

CITY OF NEWTON

BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE AGENDA

WEDNESDAY, NOVEMBER 4, 2009

7:45PM – Room 222

ITEMS SCHEDULED FOR DISCUSSION:

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#372-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend fifty five thousand dollars (\$55,000) from Marathon Receipts for the purpose of funding park improvements and repairs as follows: \$25,000 for the installation of playground equipment at the West Newton Common and Franklin School; and \$30,000 to replace Fibar ground covering and broken or unsafe playground equipment. [10/27/09 @ 3:10 PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#373-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend thirty seven thousand five hundred forty three dollars (\$37,543) from Free Cash for the purpose of supplementing the tree maintenance budget. [10/27/09 @ 3:11 PM]

#232-09 ALD. HESS-MAHAN, DANBERG AND FREEDMAN requesting an amendment to the City of Newton Ordinances to ban the sale of tobacco products at pharmacies in Newton. [07/16/09 @ 9:42 AM]

#232-09(2) ALD. HESS-MAHAN requesting to update City of Newton Ordinances Chapter 20, Article 1. **Smoking, Tobacco Products and Alcoholic Beverages** to reflect changes in Massachusetts state law. [09/13/09 @ 1:07 PM]

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

#262-07 ALD. VANCE AND HESS-MAHAN seeking approval by the Board of Aldermen of a home rule petition to the General Court that would authorize an amendment to the charter of the City of Newton that would change the length of terms of the members of the Board of Aldermen to

three years and would provide for electing one-third of the aldermen, one from each ward, every year. [08/22/07 @ 3:53 PM]

#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]

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

**ITEMS NOT YET SCHEDULED FOR DISCUSSION:**

#364-09 ALD. BAKER, LENNON AND JOHNSON, pursuant to Section 2-7 of the City Charter, recommending the re-appointment of David A. Olson as City Clerk/Clerk of the Board for a term of two years or until a successor is duly qualified. [10/27/09 @ 9:39 AM]

#365-09 CLERK OF THE BOARD requesting the board of Aldermen amend Article V, Sections 1 and 2, of the Rules of the Board to include the option of electronic distribution of meeting notices and materials addition to delivery by mail or messenger. [10/16/09 @ 5:27 PM]

**REFERRED TO FINANCE AND APPROPRIATE COMMITTEES**

#376-09 HIS HONOR THE MAYOR submitting the FY11-15 Capital Improvement Program, totaling \$140,377,285 and the FY10 Supplemental Capital budget, which require Board of Aldermen approval to finance new capital projects over the next five years.

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

#362-09 ALD. JOHNSON on behalf of the Green Decade Coalition requesting the designation of March 2010 as Alternative to Pesticides Month. [10/08/09 @ 11:51 AM]

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

#358-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend fifty five thousand dollars (\$55,000) from tax revenue from the local option meals tax to restore funding to the Senior Transportation Program. [10/09/09 @ 5:25 PM]

- #258-09 CLERK OF THE BOARD requesting that Article II, Section 2A(1)B(1), **Procedures regarding Board action on traffic and parking petitions** and Article V, Section 3, **Procedures for referral and reporting of traffic and parking petitions**, of the Rules of the Board, be amended to reflect the procedures as outlined in Ordinance Z-12, passed on December 7, 2007. [08/06/09 @ 3:12 PM]

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

- #130-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend from Cable Receipts the sum of twenty-four thousand nine hundred eighteen dollars (\$24,918) for the purpose of purchasing equipment to provide for archived web casting of the Board of Aldermen and School Committee meetings. [4/28/09 @ 6:02 PM]
- #129-08 ALD. JOHNSON, SANGIOLO AND BRANDEL requesting establishment of a new Rule of Board of Aldermen stating that any new item submitted but not yet approved or accepted by the Full Board of Aldermen is prohibited from any formal or informal discussion by any formal, informal or special committee of the Board. [03/24/08 @ 9:11 AM]
- #125-09 THE POST AUDIT & OVERSIGHT COMMITTEE requesting creation of a public tree protection ordinance and amendment of the current tree ordinance as recommended in the Tree Preservation Ordinance Report. [04/17/09 @ 9:14 PM]

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

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

**REFERRED TO PS&T AND PROGRAMS & SERVICES COMMITTEES**

- #391-08 HIS HONOR THE MAYOR requesting Board of Aldermen approval to (#122-92(3)) petition the General Court for an amendment to the legislation that governs the appointment of a Police Chief in the City of Newton in order to add two members to the committee: an additional representative of the Newton Superior Officers Association and an additional citizen member. [11/4/08 @ 12:31 PM]
- #306-08 ALD. BAKER, DANBERG, MANSFIELD & PARKER requesting discussion of how swimming at Crystal Lake might be lawfully and safely extended beyond mid-August. [08/26/08 @ 5:03 PM]

- #292-08(2) PROGRAMS AND SERVICES COMMITTEE requesting that His Honor the Mayor develop a written policy of standards and processes that could be uniformly followed by community groups for the use of the branch library buildings. [11/07/08 @ 11:11 AM]

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

- #274-08 ALD. JOHNSON AND SANGIOLO proposing a RESOLUTION to His Honor the Mayor requesting that he create a plan to move the Child Care Commission to a self-sustaining model for FY2010. [07/17/08 @ 9:53 AM]

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

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

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

- #271-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that he work with the Board of Aldermen, the Parks and Recreation Department, and the Department of Public Works in order to determine the most effective and efficient way to organize the work of managing our public resources. [07/17/08 @ 9:53 AM]

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

- #270-08 ALD. JOHNSON proposing a RESOLUTION to His Honor the Mayor requesting that he work with the Board of Aldermen, School Department, and School Committee in order to determine the most effective and efficient way to organize the Information Technology Departments. [07/17/08 @ 9:53 AM]

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

- #261-08 ALD. SANGIOLO requesting discussion with the Executive Department regarding moving the Director of Arts in the Parks' salary to the Arts in the Parks revolving account. [07/08/08 @ 1:29 PM]

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

- #259-08 ALD. SANGIOLO requesting discussion with the Executive Department regarding moving the salaries of the Parks & Recreation Commissioner and the Recreation Programs Director to the revolving accounts for various programs. [07/08/08 @ 1:28 PM]

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

- #258-08 ALD. SANGIOLO requesting discussion with the Executive Department regarding reorganization of senior transportation services and establishment of intra-village transportation systems. [07/08/08 @ 1:29 PM]

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

- #207-08 ALD. BRANDEL AND SANGIOLO proposing that the following question be put before the Newton voters:  
“Shall the City of Newton be allowed to exempt from the provisions of Proposition 2 ½ the amounts required to pay for the bond issuance in order to fund Newton North High School?” [05/21/08 @ 12:58 PM]

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

- #89-08 ALD. PARKER requesting the following:
- A) review of the maintenance practices for buildings, parks and other properties owned by the City (including School Department facilities and grounds)
  - B) development of a comprehensive maintenance plan that includes regular schedules for preventive maintenance for each specific site or facility
  - C) a RESOLUTION requesting that implementation of said maintenance plan be funded using operating budget funds.
- [02/13/08 @ 12:07 PM]
- #287-07(2) ALD. PARKER requesting a discussion with Parks and Recreation Department in regards to an appropriate marker or plaque to honor and recognize Olympic figure skater and Newton resident Tenley Albright and her skating exhibition at the Crystal Lake upon her return from the 1956 Olympic Games where she won a gold medal. [09/20/07 @ 1:22 PM]

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

- #83-07 ALD. YATES requesting that the City of Newton take all possible steps to persuade the General Court to adopt the proportion of Governors Municipal Partnership that would allow the City to reduce employee health insurance costs by joining the Group Insurance Commission. [02/27/07 @ 10:21 PM]
- #82-07 ALD. YATES requesting that the City of Newton take all possible steps to persuade the General Court to allow the cities and towns to tax all telecommunications facilities in the City (which would yield at least \$1.6 million per year for Newton). [02/27/07 @ 10:21 PM]

- #52-07      ALD. PARKER, SANGIOLO, MANSFIELD, HARNEY, DANBERG, VANCE, LINSKY, HESS-MAHAN, BURG, ALBRIGHT & JOHNSON requesting an ordinance amendment to create a health care advisory committee whose function would be to recommend measures to control the rate of increase of health insurance costs, as recommended by the Newton Finance & Management Working Group in 2005 and the Blue Ribbon Commission on the Municipal Budget in 2007.  
[02/09/07 @ 12:36 PM]
- #422-06(2)      ALD. HESS-MAHAN requesting that a task force be established to meet and prepare a report and recommendations regarding the regulation of noise, air pollution and best practices with respect to the operation of power equipment used in landscaping, property and yard maintenance, including, without limitation, leaf blowers. [01/27/09 @ 3:47 PM]
- #370-06      ALD. SANGIOLO, PARKER, MANSFIELD requesting home rule legislation to allow advisory questions to be asked in a Newton special election.

