honorable Board of Aldermen for consideration a request to appropriate and expend \$62,000.00 to cover the cost of Forestry Equipment Rental expenditures for the month of December.

The expenditures will be utilized to remove approximately 120 hazardous trees that have been identified throughout the city. The vehicle for identification was USDA Forest Service Tree Risk Assessment Guidelines. The assessment categorizes the condition of trees based on a number of criteria, and it was determined that the 120 aforementioned trees were the most defective.

Sincerely,

Robert J. DeRubeis
Commissioner

cc: Robert Rooney, Chief Operating Officer
Maureen Lemieux, Chief Financial Officer
Marc Welch, Superintendent of Forestry

COMMISSION MEMBERS	WARD 1 - BETHEL CHARKOUDIAN WARD 2 - ARTHUR MAGNI, CHAIRMAN WARD 3 - PETER JOHNSON	WARD 4 - FRANCIS J. RICE WARD 5 - WALTER S. BERNHEIMER II WARD 6 - ANDREW STERN	WARD 7 - RICHARD TUCKER, VICE-CHAIR WARD 8 - DONALD FISHMAN SECRETARY-ROBIN MCCLAUGHLIN
--------------------	--	---	---

ALTERNATES: MICHAEL CLARKE, JOE FRASSICA, PETER KASTNER, JACK NEVILLE,

David A. Olson

From: Victoria Danberg <vdanberg@gmail.com>
 To: Ted Hess-Mahan <tedhess-mahan@rcn.com>, Amy Mah Sangiolo <asangiolo@newtonma.gov>, David Kalis <dkalis@newtonma.gov>, Deb Crossley <dcrossley@newtonma.gov>, Dick Blazar <rbbblazar@yahoo.com>, Greg Schwartz <greg.schwartz02@gmail.com>
 Subject: Polystyrene Ban
 Date sent: Wed, 2 Jan 2013 17:49:40 -0500
 Copies to: Marcia and Howard Johnson <marcia@marciajohnson.org>, Susan Albright <susan.albright@tufts.edu>, Stephen Linsky <smlinsky@rcn.com>, John Rice <jrice@tsm.com>
 BCC to: dolson@newtonma.gov

RECEIVED
 Newton City Clerk
 2013 JAN -3 AM 11:01
 DAVID A. OLSON, CMC
 Newton, MA 02459

Hello Colleagues,

David Olson is awaiting wording from me on a docket item for a citywide polystyrene ban, which I propose would read as follows,(from the successful Brookline ban):

Ald. XYZ requesting a prohibition on the use of 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.

Please let me know if you would like to be listed as a co-docketer. I'd like to include it as a late filed item to be taken up at the same time as the proposed ban/fee on the use of plastic bags in the City.

I strongly feel that the way to go is a simple ban on both, without the complication of fees for use (a la the **"Sale of Indulgences"** by the Catholic Church in the 17th C.)

Happy New Year.

Vicki

co-docketers
Danberg, Albright, Blazar, Rice, Linsky, Crossley,

----- Forwarded message -----

From: **Kara Brewton** <kbrewton@brooklinema.gov>
 Date: Wed, Jan 2, 2013 at 4:42 PM
 Subject: Polystyrene Ban
 To: alisonlearymooradian@gmail.com

Hi Alison:

Per your request, see the approved text below. This is the original petition (which was what was finally voted on) -- good luck!

Regards,

Kara Brewton
Acting Director
Department of Planning and Community Development
Town of Brookline
<http://www.twitter.com/brooklinema>

Tel: 617.730.2468
kbrewton@brooklinema.gov
<http://www.linkedin.com/in/karabrewton>

When responding, please remember the Secretary of State considers e-mail a

public record.

ARTICLE 8

Submitted by: Nancy Heller

To see if the town will amend the General By-Laws as follows:

By adding the following Article:

Article 8.32 Prohibition on the Use of Polystyrene Based Disposable Food Containers

Effective December 1, 2013, polystyrene food or beverage containers shall not be used in the Town of Brookline to package or serve food or beverages if that packaging takes place on the premises of food service establishments, as defined in Article 8.10.2, within the Town of Brookline.

