

CITY OF NEWTON  
IN BOARD OF ALDERMEN  
PROGRAMS AND SERVICES COMMITTEE AGENDA  
WEDNESDAY, DECEMBER 4, 2013

**8:00 PM**  
Room 222

**ITEMS SCHEDULED FOR DISCUSSION:**

- #396-13      ALD. LENNON & LAPPIN, pursuant to Section 2-7 of the City Charter recommending that the 2014 -2015 Board of Aldermen re-appoint David A. Olson as City Clerk/Clerk of the Board; said term will be two years or until a successor is duly qualified. [10/28/13 @ 3:09 pm]
- #397-13      ALD. SANGIOLO on behalf of the URBAN TREE COMMISSION, proposing amendments to the Tree Preservation Ordinance. [10/28/13 @ 2:46 PM]

**The Committee will meet jointly with the Public Safety & Transportation Committee on the following item:**

**REFERRED TO PUBLIC SAFETY AND PROG & SERV COMMITTEES**

- #414-13      HIS HONOR THE MAYOR requesting authorization to petition the General Court for Home Rule Legislation to authorize the Mayor, upon recommendation of the chief of Police, to appoint former Newton police officers who have retired for superannuation and who are under age 65 to serve as special police officers for the purpose of performing police details in the City of Newton. [11/25/13 @ 3:26 PM]

**The Committee will meet jointly with the Public Facilities Committee on the following item:**

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

- #421-13      HIS HONOR THE MAYOR requesting authorization to appropriate the sum of one million dollars (\$1,000,000) from bonded indebtedness for the purpose of funding the feasibility study and associated schematic design services for the renovation and/or replacement of the Cabot Elementary School. [11/25/13 @ 3:26 PM]

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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 the Newton ADA Coordinator, Joel Reider, at least two days in advance of the meeting: [jreider@newtonma.gov](mailto:jreider@newtonma.gov) . or 617-796-1145. For Telecommunications Relay Service dial 711.

**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]

**ITEMS TO REFER TO 2014-2015 BOARD:**

**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]

**REFERRED TO PROG. & SERV. AND PUBLIC SAFETY & TRANS COMMITTEES**

- #410-13      ALD. JOHNSON, ALBRIGHT AND LINSKY requesting discussion with the Parks & Recreation, Police, Fire and Law Departments regarding options to decrease vandalism at the Albemarle Park (Halloran Recreation Complex) before April, 2014 [11/12/13 @ 4:15 PM]

Respectfully Submitted,

Amy Mah Sangiolo

## ARTICLE IV. TREE PRESERVATION

### Sec. 21-81. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Aggregate diameter:* The combined diameter of a multiple trunk tree measured at breast height.

*Building:* The term "building" shall be as defined in section 30-1.

*Certified arborist:* An arborist certified by the Massachusetts Arborists Association or [International Society of Arboriculture](#), or any successor organizations.

**Comment [MW1]:** Minor change. Expanded acceptable certifications

*Diameter breast height (DBH):* The diameter of the trunk of a tree 4½ feet above the existing grade at the base of the tree.

*Drip line:* A vertical line running through the outermost portion of the crown of a tree and extending to the ground.

*Exterior work permit:* A permit or approval which is required in order to perform work on a vacant lot or to the exterior of a building on a lot, including, but not limited to the following: a building permit; a review of an alteration of contour of land if required pursuant to section 30-5(c)(1); curb cut and street opening permits; an order of conditions; certificates of appropriateness, nonapplicability, or hardship; a demolition permit; site plan approval pursuant to section 30-23; subdivision approval; a special permit pursuant to section 30-24; a comprehensive permit.

**Deleted:** *Exempt lot:* A lot which meets either of the following criteria at the time that the tree removal permit application is filed or an exterior work permit is sought or at the time that trees are being removed:¶  
(a) the lot is occupied and used primarily as a dwelling for up to four (4) families; or¶  
(b) the lot is vacant and is adjacent to a lot used solely as an owner occupied dwelling for up to four (4) families and owned by the same person and the owner of such vacant lot wishes to remove trees from such vacant lot in order to construct a dwelling for up to four (4) families which said owner will occupy.¶

*Person:* Any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to, the person removing a protected tree as well as the owner of the real property from which the tree is removed. The definition of "person" shall not include the City of Newton.

