

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC FACILITIES COMMITTEE AGENDA

WEDNESDAY, MARCH 21, 2012

Room 209
7 PM

ITEMS SCHEDULED FOR DISCUSSION:

THE FOLLOWING ITEM IS SCHEDULED FOR PUBLIC HEARING:

#61-12 NSTAR ELECTRIC COMPANY petitioning for a grant of location to relocate and replace Pole #3/8 on the southwesterly side of ADAMS AVENUE approximately 40' ± southeast of Milton Street. (Ward 3) [02/27/12 @ 11:04 AM]

#13-12 ALD. ALBRIGHT, LINSKY AND JOHNSON requesting discussion with the appropriate utilities and City departments regarding the prolonged construction on Walnut Street during the Fall of 2011, which caused tremendous loss of revenue for Newtonville businesses. [12/13/11 @ 12:13 PM]

REFERRED TO PUBLIC FACILITIES & FINANCE COMMITTEES

#89-11 FINANCE COMMITTEE recommending that **Sec. 29-72(b) Same— Assessments upon owners of estates passed by new sewers.** of the City of Newton Rev Ordinances, 2007, be amended to increase the fixed uniform rates assessed upon owners of all estates passed by new sewers to rates that more accurately represent the estimated average cost of installing such sewers.
Finance Approved 6-1 (Gentile opposed) on 02/27/12
Public Facilities Approved 6-0-1 (Gentile abstaining) on 02-22-12
Board of Aldermen Approved 19-3 (Ald. Gentile, Harney, Sangiolo opposed; Ald. Lennon and Rice absent) on March 5, 2012

#50-12 ROBERT CICCETTI, 44 Oak Street, petitioning for a common sewer to be constructed in OAKDALE ROAD from a sewer manhole in WALNUT HILL ROAD 125' ± easterly through a proposed 20' wide easement in OAKDALE ROAD to a proposed sewer manhole to provide service to a new building on Oakdale Road. [02/13/12 @ 3:57 PM]
PETITIONER TO PAY ENTIRE COST

The location of this meeting is handicap accessible, and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, please contact the Newton ADA Coordinator Trisha Guditz, 617-796-1156, via email at TGuditz@newtonma.gov or via TDD/TTY at (617) 796-1089 at least two days in advance of the meeting date.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #54-12 ALD. SALVUCCI, BLAZAR AND FULLER requesting the creation of a revolving fund into which 50% of all betterment income shall be deposited to be used exclusively for individual requests for betterments. [02/02/12 @ 10:21 AM]
- #72-12 HIS HONOR THE MAYOR proposing an amendment to §2-7 of the City of Newton Revised Ordinances, 2007 to facilitate the installation of solar panels on public property. [03-12-12 @ 4:10 PM]

ITEMS NOT SCHEDULED FOR DISCUSSION:

Public hearing to be assigned for April 11, 2012:

- #71-12 BOSTON COLLEGE petitioning for a grant of location to remove Pole #s 404/1 through 404/15, a total of 15 utility poles, along the east side of COLLEGE ROAD and install the following:
- a) 1,150'± duct bank within COLLEGE ROAD from the intersection of Hammond Street and College Road northerly thence turning easterly to an existing manhole on private property.
 - b) 300' ± of duct bank in HAMMOND STREET from the intersection of College Road and Hammond Street northwesterly to Pole # 195/23
 - c) Three telecommunication handholes in HAMMOND STREET at Poles 192/23, 192/24, and 192/25
 - d) five 6'x6' manholes in COLLEGE ROAD at the following locations: the intersection of College Road and Hammond Street, 200'± north of the intersection, 400' ± north of the intersection, 550' ± north of the intersection, and 750'± north of the intersection.

REFERRED TO PROG. & SERV AND PUBLIC FACILITIES COMMITTEES

- #36-12 ALD. CROSSLEY & FULLER requesting Home Rule legislation or an ordinance to require inspections of private sewer lines and storm water drainage connections prior to settling a change in property ownership, to assure that private sewer lines are functioning properly and that there are no illegal storm water connections to the city sewer mains.
- A) Sewer lines found to be compromised or of inferior construction would have to be repaired or replaced as a condition of sale;
 - B) Illegal connections would have to be removed, corrected, and re-inspected in accordance with current city ordinances and codes, as a condition of sale.
- [01/24/12 @ 8:07 AM]
- #418-11 ALD. CROSSLEY, HESS-MAHAN, LINSKY AND SALVUCCI requesting a report from the administration on the status of a strategy to meet the City's obligation as a Department of Energy Resources Green Community to reduce municipal energy consumption by 20% over five years, and how that strategy is incorporated into the capital improvement plan. [12/08/11 @ 4:09 PM]

REFERRED TO PS&T AND PUBLIC FACILITIES COMMITTEES

- #413-11 ALD. CICCONE, SALVUCCI, GENTILE & LENNON updating the Public Facilities and Public Safety & Transportation Committees on the progress of renovations to the city's fire stations. [11-17-11 @ 11:07 AM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #383-11 HIS HONOR THE MAYOR submitting the FY13-FY17 Capital Improvement Program pursuant to section 5-3 of the Newton City Charter and the FY12 Supplemental Capital budget, which require Board of Aldermen approval to finance new capital projects over the next several years. [10/31/11 @ 3:12 PM]

