

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE AGENDA

WEDNESDAY, NOVEMBER 3, 2010

**8:00pm Room 222**

**ITEMS SCHEDULED FOR DISCUSSION:**

**REFERRED TO PROGRAMS AND SERVICES AND FINANCE COMMITTEE**

#298-10 HIS HONOR THE MAYOR requesting authorization to transfer the sum of fifty thousand dollars (\$50,000) from the FY2011 Budget Reserve to the Parks & Recreation Forestry Vehicle Rentals Account for the purpose of supplementing the accounts related to tree emergencies. [10/08/10 @2:20PM]

#306-08 ALD. BAKER, DANBERG, MANSFIELD & PARKER requesting discussion of how swimming at Crystal Lake might be lawfully and safely extended beyond mid-August. [08/26/08 @ 5:03 PM]

**ITEMS NOT YET SCHEDULED FOR DISCUSSION:**

#311-10 HIS HONOR THE MAYOR submitting the FY'12-FY'16 Capital Improvement Program, totaling \$174,246,135 pursuant to section 5-3 of the Newton City Charter and the FY'11 Supplemental Capital budget which require Board of Aldermen approval to finance new capital projects over the next several years. [10/18/10 @5:24PM]

**REFERRED TO PROGRAMS AND SERVICES AND FINANCE COMMITTEES**

#307-10 PROGRAMS AND SERVICES COMMITTEE proposing a RESOLUTION to the Interim Director of Health and Human Services to increase the tobacco seller's license fee. [10/25/210 @ 4:34pm]

#301-10 PROGRAMS AND SERVICES COMMITTEE proposing a Resolution to the Commissioner of Health and Human Services for the purpose of increasing the tobacco seller's license fee.

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

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 Kathleen Cahill, 617-796-1125, via email at [KCahill@newtonma.gov](mailto:KCahill@newtonma.gov) or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting date.

- #360-09(2) PROGRAM & SERVICES COMMITTEE requesting a discussion to explore possible sources of revenue to fund an off leash dog park system in the City. [11/06/09 @ 10:44 AM]  
**FINANCE VOTED NO ACTION NECESSARY ON 3/8/10**

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

- #360-09(3) PROGRAMS AND SERVICES COMMITTEE requesting the creation of a revolving account for the purpose of managing the fees collected from the granting of off-leash dog licenses. [10/07/2010 @ 2:30pm]

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

- #298-09 ALD. MANSFIELD proposing Home Rule Legislation to amend **Article 2, Section 2-1(c) Composition; Eligibility; Election and Term** of the Newton Charter to establish four-year terms for Aldermen-at-Large with the provision for one Aldermen-at-Large to be elected from each ward at each biennial municipal election. [09-29-09 @ 6:45 PM]

**REFERRED TO PROGRAMS AND SERVICES AND PUBLIC FACILITIES**

- # Ald. Lennon, Lappin, Schnipper, and Sangiolo requesting a discussion with the members of the Newton School Committee on their plans to address space needs in the Newton Public Schools. [10-27-10 @ 11:07AM]

**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**

**REFERRED TO PROG. & SERV. AND FINANCE COMMITTEES**

- #262-10 PRESIDENT LENNON AND ALDERMAN FULLER recommending that the 2010 – 2011 Rules and Orders of the Board of Aldermen be amended to establish a FINANCIAL AUDIT ADVISORY COMMITTEE. The advisory committee will report to the Board of Aldermen through the Finance Committee. The focus of the committee's work will be on the annual financial audit of the City and any other fiscal accountability matters, as deemed important by the Finance Committee, needing review. [09-13-10 @ 1:52 PM]  
**APPROVED BY FINANCE 7-0**

#363-09 ALD. SANGIOLO requesting a discussion to increase the tobacco seller license fee. [09/13/19 @ 1:07 PM]

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

#83-07(2) ALD. YATES proposing a RESOLUTION to the City's representatives and senator in the General Court asking them to co-sponsor the legislation of the Massachusetts Municipal Association that would give cities and towns the same power to determine their health care costs that agencies of the State have. [9/13/2010 @ 9:38am]

206-10 VETERANS' AGENT requesting a discussion and support for the replacement of the WWII Honor Roll on the grounds of City Hall at the intersection of Walnut Street and Commonwealth Avenue. [07/06/10 @ 4:41 PM]

#95-09(2) PROGRAMS & SERVICE COMMITTEE requesting establishment of an Advisory Committee to review processes of the Board of Aldermen and report recommended efficiency improvements to the Board of Aldermen. Members of the Advisory Committee shall be appointed by the Chairman and Vice Chairman of the Programs & Services Committee and the President of the Board. [11/16/09 @ 3:59 PM]

#98-10 ALD. YATES requesting that the Board of Aldermen and His Honor the Mayor take all possible steps to change state law to save local costs by giving cities and towns the right to negotiate health plans on the same basis as the Commonwealth. Such steps would include, but not be limited to, joining the Coalition to Save our Communities and notifying our city legislators of our urgent concern about this matter. [03/23/10 @ 4:29 PM]

**REFERRED TO PUBLIC FACILITIES COMMITTEES AND PROG AND SERV**

#8-09 ALD. HESS-MAHAN, LINSKY, ALBRIGHT, FREEDMAN, MANSFIELD, JOHNSON, HARNEY & VANCE proposing an ordinance requiring that the installation of synthetic in-filled turf athletic fields on city-owned property shall use sustainable, recyclable, lead-free, non-toxic products to the maximum extent feasible. [12/30/08 @ 9:55 AM]

**REFERRED TO LAND USE AND PROGRAMS & SERVICES COMMITTEES**

#474-08(2) ALD. HESS-MAHAN & VANCE proposing that Article X of the Rules & Orders of the Board of Aldermen be amended to conform with a proposed amendment to Chapter 30 re transfer of the special permit granting authority to the Zoning Board of Appeals and/or the Planning & Development Board for projects that are not classified as Major Projects pursuant to Article X. (*referred to rules subcommittee*)

**REFERRED TO PROG. & SERV. AND PUBLIC FACILITIES COMMITTEES**

- #271-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that he work with the Board of Aldermen, the Parks and Recreation Department, and the Department of Public Works in order to determine the most effective and efficient way to organize the work of managing our public resources. [07/17/08 @ 9:53 AM]  
**FINANCE VOTED NO ACTION NECESSARY ON 3/8/10**

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

- #270-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that he work with the Board of Aldermen, School Department, and School Committee in order to determine the most effective and efficient way to organize the Information Technology Departments. [07/17/08 @ 9:53 AM]  
**FINANCE VOTED NO ACTION NECESSARY ON 3/8/10**

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

- #258-08 ALD. SANGIOLO requesting discussion with the Executive Department regarding reorganization of senior transportation services and establishment of intra-village transportation systems. [07/08/08 @ 1:29 PM]  
**FINANCE VOTED NO ACTION NECESSARY ON 3/8/10**

**REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

- #207-08 ALD. BRANDEL AND SANGIOLO proposing that the following question be put before the Newton voters:  
“Shall the City of Newton be allowed to exempt from the provisions of Proposition 2 ½ the amounts required to pay for the bond issuance in order to fund Newton North High School?” [05/21/08 @ 12:58 PM]  
**FINANCE VOTED NO ACTION NECESSARY ON 3/8/10**

- #129-08 ALD. JOHNSON, SANGIOLO AND BRANDEL requesting establishment of a new Rule of Board of Aldermen stating that any new item submitted but not yet approved or accepted by the Full Board of Aldermen is prohibited from any formal or informal discussion by any formal, informal or special committee of the Board. [03-24-08 @ 9:11 AM]

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

- #89-08 ALD. PARKER requesting the following:  
A) review of the maintenance practices for buildings, parks and other properties owned by the City (including School Department facilities and grounds)

B) development of a comprehensive maintenance plan that includes regular schedules for preventive maintenance for each specific site or facility

C) a RESOLUTION requesting that implementation of said maintenance plan be funded using operating budget funds.

[02/13/08 @ 12:07 PM]

**FINANCE VOTED NO ACTION NECESSARY ON 3/8/10**

#287-07(2) ALD. PARKER requesting a discussion with Parks and Recreation Department in regards to an appropriate marker or plaque to honor and recognize Olympic figure skater and Newton resident Tenley Albright and her skating exhibition at the Crystal Lake upon her return from the 1956 Olympic Games where she won a gold medal. [09/20/07 @ 1:22 PM]

#262-07 ALD. VANCE AND HESS-MAHAN seeking approval by the Board of Aldermen of a home rule petition to the General Court that would authorize an amendment to the charter of the City of Newton that would change the length of terms of the members of the Board of Aldermen to three years and would provide for electing one-third of the aldermen, one from each ward, every year. [08/22/07 @ 3:53 PM]

#82-07 ALD. YATES requesting that the City of Newton take all possible steps to persuade the General Court to allow the cities and towns to tax all telecommunications facilities in the City (which would yield at least \$1.6 million per year for Newton). [02/27/07 @ 10:21 PM]

#52-07 ALD. PARKER, SANGIOLO, MANSFIELD, HARNEY, DANBERG, VANCE, LINSKY, HESS-MAHAN, BURG, ALBRIGHT & JOHNSON requesting an ordinance amendment to create a health care advisory committee whose function would be to recommend measures to control the rate of increase of health insurance costs, as recommended by the Newton Finance & Management Working Group in 2005 and the Blue Ribbon Commission on the Municipal Budget in 2007. [02/09/07 @ 12:36 PM]

#422-06(2) ALD. HESS-MAHAN requesting that a task force be established to meet and prepare a report and recommendations regarding the regulation of noise, air pollution and best practices with respect to the operation of power equipment used in landscaping, property and yard maintenance, including, without limitation, leaf blowers. [01/27/09 @ 3:47 PM]

#370-06 ALD. SANGIOLO, PARKER, MANSFIELD requesting home rule legislation to allow advisory questions to be asked in a Newton special election.

**REFERRED TO FINANCE AND PROGRAMS AND SERVICES COMMITTEES**

#245-06 ALD. JOHNSON AND HESS-MAHAN requesting an amendment to the City Charter to require the Mayor annually to prepare and submit to the Board of Aldermen a long-term financial forecast of anticipated revenue, expenditures and the general financial condition of the City, including, but not limited to identification of any factors which will affect the financial condition of the City; projected revenue and expenditure trends; potential sources of new or expanded revenues; anticipated municipal needs likely to require major expenditures; and a strategic plan for meeting anticipated municipal needs, to include, but not be limited to, any long or short-term actions that may be taken to enhance the financial condition of the City.

**FINANCE VOTED NO ACTION NECESSARY ON 3/8/10**

#329-05(3) ALD. YATES requesting a discussion relative to amending the noise control ordinance to (A) prohibit the cumulative noise level from multiple pieces of equipment operating simultaneously on the same site to exceed the maximum noise levels allowed when measured at the nearest lot line and (B) to eliminate various exemptions in residential districts.

Respectfully Submitted,

Amy Sangiolo, Chairman



SETTI D. WARREN  
MAYOR

City of Newton, Massachusetts  
Office of the Mayor

#298-10

Telephone  
(617) 796-1100

Facsimile  
(617) 796-1113

TDD/TTY  
(617) 796-1089

E-mail  
swarren@newtonma.gov

October 8, 2010

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

10 OCT - 8 P 2:20  
CITY CLERK  
NEWTON, MA. 02159

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to transfer the sum of \$50,000 from FY2011 Budget Reserve to Account # 01602011-5273, Park & Recreation Forrestry Vehicle Rentals.

The Park & Recreation Department is responsible for more than 30,000 trees in the City of Newton. For each of the past three years the cost for tree emergencies has exceeded \$100,000. The FY2011 budgeted amount for this potential expenditure is \$29,800. This transfer will cover the projected costs incurred through mid/late September, and leave a balance of approximately \$25,000 in this account for future tree emergencies in the next several months.

Thank you for your consideration of this matter.

Very truly yours,

Setti D. Warren  
Mayor

From: Budget Reserve  
016498-5190 70,000  
To: Parks Expenses  
01602011-5273 48,310  
PARKS  
SUBMIT  
\*01602011-512001 1,690

1000 Commonwealth Avenue Newton, Massachusetts 02459

www.newtonma.gov

DEDICATED TO COMMUNITY EXCELLENCE

70,000  
ADW



SETTI D. WARREN  
MAYOR

# NEWTON PARKS AND RECREATION DEPARTMENT

70 Crescent Street, Newton, MA 02466

Office: (617) 796-1500

Fax: (617) 796-1512

TDD/TTY: (617) 796-1089



**NEWTON**  
Parks & Recreation

ROBERT J. DERUBEIS  
COMMISSIONER

Tuesday, September 28, 2010

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 forty-seven thousand, four hundred and sixty dollars for the purpose of Tree emergencies that have occurred since July 1, 2010

Tree Emergency costs – actual and pending invoices from 7/1/10 to date:

Equipment Rental	\$ 47,460.00	Requesting	\$ 47,460.00
Department Overtime	\$ 1,690.00	Requesting	\$ 1,690.00
Other Department Overtime	\$ -	Requesting	\$ -
<b>Grand Total:</b>			<b>\$ 49,150.00</b>

In the above request, equipment rental for tree emergencies has been primarily Northern Tree Service. This contractor was procured on a bid process. Department overtime includes Department Supervisory staff and in-house crews. In some instances Other City Departments have augmented in-house crews.

A tree emergency maybe a single instance of a tree being damaged by an accident, or a weather related emergency requiring one, two or more crews to respond for cleanup. These expenses have occurred since July 1, 2010.

This request will cover the actual Forestry Emergency Equipment Rental expenditures from July 1, 2010 and leaves \$29,800 for Equipment Rental and \$12,153 for Forestry Emergency Department Overtime.

