



# Real Property Reuse Committee Report

## City of Newton In City Council

**Tuesday, September 17, 2019**

Present: Councilors Danberg (Chair), Greenberg, Albright, Cote, Gentile, Downs, Grossman and Kalis.

Also present: Councilor Kelley

City staff present: Assistant City Solicitor Jonah Temple, Assistant City Solicitor Andrew Lee, Director of Planning Barney Heath, Director of Housing and Community Development Amanda Berman, Chief Operating Officer Jonathan Yeo

### **#295-19      Reuse of the West Newton National Guard Armory**

DIRECTOR OF PLANNING & DEVELOPMENT submitting on August 7, 2019 a letter recommending that the West Newton Armory located at 1135 Washington Street be evaluated for the purpose of leasing the property for redevelopment as 100% affordable housing or for municipal uses pursuant to Ordinance Section 2-7.

**Actions:      Motion to make an initial determination that the property be made available for sale or lease Approved 8-0.**

**Motion to hold a public hearing after the JAPG is formed and prior to the start of their work was Approved 8-0.**

**Item Remains in Committee**

**Note:**      The Chair of the Committee opened the meeting. Asst. Solicitor Temple presented the Committee with a timeline of actions in the Real Property Reuse process and a PowerPoint presentation, both of which are attached to this report. He noted that this is an atypical reuse process because the City does not own the property yet. The City needs to undertake the re-use process now because its use will need to be known before it is purchased, because that will dictate the price that City will have to pay the State for the property.

In June, the Council approved the Mayor's request to purchase the property for affordable housing or other municipal purpose for a price to be determined. Steps one and two on the chart have been completed by the Mayor. She has declared the property available for sale or lease; and has notified the City Clerk. Steps three and four have been completed by the Director of Planning and the City Clerk. The director of Planning has submitted a report to the city Clerk and the Clerk has referred the request to the City Council. The process is now at step five which is for the Real Property Reuse Committee to make its initial determination. There are two options for step five. The first is that the City retain the property. And the second is that the City make it available for sale or lease. The Committee has the option at this point to hold a public hearing before making its

initial decision. Asst. Solicitor Temple noted that there will be a more formal public hearing towards the end of the process.

The Committee's determination is nonbinding if it is to make the property available for sale or lease. If the Committee determines that the City retain the property, then that is the final decision and it will go to the City Council for approval. If the initial decision is to make the property available for sale or lease, then a Joint Advisory Planning Group (JAPG) will need to be formed. The JAPG's recommendation is nonbinding and the Council may still decide to retain the property for municipal use. To keep both options open, the Real Property Reuse Committee will need to make the initial recommendation that the property be made available for sale or lease.

Moving forward to the creation of a JAPG the Council President will appoint five members and the Mayor will appoint four members. The Reuse Committee can make recommendations on the qualifications of the members. Once formed, the JAPG will work with the Planning Department to identify whether the Armory should be leased for affordable housing or be kept for some other municipal use.

Concern was raised that the Planning Department has already made a recommendation. They will be working with the JAPG to make a determination but we already know what they think. Is there something we can do there?

Asst. Solicitor Temple stated that the Planning Department is required to make a recommendation in step two. The Planning Department's role is to staff the JAPG and assist with resources, but it is the members of the JAPG that will make the formal recommendation. It was noted that in the old ordinance there were two reports required when the JAPG was working, one from the Planning Department and one from the JAPG. That process was changed when the Council made amendments to the ordinance and required the Planning Department's report to come earlier in the process.

The JAPG will have 180 days to complete its work and report to the Reuse Committee. There will then be a public hearing, and that public hearing will need to take place within 30 to 60 days of the delivery of the report. Notice will be required to be given to the abutters. After the public hearing, the Reuse Committee will make its recommendation to the full City Council, and that recommendation can be either that the property be made available for sale or lease, or be retained by the City for an identified municipal purpose.

If the recommendation is to make it available for sale or lease the committee can set a minimum sale price and recommend use characteristics for the property.