**Comment [MW2]:** Minor change. Updates description of Exterior work permits to match ordinance changes since 1999

*Protected tree:* Any tree having a diameter of eight inches (8") DBH or larger or having an aggregate diameter of fifteen inches (15") DBH or larger and which is located on land subject to the provisions of section 21-82.

*Pruning standards:* Standards for pruning as defined in the City of Newton Tree Management Manual, 1995 and any future amendments or revisions to the same.

*Remove (including removing and removal):* The cutting down of any protected tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of a protected tree, including, but not limited to, excessive or improper pruning.

*Tree Manual:* The City of Newton Tree Management Manual, 1995, and any future amendments and revisions to the same. (Ord. No. V-275, 12-6-99)

*Tree Permit:* Document issued by the Tree Warden with information regarding which activities relative to trees on the site are allowed. This document may include information on protective measures, which trees are permitted for removal, and other action necessary for compliance with the Tree Preservation Ordinance.

**Comment [MW3]:** Added definition of a tree permit

*Tree Warden:* The commissioner of parks and recreation or his designee.

**Editor's note**—Ordinance V-275 contained a lengthy and detailed Declaration of legislative findings and intent, which is on file in the records of the Board of Aldermen.

## **Sec. 21-82. Applicability, activities that require a permit**

(a) *Applicability:* The terms and provisions of this article shall apply to any protected tree located on land within the city not owned by the city, the commonwealth, or any independent authority of the commonwealth, or by the federal government.

(b) **Whenever** one or more of the following conditions are or will be met, no person shall remove a protected tree on land subject to the provisions of this section without first obtaining a tree permit from the tree warden. The provisions of (1), (2), (3), and (4) below shall apply to all persons, including any subsequent owner of a lot, within the stated time period:

**Comment [MW4]:** Significant Change. This section was added to reflect the new criteria of when a permit is required.

(1) The removal of greater than five protected trees on any one lot within a 24 consecutive month time period; or

(2) The removal of greater than 80 diameter inches of protected trees on any one lot within a 24 consecutive month time period; or

(3) The removal of a single protected tree measuring greater than 50 diameter inches; or

(4) Whenever an exterior work permit (as defined in section 21-81) is required.

## **Sec. 21-83. Permit application.**

(a) *Contents, fee:* An application for a tree permit shall be submitted to the tree warden. The application for a tree permit shall be accompanied by a fee in the amount of one hundred fifty dollars (\$150.00) except in instances of hardship as determined by the tree warden and shall include, but not be limited to, the following:

**Comment [MW5]:** Increase permit fee from \$50 to \$150.

(1) The shape and dimensions of the parcel of real property to be developed, together with the existing and proposed locations of structures and improvements, if any;

(2) A tree plan showing the location, type and size of each protected tree indicating which protected tree(s) are to be removed, and the location, type and size of proposed replacement trees;

(3) The proposed relocation of any existing protected tree with a statement prepared by a certified arborist or other qualified person as determined by the tree warden explaining how each such protected tree is to be relocated and maintained;

(4) The location of existing and proposed underground or overhead utility services, existing and proposed roadways, bikeways, walkways and parking areas, or any other structure;

(5) Any proposed grade changes which might adversely affect or endanger any protected tree with a statement prepared by a certified arborist explaining how each such protected tree shall be protected and maintained;

(6) The proposed method of protecting the remaining protected trees during the course of the construction in accordance with section 20-34, subsection (a).

(b) *Review of permit applications:* The tree warden shall review applications for tree permits in accordance with the provisions of this article. The tree warden shall date stamp or otherwise record the date of filing of each application for a tree permit. The tree warden shall complete the review of each tree permit application no later than ten (10) business days after the submission of a completed application to the tree warden and shall report to the commissioner of inspectional services within ten (10) business days of a request with respect to any tree permit application submitted in connection with a building permit as to whether said tree permit has been granted or denied. If no such report is received by the commissioner within the above-stated time period, he shall accept an application for a building permit without receipt of such report.

(c) *Standards for grant or denial:* No tree permit shall be issued unless one of the following conditions exists:

**Comment [MW6]:** Several edits made in this section that cleaned up confusion and ambiguity from current ordinance. Simplified the language for replacement and payment.