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

- #267-06(3)      ALD. PARKER, BURG, LINSKY, FISCHMAN, HESS-MAHAN, VANCE, HARNEY, JOHNSON, & DANBERG proposing Home Rule Legislation authorizing the City of Newton to apply the ordinance proposed in item #267-06(2) to assets held by the City's retirement system.

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

- #245-06      ALD. JOHNSON AND HESS-MAHAN requesting an amendment to the City Charter to require the Mayor annually to prepare and submit to the Board of Aldermen a long-term financial forecast of anticipated revenue, expenditures and the general financial condition of the City, including, but not limited to identification of any factors which will affect the financial condition of the City; projected revenue and expenditure trends; potential sources of new or expanded revenues; anticipated municipal needs likely to require major expenditures; and a strategic plan for meeting anticipated municipal needs, to include, but not be limited to, any long or short-term actions that may be taken to enhance the financial condition of the City.
- #329-05(3)      ALD. YATES requesting a discussion relative to amending the noise control ordinance to (A) prohibit the cumulative noise level from multiple pieces of equipment operating simultaneously on the same site to exceed the maximum noise levels allowed when measured at the nearest lot line and (B) to eliminate various exemptions in residential districts.

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

#264-03(3) ALD. JOHNSON AND BAKER requesting update on the work of the Taxation Aid Committee established by the Board of Aldermen in March 2004 in administering aid to the elderly taxation fund.

#346-99 ALD. SANGIOLO requesting creation of an ordinance that would prohibit dogs (leashed or unleashed) from all elementary school playgrounds.

**REFERRED TO PROGRAMS & SERVICES, PUBLIC FACILITIES  
AND FINANCE COMMITTEES**

#309-01 ALD. PARKER requesting increase in the income eligibility level of the 30% water/sewer discount for low-income senior citizens.

Respectfully Submitted,

Marcia Johnson, Chairman



David B. Cohen  
Mayor

City of Newton, Massachusetts  
Office of the Mayor

#372-09

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

October 27, 2009

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

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to appropriate twenty five thousand dollars (\$25,000) from Marathon Receipts for the purpose of funding park improvements and repairs.

This appropriation will be used as seed funding for the installation of playground equipment at West Newton Common and the Franklin School (\$25,000) and to replace Fibar ground covering and broken or otherwise unsafe playground equipment (\$30,000).

Thank you for your consideration of this matter.

Very truly yours,

David B. Cohen  
Mayor

DBC: srb

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.ci.newton.ma.us](http://www.ci.newton.ma.us)



DEDICATED TO COMMUNITY EXCELLENCE





David B. Cohen  
Mayor

City of Newton, Massachusetts  
Office of the Mayor

#372-09

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

October 27, 2009

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

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to appropriate twenty five thousand dollars (\$25,000) from Marathon Receipts for the purpose of funding park improvements and repairs.

This appropriation will be used as seed funding for the installation of playground equipment at the Burr School and Solomon Schechter Playground (\$25,000) and to replace Fibar ground covering and broken or otherwise unsafe playground equipment (\$30,000).

Thank you for your consideration of this matter.

Very truly yours,

David B. Cohen  
Mayor

*See corrected letter*  
DBC: srb

09 OCT 27 PM 3:10  
CITY CLERK  
NEWTON, MA. 02159





DAVID B. COHEN  
MAYOR

# NEWTON PARKS AND RECREATION DEPARTMENT

#372-09

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



FRAN L. TOWLE  
COMMISSIONER

October 13, 2009

Honorable David B. Cohen, Mayor  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459

Dear Mayor Cohen:

I am writing to respectfully request that you docket with the Honorable Board of Aldermen for consideration a request to appropriate and expend \$55,000 from Marathon receipts.

Of the total appropriation, \$30,000 will be used for the purpose of purchasing replacement Fibar, a material that provides a safe surface under existing play structures on which children can play and for making additional purchases of playground equipment and miscellaneous hardware to replace worn, defective or unsafe playground equipment and parts, as identified by the Parks & Recreation Department.

The remaining \$25,000 of the appropriation will be utilized to purchase playground equipment at West Newton Common and Franklin School, with each site receiving an appropriation of \$12,500. As has been the case with appropriations of Marathon funds in the past, these funds will be used as seed money and will be combined with future fundraising from local community groups to enhance the playgrounds.

Thank you for your consideration in this matter.

Sincerely,

Robert J. DeRubeis  
Deputy Commissioner

cc: Sandy Pooler, Chief Administrative Officer  
Susan Burstein, Chief Budget Officer

09 OCT 27 PM 3:11  
CITY CLERK  
NEWTON, MA. 02159

COMMISSION  
MEMBERS

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

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

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

ALTERNATES: MICHAEL CLARKE, PETER KASTNER, JACK NEVILLE

WWW.CI.NEWTON.MA.US/PARKS

**Newton Parks and Recreation Department  
Non School playground Areas  
Recommended Order of Priority for Seed Money  
Beginning FY04**

September 2003

1. Upper Falls
2. Newton Centre
3. Cabot Park
4. Charlesbank
5. Hunnewell
6. Carr
7. Newton Highlands
8. Solomon Schechter Memorial
9. West Newton Common
10. Lower Falls
11. Crescent Street
12. Emerson
13. Hyde
14. Auburndale
15. Torchia/Davis
16. River Street
17. Richardson
18. Wellington
19. Stearns
20. Pellegrini
21. Forte
22. Burr Park
23. Weeks
24. Warren Lincoln

The above priorities are subject to change due to unforeseen circumstances. For consideration seed monies will be divided in half, each fiscal year. Half going to a non-school playground and the other to a school attached playground.

**Newton School Department  
Newton Parks and Recreation Department  
School Playground Areas  
Recommended Order of Priority for Seed Money  
Beginning FY06**

September 2003

1. Bowen Elementary
2. Lincoln Eliot Elementary
3. Angier Elementary
4. Franklin Elementary
5. Burr Elementary
6. Underwood Elementary
7. Williams Elementary
8. Mason Rice Elementary
9. Ward Elementary
10. Countryside Elementary
11. Peirce Elementary
12. Zervas Elementary
13. Cabot Elementary
14. Education Center
15. Memorial Spaulding Elementary
16. Horace Mann Elementary

The above priorities are subject to change due to unforeseen circumstances. For consideration seed monies will be divided in half, each fiscal year. Half going to a school attached playground and the other to a non-school attached playground.