It was asked about the dates for each of these steps. Asst. Solicitor Temple noted that the timelines will start when all of the members of the JAPG have been appointed. It was asked if there was a timeline from the State. Asst. Solicitor Temple responded that the special legislation has been filed with the legislature and the State must go through its own reuse process. The Division of Capital Asset Management (DCAM) must get authority from the State Legislature to sell the

property. It is expected that that Legislature may take until June to get that done. Representative Khan has docketed the legislation and copies of the text were distributed (attached). The text gives DCAM three options. The first that it be used 100% for affordable housing. The second is that they can sell it to the City of Newton for a municipal use. If it is sold for municipal use DCAM will need to do an appraisal to figure out what the fair market value is. The general rule of thumb is that the sale price is 25 to 30% of fair market value. Third, it gives DCAM the option to sell it at market rates to a third party.

It was asked if the text gave the City the most flexibility right now. Asst. Solicitor Temple stated that it gives both the City, and DCAM, flexibility.

Within 60 days of this Committee's final recommendation to the full Council the Council will vote on a resolution to the Mayor on the use of the property. That vote has to be by a 2/3rds majority. The Resolution may authorize the Mayor to sell all or a portion of the property. The Mayor, however, is not required to purchase the property. The purchase and sale needs both the Mayor and the Council to approve it.

It was asked what the possible purposes would be for municipal use or housing. Is there is scope of what we're talking about? Beyond the one request that we have is there anything else that the city might use this property for? Asst. Solicitor Temple suggested that it was the JAPG that would make those determinations. It was asked if the City could do anything in terms of mixed-use. That is an open question, Asst Solicitor Temple stated that he couldn't answer that without talking to DCAM. It was stated that that the question has already been asked of DCAM and to get the property for a dollar it would have to be affordable housing. If it was mixed use it would take it into the second category, which is typically 25% of the sale value.

It was asked if this could be done if the other part of the project was not a municipal use. It was stated that the project would have to be a municipal use, but more information could be gotten.

To keep the most flexibility, a motion was made that the initial determination be made that the property should be made available for sale or lease. The maker of the motion stated that it was made because it was felt to be important to form a JAPG and this is the way to get it done.

It was asked if the Committee should hold a public hearing before the Committee makes its initial determination. It was also suggested that a public hearing be held after the JAPG be formed as it would make sense for the members of the JAPG to hear the public's suggestions.

The committee was in favor of making the initial determination tonight.

The chair opened the meeting to get comments from the public.

Nancy Zollers, 154 Oliver Road. Nancy stated that she represents Engine Six and would very much like the reuse committee to make this an affordable housing project. She is concerned about environmental issues at the site. Engine six has been working with Jason Corb. Jason works for

Capstone Community and he has visited two other armories that have been reused. The Planning Department asked him to respond to a draft RFP. He spent four days getting back to the Planning Department about the suggestions and created a six-page report that knows that the site has great potential. He lives in Newton and is concerned about the lack of affordable housing. She hopes that the Council would always have the urgency of housing in front of it. Most people who work for, or in, Newton cannot afford to live here. We have lost economic and racial diversity. We have very few parcels left for housing in Newton. We hope that once you determine its environmentally safe, you would consider the Armory for 100% affordable housing.

The Planning Department clarified that it was Mr. Korb who approached them about his report, and that they thanked him for his work.

It was stated that Newton resident Ann Houston is a non-profit housing developer who worked on a project in Chelsea where they tore down the armory to develop affordable housing. It may be good to get Ann and Jason together to discuss this project. It was noted that they are both members of Engine 6. It was noted that there is a lot of expertise on affordable housing in Newton.

Jennifer Bentley, 168 Mt Vernon Street, is concerned with the historic nature of this property. Hopefully we can find a way to use it for affordable housing, but tearing it down and starting again does not sound like it is keeping the historic nature of the property.

The Director of Planning commented the DCAM generally, when they release a property to a municipality, requires that a Memorandum of Understanding (MOU) be undertaken with Massachusetts Historic Commission as to preservation of historic aspects of the building. This will take place before the actual transfer of the Property.

