



## **Public Facilities Committee Report**

### **City of Newton**

### **In City Council**

**Wednesday, June 19, 2019**

Present: Councilors Crossley (Chair), Leary, Norton, Kelley, Gentile, Danberg, Laredo, Lappin, Ciccone, Auchincloss, Markiewicz, Downs, Noel, Grossman, Lipof, Albright

City Staff Present: Commissioner of Public Works Jim McGonagle, DPW Director of Streets Shane Mark, DPW Director of Transportation Jason Sobel, City Engineer Lou Taverna, School Department CFO/Assistant Superintendent Liam Hurley, Chief Financial Officer Maureen Lemieux, Chief Operating Officer Jonathan Yeo

#### **Referred to Public Safety & Transportation, Public Facilities and Finance Committees**

**#156-18**     **Ordinance amendments for enforcement and fines for sidewalk clearing violations**  
COUNCILORS DANBERG, ALBRIGHT, CROSSLEY, NORTON, AND LIPOF requesting amendments to Chapter 17, Section 3 and Chapter 26 Section 8D of the Revised Ordinances to provide for enforcement and fines for violations of the sidewalk clearing ordinance.

**Action:**     **Public Facilities Approved 6-2 (Lappin, Gentile Opposed)**

**Note:**        The Public Facilities Committee and Public Safety and Transportation Committees met jointly to discuss this item. Councilor Danberg presented the request to amend the Ordinances to provide enforcement and fines for sidewalk clearing violations. The proposed Ordinance allows residents 24 hours to clear their sidewalks. If the walk is not cleared after 24 hours, DPW may issue a \$50 fine. Councilor Danberg noted that the current snow trial has been in place for several years and currently allows residents 30 hours to clear.

Commissioner of Public Works Jim McGonagle noted that DPW staff responded to 311 calls and issued warnings to residences. DPW followed up to verify that the snow was cleared. During the first year, compliance was 40% (after issuing a warning). The second year, compliance reduced to 35% as residents learned that there was no fine tied to not clearing the sidewalk.

Commissioner McGonagle explained that DPW will be responsible for enforcement of the snow clearing violations. He noted that violations will need to be complaints made via 311 and will be dealt with immediately (similar to trash pickup). He noted that the inspectors will have tablets which allow them to photograph the violation and mail a citation to the property owner by the next day. Councilors questioned whether the violation should be mailed to the resident or to the property owner, noting that the mailed citation may be received too late. Councilors agreed that the citation should be mailed to the property owner, who is ultimately responsible for deciding who will pay the citation. A Councilor noted that the citation will help reduce non-compliance during future storms.

A Councilor questioned how residents who are unable to clear may be granted an exemption. Councilor Danberg stated that individuals who believe they cannot clear the sidewalks, may apply for an exemption through the Senior Center. She confirmed that the Mayor's Office has the authority to maintain a list of volunteers to help clear sidewalks but noted that many of the volunteers are minors therefore the City may not publish contact information for them.

A Committee member noted that snowplows often dump piles of snow on corners, making it difficult for homeowners on corners to clear the sidewalk. Councilor Danberg noted that the City is making efforts to reduce snow on corners and stated that the City's contractor will be held accountable for remedying the situation if chasers find snow dumped on corners.

Committee members questioned how residents would be notified of the fine implementation. Councilor Danberg noted that many residents already believe that there is a fine. Committee members were supportive of ensuring that residents be made aware that the fine will be implemented, and agreed that notification should be sent with the fall tax bill, in the Mayor's Newsletter and Newton Tab.

The Public Hearing was Opened.

Nathaniel Lichtin, 53 Pine Crest Road, expressed support for 24 hours rather than 30 hours. He noted that 30 hours extends into a second day and could impact two consecutive days of commutes.

David Rushka, 250 Hammond Pond Parkway, supports the fines. He stated that having clear sidewalks year-round is important and believes the fines will help ensure that.

Jonathan Baracato, 250 Hammond Pond Parkway, agrees with the reduction in time to clear from 30 hours to 24 hours to clear and is supportive of the Ordinance amendment.

Jennifer Martin, 86 Allen Avenue, supports the Ordinance amendment. Ms. Martin noted that some residents receive notices and still don't clear, making it difficult to walk on the sidewalk. Ms. Martin expressed support for the Ordinance amendment.