(1) The protected tree(s) will be relocated or replaced on site.

(2) The protected tree(s) will be replaced by payment in lieu of planting replacement tree as outlined in section 21-86

(3) The protected tree is interfering with existing structures, utilities, streets, sidewalks or other existing improvements.

(4) The protected tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of public utility service, is causing drainage or passage problems upon rights-of-way, or poses a threat to pedestrian or vehicular safety.

(5) The removal of the protected tree is necessary and desirable in order to enhance or benefit the health or condition of other trees or wildlife on the same site as certified to the tree warden and accepted by the tree warden.

(d) *Conditions:* Upon the issuance of a tree permit, the tree warden may prescribe in writing such protective measures for existing protected trees as he deems necessary. Before site disturbance may begin, the tree warden may make a determination that the prescribed protective measures have been adequately provided.

(e) *Construction:* Except as provided in a tree permit, construction activities under the drip line of a protected tree are prohibited. Construction activities include, but are not limited to, trenching or grading, storage of materials or equipment, passage of heavy equipment within the drip line and spillage of chemicals or other materials which are damaging to trees.

(f) *Suspension or revocation:* A tree permit may be suspended or revoked at any time by the tree warden upon written notice to the permit holder that the permit holder has failed to comply with either this article or the conditions of the permit. The written notice shall be sent by certified or registered mail, return receipt requested, or by hand delivery and shall provide an opportunity for the permit holder to correct the noncompliance and apply for a renewal of the tree permit upon compliance, where practicable. The suspension or revocation of a tree permit in accordance with this subsection shall not affect the validity of a building permit issued in reliance upon the issuance (granting) of such tree permit nor shall such suspension or revocation be cause for withholding the issuance of a certificate of occupancy.

(g) *Appeal:* Any person aggrieved by a decision of the tree warden may file an appeal with the mayor or his designee. Said appeal must be in writing and must be received by the mayor or his designee within five (5) business days of issuance of the tree warden's decision. Upon receipt of such appeal, the mayor or his designee shall provide a copy to the clerk of the board of aldermen and to each alderman for the ward in which the trees are located. The mayor or his designee shall make a final decision on the matter within thirty (30) days from the date of receipt of the appeal request. The mayor or his designee shall include in the decision the rationale therefor. Upon issuance of the final decision, the mayor or his designee shall provide a copy to the clerk of the board of aldermen and to each ward alderman for the ward in which the trees are located. There shall be no further appeal of the matter decided

by the mayor or his designee. No protected trees shall be removed while an appeal is pending.

**Sec. 21-84. Activities not requiring a permit.**

(a) *Pruning*: A permit is not required for the pruning of protected trees. However, in order to prevent excessive pruning and topping of trees and to prevent pruning that will be hazardous to the health and natural appearance of the tree, compliance with approved pruning standards is required, and failure to meet these standards is a violation of this article. The tree warden shall maintain on file at all times a copy of the current edition the Tree Manual and shall make copies of the Tree Manual available for the cost of reproduction upon request.

(b) *Emergencies*: If any protected tree shall be determined to be in a hazardous condition so as to immediately endanger the public health, safety or welfare or cause an immediate disruption of public services and require immediate removal without delay, oral authorization may be given by the tree warden to remove such tree, utilizing such professional criteria and technical assistance as he deems necessary, and the protected tree may be removed without obtaining a written permit as otherwise required by this article. The tree warden shall memorialize in writing each such oral authorization to remove a tree and keep a record of the same.

(c) *Waiver*: The requirements of this article may be waived by the tree warden during the period of an emergency such as a tornado, windstorm, flood or other act of God. (Ord. No. V-275, 12-6-99)

**Sec. 21-85. Tree replacement.**

Any time a tree permit is required a person who has removed in excess of five protected trees; or in excess of 80 diameter inches of protected trees; or a single tree in excess of 50 diameter inches is required to replace such trees as a condition of granting a tree permit in accordance with section 21-83, and shall replace such trees within one year from the date of removal in accordance with the following standards:

**Comment [MW7]:** Section changed to reflect language changed in 21-82 (b). This section explains when trees require replacement.

(1) A replacement tree shall be of the same or similar species or such other species as deemed advisable by the tree warden in accordance with the Tree Manual and shall have the same or equivalent size as measured in DBH inches as that of the protected tree that has been removed.