Elizabeth Sweet, 281 Lexington Street commented that this is an opportunity to provide housing for low income people.

Lizbeth Heyer, Acting Chair of the Newton Housing Partnership, endorses the use of this property for affordable housing.

The Committee Chair placed the motion to a vote: That the initial determination be made that the property should be made available for sale or lease. The Committee voted unanimously 8-0.

A motion was made that the Reuse Committee conduct a public hearing once the JAPG was formed and before they begin their work. The motion was approved unanimously 8-0.

Committee members made the following criteria suggestions individuals to serve on the JAPG:

- Resident of West Newton
- Architect
- Builder
- Affordable Housing Developer
- Housing Advocate

Environmental Mitigation Expertise  
Someone who can review for Public Use  
Someone who can review Financing  
Someone from the Neighborhood

It was also suggested that individuals send names of potential members to the Mayor and President. It was requested that a packet of material be created to provide information to potential JAPG candidates.

Motion to adjourn.

Respectfully submitted,

Victoria Danberg, Chair

### REUSE CHART

1

The City Department responsible for subject property submits to the Mayor a written record of the decision to declare property available for sale, lease or for a different municipal purpose.



2

The Mayor docketed written record with the Clerk and the Clerk notifies the Director of Planning and Development.



3

The Director submits a written report to the Clerk recommending whether the property should be transferred to a different department or declared available for sale or lease.



4

The Clerk docketed the item with the City Council for referral to real property reuse committee (the "Reuse Committee").



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Reuse Committee makes an initial determination that either:  
(a) City should retain property—in the custody of the same or different department; or (b) property should be made available for sale or lease.

- ❖ Reuse Committee has discretion to hold a public hearing prior to making initial determination



Initial Determination = Sale/Lease

Initial Determination = Retain Property



Joint Advisory Planning Group ("JAPG") is created

- ❖ JAPG works with Planning Department to identify future use of the property, including continued municipal use
- ❖ JAPG files written report with recommendations to Reuse Committee
- ❖ Up to 9 members: 5 appointed by President of City Council; 4 by Mayor

Reuse Committee's recommendation is reported to full City Council

- ❖ City Council may approve recommendation by 2/3rds vote



Reuse Committee holds a public hearing to hear views of the public



Reuse Committee makes recommendation to full City Council :

- ❖ Sale/lease of property & minimum financial terms
- OR**
- ❖ Retain property



City Council votes on recommendation to Mayor by 2/3rds vote

# REAL PROPERTY REUSE PROCESS

CITY OF NEWTON – WEST NEWTON ARMORY  
SEPTEMBER 17, 2019

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## INTRODUCTION

**THIS IS NOT THE TYPICAL REUSE PROCESS**

- ❖ The City does not yet own the Armory & the City must determine its intended use of the property prior to purchase as the use determines the purchase price.
- ❖ The Mayor previously requested authorization from the City Council to purchase the Armory.
- ❖ On June 17, 2019, the Council authorized the Mayor to purchase the Armory "for affordable housing or a public use for a price to be determined."
- ❖ The Council's authorization was amended to request that the Mayor start the real property reuse process as quickly as possible in order to form a Joint Advisory Planning Group.

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## REUSE PROCESS – STEPS 1 & 2

**STEP 1** = The City Department responsible for subject property submits to the Mayor a written record of the decision to declare property available for sale, lease or for a different municipal purpose.

**STEP 2** = The Mayor docketed written record with the Clerk and the Clerk notifies the Director of Planning and Development.

- ❖ City owned property that is not designated to the care and custody of a particular city department, is in the general custody of the Executive.
- ❖ The Mayor docketed her request to the City Council on June 26, 2019.

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## REUSE PROCESS – STEPS 3 & 4

**STEP 3** = The Director of Planning submits a written report to the Clerk recommending whether the property should be transferred to a different department or declared available for sale or lease.

- ❖ Director of Planning submitted report on August 6, 2019.