Lucia Dolan, 20 Devon Road, thanked Councilor Danberg's ongoing efforts. She noted that pedestrians are often forced into the streets because of individuals who have not cleared their sidewalks.

Seeing no other member of the public who wished to speak, the public hearing was closed. Committee members questioned whether the administration has considered alternate ways to allow appeals for the snow clearing violations. Chief Operating Officer noted that appeals must go to the Newton District Court as they do with the leaf blower Ordinance. Committee members asked that the Public Works Department share a draft of the notice to residents prior to distribution and that a copy of the Law Department's opinion regarding liability be included in the packet. With that Public Facilities Committee members voted 6-2 (Gentile, Lappin opposed) and the Public Safety and Transportation Committees voted 6-1 (Ciccione opposed) in favor of motions to approve.

**Referred to Public Facilities and Finance Committees****#161-19 Appropriation of \$2 million for design of the Washington Street corridor**

HER HONOR THE MAYOR requesting authorization to appropriate and expend two million dollars (\$2,000,000) from Free Cash for the purpose of developing 25% conceptual design of the Washington Street corridor in order to make the improvements to the corridor eligible for the State's Transportation Improvement Program (TIP) funding.

**Action: Public Facilities Approved as Amended (6-0-1) (Norton abstaining, Laredo not Voting)**

**Note:** The Commissioner of Public Works Jim McGonagle met to discuss the request for funding with the Chairs of Public Facilities and Finance, City Engineer Lou Taverna and DPW Director of Transportation Jason Sobel. Commissioner McGonagle presented the amended request to set aside \$650,000 from FY19 free cash and appropriate \$250,000 for the purpose of design of the Washington Street Corridor pilot.

DPW Director of Transportation Jason Sobel presented details of the timeline (shown on the attached presentation). Mr. Sobel explained that the \$250,000 appropriation will be used for data collection, traffic counts and preliminary design concepts. Data collection is expected to begin during summer 2019 and traffic counts will start once school begins in the fall. Mr. Sobel noted that DPW will return to the Public Facilities Committee in fall to request the balance of the \$650,000 which will allow City to hold at least one community meeting to discuss the roadway design, design of the trial along the corridor and preparation of bid documents for construction of the trial. Mr. Sobel noted that there will be a public process which will allow residents to comment on the design of the trial through April 2020. It is expected that bid documents will be finalized for construction of the trial in late spring of 2020 with construction to begin in summer 2020. Mr. Sobel stated that the trial will run for approximately 1 year; allowing time to monitor and adjust the conditions as well as data collection. The engineering consultant will prepare a final report and recommendations based on the outcomes of the trial (2021) which can then be used to generate an RFP for 25% complete schematic documents.

A Committee member noted that Washington Place, West Newton Square, Austin Street and the Washington Street Vision Plan have not been completed and questioned how accurate the data will be given the upcoming changes. The Commissioner noted that it is important to establish a baseline prior to the completion of upcoming developments. He stated that when the City applies to be considered for MassDOT Transportation Improvement Plan (TIP) funding, traffic counts must be current within 2 years and therefor will have to be counted a second time (this count will reflect the occupancy of the new developments).

It was noted that it is important to move the project forward in a timely manner to allow the City an opportunity to apply for TIP funding. Councilors noted that TIP funding is not guaranteed and has been limited to \$95 million dollars for all of the communities in Massachusetts. Committee members noted that the estimated cost for construction for the Washington Street corridor ranges from \$30-\$40 million dollars. Mr. Sobel noted that the City will know whether it qualifies for TIP funding at the point of 25% complete design (estimated to cost between \$2-\$3.5 million dollars).

A Committee member questioned whether the state offers opportunities for cost sharing with municipalities. Mr. Sobel said that the City can question whether partial TIP funding might be an option. With that, Councilor Kelley motioned to approve the item as amended to set aside \$650,000 from FY19 Free cash, and appropriate \$250,000 of the \$650,000 to be used for data collection, traffic counts, public outreach and a concept design for the trial with the expectation that an RFQ for the remaining work, the scope of work for the balance of the \$650,000 and the scope of work for the will be provided to the Council as soon as it is readied. With that, Committee members voted 6-0-1 in favor of approval (Norton abstaining).

