

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, SEPTEMBER 9, 2009

Present: Ald. Johnson (Chairman), Hess-Mahan, Baker, Parker, Brandel, Sangiolo, Merrill

Absent: Ald. Freedman

Also Present: Ald. Albright, Fischman and Danberg

Others Present: David Olson (City Clerk/Clerk of the Board), Officer Torres (Animal Control Officer, Newton Police Dept.), Amy Koel (Chairman, Dogs Off Leash Advisory Committee), Craig Manseau (Executive Secretary, Elections), Karyn Dean (Committee Clerk)

Appointment by His Honor the Mayor

#253-09 JULIA FELDMAN, 59 Commonwealth Park West, Newton Centre, appointed as a member of the ADVISORY COUNCIL OF HEALTH AND HUMAN SERVICES for a term to expire August 1, 2012 (60 days: 11/7/09).

ACTION: **APPROVED 4-0 (Ald. Baker, Parker and Brandel not voting)**

NOTE: Ms. Feldman addressed the Committee. She said she has been a healthcare lawyer for two decades with much of that time working for the state Medicaid agency. Her practical and professional experience lends itself to this kind of work, and she felt serving on this council would be a great way to contribute to her community. Ms. Feldman represented Health Care for the Homeless pro bono and she worked on legislation for them. She then worked for MassHealth and worked on it from its inception including individual, agency and federal government rights. Ald. Hess-Mahan and Sangiolo were very impressed with Ms. Feldman's experience and resume.

Ald. Merrill moved approval of this appointment and the Committee voted in favor.

Appointment by His Honor the Mayor

#254-09 LYNNE SULLIVAN, 74 Fountain Street, West Newton, appointed as a Trustee of the NEWTON HISTORY MUSEUM AT THE JACKSON HOMESTEAD for a term to expire February 1, 2010 (60 days: 11/7/09).

ACTION: **APPROVED 5-0 (Ald. Baker and Parker not voting)**

NOTE: Ms. Sullivan addressed the Committee. She noted that she was asked to fill in for John Long who is ill. She has been on the Board at the Jackson Homestead for 14 years. Currently, she is on the Steering Committee, the Development Committee, and involved with Visitors Services. She also chaired the first gala event three years ago when David Olson was Director of the Museum. She will chair the gala this year as well.

Ms. Sullivan said her vision for the museum is to make it more visible. She feels it is a wonderful place for networking and research as well as programs for children and the community. She is hoping to have an event for residents across the City. She is also involved in the capital campaign that will also benefit Durant-Kenrick. They have been very successful in their fundraising efforts and are moving forward with plans.

Ald. Hess-Mahan asked if the museum was involved in the historic brochures for the villages. Ms. Sullivan said they put them together and keep them updated. He thanked her for that resource.

Ald. Hess-Mahan moved approval of Ms. Sullivan's appointment and the Committee voted in favor.

Re-appointment by His Honor the Mayor

#255-09 JOHN MORGANTI, 26 Lewis Street, Newton, re-appointed as a Trustee of the NEWTON HISTORY MUSEUM AT THE JACKSON HOMESTEAD for a term to expire February 1, 2012 (60 days: 11/7/09).

ACTION: **APPROVED 4-0-1 (Ald. Johnson abstaining; Ald. Sangiolo and Merrill not voting)**

NOTE: Ald. Johnson said that the membership of Commissions was looked at in the past. The idea was to encourage new members to Commissions who could bring new ideas. She would like to consider this going forward and asked that the tenure of each member that comes in for a re-appointment is provided for the Committee.

The Committee voted to approve Mr. Morganti's re-appointment.

Re-appointment by His Honor the Mayor

#256-09 CAROL ANN SHEA, 324 Walnut Street, Newtonville, re-appointed as a Trustee of the NEWTON HISTORY MUSEUM AT THE JACKSON HOMESTEAD for a term to expire July 1, 2012 (60 days: 11/7/09).

ACTION: **APPROVED 4-0-1 (Ald. Johnson abstaining; Ald. Sangiolo and Merrill not voting)**

NOTE: The Committee voted to approve Ms. Shea's re-appointment.

Re-appointment by His Honor the Mayor

#257-09 LANE SOFMAN, 336 Lexington Street, Auburndale, re-appointed as a Trustee of the HORACE COUSENS INDUSTRIAL FUND for a term to expire June 1, 2012 (60 days: 11/7/09).

ACTION: **APPROVED 4-0-1 (Ald. Johnson abstaining; Ald. Sangiolo and Merrill not voting)**

NOTE: The Committee voted to approve this re-appointment.

Re-Appointment by His Honor the Mayor

#229-09 PETER KASTNER, 49 Woodbine St., Newton, MA, re-appointed as an *alternate member* of the PARKS & RECREATION COMMISSION for a term to expire on January 1, 2012 (60 days: 10/09/09) [07/20/09 @ 10:24 AM]

ACTION: **APPROVED 4-0-1 (Ald. Johnson abstaining; Ald. Sangiolo and Merrill not voting)**

NOTE: The Committee voted to approve Mr. Kastner's re-appointment.

Re-Appointment by His Honor the Mayor

#230-09 JACK NEVILLE, 68 High St., Newton, MA, re-appointed as an *alternate member* of the PARKS & RECREATION COMMISSION for a term to expire on April 1, 2012 (60 days: 10/09/09) [07/20/09 @ 10:24 AM]

ACTION: **APPROVED 4-0-1 (Ald. Johnson abstaining; Ald. Sangiolo and Merrill not voting)**

NOTE: The Committee voted to approve Mr. Neville's re-appointment.

Re-Appointment by His Honor the Mayor

#231-09 PETER JOHNSON, 121 Fairway Drive., Newton, MA, re-appointed as a member of the PARKS & RECREATION COMMISSION for a term to expire on January 1, 2012 (60 days 10/09/09) [07/20/09 @ 10:24 AM]

ACTION: **APPROVED 4-0-1 (Ald. Johnson abstaining; Ald. Merrill and Sangiolo not voting)**

NOTE: The Committee voted to approve Mr. Johnson's re-appointment.

#95-09 TOM SHEFF requesting the Board of Aldermen appoint an advisory committee made of up persons who are not elected officials to review the daily processes of the Board of Aldermen and report recommended efficiency improvements to the Board of Aldermen. [03/26/09 @ 8:34 pm]

ACTION: **HELD and REFERRED TO LONG RANGE PLANNING 4-0 (Ald. Baker, Parker and Brandel not voting)**

NOTE: Mr. Sheff was not present at this meeting. Ald. Johnson noted that Mr. Sheff docketed a previous item that posed questions answered in large part by the Citizen Advisory Committee (CAG). Mr. Sheff, therefore, reframed his request in this new docket item to be more specific to the process of the Board of Aldermen.

Ald. Hess-Mahan suggested this might go to the Long Range Planning Committee and Ald. Sangiolo agreed. However, he felt that the CAG looked at all the processes of the City, including the Board of Aldermen. Ald. Hess-Mahan would like to have either current or former members of the Board included in the advisory committee and Ald. Johnson agreed.

Ald. Johnson said that a survey was done in 2007 when Ald. Vance chaired the Long Range Planning Committee. The Committee Clerk sent the report to Ald. Johnson and Ald. Hess-Mahan and is available in the Clerk's Office for review.

Ald. Hess-Mahan moved to hold this item in Programs & Services and to schedule a discussion in the Long Range Planning Committee. He said he would contact Mr. Sheff. The Committee voted in favor.

#193-09 ALD. ALBRIGHT AND FISCHMAN submitting, on behalf of the Dogs Off-Leash Advisory Committee, a report for discussion as required by City Ordinance Chapter 3 Section 30(e). [06/18/09 @ 3:30 PM]

ACTION: **NO ACTION NECESSARY 5-0 (Ald. Merrill and Sangiolo not voting)**

NOTE: The Dogs Off Leash Advisory Committee submitted their report and it was attached to the agenda for this meeting. The Committee accepted the report and voted No Action Necessary for this item.

#242-03(4) ALD ALBRIGHT, JOHNSON AND FISCHMAN requesting an extension of the expiration date in the Off-Leash Dog Pilot Program (Section 3-30(e) as established by ordinance Z-11) from December 3, 2009 to December 31, 2011, to allow the creation of additional designated areas or times in existing Newton parks, and to provide the opportunity for a full evaluation of this ordinance. [06/15/09 @ 10:13 AM]

ACTION: **HELD 6-0 (Ald. Sangiolo not voting)**

NOTE: Ald. Albright said that the off leash dog problem has confronted the City for a long time. It took the Dogs Off Leash Advisory Committee (DOLAC) a long time to get organized in terms of setting forth guidelines, designing an application procedure, developing a working relationship with Parks & Recreation and the Conservation Commission, and getting members for the Committee.

Status of Parks

Currently, there is 1 park open (Cold Spring Park); 2 applications ready for public hearing (Braceland and Nahanton); 2 applications ready to submit to Parks & Recreation (Hunnewell and a portion of Newton Centre Playground); and 1 application in development for the Conservation Commission (Norumbega).

Complaints/Issues/Efforts

Parking: Ald. Albright said that the parking problems started early on but the Traffic Council implemented new parking restrictions in the neighborhood which have provided some relief; **Dogs on Trails:** Having dogs on the trails is a longstanding problem. The track team from Newton South practices along the trails; **Dogs in the Neighborhood:**

Users of the dog park are letting their dogs off leash prior to reaching the designated off leash area which has posed problems for the neighborhood; **Worries About Dog Bites:**

Ald. Albright noted that a New York City study showed that dog bites were reduced from 40,000 per year to less than 4,000 per year with the implementation of designated off leash dog parks; **Fencing:** There is an ongoing debate about the merits of fencing; **Dog Walkers:** Ald. Albright said that many of the dog walkers in the park are walking dogs of Newton residents. Also, some are not professional dog walkers, but Newton residents who own multiple dogs. There is also a restriction in the ordinance limiting the number of dogs per person to three. She believes this has lessened the appeal for dog walkers.

Statistics and Evaluation of Cold Spring Park by Animal Control Officers

- 157 directed patrols at Cold Spring Park. The patrol generally takes about 30 minutes, two to three times a day. Officer Torres pointed out that the animal control officers conduct patrols around the city, but they are focusing on Cold Spring Park more since its opening.
- 30 citations from March through September: 29 off leash citations and 1 license citation. The majority of these were on the trails, with a few on Dunklee and surrounding streets. Officer Torres uses his discretion as to whether a warning or \$50 citation is written. If the dog is by the owner's side a warning would likely be issued. If the dog was running ahead of the owner, a fine would likely be issued. He has not dealt with any dog bites during his tenure. During the same period of time, 11 citations were issued throughout the rest of the City: 10 for leash violations and 1 for a license violation. Officer Torres has received no noise complaints.
- Visits are made in plain clothes and in uniform by animal control officers
- Fewer dogs on trails and in the neighborhood since opening of park
- More dogs on the field off leash since opening of park
- Higher compliance of leash law and dog licensing than prior to opening of park
- Dog owners are now a resource for the police department in terms of talking to and identifying offenders.

Brookline Model

The DOLAC feels that the process is cumbersome but they followed the recommendations of the Parks & Recreation Commission when writing the ordinance. The ordinance requires that a citizen group come forward to sponsor the off leash area and take responsibility for it. Ald. Albright would have liked to follow the Brookline model. Brookline made an assessment and decided which areas were appropriate, opened 15 parks and then did evaluations. That process also had its problems but she felt it was a better model. Ald. Hess-Mahan said Brookline had a more comprehensive planning process where they looked at all the resources instead of taking a piecemeal approach as Newton has done. A copy of the Brookline Green Dog Brochure is attached to this report. Ald. Albright felt that a new administration may bring a different perspective to this effort. Perhaps the Parks & Recreation Dept. and the Planning Dept. could become bigger influences in the program.

Purpose of Extension of Pilot Program

Ald. Albright said they were reaching the end of the trial period in 4 months and only had 1 park opened with 5 in the pipeline. The DOLAC felt they did not have enough

experience with the system to evaluate it and would like to see more parks opened. They would also like some time to re-write the ordinance to make it an easier process.

Timeline

Ald. Albright said that the Parks & Recreation Commission has a two month process – a review of the application and then a hearing in the second month. The Braceland and Nahanton applications are into their second month of the process. Hunnewell and Newton Centre will be next and all 4 could be passed within 4 months if all goes well. The Norumbega application has not yet been reviewed. Considering the timeline, Ald. Albright agreed that a two year extension would be beneficial.

Concern with the Trails

Ald. Hess-Mahan was particularly concerned with dogs on and off leash on the trails in Cold Spring Park. He felt this needed to be addressed whether or not a dog park was present. Ald. Johnson said that initial discussions of the off leash ordinance included designated areas where dogs absolutely could not be off leash and agreed it needed to be addressed. Ald. Brandel said there should be signage on the trails.

Officer Torres said he has seen an improvement in compliance. The runners are running with their dogs on leash. Ald. Hess-Mahan was concerned about the high school cross country teams who use the trails. He has heard from their parents about concerns for their safety regarding dogs. Officer Torres said he has spoken with the coaches and they will be working with Lee McIntyre to use a part of the off leash area for their training. He felt the parties were working together to make it a better experience for the teams.

Lessons Learned

Ald. Baker said he felt the success of this program would be a combination of public education and enforcement of off leash dog violations elsewhere in the City. Ald. Albright agreed because now there is a place for people to bring their dogs off leash legally.

Ald. Albright said they are trying to tighten up the process. The two new parks applications have abutter meetings prior to the next hearing of the Parks & Recreation Commission. Ald. Johnson asked that the Board be notified of any such meetings as they have been receiving many emails from residents. Ald. Brandel noted that a public notice was placed in The Tab and posted at City Hall. He also wanted to be sure the public knows the problems are being addressed before an extension of the program was approved. He suggested that the Parks & Recreation Commission come to the next Programs & Services Committee meeting to discuss the process and how it can be improved. Ald. Johnson agreed and they will be invited.

Amy Koel added that when Cold Spring Park was approved by the Parks & Recreation Commission, they were required to go back to them to get signage approved. It took a number of months to have the signage installed and that was a problematic time for the neighborhood. She felt that would be an area upon which they could improve. Ms. Koel

said that Officer O'Connell has reported that users of the off leash park are more cooperative and are good resources for enforcement.

Ald. Parker would specifically like to discuss requiring fences around any off leash dog area. He also felt there should be a survey of the City's dog owners to determine the need and placement for other dog parks. Ald. Parker thought the planning of any off leash dog areas should be left to the Planning Dept. and not the residents to decide where they should be. The parks should be part of a comprehensive plan for the City.

Follow Up

Ald. Johnson said the next step would be to have Fran Rice, Chairman of the Parks & Recreation Commission, and Fran Towle, Commissioner of the Parks & Recreation Dept., join the Programs & Services Committee to discuss the various issues of process. She would also like Officers Torres and O'Connell and Marie Lawlor to attend this meeting. They will meet on September 23, 2009 to continue the discussion. Ald. Johnson said that Programs & Services can only make a decision regarding extending the pilot program. The Parks & Recreation Commission has authority to make all the other decisions and changes to the process. Ald. Parker suggested that a public hearing be held before they vote on extending the program. Ald. Baker and Ald. Johnson felt it was prudent to get more information before holding a public hearing. Peter Harrington asked to be notified of the next meeting.

Public Comment

Peter Harrington, a lawyer representing several of the neighbors of Cold Spring Park addressed the committee. A letter outlining his concerns is attached to this report.

In Opposition

The following neighbors and abutters addressed the Committee in opposition to the extension of the dog park pilot program at Cold Spring Park:

Rick Dyer, 10 Terrace Avenue; Jose Sapporta 53 Beverly Road; Eve Cohen, 47 Beverly Road;

They expressed concern about some dog owners violating the rules of the off leash dog park. They described many instances of dogs off leash in areas of the park where it is not allowed, including the trails; dogs entering their yards and homes, as well as a dog owner entering a home looking for his dog; feces in their yards and left on the park and trails; dogs interfering with the exercise and running course; persistent barking; large increase in number of dogs at the park, particularly due to advertising; dog walkers walking more than the 3 dogs that are allowed; parking violations; rude and threatening behavior and language of some dog owners; and threatening/menacing behavior and near-attacks by some dogs.