Very truly yours,

Robert DeRubeis  
Parks & Recreation Commissioner

att:

01602011 5273	\$ 47,460.00	Tree/ Equipment Rental
01602011 513001	\$ 1,690.00	Tree/ Department Overtime
	\$ 49,150.00	TOTAL APPROPRIATION REQUEST

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  
WARD 8 - KATHLEEN A. HEITMAN, VICE-CHAIR  
COMM. SECRETARY-ROBIN MCLAUGHLIN

ALTERNATES: MICHAEL CLARKE, PETER KASTNER, JACK NEVILLE, DONALD FISHMAN



Emergency Forestry Equipment Expenditures  
July 1 to September 13, 2010

#298-10

Date	Hours	Equipment	Rate	Cost	Issue
7/1/2010	3.50	Primary Crew Overtime Rate	\$180.00	\$630.00	several limbs citywide
7/3/2010	9.50	Bucket Truck Crew Overtime Rate	\$210.00	\$1,995.00	many limbs down citywide
7/7/2010	3.00	Primary Crew Overtime Rate	\$180.00	\$540.00	several limbs citywide
7/8/2010	6.00	Bucket Truck Crew Overtime Rate	\$210.00	\$1,260.00	down tree parker st and other limbs
7/9/2010	3.00	Bucket Truck Crew Overtime Rate	\$210.00	\$630.00	down tree fenwick
	4.50	Log Loader Crew Overtime Rate	\$155.00	\$697.50	down tree fenwick
7/10/2010	6.00	Bucket Truck Crew Overtime Rate	\$210.00	\$1,260.00	down trees Freeman, Upland, Islington
7/10/2010	6.00	Log Loader Crew Overtime Rate	\$155.00	\$930.00	down trees Freeman, Upland, Islington
7/15/2010	3.00	Bucket Truck Crew Overtime Rate	\$210.00	\$630.00	Waban Ave down tree
7/17/2010	4.00	Primary Crew Overtime Rate	\$180.00	\$720.00	down tree and several limbs
	3.75	Log Loader Crew Standard Rate	\$125.00	\$468.75	down tree and several limbs
7/17/2010	5.00	Bucket Truck Crew Overtime Rate	\$210.00	\$1,050.00	down trees/limbs Beason St. & Nevada St.
7/23/2010	5.00	Log Loader Crew Overtime Rate	\$155.00	\$775.00	tree down Colbert Rd. E.
7/23/2010	5.00	Log Loader Crew Standard Rate	\$85.00	\$425.00	tree down Colbert Rd. E.
7/27/2010	3.00	Bucket Truck Crew Overtime Rate	\$210.00	\$630.00	tree down Pleasant St., Limbs Ivanhoe and Hunnewell Ave.
8/5/2010	3.00	Supplemental Crew Member Overtime Rate	\$200.00	\$600.00	down limb lake ave
8/13/2010	4.50	Primary Crew Overtime Rate	\$180.00	\$810.00	several down limbs
8/17/2010	4.00	Primary Crew Overtime Rate	\$180.00	\$720.00	down trees and limbs Citywide
8/17/2010	3.75	Log Loader Crew Standard Rate	\$125.00	\$468.75	down trees and limbs Citywide
8/23/2010	3.50	Primary Crew Overtime Rate	\$180.00	\$630.00	many down limbs Citywide
8/23/2010	5.50	Bucket Truck Crew Overtime Rate	\$210.00	\$1,155.00	many down limbs Citywide
8/24/2010	3.50	Primary Crew Overtime Rate	\$180.00	\$630.00	many down limbs Citywide
8/24/2010	3.00	Bucket Truck Crew Overtime Rate	\$210.00	\$630.00	many down limbs Citywide
8/25/2010	8.00	Primary Crew Overtime Rate	\$180.00	\$1,440.00	many down limbs Citywide
	3.00	Log Loader Crew Standard Rate	\$125.00	\$375.00	many down limbs Citywide
9/3/2010	8.00	Bucket Truck Crew Overtime Rate	\$210.00	\$1,680.00	down limbs citywide
	9.00	Bucket Truck Crew Overtime Rate	\$210.00	\$1,890.00	Hurricane Standby
	9.00	Log Loader Crew Overtime Rate	\$155.00	\$1,395.00	Hurricane Standby
9/4/2010	9.00	Bucket Truck Crew Overtime Rate	\$210.00	\$1,890.00	Hurricane Standby
	9.00	Log Loader Crew Overtime Rate	\$155.00	\$1,395.00	Hurricane Standby
9/4/2010	6.00	Bucket Truck Crew Overtime Rate	\$210.00	\$1,260.00	Down Tree Berklee & others
	6.00	Log Loader Crew Overtime Rate	\$155.00	\$930.00	Down Tree Berklee & others
9/13/2010	10.00	Bucket Truck Crew Overtime Rate	\$210.00	\$2,100.00	down limbs Citywide

Estimated Stump Removal Costs from storms \$ 15,000.00

Total Emergency Related Costs \$ 47,460.00



David B. Cohen  
Mayor

#306-08



Fran L. Towle  
Commissioner

## **Newton Parks & Recreation Commission**

### **Agenda**

**Newton City Hall, Room 209, 7:00pm**

**June 15, 2009**

*Reminder: Youth Awards Presentation prior to Commission Meeting on Monday,  
June 15, 2009, 7:00PM in the Aldermanic Chambers*

1. Meeting Minutes- May 18, 2009
2. Commissioner's Reports on Programs, Forestry and Maintenance
3. Crystal Lake-Discussion of Extending the Season and Swim at Your Own Risk
4. Off-leash Dog Park – Review
5. Warren Street
6. Cell Phone Towers – Maurya Sullivan, Planning
7. New Business



David B. Cohen  
Mayor

## Newton Parks & Recreation Commission



Fran L. Towle  
Commissioner

### Meeting Minutes

Newton City Hall, Room 209

June 15, 2009

Attending: Fran Rice, *Chairman*, Walter Bernheimer, *Vice-Chairman*, Peter Johnson, Arthur Magni, Kathleen Heitman, Lee Mottard, Jack Neville, *Alternate*, Michael Clarke, *Alternate*, Peter Kastner, *Alternate*, Fran Towle, *Commissioner*, Bob DeRubeis, *Deputy Commissioner*, Robin McLaughlin, *Secretary*

Also Attending: Carol Stapleton-*Recreation Manager*, Tom Cahill-*Aquatics Manager*, Carol Schein-*Open Space Coordinator*, Maurya Sullivan, *Planning*

Youth Service Awards ceremony took place in the Aldermanic Chambers at 7:00 pm.

Commission Meeting began at 7:45 pm.

1. The Minutes from the May 18, 2009 Commission Meeting were accepted 8-0
2. Reports of Program, Maintenance and Forestry by Commissioner Towle
  - The Traffic Commission –approved carriage road change to one way going east from Islington Rd (Newton West Little League). This change has limited costs and will improve the flow of traffic.
  - The Swim season opened June 8 at Crystal Lake and Gath Pool.
  - The Special Olympics is taking place this weekend (June 20, & 21) at Harvard University. Mark Kelly-*Special Needs Director* and the athletes will be staying at Boston University.
  - Most of the summer camps are full, there may be a few spots remaining.
  - The Fourth of July is going to be celebrated on the 4<sup>th</sup> of July this year. There will be no band but there will be a DJ and fireworks.
  - The cost of the new tree pruning contract has gone up three times to what it was in the previous contract, due to an increase in prevailing wages. This will reduce the number of trees being removed and pruned.
3. Crystal Lake
  - Chairman Rice reviewed a letter the Commission received from the Programs & Services Committee requesting an extended swim season at Crystal Lake from August 24, 2009 through and including Labor Day and a request to research the possibility of a Swim at Your Own Risk Policy at Crystal Lake.

Extending the Swim Season

- Commissioner Towle stated she has asked her staff to check the availability of the lifeguards.
  - Crystal Lake does not have any guards available after August 23, 2009.
  - Gath Pool has 7-8 lifeguards available but these lifeguards will be utilized to cover the pool hours already scheduled.
  - The Commissioner has contacted the YMCA. The YMCA may have lifeguards available for one of the weeks but, the lifeguards may not have the Waterfront Module Certification.
  - Mr. Bernheimer asked how many lifeguards would be needed to staff Crystal Lake and when the lifeguards are scheduled to be gone for the season. Carol Stapleton responded Crystal Lake requires 8 lifeguards and a manger. Managers can be rotated in the schedule. The guards are currently scheduled through August 23.
  - Commissioner Towle requested the Commission's permission to send an ad to surrounding Colleges and Recreation Departments to recruit lifeguards. Chairman Rice agreed to the request.
- Commissioner Towle introduced Aquatics Manager Tom Cahill who also sits on the board for the American Red Cross. Mr. Cahill commented if there are lifeguards available he will provide the training. The issue is the guards head back to school and sports activities the end of August and this makes it difficult to recruit lifeguards. It is easier to recruit pool lifeguards than it is to recruit lake lifeguards because of the required Waterfront Module certification. Swimming will be available at Gath Pool between August 24 and September 7.

Swim at Your Own Risk

- Chairperson Rice asked the Commission members for their opinions regarding a Swim at Your Own Risk Policy at Crystal Lake.
  - Commissioner Towle commented her first priority is safety at Crystal Lake.
  - Carol Stapleton, Crystal Lake Manager commented this would be an unsafe policy
  - Lee Mottard asked if the aqualator would be left on or off. Carol Stapleton replied the aqualator would be turned off because the electric current would be unsafe in an unsupervised area. Tom Cahill commented the aqualator also creates a current that could cause a small child to be swept away.
  - Mr. Bernheimer also commented a Swim at your own Risk Policy does not make sense.

Co-Chairman Walter Bernheimer made a motion to maintain the current policy, swimming only with proper supervision. Arthur Magni seconded the motion. The motion passed with a vote of 6-1-1.

## 4. Off-Leash Dog Park

- Amy Koel, Chairperson of the Dog Off-Leash Advisory Committee (DOLAC) reviewed the monthly report. Amy thanked the Police Department and stated another dog officer is being trained. There are five park locations in the pipeline to apply to DOLAC for an off-leash dog park. These parks are Norumbega Park, Nahanton Park, Newton Center, Braceland and Edmands.

*Awaiting Commission Approval*

- Mr. Neville asked Chairperson Koel if anyone has come forward to represent Braceland Park, Chairperson Koel responded yes.
- Mr. Bernheimer asked how these five parks compare to Cold Spring Park in regards to access and parking. Chairperson Koel responded that each park has different issues to be addressed.
- Chairperson Koel commented that Alderman Albright and Alderman Danberg have docketed, in July, a request for a two-year extension for the off-leash dog program. The program is scheduled to expire December 2009.
- Chairman Rice asked Chairperson Koel how the problems at the dog parks were going to be solved. Chairperson Koel responded the issues would be solved with the help of volunteers.
- Chairman Rice asked Chairperson Koel why there is no charge for the use of the off-leash dog park. Chairperson Koel responded the Committee had discussed charging a fee; the issue is that enforcement of the fee would be difficult.
- Ms. Heitman asked if DOLAC expected more issues at Cold Spring off-leash Dog Park when the weather is warmer. Chairperson Koel responded yes and the committee will be using volunteers to help with the situation. The parking issues are being addressed by the traffic council, the applicant group is already parking elsewhere to alleviate the situation, but the little league participants are still parking on the side roads.
- Ms. Heitman asked if the field is clean. Chairperson Koel responded, yes the field is clean.
- Chairman Rice asked if DOLAC will continue to address the issues. Chairperson Koel responded yes it is our responsibility.
- Mr. Magni commented Cold Spring Park is not a good experiment and is not hopeful of a resolution at Cold Spring Park. The trial has been traumatic for the abutters, but he is hopeful of the other off-leash dog parks being requested.
- Alderman Danberg commented DOLAC is working with both groups. They are meeting with the traffic council on June 25, 2009 to address restrictions of parking on side streets.
- Alderman Mansfield commented he agrees with Mr. Magni, the Cold Spring Dog Park is a failed experiment and the experiment should be suspended or cut back.
- Chairman Rice commented if the issues cannot be solved in Cold Spring Park how are issues going to be solved in 3-4 other parks.
- Alderman Parker commented the Cold Spring Off-leash Dog Park has been a difficult situation. This is one dog park for 85,000 people and it has been an intense impact on the neighborhood. Alderman Parker requested a special Commission meeting during the summer to pass other dog parks and also stated we need to work together to fix the flaws.
- Peter Kastner commented when the ordinance was proposed they mentioned two flaws; it was lacking enforcement and fencing.
- Mr. Bernheimer commented the Commission was reluctant when the ordinance was proposed but it does not make sense to suspend and re-open the dog park at this time. Mr. Bernheimer suggests opening more parks in few weeks or stopping the Cold Spring Park experiment. The Commission should have a Special meeting in July.

- Chairman Rice commented DOLAC is trying to work out the issues. There is a new dog officer. DOLAC should be allowed to work out the problems and re-visit in the fall.
- Bob Stock of 43 Beverly Road and Eve Cohen of 47 Beverly Road objected to Chairman Rice's statement to re-visit the program in the fall. Eve Cohen insisted on making a statement. Mrs. Cohen hopes the off-leash program works but the Commission cannot keep asking the abutters to shoulder the issues.
- Mr. Bernheimer stated he is an abutter and is skeptical the issues can be worked out. Without enforcement the program will not work and the police just don't care, they have other things to do.
- Michael Clarke commented he is concerned about extending the programs to other areas if the Cold Spring Park program cannot be enforced now. Expanding may be a problem.
- Chairperson Koel commented there are issues and the animosity is high on both sides. But there is progress being made, the field is calm and a community is being built in the off-leash dog park area. DOLAC and the Commission need to determine what is and what is not working.
- A West Newton dog owner commented there are thousands of dog owners in the City. The off-leash dog park has been a positive experience for many of these owners.
- Michael Clarke commented that a group of people in the fields creating a community is positive, and hopes all can work this out.
- Chairman Rice stated:
  - There will be no vote tonight on the fate of the Cold Spring Park off-leash Dog Park experiment.
  - The Board of Alderman and DOLAC are handling the issues.
  - If you have comments or suggestions please attend the DOLAC meeting on 6-18-09 in room 222 at City Hall at 6:30pm.
  - There will be a Special Commission Meeting in July to address the issues. Date TBD.
  - The Police will be invited. A request was made to have the Police bring data regarding the citations given out at the dog park.