In the event that compliance with the effective date of this by-law is not feasible for a food service establishment because of either unavailability of alternative nonpolystyrene containers or economic hardship, the Director of Health and Human Services may grant a waiver of not more than six months upon application of the owner or the owner' representative. The waiver may be extended for one (1) additional 6 month period upon the showing of continued infeasibility as set forth above.

And by adding a reference to this Article 8.32 in the General By-Laws, Article 10.2 Prosecutions and Enforcement, by including Article 8.32 under the list of by-laws enforceable by the Director of Health and Human Services.

Or act on anything relative thereto.

--

Victoria Danberg
Alderman at-Large, Ward 6
Tel. 617.969.1756
Fax. 617.969.5648
Email: Vdanberg@gmail.com

EIGHTH ARTICLE

Submitted by: Nancy Heller

To see if the town will amend the General By-Laws as follows:

By adding the following Article:

Article 8.32 Prohibition on the Use of Polystyrene Based Disposable Food Containers Effective December 1, 2013, polystyrene food or beverage containers shall not be used in the Town of Brookline to package or serve food or beverages if that packaging takes place on the premises of food service establishments, as defined in Article 8.10.2, within the Town of Brookline.

In the event that compliance with the effective date of this by-law is not feasible for a food service establishment because of either unavailability of alternative non-polystyrene containers or economic hardship, the Director of Health and Human Services may grant a waiver of not more than six months upon application of the owner or the owner's representative. The waiver may be extended for one (1) additional 6 month period upon the showing of continued infeasibility as set forth above.

And by adding a reference to this Article 8.32 in the General By-Laws, Article 10.2 Prosecutions and Enforcement, by including Article 8.32 under the list of by-laws enforceable by the Director of Health and Human Services.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

In June, 2011, the National Institute of Environmental Health Sciences (NIEHS), part of the U.S. Dept of Health and Human Services, added styrene, the chemical found and released from polystyrene (commonly known as Styrofoam) products such as to-go containers and cups, to its list of materials that are reasonably anticipated to be carcinogens, as toxic chemicals may leach out of these products into the food that they contain. The NIEHS added styrene to its list of likely carcinogens based on human cancer studies, laboratory animal studies, and mechanistic scientific information. Styrene is found in many products, including food and beverage containers, rubber, plastics, insulation, and cigarette smoke. While this list is not a regulatory statement, it has been a factor in regulatory decision-making and could mean that the federal government will at some future date regulate or ban the use of polystyrene.

This product is not only harmful to human health but it is also detrimental to the environment. Polystyrene, a petroleum product, does not biodegrade but rather crumbles into fragments. If strewn as trash on land, it will have an indefinite life, and could break

into pieces that choke and clog animal digestive systems. This product remains in landfills indefinitely, takes up more space than paper, and eventually can re-enter the environment when landfills are breached by water or mechanical forces.

While polystyrene can technically be recycled, it is cumbersome to do so. Brookline has an extensive recycling program, but single stream curbside recycling does not include polystyrene containers. About twice per year, our residents may take their collected polystyrene to the DPW facility, where it is picked up by a Rhode Island company. In Rhode Island, the polystyrene is compressed or “densified” into large blocks, then transported to China or India where facilities using complex chemical processes turn the polystyrene into pellets that are used to make new polystyrene. In this way, polystyrene can be recycled, but the carbon footprint of transporting this material is staggering.

While this warrant article only applies to food and beverage containers in Brookline, it begins to tackle the problem at a local level and furthers the process of educating people about the dangers of polystyrene. Great Barrington, MA banned polystyrene containers 22 years ago. In Great Barrington, all to-go coffee, such as from Dunkin’ Donuts, is sold in heavy paper cups.

The first such ban was enacted in Portland, Oregon in the late 1980’s. In the following years, many municipalities nation-wide have either an ordinance in place or are currently working on one. Other major cities include: Los Angeles, Oakland, Santa Monica, Seattle and San Francisco. Philadelphia and New York City are currently working on getting an ordinance passed through city council. In California alone, the number of municipalities which have tackled this issue is approaching 100 and the list keeps growing. Several counties in that state have adopted county-wide bans. California is poised to become the first state in the nation to pass a state-wide ban. Many other states are also considering state-wide bans.