Concerns were also voiced regarding the placement of off leash parks in the middle of residential areas and near areas where children play. Many also felt that off leash areas should be fenced and limited hours posted and enforced. There was also concern that the group charged with self-policing the park was being unresponsive to complaints. Many

stated the Animal Control Officers were very responsive, but when violators see the marked police car and uniformed officer, they quickly comply, but return to bad behavior when the officer leaves the scene.

The overall feeling was that their quality of life was drastically diminished because they were living with this every day and the cumulative effect was overwhelming. One resident said that these homeowners bought homes next to a park; they didn't buy homes next to a dog park. These neighbors felt they were not involved in this decision and process. It was also stated that the DOLAC was not following its own recommendations by placing the park at Cold Spring Park.

In Support

The following residents addressed the Committee in support of the off leash area at Cold Spring Park and other areas:

Don Fishman, 68 Littlefield Road; Diane Cotting, 38 Waban Street, Lee McIntyre, 6-7 Commonwealth Ave.

Mr. Fishman said the hope and the goal was to establish an off leash area and that did not include the trails. A requirement of dogs being on leash on the trails had already been established and should be enforced. He had were a few suggestions to help with compliance: A set-aside time for the trails wherein dogs would not be allowed at all and this would assist with the practices of the cross country teams; Using a double-gated fence should be considered and they felt a public/private partnership could be formed to accomplish that; Signage should also be clearer to aid in compliance; Landscaping to shield abutters was also suggested. They felt Cold Spring Park was a good start and they agreed that there was work to be done and were anxious to work with the abutters and the neighborhood. Mr. McIntyre was opposed to a user fee for the park. He also disagreed with Mr. Harrington's assertion that the park was illegally being "converted" to a dog park. Mr. McIntyre said it was been a de facto off leash area for 30 years and dogs on leash have also used it just as long.

Ms. Cotting said that Hunnewell Park was as a good location for an off leash area. However, they just found that the Parks & Recreation Dept. just gave permission for Little League to put a ball park there. She was disappointed because they felt that had done some good work in finding a location. Ald. Albright said The Parks & Recreation Commission took the DOLAC there in April as a possible site and DOLAC started talks with New Balance to use their parking lot. The Little League was able to pull something together much more quickly. Ald. Albright said this pointed out their process was not working.

REFERRED TO PROGRAM & SERVICES AND FINANCE COMMITTEES

#233-09 ALD. JOHNSON AND LINSKY requesting a discussion to increase fine to the maximum level for dogs not having a current license.
[07/13/09 @ 7:26 PM]

ACTION: **APPROVED 5-0 (Ald. Merrill and Sangiolo not voting)**

NOTE: David Olson, Clerk of the Board, asked the Committee to take care of a clerical problem within the ordinances. He noted that there are several discrepancies in Chapters 3 and 20 of the ordinances that refer to the fines for dogs. The fines were changed in one Chapter but not the other. Mr. Olson is asking the Committee to make the references consistent.

Fine Limitations and Discrepancies

Mr. Olson noted that for item #233-09 the maximum fine that can be allowed is \$50 per Mass General Laws. Newton did accept a different Mass General Law that allowed the City to set its own fines up to \$300 (Chapter 40, Section 21), however, in 1982 the City filed special legislation (Special Acts of 1983, Chapter 418, Section 4) that limits dog fines to \$50. The current license fine in Newton is \$25. Mr. Olson also noted that Section 1 of the special legislation states that dog licenses can not be more than \$10 and that is the current license fee in Newton. Ald. Parker asked if the City could repeal the special legislation so that fines and the license fee could be set at a higher rate in the future. Ald. Johnson said that a different docket item would be necessary to repeal these. The Committee voted to docket that item.

Mr. Olson said that the other fines within the dog ordinance (barking, disposal of waste, etc.) were set at varying levels. The Committee agreed to set all dog fines at \$50. (The fine for the noise ordinance violation is currently \$50.) Ald. Brandel asked how this would compare to surrounding communities. Information regarding other communities was attached to the agenda and are within the approximately \$25 - \$50 range.

Licensing Efforts

Ald. Brandel thought that residents should be given time to understand the dog licensing laws. Mr. Olson explained that there has been significant effort over the past 2 years to educate the residents. Posters and sandwich boards had been placed around the City. Also, every veterinarian is required to send the Clerk a list of the dogs they have vaccinated. The Clerk's office is sending a mailing to that list of owners with the appropriate information and a dog license application. In 2007, the Clerk's office licensed 2,234 dogs; in 2008 2,398; and so far in 2009 2,765. Ald. Linsky was appreciative of the effort and the rise in licensure. However, he felt that there were many, many more dogs that are unlicensed. Mr. Olson said that he gives the Police Dept. an update each month of dogs that have been licensed. Each year the shape of the brass tag changes to make it easier to spot an expired license. Ald. Baker asked Mr. Manseau of the Elections Dept. if dogs could be added to the census.

Possible New Legislation

Mr. Olson reported that there is Senate Bill 21-20 being proposed to regulate animal control. It is intended to strengthen the Mass state animal control laws. He noted that Ruth Balser was a sponsor of this bill. He felt most of it was good but he was concerned about one section that requires all cities and towns to collect a \$3 surcharge for every license. This surcharge would be paid back to the state to fund a spaying/neutering program in low-income areas. The bill (42 pages) can be found attached to the online report.

It was moved that the Committee vote to set all dog fines to \$50 and to make the ordinances consistent. Marie Lawlor of the Law Department will work on the Board Orders for the Finance Committee when it takes up this item. The Committee voted in favor of both, 5-0.

#124-09(2) ALD. JOHNSON AND SANGIOLO proposing to limit the number of terms held by Chairmen of the Committees of the Board of Aldermen. [06/15/09 @ 10:17 AM]

ACTION: **HELD 5-0 (Ald. Merrill and Sangiolo not voting)**

#259-09 ALD. LINSKY requesting placement of a non-binding referendum on the November 3, 2009 general election ballot, in accordance with the provisions of MGL Chapter 53, Section 18A, relative to support of the resolution approved by the U.S. Conference of Mayors calling on the President to commence negotiations on a verifiable treaty for the elimination of nuclear weapons. [09/01/09 @ 4:30 PM]

ACTION: **APPROVED 5-0 AS AMENDED TO RESOLUTION (Ald. Merrill and Sangiolo not voting)**

NOTE: Ald. Linsky presented this item. He noted that if this referendum were to be placed on the ballot it would have to go through the Committee and Board process expeditiously to allow for the time requirements. Ald. Linsky said this would be a great opportunity to get a meaningful question on the ballot in front of a large number of voters.

Support for Referendum

Guntram Muller of 35 Oxford Rd in Newton addressed the Committee. He said he was a member of Massachusetts Peace Action, United Justice for Peace and the Nuclear Abolition Working Group. Mr. Muller said President Obama has stated a goal of abolishing nuclear weapons by negotiating with other countries and has asked for support from the public. Mr. Muller said there was a window of opportunity to take advantage of President Obama and President Medvedev's interest in this issue. Henry Kissinger, George Schultz, William Perry and Sam Nunn all stated in Op Ed pieces in the Wall Street Journal that for reasons of national security, zero nuclear weapons should be the goal. The US Conference of Mayors voted unanimously to encourage the President to negotiate for zero nuclear weapons. Mr. Muller felt it was important for local governments and citizens to have a voice in the process.

Election Commission Response

Craig Manseau, Executive Secretary of Elections, explained the time constraint in getting this question on the November 3, 2009 ballot. The Board could approve this on September 21 and then there is a 20-day appeal period. This brings the date to October 11, which is a Sunday, and October 12 is a holiday. October 13 would then give him 3 days for preparation of the ballot. A 2 day proof and approval period would bring the date to October 19 if all went smoothly. This would not get the ballots back from the printer until October 26th. With the election on November 3, he said it would not be

enough time to mail out absentee ballots. From his perspective, he felt it was too late to put this on the ballot. No questions are allowed on special elections so it could not go on the state ballot for the Senate seat either.

Resolution vs. Referendum

Ald. Parker suggested that instead of this being a referendum on the ballot, it become a Resolution from the Board of Aldermen to President Obama. The Committee voted in favor of amending this to a Resolution and the language is attached to this report.

Respectfully Submitted,

Marcia Johnson, Chairman

Green Dog Parks & Off-Leash Hours

Parks not listed do **not** have off-leash hours

ALL HOURS SUBJECT TO CHANGE
PLEASE CHECK SIGNAGE

Off-Leash Hours

Dawn to 9:00 a.m.

- Boylston Street Playground (Boylston St.)
- Daniel Ford Playground at Emerson Garden (Waverly Rd.)
- Corey Hill Park (Summit Ave.)
- Coolidge Playground (Columbia St.)
- Mary E. Robinson Playground (Cypress & Franklin St.)
- Lotta Bradburn Schick Park (Addington Rd.)
- Soule Recreation Center (Hammond St.)
- Jean Waldstein Playground (Dean Rd.)

Off-Leash Hours

Dawn to 1:00 p.m.

- Amory Playground (Amory St.)
 - Harry Downes Field (Jamaica Rd.)
- Note: No dogs allowed in fenced portion of park with track.
- Griggs Park (Griggs Rd.)
 - Daniel J. Warren Playground (Eliot St.)

Off-Leash Hours

Dawn to 1:00 p.m., March through November

Dawn to Dusk, December through February

- Brookline Avenue Playground (Brookline Ave.)
- Larz Anderson Park (Newton St.)

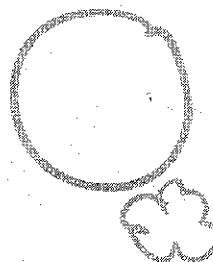
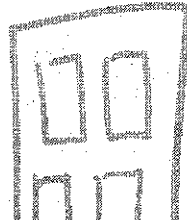
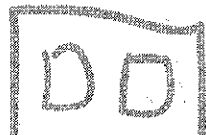
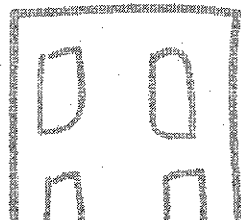
Note: Top of the hill area, Avon Street side ONLY. No dogs allowed in children's play area, pond, or garden area.

- Dogs are generally not allowed on any of the fields during the month of March when the ground is thawing.

Please heed Field Closed Signage.

The Green Dog Program logo will be displayed in designated parks with program hours.

January 2009



Frequently Asked Questions

Q: Why are off-leash hours occasionally suspended?

A: During permitted activities (school group activities, sports games, etc.), dogs must be on-leash for their safety and the comfort of other park users. When Parks crews are working in the parks, dogs must be on-leash for the safety of both the animals and the crews. Finally, fields may be completely closed when they are wet due to inclement weather, if heavy rain is anticipated, during the spring thaw, or for other reasons related to maintaining healthy fields. We post field closed signs, and you can call the Recreation hotline 24 hours a day at 730-2083 to hear a recording if fields are closed.

Q: I'm a dog walker. Can I bring my clients to play and exercise off-leash?

A: Everyone, including dog walkers, is limited to three off-leash dogs per person. Note that the off-leash dogs must be under voice control and in your sight at all times. It is not recommended to bring multiple on and off-leash dogs, since you are not able to easily attend to off-leash dogs if necessary.

Q: Why do I need to license my dog?

A: Massachusetts state law requires that all dogs be licensed, and have a current rabies vaccination. Licensing is critical to ensuring the health of our canine friends and other people, and can help identify your dog if they become lost. For more information, contact the Town Clerk's office at 730-2010.

Q: How do I get more information or make suggestions about the program?

A: The Park and Recreation Commission, Recreation Department, and Parks and Open Space Division all welcome your questions and comments. Please check our website for further information and updates at www.brooklinema.gov/GreenDog or contact us at 730-2069.

Q: How do I report violations?

A: To report off-leash or other violations, particularly aggressive dogs, contact the Brookline Police Department 24 hours a day at 730-2222.

#242-03(4)

Town of Brookline

GreenDog Program

Under supervision of the

Brookline Park and Recreation
Commission



133 Eliot Street
Chestnut Hill, MA 02467
Phone (617) 730-2069

www.brooklinema.gov/GreenDog



What is the Green Dog Program?

The Green Dog Program is an innovative approach to meeting our dogs' and dog owners' desire to have time off-leash, while sharing the spaces seamlessly with other park users in our urban community. Brookline has 14 off-leash areas across the Town, with specific off-leash hours established by the Park and Recreation Commission. Dog owners are allowed to play with their dogs off-leash, during these designated times, following the program rules and regulations.

The Park and Recreation Commission is a policy-making board, staffed with volunteers appointed by the Board of Selectmen, to oversee and provide year-round indoor and outdoor recreation activities, and to oversee park planning, renovations, and use. The Commission created the Green Dog Program in response to requests from residents who expressed a desire for dog owners to not only enjoy, but also serve as better stewards of our parks. The Commission developed the program with input from a Green Dog Advisory Committee and many enthusiastic residents, following a thorough analysis of park usage throughout the Town.

The Green Dog Program benefits everyone! Dogs get needed exercise and socialization often leading to better behavior, owners get to socialize with fellow dog owners and park visitors, and other park users still have time to play and relax in the parks. The outcome is a happier community. We have thousands of park users, and sharing our parks helps us maximize the use and enjoyment we all receive from our open spaces.

How does the Program work?

Joining the program is easy. Follow these simple steps to get you and your dog involved:

Before you go to a park:

- 1) License your dog and make sure vaccinations are current. Put license and identification on dog's collar.
- 2) Make sure your dog is under voice control (dog responds to and obeys your verbal commands). Many pet shops offer dog training if necessary.
- 3) Find a park near you with off-leash hours.
- 4) Bring along your dog's leash and bags for waste.

At the park:

- 1) Keep your dog on-leash until you are in the park. Keep your leash on hand at all times.
- 2) Check for park closed signs, wet fields, crews working in the park, or permitted activities, all of which mean off-leash hours are suspended.
- 3) Pick up after your dog and encourage others to do the same.
- 4) Keep your dog in sight at all times and under voice control.
- 5) Be mindful of your dog so that other park visitors are not anxious about their safety. Many people do not like unfamiliar dogs approaching them, and only you know whether your dog is friendly to other people.
- 6) Enjoy some off-leash fun with your dog!

With good stewardship and courtesy, you can play a role in keeping our parks clean, safe and well-maintained - places where you and your dog are always welcome.

Rules and Regulations **#242-03(4)**

1) Know When to Keep Your Dog On-Leash

- ◆ Dogs are allowed off-leash **ONLY** in designated areas. Keep your dog leashed when entering or exiting the off-leash area.
- ◆ Off-leash hours are suspended when there are permitted or school based special activities in a park.
- ◆ There are no off-leash hours when parks and fields are saturated from rain, or thawing in the spring. Please keep dogs off fields in these conditions. During and after rainfall, topsoil is 20 times more vulnerable to compaction.
- ◆ Dogs must be leashed when Parks Division crews are working in the parks.