Emergency Forestry Equipment Expenditures  
July 1 to October 10, 2009

Date	Time in	Time out	Hours	Equipment	Rate	Cost	Issue
7/3/2009	4:30:00 AM	7:30:00 AM	3.00	Primary Crew Overtime Rate	200.00	\$ 600.00	tree down 276 Franklin St. (pvt)
	4:30:00 AM	7:30:00 AM	3.00	Log Loader Crew Overtime Rate	155.00	\$ 465.00	tree down 276 Franklin St. (pvt)
7/12/2009	11:00:00 AM	2:00:00 PM	3.00	Bucket Truck Crew Overtime Rate	200.00	\$ 600.00	1/2 tree down Kenyon St. (pvt.)
7/14/2009	1:00:00 PM	3:30:00 PM	2.50	Bucket Truck Crew Overtime Rate	210.00	\$ 525.00	several hangers city-wide
	3:30:00 PM	4:00:00 PM	0.50	Bucket Truck Crew Overtime Rate	210.00	\$ 105.00	several hangers city-wide
7/16/2009	12:00:00 PM	3:00:00 PM	3.00	Bucket Truck Crew Standard Rate	180.00	\$ 540.00	several hangers city-wide
7/17/2009	3:30:00 PM	6:30:00 PM	3.00	Primary Crew Overtime Rate	200.00	\$ 600.00	large limb down Anthony Cir.
7/24/2009	7:00:00 AM	3:30:00 PM	8.50	Primary Crew Standard Rate	170.00	\$ 1,445.00	strong wind, trees & limbs down
7/27/2009	11:00:00 AM	3:00:00 PM	4.00	Primary Crew Standard Rate	170.00	\$ 680.00	strong wind, clean up
7/31/2009	6:00:00 AM	9:00:00 AM	3.00	Primary Crew Standard Rate	170.00	\$ 510.00	strong wind, trees & limbs down
	7:00:00 PM	10:00:00 PM	3.00	Primary Crew Overtime Rate	200.00	\$ 600.00	strong wind, trees & limbs down
	10:00:00 AM	1:00:00 PM	3.00	Log Loader Crew Standard Rate	125.00	\$ 375.00	strong wind, trees & limbs down
8/1/2009	2:45:00 AM	5:45:00 AM	3.00	Log Loader Crew Overtime Rate	155.00	\$ 465.00	strong wind, trees & limbs down
	7:30:00 AM	12:30:00 PM	5.00	Log Loader Crew Overtime Rate	155.00	\$ 775.00	strong wind, trees & limbs down
	2:45:00 AM	5:45:00 AM	3.00	Supplemental Crew Member Overtime Rate	85.00	\$ 255.00	strong wind, trees & limbs down
	8:00:00 AM	12:30:00 PM	4.50	Primary Crew Overtime Rate	200.00	\$ 900.00	strong wind, trees & limbs down
8/3/2009	8:00:00 AM	11:00:00 AM	3.00	Primary Crew Standard Rate	170.00	\$ 510.00	strong wind, clean up
8/7/2009	6:30:00 PM	9:30:00 PM	3.00	Bucket Truck Crew Overtime Rate	210.00	\$ 630.00	tree down, Lake St.
8/8/2009	12:15:00 PM	3:15:00 PM	3.00	Bucket Truck Crew Overtime Rate	210.00	\$ 630.00	tree down, 15 Harwich Rd
8/24/2009	7:00:00 AM	3:00:00 PM	8.00	Primary Crew Standard Rate	170.00	\$ 1,360.00	strong wind, trees & limbs down
8/26/2009	5:00:00 PM	8:00:00 PM	3.00	Primary Crew Overtime Rate	200.00	\$ 600.00	several hangers city-wide
8/29/2009	2:30:00 PM	8:00:00 PM	5.50	Primary Crew with Log Loader Overtime Rate	375.00	\$ 2,062.50	tropical storm, limbs down
8/30/2009	2:30:00 PM	5:30:00 PM	3.00	Log Loader Crew Overtime Rate	155.00	\$ 465.00	tree down, Comm. Ave.
	2:30:00 PM	5:30:00 PM	3.00	Supplemental Crew Member Overtime Rate	85.00	\$ 255.00	tree down, Comm. Ave.
8/31/2009	6:30:00 AM	10:30:00 AM	4.00	Primary Crew Standard Rate	170.00	\$ 680.00	strong wind, trees & limbs down
9/3/2009	6:30:00 AM	8:30:00 AM	2.00	Primary Crew Standard Rate	170.00	\$ 340.00	tree down, Auburn St.
	8:30:00 AM	2:30:00 PM	6.00	Primary Crew Standard Rate	170.00	\$ 1,020.00	several hangers city-wide
9/4/2009	7:00:00 AM	10:00:00 AM	3.00	Log Loader Crew Standard Rate	125.00	\$ 375.00	log pickup from , Auburn St.
9/8/2009	12:00:00 PM	3:00:00 PM	3.00	Log Loader Crew Standard Rate	125.00	\$ 375.00	several hangers city-wide
	12:00:00 PM	3:00:00 PM	3.00	Bucket Truck Crew Standard Rate	180.00	\$ 540.00	several hangers city-wide
9/9/2009	11:00:00 AM	2:00:00 PM	3.00	Primary Crew Standard Rate	170.00	\$ 510.00	tree down, Anthony Rd.
9/11/2009	10:00:00 PM	1:00:00 AM	3.00	Log Loader Crew Overtime Rate	155.00	\$ 465.00	85 Berkeley St. tree down (pvt)
	10:00:00 PM	1:00:00 AM	3.00	Supplemental Crew Member Overtime Rate	85.00	\$ 255.00	85 Berkeley St. tree down (pvt)
9/18/2009	6:00:00 PM	9:00:00 PM	3.00	Log Loader Crew Overtime Rate	155.00	\$ 465.00	tree down
	6:00:00 PM	9:00:00 PM	3.00	Supplemental Crew Member Overtime Rate	85.00	\$ 255.00	tree down
9/29/2009	10:00:00 AM	2:30:00 PM	4.50	Primary Crew Standard Rate	170.00	\$ 765.00	strong wind, trees & limbs down
9/30/2009	6:30:00 AM	2:30:00 PM	8.00	Primary Crew Standard Rate	170.00	\$ 1,360.00	strong wind, trees & limbs down

Emergency Forestry Equipment Expenditures  
July 1 to October 10, 2009

Date	Time in	Time out	Hours	Equipment	Rate	Cost	Issue
10/7/2009	6:30:00 AM	2:30:00 PM	8.00	Primary Crew Standard Rate	170.00	\$ 1,360.00	strong wind, trees & limbs down
	2:30:00 PM	11:30:00 PM	9.00	Primary Crew Overtime Rate	200.00	\$ 1,800.00	strong wind, trees & limbs down
10/8/2009	9:00:00 AM	2:30:00 PM	5.50	Primary Crew Standard Rate	170.00	\$ 935.00	strong wind, clean up
10/9/2009	6:30:00 AM	2:30:00 PM	8.00	Primary Crew Standard Rate	170.00	\$ 1,360.00	strong wind, clean up
10/10/2009	6:30:00 PM	9:30:00 PM	3.00	Bucket Truck Crew Overtime Rate	210.00	\$ 630.00	tree down, 5 McCarthy Rd.

Estimated Stump Removal Costs from storms	\$ 7,100.00
---	-------------

Estimated Brush Debris Removal Costs	\$ 1,000.00
--------------------------------------	-------------

Total Emergency Related Costs	\$ 37,542.50
-------------------------------	--------------



David B. Cohen  
Mayor

City of Newton, Massachusetts  
Office of the Mayor

#373-09

Telephone  
(617) 796-1100

Telefax  
(617) 796-1113

TDD  
(617) 796-1089

E-mail  
dcohen@newtonma.gov

October 27, 2009

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

Ladies and Gentlemen:

I write to request that your Honorable Board docket for consideration a request to appropriate thirty-seven thousand five hundred forty-three dollars (\$37,543) from Free Cash for the purpose supplementing the tree maintenance budget that has been exhausted due to tree emergencies.

Thank you for your consideration of this matter.

Very truly yours,

David B. Cohen  
Mayor

DBC: srb

09 OCT 27 PM 3:11  
CITY CLERK  
NEWTON, MA. 02159

1000 Commonwealth Avenue Newton, Massachusetts 02459

[www.ci.newton.ma.us](http://www.ci.newton.ma.us)



DEDICATED TO COMMUNITY EXCELLENCE



DAVID B. COHEN  
MAYOR

# NEWTON PARKS AND RECREATION DEPARTMENT

#373-09

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



FRAN L. TOWLE  
COMMISSIONER

Tuesday, October 13, 2009

Honorable Mayor David B. Cohen  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, Mass. 02459

Dear Mayor Cohen:

09 OCT 27 PM 3:11  
CITY CLERK  
NEWTON, MA. 02159

I am respectfully requesting an appropriation to cover the costs incurred for tree emergencies from July 1, 2009 through October 10, 2009.