## 5. Warren Street Proposal-Parking & Sound Barrier

### Parking

- Chairman Rice commented the Commission members have received & reviewed the revised proposal for the Warren Street Sound Barrier and parking. The road is going to remain the same and the poles near parking area have been moved over three feet. Grass is going to be put on the side of the road for cars to park on and there will be a circle at end of road for parking. Chairman Rice asked the Commission members if there were any questions or comments:
  - Mr. Kastner asked if they could use gravel instead of grass on the side of the road because grass would discourage parking and become muddy if wet when parked on. Parking on the field is discouraged because of the grass. The area needs to be accessible.
  - Mr. DeVellis explained the plan uses grass to discourage parking near the driveway, so his client can get in and out of his driveway. The road

will be made of asphalt with gravel rolled on top and will go up to the gate.

- Ms. Heitman inquired how many cars actually park on the road. Mr. DeVellis stated not many.
- Mr. Neville commented the asphalt with gravel top dressing as described by Mr. DeVellis would work.
- Mr. Kastner stated they should use gravel dust. Mr. DeVellis stated Thompson Brook runs through the area and gravel dust would be a disaster for the Conservation Commission because it causes siltation. Mr. Kastner stated the Conservation Commission has no jurisdiction and Mr. DeVellis corrected him by stating the Conservation Commission has jurisdiction 100 ft around Thompson Brook, which is wetlands.
- Mr. Barnett of 34 Westminster Rd, stated there are at least one or two cars parked and as many as three or four. The road being added is ineffective because the parking area is cut off. Chairman Rice said the road will stay as it is.
- Mr. Clarke asked if the road material is impermeable. Jim DeVellis responded yes. Mr. Clarke believes the Conservation Commission will object.
- Mr. Clarke asked why we need the paved area all the way down past the driveway. Mr. DeVellis responded the Commission requested it be paved, they did not want it. Chairman Rice commented a paved road is easier access for trucks and emergency vehicles. Commissioner Towle commented the closer you can get to the park the better it is for accessibility. Mr. DeVellis commented Chief LaCroix only needs to get to the driveway to put a fire out at the house.
- Mr. Barnett asked about the edge along the road in the circle. The edge would discourage people from driving onto the road. Mr. Clarke asked what type of edge. Mr. DeVellis responded they were going to add granite or asphalt edge, but he could remove the edge from the plan. Chairman Rice responded the Commission does not want the edge; the road needs to be accessible.
- Mr. Kastner commented we need visual signals to explain how an area should be used. If you grass an area and put loam over it, people are trained not to drive over it, they will not drive on it. Arthur Magni agreed with Mr. Kastner and asked if signage would correct this issue.
- Mr. DeVellis commented that in the original design there were trees but the Commission did not want the obstructions. If the road is to be shared (City & Mr. Goldman) each has ownership to the middle of the road then there would be no parking on either side.
- Mr. Barnett commented that the side of the road, opposite the house, is a drop off and cannot be used for parking.
- Mr. Clarke commented if the applicant wants to add edging on his side of the road up to driveway that would be ok and then signage could be added, clearly indicating where the parking area is located.
- Mr. Goldman stated at the meeting last month the Commission requested changes and at his own expense the changes were made to the plan and he is not sure why there is an objection to this new plan.

*Awaiting Commission Approval*

- Mr. Barnett commented it is because the plan takes away half of the parking.
- Mr. Clarke commented part of the problem is with the 4” of loam. The loam will be ruined if driven on. If the loam could be minimized and still have grass grow that would work. Mr. DeVellis commented blue stone gravel could be used.
- Mr. Goldman commented people could park in his driveway. Mr. Barnett commented that parking in his driveway is not welcoming.
- Mr. Johnson commented a parking plan is required. Mr. Clarke & Mr. Kastner agreed.
- Mr. Goldman commented there is no parking lot in the area now and he does not want to live next to a parking lot. He would object to living next to a parking lot. He is enhancing the area at his own expense and it is not fair to add more parking. He does not want the entire City invited to his property.
- Mr. Clarke stated we want to preserve the area for parking and other visuals, such as a split rail fence could be used to indicate the parking area.
- Commissioner Towle commented the paved road will allow easier accessibility to the park. Mr. Clarke asked if this was an ADA requirement. Commissioner Towle responded no.
- Commissioner Towle reminded the Commission that the parking plan needs to go back to Fire Chief LaCroix for approval. Emergency vehicles are required to have access to train tracks.

Mr. Mottard made a motion that Mr. Goldman & Mr. DeVellis come back to the Commission with a plan on parking for up to five (5) cars. Mr. Bernheimer seconded the motion. The motion passed 5-0-2 (Kastner, Heitman)

Sound Barrier

- Commissioner Towle reminded everyone that the plan needs to go back to Fire Chief LaCroix for approval. Emergency vehicles are required to have access to the train tracks. The plan must also go to a public meeting for abutters and a final meeting for approval.
- Commissioner Towle commented the benefits of the sound barrier to the park must be stated in the formal agreement and a formal maintenance agreement must be included.
- Mr. Clarke asked what the benefit is of the sound barrier to the public land. Mr. Bernheimer commented at first he believed the sound barrier idea was absurd, but it makes sense, the train noise is a nuisance and the wall would be a benefit in reducing the noise for the users of the park.
- Mr. Clarke stated the noise from the train is not continuous and the highest decuples occur when the train is taking a turn. There are no turns at this section of the tracks. Therefore there is no benefit to the park and its users.
- The sound engineer hired by Mr. DeVellis explained the sound barrier provides sound reduction 365 days per year. The closer the sound barrier is to the source the more effective it is.



- Mr. Clarke commented if the wall is more effective closer to the source why they haven't gone to the MBTA. This is an MBTA problem.
- Jim DeVellis responded they did approach the MBTA a year ago without success.
- Mr. Barnett stated the old deed will be an issue regarding building within 60' of the property line. Mr. DeVellis stated the barrier is in the proper location and if the barrier was any closer to the tracks it would be going down hill.

Peter Johnson made a motion to approve the concept of the sound barrier upon approval of all other necessary committee's and departments. The motion was seconded by Walter Bernheimer. Motion passed 6-2-0 (Kastner, Magni).

President Baker stopped by the Commission Meeting and commented that Mr. Goldman is doing some useful things on the public land at Warren Street; the deed provides a provision for parking and there is an existing parking area.

#### 6. Cell Phone Tower Presentation- Maurya Sullivan

- Five cell phone companies have inquired about leasing public property to install cell towers.
- Currently there are 70-80 towers on private property in Newton. The City Hall Cupola is the only City property with towers. The companies pay around \$35,000/year.
- The Citizen's Advisory Group (CAG) has recommended with the current economic situation, the City (Parks & Recreation and DPW) look into leasing park lands/buildings.
- Mr. Bernheimer asked if the Newton Public Schools (NPS) were included. Ms. Sullivan stated no, not at this time. Mr. Bernheimer responded the Commission should not look into this until NPS is included. Mr. Kastner agreed.
- Mr. Magni asked if there were any health issues with the towers being near a school. Ms. Sullivan replied no there are no health issues.
- Ms. Sullivan commented the locations the providers are interested in do not include any school locations at this time. The four locations the cell companies are currently interested in are:
  1. Halloran Complex
  2. Cold Spring Park
  3. Edmunds Park
  4. Oak Hill (by water tank)
- Ms. Sullivan commented there are many types of cell towers to choose from. And the type of tower would be determined later in the process. Mr. Clarke commented a balloon could be floated up to the height of the tower before installing.

*Awaiting Commission Approval*

- Ms. Sullivan explained the process to move forward with leasing public property to cell phone companies:
  1. Presentation to the Parks & Recreation Commission
  2. Presentation to The Board of Alderman- Public Facilities Committee
  3. Issuance of a Request for Proposal (RFP)
  4. Board of Alderman-Land Use Process
  5. Executive Lease issued. The lease term would be for 10 years with 2-five year extensions
  
- Mr. Clarke asked Ms. Sullivan if she has seen all 5 companies plans for Newton. Ms. Sullivan responded yes.
- Ms. Sullivan commented they are working with the Inspector Generals Office to implement a revolving RFP for those companies who cannot build right away.
- Mr. Clarke asked if this plan is going to the Conservation Commission. Ms. Sullivan responded not yet.
- Ms. Sullivan stated if we do not make sites available the carriers could sue the City under the FCC Acts of 1996.
- Mr. Bernheimer requested Ms. Sullivan come back to the Commission in September with specifics and benefits.

Meeting adjourned at 10:45 pm.

Respectfully submitted:

*Robin McLaughlin, Secretary*



David B. Cohen  
Mayor

## Newton Parks & Recreation Commission



Fran L. Towle  
Commissioner

### Meeting Minutes

Newton City Hall, Room 209

May 18, 2009

Attending: Fran Rice, *Chairman*, Walter Bernheimer, *Vice-Chairman*, Peter Johnson, Arthur Magni, Kathleen Heitman, Lee Mottard, Jack Neville, *Alternate*, Michael Clarke, *Alternate*, Peter Kastner, *Alternate*, Fran Towle, *Commissioner*, Bob DeRubeis, *Deputy Commissioner*, Robin McLaughlin, *Secretary*

Also Attending: Alderman Victoria Danberg, Alderman Susan Albright, Police Chief Matt Cummings, Captain Howard Mintz, Officer John O'Connell, Carol Stapleton, *Recreation Manager*.

1. The Minutes from the April 27, 2009 Commission Meeting were accepted 9-0
2. Reports of Program, Maintenance and Forestry by Commissioner Towle
  - The Special Needs banquet was held on Wednesday, May 14 at the Post 440. The banquet was a success.
  - The Spring Fest was held on Saturday, May 16 at City Hall.
  - Over 40 projects were completed by Newton Serves volunteers.
  - The Rope Challenge courses are going out to Public Bid. The locations for the Rope Challenge courses are Day School, Burr School, Newton South and Oak Hill.
  - The Memorial Day parade was held on Sunday May 17.
  - The Mayor's Prayer Breakfast is scheduled for Wednesday, May 20<sup>th</sup> at 7:30 am at Boston College.
  - The Youth Awards are scheduled for June 15, 2009 at 7:00pm in the Aldermanic Chambers.
  - Newton North High School graduates on June 10<sup>th</sup> at Boston College and Newton South High School graduates on June 11<sup>th</sup> at Boston College.
  - Cell Towers in the Newton Parks will be on the Commission Agenda in June.
3. Off-leash Dog Park – Review
  - Chairman Rice stated the Commission members have received and reviewed all reports and correspondence regarding the Off-leash Dog Park to date. Alderman Albright, who recommended the dog park, is in attendance at tonight's meeting.

## *Awaiting Commission Approval*

- Chairman Rice explained the format for discussion regarding the Off-leash dog park. Two people from each faction of the off-leash dog park discussion will have a turn to speak for 5 minutes each. Those factions include the abutters to Cold Spring Park, the Dog Off-leash Advisory Committee (DOLAC) the Police Department and residents.
- Anne Li of 53 Beverly Road introduced Bob Stock of 43 Beverly Road.
- Mr. Stock commented he has been a resident of Newton for 24 years and a dog owner for 17 years. Mr. Stock commented the applicant group is not at fault for the current issues at the Cold Spring dog park. They applied and were granted permission for an off-leash dog park at Cold Spring Park. The applicant group is exercising their rights. The problem is the enforcement of the rules. There are more off-leash dogs throughout the park along with additional parking and traffic issues. Another issue is there is only one Dog Park in Newton. It has been said that Newton's off-leash dog park has been modeled after Brookline. Brookline has a population of 57,000, there are several dog parks in Brookline and these dog parks have restricted hours for off leash dogs.
- Mr. Stock commented that people are rude when abutters point out the rules and regulations of the off leash dog park. It is not fair that Cold Spring Park and the abutters alone must accommodate all off leash dogs. Mr. Stock recommends:
  1. An impact study of off-leash dog parks
  2. The Parks & Recreation Commission suspend the Cold Spring Park Off-leash dog park trial program
- Attorney Peter Harrington announced he has been obtained by some of the Cold Spring Park abutters regarding the Off-leash dog park. Ann Li of Beverly Road spoke up and requested an actual abutter has a turn to speak.
- Jose Saporta of Beverly Road reviewed his experiences with the off –leash dog park. Mr. Saporta presented pictures of dogs off leash on the trail and on the streets. Mr. Saporta stated the problems are worse due to the increased volume of dogs, and vehicles. The little league field is being overrun by off-leash dogs. Mr. Saporta has spotted many dog walkers using Cold Spring Park. People have been rude and defensive when he has reviewed the rules and regulations of the off-leash dog park with dog owners. Mr. Saporta concluded the off-leash dog park pilot program is a burden on the residents and Mr. Saporta requested the pilot program be shut down.
- Lee McIntyre a member of the Friends of Cold Spring Off-leash dog park stated he does not underestimate the issues at Cold Spring Park. The committee is working on the issues. As with any new program there are growing pains and the issues are being addressed. The biggest issues he can see is the parking issue, the issue of emergency vehicles being able to get down the streets. Mr. McIntyre suggested a one side of the road parking solution. He is aware that some abutters would like to shut down the off-leash dog park program but not all abutters are opposed to the Off-leash dog park. Mr. McIntyre presented to the Commission with a petition signed by abutters of Cold Spring Park and two letters from abutters showing support for the Off-leash dog park. Mr. McIntyre reviewed the history of the pilot program. There are two types of off-leash dog park users; the first use the off-leash dog park and the second use the trails off-leash.