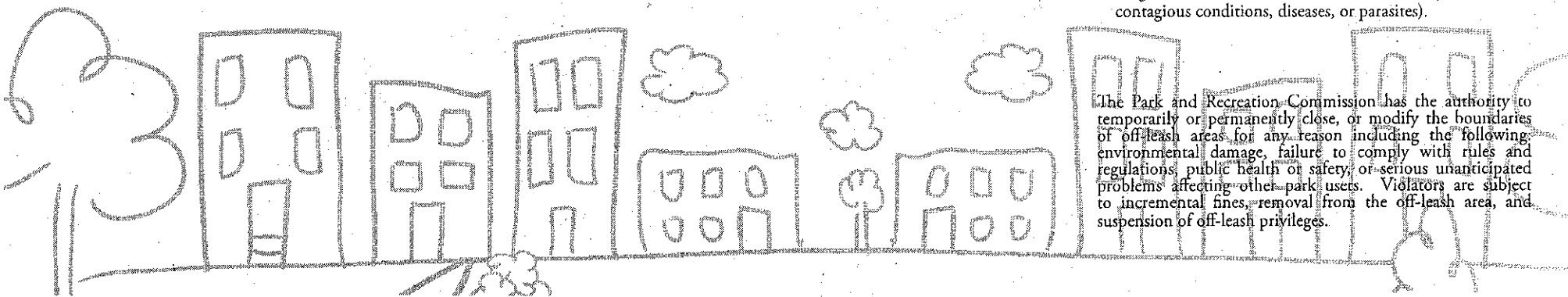
2) Be Respectful to Other Park Users and Neighbors

- ◆ Clean up after your dog in off and on-leash areas. It's a courtesy and it's the law in Brookline.
- ◆ Maintain sight and voice control of your dog. You must be able to see your dog when off-leash, and maintain effective verbal control of your dog. You are personally liable for any damage or injury your dog inflicts or receives.
- ◆ Excessive barking is not allowed. Please play quietly especially in the early morning hours.
- ◆ Dogs are not allowed in playground areas, sand boxes, hard or clay tennis courts, or basketball courts.
- ◆ Dogs must not chase or disturb wildlife or enter sanctuaries or sensitive open spaces, such as shrub and flower beds.

3) Ensure Your Dog Meets the Criteria

- ◆ Aggressive dogs are not permitted on or off-leash. Dogs who show continued aggression towards people, other dogs, or wildlife must be removed immediately.
- ◆ The number of dogs per person is limited to three.
- ◆ Dogs must be 4 months old to participate in the program.
- ◆ Dogs in heat are not allowed off-leash.
- ◆ Dogs must be licensed, vaccinated, and healthy (no contagious conditions, diseases, or parasites).

The Park and Recreation Commission has the authority to temporarily or permanently close, or modify the boundaries of off-leash areas for any reason including the following: environmental damage, failure to comply with rules and regulations, public health or safety, or serious unanticipated problems affecting other park users. Violators are subject to incremental fines, removal from the off-leash area, and suspension of off-leash privileges.



HARRINGTON & HARRINGTON
ATTORNEYS AT LAW

505 WALTHAM STREET
WEST NEWTON, MASSACHUSETTS 02465
TELEPHONE 617-558-7722
FACSIMILE 617-527-4763

Peter F. Harrington
James P. Harrington
N. Jeanette Robinson

Jay W. Goldman
City Clerk
of Newton, MA
02459

September 9, 2009

To the Members of the Programs and Services Committee of the Newton Board of Aldermen

I represent abutters to Cold Springs Park, as well as other concerned local residents, who oppose the continuation of the off-leash dog park experiment at Cold Springs Park currently being conducted by the City of Newton.

As knowledge of the experimental off-leash dog park's availability to dog owners, dog walkers and other dog care personnel spread throughout the metropolitan Boston area, the use of Cold Springs Park for off-leash dog activities grew to include use not only by Newtonites, but also by citizens of other communities and use by professional dog care business people.

The first among my clients many concerns is that this experiment, in its uncontrolled status, is turning into a disaster for local residents, neighbors and those non dog owners who wish to use Cold Springs Park. This situation is not the result of the actions of responsible dog owners seeking a recreation area for their pets, but is a direct result of providing an unsupervised recreation area open to all comers, without regard for their connection to the community, their commitment to follow our Ordinances and Regulations, or their ability to control their dogs. If the need is great and the space is limited, proper administration requires a process to control the use or cancellation of the program until such a process can be put in place.

A second major concern is dog defecation and urination. There can be no question that this practice creates a serious health hazard, which will only increase with use. Untreated fecal matter contains millions of coliform bacteria. Dogs can also be hosts of infectious disease such as Giardia, campylobacter and Salmonella, all of which are dangerous to human health. Additionally, this breeding ground will attract flies and other insects, the result of which is the spread of potentially harmful disease. There is no program to ameliorate this potentially dangerous situation. Until such a program is in place the off-leash dog program should be suspended.

Perhaps dog owners should be required to have their dogs urinate and defecate at their place of residence before they come to a recreation area. You might recommend the Board of Aldermen enact an ordinance prohibiting the urination and defecation by canines on public and private property of others or, in the alternative, make such activity a public nuisance or trespass. Certainly such activity is no less offensive than spitting in public, which is prohibited by law.

You might also consider charging a user fee, limiting the hours of use, requiring a license, a permit or some type of membership or admission pass, to pay the additional cost of policing and maintaining such a park. The implementation of these reasonable regulations, designed to protect the public and public land, should be imposed on any off-leash dog activity area. You should first address the objections and concerns of the Park neighbors and the non-dog owner citizens of Newton, before you consider extending the "experiment" or opening another off-leash dog park.

Finally, and most important, is the fact that the use of Cold Springs Park for the purpose of a "Dog Park" is a violation of the United States Department of the Interior, Land and Water Conservation Fund Project Number 25-00254 Agreement.

As a result of improvements made under that Agreement, the entire 66 acre Cold Springs Park is subject to the provisions of USC 16, §4601-8(f)(3), which states, in part, ". . .No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses. . . ."

It is my client's position that conversion of Park use for the private and commercial exercise of and to provide a venue for the social interaction of domestic animals is not a public outdoor recreational use contemplated under the Agreement and requires the approval of the US Secretary of the Interior. Further, the unattended excrement left by dogs and/or their owners, is an act that restricts and/or prohibits the use of the Park for public outdoor recreation use.

The "Dog Park" use constitutes a conversion and unauthorized use of Cold Springs Park and, in particular, it impedes the recreation use authorized and funded under said Agreement.

I understand that the City's position is that is that the unfenced off-leash "dog park" at Cold Springs Park, was a public policy decision and outside of the control and/or authority of the Mayor. The question then arises as to where the responsibility lies. My position is that even if it is a policy decision, it constitutes a change that is a violation of law and must be terminated.

On December 31, 1983, the United States Department of Interior approved a project that included Cold Springs Park improvements for the "Development of sports and playfields, trails and support facilities". As a result the Cold Springs Park became subject to Land and Water Conservation Fund Act enacted by the U.S. Congress, specifically, Section 4061-8 (f)(3) of the LWCF Act. This section provides that any change of use at Cold Springs Park requires advance review and approval by the Massachusetts Executive Office of Energy and Environmental Affairs as well as the National Park Service under the United States Department of the Interior.

A change of use from sports and playfields, trails and support facilities to an off-leash dog park is a change that requires the review and approval by the Massachusetts Executive Office of Energy and Environmental Affairs, as well as the National Park Service under the United States Department of the Interior. Before you can proceed you must obtain such approvals.

I understand that some of your constituents are concerned that their canine pets have time and opportunity to consort and have social interaction with other dogs, but the question is whether or not that canine need should supersede the rights of Newton Citizens. A further question is whether or not the Newton Board of Aldermen should sanction a proposal so clearly in violation for Federal Law.

This is not a new position, nor is the raising of the point of law new. It is well known to your Law Department, as it was raised and discussed in 1995. The then City Planner, Gene Bober, acknowledged that the 66 acre park had been the subject of a Land and Water Conservation Fund grant. At that time, the City of Newton dropped plans to change the use of the park.

I have attached copies of the various documents I have referred to. Thank you for your time and attention.

Peter F. Harrington

UNITED STATES DEPARTMENT OF THE INTERIOR
Heritage Conservation and Recreation Service
Land and Water Conservation Fund Project Agreement

State Massachusetts

Project Number 25-00254

Project Title Statewide FY 79 Consolidated Grant

Project Period Date of Approval to
12/31/83Project Stage Entire Project
Covered by this Agreement

Project Scope (Description of Project)

This project consists of the development of park and recreation facilities throughout the State as further identified in the attached Description and Notification Forms A-K.

Project Cost

Total Cost \$ 4,831,075

Fund Support not
to exceed 50%
Fund Amount \$ 2,398,657Cost of this
Stage \$ 4,831,075Assistance this
Stage \$ 2,398,657The following are hereby incorporated
into this agreement:

1. General Provisions (HCRS Manual)
2. Project Application and Attachments.
3. _____
4. _____

HCRS 8-92

Date

By

The United States of America, represented by the Director, Heritage Conservation and Recreation Service, United States Department of the Interior, and the State named above (hereinafter referred to as the State), mutually agree to perform this agreement in accordance with the Land and Water Conservation Fund Act of 1965, 78 Stat. 897 (1964), the provisions and conditions of the Heritage Conservation and Recreation Service Manual (Grants-in-Aid Series), and with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, and assurances attached hereto or retained by the State and hereby made a part hereof.

The United States hereby promises, in consideration of the promises made by the State herein, to obligate to the State the amount of money referred to above, and to tender to the State that portion of the obligation which is required to pay the United States' share of the costs of the above project stage, based upon the above percentage of assistance. The State hereby promises, in consideration of the promises made by the United States herein, to execute the project described above in accordance with the terms of this agreement.

The following special project terms and conditions were added to this agreement before it was signed by the parties hereto:

In witness whereof, the parties hereto have executed this agreement as of the date entered below.

THE UNITED STATES OF AMERICA

By

[Signature]
DEPUTY Regional Director
(Signature)

Heritage Conservation and
Recreation Service
United States Department
of the Interior

Date

5/21/79

STATE

Massachusetts

By

[Signature]
(Signature)

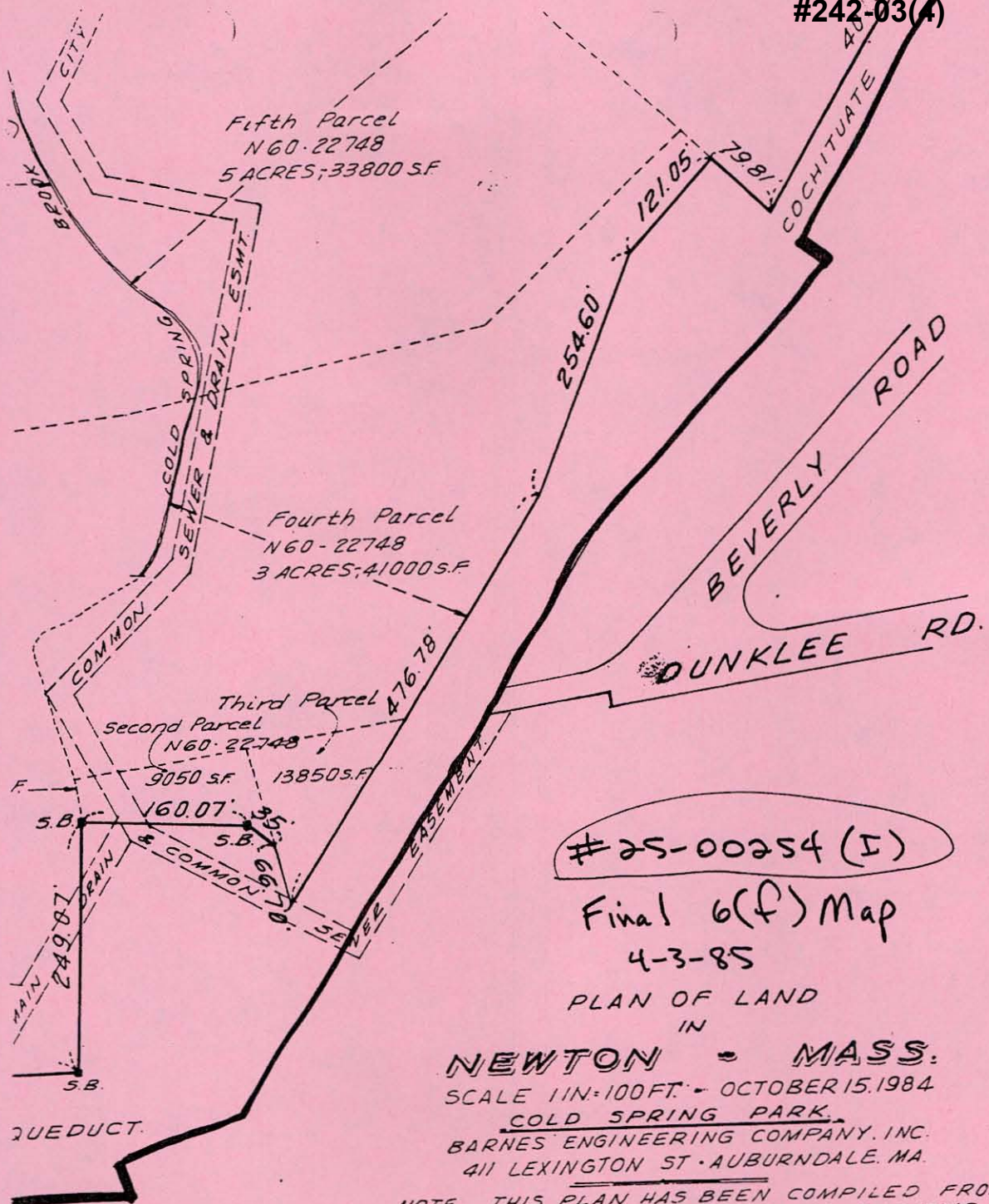
John A. Bewick

(Name)

State Liaison Officer

(Title)

#242-03(4)



#25-00254 (I)

Final 6(f) Map

4-3-85

PLAN OF LAND
IN

NEWTON - MASS.

SCALE 1/4"=100 FT. - OCTOBER 15, 1984

COLD SPRING PARK

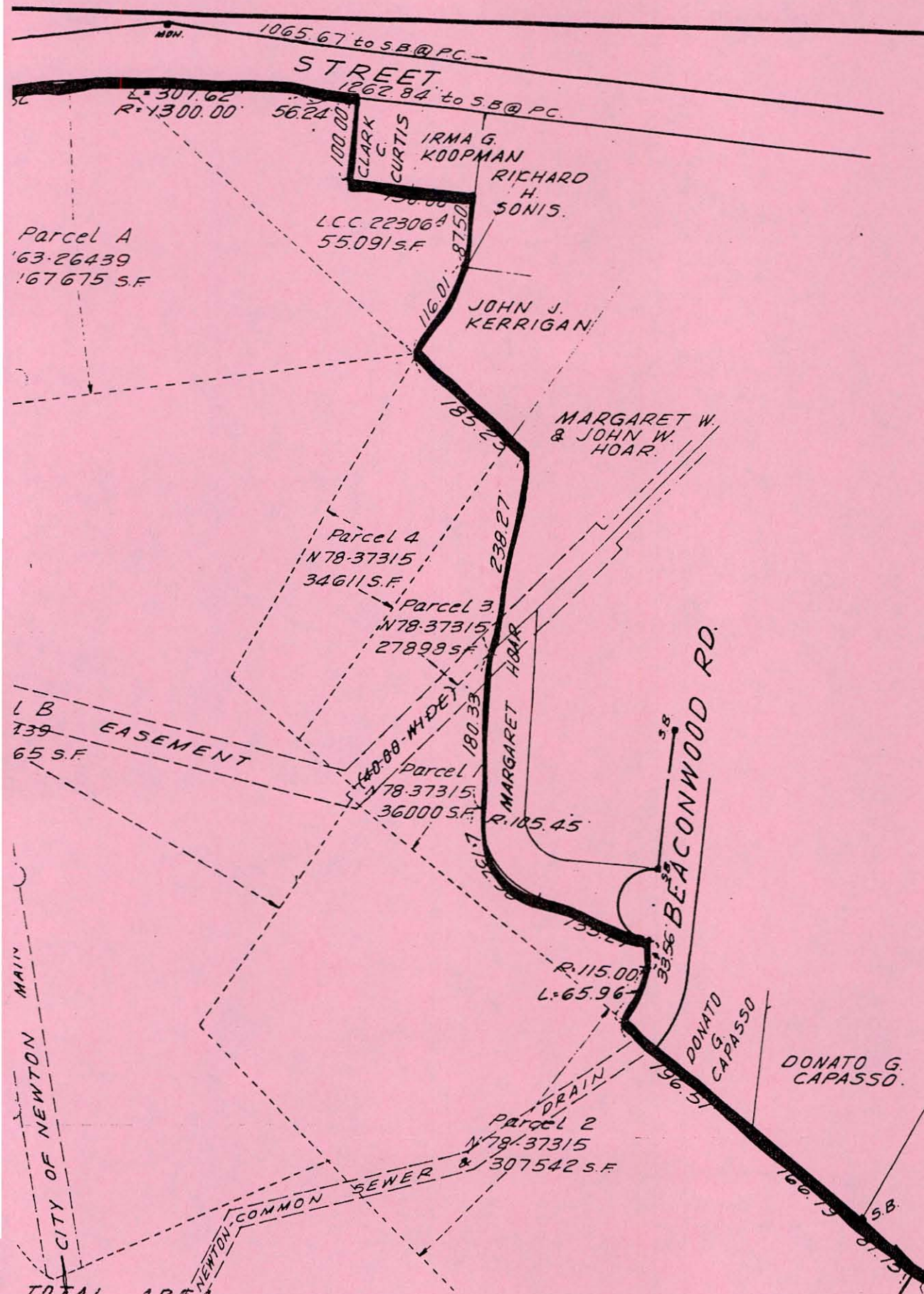
BARNES ENGINEERING COMPANY, INC.

