



Public Facilities Committee Agenda

City of Newton In City Council

Wednesday, February 21, 2018

6:30 PM - Note Early Start Time
Room 204

Items Scheduled for Discussion:

Chairs Note: Bryan Hopkins of CommTract will join us to present “Wireless 101” including the basic elements of concern to the City Council regarding regulating grants of location on poles in the public way.

Referred to Public Facilities and Finance Committees

#155-18 **Appropriate \$500,000 for snow and ice removal expenses**
HER HONOR THE MAYOR requesting authorization to appropriate the sum of five hundred thousand dollars (\$500,000) from Free Cash to supplement the Department of Public Works’ snow and ice operations budget.

Personnel Costs – Overtime (0140110-513001).....	\$150,000
Rental Vehicles (0140110-5273-5273)	\$350,000

#42-18 **Review of City Council regulations governing petitions for wireless communications**
COUNCILORS CROSSLEY, ALBRIGHT AND LAPPIN requesting a review of proposed City Council regulations pursuant to City Code Sec. 23-20, governing petitions for permission to install wireless communications facilities and new poles proposed for wireless communications use in the public ways of the City. Such rules would cover petitions that are subject to review under G.L. c. 166, §22 and 47 U.S.C. §332(c) (7) and petitions that are subject to review under 47 U.S.C. §1455 (“Eligible Facilities Requests”).

#41-18 **Review of City code governing petitions for wireless communications**

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton’s ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city’s TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

COUNCILORS CROSSLEY, ALBRIGHT AND LAPPIN requesting a review of proposed City Code Sec. 23-20, authorizing the adoption of City Council regulations governing petitions for permission to install wireless communications facilities and new poles proposed for wireless communications use in the public ways of the City. Such rules would cover petitions that are subject to review under G.L. c. 166, §22 and 47 U.S.C. §332(c) (7) and petitions that are subject to limited review under 47 U.S.C. §1455 (“Eligible Facilities Requests”).

Referred to Public Facilities and Finance Committees

#60-18

Review of filing fee for grant of location petitions

COUNCILORS CROSSLEY, ALBRIGHT AND LAPPIN requesting a review of proposed amendment to City Code Sec. 17-3(19), governing filing fee(s) for grant of location petitions for placement of wireless communications facilities and poles constructed primarily for wireless communications purposes

Chairs Note: Recent actions by the Community Preservation Committee, including requiring a third party professional review of the Crescent Street Apartments budget and pro forma, has postponed their vote. It is the Chair’s intention to continue our discussion in committee, however, to clarify expectations and requested information. Joined by City Solicitor Ouida Young, we’ll get an update on the status of the Crescent Street proposal (the funding plan may change), and, reflecting questions and unresolved items, discuss which are effective in a 5-58 Council Order versus which items the committee and Council want resolved in advance of taking a vote. Ouida is preparing two documents: an outline of said items for discussion, and a description, in response to questions, of what is the “Newton Community Development Authority” and how can a property management function be overseen via this entity.

#50-18

5-58 for the Crescent Street Housing and Ford Playground Redevelopment Project

COUNCILOR GENTILE on behalf of the CRESCENT STREET WORKING GROUP redocketing the DESIGN REVIEW COMMITTEE petition, pursuant to 5-58, for schematic design and site plan approval at 70 Crescent Street for the creation of mixed-use housing, redevelopment of the Reverend Ford Playground and expand open space by at least 20,000 square feet in accordance with Board Order #384-11(4) dated November 16, 2015.

Public Hearing Closed 02/07/2018

Respectfully submitted,

Deborah Crossley, Chair



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Office of the Mayor

#155-18
Telephone
(617) 796-1100
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(617) 796-1089
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rfuller@newtonma.gov

February 12, 2018

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable Council docket for consideration a request to authorize the appropriation and expenditure of \$500,000 from June 30, 2017 Certified Free Cash to the following accounts:

Acct # 0140110-5273	Rental Vehicles (Contracted Plowing)	\$350,000
Acct # 0140110-513001	Regular Overtime	\$150,000

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller
Mayor

RECEIVED
Newton City Clerk
2018 FEB 12 PM 2:30
DAVID A. OLSON, CMC
Newton, MA 02459

From: [Jack Cowell](#)
To: [Shawna Sullivan](#)
Cc: [James Mcgonagle](#); [Daniel Nabi](#)
Subject: Snow Backup
Date: Friday, February 16, 2018 12:55:57 PM
Attachments: [image003.png](#)

Hi Shawna,

Here is the latest breakdown of costs for snow this season. Please be advised that these numbers are assuming that the 1st docket item for \$500k will pass, and has been included in this budget.