I respectfully request an appropriation of \$37,543.00 to cover the costs incurred for tree emergencies from July 1, 2009 to October 10, 2009.

Tree Emergency costs – actual and pending invoices from 07/01/09 to date:

Equipment Rental	\$ 37,543.00	Requesting	\$ 37,543.00
Department Overtime	\$ -	Requesting	\$0.00
Other Department Overtime		Requesting	\$ -

**Grand Total: \$ 37,543.00**

COMMISSION MEMBERS

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

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

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

ALTERNATES: MICHAEL CLARKE, PETER KASTNER, JACK NEVILLE

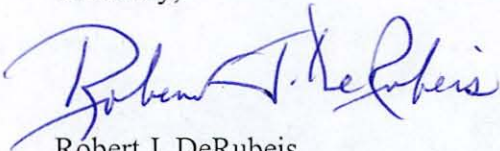
[WWW.CI.NEWTON.MA.US/PARKS](http://WWW.CI.NEWTON.MA.US/PARKS)



A tree emergency maybe a single instance of a tree being damaged by an accident, or a weather related emergency requiring one, two or more crews to respond for cleanup. These expenses have occurred since July 1, 2009.

This request will also cover the actual Forestry Emergency Equipment Rental expenditures from July 1, 2009 and leaves \$29,800 for Forestry Emergency Equipment Rental and \$10,481 for Forestry Emergency Department O.T.

Sincerely,



Robert J. DeRubeis  
Parks & Recreation Deputy Commissioner

09 OCT 27 PM 3:11  
CITY CLERK  
NEWTON, MA. 02159

att:

01602011 5273	\$37,543.00	Tree/ Equipment Rental
1602011 513001	\$0.00	Tree/ Department Overtime
	\$ 37,543.00	TOTAL APPROPRIATION REQUEST

BOARD OF ALDERMEN

CITY OF NEWTON

DOCKET REQUEST FORM

**DEADLINE NOTICE:** Aldermanic Rules require items to be docketed with the Clerk of the Board **NO LATER THAN 7:45 P.M. TUESDAY, PRIOR TO THE MONDAY FULL BOARD MEETING** in order to be assigned to Committee(s) and voted for inclusion that evening.

09 AUG -4 AM 9:23  
CITY CLERK  
NEWTON, MA 02159

To: Clerk of the Board of Aldermen Date: \_\_\_\_\_

From (Docketer): ALD. HESS-MAHAN

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Additional sponsors:**

ALD. DANBERG, FREEDMAN

**1. Please docket the following item (it will be edited for length if necessary):**

proposing to amend tobacco control ordinance to update provisions to reflect changes in state law and to ban the sale of tobacco products at pharmacies located in the City of Newton.

**2. The purpose and intended outcome of this item is:**

- Fact-finding & discussion
- Appropriation, transfer,
- Expenditure, or bond authorization
- Special permit, site plan approval,
- Zone change (public hearing required)
- Ordinance change
- Resolution
- License or renewal
- Appointment confirmation
- Other: \_\_\_\_\_

**3. I recommend that this item be assigned to the following committees:**

- Programs & Services
- Zoning & Planning
- Public Facilities
- Post Audit & Oversight
- Finance
- Public Safety
- Land Use
- Committee on Community Preservation
- Real Property
- Special Committee
- No Opinion

**4. This item should be taken up in committee:**

Immediately (Emergency only, please). Please state nature of emergency:  
\_\_\_\_\_

- As soon as possible, preferably within a month
- In due course, at discretion of Committee Chair
- When certain materials are made available, as noted in 7 & 8 below
- Following public hearing

5. I estimate that consideration of this item will require approximately:

- |   |  |
|---|--|
| <input type="checkbox"/> One half hour or less            | <input type="checkbox"/> Up to one hour                        |
| <input type="checkbox"/> More than one hour               | <input type="checkbox"/> An entire meeting                     |
| <input checked="" type="checkbox"/> More than one meeting | <input type="checkbox"/> Extended deliberation by subcommittee |

6. The following people should be notified and asked to attend deliberations on this item. (Please check those with whom you have already discussed the issue, especially relevant Department Heads):

City personnel

Citizens (include telephone numbers/email please)

- |   |                                |
|---|--------------------------------|
| <input type="checkbox"/> David Naparstek, Health Dept | <input type="checkbox"/> _____ |
| <input type="checkbox"/> _____                        | <input type="checkbox"/> _____ |
| <input type="checkbox"/> _____                        | <input type="checkbox"/> _____ |
| <input type="checkbox"/> _____                        | <input type="checkbox"/> _____ |

7. The following background materials and/or drafts should be obtained or prepared by the Clerk's office prior to scheduling this item for discussion\*:

Copies of the Boston and Needham ordinances banning the sale of tobacco products at pharmacies located in those communities.

8. I  have or  intend to provide additional materials and/or undertake the following research independently prior to scheduling the item for discussion. \*

I plan to invite the Public Health Liaison from the Massachusetts Municipal Association to give a presentation on the proposed amendments.

(\*Note to docketer: Please provide all additional materials to the Clerk's office by Noon on Friday before the Committee meeting where it will be discussed. The materials must be provided in both electronic form and hard copy. This will give Aldermen a chance to review all relevant materials before discussion. Materials not submitted 48 hours in advance of a meeting will require a vote to suspend the rules the night of the Committee's discussion in order to allow the material to be presented.)

Please check the following:

9.  I would like to discuss this item with the Chairman before any decision is made on how and when to proceed.
10.  I would like the Clerk's office to contact me to confirm that this item has been docketed. My daytime phone number is: \_\_\_\_\_
11.  I would like the Clerk's office to notify me when the Chairman has scheduled the item for discussion.

Thank you.

/s/Ted Hess-Mahan

Signature of person docketing the item

[Please retain a copy for your records]

## Chapter 20

**OFFENSES AND MISCELLANEOUS PROVISIONS**□**Art. I Smoking, Tobacco Products and Alcoholic Beverages, §§ 20-1—20-12****Art. II. Noise, §§ 20-13—20-19****Art. III. Civil Fines/Non-criminal Disposition, §§ 20-20—20-22****Art. IV. Light Trespass, §§ 20-31—23-30****Art. V. Tree Preservation, §§ 20-31—20-39****Art. VI. Fences, §§ 20-40—20-49****Art. VII. Miscellaneous, §§ 20-50—20-63****ARTICLE I. SMOKING, TOBACCO PRODUCTS AND ALCOHOLIC BEVERAGES****Sec. 20-1. Distribution of Tobacco Products.**

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

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

**Sec. 20-2. Sale of tobacco products.**

(a) *Declaration of findings and policy:* Whereas there exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and, whereas at least one-half of all smokers begin smoking before the age of eighteen (18); and, whereas an estimated three thousand (3,000) minors begin smoking every day in the United States; and, whereas nicotine in tobacco has been found by the Surgeon General to be a powerfully addictive drug; and, whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major problem; and, whereas a city ordinance ~~requiring proof of age in order to purchase tobacco products is necessary in order~~ to restrict the access of minors to tobacco products is in the interest of public health; now, therefore, it is the policy of the City of Newton to discourage minors from experimenting with tobacco and to make tobacco products less accessible to minors.

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

*City:* City of Newton.

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

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

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

*Employee:* Any individual who performs services for an employer.

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

*Minor:* Any individual who is under the age of eighteen (18).

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

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

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

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

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

(c) *Sales to minors prohibited:*

(1) No person shall sell tobacco products or permit the same to be sold to a minor.

(2) *Notice of prohibition:* In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Commissioner. The notice shall be at least forty-eight (48) square inches and shall be

posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

~~(3) Identification: A person selling tobacco products shall request and examine identification from any purchaser suspected of being a minor, and shall positively establish the purchaser's age as eighteen (18) years or older before allowing the purchase.~~

~~The following shall constitute positive identification: a valid Massachusetts driver's license; or a certified birth certificate along with a picture identification card, or two other similar forms of identification, one of which shall be a picture identification card.~~

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

(d) *Tobacco sales permit:*

(1) No person shall sell or otherwise distribute tobacco within the city without first obtaining a tobacco sales permit issued by the commissioner. ~~The sale or free distribution of individual or loose cigarettes is prohibited.~~ Only owners of establishments with a permanent, non-mobile location in Newton are eligible to apply for a permit and sell tobacco products at the specified location in Newton.