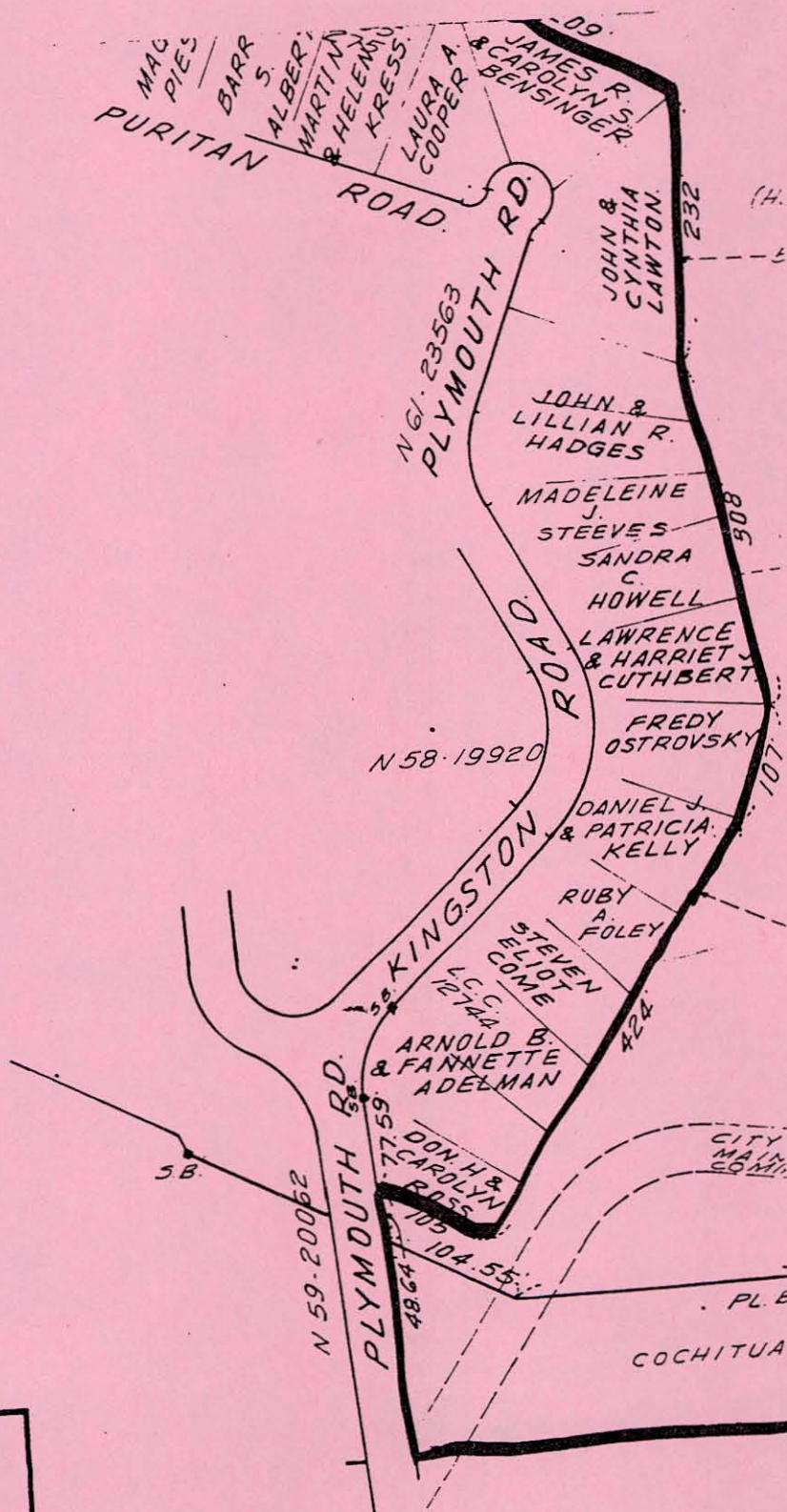
411 LEXINGTON ST. AUBURNDALE, MA.

NOTE THIS PLAN HAS BEEN COMPILED FROM
PLANS OF RECORD AND ACTUAL SURVEYS,
AS NOTED; NUMBERS REFER TO PLANS ON
FILE AT THE NEWTON ENGINEERING DEPT

I CERTIFY THAT THIS PLAN HAS BEEN
PREPARED IN CONFORMANCE WITH
GENERAL LAWS CH. 36, SEC. 13A, AS
APPROVED 1-1-76

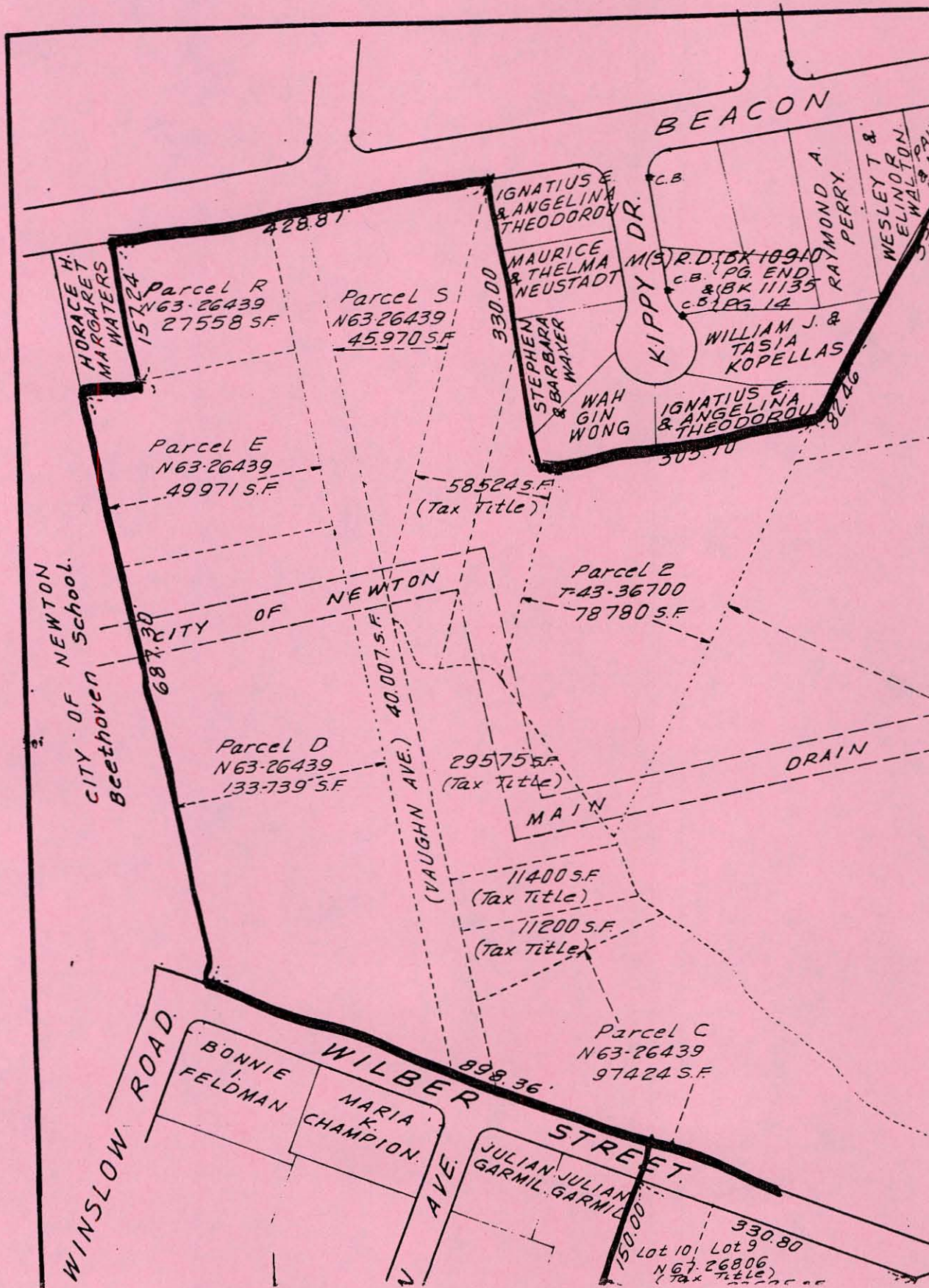
October 15, 1984 Date Joseph A. Bodo, P.L.S. 6445
Registered Land Surveyor





Final 6 (F) Map
4-3-85





Form # 666
March 1978

LAND AND WATER CONSERVATION AND #242-03(4)
DESCRIPTION AND NOTIFICATION RM

NEW AMEND CORR

STATE	PROJ	ELEM
25	00254	I

PROJECT NAME
Statewide FY 79 Consolidated Grant

RECEIVED		
MO	DAY	YR

APPROVED		
MO	DAY	YR

EXPIRATION		
MO	DAY	YR

TARGETS			
MO	YR	MO	YR
START		STOP	

TYPE
A = acquisition D = new development R = renovation development C = combination P = planning

ELEMENT NAME
* Cold Spring Park

SPONSOR
L = local S = state C = county

SPONSOR NAME
City of Newton

ADDRESS:

SCOPE NARRATIVE:				
Development of sports and playfields, trails and support facilities				
FINANCIAL DATA ESTIMATES:				
TOTAL COST	FUND AMOUNT	SOURCE OF OTHER		
\$500,000.00	\$250,000.00	STATE (11)	LOCAL (12)	FED (13)
CLEARINGHOUSE DATA:				
NAME				RESP
1. STATE #				
2. LOCAL				
3.				

CNTY	CITY

CENSUS TRACT

CONGRESS DISTRICT

ACREAGE ACQUIRED

DONATED ACRES

ACQUIS. ASSISTANCE

SPECIAL INDICES		
A = leased land—private B = leased land—federal C = coastal project E = surplus property F = flood plain H = handicapped emphasis	I = indian sponsored L = less than fee acquisition M = mined land P = natural heritage preservation Q = railroad—R-O-W R = national river	S = school park T = national trail U = utility—R-O-W W = wetlands X = project involved conversion Z = contingency reserve

FACILITY			
A. 00. CAMPGROUNDS 01. tent sites 02. trail or camper sites 03. group campground 04. day camp	D. 00. GOLF COURSE 01. regular 02. par 3 03. driving range	H. 00. TRAILS 01. hiking 02. horse 03. bicycle 04. motorized 05. nature 06. exercise	P. 00. PASSIVE PARKS Q. 00. SUPPORT FACILITY 01. walkways 02. site improvement/landscaping 03. utilities 04. equipment 05. roads 06. parking 07. lighting 08. signs 09. comfort station 10. concession bldg 11. maintenance bldg
B. 00. PICNIC AREAS 01. family site 02. group shelter	E. 00. SWIMMING FACILITIES 01. pool 02. wading pool 03. spray pool 04. swimming beach 05. bathhouse	J. 00. WINTER SPORTS FACILITIES 01. ski lift 02. ski slope 03. ski jump 04. sled/toboggan run 05. skating rink 06. ski trails 07. snowmobile trails 08. warming huts	R. 00. AMPHITHEATER/BAND SHELL S. 00. LAKE IMPOUNDMENTS T. 00. VISITOR INFORMATION CENTER U. 00. INTERPRETIVE CENTER V. 00. OTHER
C. 00. SPORTS & PLAYFIELDS 01. general purpose playfields 02. baseball/softball 03. football/soccer 04. tot lot 05. tennis courts 06. other courts 07. rifle/pistol range 08. trap/shoot field 09. archery range 10. rodeo area 11. track facility	F. 00. BOATING FACILITIES 01. launch ramp 02. berths 03. boat lift	K. 00. SHELTERED POOL L. 00. SHELTERED ICE RINK M. 00. HUNTING N. 00. NATURAL AREA	
G. 00. FISHING FACILITIES 01. pier 02. stream improvement 03. fishing access			

REGIONAL SOLICITOR
RECEIVED

MAR 16 1995

U.S. DEPT. OF THE INTERIOR
NORTHEAST REGION

ELIZABETH A. RITVO
17 Terrace Avenue
Newton Highlands, MA 02161
(617) 965-1754

March 15, 1995

Ms. Jennifer Soper
Executive Office of Environmental Affairs
14th Floor
100 Cambridge Street
Boston, MA 02202

Re: Land and Water Conservation Fund Project
Number 25-00254 MA
Project Element - Cold Spring Park

Dear Ms. Soper:

I am writing concerning Cold Spring Park located in Newton Highlands, Massachusetts. My family and I live within one block of Cold Spring Park and, like many of our neighbors, use the park extensively.

As may have come to the attention of your office, the City of Newton has identified Cold Spring Park as a potential site on which to build a new middle school. There is substantial opposition, both within the Newton Highlands community and among those who oppose converting our limited park areas to non-parkland use.

The City of Newton benefitted from a Land and Water Conservation Fund (LWCF) grant, made in 1979, to develop park and recreational facilities in Cold Spring Park. As a result of the LWCF grant, the park is subject to federal restriction against conversion to non-outdoor recreation use. (See enclosed letter from James E. Epstein, Deputy Regional Solicitor, Northeast Region, U.S. Department of the Interior dated February 21, 1995.)

It is my understanding that land such as Cold Spring Park cannot be converted to other than public outdoor recreational use unless the Secretary of the Interior agrees to the conversion. As part of the approval process, the (Regional) Director of the National Park Service must find, along with other factors, that all practical alternatives to conversion have been evaluated and rejected on a sound basis and that appropriate substituted

Ms. Jennifer Soper
March 15, 1995
Page Two

property has been acquired which property is reasonably equivalent in usefulness and location. In our community, we do not believe the City of Newton can satisfy these requirements.

It is also my understanding that your office must approve any request by the City of Newton to convert any portion of Cold Spring Park to a use which is not for recreational, public outdoor purposes. Accordingly, I would ask that I be informed if the City of Newton requests permission from your office to convert the use of any portion of Cold Spring Park and if your office takes any action on such a request.

Very truly yours,

Elizabeth A. Ritvo
Elizabeth A. Ritvo

/mrb

cc: Mayor T. Concannon
Anne Larner, Chair, Newton School Committee
Daniel Funk, Esq.
Gene Bober, Newton City Planner
James E. Epstein, Esq. ✓
Deborah Richards, Div. Planning & Grants Assistance
Lyle Baker, Alderman
Lenny Gentile, Alderman
Richard McGraton, Alderman
Anthony Salvucci, Alderman
Christine Samuelson, Alderman
Paul Coletti, Alderman
Sydra Schnipper, Alderman



United States Department of the Interior

OFFICE OF THE SOLICITOR

One Gateway Center - Suite 612
Newton Corner, MA 02158-2802

February 21, 1995

Zygmunt Plater
Professor of Law
Boston College Law School
Newton Centre, MA 02159

Re: Land and Water Conservation Fund Project Number 25-00254, MA
Project Element -- Cold Spring Park

Dear Mr. Plater:

Thank you for your letter of February 17 and your relaying to our attention the presentation of Newton City Planner Gene Bober and the City's school facility task force that the City is aware that some portion of Cold Spring Park had been the subject of a Land and Water Conservation Fund (LWCF) grant.