Budgeted		Expenses		Balance
Total Personnel	\$ 1,033,300.00	Total Personnel Costs	\$ 821,081.24	\$ 212,218.76
Total Contractors	\$ 2,232,037.65	Total Contracted Costs	\$ 1,931,177.66	\$ 300,859.99
Salt	\$ 258,030.00	Salt	\$ 527,120.25	\$ (269,090.25)
Equipment	\$ 244,923.85	Equipment Expenses	\$ 508,065.08	\$ (263,141.23)
Total Snow Budget	\$ 4,268,291.50	Total Snow Costs	\$ 3,787,444.23	\$ 480,847.27

Jack Cowell
Sr. Financial Analyst – City of Newton, MA
617-796-1082

LAW DEPARTMENT



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ALAN D. MANDL
JULIE B. ROSS
JILL M. MURRAY
JONAH M. TEMPLE

To: Public Facilities Committee
 From: Alan Mandl
 Date: February 16, 2018
 Re: **Grant of Location Procedures and Standards for Wireless Communications
 Facilities Located in the Public Ways**

City departments (Law, Planning and Development, DPW, IT and Fire) are in the process of preparing draft grant of location procedures and standards for wireless communications facilities located in the public ways. These procedures and standards are needed in light of changes in federal law and the increased deployment of wireless communications facilities in the public ways across the country. Because there have been and are expected to be changes in federal law regarding grants of location, the Law Department has recommended that these detailed procedures and standards be adopted by the City Council rather than embedded in the City Code.

A detailed draft of the recommended Procedures and Standards is being finalized. Final design standards are being prepared and we will be receiving additional technical input. The Historic Commission may provide input. As soon as it is ready, a recommended draft will be provided to the Committee and will be made available for comments from interested parties, including wireless stakeholders.

Below is an outline of the main components of the Procedures and Standards. They fall in the middle of the complexity spectrum-more detailed than some ordinances and bylaws and less detailed than others. The goals are to protect the interests of the City and its residents and businesses, enable the responsible deployment of wireless communications facilities to meet the needs of the City, afford easy to understand and apply ground rules, and assure that wireless applicants are provided objective set of procedures and standards which are not unreasonably discriminatory and which do not prohibit or have the effect of prohibiting wireless services.

Outline of Grant of Location Procedures and Standards

- I. Introduction
- II. Scope of Regulations
- III. Grant of Location Application Procedures
 - A. Will track state and federal law
 - B. Application process; pre-application meeting encouraged
 - C. Tolling agreements
 - D. Incompleteness of applications
 - E. Application requirements
 - F. Application form(s)
- IV. Substantive Standards
 - A. Definitions
 - B. Standards Related to Location of Wireless Communications Facilities
 - 1. determination of sites
 - 2. preferred locations and locations not preferred
 - C. Standards Related to Poles
 - 1. Limitation on attachments
 - 2. Replacement Poles
 - 3. New Poles; Exceptions
 - 4. City-Owned Infrastructure; concrete pole locations involve pole replacement at applicant's expense per terms of license agreement
 - 5. Cooperation regarding removal of double poles
 - D. Standards Related to Attachments
 - 1. ADA requirements compliance
 - 2. RF Emissions compliance (federal standards)
 - 3. Surface Area of Antenna
 - 4. Size of above ground equipment
 - 5. Lowest point above grade
 - 6. Maximum height
 - 7. Color; paint

8. Shielding of wiring
9. Antenna placement
10. Mounting
11. Antenna panel covering
12. Equipment enclosure, placement and orientation
13. Signage, logos, decals
14. Grounding
15. Electric meters (owned by Eversource; goal of avoiding the need for electric meters)
16. Cabling
17. Guy wires
18. Wind loads
19. Obstructions
20. Traffic safety
21. Lighting
22. Noise; cooling fans
23. Vibration
24. Non-interference with other users of pole
25. Avoid drip line of tree in public way
26. Intent to include photos and diagrams of acceptable attachments

E. General Conditions

1. Compliance with codes
2. Expiration of permit for non-use
3. Abandonment and removal
4. Non-emergency repairs
5. Removal of utility pole
6. Other permits
7. Performance bond
8. Insurance
9. As built drawings
10. Contact and site information
11. Indemnification

F. Exceptions to a Standard

Applicant may seek an exception on ground which include any support for a finding that the Standard has the effect of prohibiting wireless service or is otherwise contrary to federal law

G. Other

Applicants have been and will continue to be asked to accept a condition that they not treat the pole location as a “base station” as defined under federal law. To

date, this condition has been accepted.