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #374-11 HIS HONOR THE MAYOR requesting authorization to appropriate and expend the sum of twenty-five thousand dollars (\$25,000) from FY11 Free Cash for the purpose of repairing/replacing a broken jail cell door and track at Police Headquarters. [10/31/11 @ 2:49 PM]
- #352-11 ALD. JOHNSON & SCHNIPPER requesting a discussion with the Utilities Department regarding the City of Newton's current water billing practices. [10/14/11 @ 2:31 PM]
- #174-11 ALD. DANBERG AND BLAZAR requesting a raised device on Cypress Street near Bow Road recommended by the Traffic Engineer and approved by the Traffic Council (TC22-11) on May 26, 2011. [05-27-11 @ 10:53 AM]
- #173-11 ALD. DANBERG AND BLAZAR requesting a raised crosswalk on Cypress Street in the vicinity of 280 Cypress Street, in association with modifications to the Bowen Elementary School entrance, as approved on May 26, 2011 in Traffic Council (TC20-11), and to be paid for through MassDOT's Safe Routes to School Infrastructure Program. [05-27-11 @ 10:53 AM]
- #172-11 ALD. CROSSLEY, FULLER AND SCHNIPPER requesting discussion with the Utilities Division of the Public Works Department regarding the identification of storm water inflow connections to the sewer system, so as to begin the process of systematically eliminating such illegal connections, including notifications to property owners, educational materials, requirements for corrective actions and technical and financial assistance that may be available from the City in order to facilitate removal of inflow connections. [05/26/11 @3:33 PM]
- #139-11 ALD. LINSKY, DANBERG & SALVUCCI proposing that §26-71, 26-72 and 26-73, **Sidewalk construction requested by owners, Materials for sidewalk construction, and New curbing installation**, respectively, be amended to extend participation in the betterment program to property owners who voluntarily pay the residual 50% of the costs over time in addition to the 50% initial payment provided under the ordinance. [04-27-11 @9:38 AM]
- #138-11 ALD. CROSSLEY AND SCHNIPPER requesting a report from the Department of Public Works regarding the energy use and maintenance costs for the City's streetlights and gaslights and costs/payback associated with recommended energy efficiency measures. [04-21-11 9:08 AM]

REFERRED TO PS&T AND PUBLIC FACILITIES COMMITTEE

- #41-11 ALD. JOHNSON, LENNON AND DANBERG requesting discussion of the elimination, except during snow emergencies, of the overnight parking ban which is in effect from November 15 through April 15. [01/18/11 @ 9:00 PM]

REFERRED TO PROG & SERV, PUBLIC FACIL. AND FINANCE COMMITTEES

- #367-10 HIS HONOR THE MAYOR requesting authorization to appropriate an amount not to exceed five million dollars (\$5,000,000) from bonded indebtedness for the following:
- (B) installation of up to six modular classrooms at five elementary schools as well as the addition of permanent classrooms and renovations to the core of F.A. Day Middle School. [11/29/10 @ 3:23 PM]
 - (A) \$75,000 for site plan work for 1 modular at Horace Mann, 2 at Zervas, and 1 at Burr was approved on December 20, 2010.
 - (B1) \$923,375 for installation of 4 modulares was approved on July 11, 2011
 - (B2A) \$86,545 for additional expenses related to the construction and installation of modular was approved on November 21, 2011.
 - (B2B) \$102,117 for design of sprinkler systems at three elementary schools was approved on November 21, 2011.
 - (B2C) Six hundred forty-three thousand five hundred dollars (\$643,500) of the remaining \$3,812,963 for the design and other related expenses associated with the building renovations to F.A. Day Middle School was approved on December 19, 2011.
 - (B2D) One million four hundred seventy-four thousand one hundred ninety-four dollars (\$1,474,194) of the remaining \$3,169,463 for the purpose of funding construction, construction administration and related expenses for the sprinkler system installations at the Burr, Zervas, and Horace-Mann Elementary Schools to be voted 03/05/12.
- #367-10(B2)** – \$ 1,695,269 (remaining balance) for renovations to the core of F.A. Day Middle School and sprinkler systems.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #311-10(A) HIS HONOR THE MAYOR requesting an appropriation in the amount of three million three hundred thirty-five thousand dollars (\$3,035,000) from bonded indebtedness for the purpose of funding the FY 2011 Capital Improvement Plan projects as follows: [11/29/ 10 @ 3:23 PM]

Architectural Design and Engineering/ Next Scheduled Fire Station \$400,000
A-2 - HELD 6-0 \$270,000 for final design bidding and construction admin on 12/08/10

REFERRED TO PROG & SERV AND PUBLIC FACILITIES COMMITTEES

- #245-10 ALD. SCHNIPPER AND SANGIOLO requesting discussion with National Grid regarding the possible damage to trees as a result of gas leaks. [09/01/10 4:00 PM]
- #244-10 ALD. SALVUCCI requesting discussion with the Utilities Director and the Public Works Commissioner regarding the possibility of installing second water meters for outside irrigation. [08/17/10 @ 12:18 PM]