~~(2) An application for a tobacco sales permit shall be filed by each person required to comply with this section no later than sixty (60) days following the effective date of this section.~~ (2) As part of the tobacco sales permit application process, the applicant will be provided with a copy of this Section. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco sales regarding both state laws regarding the sale of tobacco and this regulation.

(3) Each applicant is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a tobacco sales permit can be issued.

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

(45) A separate permit is required for each retail establishment selling tobacco.

(6) Each tobacco sales permit shall be displayed ~~on the premises~~ at the retail establishment in a conspicuous place.

~~(e) No person in the business of selling or otherwise distributing cigarettes or other tobacco or smoking products for commercial purposes, or any agent or employee of such person, shall distribute a cigarette or other tobacco or smoking product free to any person. Furthermore, no person shall sell or otherwise distribute a cigarette or other tobacco smoking product to a minor. (7) No tobacco sales permit holder shall allow any employee to sell cigarettes or other tobacco products until such employee reads this regulation and state laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state laws.~~

(8) A tobacco sales permit is non-transferable. A new owner of an establishment that sells tobacco must apply for a new tobacco sales permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.

(9) Issuance of a tobacco sales permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

(10) A tobacco sales permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired.

(fe) Tobacco products vending machines:

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

(gf) Self service displays:

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

~~(h) Violations and penalties:~~

~~(1) A person who violates the provisions of subsection (d)(1) of this section shall be subject to a fine of one hundred dollars (\$100.00) for each violation. Every hour or part thereof in which a person engages in conduct prohibited by subsection (d)(1) of this section shall constitute a single and separate violation.~~

~~(2) A violation of any provision of this section other than subsection (d)(1) shall be subject to a fine of seventy five dollars (\$75) for the first offense, one hundred and fifty~~

~~dollars (\$150) for the second offense and three hundred dollars (\$300) for the third and each subsequent offense~~

(hg) Ban on Free Distribution and Single Cigarettes:

No person shall distribute, or cause to be distributed, any free samples of tobacco products. No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

(ih) Violations and penalties:

(1) A person who violates the provisions of subsection (d)(1) of this section shall be subject to a fine of three hundred dollars (\$300.00) for each violation. Every day in which a person engages in conduct prohibited by subsection (d)(1) of this section shall constitute a single and separate violation.

(2) A violation of any provision of this section other than subsection (d)(1) shall be subject to:

(a) In the case of a first violation, a fine of one hundred dollars (\$100.00).

(b) In the case of a second violation within thirty-six (36) months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the tobacco sales permit shall be suspended for seven (7) consecutive business days.

(c) In the case of a third violation within a thirty-six (36) month period, a fine of three hundred dollars (\$300.00) and the tobacco sales permit shall be suspended for thirty (30) consecutive business days.

(d) In the case of four or more violations within a thirty-six (36) month period, a fine of three hundred dollars (\$300.00) and the tobacco sales permit shall be revoked for sixty (60) consecutive business days or for the remainder of the permit term, whichever is longer.

(e) The tobacco permit holder shall be assessed a fine according to the schedule stated in this subsection for each violation of any provision of this section, other than subsection (d)(1), occurring on the premises governed by the permit. In the event of a sale or free distribution of a tobacco product to a minor made by an employee of the permit holder, such employee shall also be subject to a fine in accordance with the schedule stated in this paragraph. ~~In addition, three (3) violations of this section within three (3) years, calculated from the date of the first offense, by the same permit holder shall be cause for revocation or suspension of the tobacco sales permit, pursuant to subsection (h)(3) of this section.~~



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

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

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

**Sec. 20-3 – 20-4. Reserved.**

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

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

(1) Upon the sidewalk at: *Albemarle Road*, East side of easterly roadway from its intersection with Watertown Street northerly 299 feet.

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

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

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

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

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

**Secs 20-8—Sec. 20-12. Reserved.**

**Sec. 20-21. Enforcing persons and revised ordinances subject to civil fine.**

(b) HEALTH AND HUMAN SERVICES DEPARTMENT: The commissioner of health and human services, and/or his or her designee, sanitary inspectors of the health and human services department, the chief of police and/or his or her designee, and the administrative director of the board of license commissioners and/or his or her designees shall be authorized to issue written notice of the following violations:

PENALTY

Section 20-2. Sale of tobacco products

First offense of any provision of § 20-3, except subsection (d)(1).....	\$ <del>75</del> <u>100</u> .00
Second offense of any provision of § 20-3, except subsection (d)(1).....	\$ <del>150</del> <u>200</u> .00
Third or subsequent offense of any provision of § 20-3, except subsection (d)(1)	\$300.00
Any offense of the provisions of § 20-3, subsection (d)(1).....	\$ <del>100</del> <u>300</u> .00

Sec. 20-7. Smoking prohibited on sidewalks and other public property

First offense.....	\$50.00
Second offense.....	\$100.00
Third or subsequent offense.....	\$200.00

**Karyn Dean**

---

From: "Carlisle Planning board" <Carlplan@RCN.com>  
To: "Karyn Dean" <kdean@newtonma.gov>  
Subject: RE: November 4 Prog & Serv meeting  
Date sent: Mon, 26 Oct 2009 18:13:56 -0400

Karen,

I think it would be advisable for the Committee to discuss the concept before asking the Law Dept. to draft language for home rule legislation. The primary purpose of my proposal is to simplify the biannual election process. Voters would only have to choose candidates in a maximum of 9 races (8 Aldermen-at-Large and one ward Alderman) rather than the current 17 races that are on the ballot every two years. It could be implemented without a comprehensive Charter change, which in my opinion would be required to change the responsibilities of the Board if the number of Board members were reduced by 1/3, which has often been proposed as another way of simplifying the ballot. Most of the public concern with the size of the Board, I believe, has to do with the complexity of the choices they have to make at the ballot box.

A second effect of this proposed change would be to create a distinction between the office of Alderman-at-Large and Ward Aldermen, and perhaps reduce campaign finance costs. If you are only running in one Ward, campaign costs should be less, but, in turn, you may have to mount a campaign every two years. The number more expensive city-wide campaigns would likely be reduced with 4-year terms. Yet, every Ward would still potentially have two seats available for residents to seek every two years.

Finally, this plan would eliminate the awkwardness of an Alderman-at-Large essentially running in tandem with another Alderman-at-Large, and create more clearly defined one-on-one contests, at least in the final elections.

Please feel free to share these thoughts with the Committee. I will be glad to attend the meeting to explain them more fully.

CITY OF NEWTON

IN BOARD OF ALDERMEN

LONG RANGE PLANNING COMMITTEE REPORT

THURSDAY, OCTOBER 1, 2009

Present: Ald. Hess-Mahan (Chairman), Albright, Baker, Danberg, and Johnson

#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]

**NOTE:**      The item is a request from a citizen to form an advisory committee to look at the processes of the Board of Aldermen and recommend improvements to the Board. Mr. Sheff, the docketor, was unable to join the Committee for discussion of this item but provided an e-mail, which was attached to the agenda. The e-mail outlined Mr. Sheff's suggestions regarding the advisory committee's membership and mission.

Ald. Albright thought that it would be helpful if the Clerk's Office could research docket items and determine how long an item sits on an agenda before it is discussed. Ald. Johnson pointed out that some items such as appointments are dealt with quickly, while items such as the tree ordinance or the noise ordinance take a significant amount of discussion time. Ald. Johnson added that there are also docket items that sit on agendas because it is up to the Chairman whether the items are discussed. Ald. Danberg stated that some type of protocol needed to be established for items that languish on agendas. Ald. Hess-Mahan stated that the federal courts began requiring the clerk for each judge to collect information on how many cases were filed and how many were disposed of within a six-month timeframe. Ald. Baker reminded the Committee that there is a rule within the Rules of the Board requiring docket items to be discussed within a set amount of time.