(2) In the event that a tree of the same or equivalent size as measured in DBH inches cannot be planted, then multiple smaller replacement trees may be planted provided that, wherever practicable, as determined by the tree warden, the total DBH of the replacement trees shall, when added together, equal the total DBH of the protected tree that has been removed. The tree warden may specify that replacement trees be of a minimum caliper when consistent with current accepted practice as stated in the Tree Manual.

(3) A replacement tree shall be required to survive for a minimum of one (1) year from the date it is planted. The person planting the tree shall provide documentation as to the date of planting and file the same with the tree warden within fifteen (15) days of the planting of said replacement tree.

(4) A replacement tree shall be planted on the same lot from which the tree was removed.

#### **Sec. 21-86. Tree replacement fund.**

(a) *Established:* There is hereby established a tree replacement fund which shall be held in a separate identifiable account and administered in accordance with applicable provisions of the General Laws. Any payments into the tree replacement fund required by this article shall be deposited in the tree replacement fund and shall be used in accordance with subsection (c) hereof.

(b) *Payment in lieu of planting replacement tree(s):* In lieu of planting a replacement tree as provided in section 21-85, a person who has been granted a tree permit may make a contribution to a tree replacement fund in an amount equal to the cost to replace the tree in accordance with the provisions of section 21-85, which cost shall be determined by the tree warden based on the City's current cost to purchase and install trees.

**Comment [MW8]:** Changed this section to simplify process and to reflect current practices.

**Deleted:** who shall obtain written estimates from at least two (2) tree companies.

(c) *Maintenance of tree replacement fund:* The tree replacement fund shall be maintained in a separate account in accordance with state law. All sums deposited into such fund shall be used solely for the purpose of buying, planting and maintaining trees in the city. (Ord. No. V-275, 12-6-99)

#### **Sec. 21-87. Enforcement.**

(a) *Notice of violation:* Any person who violates any of the provisions of this article shall be notified by the tree warden of the specific violation by certified or registered mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and a reasonable time period within which compliance must be had. The tree warden shall send notice of violation of section 21-86, subsection (c), which notice shall include the date by which trees were to be replaced or payment was to be made for purposes of computing the "per day" violation fine, as provided in section 21-88, subsection (b).

(b) *Stop work order.*

(1) Upon notice from the tree warden that work on any protected tree, or lot on which a protected tree is located, is being performed contrary to the provisions



of this article, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work will be permitted to resume.

(2) The tree warden is also authorized to request the agency which has granted an exterior work permit to order, to the extent permissible by law, that the owner cease any activity pursuant to the exterior work permit that might affect such protected tree while a stop work order is pending.

(3) Any person who shall continue any work in or about the protected tree or lot on which a protected tree is located after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than three hundred dollars (\$300.00) for each such violation. Each day during which a violation exists shall constitute a separate offense.

*(c) Injunctive relief:*

(1) Whenever there exists reasonable cause to believe that a person is violating this article or any standards adopted pursuant to this article or any term, condition or provision of an approved tree permit, the city may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action in the name of the city for a mandatory or prohibitory injunction and an order of abatement demanding the defendant to correct the unlawful condition upon, or cease the unlawful use of, the property.

(2) Upon determination by a court that an alleged violation is occurring, it shall enter such order or judgment as is necessary to abate the violation. The institution of an action for injunctive relief under this subsection shall not relieve any party to such proceedings from any civil penalty prescribed for violation of this article. (Ord. No. V-275, 12-6-99)

**Sec. 21-88. Penalties.**

Violations of any portion of this section, including violations of any regulation promulgated hereunder, or failure to comply with conditions of a permit, or failure to replace any removed tree as required by the tree warden, or failure to pay the required amount into the tree replacement fund shall be punishable by a fine of three hundred dollars (\$300.00) for each day during which the violation continues. Nothing herein shall be construed to require the city to make a payment for violation of this section; however the city agency that caused the violation shall be responsible for the costs of replacement or repair of the tree(s) which were

**Comment [MW9]:** This section was changed to mimic language in public tree regulation that was passed two years ago. It more clearly explains penalties than the current version.

| damaged or removed.