Mr. Bober is correct that Cold Spring Park has benefited by such a grant and is subject to federal restriction against conversion to non-outdoor recreation use. Our review of file material which we received from the National Park Service Division of Planning and Grants Assistance -- a copy of which I am providing you under your request -- shows that 66 acres of the park is protected.

Thank you for your interest.

Sincerely,

JAMES E. EPSTEIN
Deputy Regional Solicitor
Northeast Region

encl as stated

cc: Gene Bober, Newton City Planner w/encl
National Park Service Regional Office, Philadelphia
Attn: Deborah Richards, Div. Planning & Grants Assistance
w/copy of Plater ltr dtd Feb 17 '95

CONSERVATION

CONSERVATION

#242-03(4)
16 § 4601-8

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ce Agency financed plans; plan-
ity plan

shall be required prior to the
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4601-4 to 4601-11 of this title:
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have waived any benefits
42 and for the purposes of
displaced person as defined

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under lease to States for
hat no assistance shall be

available under sections 4601-4 to 4601-11 of this title to enclose or shelter facilities normally used for outdoor recreation activities, but the Secretary may permit local funding, and after September 28, 1976, not to exceed 10 per centum of the total amount allocated to a State in any one year to be used for sheltered facilities for swimming pools and ice skating rinks in areas where the Secretary determines that the severity of climatic conditions and the increased public use thereby made possible justifies the construction of such facilities.

(f) Requirements for project approval; conditions; progress payments; payments to Governors or State officials or agencies; State transfer of funds to public agencies; conversion of property to other uses; reports to Secretary; accounting; records; audit; evaluations by States; discrimination prohibited

(1) Payments may be made to States by the Secretary only for those planning, acquisition, or development projects that are approved by him. No payment may be made by the Secretary for or on account of any project with respect to which financial assistance has been given or promised under any other Federal program or activity, and no financial assistance may be given under any other Federal program or activity for or on account of any project with respect to which such assistance has been given or promised under sections 4601-4 to 4601-11 of this title. The Secretary may make payments from time to time in keeping with the rate of progress toward the satisfactory completion of individual projects: *Provided*, That the approval of all projects and all payments, or any commitments relating thereto, shall be withheld until the Secretary receives appropriate written assurance from the State that the State has the ability and intention to finance its share of the cost of the particular project, and to operate and maintain by acceptable standards, at State expense, the particular properties or facilities acquired or developed for public outdoor recreation use.

(2) Payments for all projects shall be made by the Secretary to the Governor of the State or to a State official or agency designated by the Governor or by State law having authority and responsibility to accept and to administer funds paid hereunder for approved projects. If consistent with an approved project, funds may be transferred by the State to a political subdivision or other appropriate public agency.

(3) No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.² *Provided*, That wetland areas and interests therein as identified in the wetlands provisions of the comprehensive plan and proposed to be acquired as suitable replacement property within that same State that is otherwise acceptable to the Secretary, acting through the Director of the National Park Service, shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion.

(4) No payment shall be made to any State until the State has agreed to (1) provide such reports to the Secretary, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his duties under sections 4601-4 to 4601-11 of this title, and (2) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting for Federal funds paid to the State under sections 4601-4 to 4601-11 of this title.

(5) Each recipient of assistance under sections 4601-4 to 4601-11 of this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(6) The Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under sections 4601-4 to 4601-11 of this title.

Senate, No. 2120

[Senate, July 28, 2009– Substituted by amendment by the Senate (Ways and Means) for Senate, No. 406]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND NINE

AN ACT FURTHER REGULATING ANIMAL CONTROL

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 **SECTION 1.** Chapter 129 of the General Laws is hereby amended by inserting after
2 section 39F the following section:-

3 Section 39G. (a) A dog or cat brought or shipped into the commonwealth shall be
4 accompanied by an official health certificate issued by an accredited veterinarian, a copy of
5 which shall be sent to the commissioner of agricultural resources.

6 (b) An official health certificate shall mean a legible certificate or form issued by an
7 accredited veterinarian and approved by the chief livestock official of the state or county of
8 origin containing the name and address of the consignor and consignee. The certificate or form

9 shall also show age, sex, breed and description of each dog or cat and certify that the dog or cat
10 is free from visual evidence of infectious or contagious disease. The certificate or form shall
11 show proof of rabies vaccination within the previous 12 months. A dog or cat imported into the
12 commonwealth that is not currently vaccinated for rabies shall be vaccinated within 30 days of
13 entry or acquisition or upon reaching the age of 6 months.

14 (c) A dog or cat purchased within the commonwealth for resale by a commercial
15 establishment or pet shop shall be accompanied by a health certificate, issued by an accredited
16 veterinarian, which shall show age, sex, breed, and description of each dog or cat and certify
17 that the dog or cat is free from visual evidence of infectious or contagious disease.

18 (d) A commercial establishment, pet shop, firm or corporation shall not import into the
19 commonwealth for sale or resale in the commonwealth a cat or dog less than 8 weeks of age.

20 (e) A dog or cat sold in the commonwealth by a commercial establishment, pet shop,
21 firm or corporation shall be accompanied by a health record indicating the date and type of each
22 vaccine administered.

23 (f) Whoever is convicted of a violation of this section shall be punished by a fine of not
24 less than \$50 nor more than \$100 for each such offense. In addition thereto, or in lieu thereof,
25 the commissioner may, after notice and hearing, revoke or suspend a pet shop, kennel, and
26 boarding kennel license of a person, firm or corporation maintaining the pet shop, kennel and
27 boarding kennel for a violation of this section.

28 (g) A person, firm or corporation aggrieved by an order under this section may, by
29 petition, appeal within 30 days to the superior court where the person resides, or where the firm
30 or corporation is located. The person shall, in substance, state the findings by the commissioner

31 and the grounds of appeal and the court shall consider the proceedings de novo and the parties
32 thereto shall have right of exception and appeal.

33 **SECTION 2.** Chapter 140 of the General Laws is hereby amended by striking out
34 section 136A, as appearing in the 2008 Official Edition, and inserting in place thereof the
35 following section:-

36 Section 136A. The following words and phrases as used in sections 137 to 175,
37 inclusive, unless the context otherwise requires, shall have the following meanings:

38 “Adoption”, the delivery of a cat or dog to any person 18 years of age or older for the
39 purpose of harboring as a pet.

40 “Animal control officer”, an officer appointed under said sections to enforce the laws in
41 sections 137 to 175, inclusive.

42 “Commercial boarding or training kennel”, a kennel or establishment, other than an
43 animal shelter or animal control facility, used for boarding, holding, day care, overnight stays or
44 training during which the owner is not present, for a fee or consideration; provided, however,
45 that this shall not include dogs owned by the operator, grooming facilities holding dogs solely
46 for the purpose of grooming and not overnight boarding, individuals who temporarily, and not
47 in the normal course of business, board or care for animals owned by others, or a licensed pet
48 shop.

49 “Commercial breeder kennel”, an establishment, other than a personal kennel, engaged
50 in the business of breeding animals for sale or for exchange to wholesalers, brokers or pet shops
51 in return for consideration.

52 “Commissioner”, the commissioner of agricultural resources, except in section 174D,
53 where the commissioner shall mean the commissioner of public health.

54 “Department”, the department of agricultural resources.

55 “Domestic charitable corporation kennel”, a facility operated, owned, or maintained by a
56 domestic charitable corporation registered with the department, or an animal welfare society or
57 other nonprofit organization incorporated for the purpose of providing for and promoting the
58 welfare, protection and humane treatment of animals, including a veterinary hospital or clinic
59 operated by a licensed veterinarian, which operates for the above purpose in addition to
60 providing medical treatment and care.

61 “Keeper”, any person, corporation or society, other than the owner, harboring or having
62 in his possession any dog.

63 "Kennel", 1 pack or collection of dogs on a single premise, including a commercial
64 boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel,
65 personal kennel or veterinary kennel.

66 “License period”, the time during which a dog is licensed as determined by a city or
67 town.

68 “Live stock or fowls”, animals or fowls kept or propagated by the owner for food or as a
69 means of livelihood, deer, elk, cottontail rabbits, northern hares, pheasants, quail, partridges
70 and other birds and quadrupeds determined by the department of fisheries, wildlife and
71 environmental law enforcement to be wild and kept by, or under a permit from, said department

72 in proper houses or suitable enclosed yards; provided, however, that such phrase shall not
73 include dogs, cats and other pets.

74 "Personal kennel", 1 pack or collection of more than 4 dogs 3 months old or over, owned
75 or kept by a person on a single premises, under 1 ownership, for private personal use; provided,
76 however, that breeding of personally owned dogs may take place for the purpose of improving,
77 exhibiting or showing the breed, use in sporting activity or other personal reasons; provided,
78 further, that selling, trading, bartering or the distribution of such breeding from a personal
79 kennel shall be to other breeders or individuals by private sale only and not to wholesalers,
80 brokers or pet shops; provided, further, that kennels in this category shall not sell, trade, barter
81 or distribute any dogs not bred from their personally owned dogs; provided, further, that dogs
82 temporarily housed at a personal kennel in conjunction with an animal shelter or rescue
83 registered with the department may be sold, traded, bartered or distributed as long as the transfer
84 is not made for the purpose of making a profit.

85 "Research institution", any institution operated by the United States or by the
86 commonwealth or a political subdivision thereof, or any school or college of medicine, public
87 health, dentistry, pharmacy, veterinary medicine or agriculture, medical diagnostic laboratory or
88 biological laboratory, hospital or other educational or scientific establishment within the
89 commonwealth above the rank of secondary school, which, in connection with any of its
90 activities, investigates or gives instruction concerning the structure or functions of living
91 organisms or the causes, prevention, control or cure of diseases or abnormal conditions of
92 human beings or animals.

93 “Shelter”, a public animal control facility, or any other facility which is operated by any
94 organization or individual for the purpose of protecting animals from cruelty, neglect, or abuse.

95 “Veterinary kennel”, a veterinary hospital or clinic that boards dogs for reasons in
96 addition to medical treatment or care; provided, however, that this shall not apply to a hospital
97 or clinic used solely to house dogs that have undergone veterinary treatment, observation, or
98 will do so, only for the period of time needed to accomplish the needed veterinary care.

99 **SECTION 3.** Said chapter 140 is hereby further amended by striking out section 137,
100 as so appearing, and inserting in place thereof the following section:-

101 Section 137. (a) A dog over the age of 6 months shall be licensed by the owner or
102 keeper. The registering, numbering, describing and licensing of a dog, if kept in the city of
103 Boston shall be in the office of the police commissioner or if kept in any other town or city, in
104 the office of the town or city clerk thereof.

105 (b) A town or city clerk or, in the city of Boston, the police commissioner, shall not
106 grant a license for a dog unless the owner thereof provides the town or city clerk or, in the city
107 of Boston, the police commissioner, either a veterinarian's certification that the dog has been
108 vaccinated in accordance with section 145B, has been certified exempt from the provision as
109 hereinafter provided, or a notarized letter from a veterinarian that a certification was issued.

110 (c) The license shall be subject to the condition expressed therein that the dog which is
111 the subject of the license shall be controlled and restrained from killing, chasing or harassing
112 live stock or fowls. The owner of a dog may add no more than 10 words upon the license form
113 to indicate the color, breed, weight and special markings of the licensed dog. The owner or
114 keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness of

115 leather or other suitable material, to which shall be securely attached a tag, and upon which
116 shall appear the license number, the name of the town issuing the license and the year of issue.
117 If the tag shall be lost, the owner or keeper of such dog shall forthwith secure a substitute tag
118 from the city or town clerk or, in the city of Boston, from the police commissioner, at a cost to
119 be determined by the city or town which, if received by a city or town clerk, shall be retained by
120 him unless otherwise provided by law. This section shall not apply where it is otherwise
121 provided by law, nor shall it apply to a person having a kennel license.

122 **SECTION 4.** Said chapter 140 is hereby further amended by striking out section 137A,
123 as so appearing, and inserting in place thereof the following section:-

124 Section 137A. (a) Every person maintaining a kennel shall have a kennel license. An
125 owner or keeper of less than 4 dogs, 3 months old or over, who does not maintain a kennel may
126 elect to secure a kennel license in lieu of licensing the dogs under section 137, and shall be
127 subject to this section and to sections 137B and 137C and to so much of section 141 as relates to
128 violations of this section to the same extent as though the owner or keeper were maintaining a
129 kennel. The city or town clerk, or the police commissioner of the city of Boston, shall issue
130 kennel licenses for kennels, as defined in section 136A, subsequent to an inspection by the
131 animal control officer.

132 b) The kennel license shall be in lieu of any other license for any dog while kept at the
133 kennel during any portion of the period for which the kennel license is issued. The holder of a
134 license for a kennel shall cause each dog kept therein to wear, while it is at large, a collar or
135 harness of leather or other suitable material, to which shall be securely attached a tag upon
136 which shall appear the number of the kennel license, the name of the city or town issuing the

137 license and the year of issue. The tags shall be furnished to the owner or keeper by the clerk of
138 the city or town in which the kennel is licensed, or, if licensed in the city of Boston, by the
139 police commissioner, in quantities not less than the number of dogs kept in the kennel. The fee
140 for each license for a kennel shall be determined by the city or town; but, for the purpose of
141 determining the amount of the fee for a kennel, a dog under the age of 6 months shall not be
142 counted in the number of dogs kept therein. The name and address of the owner of each dog
143 kept in a kennel, if other than the person maintaining the kennel, shall be kept at the kennel and
144 available to inspection by an animal control officer, natural resource officer, deputy natural
145 resource officer, fish and game warden or police officer.

146 (c) The clerk of a city or town or, in the city of Boston, the police commissioner, shall
147 upon application issue without charge a kennel license to a domestic charitable corporation
148 incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse
149 and for the relief of suffering among animals.

150 (d) The commissioner may promulgate rules and regulations for the licensing of
151 kennels and catteries.

152 **SECTION 5.** Section 137B of said chapter 140 , as so appearing, is hereby amended
153 by inserting after the word “town”, in lines 14 and 18, each time it appears, the following
154 words:- or city.

155 **SECTION 6.** Said chapter 140 is hereby further amended by striking out section 137C,
156 as so appearing, and inserting in place thereof the following section:-

157 Section 137C. The mayor of a city, the selectmen of a town, in Boston, the police
158 commissioner, a chief of police or an animal control officer may at any time inspect, or cause to

159 be inspected, a kennel. If, in the judgment of such person or body, the kennel is not being
160 maintained in a sanitary and humane manner, or if records are not properly kept as required by
161 law, such person or body shall by order revoke or suspend, and in case of suspension may
162 reinstate, such license. Upon the petition of 25 citizens, filed with the mayor of a city or the
163 selectmen of a town or, in Boston, with the police commissioner setting forth a statement that
164 such citizens are aggrieved or annoyed to an unreasonable extent by 1 or more dogs at a kennel
165 maintained in such city or town, due to excessive barking or dangerous disposition of the dogs
166 or other conditions connected with a kennel constituting a public nuisance, the mayor,
167 selectmen or police commissioner, as the case may be shall, within 7 days after the filing of the
168 petition, give notice to all parties in interest of a public hearing to be held within 14 days after
169 the date of such notice. The mayor, selectmen or police commissioner within 7 days after the
170 public hearing shall investigate or cause to be investigated the subject matter of the petition and
171 shall, by order, either suspend or revoke the kennel license or otherwise regulate the kennel, or
172 dismiss the petition. Written notice of an order under this section revoking, suspending or
173 reinstating a license shall be mailed forthwith to the officer issuing the license and to the holder
174 of the license. Within 10 days after the order the holder of the license may bring a petition in the
175 district court within the judicial district of which the kennel is maintained, addressed to the
176 justice of the court, praying that the order may be reviewed by the court. After notice to the
177 officer or officers involved as the court may consider necessary, the court shall review the
178 action, hear the witnesses and affirm the order unless it shall appear that it was made without
179 proper cause or in bad faith, in which case the order shall be reversed. The decision of the court
180 shall be final and conclusive upon the parties. A person maintaining a kennel after the license

181 has been so revoked, or while the license is suspended, shall be punished by a fine not more
182 than \$250.