- #223-10 ALD. YATES & ALBRIGHT requesting updates on the status of the reconstruction of the Needham/Newton Street corridor, which include details on the reconstruction funding, plans for the revitalization of the area, and plans for the implementation of transportation improvements. [07/15/10 @ 1:02 PM]
- #367-09 PUBLIC FACILITIES COMMITTEE requesting discussion with the Law Department on how to resolve the dispute with NStar regarding whose responsibility it is to repair the streetlight connection between the manhole and the base of the streetlight. [10/21/09 @ 9:00 PM]
- #175-09 PUBLIC FACILITIES COMMITTEE requesting monthly updates from the Department of Public Works on the Commonwealth Avenue project. [06-03-09 @ 10:30 PM]
- #253-07 ALD. LINSKY ALBRIGHT, JOHNSON, HARNEY, SANGIOLO, SALVUCCI, MANSFIELD, BURG, SCHNIPPER requesting (1) a review as to how provisions of applicable ordinances, specifically 5-58, were implemented during the course of the Newton North project, and (2) consider proposed revisions of 5-58 including, but not limited to:
- (a) timely provision of documentation by the public building department to the Board of Aldermen and Design Review Committee;
 - (b) establishment of liaison committees to facilitate communications and input from neighborhoods affected by projects subject to this ordinance;
 - (c) approval of final design plans by the Board of Aldermen of projects subject to this ordinance;
 - (d) oversight during the construction phase of projects subject to this ordinance by appropriate Board committee(s) both in respect to approval of change orders as well as design changes; and
 - (e) generation of a required record detailing the entire construction process by the public building department to guide present and future oversight of projects subject to this ordinance. [08/07/07 @ 3:12 PM]
 - (f) establishment of a committee to provide oversight for public building construction and renovation during all phases of planning, design and construction.
- #385-07 ALD. SCHNIPPER AND GENTILE updating the Public Facilities Committee on the progress of the Newton North High School Project. [11/21/07 @ 10:23 AM]

Respectfully submitted,

Anthony J. Salvucci, Chairman

CITY OF NEWTON
MASSACHUSETTS

PETITION for GRANT OF LOCATION

To the Petitioner:

City of Newton Ordinance Section 23-52 requires that each petition for grant of location be submitted to the Board of Aldermen before it is sent to the Public Works Department for a preliminary review. The comments of the Public Works Commissioner will be part of the record submitted to the Board of Aldermen. Upon filing with the Board of Aldermen, the petition will be scheduled for a public hearing before the Public Facilities Committee of the Board of Aldermen. **The petitioner is responsible for insuring that the petition is complete and all required materials are in order for review.** Attached please find the City Engineer's Standard Requirements for Plans and the Department of Public Works Permit Processing brochure.

Grant of Location Process:

1. Applicant submits completed Petition Form and required materials to the Board of Aldermen
2. Public Works Department conducts preliminary review and gives written comments to the applicant
3. Engineering Division files Petition Form with comments with the Clerk of the Board of Aldermen
4. Board of Aldermen schedules petition for a public hearing before the Public Facilities Committee of the Board of Aldermen
5. Public Facilities Committee recommendations are forwarded to the Board of Aldermen for a final decision

Questions my be directed to:

Lou Taverna, City Engineer, 617-796-1020
Shawna Sullivan, Clerk of the Board of Aldermen, 617-796-1213

I. IDENTIFICATION (Please Type or Print Clearly)

Company Name MStar

Address 200 Calvary St
Waltham, MA 02453

Phone Number 617-369-6421 Fax Number _____

Contact Person Marguerite Carroll Title Permit Rep

Signature _____ Date 2-22-12
Person filing application

If a telecommunications company, indicate how certified by the Department of Telecommunications and Energy:

II. DESCRIPTION OF PROJECT: to be completed by petitioner

A. Write here or attach a description of the project including, location, proposed time frame for completion, type of materials to be used, benefit provided to the City, project mitigation plan as applicable, street reconstruction plan including timetable for completion.

relocate pole 3/8 on Adams Ave on the southwesterly side 40' +/- southeast of Milton St.

B. Include or attach a sketch to provide a visual description of the project. If plans are attached, provide:

Title of Plan Adams Ave Newton Date of plan 2/14/12

III. PUBLIC WORKS DEPARTMENT REVIEW

Date received by Public Works Department _____

Check One:

Minor Project

Major Project

Lateral

(Refer to City Engineer Standard Requirements for Plans for definition of minor and major project)

Plans Submitted:

Certified Plot Plan

Stamped Plans

DATE AND COMMENTS:

3/7/12

RECOMMENDATIONS:

1. No adverse conditions

2. Police detail required

1. Concrete sidewalk panel(s)

shall be replaced in kind, if broken, to City of Newton Specifications

2. Concrete curb shall be replaced, if broken, or reinstalled to original grade.

G.J. O'Shea

John Doyle 3/7/12

V. RECOMMENDATION TO PUBLIC FACILITIES COMMITTEE:

[Signature]
Commissioner, Public Works

3/9/12
Date



200 Calvary Street
Waltham, Massachusetts 02453

#61-12

RECEIVED
BY ENGINEERING DEPT.
2012 FEB 28 A 12:02

February 22, 2012

Board of Aldermen
City Hall
1000 Commonwealth Ave
Newton, Ma 02159

RE: **Adams Ave**
Newton, Ma
W.O. # 1871313

RECEIVED
Newton City Clerk
2012 FEB 27 AM 11:04
David A. Olson, CMC
Newton, MA 02459

Dear Board of Aldermen:

The enclosed petition and plan is being presented by the NSTAR Electric Company and Verizon New England, Inc., for the purpose of obtaining a Grant to relocate one (1) new pole 3/8 on Adams Ave, Newton.