### **Referred to Public Facilities Committee**

#### **#194-19 5-58 for the Newton Early Childhood Program at 687 Watertown Street**

DESIGN REVIEW COMMITTEE petition, pursuant to 5-58, for schematic design and site plan approval at 687 Watertown Street for the interior renovation of the former Horace Mann school to accommodate the Newton Early Childhood Program and proposed site design that includes a new entry plaza, removal of the existing modular structures to provide an access drive, a school transportation van loading area and emergency access, and landscaping improvements. Additional site improvements include parking improvements and an accessible ramp to new play structures located in the adjacent area north of the building.

**Action:** **Public Facilities Approved 5-0-2 (Lappin, Gentile abstaining)**

**Note:** Commissioner of Public Buildings Joshua Morse noted that after the public hearing and Committee discussion on June 5, 2019, there remained requests for further information on three items; a clarification of the stormwater management system design, an explanation of the engineering analysis for HVAC and building envelope insulation investments and a careful review of the project budget with options explaining the difference between providing 15 and 17 classrooms.

The Commissioner noted that the Newton Early Childhood Program budget and estimate summary (attached) details the evolution of the project, program, challenges and the recommendation that the project proceed with the 17 classrooms, knowing that the project with the infill is estimated to cost \$12.5-\$13 million dollars.

Arrowstreet Architect Larry Spang explained that the stormwater today consists of separate catch basins on the site. He explained that the project includes improvements to the site that will infiltrate as much stormwater as possible; improving on the existing conditions. It was noted that there is less impervious surface proposed than exists today and the system design capacity exceeds current City requirements because the site is under DEP and Conservation Commission jurisdiction. The Chair noted that the proposed storm water design responds to two primary requirements, DEP Storm Water Management Standards and the Floodplain ordinance. The site is in the 200-foot River Front Area and designed to meet the Wetlands Protection Act Regulations for Riverfront Area which triggers the DEP regs. In addressing these, working with Con Com., and accounting for the added paved area for the Van Drop Off loop the

design results in a reduction in stormwater runoff volumes as compared to the existing. The design will have the added benefit of reducing City stormwater fees associated with this site.

It was noted that concerns remain relative to oil remediation at the site. At the public hearing on June 5, a resident licensed site professional (LSP) stated that under no circumstances could the oil be entirely removed and suggested that the only wise remedy would be through the installation of a subsurface ventilation system. Commissioner Morse stated that Public Buildings will return to the Committee in September to request funding for the remediation at the site. He noted that if the oil is removed from the site, no additional ventilation system would be necessary. He confirmed that if the testing reveals the presence of remaining oil, the state will require installation of the ventilation system.

Committee members expressed support for eliminating the use of fossil fuels at the site by using all electric high efficiency variable refrigerant flow (VRF) heating and cooling but expressed concerns that current estimates reflect a decision not to insulate the building. Commissioner Morse confirmed that the Design Review Committee (DRC) has asked the design team to continue to evaluate options for insulating the building. He confirmed that there will be opportunities for air sealing but noted that the payback period for insulating is very long. Councilors urged the Commissioner to consider insulation of the building, noting that the population to be served is a sensitive one, and building comfort and health issues should be addressed. It was noted that this renovation may be the only opportunity to insulate the building and suggested that it is sensible to invest in insulation. The Chair called on DRV chair Peter Barrer who stated that from his own analysis he is not convinced the design team's analyses on wall insulation ROI are based on the right assumptions, and that he will continue a deeper review with the design team.

The Commissioner noted that Co-Director of Sustainability Bill Ferguson is working to maximize grant funding opportunities wherever available but stated that incentive programs are being eliminated as VRF HVAC technology becomes competitive.

Commissioner Morse noted that the project estimate changed from \$8 million dollars (14-15 classrooms) in 2018, to \$10 million dollars in winter 2019 (17 classrooms) to \$14.5 on June 5, 2019 based on the first professional cost estimate. He explained that the design team has identified some opportunities for cost savings, including corrections to the work scope, and the total cost estimate is currently \$13 million dollars. He confirmed that the design team continues to identify cost saving opportunities. The Commissioner noted that the cost of an addition is approximately \$1.3 million dollars versus the cost to infill classrooms in the gym as proposed is approximately \$1.7 million dollars. It is the recommendation that the City moves forward with the infill, noting that an addition may still be necessary in the future. Chief Operations Officer Jonathan Yeo confirmed that the Administration will identify the funding source for the additional work during the fall CIP presentation.