183 **SECTION 7.** Said section 137D of said chapter 140 , as so appearing, is hereby further
184 amended by striking out, in line 15, the word “two” and inserting in place thereof the following
185 figure:- 5.

186 **SECTION 8.** Section 138 of said chapter 140 , as so appearing, is hereby amended by
187 inserting after the word “town” , in lines 2 and 3, the following words:- or city.

188 **SECTION 9.** Said section 138 of said chapter 140 , as so appearing, is hereby further
189 amended by striking out, in line 9, the word “three” and inserting in place thereof, in each
190 instance, the following figure:- 6.

191 **SECTION 10.** Said section 138A of said chapter 140 is hereby repealed.

192 **SECTION 11.** Said chapter 140 is hereby further amended by striking out section 139,
193 as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

194 Section 139. (a) The fee for every license shall, except as otherwise provided, be
195 determined by a city or town, provided this fee is not less than \$6 for a spayed or neutered dog
196 and not more than \$50 for an intact dog, 3 dollars of which shall be a surcharge which shall be
197 deposited in the General Fund. A portion of this amount, subject to appropriation, shall be used
198 by the commissioner for the purpose of animal control and spaying and neutering programs.
199 The department shall establish rules and regulations relating to the spay/neuter program to
200 distribute these funds in an effective manner targeting low-income pet owners and feral cats.

201 (b) If a certificate of a registered veterinarian who spayed or neutered a dog has been
202 shown to the city or town clerk, the license fee shall be lower than that of an intact animal. If the
203 city or town clerk is satisfied that the certificate of the veterinarian who spayed or neutered the
204 dog cannot be obtained, the clerk may accept instead a statement signed under the penalties of
205 perjury by a veterinarian registered and practicing in the commonwealth, describing the dog and
206 stating that the veterinarian has examined the dog, which appears to have been spayed or
207 neutered and thereby deprived of the power of propagation or a receipt of a bill from the
208 veterinarian who performed the operation.

209 (c) A fee shall not be charged for a license for a dog specially trained to lead or serve a
210 blind person; provided, however, that the Massachusetts commission for the blind certifies that
211 the dog is so trained and actually in the service of a blind person. A fee shall not be charged for
212 a license for a dog owned by a person aged 70 years or over in any city or town that accepts this
213 provision. A fee shall not be charged for a license for a dog professionally trained in the hearing
214 dog business to serve a deaf person; provided, however, that the director of the office the
215 Massachusetts commission for the deaf and hard of hearing certifies that the dog is so trained
216 and actually in the service of the deaf person. The Massachusetts office on disability shall adopt
217 rules and regulations for the licensing of service dogs and a fee shall not be charged for a
218 license for a dog recognized as a service dog. A license fee or part thereof shall not be refunded
219 because of the subsequent death, loss, spaying, or removal from the commonwealth or other
220 disposal of the dog, nor shall a license fee or part thereof paid by mistake be paid or recovered
221 back after it has been paid over to a city or town under section 147.

222 **SECTION 12.** Section 139A of said chapter 140, as so appearing, is hereby amended,
223 in line 2, by inserting after the word “unless” the following words:- a written agreement is
224 entered into and.

225 **SECTION 13.** Said section 139A of said chapter 140, as so appearing, is hereby further
226 amended by striking out, in lines 2 and 3, the words “ten nor more than thirty dollars” and
227 inserting in place thereof the following figure:- \$40.

228 **SECTION 14.** Said section 139A of said chapter 140, as so appearing, is hereby further
229 amended by adding the following paragraph:-

230 The commissioner may set fines for violations and may further establish regulations to
231 ensure compliance with this section. Additionally, an animal control officer, an officer licensed
232 under section 57 of chapter 22C, a police officer or an animal shelter from which an animal was
233 obtained may bring a petition in the district court within the judicial district of which the dog or
234 cat is owned or kept for an action of forfeiture and relinquishment of ownership. Legal fees or
235 court costs incurred in the enforcement of this section shall be the responsibility of the owner of
236 the animal.

237 **SECTION 15.** Chapter 140 is hereby further amended by striking out section 141, as so
238 appearing, and inserting in place thereof the following section:-

239 Section 141. Whoever violates any provision of sections 137, 137A, 137B or 138 shall
240 forfeit not less than \$50, which shall be paid to the city or town. If the dog as to which such
241 violation occurs was unlicensed at the time of such violation, the court shall impose the
242 forfeiture provided herein.

243 **SECTION 16.** Section 145 of said chapter 140, as so appearing, is hereby amended by
244 striking out, in lines 3 and 4, the words “to the director of accounts upon application therefor”.

245 **SECTION 17.** Section 145A of said chapter 140, as so appearing, is hereby amended
246 by striking out, in lines 11 to 30, inclusive, the words “A city or town so furnishing vaccine and
247 treatment shall be reimbursed for the cost thereof, not exceeding fifty dollars in the case of any
248 one person, from the dog fund of the county in which is situated the city or town where the
249 person treated was exposed to rabies, except that if such exposure occurred in Suffolk county
250 such reimbursement shall be made by the city or town where such person was exposed to rabies,
251 and except that if such vaccine and treatment are given by the board of health of a city or town
252 because of a bite by or other exposure to rabies from a dog required to be licensed therein, the
253 city or town shall not be so reimbursed, unless such dog is licensed at the time of such bite or
254 other exposure. No such reimbursement shall include any part of the salary of a salaried city or
255 town physician. The county commissioners of all counties except Suffolk, acting jointly, or the
256 county commissioners of each county, except Suffolk, shall contract for the supplying of such
257 vaccine to the several cities and towns on the order of their respective boards of health, and
258 shall, from time to time, notify said boards of the terms and conditions of contracts made
259 hereunder. No city or town for which a supply of such vaccine is provided by a contract as
260 aforesaid shall be reimbursed hereunder for any such vaccine not purchased under such
261 contract.”

262 **SECTION 18.** Section 145B of said chapter 140, as so appearing, is hereby amended
263 by striking out, in lines 1, 2, 5, 10, 18, 19, 25 and 28 the words “dog or cat”, each time they
264 appear, and inserting in place thereof, in each instance, the following words:- dog, cat or ferret.

265 **SECTION 19.** Said section 145B of said chapter 140, as so appearing, is hereby further
266 amended by striking out, in line7, the word “ninety” and inserting in place thereof the
267 following figure:- 30.

268 **SECTION 20.** Said section 145B of said chapter 140, as so appearing, is hereby further
269 amended by striking out, in lines 6 and 31, the words “dogs or cats”, each time they appear,
270 and inserting in place thereof, in each instance, the following words:- dogs, cats or ferrets.

271 **SECTION 21.** Said section 145B of said chapter 140, as so appearing, is hereby further
272 amended by striking out, in line 34, the words “more than fifty dollars” and inserting in place
273 thereof the following words:- more than \$100.

274 **SECTION 22.** Said section 145B of said chapter 140, as so appearing, is hereby
275 amended by inserting after the third paragraph the following paragraph:-

276 A licensing official may grant an exemption to this section for any dog, cat or ferret;

277 (a) which has not yet attained the age of 6 months;

278 (b) which the local board of health, for a specified period of time, declared exempt upon
279 presentation of a veterinarian’s certificate stating that because of an infirmity, other physical
280 condition or regimen of therapy, that inoculation is thereby considered inadvisable;

281 (c) in transit; or

282 (d) brought into the commonwealth, temporarily, for the sole purpose of showing in
283 shows or for exhibition.

284 **SECTION 23.** Section 146 of said chapter 140, as so appearing, is hereby amended by
285 inserting after the word “town” , in line 5, the following words: - or city.

286 **SECTION 24.** Said section 146 of said chapter 140, as so appearing, is hereby further
287 amended by striking out, in line 8, the words “twenty-five cents” and inserting in place thereof
288 the following words:- an amount to be determined by the city or town.

289 **SECTION 25.** Said chapter 140 is hereby further amended by striking out section 147,
290 as so appearing, and inserting in place thereof the following section:-

291 Section 147. The police commissioner of the city of Boston and the clerks of other cities
292 and of towns shall issue said licenses and tags, receive the money thereof and pay it into the
293 treasuries of their respective cities and towns on the first Monday of each month or more often.
294 The clerks of cities and towns except the city of Boston may retain for their own use 75 cents
295 for each license unless otherwise provided by law, and shall certify under penalties of perjury to
296 the amounts of money thus received and paid over by said clerks. The police commissioner of
297 the city of Boston and each city or town clerk shall make a record of the name of the owner or
298 keeper of each dog licensed, and of the name, registered number and description of each such
299 dog, and such records shall be open to public inspection during the usual office hours of the city
300 or town clerk. All blanks for the licenses and tags and the record books shall be paid for out of
301 the city or town treasury. The police commissioner of the city of Boston and any city or town
302 clerk or city or town treasurer violating this section shall be punished by a fine of not less than
303 \$50 nor more than \$500 or by imprisonment for not less than 1 month nor more than 1 year, or
304 both. If a city or town clerk neglects or fails to pay the money into the city or town treasury as
305 required by this section, the city or town may recover the amount thereof for the benefit of the

306 city or town, with all damages sustained through the neglect or failure, and interest, in an action
307 on the official bond required, in the case of a city clerk, by section 13A of chapter 41 and, in the
308 case of a town clerk, by section 13 of said chapter 41. All payments required under this section
309 shall be subject to section 52 of said chapter 41.

310 **SECTION 26.** Said chapter 140 is hereby further amended by striking out section
311 147A, as so appearing, and inserting in place thereof the following section:-

312 Section 147A. (a) A city or town may enact by-laws and ordinances relative to the
313 regulation of dogs and cats; provided, however, that such by-law or ordinance shall not be
314 inconsistent with the provisions of sections 137 to 174D.

315 **SECTION 27.** Section 147B of said chapter 140 is hereby repealed.

316 **SECTION 28.** Section 149 of said chapter 140, as appearing in the 2008 Official
317 Edition, is hereby amended by striking out, in line 1, the words “county, city or town treasurer,
318 except in Suffolk county,” and inserting in place thereof the following words:-city or town
319 treasurer.

320 **SECTION 29.** Said section 149 of said chapter 140, as so appearing, is hereby further
321 amended by striking out, in line 4, the word “dogs” and inserting in place thereof the following
322 word:- animals.

323 **SECTION 30.** Section 150 of said chapter 140, as so appearing, is hereby amended by
324 striking out the first sentence and inserting in place thereof the following sentence:- Persons
325 authorized or directed by section 4 of chapter 51 or by any special law to make lists of residents
326 3 years of age or older shall make a list of all dogs owned by the inhabitants at the time of

327 making lists required under such section and return the same in duplicate to the city or town
328 clerk, or, in the city of Boston, to the police commissioner annually.

329 **SECTION 31.** Said section 150 of said chapter 140, as so appearing, is hereby further
330 amended by striking out, in lines 8 and 9, the words “ten dollars” and inserting in place thereof
331 the following figure:- \$20.

332 **SECTION 32.** Said section 150 of said chapter 140, as so appearing, is hereby further
333 amended by striking out, in lines 9 and 10, the words “except in Suffolk county shall be paid
334 into the county treasury” and inserting in place thereof the following words:- shall be paid to
335 the city or town.

336 **SECTION 33.** Said chapter 140 is hereby further amended by striking out section 151,
337 as so appearing, and inserting in place thereof the following section:-

338 Section 151. (a) The mayor of each city and the board of selectmen of each town
339 shall annually designate 1 or more animal control officers, who may be police officers or
340 constables. The mayor or board of selectmen shall forthwith submit to the commissioner the
341 names and addresses of the officers. Except as hereinafter otherwise provided, if any city or
342 town shall fail to make the appointment, the commissioner shall appoint an animal control
343 officer for that city or town. An animal control officer who fails to comply with the terms of the
344 officer’s warrant shall forthwith be removed from office by the mayor or board of selectmen,
345 and notice of the removal shall forthwith be given to the commissioner. Animal control officers
346 shall, before engaging in execution of animals, have completed under the supervision of a
347 veterinarian registered under section 55 or 56C of chapter 112 a course of instruction in humane
348 techniques for the execution of animals. Each animal control officer before disposing of any dog

349 or cat in the officer's possession shall check its description against the descriptions within the
350 city or town issued on dogs licensed, or cats licensed or registered if the city or town licenses or
351 registers cats. Bills for such services shall be approved by the mayor of the city or the board of
352 selectmen of the town in which the dogs or cats are kept or killed and shall be paid by the city or
353 town. Each animal control officer appointed under this section shall also attend to all complaints
354 or other matters pertaining to animals, as prescribed by their respective city or town, in addition
355 to the duties imposed upon the officer by the officer's warrant, and shall be paid for the services
356 by the town or city treasurer upon bills approved by the mayor or by the board of selectmen.
357 The mayor of any city or the board of selectmen of any town may, instead of appointing animal
358 control officers, enter into a contract with a domestic charitable corporation incorporated
359 exclusively for the purpose of protecting animals from cruelty, neglect or abuse, to perform the
360 duties required of animal control officers. In that case the payments to the corporation under the
361 terms of the contract shall be in full for all services rendered by it in that capacity.

362 (b) An animal control officer shall not be a licensed animal dealer registered with the
363 United States Department of Agriculture, and an animal control officer, either privately or in the
364 course of carrying out such officer's official assignments as an agent for the officer's
365 municipality, shall not give, sell, or turn over any animal which may come into the officer's
366 custody to any business or institution licensed or registered as a research facility or animal
367 dealer with the United States Department of Agriculture. A municipality shall not give, sell, or
368 turn over any animal which may come into its custody to any business or institution licensed or
369 registered as a research facility or animal dealer with the United States Department of
370 Agriculture. Whoever violates this paragraph shall be punished by a fine of not more than
371 \$1000.

372 **SECTION 34.** Said chapter 140 is hereby further amended by striking out section
373 151A, as so appearing, and inserting in place thereof the following section:-

374 Section 151A. (a) The mayor or board of selectmen shall annually issue a warrant to
375 the animal control officer or officers directing the officer or officers to seek out, catch and
376 confine all dogs within the city or town which then have not been licensed, collared or
377 harnessed, and tagged, as required by this chapter, and to enter and prosecute a complaint for
378 failure to comply with this chapter against the owners or keepers thereof, if known, and to kill
379 or cause to be killed only by a humane method of euthanasia in accordance with the guidelines
380 of the American Veterinary Medical Association, and not as prohibited in section 174A, except
381 by gunshot in case of emergency, each such dog which after being detained by or for the officer
382 for a period of 7 days shall not have been licensed, collared or harnessed, and tagged; provided,
383 however, that after 7 days, the animal control officer may make available for adoption a dog
384 not found to be diseased, for a sum not less than \$10 and shall keep an account of all moneys
385 received by such officer for the adoption and shall forthwith pay over the sums to the treasurer
386 who shall forward the money to the city or town. Before delivery of a dog so adopted the animal
387 control officer shall require the purchaser to show identification and to procure a license and tag
388 for the dog from the clerk of the city or town where the dog is to be kept. Dogs confined under
389 authority of this section shall be confined in a place suitable for the detention and care of dogs
390 and kept in a sanitary condition, or they may be placed in the care of the holder of a kennel
391 license or of a domestic charitable corporation incorporated exclusively for the purpose of
392 protecting animals from cruelty, neglect or abuse. The commissioner from time to time shall
393 cause the places to be inspected and shall make necessary orders in relation thereto. An animal
394 control officer having custody of a confined dog or cat shall be allowed a sum determined by

395 the city or town per day for the care of the dog or cat, payable by the owner or keeper, if known,
396 otherwise by the city or town.