This work is necessary to relocate pole out of driveway and move in front of house @ #83 Adams Ave.

Your prompt attention to this matter would be greatly appreciated. If you have any questions please call Maureen Carroll at (617) 369-6421.

Sincerely,

William D. Lemos
Rights & Permits Supervisor

WDL/aw
Attachments

**PETITION OF NSTAR ELECTRIC COMPANY AND OTHER COMPANIES
FOR ALTERATION OF JOINT OR IDENTICAL LOCATIONS FOR EXISTING POLES**

To the **Board of Aldermen** of the CITY of **NEWTON** Massachusetts:

RESPECTFULLY represent **NSTAR ELECTRIC COMPANY** and **VERIZON NEW ENGLAND, INC.** companies subject to Chapter 166 of the General Laws (Ter.Ed.), that they have heretofore received a grant of joint or identical location for, and have erected or constructed, a line consisting of wires, poles and such other fixtures as may be necessary to sustain or protect the wires of the line, upon along and across the public way or ways hereinafter specified, and that it is desirable that the location of certain of said poles be altered.

WHEREFORE, your petitioners pray that after due notice and hearing as provided by law the **Council** may by Order grant your petitioners alteration in the location of said existing poles so that hereafter said poles, together with such other fixtures as may be necessary to sustain or protect the wires of the line, shall be located, substantially as shown on the plan made by **A. Debeneditis** Revised **February 14, 2012**, and filed herewith, upon, along and across the following public way or ways of said Town:

Adams Ave - Southwesterly side approximately 40'± feet southeast of Milton Street

**Install one (1) new pole 3/8
Remove one (1) existing pole**

WO.# 1871313

Your petitioner agrees to reserve space for one crossarm at a suitable point on each of said poles for the telephone, fire and police signal wires owned by the **City** and used for municipal purposes.

NSTAR ELECTRIC COMPANY

By William D. Lemos
William D. Lemos, Supervisor
Rights & Permits

VERIZON NEW ENGLAND, INC.

By Ellen M. Joy
Ellen M. Joy

Right of Way Manager

David A. Olson, CMC
Newton, MA 02459

2012 FEB 27 AM 11:04

RECEIVED
Newton City Clerk

Dated this 22nd day of February, 2012

City of **NEWTON**, Massachusetts.

Received and filed _____

City Clerk

ORDER FOR ALTERATION OF JOINT OR IDENTICAL LOCATIONS FOR EXISTING POLES

City of NEWTON, Massachusetts

WHEREAS, NSTAR ELECTRIC COMPANY AND VERIZON NEW ENGLAND, INC. have heretofore been granted a joint or identical location for, and have erected or constructed, a line consisting of wires, poles and such other fixtures as may be necessary to sustain or protect the wires of the line upon, along and across the public way or ways hereinafter specified, and have petitioned for an alteration in the location of certain of said poles.

It is ORDERED that the location heretofore granted for said poles be altered so that hereafter said poles shall be located, substantially as shown on the plan on file with said petition for alteration in the location, upon, along and across the following public way or ways of said City;

Adams Ave - Southwesterly side approximately 40'± feet southeast of Milton Street

Install one (1) new pole 3/8
Remove one (1) existing pole

WO.# 1871313

All construction work under this Order shall be in accordance with the following conditions:
Poles shall be of sound timber and located as shown on a plan made by A. DeBenedictis, Dated February 14, 2012, on file with said petition. There may be attached to said poles by said NSTAR ELECTRIC COMPANY and by said VERIZON NEW ENGLAND, INC. wires and cables necessary for the conduct of their business. All such wires and cables shall be placed at a height of not less than twenty feet from the ground.
A true record.

Attest:

City Clerk

Approved _____, 2012

Mayor

CERTIFICATE

I hereby certify that the foregoing is a true copy of an Order of the City Council of the City of NEWTON, Massachusetts, duly adopted on the _____ day of _____, 2012, and recorded with the records of the City of Newton, Massachusetts.

Attest:

Clerk of the City of NEWTON, Massachusetts

RECEIVED
Newton City Clerk
2012 FEB 27 AM 11:04
David A. Olson, Clerk
Newton, MA 02459