The Chair explained that the approval of 5-58 authorizes the Public Buildings Department to continue into the next stage of design with the previously approved design funds. Councilor Kelley moved approval of the petition for site plan approval with all of the conditions recommended by the Design Review Committee and contingent on future presentations to the Public Facilities Committee. Committee members voted 5-0-2 in favor of approval (Lappin, Gentile, abstaining)

**#230-19      Resolution in support of the F.U.T.U.R.E. Act**

COUNCILORS CROSSLEY, KELLEY, LAREDO, LEARY AND NORTON requesting a resolution from the City Council in support of “An Act for Utility Transition to Using Renewable Energy” House H.2849/Senate S.1940, also known as the FUTURE Act, which mandates measures that address the urgent need to advance repair of a growing number of underground leaking gas pipes under our streets, while implementing a transition to safer and cleaner energy sources, and mandates processes to ensure coordinating this work with municipalities.

**Action:**      **Public Facilities Approved 7-0 (Laredo not Voting)**

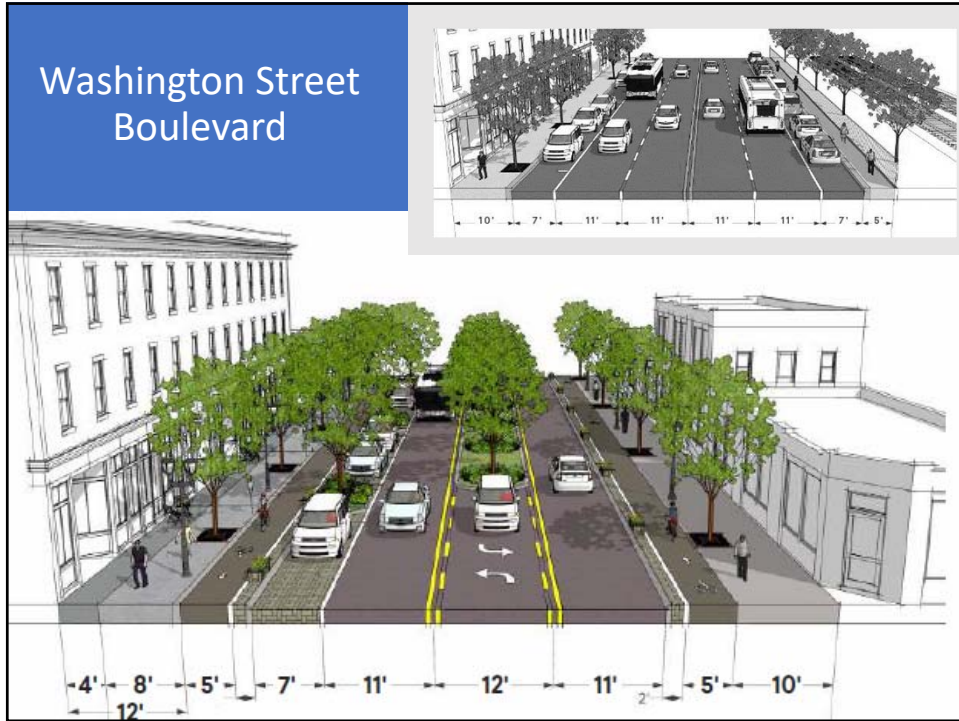
**Note:**      The Chair introduced the request for a resolution from the City Council in support of H.2849/S. 1940 “An Act for Utility Transition to Using Renewable Energy”. The Chair explained that the legislation creates requirements that gas utilities work cooperatively with municipalities and make available their Capital Improvement Plans for the purpose of coordinating work. The Chair explained that the bill details how utility companies will be required to provide more comprehensive information relative to the repairs of gas leaks (what does a repair entail? what is the status of a leak once a “repair” is made?). It was noted that Senator Creem is the lead sponsor in the senate and has been working with the Gas Leaks Alliance on this legislation.

Committee members noted that there are 690 gas leaks in the City which pose ongoing threats to the community. The practical measures set forth in the bill would assist the City in addressing the gas leaks with the utility companies. Committee members shared concerns relative to the 246 miles of leak prone pipes and the utility companies’ reactive approach to patch versus replace them. Committee members voted unanimously in favor of a motion to approve from Councilor Lappin.