**Sec. 21-89. Severability, effect on other laws.**

(a) *Severability*: The provisions of this article are severable. If any section, provision, or portion of this article is determined to be invalid by a court of competent jurisdiction, then the remaining provisions of this article shall continue to be valid.

(b) *Conflict of laws*: This article shall not apply to any public shade tree as that term is defined by the General Laws, Chapter 87 or any amendments thereto. Nothing herein is intended to conflict with the General Laws, Chapter 87 and to the extent that any provision hereof conflicts with said Chapter 87, such provision shall not be valid. Nothing herein is intended to conflict with existing special permit procedures as provided in section 30-24 and to the extent that any provision hereof conflicts with said special permit procedures, such provision shall not be valid. (Ord. No. V-275, 12-6-99)

Newton MA Private Tree Ordinance – Proposed Revisions - Summary Points  
Newton Urban Tree Commission  
November 2013

The goal of Newton's Private Tree Ordinance, in place over 10 years now, has always been to preserve tree canopy. Our proposed revisions will improve its effectiveness in doing so, by preventing, managing, and offsetting the impact of large-scale tree removals.

The current Ordinance is having increasing problems with -

- those circumventing the law by claiming their lot is exempt
- those circumventing the law by having owner remove trees just prior to the home sale

These problems have long been simmering, and are now increasing - with construction permit activity and development heating up again, we expect more issues and more abutter concerns.

The proposed changes remove the difficult-to-define and impossible-to-enforce concept of "exempt lot" - and get at the real purpose of the Ordinance: to prevent, manage, and offset the tree canopy impact of large-scale tree clear cutting due to construction and development activities.

Changes include:

- a focus on those seeking exterior construction permits, and those removing more than 5 large/protected trees in a 24 month period
- this allows normal homeowner activity to continue without undue burden or any permit required
- it streamlines the approach, and clarifies and simplifies the rules
- we also propose a historic/specimen tree protection clause, as other communities have, defined by large size
- "Exempt lot" definition/dependence is eliminated
- "Occupied" definition/dependence is eliminated
- increase in permit fee from \$50 to \$150 is warranted by the time/cost of inspections required, but fee will only apply to those seeking exterior work permit or removing more than 5 large/protected trees
- administrative cost of the Ordinance is expected to be manageable and in line with level of permit fees



SETTI D. WARREN  
MAYOR

**City of Newton, Massachusetts**  
**Office of the Mayor**

Telephone  
(617) 796-1100  
Telefax  
(617) 796-1113  
TDD  
(617) 796-1089  
E-mail  
swarren@newtonma.gov

November 25, 2013

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

Ladies and Gentlemen:

I request that your Honorable Board docket for consideration a request to petition the General Court for special legislation to authorize the Mayor, upon the recommendation of the Chief of Police, to appoint former Newton police officers who have retired for superannuation and who are under age 65 to serve as special police officers for the purpose of performing police details in the City of Newton.

In addition, in the event such special legislation is enacted by the General Court, I request that this Honorable Board docket for consideration a corresponding amendment to Chapter 24 of the Newton Revised Ordinances, 2012, in order to implement such special legislation.

Draft language for both the State Home Rule and the City Ordinances is attached. Thank you for your consideration of this important matter.

Sincerely,

Setti D. Warren  
Mayor

Encl

Cc: Donnalyn Kahn, City Solicitor  
Howard Mintz, Chief of Police  
Maureen Lemieux, Chief Financial Officer

RECEIVED  
Newton City Clerk  
2013 NOV 25 PM 3:26  
David A. Olson, CMC  
Newton, MA 02459



DRAFT FOR DISCUSSION 11/22/2013

**CHAPTER \_\_\_\_\_ AN ACT RELATIVE TO THE APPOINTMENT OF SPECIAL POLICE OFFICERS, TO BE KNOWN AS NEWTON POLICE RETIREE DETAIL PATROL, IN THE CITY OF NEWTON**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** The mayor of the City of Newton may appoint, at the recommendation of the police chief and as the police chief deems necessary, retired Newton police officers as special police officers to perform police details or any duties arising therefrom or during the course of police detail work, whether or not related to the detail work. The retired Newton police officers shall have been regular Newton police officers and retired based on superannuation. They shall be subject to the same maximum age restrictions as applied to regular Newton police officers under chapter 32 of the General Laws. Prior to appointment under this act, a retired Newton police officer shall pass a medical examination by a physician or other certified professional chosen by the City to determine whether the retired Newton police officer is capable of performing the essential duties of a special police officer under this act, the cost of which shall be borne by the retired Newton police officer.