S:\SHARED\CIMAGE\BASELINE\NEW ADAMS.dwg

MILTON ST

concrete aprons

RECEIVED
Newton City Clerk

44010 0004
NICOLAZZO GENARO & ROSA
84 ADAMS AVE

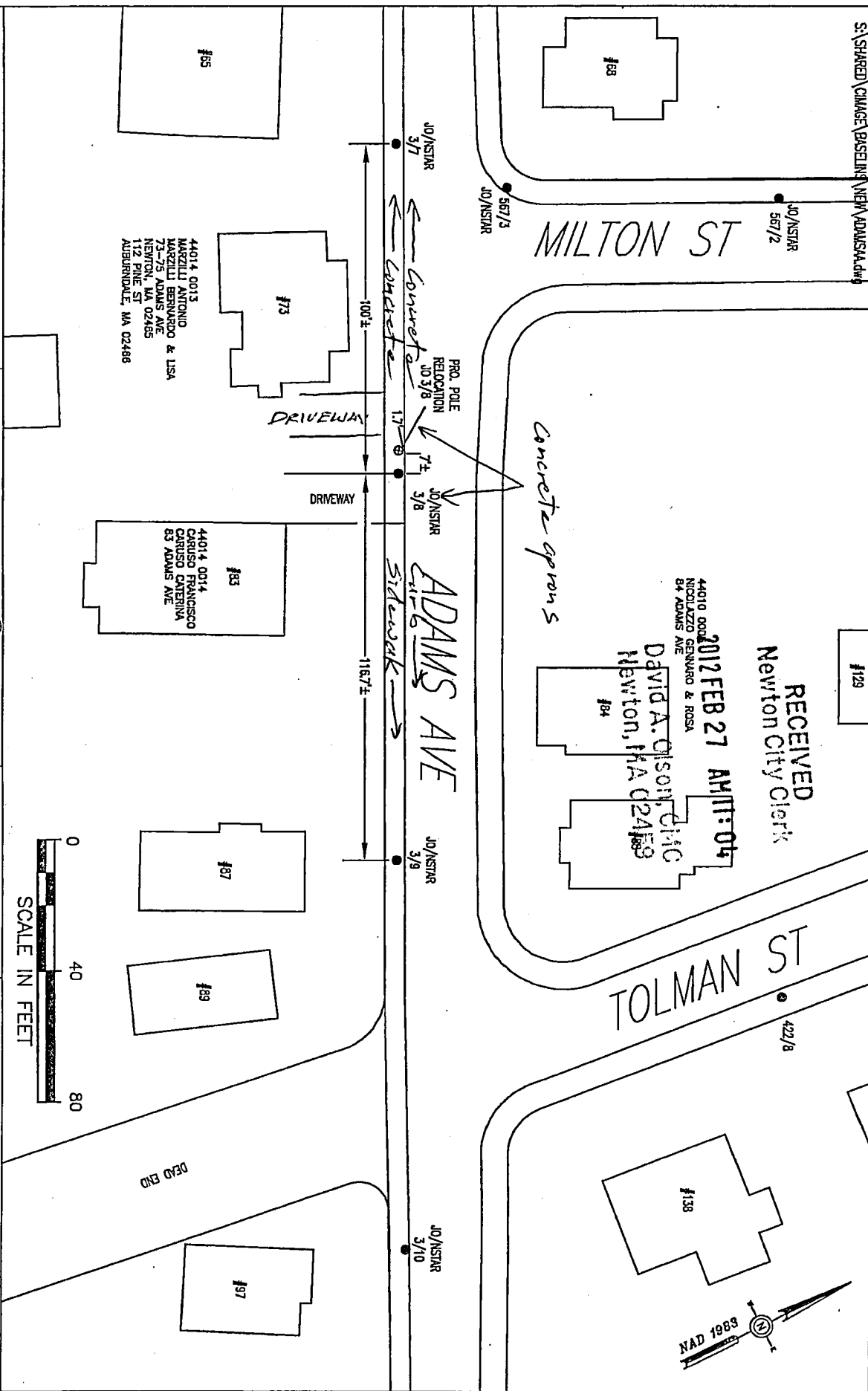
2012 FEB 27 AM 11:04
DAVID A. OLSON, CLIC
Newton, MA 02459

TOLMAN ST

NAD 1983

44014 0013
MARZULLI ANTONIO
MARZULLI BERNARDO & USA
73-75 ADAMS AVE
NEWTON, MA 02455
112 PINE ST
AUBURNDALE, MA 02446

44014 0014
CARUSO FRANCESCO
CARUSO CATERINA
85 ADAMS AVE



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Proposed pole locations shown thus	⊕
Pole locations to be abandoned, shown thus	○
Proposed Anchor Guy shown thus	T
Proposed Hip Guy shown thus	T _H
Proposed Underground location shown thus	—
Proposed Push Brace shown thus	⊕
Existing Pole location shown thus	●

Ward #	C#	Work Order #	1871313	Plan of ADAMS AVE NEWTON
Surveyed by	NSTAR	Structures by	TQ	Showing
Plotted by	LM	PROPOSED POLE RELOCATION		
Approved	A. DEBENEDICTIS	Scale	1"=40'	Date
P#		SHEET	1 of 1	Revised
				FEBRUARY 8, 2012
				2/14/12





Setti D. Warren
Mayor

DEPARTMENT OF PUBLIC WORKS
OFFICE OF THE COMMISSIONER
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449

#89-11

March 14, 2012

To: Robert R. Rooney, Chief Operating Officer
Maureen Lemieux, Chief Financial Officer

From: David F. Turocy, Commissioner of Public Works
Louis M. Taverna, P.E., City Engineer

Subject: Docket Item 89-11
Request for Ordinance Change
Assessments upon owners of estates passed by new sewers
Lots connected to existing sewer system

Docket item 89-11 refers to a change in the method by which sewer extensions are assessed to abutting properties, making each equal to a single family residence. A question was raised by the Board of Aldermen regarding corner lots, which abut more than one street or way, where the proposed sewer extension passes by one street only, or both streets. The current ordinance language allows for assessments based on length of frontage with an Aldermanic waiver "as deemed just and equitable" as follows:

"Where such estates abut upon more than one street or way, such assessments shall be assessed upon one such street or way, and upon so much of such other street as is not exempted by the board of aldermen. The board may exempt from assessment so much of the frontage on such other street as it deems just and equitable."