V. Amendments

Process for amending the Procedures and Standards

Other

Separate Procedures and Standards and forms are being developed to cover “Eligible Facilities Requests” and will be provided to the Committee as soon as they are ready for review.

Recommended policies and procedures regarding access to City-owned poles for wireless attachments are being developed by DPW and other departments. Under current law, such access will require a separate agreement with the City approved by the Mayor or her designee.

**PROPOSED CODE SECTION TO AUTHORIZE THE ADOPTION OF CITY COUNCIL
GRANT OF LOCATION PROCEDURES AND STANDARDS FOR GRANTS OF
LOCATION FOR WIRELESS COMMUNICATIONS FACILITIES IN THE PUBLIC
WAYS**

Sec. 23-19. Authorization to Adopt Procedures and Standards for Grants of Location for Wireless Communications Facilities in the Public Ways

- (a) In the exercise of its authority under G.L.c.166, §22 and other applicable law, the City Council is hereby authorized to adopt Procedures and Standards governing petitions for grants of location for wireless communications facilities in the public ways of the City. Such Procedures and Standards shall take into account any applicable state and federal law.

- (b) The Procedures and Standards to be adopted pursuant to (a) shall include petition instructions and application forms, petition review procedures and substantive standards governing the review of grant of location petitions. The City Council may consult with City departments in developing these Procedures and Standards.

LAW DEPARTMENT



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To: Public Facilities Committee
From: Alan Mandl
Date: February 14, 2018
Re: Proposed Application Fee for Wireless Grants of Location

This proposed amendment to City Code Section 17-3 (19) adopts an application fee of \$500 for grant of location petitions for (1) wireless communications facilities to be attached to utility or City-owned poles located in the public ways and (2) new poles constructed primarily for wireless communications purposes.

Proposed Amendment

Section 17-3(19) is amended by striking out existing Section 17-3(19) and inserting in place thereof a new Section 17-3(19) as follows:

- (19) Public Utility Petitions
 - a) Grant of location petitions for facilities other than wireless communications facilities \$35.00 per location
 - b) Grant of location petitions for wireless communications facilities attached to utility or City-owned poles or for new poles constructed primarily for wireless communications purposes \$500 per location

Basis for the Proposed Application Fee

The City Council is authorized to review grant of location applications under State law,

G.L.c.166, §22. The wireless industry has begun to seek multiple locations for small cell technology in the public ways, primarily by attaching to utility and municipally-owned poles (including streetlights). It is necessary for the City Council to incorporate into its grant of location process substantive standards and review procedures in accordance with state and federal law. The additional work efforts associated with the review of wireless grant of location applications justifies a reexamination of the current \$35 application fee. The Law Department prepared this analysis with the assistance of other departments involved in the grant of location process.

Comparative Analysis and Cost Analysis

The general approach involved a review of the following:

MA DOT- requires a \$500.00 application fee for a permit to access a state highway. The Access Permit Application Form and Access Permit Submittal Checklist are less complex than wireless grant of location applications.

Comparable Municipal Fees- based upon a small sample, recently enacted application fees range between \$300-\$1000: Dartmouth (\$300); Salem (\$500); Dallas Staff Recommendation (\$750); and Evergreen Park IL (\$1000) are examples. Many communities have not updated their application fees and are not useful comparisons.