## Awaiting Commission Approval

- Mr. McIntyre stated that even if you close down the program the issues will not go away. If we work together and solve the issues we can make it work. This is a park that a lot of residents want to use. Some neighbors want the program to fail who have off-leash dogs at Cold Spring Park. Walter Bernheimer asked for documentation on these neighbors who want the program to fail with off-leash dogs in the park, and asked what the logic is of these neighbors. Mr. McIntyre responded their wish is to have the program cancelled and have the park go back to the way it was.
- Mr. Marty Osmond accompanied by his service dog stated he was speaking for his service dog. His service dog works hard to assist him and is a hard working citizen. The dog's main pleasure and exercise is chasing balls. Mr. Osmond uses the Cold Spring Park off-leash dog park for the dogs exercise. *(Due to the large number of people in the hallway for the Commission Meeting the meeting was moved to the War Memorial.)*
- Animal Control Officer John O'Connell stated in November 2008 he patrolled Cold Spring off-leash Dog Park between 11:00 am-1:00 pm. Officer O'Connell observed 6 off-leash dogs and 2 on leash dogs on the trail. In the park he observed 8-10 off leash dogs. In March of 2009 Officer O'Connell patrolled 21 days between 11:00 am-1:00 pm. He issued 12 verbal warnings, one written warning and 6 City ordinance warnings. There have been no reports of dog bites and there appear to be more off-leash dogs in the parks than on the trails, when he is patrolling.
- Captain Howard Mintz, Supervisor of the traffic bureau and animal control divisions, stated Officer O'Connell has been handling all the animal control duties by himself since the retirement of a second officer and he is hoping to hire a second animal control officer soon. There is a large file of complaints and incidents from the neighborhood. There is a fluxuation of positive and negative incidents. There are parking issues and verbal abuse by off-leash dog owners towards the abutters of the neighborhood. The Police Department is going to use the parking control officers in the area due to all the traffic issues. The department put fliers on cars regarding the parking and traffic issues and he received complaints about litter from the fliers being thrown on the ground. There is a quality of life issue in the neighborhood and the Police department is doing what they can to help with the issues.
- Chief Matt Cummings stated the Police Department is neither pro nor con regarding the off-leash dog park. The department is there to enforce the laws of the program. Chief Cummings did acknowledge the parking issues and the off-leash dogs on the trails, which Office O'Connell and Captain Mintz addressed.
- Chairman Rice asked for questions for the Police Department:
  - Q. While the Police are walking around is there better compliance to the rules and regulations?
  - A. Officer O'Connell responded yes.
  - Q. Will you (Animal Control Division) be fully staffed?
  - A. Captain Mintz responded-Yes

## *Awaiting Commission Approval*

Q. Resident, Rodney Gould asked what type of parking rules currently exist in the neighborhood.

A. Captain Mintz responded there are currently no parking restrictions.

Q. Have you noticed dramatic increases in parking incidents or rude behavior?

A. Captain Mintz responded –Yes, there has been an increase in parking complaints on Beverly Road and Dunklee Street.

Q. Has there been a dramatic increase in violations in response to the increased population?

A. No statistic study has been done.

Q. What is the fine for dog's off-leash? And how many fines have been issued over the last three months?

A. The fine is \$50.00. There have been three fines issued in the access road and trail

Q. Are there any patrols in the early morning?

A. Officer O'Connell responded his shift is from 7:30am-3:30pm. He will patrol for 30 minutes between 11:00am-1pm.

Q. Do you utilize bike patrols for the park?

A. The Police department has bike patrols but currently they are utilized elsewhere, but they can take a look at using them for the park.

Q. Will patrols increase where kids use the park?

A. Yes and increase parking enforcement

Q. What is the schedule to implement parking enforcement?

A. The schedule will begin within the week.

Q. Should the traffic restrictions change?

A. The Police cannot change the restrictions you would need to petition the Traffic Commission and the Board of Alderman.

Q. Is it against the rules for other officers to give citations?

A. No

- Alderman Albright thanked everyone for participating in the off-leash dog park experiment, for changing policy and work towards changing behavior. This has been a two year journey and though it may not be perfect we are on the right path, we just need patience.
- Amy Koel, Chairperson of the Dog off-leash Advisory Committee (DOLAC) thanked everyone. Amy reviewed the DOLAC report submitted to the Commission regarding the dog park progress. Amy acknowledged the parking issues, which are now being addressed. Amy stated that the issues are slowly getting better and working together we can solve the issues. The pilot program should not be terminated.

## Awaiting Commission Approval

- Chairman Rice thanked everyone and recommended factions from each group meet with Alderman Albright and report back to the Parks & Recreation Commission with solutions to the issues.  
(At this time the meeting was moved back to Room 209)
  - Attorney Peter Harrington asked to be heard regarding the off-leash dog park. Attorney Harrington represents a few abutters of Cold Spring Park. The concerns of his clients are the quality of life in the neighborhood, the feces and urine on the fields, intimidating dogs and the verbal abuse and aggressive behavior of the dog owners. Attorney Harrington suggests if the trial continues perhaps there should be more defined regulations.
  - Chairman Rice instructed Attorney Harrington to send the recommendations to the Commission and they will be forwarded to Alderman Albright's Committee.
4. Warren Street – Sound barrier/Conservation Area
- Sound Barrier
- Jim DeVellis, Civil Engineer for property owner Jeff Goldman of 24 Warren Street reviewed the plan for the property at 24 Warren Street and Elgin Ave., including the sound barrier and the parking on Warren Street. Mr. Goldman has offered to care for the City Park land next to his property.
  - Peter Kastner asked if the original house was still standing. Mr. DeVellis replied the old house is gone and the new house has been pushed back a little and they have added “green” products to the new house.
  - Michael Clarke asked what the nature of the sound barrier will be. Mr. DeVellis passed around documentation that shows the two options, 1) a light weight material that would allow for the use of light construction equipment 2) traditional wood. The price is comparable for both products. The cost would be around \$200,000.00.
  - Chairman Rice asked how far the barrier would be from the tracks. Mr. DeVellis responded the stakes are about 55 feet from the tracks.
  - Peter Kastner asked if they received permission from the Commission to stake public land. Mr. DeVellis responded yes, Commissioner Towle and Anne Phelps, Conservation, directed them to go out there.
  - Mr. DeVellis continued to explain they had environmentalists test soil samples from the area and the samples included glass. The area must have been a dump site. The train tracks will be below the sound barrier and there is park land on the other side of the train tracks.
  - Peter Kastner asked what the barrier would deflect to the other side of the tracks and what if they put in trees instead. Mr. DeVellis responded this would be more invasive because they would have to dig into the land.
  - Michael Clarke asked how much sound is coming from the trains. Mr. DeVellis responded they have not performed a full study but Mr. Goldman is very sound sensitive. Mr. Goldman commented it is not the sound decuples that bother him but the sound of the train tracks. Michael Clarke asked if the train track noise goes through 100’ of woods. Mr. DeVellis was standing 700’ away from the tracks at 24 Warren Street and the train noise was annoying.
  - Mr. Bernheimer stated the Commission needs to determine if there is any downside to this plan for the City. The barrier would be a positive item for Mr. Goldman but the sound deflection may be an issue.

## *Awaiting Commission Approval*

- Lee Mottard stated the people using the park land would benefit from the upkeep provided by Mr. Goldman.
- Michael Clarke asked if the structure would be a barrier to wildlife. Mr. DeVellis responded no, the wildlife could go under the structure or around the structure.
- Peter Kastner stated a private citizen maintaining public land may be an issue.
- Michael Clarke stated the plan has no measurements on impact of the structure. Will the wall traverse the access path? There is too much we do not know.
- Peter Johnson stated the Fire Department may need to have access to the land and train tracks. Mr. DeVellis stated there is no access now, the area is overgrown. Commissioner Towle commented she has sent the plans to the Fire Chief for his review. Peter also commented the Planning department should be contacted.

### Conservation Land – Webster Woods

- Mr. DeVellis explained Warren Street ends and turns into a gravel road. Mr. Goldman plans to put a turnaround at the end of the paved road, before the gravel road with two parking spaces. A sign would be put up at the end of the paved road reading “Emergency Vehicles Only”.
- Peter Kastner asked if the gravel road would still be passable. Mr. DeVellis responded, yes but there would be no parking by the house at 24 Warren Street.
- Chairman Rice stated he has spoken with President Baker and the BOA want residents to be able to park on both sides of road and access to the playground.
- Peter Kastner stated the deed from the original owners allows accessibility to the conservation land from Warren Street. Mr. Goldman asked why the handicap require access if walking to the woods.
- Mr. Bernheimer stated if the cars were not allowed access there would be chaos, people would park everywhere. Peter Kastner stated the plan does provide two parking spaces but that is not enough.
- Octo Barnett of 34 Westminster Road stated the two parking spaces provided in the plan are located on a steep hill. Mr. Barnett leads hikes for the elderly. Currently the gravel access road allows the group to park near the pathway on the conservation land. Mr. Goldman agreed to allow the conservators to park on the access road near the pathway.
- Mr. Barnett stated in the original deed the City had agreed to put in a parking lot in this area, but have never done so.
- Chairman Rice stated the area is for parking and should stay that way.
- Mr. Bernheimer asked what would stop people from parking in this area. Mr. Barnett stated the sign put up at the end of the paved road reading “Emergency Vehicles Only” would stop people.
- Mr. Johnson, Mr. Bernheimer, Mr. Clarke agreed this could be a problem. Commissioner Towle commented Public access is required.
- Mr. Johnson commented Mr. Goldman & Mr. DeVellis are doing a great job, but need a better plan.
- Mr. Goldman stated he is trying to help the City by caring for the property. He does not want to live next to a parking lot. Mr. Goldman stated maybe he should sell the land to the developer.
- Michael Clarke stated the Commission needs to address the issue of landscaping on public property. Mr. DeVellis stated they are not proposing any landscaping.



## Awaiting Commission Approval

- Mr. Barnett stated the Webster Woods Conservation land has three access sides, Warren Street, Elgin Street and Maddox Street. Elgin Street is too steep. There is no access to playground from Maddox Street. Warren Street has access to the playground and Webster Woods. Webster Woods has 10 miles of trails a vernal pool and bird watching his concern is handicap access and the barrier would reduce the attractiveness. The content of the 1934 deed shows the importance of handicap access. Mr. Barnett stated they would not be noisy.
  - Larry Smith of Auburndale asked if there has been an environmental impact study. Chairperson Rice replied no not by the Commission.
  - Marie Abernathy of Auburndale stated after living in the area two weeks you would probably not hear the noise at all.
  - Fred Abernathy of Auburndale stated having the ability to park near the playground is essential.
  - Chairman Rice and Commissioner Towle made the following recommendations to Mr. DeVellis and Mr. Goldman:
    - They need a better plan now that they understand the accessibility needs
    - Zero in on the barrier details
    - Lay out of the road is important, must take into consideration what was discussed at this meeting.
    - Negotiate about grass cutting and amenities
    - Actual quantification of sound from train tracks
5. Crystal Lake Update
- Crystal Lake is scheduled to open on June 8.
  - The Task Force will probably meet again in July to finalize the recommendation on plans.
  - A new group has formed, the Friends of Crystal Lake and is currently in the organizational stage and meets periodically.

Meeting adjourned at 9:51 pm.  
Respectfully submitted:  
*Robin McLaughlin, Secretary*



David B. Cohen  
Mayor



Fran L. Towle  
Commissioner

## Newton Parks & Recreation Commission

### Meeting Minutes

Newton City Hall, Room 209

April 27, 2009

Attending: Walter Bernheimer, *Acting Chairman*, Peter Johnson, Arthur Magni, Kathleen Heitman, Michael Clarke, *Alternate*, Peter Kastner, *Alternate*, Fran Towle, *Commissioner*, Bob DeRubeis, *Deputy Commissioner*, Robin McLaughlin, *Secretary*

Absent: Fran Rice, Lee Mottard, Jack Neville

Also Attending: Carol Stapleton, *Recreation Manager*, Stephanie Pelkowsky, *Recreation Manager*, Tom Cahill, *Aquatics Manager*

1. The Minutes from the March 16, 2009 Commission Meeting were accepted 5-0
2. Reports of Program, Maintenance and Forestry by Commissioner Towle
  - All went well at the Newton Youth Road Race that took place on 4-19-09 and the Marathon Race, 4-20-09.
  - Newton Serves is scheduled for Sunday, April 26, 2009. There are 35-40 projects scheduled with the help of volunteers. The Parks and Recreation Department spends approximately \$10,000.00 in materials, but the department could not complete the work that is done on this day with out the assistance from the community.
  - This past weekend all of the Newton Little Leagues held their opening day festivities. Maintenance was very busy preparing the fields. Red Sox catcher Jason Varetok was the guest to throw out the first pitch for the Newton South Little League. Commissioner Towle and Mayor Cohen were present at both the Newton South and Newton West Little League opening.
  - The lighting project at Lyons Field with the Newton West Little League is moving forward. Peter Kastner inquired when the lights would be ready. Commissioner Towle responded the lights should be completed in about a month.
  - The Forestry Division continues to inventory the City Trees. There are approximately 30,000 trees on the streets. Kathleen Heitman commented on the wonderful job the Forestry Division has done in the Oak Hill area pruning the trees. Commissioner Towle commented that the tree pruning is done with tree ordinance money.

- The City has received \$600,000.00 and the OK on three projects from the State's stimulus package:
 

1.	Pellegrini Park - entrance area	\$200,000
2.	Stearns Park – playground	\$350,000
3.	Nahanton Park - accessible route	\$30,000
4.	Newton Ctre Plgrd - accessible route	<u>\$20,000</u>
	Total Proposed Projects	\$600,000
  
- Chairman Bernheimer asked if this was part of the plan approved by the CPA money and what percentage of the projects would be done?
  
- Commissioner Towle responded, yes this is part of the overall Master Plan from a few years ago, and in Stearns Park about 50% would be completed, the half basketball court and play apparatus. Pellegrini Park would have the parking area and entrance into the building completed. The accessible pathways, Cold Springs parking area, the Newton Center pathway from Bowne Street to the play apparatus and a small pathway through Nahanton Park. We were prepared and had shovel ready plans available we are all working together to have the information ready so the bid documents may be prepared.
  