We propose the following revised ordinance based on the fact it would now be counted as one residential lot, not based on the calculation of length of frontage, and to not charge the owner of the lot more than once when on a corner lot:

"Estates which are presently connected to city sewers shall not be counted as potential sewer units in the uniform unit method calculation, as in no instance will the owner be charged more than once should a sewer service installation pass by the estate."

Should you agree with this ordinance change clarification, please forward this to the City Clerk's office for Board of Aldermen consideration. See Law Department's draft board order attached.

Sincerely,

David F. Turocy
Commissioner

cc: R. Waddick
attachment

CITY OF NEWTON

IN BOARD OF ALDERMEN

ORDINANCE NO.

BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2007, as amended, be and are hereby further amended with respect to Chapter 29 Water Sewer and Drains as follows:

In Section 29-72(a), relative to sewer assessments delete the following portion of the second sentence: "The assessment shall be at a fixed uniform rate based upon the estimated average cost of such sewers, both according to the frontage of such estates which is passed by the sewer and according to the area of such estates within a fixed depth of one hundred twenty-five (125) feet from such street or way"

AND insert in place thereof the following provisions:

The assessment shall be made by a uniform unit method which shall be based upon sewerage construction costs divided among the total number of existing and potential sewer units to be served, after having proportioned the cost of special and general benefit facilities. Each sewer unit shall be equal to a single-family residence. Potential sewer units shall be calculated on the basis of zoning then in effect. Existing and potential multi-family, commercial, industrial, and semipublic uses shall be converted into sewer units on the basis of residential equivalents

AND in Section 29-72(a), delete, in their entirety, the third and fourth sentences which provide as follows:

"Where such estates abut upon more than one street or way, such assessments shall be assessed upon one such street or way, and upon so much of such other street as is not exempted by the board of aldermen. The board may exempt from assessment so much of the frontage on such other street as it deems just and equitable."

AND insert in place thereof, the following provision:

Estates which are presently connected to city sewers shall not be counted as existing or potential sewer units in the uniform unit method calculation.

AND delete in its entirety Section 29-72(b) which provides the following:

"(b) The fixed uniform rate to be assessed upon estates is established at one dollar (\$1.00) upon each foot of frontage on any street or way where a sewer is constructed, and twenty-five cents

(\$25) upon each square foot of area within a fixed depth of one hundred twenty-five (125) feet from such street or way, the same having been so found and determined.”

AND change the heading of Section 29-72 “(c)” to “(b).”

concrete wearing surface. Wherever required on driveway and driveway entrances, the wearing course shall be of greater thickness than the sidewalks, but in no case shall the gravel base be less than six (6) inches in depth. (Rev. Ords. 1973, § 19-89)

Sec. 26-69. Heating wires in sidewalks and driveway entrances; permission; approval of plans; rules and regulations.

Upon petition of any owner of an estate, the commissioner of public works, may, after a plan therefor has been approved by the inspector of wires, grant permission for the installation of heating wires in sidewalks and driveway entrances in accordance with rules and regulations for such installations promulgated under the authority hereof by the commissioner of public works and approved by the board of aldermen and in accordance with such terms and conditions as the commissioner of public works shall see fit to impose for the protection of the general public and public property. The expense of such installation, including all necessary excavation and repaving, whether or not performed by the city, shall be borne by the owner of such estate. (Rev. Ords. 1973, § 19-90; Ord. No. 90, 10-6-75)

Sec. 26-70. Sidewalk construction; when to be initiated by city.

(a) Whenever the city undertakes reconstruction of a public way which serves as either an arterial or collector roadway, such project shall include at the sole expense of the city, the construction of sidewalks at all locations within the project area where there are not existing cement concrete or bituminous concrete sidewalks, unless otherwise exempted under subsection (c). The word “reconstruction” shall be interpreted herein to mean any roadway improvement project which includes pavement reclamation or milling. The terms “arterial” and “collector” in this and the following section, shall be interpreted to mean those terms as used in the standards of the American Association of State Highway and Transportation Officials or any similar organization.

(b) The city shall construct sidewalks at its sole expense subject to the availability of funding at all locations which are included on a list of sidewalk snow clearing routes published by the commissioner of public works pursuant to section 26-8A of these ordinances and where there are not existing cement concrete or bituminous concrete sidewalks, unless otherwise exempted under subsection (c).

(c) No sidewalks shall be constructed under this section at those locations where the commissioner of public works determines that construction of a sidewalk is not feasible due to steep grade, site constraints, lack of use, inadequate width of the public way right-of-way or public safety reasons.
(Ord. No. S-324, 5-2-88; Ord. No. V-84, 6-3-96)

Sec. 26-71. Sidewalk construction requested by owners.

(a) Whenever the owner of an estate abutting on a public way requests that a sidewalk be constructed abutting such estate, the city may construct such sidewalk. The commissioner of public works shall receive the petitions of owners requesting the construction of sidewalks and shall prioritize them as follows:

First priority: Requests for sidewalk construction

- (1) on any arterial or collector roadway where there are not existing cement concrete or bituminous concrete sidewalks; or
- (2) at any location that may be deemed by the commissioner of public works or the chief of police to be a potentially serious safety hazard for pedestrians; or
- (3) on any public way which is being resurfaced or reconstructed; or
- (4) on an established pedestrian route to a heavily used destination such as a village center, school, bus stop,

train station, or recreation area.