**SECTION 2.** Special police officers appointed under this act shall not be subject to chapter 31 of the General Laws, section 99A of chapter 41 of the General Laws, chapter 150E of the General Laws, or chapter 151A of the General Laws. Special police officers appointed under this act shall not be eligible for special leave, vacation or other benefits enumerated in article II of chapter 2 of Newton Revised Ordinances, 2012.

**SECTION 3.** Special police officers shall, when performing the duties under section 1, have the same power to make arrests and perform other police functions as do regular police officers of the City of Newton.

**SECTION 4.** Special police officers shall be appointed for an indefinite term, subject to removal by the mayor or the chief of police at any time with a 14 day written notice.

**SECTION 5.** The workweek for special police officers appointed under this act shall be seven (7) consecutive twenty-four (24) hour periods, for a total of one hundred and sixty-eight (168) hours, which shall commence at 8:00 A.M. at the start of each Monday of the calendar week. In no case shall any special police officer appointed under this act perform police details or any duties arising therefrom in excess of forty (40) hours in any given workweek.

**SECTION 6.** Special police officers appointed under this act shall be subject to the rules and regulations, policies and procedures and requirements as the chief of police and the mayor of the



**DRAFT FOR DISCUSSION 11/22/2013**

City of Newton may impose from time to time, including, but not limited to restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms licensing and qualifications and requirements regarding uniforms and equipment. Compliance with all requirements will be at no cost to the City of Newton. Special police officers appointed under this act shall not be subject to section 96B of chapter 41 of the General Laws.

**SECTION 7.** Special police officers appointed under this act shall be sworn before the city clerk of the City of Newton who shall keep a record of all such appointments.

**SECTION 8.** Special police officers appointed under this act shall be subject to sections 100 and 111F of chapter 41 of the General Laws. The amount payable under section 111F of chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as a special police officer less than 52 weeks before the incapacity. In no event shall payment under section 111F of chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under section 111F of chapter 41 shall terminate in accordance with section 111F of Chapter 41 or when a special police officer appointed under this act reaches the age of 65, whichever occurs sooner. If the age limitation applicable to regular police officers serving a city is increased from 65 years of age, the termination of benefits under section 111F of chapter 41, as provided in this section for special police officers, shall terminate at such a higher age limit, but in no event shall the benefits extend beyond the age of 70 for any such special police officer. Special police officers appointed under this act shall not be subject to section 85H or 85H 1/2 of chapter 32, nor eligible for any benefits pursuant thereto.

**SECTION 9.** Appointment as a special police officer does not entitle that person to assignment to any detail.

**SECTION 10.** Retired Newton police officers serving as special police officers under this act shall be subject to the limitations on hours worked and on earnings restrictions as provided in paragraph (b) of section 91 of chapter 32 of the General Laws.

**SECTION 11.** This act shall take effect upon its passage.



**ORDINANCE****DRAFT FOR DISCUSSION PURPOSES 11/22/2013:**

**Insert a new Sec. 24-6 as follows, and renumber existing Secs. 24-6 through 24-9 accordingly.**

**Sec. 24-6 Police Retiree Detail Patrol**

The mayor may appoint, at the recommendation of the police chief and as the police chief deems necessary, retired Newton police officers as special police officers, to be known as the Newton Police Retiree Detail Patrol, to perform police details or any duties arising therefrom or during the course of police detail work, whether or not related to the detail work, subject to the following requirements and conditions. Special police officers appointed under this section shall be paid for performing assigned details at the same rate as regular police officers performing assigned details.

(a) The retired police officers shall have been regular Newton police officers and retired from Newton based on superannuation. They shall be subject to the same maximum age restrictions as applied to regular Newton police officers under chapter 32 of the General Laws.

(b) Prior to appointment under this section, a retired Newton police officer shall pass a medical examination by a physician or other certified professional chosen by the City to determine whether the retired Newton police officer is capable of performing the essential duties of a special police officer under this section, the cost of which shall be borne by the retired Newton police officer.