- Commissioner Towle reviewed the Adopt-A-Space program. There are currently 100 public sites adopted and maintained by private citizens/companies. One of the more recent sites is at the Hyde Center. There is a Taiwan Garden going in, there is a lot of excitement about the area also the Taiwan Garden was part of Newton Serves day.
- Vacation programs including the new program at the Newton Center Hut were full for April vacation. All programs were a success.
- NSHS- bids came in for the athletic fields at 3.5 million; they were expecting bids of 4 million. The project is moving forward and hopefully the fields will be done by the fall, at that time the fields will come back to Parks & Recreation to maintain.
- Commissioner Towle reviewed the items from the Citizen's Advisory Group (CAG) Report that directly relate to the Parks & Recreation Department:
  1. Consolidation with Department of Public Works
  2. Consolidation with Community Education from Newton Public Schools
  3. Taking a closer look at fees charged for recreation programs
- Commissioner Towle asked if the Commission would like to discuss the CAG items. Chairman Bernheimer requested the items be discussed later in the agenda.
- The Commissioner will be presenting the Budget to a joint meeting of the Program & Services and Finance Committees on Wednesday April 29, 2009 at 7:00 pm. Alderman Amy Sangiolo has invited the Newton Public Schools, Community Education Department to be present at the budget presentation.
- Signs were posted at Crystal Lake warning dog owners that baited traps had been set in the area for dogs. These signs were not posted by the

City. The Police Department was called and a report was filed. Carol Stapleton along with the police officers searched for the traps but did not locate any in the immediate area.

- There is no new information regarding the Mayor's Prayer Breakfast . The Commission Secretary will e-mail you the information as we receive it.

3. St. Mary Carmen's Society Festival- Chuck Proia, Chairperson

- Mr. Proia replaces Mr. Nunzio Leone who passed away a month ago.
- Mr. Proia gave an overview of the festival. The following questions/issues were brought to the Commission by the abutters of JoAnne C. Pelligrini Memorial Playground:

Mrs. Antonellis of 42 Hawthorne Street commented for the most part the festival is run well and there is no trash left around but the band stand music is too loud. Mr. Proia commented he can work to accommodate any issue and the ride music can be cut if necessary.

Mr. Lenny DeLuca whose parents live at 30 Hawthorne Street commented the music from the rides is loud and annoying. Mr. Proia replied the issue will be addressed and the festival management can shutdown the music if necessary.

Mr. Deluca commented he hopes the festival managers do a better job this year of addressing the issues and asked if Mr. Proia would be readily available during the festival? Mr. Proia responded he will do his best to work out the issues and he has given Mr. Deluca and his brother his phone number to contact him whenever necessary.

Acting Chairman Bernheimer commented the residents should raise the issue at the time of the incident with the festival management to have it resolved immediately. Mr. Proia commented he is trying to work with everyone; he is trying to work with everyone and is there to help. The money raised from the festival goes to the neighborhood.

Mr. Deluca commented last year they reviewed the map of the festival layout and that should be status quo. Mr. Proia replied the layout should be the same as last year. There will be no music or rides in front of the house.

Mr. Deluca commented on the negative issue last year at the Marini's yard. Mr. Proia commented the issue that took place at the Marini's was addressed and this is not the appropriate forum to discuss the details.

Donna Zagani of 53 Hawthorne Street stated she counted the people in the area that are over 70 years old. There are 15 people in the area that are 70 years or older and noise is an issue. Ms. Zagani requested the festival tone down the noise because it bounces off the buildings and the music is repetitious. Mr. Proia received Ms. Zagani's e-mail last year and he will do what he can to address the issues. Acting Chairman Bernheimer commented the residents should raise the issue at the time of the incident with the festival management to have it resolved immediately.

Susan Meliacho of 52 Hawthorne Street commented she is a fan of the St. Mary Carmen's Society Festival. She is sure the noise issue will be addressed. The issue she has is with the detail on Watertown Street. On Ashmont Ave there is a horse that is trying to stop traffic and there are several officers on Watertown Street. Some of the officers should be positioned at Ashmont Ave. Mr. Proia commented he will speak with the Police Department.

Andrea DelGrasso of 3 Ashmont Ave commented the ambulance parked on Ashmont Ave is the best thing ever, due to the traffic if you don't live on the street you do not get down the street. Mr. Proia responded that there is a parking issue but there is nothing the Police can do because of the City Ordinance's. Peter Kastner recommended Ms. DelGrasso speak with her local Alderman.

Alderman Merrill commented he and the other Ward Alderman approve of the festival.

Acting Chairman Bernheimer asked if the Commission Members had any comments or questions.

Peter Johnson made the motion to allow the St. Mary Carmen's Society Festival request. Kathleen Heitman seconded the motion. The motion passed 5-0-1 (Arthur Magni abstained).

Mr. Proia thanked the commission and made a closing comment recognizing Derek Mannion, Assistant Superintendent of Maintenance. Mr. Proia thanked Derek for the hard work he personally did preparing the Little League fields this past week-end.

4. FY10 Budget Update

- Currently there are no budget cuts for FY10. Enclosed in the packets is a printout of the current budget. Acting Chairman Bernheimer asked if the department has an accounting of income and can a report be given to the Commission. Commissioner Towle responded, yes there is a report accounting for income and is available to the Commission.

5. Newton Tennis Update

- Commissioner Towle introduced Recreation Manager, Stephanie Pelkowsky and Mike Lewitt of Newton Tennis. Commissioner Towle commented on the wonderful job don by Mr. Lewitt in regards to tennis lessons and tennis court maintenance.
- Stephanie Pelkowsky reported the rules and regulations have remained the same except for the double play rule has been changed to 1.5 hours time slots from 2 hour time slots.
- The 2008 rates & 2009 proposed rates are enclosed in Commission packets.
- Acting Chairman Bernheimer commented there no fee waiver for seniors. Stephanie Pelkowsky commented Student fees will also go up \$10.00, (there was a typo on the printed information sheet).
- Ms. Pelkowsky commented the rates have been going up a small amount each year. Mr. Kastner asked if there is a drop in usage when the rates

go up, Ms. Pelkowsky answered that yes, when there is a large increase there is a drop in usage, people do not like a large increase.

Acting Chairman Bernheimer made a Motion to accept the new tennis lesson rates as presented, with the one correction to the student rates. Peter Johnson seconded the motion. The motion passed 6-0.

6. Gath Pool/Crystal Lake – Rules, Regulations, Fees

- Commissioner Towle explained there are no recommended changes in the rules, regulations and fees at Gath Pool or Crystal Lake for 2009.
- Acting Chairperson Bernheimer asked why there are no increases in fees. Mr. Cahill replied there are no increases in fees because there are no budget cuts. Mr. Cahill commented there is usually a 20% drop off in membership when fees are raised. A 20% drop off would be significant.
- Acting Chairperson Bernheimer asked if a \$1.00 increase would cause a 20% drop off. Mr. Cahill responded not necessarily. Acting Chairperson Bernheimer asked to see the data to support the membership drop off information. Mr. Cahill responded that he would supply that information.
- Peter Johnson asked if the rules and regulations for Gath Pool and Crystal Lake should be voted on separately. Acting Chairperson Bernheimer felt that was not necessary because there were no changes in the rules and regulations.
- Kathleen Heitman inquired if there is a family rate. Commissioner Towle responded no there is no family rate.
- Acting Chairperson Bernheimer reminded the Commission that the Citizen's Advisory Group recommended a review of fees. Peter Johnson commented the seniors fees should be looked at. Currently the seniors are not charged a fee and young families take the brunt of fees when seniors are better off financially. The senior fee could generate money for scholarships. Acting Chairperson Bernheimer suggested there should be a senior fee because it is a good policy, the money goes into the general fund and the city needs money. Carol Stapleton asked Acting Chairperson Bernheimer what fee he would recommend. He recommended a 50% - 75% charge of the full fee. Carol Stapleton reported the adult fee is \$45.00 and the student fee is \$20.00.
- Kathleen Heitman inquired if the senior attendance is increasing every year. Carol Stapleton responded, the attendance last year was 409 and out of the 409 approximately 100 would need financial assistance. Kathleen Heitman asked Ms. Stapleton what she would recommend as a fair senior rate. Ms. Stapleton responded that \$20.00 would be a fair rate. Acting Chairperson Bernheimer commented this is the same amount as the student fee and next year a survey should be done of other towns of student fees.
- Commissioner Towle does not recommend raising the fees. The Citizen's Advisory Group may eventually ask for a review of all fees. The Department may need a standard policy on fees.
- Acting Chairperson Bernheimer responded that the Commission may need a policy regarding fees, down the road, but this should not stop us from raising the senior fees now. Commissioner Towle commented we have been instructed to keep fees manageable and currently the fees pay

for supplies and leadership but this does not necessarily include the maintenance of the property. Acting Chairperson Bernheimer commented that charging a fee makes sense and we can request, from the City, to have the money generated by the senior fee be used for maintenance and if not the money will go into the general fund and the City needs money.

- Kathleen Heitman asked if it would be beneficial to show the people the plans for the new bath house before charging the additional fee. Commissioner Towle responded that the Crystal Lake Task force would have a separate fundraiser for the project and any money received from fees would go right into the general fund unless a stipulation was added that the money would go back to the swim program.
- Peter Kastner suggested students and seniors should be charged the same. Peter Johnson inquired if there is a way to track the usage of a swim permit. Tom Cahill responded yes the information is in the computer.
- Arthur Magni suggested, in this situation, where the fee is being increased from zero, we should be conservative. Acting Chairman Bernheimer agreed. Michael Clarke suggested a fee 1/3 of the adult fee. Peter Kastner commented the cost of the fee will not reduce the resistance received.

Arthur Magni made a motion to accept the Crystal Lake and Gath Pool rules, regulations and fees as presented, with the addition of a \$20.00 senior fee which is equivalent to the student fee. A letter is to be sent to the Mayor from the Commission requesting the use of the funds received by the additional fee be used toward the swim program scholarships and maintenance. Peter Johnson seconded the motion. Motion passed 6-0.

#### 7. Dog Park Update

- Commissioner Towle reviewed the information included in the Commission information packets:
  - A written report from Amy Koel, Committee Chair of the Dog off-Leash Advisory Committee (DOLAC).
  - Several e-mails & letters from abutters of Cold Spring Park regarding the Off-Leash Dog Park.
- Commissioner Towle asked Deputy Commissioner Robert DeRubeis for an update on the DOLAC. Deputy Commissioner DeRubeis is a member of the Dog off-Leash Advisory Committee. The Deputy Commissioner reported there are issues with dogs running free outside the designated area. People are being disrespectful to the abutters, and part of the issue is there was no official park until the signs went up. Officer O'Connell has ticketed individuals for being off leash on the trails, the fee is \$50.00. On May 7, DOLAC has a scheduled meeting to review Norumbega Park as a second location for an off-leash dog park. Hopefully this second park would relieve the traffic at Cold Spring Park.
- Commissioner Towle reported she has a meeting scheduled with Chief Cummings to discuss the parking issues at Cold Spring Park and when the Police will begin ticketing illegally parked vehicles.
- Anne Li of 53 Beverly Road reported the parking has been an issue for a long time but has gotten worse since the off-leash dog park was

approved by the Commission on 11-17-08. Ms. Li reports the children cannot play in the streets because the traffic has become dangerous. She reports having a dog run into her house when her son was walking out of the house. In the morning at 9 am, car music blares and people allow their dogs to bark. When she went outside to talk with a neighbor, a dog ran in front of her and cut her off. When abutters approached the dog owner's regarding the dog park rules, the dog owners behavior becomes defensive & belligerent. Ms. Li does not believe people's behavior will change. Ms. Li asked if the Off Leash Dog Park pilot could be cut short so the neighbors would not have a harrowing summer.

- Acting Chairman Bernheimer asked if cutting the program short would make a difference. Ms. Li responded she believes it would and it's better than doing nothing.
- Rick Dyer of Terrace Avenue commented his children used to play basketball on the street but they no longer can play basket ball on the street because of the traffic. Mr. Dyer stated it is an accident waiting to happen, the police cannot be there all the time.
- Greg Rupel of 34 Dunklee Street, commented traffic volume and off leash dogs, all over the park, has increased and Dunklee Street has become a mess due to the parking issue. Somehow we must coordinate the Cold Spring parking lot with the Dog Park.
- Acting Chairman Bernheimer commented he lives on the end of Winslow Road. There are off leash dogs and owners in front of his house. People look at the signs and continue to leave their dogs off leash. The whole thing is ludicrous, there is no enforcement, people get belligerent when someone speaks to them, and the signs do not help. The experiment, no matter how long it runs will prove nothing, no behavior is changing and it is getting worse for those who live near the path. Unless the police hand out thousands of tickets the behavior will not change.
- Rick Dyer of Terrace Avenue commented there are no fences or boundaries for the dog. When it's raining and muddy, the dogs are over on the baseball fields. Mr. Donner has spoken to the Little League Commission. They knew nothing about this. The dogs are all over the place. He is hoping there will be another park to help with the traffic and volume of dogs so the families can enjoy the park. Mr. Donner has pictures and video's available of dogs, off leash, at the park.
- Peter Kastner asked what the credentials are of Amy Koel, Committee Chair of the Dog off-Leash Advisory Committee (DOLAC). Amy Koel, Ph. D, is a Dog Training and Behavioral Consultant. Peter is questioning the reliability of Amy's report. When this dog park was presented to the Commission, one of the concerns was whether the Citizen's Group could be objective in reporting about the dog park. Mr. Kastner is concerned that what the report is saying and what the abutters are saying seems to be opposite. Acting Chairman Bernheimer commented we could use some objective data and he does not consider himself objective. Acting Chairman Bernheimer asked when the trial period ended and when the temporary ordinance expires.
- Kathleen Heitman responded the nine month trial period began when the signs were put in place. The signs were installed in March 2009. The trial period ends December 31, 2009.