Ald. Hess-Mahan was thinking about the citizen component of the proposed advisory committee. In talking with Mr. Sheff, he realized that citizens might have entirely different ideas regarding what is inefficient or what is working well. It is his sense that citizens get a very different view. Ald. Hess-Mahan also spoke with Mr. Sheff about procedures that the Aldermen use that may not be transparent to the public, such as proceedings at public hearings. Ald. Mansfield, the Chair of the Land Use Committee, provides written explanation of the procedures at each Land Use public hearing. In addition, President Baker from time to time begins Board meetings with an explanation of first and second call, which is helpful to people unaware of the process. Ald. Hess-Mahan felt that it would be useful to have both aldermanic and citizen input on the advisory committee, as he feels that to most people unfamiliar with City government, the Board of Aldermen meetings are a cipher.

Ald. Hess-Mahan reviewed the information contained in an efficiency report generated by Aldermen in 1972. At the time, the Board of Aldermen did not have any type of process, such as first call and second call. Every single item before the Board was discussed on the floor of the Board and meetings went on until two or three in the morning. There was also some shift in the Board makeup at that time. Although it was still non-partisan, the Board was dominated by one political party and was in the process of changing over to the other party creating a balance on the Board. During that time, one of the concerns was how often Aldermen voted with each other in blocks. At that time, the Board did not even have Robert's Rules of Order, let alone a set of written rules. The efficiency report was a phenomenal piece of work.

Ald. Johnson suggested looking at the Committee structure, especially when things are docketed to multiple committees. She questioned whether there was a real need for the Post Audit Committee and the Committee on Community Preservation. She believes that the Post Audit Committee could be an important committee, if it was utilized. The advisory committee and Board could do some research on how to better utilize that committee. It is possible that the Board could eliminate the Committee on Community Preservation because applications for Community Preservation Funds have decreased significantly leaving the Committee with a very light workload. The work could go to either the Public Facilities Committee or the Programs and Services Committee depending on the content. Ald. Baker stated that a number of years ago a number of Aldermen looked at the issue of trying to consolidate committees. At that time, the committee structure had two topical issues that were not self-evident. One unexpected benefit was that when some items were discussed in more than one Committee, it seemed to weed out some of the controversy. Those items often went through the Board on first call, where they would not have otherwise. The second issue that generated discussion was the appropriate size for committees. Many Aldermen wanted to discuss certain items while other items did not warrant the same amount of interest. Ald. Baker felt that the Board could benefit by looking at Committee structure again.

Ald. Hess-Mahan noted that there are three basic things that the Committee seems to be discussing as appropriate for discussion by the advisory committee. They relate to workflow, transparency, and committee organization and structure. Ald. Hess-Mahan inquired if there were any other things that should be recommended to Programs and Services Committee.

Ald. Hess-Mahan spoke to David Olson, City Clerk/Clerk of the Board, again about Granicus, which is a web-based software program that would provide additional information to the public on Board meetings. Unfortunately, there has been an ongoing dispute between NewTV and the city over who is going to pay for the program, how much they are going to pay, and who is going to own the equipment associated with Granicus.

Ald. Johnson thought that it would be helpful to have a more user-friendly city website. Ald. Albright pointed out that it is very difficult to search the ordinances and the webpage. Ald. Danberg informed the Committee that she had submitted a stimulus fund request of \$50,000 to redo the city website. She has yet to hear anything regarding the request. She believes that improving the website would go a long way to resolving the transparency issue.

The Committee discussed what type of people should be included on the advisory committee. Ald. Johnson requested a process person with an organizational background. Ald. Albright suggested an information technology professional with database management experience. She would also like to see some type of content management system for docket items, as it would make finding information on webpage much easier. Ald. Johnson stated that the aldermen appointed to the Committee should represent fairly new members as well as long serving Aldermen. A newer Alderman may have a different view of the Board functions.

The Committee also discussed the size of the proposed advisory committee and felt that between five and eight members was the appropriate size. In addition, Ald. Baker reminded the committee that the Board and Executive office would be in a transition period after the election. He suggested that it might be advisable to institute the advisory committee at the start of the new Board. Ald. Johnson agreed and added that it would be nice to have everything in place by January.

#### **SUMMARY OF RECOMMENDATIONS:**

- Establish Advisory Committee in early 2010 to review processes of the Board of Aldermen and report recommended efficiency improvements to the Board of Aldermen
- Advisory Committee should be comprised of 5-8 members including past and present aldermen with range of years of service, citizens with expertise including a process person with organizational background, and an information technology professional with database management experience
- Review of processes of the Board of Aldermen should include workflow, public communication, and committee organization and structure as well as other areas of interest to be determined by the Advisory Committee
- Review of workflow should include analysis of the amount of time docket items remain on committee agendas before discussions and/or actions take place, and development of searchable database indicating status of each docket item with links to agendas, reports and other documents
- Review of public communications should include online availability and retrieval of agendas, reports and other documents from the aldermanic website, explanation of process at public hearings and meetings, and methods for providing effective notice of meetings, hearings and other important events
- Review of committee organization and structure should include possible creation, consolidation and/or elimination of committees or functions of committees, and referral of certain types of items to more than one committee

Note from the Chairman: The Long Range Planning Committee did not discuss whether the Advisory Committee should be an ad hoc or a standing committee, which is an issue that the Programs & Services Committee may wish to address.

All other items were held without discussion and the meeting adjourned at 8:30 PM.

Respectfully submitted,

Alderman Ted Hess-Mahan, Chair

## Sample Statutory Definitions of “Maximum Extent Feasible”

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

***Definition from ADA Title III Regulations.***

As used in this section, the phrase "to the maximum extent feasible" applies to the occasional case where the nature of an existing facility makes it impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the entity shall provide the maximum physical accessibility feasible. Any altered features of the facility or portion of the facility that can be made accessible shall be made accessible. If providing accessibility to certain individuals with disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to individuals with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

Fourth, the term "maximum extent feasible" means that all changes that are possible must be made. The requirement to make changes to the maximum extent feasible derives from clear legislative history. The Senate Report states --

The phrase "to the maximum extent feasible" has been included to allow for the occasional case in which the nature of an existing facility is such as to make it virtually impossible to renovate the building in a manner that results in its being entirely accessible to and usable by individuals with disabilities. In all such cases, however, the alteration should provide the maximum amount of physical accessibility feasible.

Thus, for example the term "to the maximum extent feasible" should be construed as not requiring entities to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member unless the load-bearing structural member is otherwise being removed or altered as part of the alteration. (S.Rept. 101-116, at 68)

***OSHA Standards for Infeasibility***

In order to establish the affirmative defense of infeasibility, an employer must prove that: (1) the means of compliance prescribed by the applicable standard would have been infeasible under the circumstances in that (a) its implementation would have been technologically or economically infeasible, or (b) necessary work operations would have been technologically or economically infeasible after its implementation, and (2) either (a) an alternative method of protection was used or (b) there was no feasible alternative means of protection. *Armstrong Steel Erectors, Inc.*, 17 BNA OSHC 1385, 1387 (No. 92-262, 1995).

***California, Article 5.3(k) - Marine Terminal Personnel Training and Certification.***

"Maximum extent practicable" means the highest level of effectiveness that can be achieved through the use of terminal personnel and best achievable technology. In determining what is the maximum extent practicable, the Division shall consider, at a minimum, the effectiveness, engineering feasibility, commercial availability, safety, and the cost of the measures.



***Utah Planning Standards, Section 19.72.070 Definitions.***

“Maximum extent feasible” means no prudent, practical, and feasible alternative exists, and all possible planning to minimize potential harm has been undertaken. Economic considerations may be taken into account but shall not be the overriding factor in determining “maximum extent feasible.”

***Wisconsin Code of Regulations, Chapter 34 Construction Site Erosion Control.***

(5) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state. . . .