Second priority: Requests for sidewalk construction at locations where sidewalks already exist on approximately fifty percent (50%) or more of the same side of the public way;

Third priority: All other requests for sidewalk construction.

(b) The owner of the abutting estate shall pay fifty percent (50%) of the total cost of sidewalks constructed under this section in the following manner:

- (1) in the event that said fifty percent (50%) amount is five hundred dollars (\$500) or more, it shall be assessed upon the owner of the abutting estate pursuant to G.L. c. 83, § 26, provided that nothing herein shall prohibit an owner from voluntarily prepaying said fifty percent amount;
- (2) in the event that said fifty percent (50%) amount is less than five hundred dollars (\$500), it shall be paid by the owner prior to construction;
- (3) notwithstanding the provisions of (2) above, in the event that such a sidewalk is constructed together with a curbing installation pursuant to section 26-73(b), and the owner's fifty percent (50%) share for the sidewalk and curbing costs totals five hundred dollars (\$500) or more, it shall be assessed upon the owner of the abutting estate pursuant to G.L. c. 83 §26, provided that nothing herein shall prohibit an owner from voluntarily prepaying said fifty percent (50%) amount.

(c) For those requests for sidewalk construction which are prepaid, the commissioner of public works shall proceed with the construction, subject to availability of funding and in accordance with subsection (d). For those sidewalk construction requests which are not prepaid, the commissioner, acting in accordance with subsection (d), shall periodically forward them to the board of aldermen for its consideration under the betterment laws.

(d) For those requests which are received prior to April 15 of each year, all actions by the commissioner of public works and the board of aldermen pursuant to subsection (c) shall be taken in accordance with the priorities assigned pursuant to subsection (a), provided however, that the commissioner of public works shall have the authority to act upon a *First Priority* request at any time, regardless of date received.

(e) Requests for replacement of an existing bituminous concrete or cement concrete sidewalk which is in good condition with a material which is different from the existing material shall not be approved unless (1) the replacement sidewalk would match the prevailing material of the existing sidewalks on the public way and (2) the owner pays the full construction costs to the city prior to construction or receives a permit from the commissioner of public works for a private contractor to construct the replacement sidewalk at the owner's sole expense. (Ord. V-84, 6-3-96)

Section 26-72. Materials for sidewalk construction.

(a) All sidewalks hereinafter constructed shall consist of either bituminous concrete or cement concrete in accordance with the provisions of section 26-47(c).

(b) The material used at a particular location should match the prevailing material of the existing sidewalks on the public way, as determined by the commissioner of public works. (Ord. V-84, 6-3-96)

Section 26-73. New curbing installation.

(a) Whenever the city undertakes reconstruction of a public way such project shall include the installation of curbing at those locations that the commissioner of public works determines to require curbing for the purpose of

public safety or drainage. The installation of curbing pursuant to this subsection (a) shall be at the sole expense of the city.

(b) Whenever the owner of an estate abutting on a public way requests that curbing be installed abutting such estate, the city may install such curbing. The commissioner of public works shall receive the petitions of owners requesting the installation of curbing and shall prioritize as follows:

First Priority: Request for curb installation

- (1) on any portion of an arterial or collector roadway, where there is not existing curbing; or
- (2) at any location that is deemed by the commissioner of public works or the chief of police to be a potentially serious safety hazard for pedestrians and/or motorists; or
- (3) to alleviate drainage or erosion problems, or where the steepness of the slope of the public way is 3% or greater.

Second Priority: Requests for curb installation at locations where curbing already exists on approximately fifty percent (50%) or more of the same side of the public way.

Third Priority: All other requests for curbing installation, except at those locations where the commissioner of public works determines that such curbing would serve no public purpose.

(c) Whenever curbing is installed pursuant to subsection (b), the owner shall pay fifty percent (50%) of the total cost thereof in the following manner:

- (1) in the event that said fifty percent (50%) amount is five hundred dollars (\$500) or more, it shall be assessed upon the owner of the abutting estate pursuant to G.L. c. 83 §26, provided that nothing herein shall prohibit an owner from voluntarily prepaying said fifty percent (50%) amount;
- (2) in the event that said fifty percent (50%) amount is less than five hundred dollars (\$500), it shall be paid by the owner prior to construction, except as otherwise provided in section 26-71(b)(3).

(d) For those requests for curbing which are prepaid, the commissioner of public works shall proceed with the installation, subject to availability of funding and in accordance with subsection (e). For those curbing installation requests which are not prepaid, the commissioner of public works, acting in accordance with subsection (e) shall periodically forward them to the board of aldermen for its consideration under the betterment laws.

(e) For those requests which are received prior to April 15 of each year, all actions by the commissioner of public works and the board of aldermen pursuant to subsection (d) shall be taken in accordance with the priorities assigned pursuant to subsection (b), provided however, that the commissioner of public works shall have the authority to act upon a *First Priority* request at any time, regardless of date received. (Rev. Ords. 1995, Ord. No. V-84, 6-3-96)



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SETTI D. WARREN
MAYOR

RECEIVED
Newton City Clerk
2012 MAR 12 PM 4: 10
David A. Olson, CMIC
Newton, MA 02459

March 12, 2012

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

Re: Proposed Ordinance changes to facilitate the installation of solar panels on public property

Ladies and Gentlemen:

The City has been actively pursuing opportunities to establish “clean energy” within the City of Newton. This is clearly the future for economic growth and a means to adopt the most aggressive energy savings measures possible, in order to reduce its expenses. In order for this initiative to be successful, it will require some changes to our ordinances to facilitate lease agreements to install solar panels on public property.