- The temporary ordinance ends December 31, 2009.
  - Deputy Commissioner DeRubeis commented that Amy Koel has been a pleasure to work with and she deserves a fair chance. Amy obviously wants to see the park succeed but she has been fair. Amy has been appalled at the issues the abutters have had to face. She presents both the positive and negative information she receives about the dog park.
  - Acting Chairman Bernheimer commented that her sincerity is not being questioned. But the problem is not dog training, the problem is human training.
  - Peter Kastner commented he has been part of the Commission for a long time and does not remember receiving so many written complaints. Acting Chairman Bernheimer commented, there were no e-mails back then.
  - Acting Chairman Bernheimer recommended adding to the May 18 2009 agenda:
    - Evaluating the Off Leash Dog Park experiment with the possibility of rescinding the experiment. The dog officer should be asked to appear. Also a member from the DOLAC and the abutters should be notified as well.
  - Michael Clarke commented that in the report from Amy Koel she indicates that she is aware of the issues and would be discussing the issues at the DOLAC meeting, but there is no mention of the meeting date. Deputy Commissioner responded the DOALC meeting is Thursday, May 7.
  - Peter Kastner commented if the Conservation Commission passes Norumbega Park as a dog park that would help with the issues. Acting Chairman Bernheimer commented he does not believe if Norumbega Park does become a dog park it will relieve the issues at Cold Spring Park. Cold Spring Park is a failed experiment.
  - Peter Kastner suggested a Public Interest letter be sent to the Conservators about the competing issues of the parks. Acting Chairman Bernheimer agreed this was a good idea.
8. Crystal Lake- Swim at Your Own Risk
- Commissioner Towle reminded the Commission members that President Baker came to the February Commission meeting to ask about the possibility of a “Swim at Your Own Risk” Policy at Crystal Lake and asked that a discussion be held on the subject.
  - The Commissioner asked Carol Stapleton, Recreation Manager of Crystal Lake, to give the Commission an update.
  - Ms. Stapleton responded to the best of her knowledge, four or five residents had spoken to President Baker about the possibility of a “Swim at Your Own Risk” Policy at Crystal Lake.
  - Commissioner Towle directed the Commission members to their information packets. In the packets there is documentation from Tom Cahill explaining the type of training lifeguards must go through, and a letter explaining the shortage of lifeguards that the City is able to obtain for the year. Commissioner Towle asked Mr. Cahill, Aquatics Manager to review the information with the Commission members.

- Mr. Cahill commented that being a lifeguard is now a profession. Individuals are trusted with swimmers lives. The premise of the Red Cross is swim with a buddy in a supervised area. Due to Tom's training and experience he could not agree to a Swim at Your Own Risk policy. One of the biggest issues is finding properly trained lifeguards. Most lifeguards are high school or college kids. Most college kids go back to school by the end of August and high school sports start in August.
- A pool life guard requires 30 hours of training, a lake lifeguard requires an additional 20 hours of training. The additional training includes equipment training and search procedures. The kids do a great job for us all summer.
- The City does offer swimming through Labor Day at the Gath Pool and Mr. Cahill can bring in additional lifeguards for the pool, but he cannot for the lake.
- Peter Kastner stated he would allow people to make the choice and asked if the Commission should be concerned about safety and restrict the quality of life by restricting people's choice to swim in an unsupervised area. Acting Chairman Bernheimer and Kathleen Heitman believed safety should be the priority.
- Carol Stapleton commented that she felt the abutters of Crystal Lake would be upset about a Swim at Your Own risk Policy.
- Peter Kastner asked if there was ever a report of an abutter of Crystal Lake drowning. Ms. Stapleton responded no. Acting Chairman Bernheimer stated this policy would not apply to the abutters because they are allowed to swim in the lake.
- Carol Stapleton commented there would be parking issues and sanitary issues.
- Kathleen Heitman commented that safety is the key issue.
- Arthur Magni commented this is a nice area that people want to spend a lot of money to improve upon. The area needs to be taken care of.
- Peter Johnson commented if this was an ocean beach people would swim at their own risk. He would be ok with the policy as long as there is no liability and we shut everything down at the lake.
- Michael Clarke commented he sees both sides. But there are concerns about the neighbors. People would be going through their back yards. People currently do swim at their own risk.
- Acting Chairman Bernheimer agreed and believes the Commission would be inviting more after hour's activity.
- Peter Kastner agreed the policy would increase the nuisance.
- Commissioner Towle commented the Swim at Your Own risk policy would be open to all ages, including children.
- Acting Chairman Bernheimer stated there is a city ordinance that dictates what goes on at the lake.
- Michael Clarke asked what the Commission was deciding tonight regarding the Swim at Your Own Risk at Crystal Lake. Commissioner Towle stated we are presenting research, talking with staff and having a discussion, there will be no vote tonight.

The Crystal Lake Task Force

- Carol Stapleton reported the Task Force is down to two plans, a new building or renovation of the existing building. The task force has been to the Historical Commission, P & R Commission and Conservation Commission. There will be a meeting of the task force in May to decide on the final plan. The consensus shows the plan for a new building is the preferred plan. Once the final plan is chosen, fundraising will begin. Commissioner Towle asked if the task force will be back before the Commission for approval once they have the final plan selected. Ms. Stapleton responded, yes the task force will appear before the Commission.

Crystal Lake Pathway behind 230 Lake Avenue

- Carol Stapleton reported the Notice of Intent has been processed and presented to the Conservation Commission. All work needs to be completed by October 10, 2009 because this was the agreement with the landlord.

9. New Business

1) Commissioner Towle commented the Warren Street Sound Barrier project will be on the agenda again in May. The Builder will be making a presentation to the Commission. Commissioner Towle asked the Commission members to review the Warren Street information in the information packets handed out for the next meeting. Included is a confidential letter from the Law Department regarding the Warren Street Sound Barrier.

- Peter Kastner commented the abutters to the area are concerned about the parking and access to the park lands in the Warren Street area.
- Commissioner Towle recommended the Commission members take a look at the area because the Commission will be required to make a decision. The Commission Secretary will e-mail the directions to the members.
- Michael Clarke requested the following language be added to the meeting minutes from page 2 of the law Department Memo: “the Commission renders decisions concerning parks and the use of lands under its jurisdiction.”

2) Michael Clarke commented it was very good how Commissioner Towle and Robin McLaughlin had the Commission meeting information added to the Planning Department “Friday Report”.

Meeting adjourned at 9:15 pm.

Respectfully submitted:

*Robin McLaughlin, Secretary*



DAVID B. COHEN  
MAYOR

# NEWTON PARKS AND RECREATION DEPARTMENT

#306-08

70 Crescent Street, Newton, MA 02466  
Office: (617) 796-1500  
Fax: (617) 796-1512  
TTY: (617) 796-1089



FRAN L. TOWLE  
COMMISSIONER

December 10, 2009

Alderman Johnson, Chairman  
Programs & Services Committee  
Board of Alderman

Re: Swim at Your Own Risk – Crystal Lake

Dear Alderman Johnson and Committee Members:

In response to your letter dated August 24, 2009 requesting further review of the "Swim at Your Own Risk" policy at Crystal Lake the Parks & Recreation Commission reviewed the "Swim at your own Risk" Policy during the November 16, 2009 Park & Recreation Commission meeting.

There was discussion on the ecological affects on the lake, the volume of people at the lake and the affect this would have on the abutters. The main topic of discussion was the safety of the Newton's resident and the liability to the City. A motion was made to continue on with the current policy and not allow "Swim at Your Own Risk" at Crystal Lake. The motion passed unanimously.

In regards to the potential ecological impact of an elongated swim season, Recreation Manager Carol Stapleton presented a proposal from the Crystal Lake Conservancy. The Conservancy is providing a "suggested approach to understand, protect and improve the quality of water at Crystal Lake".

Once again, the Parks & Recreation Department will make every effort to recruit and retain staff to allow for an extended swim season in 2010.

Sincerely,

Fran L. Towle  
Commissioner

Cc: Fran Rice, Chairman

COMMISSION  
MEMBERS

WARD 1 – VACANT  
WARD 2 – ARTHUR MAGNI  
WARD 3 – PETER JOHNSON

WARD 4 – FRANCIS J. RICE, CHAIRMAN  
WARD 5 – WALTER S. BERNHEIMER II, VICE-CHAIRMAN  
WARD 6 – LEE MOTTARD

WARD 7 – VACANT  
WARD 8 – KATHLEEN A. HEITMAN  
COMM. SECRETARY-ROBIN MCLAUGHLIN

ALTERNATES: MICHAEL CLARKE, PETER KASTNER, JACK NEVILLE

[WWW.CI.NEWTON.MA.US/PARKS](http://WWW.CI.NEWTON.MA.US/PARKS)



August 24, 2009

Re: Swim at Your Own Risk – Crystal Lake

Dear Chairman Rice:

At the July 8th meeting of the Programs & Services Committee of the Board of Alderman, we were pleased to learn that the Commission supported an extended swim season at Crystal Lake if lifeguards could be recruited. However, some Board members were disappointed to learn that the Commission was opposed to any type of "Swim at Your Own Risk" policy.

Several Committee members continue to believe that some level of swimming at your own risk is feasible but also agree that more study would be beneficial before a final decision is made. Therefore, we ask that the Commission, working with the Board, consider conducting a pilot during the Fall 2010 Swim Season, with lake entry by the public limited to the existing beach area. Before making this decision, it should be based on the results of analysis and study that includes the following:

- Potential ecological impact of an elongated swim season
- Setting a limitation on the days, dates, and times that the lake would be open for unsupervised swimming
- Requirements of the Parks & Recreation and/or Police Departments to monitor usage and safety, including possible methods permitting that activity.

Thank you for your consideration of this request.

Sincerely,

Marcia T. Johnson  
Alderman-at-Large, Ward 2

Cc: F. Towle, Commissioner of Parks & Recreation  
Members of the Parks & Recreation Commission

## Board of Aldermen

---

2008-2009

City of Newton

1000 Commonwealth Avenue  
Newton, MA 02459  
[617-796-1210](tel:617-796-1210)



June 11, 2009

Mr. Fran Rice, Chairman  
Newton Parks and Recreation Commission

Dear Chairman Rice and Members of the Commission:

At the June 3, 2009 meeting of the Programs & Services Committee of the Board of Aldermen, an in-depth discussion took place regarding the swimming season at Crystal Lake. During the course of the deliberation, we discussed two ways to expand the opportunities for legal and safe swimming at the lake and voted to send you this letter, respectfully urging you to take action on these proposals.

First, we discussed the duration of the supervised swimming season, which has ended well before Labor Day in recent years. Commissioner Towle informed the Committee of this year's scheduled closing date of August 23, 2009, which is two weeks before Labor Day. We were informed that the major reason for the early closing is the difficulty of finding trained life guards willing to work past that date, as many are students who go back to school in August.

Committee members discussed a number of possible solutions to this problem, including partnering with the YMCA for lifeguard training and/or coverage, and at least contacting them to find out whether they might have trained life guards available to take a shift at Crystal Lake; surveying existing staff to see how many would be willing and able to work an additional two weeks; seeking community volunteers who have the requisite lifeguard training; advertising for lifeguards returning from camps or other destinations at which they serve as lifeguards during the summer; and, of course, any other options the Commission feels could work.

One suggestion was that if a full complement of lifeguards cannot be identified for all shifts after August 23, 2009, that a modified schedule or smaller swim area be considered during that time. The need to train all lifeguards to work together as a team was also discussed, with the suggestion that lifeguards who would start later in the summer could be recruited and trained earlier in the season with participation of regular season staff.

We understand that the challenges associated with keeping the public beach area open an additional two weeks for supervised swimming are complex and that there would likely be some costs involved, but we respectfully request that you take prompt action to investigate all possible

June 11, 2009

Page 2

channels for keeping the lake open for supervised swimming through Labor Day weekend, starting by asking existing lifeguard staff whether they would be available to work the extra weeks.

Second, the Committee also discussed the type of unsupervised swimming that currently takes place in the lake, both legal swimming by abutters and illegal swimming by others from Cronin's Cove and other access points. Committee members voted to request that your Commission begin a process of researching how we could structure a "swim-at-your-own-risk" program that would designate an appropriate area for swimming and access, the latter most likely the expanded Rogers Street property only. In this manner, non-abutters would be afforded the right to legally swim in Crystal Lake off-season, while limiting negative impacts on abutters and the neighborhood and promoting public safety. It would be the desire of the Committee to have a plan in place by early 2010.

This is an important issue to many Newton residents. We respectfully request that you take action at your June 15, 2009 meeting to begin the process of investigating both of these possibilities for extending the opportunities for the public to swim in Crystal Lake.

Thank you for your consideration.

Sincerely,

Marcia Johnson, Chairman  
The Programs & Services Committee  
Newton Board of Aldermen

Lifeguard availability after August 23, 2009  
through September 7, 2009 - Labor Day

	Guards Hired through 8-23-09	Guards Available 8-23-09 through 9-07-09
Crystal Lake	37	Zero
Gath Pool	29	
Full-Time	available through 9-7-09	10*
Part Time		1*

\* No Waterfront Module Certification - guards to be used to staff Gath Pool

### YMCA

- 1) 5-8 Lifeguards may be available the week of 8/31/09. The YMCA pool will be closed that week for maintenance
- 2) The lifeguards available will most likely be high school students, the college student will be heading back to school
- 3) The YMCA lifeguards are not certified for the waterfront module



Crystal Lake  
After Season

Bathhouse	@ 8.50/hr	@ 3	25.50 per hour
Guards	@ 9.50/hr	@ 8	76.00 per hour
Head Guard	@ 11/hr	@ 1	11.00 per hour
Manager	@ 14/hr	@ 1	<u>14.00 per hour</u>
			126.60 per hour

Mon-Friday Open 3-7 (staff 2:30/7:30) 5 hours per day=25/week

$126.50 \times 25 \text{hrs} = 3,162.50$

Sat&Sun - open 1-7 (staff 12:30/7:30) 7 hours per day

$126.50 \times 14 \text{hrs} = 1,771.00$

Total - 4933.50 per week

This figure is of course if we had 8 guards to work and other support personnel also. Based on 08 staff on 38 rotating personnel - list of last day availability is attached as a separate report which is POSTED at the Lake for all to see.