The Committee adjourned at 9:45 pm.

**Respectfully Submitted,**

**Deborah Crossley, Chair**



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### Washington Street Boulevard Design Timeline

- **June 2019** PF/Finance/City Council – Fund \$650k – appropriate \$250k
- **July 2019 thru mid-September 2019** – Gather data, conduct counts (traffic, pedestrian, cyclist) through entire corridor, data analysis, begin design of pilot - expend \$250K
- **Mid-October 2019** – PF/Finance/City Council with preliminary report on findings and define location of pilot – request additional funding to complete design of pilot and preparation of bid documents for construction of pilot
- **November 2019 thru April 2020** – Conduct public meeting, complete design of pilot
- **April 2020 thru July 2020** – Bid construction of pilot, award bid, construct pilot
- **August 2020 thru June 2021** – Monitor, adjust, evaluate pilot, report findings and recommendations to be included in bid package for final design (conceptual to 100%) of Washington St Blvd
- **July 2021 thru September 2021** – Prepare bid documents and RFP for final design (conceptual to 100%)

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## Newton Early Childhood Program Budget and Estimate Summary

**2018 - \$8M (Internal Estimate):** 14 Classrooms in program, no new shared classroom bathrooms or breakout rooms, support space requirements based on 14 classroom count.

**Winter 2019- \$10M (Internal Estimate):** 17 Classrooms in program, and desire to include shared classrooms bathrooms and breakout rooms in classrooms. Full playground build introduced.

**Spring 2019 - \$14.5M (First Estimate from Cost Estimator):** Estimate received, reviewed, and comments issued.

**Current - \$12.5M-\$13M:** Range to deliver current desired program of 17 classrooms (with interior infill), building, and site improvements.

The original budget for the NECP project at 687 Watertown Street in 2018 was \$8M. This included the creation of 14 classrooms, and basic building system upgrades, but very minimal changes to the spaces within 687 Watertown Street.

In November of 2018, the NECP program was established by NPS educators. The desired classroom count was presented as 14-18, and the School Committee voted on setting a desired program of 16-18 classrooms.

Over the next few months, we analyzed how many classrooms we could fit within the existing facility at 687 Watertown Street, while also providing all the support spaces that increase as enrollment capacity is increased. We determined that we could fit 15 classrooms within the facility and still provide adequate support spaces, but that any additional classrooms and their corresponding support spaces would require the construction of new space either inside, or outside the building.

In March of 2019, to allow for future enrollment growth, it was decided to increase the total project budget to \$10M to include two additional classrooms bringing the total classroom count to 17.

At the end of April, we received a final draft feasibility cost estimate that showed a total project cost of approximately \$14.5M to deliver the revised project program.

We completed a full review of the 21-page estimate, analyzing all 120 lines, to reconcile the estimate with the plans and the desired scope. We provided clarifying information where needed to ensure that assumptions were not overly conservative. After completing this review, 84 comments and corrections were generated. Approximately 2/3 of these have now been incorporated and have brought the total project budget to \$12.5-\$13M. This range is for the



project that includes 17 classrooms in total with the 2-classroom infill. The range is provided because there are still some decision points regarding how we create breakout areas within the classrooms that will have a significant impact of the construction costs.

There are two ways in which we can go from 15 to 17 classrooms at 687 Watertown Street. One option is an interior infill in the gym. The gym is currently oversized for NECP needs. This will cost approximately \$1.7M. The other option is an exterior 2-classroom addition which would cost approximately \$1.3M. However, the interior infill could not realistically be completed in the future while the building is occupied. The addition could be completed in the future, while the school is occupied. If we were to wait to build the 2 additional classrooms, the inflated cost of the additions would surpass the cost of the current infill in approximately 5 years. A future addition would have its own design and approval process, so we would need to start a future addition project one year after we complete the NECP project, in 2022, in order for the addition to cost the same as the infill costs now based on escalation.

NECP currently has the number of students for 13 classrooms but is likely to go to 14 next year. They have added 3 classrooms over the past 5 years. The largest factor driving this increase is a larger number of students identified with specialized needs, which has a compounding effect due to inclusion ratios. This means that as more students are identified as having special needs, then we need to bring in more typically developing students to maintain the required ratios. NECP is required to have equal numbers of typically developing and special needs students in its classrooms. This is also compounded by Newton Public Schools being an attractive destination for specialized services, this means more parents are coming to Newton, such that their children who need these services can benefit from the Newton Early Childhood Program.