**STEP 4** = The Clerk docketed the item with the City Council for referral to Real Property Reuse Committee

- ❖ This brings us to tonight, the first meeting of the Reuse Committee

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## REUSE PROCESS – STEP 5

**STEP 5 = INITIAL DETERMINATION**

Reuse Committee makes an initial determination that either:

- City should retain property for municipal purpose
- Property should be made available for sale or lease

**IMPORTANT POINTS**

- ❖ Committee has discretion to hold a public hearing prior to making initial determination
  - Initial determination can be made tonight OR after a public hearing
- ❖ This initial determination is non-binding if determination is sale/lease

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## REUSE PROCESS – STEP 5

**STEP 5 = INITIAL DETERMINATION**

Committee has a number of different options on how to proceed this evening:

- ❖ First decision point is whether to make determination tonight or schedule a public hearing
- ❖ Second decision point is what the initial determination will be

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## INITIAL DETERMINATION ⇒ 2 TRACKS

### 1. INITIAL DETERMINATION = CITY RETAIN PROPERTY

- ❖ This becomes the Committee's final recommendation to the full City Council
- ❖ City Council 2/3rds vote required

### 2. INITIAL DETERMINATION = PROPERTY AVAILABLE FOR SALE/LEASE

- ❖ Joint Advisory Planning Group (JAPG) created
- ❖ Determination is nonbinding and Committee may still ultimately recommend City retain property for municipal use
- ❖ Only way to move review process forward

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## JAPG

The JAPG consists of up to 9 persons:

- ❖ 5 members appointed by President of the City Council
- ❖ 4 members appointed by Mayor
- ❖ Reuse Committee may make recommendations regarding qualifications of the members

The JAPG will work with the Planning Department to identify whether the Armory should be leased by the City for 100% affordable housing or retained by the city for an identified municipal use.

The JAPG has 180 days to file a written report containing its recommendation to the Reuse Committee.

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## PUBLIC HEARING

Following submission of the JAPG report, the Reuse Committee must hold a public hearing within 30-60 days.

The purpose of the hearing is to hear the views of the public and all interested parties with regard to the future use of the property.

Notice is required to abutters.

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## REUSE COMMITTEE RECOMMENDATION

The last step for the Reuse Committee after the close of the public hearing is to vote on a recommendation to the full City Council.

- ❖ Recommend that the property be sold or leased
  - ❖ Set minimum sale price
  - ❖ Specific use characteristics of the property
- ❖ Recommend that the property be retained by the City for an identified purpose

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## FULL CITY COUNCIL VOTE

Within 60 days of the Reuse Committee's recommendation, the full City Council is required to vote on a resolution to the Mayor for the disposition and future use of the property.

- ❖ 2/3<sup>rd</sup> vote required.
- ❖ Resolution may authorize the Mayor to lease or sell all or a portion of the property and set minimum financial terms.

The Mayor then takes appropriate action based on the Council's recommendation

NOTE: The Mayor is not required to purchase the Armory after the conclusion of the reuse process. The purchase and sale/lease of property requires action by both the executive and legislative branches.

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**Acts (2019)****Chapter XXX****AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT  
AND MAINTENANCE TO CONVEY A CERTAIN PARCEL OF LAND TO THE CITY OF  
NEWTON**

*Whereas*, The deferred operation of this act would defeat its purpose, which is to authorize forthwith the transfer of a certain parcel of land for the purposes of providing affordable housing and related services or for municipal purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

**SECTION 1.**

(a) Notwithstanding sections 33 through 37, inclusive, of chapter 7C of the General Laws or any general or special law to the contrary, the commissioner of capital asset management and maintenance may convey a certain parcel of land known as and numbered 1135-1137 Washington Street, Newton, Massachusetts, to the City of Newton for nominal consideration to provide affordable housing units, all of which shall be permanently subject to necessary affordability restrictions. As used in this Act, "affordable housing" shall mean low- or moderate-income housing, i.e., housing available to households with annual incomes that do not exceed 80 percent of the area median income and at a cost that does not exceed 30 percent of their monthly gross income. The parcel contains approximately .76 acres. The parcel shall be conveyed by deed without warranties or representations by the commonwealth.