Most staff are heading to college or to fall sports at local high schools.

A separate report will also be attached of other city and towns closing dates.



DAVID B. COHEN  
MAYOR

NEWTON PARKS AND RECREATION DEPARTMENT

70 Crescent Street, Newton, MA 02466

Office: (617) 796-1500

Fax: (617) 796-1512

TDD/TTY: (617) 796-1089

#306-08



June 16, 2009

Bentley University

Human Resources

175 Forest St

Waltham, MA 02452

*- sample -*

To Whom It May Concern:

The City of Newton, Parks and Recreation Department is recruiting lifeguards to work at Crystal Lake from Monday, August 24, 2009 through and including Labor Day, September 7, 2009. The hours of operation are 3:00pm-dusk. Applicants must meet the following requirements:

Current Certification

- Lifeguard Training & First Aide
- CPR for the Lifeguard with AED Training
- Waterfront Module

Applications can be picked up between 8:30am – 5:00pm at 70 Crescent Street, Auburndale, MA 02466, or downloaded on line at: <http://www.ci.newton.ma.us/Parks/Employment>.

Applications should be received at 70 Crescent Street, Auburndale, MA 02466, Attn: Carol Stapleton by July 17, 2009. If you have any questions please call 617-796-1500.

Sincerely,

Fran L. Towle  
Commissioner



DAVID B. COHEN  
MAYOR

## NEWTON PARKS AND RECREATION DEPARTMENT

70 Crescent Street, Newton, MA 02466

Office: (617) 796-1500

Fax: (617) 796-1512

TDD/TTY: (617) 796-1089

#306-08



FRAN L. TOWLE  
COMMISSIONER

## Recruiting Lifeguards

**Date:** August 24, 2009-September 7, 2009  
*(Including Labor Day)*

**Work  
Hours:** 3:00pm – Dusk

**Location:** Crystal Lake – Newton

### **Certification Requirements:**

- Lifeguard Training & First Aide
- CPR for the lifeguard with AED training
- Waterfront Module

Applications can be picked up at 70 Crescent St, Newton, 02466 or downloaded at: [www.ci.newton.ma.us/Parks/Employment](http://www.ci.newton.ma.us/Parks/Employment)

Applications must be received no later than July 17, 2009 at 70 Crescent St, Newton, 02466, Attn: Carol Stapleton

Any questions please call 617-796-1500 or e-mail [parks@newtonma.gov](mailto:parks@newtonma.gov)

Life Guard Ad  
June 2009

Name	Other	Address	City	State	Zip
Babson College	Human Resources	231 Forest Street	Babson Park	MA	02457
Bentley University	Human Resources	175 Forest St	Waltham	MA	02452
Berklee College of Music	Human Resources	1140 Boylston Street	Boston	MA	02215
Boston College	Student Services	Beacon St	Chestnut Hill	MA	02467
Boston University	Human Resources	100 Ashford St	Boston	MA	02215
Brandeis University	Human Resources	4125 South Street	Waltham	MA	02453
Department of Conservation & Recreation	Human Resources	251 Causeway Street, S	Boston	MA	02114-2104
Framingham State College	Human Resources	100 State St-PO Box 9	Framingham	MA	01701-9101
Lasell College	Human Resources	1844 Commonwealth A	Newton	MA	02466
Mass Bay Community College	Human Resources	50 Oakland St	Wellesley Hills	MA	02481-5307
Mt. Ida College	Human Resources	777 Dedham St	Newton	MA	02459
Needham Town Hall	Parks & Recreation	1471 Highland Ave	Needham	MA	02492
New Engalnd Conservatory	Human Resources	290 Huntington Ave	Boston	MA	02115
Northeastern University	Human Resources	360 Huntington Ave	Boston	MA	02115
Regis College	Human Resources	235 Wellesley St	Weston	MA	02493
Simmons College	Human Resources	300 The Fenway	Boston	MA	02115
Town of Lexington	Parks & Recreation Dept/Town Office Bldg	1625 Massachusetts A	Lexington	MA	02420
Town of Wellesley	Parks & Recreation/Warren Bldg	90 Washington St	Wellesley	MA	02481
Town of Weston	Recreation Department	20 Alphabet Lane	Weston	MA	02493
University of Mass-Boston	Human Resources	100 Morrissey Blvd	Boston	MA	02125-3393
Wheelock College	Human Resources	100 The Riverway	Boston	MA	02215
MIT	Zesinger Sports & Fitness Center	120 Vassau St	Cambridge	MA	02139
Pine Manor	Dean of Students	400 Heath St	Chestnut Hill	MA	02467

**Robin McLaughlin**

---

From: **kkinnealey@newtonma.gov**  
To: **ftowle@newtonma.gov,**  
**cstapleton@newtonma.gov,**  
**rmclaughlin@newtonma.gov,**  
**dmazzola@newtonma.gov**  
Date sent: **Wed, 01 Jul 2009 14:02:46 -0400**  
Subject: **Lifeguard job posting**  
Priority: **normal**

Hi,

The attached is a copy of the posting that we submitted to Craigslist this afternoon.

Karen, HR

The City of **Newton, MA** is looking for **LIFEGUARDS** to work from August 24, 2009 through September 7, 2009 at beautiful Crystal Lake. The hours are 3:00 pm to dusk.

Certification requirements:

- Lifeguard Training & First Aid
- CPR for the lifeguard with AED training
- Waterfront Module

Please apply on or before July 17, 2009. Applications are available on line at: [www.ci.newton.ma.us/Parks/Employment](http://www.ci.newton.ma.us/Parks/Employment) or may be picked up at 70 Crescent St. Newton, MA 02466. Please submit completed applications to the 70 Crescent St. address or by email to: [parks@newtonma.gov](mailto:parks@newtonma.gov). Questions? Please call 617-796-1500.

[boston craigslist](#) > [metro west](#) > [education jobs](#)[email this posting to a friend](#)

Avoid scams and fraud by dealing locally! Beware any deal involving Western Union, Moneygram, wire transfer, cashier check, money order, shipping, escrow, or any promise of transaction protection/certification/guarantee. [More info](#)

please [flag](#) with care:[miscategorized](#)[prohibited](#)[spam/overpost](#)[best of craigslist](#)

## Lifeguard (Newton)

Reply to: [job-us56v-1248864540@craigslist.org](mailto:job-us56v-1248864540@craigslist.org) [Errors when replying to ads?]

Date: 2009-07-01, 1:55PM EDT

The City of Newton, MA is looking for LIFEGUARDS to work from August 24, 2009 through September 7, 2009 at beautiful Crystal Lake. The hours are 3:00 pm to dusk.

Certification requirements:

- Lifeguard Training & First Aid
- CPR for the lifeguard with AED training
- Waterfront Module

Please apply on or before July 17, 2009. Applications are available on line at:

[www.ci.newton.ma.us/Parks/Employment](http://www.ci.newton.ma.us/Parks/Employment) or may be picked up at 70 Crescent St. Newton, MA 02466. Please submit completed applications to the 70 Crescent St. address or by email to: [parcs@newtonma.gov](mailto:parcs@newtonma.gov). Questions? Please call 617-796-1500.

- Location: Newton
- Compensation: \$9.25+/hour
- Principals only. Recruiters, please don't contact this job poster.
- Phone calls about this job are ok.
- Please do not contact job poster about other services, products or commercial interests.

PostingID: 1248864540

Copyright © 2009 craigslist, inc.

[terms of use](#)[privacy policy](#)[feedback forum](#)

**Karyn Dean**

---

From: "Lt. Hugh J. Downing" <hdowning@newtonma.gov>  
To: "Karyn Dean" <kdean@newtonma.gov>  
Date sent: Fri, 12 Jun 2009 13:02:36 -0400  
Subject: Re: Crystal Lake Info  
Send reply to: hdowning@newtonma.gov  
Copies to: CStapleton@newtonma.gov  
Priority: normal

Dear Ms. Dean:

There is limited information available in our computer systems regarding "near drownings at Crystal Lake for the nearly 20-year period of July 1, 1989, through July 1, 2009. Most of these types of calls are normally recorded as regular ambulance runs and it would take considerable research at some cost to single those calls out. Lifeguards working at Crystal Lake have made numerous interventions during hours of operation for the public beach area, especially with young swimmers, that certainly may have lead to near-drowning scenarios had the lifeguard(s) not been present. Ms. Carol Stapleton from Parks and Recreation could probably supply more details on those occurrences. One fact we do know for sure though is the actual number drownings that took place within this 20-year period. Those drownings are as follows:

- 1) August 7, 1989, at 2:30 a.m.  
Accidental. 20-year-old-male was swimming with a group of friends during the early morning hours when his friends heard him calling for help and lost sight of him in the water. The body was recovered in the water on the Rogers Street side of the lake.
- 2) January 21, 1995, at 3:45 a.m.  
Suicide. 74-year-old female with terminal illness who had been reported missing in Newton for approximately 10-12 hours. The body was recovered in the water at Cronin's Cove on Lake Avenue near Beacon Street.
- 3) August 2, 1995, at 3:55 p.m.  
Accidental. 42-year-old female swimming in public area of the lake was reported missing. The body was recovered in the water on the Rogers Street side of the lake.
- 4) July 29, 1998, at 2:25 p.m.  
Accidental. 17-year-old male swimming in public area of the lake was reported missing. The body was recovered in the water on the Rogers Street side of the lake.
- 5) August 26, 2004, at 9:00 a.m.  
Suicide. Female left a handwritten note and several personal items along the banks of the lake. The body was recovered on the Norwood Avenue side of the lake near Crystal Lake Manor condominium complex.

Hope this information is helpful for your report. Please direct any further questions to me at extension 2101.

Very truly yours,

Hugh

Lt. Hugh J. Downing



## Crystal Lake Fact Sheet

Crystal Lake is a natural body of water, approximately twenty three (23) acres in area, and, as such is a "great pond" per Chapter 131, Section 45, Crystal Lake is required to be open to the public for purposes of "hunting, fishing, and boating". Prior to 1989, boating on Crystal Lake was limited to abutters of the lake. In 1991, the Newton Parks and Recreation Commission was required by the Department of Fisheries and Wildlife (& Division of Environmental Law Enforcement)<sup>1</sup> to allow public access to Crystal Lake for the purposes of boating and fishing.<sup>2</sup>

### Chronology:

1924 Special Act.

1929 Rules and Regulations, Newton Playground Commission

1991 Rules and Regulations for Boating and Fishing on Crystal Lake

#### 1. The Acts of 1924, Chapter 243: An Act Relative to the Control of Crystal Lake in the City of Newton. (This is a "special act" or law passed by the state legislature in 1924.)

This special Act authorizes the City's "Playground Commission", now the Parks and Recreation Commission<sup>3</sup>, to make rules and regulations "governing fishing, boating, bathing [swimming], skating and other recreational activities in or on Crystal Lake in said City. Such rules and regulations shall be subject to the approval of the division of waterways and public lands of the commonwealth [now the division of fisheries and wildlife] and when approved by said division shall have the force of law." (Section 2). The Act provides for enforcement as follows:

Any police officer of said city may patrol any part of the waters of said lake and shall have authority to arrest any person violating any law of the commonwealth in, on or adjacent to the waters of said lake or violating any rule or regulation established under this [A]ct.

(Section 3). (Emphasis supplied). The Act also provides for a fine of "not more than twenty dollars." (Section 4).

<sup>1</sup> The Department of Fisheries and Wildlife and Environmental Law Enforcement is an agency of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts.

<sup>2</sup> Although the title of the 1991 Rules are entitled "Rules and Regulations for Boating on Crystal Lake" they also pertain to fishing. See Rule No. 8

<sup>3</sup> In 1982, the Playground Commission was abolished and replaced by the Newton Parks and Recreation Commission. See Chapter 246 of the Acts of 1982.

**2. City of Newton, Playground Commission, Rules and Regulations for the Government and Use of Crystal Lake. (Approved May 15, 1929).**

Excerpts from the General Rules:

“Rule 1. “No person shall enter or leave Crystal Lake except at beaches where the City owns the land or at such other places as the Playground Commission may specially designate, providing, however, that all inhabitants of the Commonwealth shall have equal rights with the citizens of Newton, subject to the payment of such charges as are fixed under these rules. Exception is made with abutters (sic), their guest and servants on their own respective beaches.”

Bathing [swimming] is limited to “ticket holders” per Rule No. 8. Rule No. 12 requires all bathers to use the facilities provided by the City of Newton. Rule 13 states, “[n]o person shall bathe (sic) in this lake except in proper costume and at a place designated therefore, or bathe at any other seasons or hours than are posted at the designated bathing beach...”

Therefore, people using Crystal Lake for swimming are supposed to swim from the designated area. Rule No. 15. Boating, and Rule No. 16, Fishing have been superseded to the extent inconsistent with Rules and Regulations below.

**3. Rules and Regulations for Boating [and Fishing] on Crystal Lake, Dated 5/8/91, approved by the Department of Fisheries, Wildlife & Environmental Law Enforcement on May 8, 1991.**

These Rules allow access to Crystal Lake for boating and fishing. The access point for boating is Cronin Cove on Lake Avenue, except that abutters may launch boats from their own property. (See Rule No. 4) Swimming from boats is prohibited. (See Rule No. 7 f.)

Crystal Lake Questions and Answers  
May, 2004

1. What access must be provided to Crystal Lake?

Crystal Lake is a "Great Pond". As such it

...shall be public for the purpose of hunting or boating thereon and shall, notwithstanding the provisions of any special law relating to fisheries in any particular place, be open to all inhabitants of the commonwealth for fishing purposes...All persons shall be allowed reasonable means of access to such ponds for the purposes aforesaid.