Work Tasks: Time and Cost – Newton’s \$35 fee is out of step from a cost basis standpoint. There are numerous tasks to be performed by several departments. Examples with time estimates include:

City Clerk	Log in of application; issue notice of incompleteness (0.50)
DPW and Planning	Review of application for completeness; Review of supplement to application for completeness (2.00)
DPW and Planning	Review of substance of application based upon City Standards (3.00); site visits as needed (2.00)
DPW and Planning	Preparation of memos to the Public Facilities Committee and any recommendations regarding the need for peer review (2.00)
DPW and Planning	Fact-finding regarding the availability of alternative sites (2.00)
Fire and IT	Input as needed (1.00); GIS functions (1.00)
Law	Review qualification of applicant under G.L.c.166, §21; preparation of tolling agreements as needed; review of memos to the Public Facilities Committee and the Public Facilities Committee Written Report (2.00)

These and other tasks were reviewed and discussed with the departments involved. As in other cases, the municipal fee is derived by determining hourly labor rates and their costs. This methodology is supported by State guidance for cost-based setting fees. Hourly labor rates are assumed to be the hourly rates for the lowest cost employees capable of

performing the work tasks. We examined labor rates on an unloaded basis. Several work tasks are specific to wireless communications facilities-related applications. About 15.5 hours of time is estimated.

Estimated Cost

Planning and Development \$30/hour x 5.5=\$165.00 (labor rate from Planning and Development)

City Clerk \$30/hour x .50=\$15.00 (uses same hourly rate as Planning and Development)

DPW \$53/hour x 5.5= \$291.50 (labor rate from DPW)

IT \$48/hour x 1.0= \$48.00 (assumes \$90K salary/1875 hours)

FIRE \$40/hour x 1.0= \$40.00 (assumes \$75K salary/1875 hours)

LAW \$48/hour x 2.0 =\$96.00 (labor rate from Law Department)

Total **\$655.50**

Recommendation

Based on the above, a \$500 application fee is recommended. This is believed to be a conservative figure. It is less than the estimated cost. It does not include labor rate loadings (e.g., fringe benefits). Estimated labor times were supported by discussions of the primary tasks to be performed by the departments. Labor times estimated do not include Staff time spent in attending pre-application meetings and public hearings, and in performing any post-construction compliance inspection. The suggested fee falls within the range of application fees examined. As more experience is gained, the City can revisit the propriety of the application fee.

Applicants will pay additional fees for other types of permits required (for example, an electrical permit).

Nadia Khan

From: Joshua R. Morse
Sent: Monday, February 12, 2018 5:35 PM
To: DEBORAH CROSSLEY
Cc: Alison M. Leary; Nadia Khan; Marc C. Laredo; Maureen Lemieux; lennymgi@aol.com
Subject: RE: Inconsistencies in Plan labeling, unit mix chart.

Hey Deb,

The building plans are from November, and we have since updated the project to reflect the changes regarding the balcony projection issue you noted below, as well as some initial refinements in the space needed for utility and mechanical spaces. This work resulted in an ebb and flow of the gross building square footage. The plans have not been updated, as we are still working from the schematic phase plans, and it didn't seem to be prudent to have the plans redrawn for relatively minor edits, before we knew if this project was going to be approved. The pro forma and subsequent presentation materials are correct and up to date, other than the math error you pointed out where the average rentable ft² listed at the bottom, where it should say 1125ft². The total rentable ft² is 9000, and the total gross building are is 10,897ft². This is a square footage inefficiency factor of 21% which is actually on the low side of planning for a project at this stage, but this project is expected to have a lower % of circulation space. Other GSF factors to consider are the elevator on both floors, the machine room, circulation space, utility and mechanical spaces. Not all of these items have been, or can be, finalized until we get into the next phase of design. As you heard David Eisen tell us a few weeks ago, he thinks we may need some more space for the mechanical and utility spaces, so we are trying to protect the total GSF of 10,897ft² at this time.

I confirmed with our team, including the architect, that we can and will work within the above GSF. This means that we will not exceed the current GSF, but we also do not expect to be much lower than that either. Obviously this is dependent on the decision on the elevator.

As is the case with many of our projects that follow the site plan approval process, our GSF at the time of 5-58 is rarely the exact number when the design is complete.

Lastly, all of my financial comparisons were based on Crescent being a total GSF of 10,897ft².

Hope this helps clear things up.

Josh

From: DEBORAH CROSSLEY [mailto:djcrossley26@verizon.net]
Sent: Monday, February 12, 2018 4:15 PM
To: Joshua R. Morse
Cc: Alison M. Leary; Nadia Khan; Marc C. Laredo
Subject: Inconsistencies in Plan labeling, unit mix chart.

Hi Josh,

With all the talk about costs per square foot and per unit, we need to be clear which accounting of square footage is correct.

Last November I noted to you that the plan drawings showed incorrect unit sizes: Six were (and are still) labeled as **1259 sf**, including the two bedroom units on the second floor.