The potential exists to lease public rooftops and other suitable public properties to a private party that will construct, own and operate the solar panel system and enable the City to displace power purchases from other energy suppliers in addition to receiving energy credits on a net metering basis. Because of the capital intensive nature of this type of arrangement, private parties must secure long term rights (10-20 years) to utilize the public property where power generation from solar panels could be installed.

The current process requires a filing under the reuse ordinance, which would take several weeks, a delay which would require the plan and timing to be revisited, possibly eliminating the possibility to pursue the same conditions as negotiated in a proposed public-private agreement (PPA). The amount of time required for our process would conflict with the timing needed to procure a vendor through a state statutory process (G.L.c.30B or G.L.c. 25A).

The RFQ process under state law effectively presumes that the sites have been pre-approved for leasing or that obtaining approval will be expeditious. The continued uncertainty surrounding the duration of tax credits and other tax incentives available to the project developer makes timely contracting and construction critically important. Similarly, property use rights

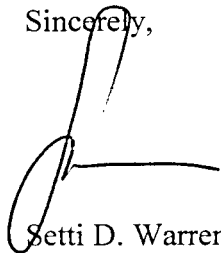
must be in place in order for the project to apply for and obtain interconnection to the electric grid through the public utility.

This proposed ordinance amendment will mirror a previous amendment designed to facilitate the leasing of City-owned real property for wireless communications equipment permitted as of right pursuant to section 30-18a. A separate process under subsection (8) of section 2-7 was adopted to provide a more streamlined process for leasing approval.

This proposed amendment for the installation of solar panels tracks the procedure adopted for the installation of wireless communications equipment. With this proposed change, it will allow the City to “fast track” lease agreements, subject to the Board’s approval, on City property for purpose of installing solar panel systems.

Thank you for your consideration of this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Setti D. Warren". The signature is stylized with a large, sweeping initial "S" and a horizontal line extending to the right.

Setti D. Warren
Mayor

Cc: Donnalyn Kahn, City Solicitor
Candace Havens, Director of Planning and Development
Stephanie Gilman, Commissioner of Public Building Department
Dave Turocy, Commissioner of Public Works Department

Encl.

PROPOSED AMENDMENT TO ORDINANCES

SECTION 2-7

1. Insert in the first paragraph of section 2-7, following the last sentence, the following:

[Begin Existing Text] Notwithstanding the foregoing, this section shall not apply to the lease of city owned real property for wireless communication equipment which is permitted as of right pursuant to section 30-18A, provided, however, where the lease of city owned real property for wireless communication equipment is subject to the requirement of a special permit pursuant to section 30-18A, then the procedures outlined in subsection (8) of this section shall apply. **[End Existing Text]** **[Begin Proposed Amendment]** *Notwithstanding the foregoing, this section shall not apply to the lease of city owned real property for solar panels; provided, however, that in the case of such a lease, the procedures outlined in subsection (9) of this section shall apply.* **[End Proposed Amendment]**

2. Renumber existing subsections (9) and (10) to read (10) and (11), respectively.
3. Following existing subsection (8) (dealing with wireless communication equipment), insert a new subsection (9) as follows:

(9) *In any instance where the lease of city owned property for solar panels is part of an arrangement under which the city uses power produced by the solar panels and receives net metering credits pursuant to state law, the following procedures shall apply:*

- a) *The executive department shall submit a proposal for such lease to the board of aldermen for approval. Such proposal shall indicate the location of the city owned property for which a lease is sought and such other information as may be available regarding the likely types of solar panels and related equipment that may be placed at the site. In preparing the proposal, the executive department shall consult with such city departments, aldermen for the ward involved and abutting property owners as the executive department may consider appropriate, taking into account the procurement requirements applicable under General Laws Chapter 30B.*

- b) *At the earliest opportunity, the board of aldermen shall, for purposes of this section, assign the proposal for public hearing before its committee dealing with matters of public buildings and/or other city owned real property and this committee shall hold a public hearing. Due notice of such public hearing shall be given to the abutters of the city owned real property which is proposed for lease and to the abutters of such abutters. Said notice shall include the location of the property proposed for lease for solar panels and related equipment and, if available, a description as to the likely types of solar panels and related equipment that may be placed at the site. The committee shall deliberate and, if recommending approval, may affix such restrictions and conditions to the lease terms, other than financial conditions, as it deems in the public interest. The committee shall make a recommendation to the board of aldermen within forty-five (45) days following the public hearing as to whether the proposed lease is in the public interest.*
- c) *Within sixty (60) days of receipt of the committee report, the board of aldermen shall vote as to whether to authorize the mayor to lease such city owned property for solar panels and related equipment. If the vote is in the affirmative, then the mayor may proceed to issue a request for proposals on such terms and conditions as determined by the mayor to be in the public interest. If the vote is in the negative, then the mayor shall not lease such property for solar panels and related equipment, provide, however, that nothing herein shall preclude the board from authorizing the mayor to lease such property pursuant to a subsequent request to lease such property.*
- d) *The requirement of notice and public hearing under subsection (9)(b) may be waived by a three-fourths vote of those members of the board of aldermen present and voting.*