397 (b) Every animal control officer shall make, keep, and maintain systems of records or
398 forms which fully and correctly disclose the following information concerning each animal in
399 the officer's custody:

400 (1) the date and location of each apprehension;

401 (2) a description of each animal;

402 (3) the place of confinement;

403 (4) if tagged, the name and address of the owner of such animal;

404 (5) the name and address of the new owner, including the date of sale or transfer
405 of such animal; and

406 (6) if the animal is destroyed, the animal control officer shall record the method
407 and date of destruction and the name of the person who executed the animal.

408 Every animal control officer shall forward a copy of the record to the town or city clerk within
409 30 days. Copies of the record shall, for 2 years, be kept in the offices of the city or town clerk
410 where such animal control officer is employed.

411 **SECTION 35.** Section 151B of said chapter 140, as so appearing, is hereby amended
412 by striking out, in line 5, the words "dog fund of the".

413 **SECTION 36.** Said section 151B of said chapter 140, as so appearing, is hereby further
414 amended by striking out, in line 5, the word “county” and inserting in place thereof the
415 following words:- city or town.

416 **SECTION 37.** Said section 151B of said chapter 140, as so appearing, is hereby further
417 amended by striking out, in line 6, the words “in an amount not to exceed twenty dollars” and
418 inserting in place thereof the following words:- of up to \$250.

419 **SECTION 38.** Said section 151B of said chapter 140, as so appearing, is hereby further
420 amended by striking out, in line 12, the words “dog officer” and inserting in place thereof the
421 following words:- animal control officer.

422 **SECTION 39.** Said section 151B of said chapter 140, as so appearing, is hereby
423 amended by striking out, in line 13, the word “dog” and inserting in place thereof the following
424 words:- animal control.

425 **SECTION 40.** Said chapter 140 is hereby further amended by inserting after section
426 151B the following section: -

427 Section 151C. Within 1 year of hire, an animal control officer shall complete a training
428 course offered or approved by the Animal Control Officers Association of Massachusetts or the
429 commissioner.

430 **SECTION 41.** Section 152 of said chapter 140, as so appearing, is hereby amended by
431 striking out, in line 1, the word “dog” and inserting in place thereof the following words:-
432 animal control.

433 **SECTION 42.** Said section 152 of said chapter 140, as so appearing, is hereby further
434 amended by inserting, in line 6, after the word “dogs” the following words:- and cats.

435 **SECTION 43.** Said section 152 of said chapter 140, as so appearing, is hereby
436 amended by striking out, in line 10, the word “dogs” and inserting in place thereof the following
437 word:- animals.

438 **SECTION 44.** Section 153 of said chapter 140, as so appearing, is hereby amended by
439 striking out, in line 2, the words “except Suffolk county,”.

440 **SECTION 45.** Said section 153 of said chapter 140, as so appearing, is hereby further
441 amended by striking out, in lines 13 to 18, inclusive, the words “by methods of execution other
442 than gunshot except in case of emergency, T-61, so-called, an euthanasia solution not under the
443 control of the federal Drug Enforcement Administration, unless by a veterinarian,
444 succinylcholine choline, any drugs that have curariform-like action, electrocution, or any other
445 method which causes an unnecessarily cruel death” and inserting in place thereof the following
446 words:- only by a humane method of euthanasia in accordance with the guidelines of the
447 American Veterinary Medical Association, and not as prohibited in section 174A, except by
448 gunshot in case of emergency.

449 **SECTION 46.** Said section 153 of said chapter 140, as so appearing, is hereby further
450 amended by striking out, in line 18, the words “ten days” and inserting in place thereof the
451 following words:- 7 days.

452 **SECTION 47.** Said section 153 of said chapter 140, as so appearing, is hereby further
453 amended by striking out, in line 20, the words “male or any spayed female”.

454 **SECTION 48.** Said section 153 of said chapter 140, as so appearing, is hereby further
455 amended by striking out, in line 21, the words “three dollars” and inserting in place thereof the
456 following figure:- \$6.

457 **SECTION 49.** Said section 153 of said chapter 140, as so appearing, is hereby further
458 amended by inserting, in line 34, after the word “dogs” the following words:- and cats.

459 **SECTION 50.** Said section 153 of said chapter 140, as so appearing, is hereby further
460 amended by striking out, in line 41, the words, “nineteen hundred” and inserting in place thereof
461 the following words:- two thousand.

462 **SECTION 51.** Said section 153 of said chapter 140, as so appearing, is hereby further
463 amended by striking out, lines 43 to 83, inclusive, the words “In the cities and towns of Suffolk
464 county such warrant may be in the following form:

465 COMMONWEALTH OF MASSACHUSETTS

466 (Seal)

467, SS.

468 To _____, constable of the city (or town) of _____

469 In the name of the commonwealth of Massachusetts, you are hereby required to proceed
470 forthwith to seek out, catch and confine all dogs within said city (or town) not duly licensed,
471 collared or harnessed, and tagged, according to the provisions of chapter one hundred and forty
472 of the General Laws, and you are further required to make and enter complaint against the
473 owner or keeper of every such dog, and to kill or cause to be killed by methods of execution
474 other than gunshot except in case of emergency, T-61, so-called, an euthanasia solution not

475 under the control of the federal Drug Enforcement Administration, unless by a veterinarian,
476 succinylcholine choline, any drugs that have a curariform-like action, electrocution, or any other
477 method which causes an unnecessarily cruel death each such dog which, after being detained for
478 a period of seven days, shall not then have been duly licensed, collared or harnessed, except that
479 any male or any spayed female dog not found to be diseased may be made available for
480 adoption for not less than three dollars, and you shall keep an account of any such sale and
481 forthwith pay over the money to the town treasurer. Before delivery of any dog so adopted you
482 shall require the purchaser to show identification and to register and procure a license and tag
483 for such dog from the town clerk of the town where the dog is to be kept, in accordance with the
484 provisions of section one hundred and thirty-seven of said chapter one hundred and forty of the
485 General Laws.

486 Hereof fail not, and make due return of this warrant with your doings therein, on or
487 before the first day of October next, on or before the first day of January next, and on or before
488 the first day of April next, and at the expiration of your term of office, stating the number of
489 dogs caught, confined and/or killed, or adopted, and the names of the owners or keepers thereof,
490 and whether all unlicensed dogs in said city (or town) have been caught, confined and/or killed,
491 or adopted, and the names of persons against whom complaints have been made under the
492 provisions of said chapter one hundred and forty, and whether complaints have been made and
493 entered against all the persons who have failed to comply with the provisions of said chapter
494 one hundred and forty.

495 Given under my hand and seal at ____ aforesaid the ____ day of ____ in the year nineteen
496 hundred and ____

497 Mayor of (or Chairman of the Selectmen of)”

498 **SECTION 52.** Said chapter 140 is hereby further amended by striking out section 157,
499 as so appearing, and inserting in place thereof the following section:-

500 Section 157. For the purposes of sections 157A to 157C, inclusive, the following words
501 shall have the following meanings, unless the context clearly requires otherwise: -

502 “Attack”, aggressive physical contact initiated by a dog.

503 “Dangerous dog”, a dog that, without justification, attacks a person or domestic animal
504 causing physical injury or death, or behaves in a manner that a reasonable person would believe
505 poses an unjustified imminent threat of physical injury or death to 1 or more persons, domestic
506 or owned animals; provided, however, that a dog shall not be considered dangerous if:

507 (1) the dog was protecting or defending a person within the immediate
508 vicinity of the dog from an attack or assault;

509 (2) at the time of attack or threat, the attacked or threatened person was
510 committing a crime or offense upon the person or property of the owner, or custodian, of
511 the dog;

512 (3) the person attacked or threatened was teasing, tormenting, abusing,
513 assaulting, or stealing the dog;

514 (4) the dog was attacked or menaced by another domestic animal, or the
515 domestic animal was on the property of the owner or custodian of the dog; or

(5) the dog was responding to pain or injury, or protecting itself, its kennels or its offspring; provided, further, that a dog's breed shall not be considered in determining whether a dog is dangerous; provided, further, that a dog shall not be considered dangerous based exclusively on growling, barking, or both.

"Domestic animal", an animal commonly kept as a pet in the United States, including, but not limited to dogs, cats, guinea pigs, rabbits, hamsters and animals commonly kept for companion or commercial purposes.

SECTION 53. Said chapter 140 is hereby further amended by inserting after section 157 the following 3 sections:-

Section 157A. (a) If a person makes a complaint in writing to the selectmen of a town, mayor of a city, the officer in charge of the animal commission, the chief or commissioner of a police department or the chief or commissioner's designee or the person charged with the responsibility of handling dog complaints of a town or city, that any dog owned or considered within the jurisdiction of the selectman, mayor, officer, chief, commissioner, chief or commissioner's designee or person charged with the responsibility of handling dog complaints is a dangerous dog or a nuisance dog by reason of a dangerous disposition, excessive barking or other disturbance, the selectman, mayor, officer, chief, commissioner, chief or commissioner's designee or person charged with the responsibility of handling dog complaints shall investigate, or cause to be investigated, the complaint, including an examination under oath of the complainant at a public hearing in the city or town in which the complaint occurred to determine whether the dog engaged in such behavior as to be deemed dangerous under section 157B or that the dog constitutes a nuisance by reason of dangerous disposition, excessive

538 barking or other disturbance. If, after a public hearing, the dog is considered dangerous or a
539 nuisance, the officials presiding over the hearing may make an order concerning the dog. Based
540 on the evidence and testimony presented at the public hearing, the selectmen of a town, mayor
541 of a city, the officer in charge of the animal commission, the chief or commissioner of a police
542 department or the chief or commissioner's designee or the person charged with the
543 responsibility of handling dog complaints of a town or city or the district court may order a
544 dangerous dog humanely restrained, confined or subject to conditions in section 157C, or
545 euthanized.

546 (b) Within 10 days after the order, the owner or keeper of the dog may bring a petition in
547 the district court within the judicial district of which the dog is owned or kept, addressed to the
548 justice of the court, praying that the order be reviewed by the court, or magistrate thereof, and
549 after notice to the officer or officers involved as the magistrate considers necessary the
550 magistrate shall review the action, hear the witnesses and affirm the order unless it shall appear
551 that it was made without proper cause or in bad faith, in which case the order shall be reversed.
552 A party shall have the right to request a de novo hearing on the petition before a justice of the
553 court. The decision of the court shall be final and conclusive upon the parties.

554 (c) The act of a dog in attacking or biting another dog or other domesticated or exotic
555 animal, or livestock, may be made the subject of a complaint under this section.

556 (d) The selectmen of a town, mayor of a city, the officer in charge of the animal
557 commission, the chief or commissioner of a police department or the chief or commissioner's
558 designee or the person charged with the responsibility of handling dog complaints of a town or
559 city may petition the local district court to request to hold and impound the dangerous dog in a

560 humane place of detention during an appeal by the owner or custodian of that dog for the further
561 safety and protection of the public or other animals. If a court affirms the order of euthanasia,
562 the owner or keeper of the dog shall reimburse the city or town for all reasonable costs that the
563 dog incurs for housing and care during its impoundment and throughout the appeals process.
564 Unpaid costs shall be recovered by the municipality in which the owner or keeper of the dog
565 resides on behalf of the organization or entity charged with the responsibility of handling dog
566 complaints and impoundment by 1 of the following methods:

567 (1) a lien on any property owned by the aforementioned owner or keeper of the
568 dog;

569 (2) an additional, earmarked charge to appear on the vehicle excise tax of the
570 owner or keeper; or

571 (3) a direct bill sent to the owner or keeper of the dog.

572 All funds recovered by the municipality shall be transferred to the organization or entity
573 charged with the responsibility of handling dog complaints and impoundment. If the
574 organization or entity falls under the management or direction of the municipality, costs
575 recovered shall be distributed under the discretion of the municipality.

576 If the court overturns the order of destruction, the city or town shall pay all reasonable
577 costs that the dog incurred for housing and care during its impoundment and throughout the
578 appeals process.

579 (e) Magistrates shall exercise their authority hereunder subject to the limitations of
580 section 62C of chapter 221.

581 Section 157B. (a) A person owning or harboring a dog who fails to comply with an
582 order of the selectmen of a town, mayor of a city, the officer in charge of the animal
583 commission, the chief or commissioner of a police department or the chief or commissioner's
584 designee or the person charged with the responsibility of handling dog complaints of a town or
585 city or district court, including failure to comply with an order issued under sections 157A or
586 157C, shall be punished by (1) a fine of not more than \$500 or imprisonment for not more than
587 60 days, or both, for the first offense and (2) not more than \$1,000 or imprisonment for not
588 more than 90 days, or both, for a second or subsequent offense.

589 (b) If a person is found in violation of an order issued under section 157A or 157C, the
590 dog shall be subject to seizure by the selectmen of a town, mayor of a city, the officer in charge
591 of the animal commission, the chief or commissioner of a police department or the chief or
592 commissioner's designee or the person charged with the responsibility of handling dog
593 complaints of a town or city. The person shall be ordered to immediately surrender to the
594 licensing authority of a city or town the license and tags that they may possess and shall be
595 banned from licensing any dog within the commonwealth for 5 years. The selectmen of a town,
596 mayor of a city, the officer in charge of the animal commission, the chief or commissioner of a
597 police department or the chief or commissioner's designee or the person charged with the
598 responsibility of handling dog complaints of a town or city making such determination that a
599 dog is dangerous, or a nuisance under section 157A shall report the violations to the city or
600 town within 30 days.

601 Section 157C. (a) The selectmen of a town, mayor of a city, the officer in charge of the
602 animal commission, the chief or commissioner of a police department or the chief or
603 commissioner's designee or the person charged with the responsibility of handling dog

604 complaints of a town or city, or the district court may order 1 or more of the following
605 conditions for a dog considered dangerous under section 157A. The orders shall be valid
606 throughout the commonwealth and may state that:

607 (1) a dangerous dog shall be confined to the premises of the person owning or harboring
608 or having care or custody of the dog; provided, however, that a dangerous dog shall be
609 unconfined if the dog is not securely confined indoors or confined outdoors in a securely
610 enclosed and locked pen or dog run area upon the premises of said person; provided, further,
611 that the pen or dog run must have a secure top and if the structure has no bottom secured to the
612 sides, the sides must be embedded into the ground no less than 2 feet; provided, further, that
613 there must also be within the confines of the pen or dog run a doghouse or proper shelter from
614 the elements for the protection of the dog; provided, further, that no dangerous dog shall be
615 chained, tethered, or otherwise tied to any inanimate object, such as a tree, post, or building
616 outside of its enclosure;

617 (2) when off the premises of the owner or person harboring a dangerous dog, the dog
618 must be securely and humanely muzzled and restrained with a chain or other tethering device
619 having a minimum tensile strength of 300 pounds and not exceeding 3 feet in length;

620 (3) the person owning or harboring or having the care or custody of any dog deemed to
621 be dangerous shall maintain a policy of insurance in an amount not less than \$100,000 insuring
622 that person against any claim, loss, damage or injury to persons, domestic animals, or property
623 resulting from the acts, whether intentional or unintentional, of the dangerous dog; provided,
624 however, that such person shall produce evidence of such insurance upon request of the
625 selectmen of a town, mayor of a city, the officer in charge of the animal commission, the chief

626 or commissioner of a police department or the chief or commissioner's designee or the person
627 charged with the responsibility of handling dog complaints of a town or city or district court;

628 (4) an owner shall provide certain permanent identification of dogs determined
629 dangerous as reasonably necessary to identify such dog throughout its lifetime including, but
630 not limited to, photographs, videos, veterinary examination, tattooing or microchip
631 implantations; and

632 (5) a dog which has been deemed dangerous shall not remain reproductively intact;
633 provided, however, that the animal shall be exempt from such an order if a veterinarian certifies
634 in writing that the animal is unfit for alterations because of medical conditions.

635 (b) No person shall transfer ownership or possession, or offer for sale, breed, or
636 buy or attempt to buy within the commonwealth any dog considered dangerous.