(18) “MEP” or “maximum extent practicable” means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

(19) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

***Glendale, CA, Municipal Ordinances, Chapter 13.42 Stormwater And Urban Runoff Pollution Prevention Control And Standard Urban Stormwater Mitigation Plan.***

“Maximum extent practicable” means the standard for implementation of storm water management programs to reduce pollutants in storm water MEP refers to storm water management programs taken as a whole. It is the maximum extent possible taking into account equitable considerations and competing facts, including but not limited to, the gravity of the problem, public health risk, societal concern, environmental benefits, pollutant removal effectiveness, regulatory compliance, public acceptance, ability to implement, cost and technical feasibility.

***Irwindale, CA Code of Ordinances, Ch. 8.28 Storm Water and Urban Runoff Pollution.***

"Maximum extent practicable" means, within the context of BMP [Best Management Practice] selection, choosing effective BMPs, and rejecting applicable BMPs only (i) where effective BMPs will serve the same purpose, (ii) the BMPs would not be technically feasible, or (iii) the cost would be prohibitive.

***The City of Rancho Cordova, California General Plan. 2.0 Project Description.***

The term “feasible” as used in the Natural Resources Element of the City General Plan shall be defined as follows: “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.

***Seattle, WA Stormwater Code.***

“Maximum extent feasible” means the requirement is to be fully implemented, constrained only by the physical limitations of the site, practical considerations of engineering design, and reasonable considerations of financial costs and environmental impacts.

**Requirement that installation of synthetic in-filled turf athletic fields on city-owned properties use sustainable, recyclable, lead-free, non-toxic products to the maximum extent feasible.**

The installation of synthetic in-filled turf athletic fields on city-owned property shall use sustainable, recyclable, lead-free, non-toxic products to the maximum extent feasible.

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account estimated cost, effectiveness, environmental, safety, public health, legal and technological factors.

“Maximum extent feasible” means no prudent, practical, and feasible alternative exists, taking into account the best available technology, cost effectiveness and other competing issues such as safety, public health, and environmental risks and benefits. In determining what is the maximum extent feasible, the City shall consider, at a minimum, effectiveness, engineering feasibility, commercial availability, safety, environmental impact and cost. Cost shall not be the overriding factor in determining “maximum extent feasible,” and must include consideration of projected life cycle costs, including, but not limited to, maintenance, repair, replacement, recycling and/or disposal costs over the estimated useful life of the installation. “Maximum extent feasible” is intended to be a flexible standard that may vary depending on consideration of the factors listed above and site conditions for each specific installation.

CITY OF NEWTON

BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, OCTOBER 7, 2009

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

Absent: Ald. Parker

Also Present: Ald. Danberg and Harney

Others Present: Daniel Funk (City Solicitor), Eileen McGettigan (Asst. City Solicitor), Sandy Guryan (Asst. Supt. Newton Public Schools), Marc Laredo (Chairman, School Committee), Diana Robbins (Director, Career and Technical Ed.), Dr. Alex White (VP, Mass Thoracic Society), Kathy Flood and Scott Keyes (Mass. Lung Association), D.J. Wilson (Tobacco Control Director, MMA), Linda Walsh (Director, Newton Health Services), Karyn Dean (Committee Clerk)

#296-09        HIS HONOR THE MAYOR appointing John M. MacGillivray as the Veteran's Agent and Licensing Board Administrative Director. [09-29-09 @ 12:29 PM]

**ACTION:**    **APPROVED 5-0 (Ald. Brandel and Freedman not voting)**

**NOTE:** Mr. MacGillivray attended the September 23, 2009 Programs & Services Committee meeting. He was introduced to the Committee and shared his professional experience at that time. The Committee voted to approve this appointment.

#297-09        HIS HONOR THE MAYOR requesting that the Board of Aldermen designate City Solicitor, Daniel M. Funk, as the liaison to the State Ethics Commission to assist in the City's compliance efforts with the new requirements of the conflict of interest law. [09-29-09 @ 12:28 PM]

**ACTION:**    **APPROVED 6-0 (Ald. Brandel not voting)**

**NOTE:** Dan Funk explained that there were some changes to the conflict of interest law on July 1, 2009. The changes that apply to this item include a designation of a liaison to the State Ethics Commission. Mr. Funk suggested that the City Solicitor be the liaison because the City Solicitor is already the entity in the City to respond to conflict of interest questions within the statute. Another change is the requirement of distributing a summary of the conflict of interest law to every employee, every year. The summary is created by the Ethics Commission and David Olson has already started the distribution process. (The MMA is asking the Inspector General's Office if the state should be bearing some of the costs of this.) The compliance also requires that every employee

must sign an acknowledgement of receipt and return it to the City Clerk. The Clerk has to keep the receipts as a matter of record. Mr. Funk said the hope is to have this done electronically in the future, but right now it is a paper process. There is online training that is required as well. Employees log on, read some information and answer some questions. Mr. Funk has inquired about the possibility of recording the completion of this electronically as well. He believes the deadline for the online training has been extended to April 2, 2010. The state's purpose in all of this is to raise the awareness of all state and municipal employees of the conflict of interest laws. Right now there are no penalties for failure to complete the training.

Dan Funk mentioned that members of the Commission and Boards would be included as well. Ald. Baker said that there was also an indication that many part-time employees and volunteers would be subject to these requirements. Mr. Funk said there was much to be worked out and the state was taking many questions from many communities. He felt there would be more information forthcoming.

Ald. Hess-Mahan moved to approve Mr. Funk's appointment and the Committee voted in favor.

#292-08(2) PROGRAMS AND SERVICES COMMITTEE requesting that His Honor the Mayor develop a written policy of standards and processes that could be uniformly followed by community groups for the use of the branch library buildings. [11/07/08 @ 11:11 AM]

**ACTION:** **HELD 7-0**

**NOTE:** Dan Funk and Eileen McGettigan addressed the Committee. Mr. Funk explained that Ms. McGettigan has worked on the license agreements for the three branch libraries currently occupied by community groups (Nonantum, Waban and Auburndale). During that process, the Law Dept. received a draft of policy suggestions from Ald. Brandel and Sangiolo. Much of what was suggested was already incorporated in the license agreements that were underway.

Ald. Brandel said he would like to see a written set of standards or policies as this could set a precedent for future public/private partnerships within the City. The problem with the branch libraries was a commercial tenant wanted to use one of the branch library buildings. Mr. Funk said the zoning for the branch libraries was for public use and having a commercial entity was prohibited. For example, a community group could have a yoga class, but that yoga instructor could not have a commercial studio on the site. If there was some instance in which a commercial entity would be allowed, the taxation would change because market rate would then apply. However, the basic municipal principle of use of city property is for public purposes.

Mr. Funk said the licenses themselves were a good example of the policies. He didn't feel a written policy was necessary. They were as consistent as possible in all three circumstances. Ms. McGettigan said the three overriding principles were: it has to be consistent with zoning; it has to be revenue neutral; and there has to be equity among the

various users of the libraries. Ald. Johnson felt there should be a document with a clear set of standards and expectations. Ald. Brandel agreed saying these agreements were specific to the unique library situations and he felt there should be general guidelines established. Ald. Sangiolo agreed as well. She pointed out the Food Pantry was at one of the libraries without a license agreement. Mr. Funk said that arrangement was worked out between the pantry and the library, and perhaps the Mayor at that time. The agreements being negotiated at this point are being made under different circumstances. Mr. Funk said that policies change with new administrations. The licenses are a Mayoral exercise and the Board really has no control. In a reuse situation, it would be quite different but these are not reuse situations.

Mr. Funk said the he would put together a document that included the three principles expressed and other best practices that were reflected in the current licenses.

The Committee voted to hold this item until Mr. Funk can return with the document.

**REFERRED TO PROGRAM AND SERVICES AND FINANCE COMMITTEES**

#302-09 HIS HONOR THE MAYOR requesting the establishment of three School Department revolving funds; each fund is to be used for receiving and expending up to \$25,000 annually for the purpose of the deposit of revenue for customer services provided by students and for the payment of corresponding expenses for the Automotive Technology, Carpentry and Graphics Communications Departments. [09/17/09 @ 10:16 AM]

**ACTION:** **APPROVED 7-0**

**NOTE:** Sandy Guryan, Marc Laredo and Diana Robbins addressed the Committee regarding these revolving accounts. Ms. Guryan explained that the School Department already had a revolving account that was required by law for the Tiger's Loft (the student run restaurant at Newton North). Ms. Robbins wanted separate accounts for the Automotive, Carpentry and Graphics Communications Departments so that students may do projects and collect money from the sale of services or items. The collected money will help fund purchases that assist the programs. Ms. Guryan said the new Newton North High School will have great facilities for these departments. This is not a request for money, just the establishment of the accounts to accept and expend the money.