The Administration's recommendation is to move forward with 17 classrooms with infill construction.

**Resolution in support of The FUTURE ACT**  
An Act for Utility Transition to Using Renewable Energy

WHEREAS,

Recent events statewide have demonstrated both safety and health risks inherent in aging gas infrastructure, and

WHEREAS,

Newton has over **690\*** confirmed gas leaks according to National Grid and **246** miles of **leak-prone\*** pipes, and

WHEREAS,

95% of natural gas is methane, a powerful greenhouse gas, many times more potent than simple carbon, contributing at least 8% greenhouse gas emissions in Newton\*\* and

WHEREAS,

Gas leaks identified near our homes, schools and businesses are both polluting and potentially explosive, and

WHEREAS,

Gas leaks deprive tree roots of oxygen which can and have been known to kill hundreds of Newton's shade trees\*\*\*, and

WHEREAS,

The utility charges customers for the lost gas\*\*\*\*, and

WHEREAS,

There are more than 1,000 undisclosed chemicals used in gas extraction that includes carcinogens, radioactive materials, neurotoxins and respiratory hazards **that** pollute our air outside and inside our homes, and

WHEREAS, The FUTURE Act, H2849/S1940, provides solutions to many of the problems inherent in distributing natural gas in the Commonwealth, addresses the deteriorated infrastructure and immediate safety concerns, and creates a path to the future by permitting gas companies to distribute renewable thermal energy to heat and cool our homes and provide hot water, and

WHEREAS, The FUTURE ACT will empower municipalities to have a stronger, safer, more transparent working relationship with public utilities by improving coordination for gas leak repair, mandate that utilities notify the local fire chief and police department within one hour of finding a dangerous leak, require that utilities share maps, costs, and capital plans with municipalities, and require that gas utilities be audited annually for safety, performance, and leak reports; and

WHEREAS, The FUTURE Act, H2849/S1940, will allow individuals and municipalities to claim property damage from gas leaks, including trees, and also mandates that gas leaks within a certain distance of a tree, building, or school be fixed within 6 months; and

WHEREAS, codifying these mandates will advance leak repair, reducing greenhouse gas emissions and provide a pathway to reduce our Commonwealth's dependence on fossil fuels, thereby contributing to our goal of a safer, healthier, livable climate for all.

THEREFORE BE IT RESOLVED, that the Newton City Council go on record in strong support of the FUTURE Act (H.2849/S.1940) and urge the Massachusetts legislature to pass the bill this session; and

Be it further RESOLVED, that the City Clerk be and hereby is requested to forward suitably engrossed copies of this resolution to members of Newton's Legislative Delegation, as well as House Speaker Robert DeLeo, Senate President Karen Spilka, and Governor Charlie Baker on behalf of the entire City Council.

\*Newton has 305.6 miles of gas mains. Just over 80%, or 246 miles, are leak-prone, including 62% cast iron, and 18% non-protected steel. Most recent figures from National Grid show there are eight Grade 2 leaks and 582 Grade 3 leaks in Newton. National Grid defines Grade 2 leaks as non-hazardous to persons or property, but justify repair based on probable future hazard. Grade 3 leaks are characterized as non-hazardous and expected to remain nonhazardous. A Grade 1 leak is an existing or probable hazard to people or property and requires immediate attention.

\*\*According to Newton Citizens' Commission on Energy and the draft 2019 Climate Action Plan

\*\*\*According to the Newton tree survey conducted by Bob Ackley with Newton' tree warden, published in 2008,

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over 400 public shade trees were killed or damaged due to chronic gas leaks. National Grid settled a claim with the city  
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\*\*\*\*See Page 7 of HEETMA Squeaky Leak Report for calculations to arrive at the amount paid by households in Cambridge and Somerville.

<https://www.heetma.org/wp-content/uploads/2014/11/Squeaky-Leak-Report-Public1.pdf>. That was based on this article 1-31-2017 [Footing the Bill for Natural Gas Leaks: Why States Should Limit Cost Recovery of Lost and Unaccounted for Gas](#), [Liam Holland](#) Boston College Law School, <https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=3554&context=bclr>