Anecdotally, I have observed that food from the cafeteria at the Museum of Science is no longer placed in polystyrene containers, but in containers which are biodegradable. The MacDonald chain ceased to use polystyrene packaging several years ago, and now wraps all food in paper products.

Unlike the situation in 1990 when Great Barrington enacted its ban, today there are many alternative recyclable food containers, some of which are biodegradable: such alternative containers do not contain human health risks or negative impacts on the environment. Biodegradable containers are often made from PLA, a plastic substitute derived from plant starch, from bamboo, a fast-growing and renewable resource, and palm fiber. These plastic substitutes can match polystyrene in durability, strength, and flexibility.

It makes sense for Brookline Town Meeting to protect our citizens with this bylaw. It also makes sense that in addition to any police officer, the Director of Health and Human Services and the Commissioner of D.P.W. or their designees have the authority to enforce this by-law.

For a fuller description of polystyrene, please see:

<http://www.earthresource.org/campaigns/capp/capp-styrofoam.html>.

For a copy of the Great Barrington bylaw, please see Great Barrington Bylaws, Section 102.2 Polystyrene containers.

For an example of an ordinance from a California city:

<http://www.cityofalamedaca.gov/Go-Green/Styrofoam-Ban>

***** DRAFT *****

CITY OF NEWTON
IN BOARD OF ALDERMEN

January _____, 2013

RECEIVED
Newton City Clerk
2013 JAN -4 AM 10:16
David A. Oiselle, CMC
Newton, MA 02459

ORDERED:

That the Board of Aldermen hereby requests and authorizes His Honor the Mayor to submit a home rule petition to the General Court seeking the adoption of special legislation as set forth below:

SECTION 1: Notwithstanding sections 40F to 40J of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may convey a certain parcel of state owned land in the City of Newton to the City of Newton; provided, however, that any deed conveying the parcel shall contain the restriction required pursuant to section 2. The parcel, known as the former Waban Hill Reservoir, and also known as the Manet Road Reservoir, is located on the east side of Manet Road in the City of Newton and the exact boundaries of the parcel shall be established prior to such conveyance by a survey commissioned by the commissioner, said parcel is described in a deed from the City of Newton to the Metropolitan Water Board dated October 20, 1900 and recorded in the Middlesex South Registry of Deeds in Book 2853, Page 42. The consideration for said conveyance shall be the full and fair market value of the parcel as determined by the commissioner pursuant to an independent professional appraisal.

SECTION 2: The parcel described in section 1 shall be conveyed subject to a conservation restriction with the benefit of section 32 of chapter 184 of the General Laws limiting the use of the parcel to open space or active or passive recreation purposes. If at any time the property ceases to be used for the purposes described in this section, the commissioner of capital asset management and maintenance shall give written notice to the city of the unauthorized use. The city shall, upon receipt of the notice, have 30 days to respond and a reasonable time to establish an authorized use of the parcel. If an authorized use of the parcel is not thereafter established, the title to the parcel, upon the recording of a notice thereof by the commissioner in the appropriate registry of deeds, shall revert to the commonwealth and any further disposition of the property shall be subject to Article XCVII of the Massachusetts Constitution and chapter 7 of the General Laws.

SECTION 3: The inspector general shall review and approve the appraisal conducted pursuant to section 1. The review shall include an examination of the methodology utilized for the appraisal. Within 30 days of receiving the appraisal, the inspector general shall prepare a report of his review and file the report with the commissioner of capital asset management and maintenance. Within 15 days of receiving the inspector general's report and not later than 15 days before the execution of any agreement or other document relating to the conveyance, the commissioner shall submit it to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets.

Enclosure A

***** DRAFT *****

SECTION 4: The City of Newton shall be responsible for all costs and expenses, including, but not limited to, costs associated with any engineering, surveys, appraisals, and deed preparation related to the transfers and conveyances authorized in this act as such costs may be determined by the commissioner of capital asset management and maintenance. Upon conveyance of the parcel, the city shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of the parcel.

SECTION 5: This act shall take effect upon its passage.