(c) Special police officers appointed under this section shall not be subject to chapter 31 of the General Laws, section 99A of chapter 41 of the General Laws, chapter 150E of the General Laws, or chapter 151A of the General Laws. Special police officers appointed under this section shall not be eligible for special leave, vacation, or other benefits enumerated in article II of chapter 2 of these ordinances.

(d) Special police officers shall, when performing the duties under this section, have the same power to make arrests and perform other police functions as do regular police officers of the City of Newton.

(e) Special police officers shall be appointed for an indefinite term, subject to removal by the mayor or the chief of police at any time with a 14 day written notice.

(f) The workweek for special police officers appointed under this section shall be seven (7) consecutive twenty-four (24) hour periods, for a total of one hundred and sixty-eight (168) hours, which shall commence at 8:00 A.M. at the start of each Monday of the calendar week. In no case shall any special police officer appointed under this section perform police details or any duties arising therefrom in excess of forty (40) hours in any given workweek.



(f) Special police officers appointed under this section shall be subject to the rules and regulations, policies and procedures and requirements as the chief of police and the mayor may impose from time to time, including, but not limited to restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms licensing and qualifications and requirements regarding uniforms and equipment. Compliance with all requirements will be at no cost to the City of Newton. Special police officers appointed under this section shall not be subject to section 96B of chapter 41 of the General Laws.

(g) Special police officers appointed under this section shall be sworn before the city clerk of the City of Newton who shall keep a record of all such appointments.

(h) Special police officers appointed under this section shall be subject to sections 100 and 111F of chapter 41 of the General Laws. The amount payable under section 111F of chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as a special police officer less than 52 weeks before the incapacity. In no event shall payment under section 111F of chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under section 111F of chapter 41 shall terminate in accordance with section 111F of Chapter 41 or when a special police officer appointed under this section reaches the age of 65, whichever occurs sooner. If the age limitation applicable to regular police officers serving a city is increased from 65 years of age, the termination of benefits under section 111F of chapter 41, as provided in this section for special police officers, shall terminate at such a higher age limit, but in no event shall the benefits extend beyond the age of 70 for any such special police officer. Special police officers appointed under this section shall not be subject to section 85H or 85H 1/2 of chapter 32, nor eligible for any benefits pursuant thereto.

(i) Appointment as a special police officer under this section does not entitle that person to assignment to any detail.

(j) Retired Newton police officers serving as special police officers under this section shall be subject to the limitations on hours worked and on earnings restrictions as provided in paragraph (b) of section 91 of chapter 32 of the General Laws.





SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#421-13

Telephone  
(617) 796-1100

Facsimile  
(617) 796-1113

TDD/TTY  
(617) 796-1089

E-mail  
swarren@newtonma.gov

November 25, 2013

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

Ladies and Gentlemen:

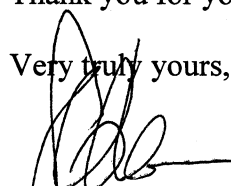
I write to request that your Honorable Board docket for consideration a request to authorize the appropriation of \$1,000,000 and authorize a general obligation borrowing of an equal amount for the purpose of funding the feasibility study and associated schematic design services for the renovation and/or replacement of the Cabot Elementary School.

The M.S.B.A. voted to invite the Cabot Elementary School into its Eligibility Period during its meeting of November 20, 2013. During the Eligibility Period, the MSBA will work with Newton to determine the district's financial and community readiness to enter the capital pipeline. The next step is for the district to complete preliminary requirements pertaining to local approval and formation of a local school building committee. Upon timely and successful completion of the Eligibility Period requirements, the district becomes eligible for an invitation into the Feasibility Study phase, subject to a vote of the Board of Directors.

As you know, the voters of the City approved the Debt Exclusion question pertaining to Cabot Elementary School last March. Approval of this request is the required next step in the process.

Thank you for your consideration of this matter.

Very truly yours,

  
Setti D. Warren  
Mayor

RECEIVED  
Newton City Clerk  
2013 NOV 25 PM 3:37  
David A. Olson, CMC  
Newton, MA 02459

1000 Commonwealth Avenue Newton, Massachusetts 02459

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DEDICATED TO COMMUNITY EXCELLENCE