637 (c) The selectmen of a town, mayor of a city, the officer in charge of the animal
638 commission, the chief or commissioner of a police department or the chief or
639 commissioner's designee or the person charged with the responsibility of handling dog
640 complaints of a town or city, or the district court may make other orders as considered
641 necessary, including, upon probable cause to believe a dangerous dog is being owned,
642 harbored or cared for in violation of this section, an order concerning the restraint of the
643 dog as considered necessary pending required hearings or trials.

644 (d) A dog considered dangerous shall not be ordered to be removed from the
645 town or city limits in which the animal resides. A city or town may impose a more
646 restrictive program for the control of dangerous dogs; provided, however, that a program
647 shall not regulate dogs in a manner that is specific as to breed.

648 (e) No minor may own or have charge or custody of a dog considered dangerous
649 under section 157A; provided, however, that the parent or guardian of the minor shall be
650 responsible for compliance with this section.

651 **SECTION 54.** Section 158 of said chapter 140, as appearing in the 2008 Official
652 Edition, is hereby amended by striking out, in line 1, the words “dog officer shall kill” and
653 inserting in place thereof the following words:- animal control officer may capture, confine or,
654 in the case of a threat to public safety, kill.

655 **SECTION 55.** Said section 158 of said chapter 140, as so appearing, is hereby further
656 amended by inserting after the word “dog”, in line 2, the following words:- , in a humane
657 manner,.

658 **SECTION 56.** Said section 158 of said chapter 140, as so appearing, is hereby further
659 amended by striking out, in lines 2 and 3, the words “or the county commissioners,”.

660 **SECTION 57.** Said section 158 of said chapter 140, as so appearing, is hereby further
661 amended by inserting after the word “dog” , in line 5, the following words:- , in a humane
662 manner, .

663 **SECTION 58.** Section 159 of said chapter 140, as so appearing, is hereby amended by
664 striking out, in line 2, the words “or the county commissioners,”.

665 **SECTION 59.** Section 160 of said chapter 140, as so appearing, is hereby amended by
666 striking out, in line 1, the words “county commissioners of any county, the”.

667 **SECTION 60.** Said section 160 of said chapter 140, as so appearing, is hereby further
668 amended by inserting after the word “dog”, in line 5, the following words:- in a humane
669 manner.

670 **SECTION 61.** Said section 160 of said chapter 140, as so appearing, is hereby further
671 amended by striking out, in line 8, the words “approved by the county commissioners,”.

672 **SECTION 62.** Said section 160 of said chapter 140, as so appearing, is hereby further
673 amended by striking out, in lines 11 and 12, the words “, chief of police or county
674 commissioners, as the case may be, or his or their agents” and inserting in place thereof the
675 following:- or chief of police, as the case may be, or the agent of the selectmen or chief.

676 **SECTION 63.** Said section 160 of said chapter 140, as so appearing, is hereby further
677 amended by striking out, in line 14, the words “town where the said” and inserting in place
678 thereof the following words:- town or city where the.

679 **SECTION 64.** Section 161 of said chapter 140, as so appearing, is hereby amended by
680 striking out, in lines 10 and 11, the words “fifty dollars” and inserting in place thereof, in each
681 instance, the following figure:- \$100.

682 **SECTION 65.** Said section 161 of said chapter 140, as so appearing, is hereby further
683 amended by striking out, in line 20, the words “except in Suffolk county”.

684 **SECTION 66.** Said section 161 of said chapter 140, as so appearing, is hereby further
685 amended by striking out, in line 20, the words “of the county” and inserting in place thereof the
686 following words:- of the city or town .

687 **SECTION 67.** Said section 161 of said chapter 140, as so appearing, is hereby further
688 amended by striking out, in line 22, the words “county commissioners” and inserting in place
689 thereof the following words:- city or town clerk.

690 **SECTION 68.** Said section 161 of said chapter 140, as so appearing, is hereby further
691 amended by striking out, in line 27, the word “county” and inserting in place thereof the
692 following words:- city or town.

693 **SECTION 69.** Said section 161 of said chapter 140, as so appearing, is hereby further
694 amended by striking out, in lines 28 to 34, inclusive, the words “except in Suffolk county, shall
695 pay all orders drawn upon him in full, for the above purpose, and for the expenses of appraisal
696 out of any money in the county treasury, and payments made therefor shall be charged to the
697 dog fund. The appraisers shall receive from the county three dollars each for every such
698 examination made by them, and also twenty cents a mile one way for their necessary travel” and
699 inserting in place thereof the following words:- shall pay all orders drawn upon him in full, for
700 the above purpose and payments made shall be charged to the city or town.

701 **SECTION 70.** Section 162 of said chapter 140 is hereby repealed.

702 **SECTION 71.** Section 163 of said chapter 140, as appearing in the 2008 Official
703 Edition, is hereby amended by striking out, in line 1, the words “aldermen or selectmen” and
704 inserting in place thereof the following words:- mayor, aldermen, or selectmen.

705 **SECTION 72.** Said section 163 of said chapter 140, as so appearing, is hereby further
706 amended by striking out, in line 5, the words “dog fund under section one hundred and sixty-
707 one” and inserting in place thereof the following words:- city or town under section 161.

708 **SECTION 73.** Said section 163 of said chapter 140, as so appearing, is hereby further
709 amended by inserting after the word “kill”, in line 7, the following words:- ,in a humane
710 manner,.

711 **SECTION 74.** Section 164 of said chapter 140, as so appearing, is hereby amended by
712 striking out, in lines 4 and 5, the words “more than twenty-five dollars” and inserting in place
713 thereof the following:- less than \$25.

714 **SECTION 75.** Said section 164 of said chapter 140, as so appearing, is hereby further
715 amended by striking out, in line 5, the word “dog” and inserting in place thereof the following
716 words:- animal control.

717 **SECTION 76.** Said section 164 of said chapter 140, as so appearing, is hereby further
718 amended by inserting after the word “dog”, in line 6, the following words:- ,in a humane
719 manner,.

720 **SECTION 77.** Section 165 of said chapter 140, as so appearing, is hereby amended by
721 striking out, in lines 1 to 5, inclusive, the words, “The county commissioners, except in Suffolk
722 county, shall appoint one and may appoint not more than four suitable persons, all residents of
723 the county, any one of whom shall, at the request of said commissioners or of the chairman of
724 the selectmen or officer of the police designated as provided in section one hundred and sixty-
725 one,” and inserting in place thereof the following words:-A city or town may.

726 **SECTION 78.** Said section 165 of said chapter 140, as so appearing, is hereby further
727 amended by striking out, in lines 6 and 7, the words “commissioners, chairman or officer shall
728 have been informed as provided in said section” and inserting in place thereof the following

729 words:- chairman of the board of selectmen, mayor or officer shall have been informed as
730 provided in section 161.

731 **SECTION 79.** Said section 165 of said chapter 140, as so appearing, is hereby further
732 amended by striking out, in line 16, the word “dog” and inserting in place thereof the following
733 words:- animal control.

734 **SECTION 80.** Said section 165 of said chapter 140, as so appearing, is hereby further
735 amended by striking out, in line 20, the words “county treasurer” and inserting in place thereof
736 the following words:- city or town.

737 **SECTION 81.** Said section 165 of said chapter 140, as so appearing, is hereby further
738 amended by striking out, in lines 20 and 21, the words “and placed to the credit of the dog
739 fund”.

740 **SECTION 82.** Said section 165 of said chapter 140, as so appearing, is hereby further
741 amended by striking out, in lines 21 to 25, inclusive, the words “The county treasurer shall pay
742 out of the dog fund such reasonable compensation as the county commissioners shall allow for
743 services and necessary expenses under this section and the reasonable expense of prosecuting
744 the said actions. The persons appointed hereunder may be removed at any time by the county
745 commissioners.”

746 **SECTION 83.** Section 167 of said chapter 140, as so appearing, is hereby amended by
747 striking out, in lines 1 to 7, the words “aldermen or selectmen may order that all dogs shall be
748 muzzled or restrained from running at large during such time as shall be prescribed by such
749 order. After passing such order and posting a certified copy thereof in two or more public
750 places in the town, or, if a daily newspaper is published in such town, by publishing such copy

751 once in such newspaper; the aldermen or selectmen may issue their warrant to one”, and
752 inserting in place thereof the following:- mayor, aldermen, or selectmen may order that all dogs
753 shall be muzzled or restrained from running at large during such time as shall be prescribed by
754 the order. After passing the order and posting a certified copy thereof in 2 or more public places
755 in the city or town, or, if a daily newspaper is published in the city or town, by publishing a
756 copy once in that newspaper, the mayor, aldermen or selectmen may issue their warrant to 1.

757 **SECTION 84.** Said section 167 of said chapter 140, as so appearing, is hereby further
758 amended by inserting after the word “kill”, in line 8, the following words:- in a humane manner.

759 **SECTION 85.** Said section 167 of said chapter 140, as so appearing, is hereby further
760 amended by striking out, in line 13, the word “ten” and inserting in place thereof the following
761 figure:- 7.

762 **SECTION 86.** Said section 167 of said chapter 140, as so appearing, is hereby further
763 amended by striking out, in lines 14 and 15, the words “of five dollars, together with one dollar
764 and fifty cents” and inserting in place thereof the following words:- determined by the city or
765 town.

766 **SECTION 87.** Said section 167 of said chapter 140, as so appearing, is hereby further
767 amended by striking out, in line 16, the words “of five dollars”.

768 **SECTION 88.** Section 168 of said chapter 140, as so appearing, is hereby amended by
769 striking out, in line 1, the words “aldermen or selectmen” and inserting in place thereof the
770 following words:- aldermen, selectmen or mayor.

771 **SECTION 89.** Said section 168 of said chapter 140, as so appearing, is hereby further
772 amended by striking out, in line 5, the words “more than twenty-five dollars” and inserting in
773 place thereof the following:- less than \$25.

774 **SECTION 90.** Section 169 of said chapter 140, as so appearing, is hereby amended by
775 striking out, in line 1, the word “county,”.

776 **SECTION 91.** Said section 169 of said chapter 140, as so appearing, is hereby further
777 amended by striking out, in lines 3 and 4, the words “more than one hundred dollars” and
778 inserting in place thereof the following:- less than \$100.

779 **SECTION 92.** Said section 169 of said chapter 140, as so appearing, is hereby further
780 amended by striking out, in lines 4 and 5, the words “,except in Suffolk county, into the county
781 treasury” and inserting in place thereof the following words:- to the city or town.

782 **SECTION 93.** Section 170 of said chapter 140 is hereby repealed.

783 **SECTION 94.** Section 171 of said chapter 140, as appearing in the 2008 Official
784 Edition, is hereby amended by striking out, in line 2, the word “county” and inserting in place
785 thereof the following words:- city or town.

786 **SECTION 95.** Said section 171 of said chapter 140, as so appearing, is hereby further
787 amended by striking out, in line 3, the words “county commissioners” and inserting in place
788 thereof the following words:- mayor, aldermen, or selectmen.

789 **SECTION 96.** Said section 171 of said chapter 140, as so appearing, is hereby further
790 amended by striking out, in lines 4 to 10, inclusive, the words “The county treasurer, except as
791 provided in section one hundred and sixty-five, may, and if so ordered by the county

792 commissioners shall, bring such action. In Suffolk county, such owner or keeper shall be liable
793 in like manner to the town for damages so done therein which the aldermen or selectmen have
794 so ordered to be paid; and the town treasurer may, and if so ordered by the aldermen or
795 selectmen shall, bring such action.”

796 **SECTION 97.** Section 172 of said chapter 140 is hereby repealed.

797 **SECTION 98.** Section 173 of said chapter 140, as appearing in the 2008 Official
798 Edition, is hereby amended by inserting after the word “town” ,in line 1, the following words:-
799 or city.

800 **SECTION 99.** Said section 173 of said chapter 140, as so appearing, is hereby further
801 amended by striking out, in line 2, the word “dogs” and inserting in place thereof the following
802 word:- animals.

803 **SECTION 100.** Said section 173 of said chapter 140, as so appearing, is hereby further
804 amended by striking out, in lines 2 and 3, the words “of not more than fifty dollars” and
805 inserting in place thereof the following words:- not less than the minimum nor more than the
806 maximum fines and fees set forth in this chapter.

807 **SECTION 101.** Said section 173 of said chapter 140, as so appearing, is hereby further
808 amended by striking out, in line 4, the word “dogs” and inserting in place thereof following
809 word:- animals.

810 **SECTION 102.** Said section 173 of said chapter 140, as so appearing, is hereby further
811 amended by inserting after the word “town”, in line 4, the following words:- or city.

812 **SECTION 103.** Said section 173 of said chapter 140, as so appearing, is hereby further
813 amended by striking out, in lines 4 to 7, inclusive, the words “, and the annual fee required for a
814 license under section one hundred and thirty-nine shall in no case be more than one dollar in
815 addition to the amount required by said section”.

816 **SECTION 104.** Section 173A of said chapter 140, as so appearing, is hereby amended
817 by striking out, in line 12, the words “twenty-five dollars” and inserting in place thereof the
818 following figure:- \$50.

819 **SECTION 105.** Said section 173A of said chapter 140, as so appearing, is hereby
820 further amended by striking out, in line 14, the words “thirty dollars” and inserting in place
821 thereof the following words:- not less than \$60.

822 **SECTION 106.** Said section 173A of said chapter 140, as so appearing, is hereby
823 further amended by striking out, in lines 16 and 17, the words “fifty dollars” and inserting in
824 place thereof the following figure:- \$100.

825 **SECTION 107.** Said section 173A of said chapter 140, as so appearing, is hereby
826 further amended by striking out, in lines 22 and 23, the words “; provided, however, that no new
827 schedule of fines shall contain a fine in excess of fifty dollars”.

828 **SECTION 108.** Section 174A of said chapter 140, as so appearing, is hereby amended
829 by inserting after the word “dog”, in line 1, the words: - or cat.

830 **SECTION 109.** Said section 174A of said chapter 140, as so appearing, is hereby
831 further amended by striking out, in line 2, the words “in a carbon monoxide chamber” and

832 inserting in place thereof the following words:- by use of a carbon monoxide or carbon dioxide
833 chamber or carbon monoxide or carbon dioxide gas.

834 **SECTION 110.** Said section 174A of said chapter 140, as so appearing, is hereby
835 further amended by striking out, in lines 3 to 7, inclusive, the words “unless such chamber is
836 supplied with gas by an engine or gas generator that will produce a minimum of four per cent
837 concentration of carbon monoxide within five minutes, the gas used is cooled and filtered before
838 entering such chamber, and the temperature of the gas inside such chamber does not exceed a
839 temperature of eight-five degrees Fahrenheit”.

840 **SECTION 111.** Section 174B of said chapter 140, as so appearing, is hereby amended
841 by striking out, in line 4, the word “fifty” and inserting in place thereof the following figure: -
842 \$100.

843 **SECTION 112.** Section 151C of chapter 140 of the General Laws shall not apply to an
844 animal control officer hired on or before the effective date of this act until 1 year from the
845 effective date of this act.

846 **SECTION 113.** Section 2 of chapter 27 of the acts of 2009 is hereby amended by
847 inserting, after item 2511-0100, the following item:-

848 2511-0101 The commissioner of the department of agricultural resources may expend
849 not more than \$500,000 from revenues collected from fees under section 139 of chapter 140 for
850 the purposes of operating an animal control program, and no less than one-third of said revenues
851 collected shall be allocated to operating spay/neuter programs in the commonwealth; provided,
852 that the department shall annually file a report with the house and senate committees on ways
853 and means detailing the manner of expenditures under this item in the preceding fiscal and the

854 amount of funding necessary to operate the animal control program, including spay/neuter
855 programs, in the upcoming fiscal year\$500,000

Resolution for a Nuclear Weapons Free Future

Whereas The U.S. Conference of Mayors in 2008 voted unanimously to urge the President to negotiate for a verifiable treaty to eliminate nuclear weapons because there is no adequate municipal response to a nuclear attack, and

Whereas President Obama has asked for our support in his effort to rid the world of nuclear weapons,

Be it Resolved that the Board of Aldermen supports the unanimous, urgent call of The U.S. Conference of Mayors to the President of the United States to commence negotiations for a verifiable treaty to eliminate nuclear weapons.