Ms. Robbins said the plan would be to charge a nominal fee on top of the cost of the materials used to repair a car, for example. They would place the fee into the revolving accounts to pay for equipment and supplies to support and supplement the programs.

Ald. Baker moved to approve this item and the Committee voted in favor.

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

#8-09 ALD. HESS-MAHAN, LINSKY, ALBRIGHT, FREEDMAN, MANSFIELD, JOHNSON, HARNEY & VANCE proposing an ordinance requiring that the installation of synthetic in-filled turf athletic fields on

city-owned property shall use sustainable, recyclable, lead-free, non-toxic products to the maximum extent feasible. [12/30/08 @ 9:55 AM]

**ACTION:** **HELD 7-0**

**NOTE:** Ald. Hess-Mahan explained that a Resolution had been passed by the Board with the same language but the Mayor declined to act on this. Ald. Hess-Mahan met with the engineers who were designing the fields at Newton South High School. Ald. Freedman joined the conversation by telephone. The contractors felt the products were not tested and wanted more history and more vendors that offered the products. They also said they would do it if they were directed to. Ald. Hess-Mahan reminded the Committee that he had brought in the gentlemen who invented the crumb rubber that is currently being widely used. He is now one of the biggest proponents of using eco-friendly products made from organic or inert materials.

The major benefit would be to eliminate toxic substances and human exposure to them. These products have been in use in Europe from some time now with good results. The International Soccer League uses them on their synthetic fields. Another benefit is that these products don't heat up as much as the type currently used. These eco-friendly products wear just as well. As more communities put in synthetic fields, more problems are occurring with the presence of lead and other harmful products. He felt it just made sense to use the safest product feasible. He wanted Newton to be a leader. This will be a directive for the future with any new fields or replacement turf. Bob DeRubeis said he was in favor. It will be a learning process and he felt if they could find a more eco-friendly and safe product for future projects, he was in favor of using it. It would, of course, have to fit with the budgetary constraints of the City. Ald. Johnson noted that if the Board approved this new ordinance, they could use an eco-friendly product for the Newton North High School fields.

Ald. Brandel was concerned about how it could be determined what the "maximum extent feasible" would be. He was also concerned that these newer products have not been used in the United States, just in Europe. Ald. Johnson noted that Europe has been far ahead of the United States in many areas and just because the product has not been widely used in the US, should not be a deterrent. Ald. Freedman said he supported the installation of the synthetic turf fields. His research showed that they were safe. But he felt if they could find a product that was more environmentally friendly and fit the budget, he could support its use. Ald. Hess-Mahan said Wellesley has used a product that has no lead in it.

**Follow Up**

Ald. Hess-Mahan said he would work with the Law Department to craft some language for a new ordinance and make the intent as clear as possible.

The Committee voted to hold this item.

#232-09 ALD. HESS-MAHAN, DANBERG AND FREEDMAN requesting an amendment to the City of Newton Ordinances to ban the sale of tobacco products at pharmacies in Newton. [07/16/09 @ 9:42 AM]

**ACTION:** **HELD 7-0**

**NOTE:** Ald. Hess-Mahan explained that Boston was the first city in Massachusetts to implement a ban on tobacco sales in pharmacies. Needham and Uxbridge have since adopted a ban as well. This policy has been endorsed by the American Pharmacists Association since 1970. The cigarette companies tried to appeal the ban that was in place in San Francisco, but the 9<sup>th</sup> circuit court of appeals upheld the ban. Bans are in place in Canada as well. Massachusetts is ahead of the curve in limiting tobacco sales in the United States.

#### Proposed Changes to Ordinance

D.J. Wilson provided a handout for the Committee which is attached to this report. It lists the pharmacies that are tobacco free throughout the state. He went through Newton's ordinance to amend and simplify it to include this ban. He added the Boston language to define a healthcare institution to include pharmacies and hospitals. The proposed definitions are attached to this report. He said Boston's ban has been in effect since last December or January and has worked well.

#### Background Information and Support

Dr. Alex White said he was the VP of the Massachusetts Thoracic Society, Chief of Pulmonary at New England Sinai Hospital in Stoughton, and a Newton resident. He said his colleagues in pulmonary medicine as well as cardiac and other medicines all care for people with illnesses developed from smoking. Dr. White stated that tobacco use was the single most preventable cause of death in the United States today, and that smoking kills more citizens than auto accidents, HIV, alcohol, illegal drug use, murders and suicides combined. Lung disease develops over a long period of time and symptoms of lung disease take a long time to develop. This gives ample time for addiction. He said tobacco companies knew this and targeted young people as a result.

Dr. White said doctors use drugs to treat the symptoms of shortness of breath, cough, chest infections, etc. An important part of the therapeutic team was pharmacists. He said that members of the Mass Thoracic Society (MTS) and the Mass Medical Society felt that all health professionals have a special obligation to promote public health. As a result, tobacco products were not sold in doctor's offices, hospitals or outpatient clinics. They believed these products should not be sold in pharmacies. They also believed that all licensed health care professionals should be able to operate in an environment that was free from the sale of tobacco products. To have people go to pharmacies to get their drugs for treating tobacco-related illnesses, and be presented with tobacco products for sale was sending the wrong message. The members of MTS have lobbied CVS, Walgreens and other big chain pharmacies to stop selling tobacco products and they have refused. The chain stores stated that they understood the request but they made a lot of money from these sales. Ald. Hess-Mahan pointed out that Walgreens and Rite-Aid have their own brand of cigarettes. He said that there were documents between some big chain

pharmacies and tobacco companies stating they could aid in tobacco sales because they had the reputation of promoting good health. He said that because pharmacists were licensed healthcare professionals, they had a responsibility to promote good health and work in an environment that did the same.

#### Business Impact

Ald. Brandel thought the pharmacies should be heard from. He supported the concept of the ban but wanted to be careful about impacting the financial security of businesses in Newton. Ald. Brandel asked if they would extend the ban to grocery stores that sold health products. Mr. Wilson said it would apply to establishments that fell within the definition of a health care institution. If the grocery store had an in-store pharmacy, then it would apply. If not, then it would not.

#### Selling to Minors/Licensing

Ald. Hess-Mahan pointed out that there had been a large increase in stores selling to minors, particularly drug stores. Linda Walsh stated that there were 60 establishments in Newton with tobacco seller licenses and 10 of those were pharmacies. She stated the money for compliance checks has decreased. In June of 2009, Eatons, Walgreens, and CVS were all fined for selling to minors; and 13 other non-pharmacy establishments were also fined. Mr. Wilson said that Worcester has been contemplating limiting the number of tobacco seller licenses it issues in the City, similar to liquor licenses. Mr. Wilson said a license fee should reflect the cost of issuing the permit and enforcing it. In times past, many communities had only nominal fees. He provided a handout that lists some communities and their licenses fees.

#### Process

Ald. Johnson asked why this was not being tackled at the state level. Mr. Wilson said there was a bill with testimony this past June, but it hasn't moved since then. Dr. White said the state process moved slowly, so they thought they would start town by city to get the process going. Ald. Freedman strongly supported this item. He said he would like to see society move toward the complete eradication of tobacco products. Ald. Danberg agreed. Ald. Freedman didn't think tobacco usage in the city would be radically changed by banning it from 10 out of 60 establishments. However, he felt this was a good step because it was a change in the right direction both materially and symbolically.

#### Follow Up

Ald. Sangiolo suggested docketing another item to raise the tobacco seller license fee. She will follow up with the Law Department to explore what the limitations on that might be. The Committee felt there should be a public meeting to hear from businesses and citizens on this issue. This will take place at the November 4 Programs & Services Committee meeting. The Committee voted to hold this item.

Meeting adjourned.

Respectfully Submitted,

Marcia Johnson, Chairman