Two first floor two bedrooms were (and are still) labeled as **1023 sf**.

However, the two second floor units are in fact a bit smaller than their counterparts below, as the 1st floor units have additional interior space under the balconies. This was going to be removed, but remain, (and the architects argued for keeping it rather than adding an exterior support for the balconies.) I don't know where that stands, but in any case, the difference in area is about 11'x7', or 77sf, scaling roughly.

But which is correct?

In addition, it is brought to my attention as well that the unit sizes in the **Unit Mix Summary** chart, show completely different square footages, and also show incorrect averages.

There, we see four units (Net Rental Area) at **1,000sf**, and four at **1250 sf**.

The average shown is 1033 sf, where 1125 sf would be the correct average of those numbers shown.

Are the floor plans more current than the chart?

Finally, what is the correct total gross square feet of building?

Looks to me that the common (interior) circulation area is only about 800 sf, if that.

Of course exterior stairs are not counted in building square footage, the enclosed area below may be.

Please provide one set of accurate numbers re unit sizes, and total building size.

Thank you.

Deborah J. Crossley
C O U N C I L O R
Public Facilities Chair
dcrossley@newtonma.gov
617/ 775-1294 cell phone

When responding, please be advised that the Secretary of the Commonwealth has determined that email may be considered a public record.

Nadia Khan

From: Susan Albright <susansophia.albright@gmail.com>
Sent: Thursday, February 15, 2018 11:01 AM
To: DEBORAH CROSSLEY
Cc: Nadia Khan; Ouida C. M. Young; Deborah J. Crossley
Subject: Re: Summary February PF Report and Possible Conditions

Deb, Nadia and Ouida

As a result of the CPC meeting on Tuesday night, I think we need to step back and rethink PF's ability to finish its work on the 21st. I had a conflicting meeting during the first hour and I was only able to join the CPC for the last half hour or so but what I heard leaves me wondering how we can move forward. By the time I arrived, there was a CPC Committee consensus that there are difficult financing problems with an 8 unit project. At the meeting, there were two major conditions created as next steps, as I understand them, 1. to hire a 3rd party professional to review the finances and 2. figure out why no property manager responded to the RFP for the project and address the problem, if possible. As the committee was deciding next steps including a 3rd party review of the finances, Councilor Gentile followed by Chief Financial Officer Lemieux suggested that perhaps city money could be substituted for the bond which by definition could bring the financing costs down as far as 0 and thereby make the project fiscally sound.

Councilor Gentile made the point that we are fortunate that Newton is wealthy and has funds other communities don't have and therefore we can easily put more money into this project. I agree with Councilor Gentile that we are fortunate to live in Newton but putting funds into this project should be balanced with other needs.

If we look at the CIP prioritized projects the total is roughly \$580,394,520 (factoring out water, sewer, stormwater). There are so many capital projects that the majority have not been prioritized past the current 5-year plan. One can't talk about these costs without a reference to OPEB and Pension reserves. We are funding these reserves annually which is squeezing operational funds. Let's assume the Mayor allocates free cash or some other one-time revenue to spend on this project - then there should be a policy discussion to decide if this housing project jumps the list for all other capital project and whether this should be attempted by the city and specifically how much should be bonded and how much donated to the project. We should figure this out before PF finishes 5-58 review.

Regarding the 5-58 site plan review specifically, during the CPC discussion, a notion was suggested that perhaps the project could be divided into two: housing and park. Commissioner Derubeis stated that if there were to not be any housing on this site, he would need to go back to the community and discuss the usage of the park. The CPC Committee raised a number of unsolved issues in addition including the Eversource Easement, access to Curve st., and a decision on the elevator. For this reason, it seems wrong to move ahead with site plan review until the CPC vetting of this project is complete.

Susan

I feel obliged to add this postscript

Every year at budget time the Council scolds the School Committee for charging activity, athletic and bus fees, the School Committee finds this a necessity in the face of not enough funds for teaching. We could give one time funds to the school department to relieve the fees for cost-burdened families. Recently, I discovered that there are no outreach services for seniors over 85 living in their own homes, and while the senior population in Newton is nearing 30% less than 1% of our budget is dedicated to this population. We could fund a pilot program proposed by the Senior Services Department with this same money. I say this to reinforce the need for a policy discussion of the finances before 5-58 concludes its work.