See, Massachusetts General Laws, Chapter 131, Section 45.

2. Can a person enter [Crystal Lake] from wherever he/she wishes?

No. For boating, access to Crystal Lake is limited to Cronin Cove on Lake Avenue:

All boats must be put in the water by hand carrying at the designated area on Cronin Cove on Lake Avenue. Boats may not be put in the lake from any other site, except for boats belonging to owners of property abutting the lake (abutters), which may be launched from the abutter's property.

See the "Rules and Regulation for Boating on Crystal Lake", Rule 4.a. (Access Point), May 8, 1991.

For swimming, the Rules and Regulations for the Government and Use of Crystal Lake, May 12, 1929 state as follows:

No person shall enter or leave Crystal Lake except at beaches where the City owns the land or at such other places as the [Parks and Recreation Commission] may specially designate...

See General Rules, Rule 1.

3. What regulations are in effect particularly in regard to swimming?

The 1929 Rules and Regulations referenced in Question No. 2 above. The Rules and Regulations adopted in 1929 (which are still in force) regulate access, season, days, and hours for swimming at Crystal Lake. (See Rule Nos. 8 through 13.) Note with respect to access, the 1929 Rules limit use of the Lake for swimming to "ticket holders". However, tickets are available to Newton residents and "all inhabitants of the Commonwealth" (See Rule 8. and Rule 1.)

4. Who regulates swimming on Crystal Lake?

The Parks and Recreation Commission has sole authority in Newton to regulate the use of Crystal Lake for swimming, boating and fishing pursuant to Chapter 243 of the Acts of 192, which state:

The [Parks and Recreation Commission] may from time to time make rules and regulations governing fishing, boating, bathing [swimming], skating and other recreational activities in or on Crystal Lake...Such rules and regulations shall be subject to the approval of the [Division of Law Enforcement of the Department of Fisheries, Wildlife and Environmental Law Enforcement] and when approved by said division shall have the force of law. Chapter 243 of the Acts of 1924; approved April 12, 1924.

5. What are the City-owned access points?

Cronin Cove and Levingston Cove on Lake Avenue.

6. Can the City prohibit all motorized access?

No. The Rules and Regulations for Boating and Fishing adopted in 1991 prohibit internal combustion engines, consistent with Chapter 131, Section 45. The Division of Law Enforcement of the Massachusetts Department of Fisheries, Wildlife and Environmental Law Enforcement has ruled that cities and towns cannot prohibit all motorized access.<sup>1</sup>

---

<sup>1</sup> See Memorandum from Craig A. MacDonnell, Legal Counsel, Division of Law Enforcement to the City of Newton in regard to Crystal Lake, dated July 19, 1990, which stated, "...prohibiting electric motors of all kinds, no matter how small, is unwarranted because it discriminates against fishermen using unobtrusive, quiet and non-polluting engines."

been revoked either permanently or abetting in any attempt to secure it for another, by fraud; or, in case of defrauding or attempting to defraud, may subsequently, but not earlier than the issue of any certificate formerly issued, re-issue any certificate, and register anew any physician, and whose registration was cancelled and whose registration was cancelled.

*Approved April 12, 1924.*

**METROPOLITAN DISTRICT COMMISSION OF THE WATERS OF CHESTER RESERVOIRS BY GULLS OR TERNS.**

Authority and prevent the pollution of all and Spot Pond reservoirs, the commission may authorize one or more persons permissible under federal law, to take use such appliances and weapons. Commission, will prevent the defilement of reservoirs by gulls or terns, any provision and thirty-one of the General Laws, standing. The commission shall any birds killed under the authority account to the director of the division of the department of conservation such periods as he may prescribe.

*Approved April 12, 1924.*

**JOINING MEMBERS OF THE FIRE DEPARTMENT OF THE CITY OF TAUNTON.**

Any member of the council of the city of Taunton, who, shall retire from active service, shall enroll any fireman, call fireman or any other person whom the city physician permanently disabled, mentally or physically, or illness incurred through no fault of his own, performance of duty, from further performance of duty; or any permanent member who has performed faithful service therein for ten years if in the judgment of said commission such member is disabled for useful service, provided, that any permanent member who has performed faithful service therein and attained the age of sixty shall be eligible for retirement. Any member retired under the provisions of this act shall be entitled to an annual pension, payable monthly,

equal to one half of the annual salary or other compensation payable to him during the last year of his service. The pension of any call or substitute call fireman retired under said section shall be the same as that of a permanent member of the first grade of the same department in which he served.

SECTION 3. The words "permanent member" as used in this act shall be construed to include the chief engineer of the fire department of said city, notwithstanding that he is subject to re-election at stated intervals by the municipal council.

Words "permanent member" to include chief engineer, etc.

SECTION 4. This act shall take effect upon its acceptance by a two thirds vote of the municipal council of the said city.

Submission to municipal council.

*Approved April 12, 1924.*

**AN ACT PROVIDING FOR THE PRESERVATION OF HISTORICAL RELICS AND WORKS OF ART WITHIN THE STATE HOUSE. Chap.242**

*Be it enacted, etc., as follows:*

Section twenty of chapter six of the General Laws, as amended by chapter two hundred and ninety-eight of the acts of nineteen hundred and twenty-two, is hereby further amended by adding at the end thereof the following new paragraph:— Said commission shall have the custody and care of all historical relics in the state house, and of all works of art, as herein defined, erected or maintained therein.

G. L. 6, § 20, etc., amended.

Art commission to have custody, etc., of historical relics, etc., in state house.

*Approved April 12, 1924.*

**AN ACT RELATIVE TO THE CONTROL OF CRYSTAL LAKE IN THE CITY OF NEWTON. Chap.243**

*Be it enacted, etc., as follows:*

SECTION 1. The city of Newton, through its playground commission, may from time to time make rules and regulations as to the erection, maintenance and control of all public bath houses on the shores of Crystal lake in said city.

Control of Crystal lake in city of Newton.

SECTION 2. The playground commission of said city may from time to time make rules and regulations governing fishing, boating, bathing, skating and other recreational activities in or on Crystal lake in said city. Such rules and regulations shall be subject to the approval of the division of waterways and public lands of the department of public works of the commonwealth and when approved by said division shall have the force of law.

Rules and regulations governing fishing, boating, etc.

SECTION 3. Any police officer of said city may patrol any part of the waters of said lake and shall have authority to arrest any person violating any law of the commonwealth in, on or adjacent to the waters of said lake or violating any rule or regulation established under this act.

Police protection.

SECTION 4. The violation of any rule or regulation established under this act shall be punished by a fine of not more than twenty dollars.

Penalty.

SECTION 5. Nothing in this act shall be construed to abridge the powers and duties of said division under chapter ninety-one of the General Laws.

Construction of act.

*Approved April 12, 1924.*

# CITY OF NEWTON, MASSACHUSETTS

## PLAYGROUND COMMISSION

### RULES AND REGULATIONS

#### For The Government and Use of CRYSTAL LAKE

#### GENERAL RULES

Rule 1. No person shall enter or leave Crystal Lake except at beaches where the City owns the land or at such other places as the Playground Commission may specially designate, providing, however, that all inhabitants of the Commonwealth shall have equal rights with the citizens of Newton, subject to the payment of such charges as are fixed under these rules. (Exception is made with abutters, their guests and servants on their own respective beaches.)

Rule 2. No person shall in or on Crystal Lake, or upon any land bordering thereon, solicit the acquaintance of, or annoy another person; or utter any profane, threatening, abusive or indecent language, or loud outcry; or solicit any subscription or contribution; or have possession of or drink any intoxicating liquor; or play any game of chance; or have possession of any instrument of gambling, or do any obscene or indecent act; or preach aloud, or make an oration or harangue, or any political or other canvass; or move in a military or civic parade, drill or procession; or lie down upon a bench or boat or go to sleep thereon; or play any musical instrument except by written authority from said Newton Playground Commission.

Rule 3. No person shall dig up, cut, break, remove, deface, defile or ill-use, any building, structure, fence, sign, bush, plant, turf, rock, or any other thing belonging to the City of Newton, or have possession of any part thereof.

Rule 4. No person shall throw any stone or any other missile, or have possession of or discharge any destructive weapon, firearm, firecracker, torpedo or firework, or make a fire or throw or place upon the ground a lighted match, cigar, cigarette, or other burning substance; or post, paint, or affix any sign, notice, placard or advertising device; or, except with written authority from said Newton Playground Commission engage in business, sell or expose for sale, or give away any goods, wares, or circulars; or set a trap or snare or injure or have possession of any wild animal or bird; or injure or destroy any bird's nest or eggs; or drop or place and suffer to remain any piece of paper or other refuse, except in the receptacles designated therefor.

Rule 5. No person shall throw, drop or place in the water or on the beach any waste paper, rubbish or refuse.

Rule 6. No person shall ride or drive any animal or vehicle on the city reservation or the beach of the lake; or bring dogs to the lake except on leash.

Rule 7. No person shall refuse or neglect to obey any reasonable direction of a playground official or police officer.

#### BATHING

Rule 8. All bathing in Crystal Lake will be limited to ticket holders. These will be issued to applicants by the Playground Department at City Hall, West Newton, during the month of May. The tickets are good only for the summer of the year in which they are issued and are subject to observance of all the rules pertaining to bathing in Crystal Lake.

Rule 9. Each bather is restricted to one hour's use of the dressing room and the bathing facilities in Crystal Lake, per day. A shower bath must be taken before entering the waters of the lake.

Rule 10. Bathing during the day until six o'clock in the afternoon is restricted to children of both sexes eighteen years of age or younger, and to parents and guardians or other older people having young people in their charge.

Rule 11. After six o'clock in the afternoon until dark, older people holding season tickets may bathe, subject to the same rules governing the use of the bathhouse for dressing, showers before entering the waters of the lake and the time limit of one hour each day.

Rule 12. All persons bathing in the lake shall use the bathing facilities provided by the City of Newton. A charge of fifty cents (50c.) will be made to non-residents for the use of such bathing facilities each time they bathe in the lake. For exception read Rule 1.

Rule 13. No person shall bathe in this lake except in proper costume and at a place designated therefor, or bathe at any other seasons or hours than are posted at the designated bathing beach; or bathe on days or during hours not designated for his or her sex and no persons may loiter on or near the bathing beach. Exception is made as to loitering when parents or guardians accompany their children or when nurses or maids or other older persons come in charge of children.

#### SKATING

Rule 14. No person shall skate on the ice except at a place or places designated therefor by ropes and lanterns; or skate on any other days or hours than are posted at the skating reservation, or cut ice, or fish through the ice, or deposit snow on any part of the reservation for skating, or within fifty yards of this reservation; or skate in the reservation when the signs are up forbidding skating; or play hockey in any area not specially marked for this game; or refuse or neglect to obey the posted rules and regulations governing winter sports; or refuse or neglect to obey any reasonable directions of playground directors or police officers.

#### BOATING

Rule 15. No person shall have charge of, row a boat, paddle a canoe, run or drive a boat or canoe, propelled by steam, naphtha, gasoline, electric or other motor or engine, or by sail, unless he shall have first obtained a written permit therefor from the Newton Playground Commission; or drive the same at a speed exceeding eight miles an hour; or in such a manner as to endanger or annoy others.

#### FISHING

Rule 16. No fishing is allowed on Crystal Lake from December 1st to June 30th. From July 1st to November 30th, fishing is allowed but is subject to existing rules and regulations of the Commonwealth of Massachusetts pertaining to fishing.

Any person violating any of the above rules, shall for each offense, be punished by a fine of not more than twenty dollars. (Revised Laws, Chapter 243.)

#### CITY OF NEWTON PLAYGROUND COMMISSION

Signed, ALBERT P. CARTER, Chairman  
CHARLES F. JOHNSON, Jr.  
THOMAS J. LYONS  
RALPH COOLIDGE HENRY  
E. RAY SPEARE

#### COMMONWEALTH OF MASSACHUSETTS

Department of Public Works

State House, Boston.  
May 15, 1929.

Voted, That the Department of Public Works approves the accompanying rules and regulations for the government and use of Crystal Lake, Newton, as formulated by the Playground Commission of the City of Newton, insofar as said rules and regulations govern fishing, boating, bathing, skating and other recreational activities in or on Crystal Lake in said City, in accordance with the provisions of Chapter 243 of the Acts of 1924.

Signed, F. E. LYMAN  
Commissioner.

**§ 17C. Public use of land for recreational, conservation, scientific educational and other purposes; landowner's liability limited; exception**

(a) Any person having an interest in land including the structures, buildings, and equipment attached to the land, including without limitation, wetlands, rivers, streams, ponds, lakes, and other bodies of water, who lawfully permits the public to use such land for recreational, conservation, scientific, educational, environmental, ecological, research, religious, or charitable purposes without imposing a charge or fee therefor, or who leases such land for said purposes to the commonwealth or any political subdivision thereof or to any nonprofit corporation, trust or association, shall not be liable for personal injuries or property damage sustained by such members of the public, including without limitation a minor, while on said land in the absence of wilful, wanton, or reckless conduct by such person. Such permission shall not confer upon any member of the public using said land, including without limitation a minor, the status of an invitee or licensee to whom any duty would be owed by said person.

(b) The liability of any person who imposes a charge or fee for the use of his land by the public for the purposes described in subsection (a) shall not be limited by any provision of this section. The term "person" as used in this section shall be deemed to include the person having an interest in the land, his agent, manager, or licensee and shall include without limitation, any governmental body, agency or instrumentality, nonprofit corporation, trust or association, and any director, officer, trustee, member, employee or agent thereof. A contribution or other voluntary payment not required to be made to use such land shall not be considered a charge or fee within the meaning of this section. Added by St.1972, c. 575. Amended by St.1991, c. 372; St.1998, c. 268.