(b) The use of the parcel if conveyed pursuant to this section 1 shall be restricted to providing affordable housing and may include supportive services. Notwithstanding the foregoing or any general or special law to the contrary, the City of Newton may lease the parcel or portions thereof to other entities, for nominal consideration, and enter into agreements with other entities to develop, construct, operate and maintain improvements related to the affordable housing units.

(c) The City of Newton shall use its best efforts to complete the construction and development of the parcel for affordable housing.

(d) The deed or other instrument conveying the parcel to the City of Newton pursuant to this section 1 shall provide that the parcel shall be used solely for the purposes described in subsections (a) and (b) of this section 1 and shall include a reversionary clause that stipulates that if the parcel ceases at any time to be used for the allowed purposes set forth in this section 1, title to the parcel shall, at the election of the commonwealth, revert to the commonwealth. Said reversionary clause shall contain provisions requiring that the City of Newton receive reasonable notice of and a

reasonable time to cure any allegation that the parcel is not being used for the purposes set forth in this section.

## SECTION 2.

(a) Alternatively, notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may convey that certain parcel of land known as and numbered 1135-1137 Washington Street, Newton, Massachusetts, to the City of Newton, provided, however, that the use of the parcel shall be restricted to general municipal purposes. The parcel shall be conveyed by deed without warranties or representations by the commonwealth. The consideration for the conveyance of the parcel pursuant to this section 2 shall be the fair market value of the parcel as determined by the commissioner of capital asset management and maintenance based upon an independent professional appraisal report, taking into consideration the restriction on the use of the parcel set forth in this section 2. The inspector general shall review and approve the appraisal. The inspector general shall prepare a report of such review of the methodology utilized for the appraisal and shall file the report with the commissioner, the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight.

(b) The deed or other instrument conveying the parcel to the City of Newton pursuant to this section 2 shall provide that the parcel shall be used solely for the purposes described in subsection (a) of this section 2 and shall include a reversionary clause that stipulates that if the parcel ceases at any time to be used for the allowed purposes set forth in this section title to the parcel shall, at the election of the commonwealth, revert to the commonwealth. Said reversionary clause shall contain provisions requiring that the City of Newton receive reasonable notice of and a reasonable time to cure any allegation that the parcel is not being used for the purposes set forth in section 2 of this act.

SECTION 3. Notwithstanding any general or special law to the contrary, the City of Newton shall be responsible for all costs and expenses of any transaction authorized by section 1 or section 2 of this act as determined by the commissioner of capital asset management and maintenance including, but not limited to, the costs of any engineering, surveys, appraisals, title examinations, recording fees and deed preparation related to the conveyance of the parcel. The City of Newton shall acquire the property thereon in its present condition. Upon the recording of the deed conveying the parcel to the City of Newton, the City of Newton shall be responsible for all costs, liabilities and expenses for its ownership.

SECTION 4. If the City of Newton does not complete a purchase of the property pursuant to section 1 or section 2 of this act on or before June 30, 2020, or such time after as agreed to by the City of Newton and the commissioner, then, notwithstanding sections 33 to 37, inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary, the commissioner may sell, lease for terms up to 99 years, including all renewals and extensions, or otherwise grant, convey or transfer to purchasers or lessees an interest in the property or portions thereof, subject to this act and on such terms and conditions as the commissioner considers appropriate. The parcel shall be conveyed by deed without warranties or representations by the

commonwealth. In making any such disposition, the commissioner shall use appropriate competitive bidding processes and procedures. Not less than 30 days before the date on which bids, proposals or other offers to purchase or lease the property or any portion thereof are due, the commissioner shall place a notice in the central register published by the state secretary pursuant to section 20A of chapter 9 of the General Laws stating the availability of the property, the nature of the competitive bidding process, including the time, place and manner for the submission of bids and proposals and the opening of the bids or proposals, and such other information as the commissioner considers relevant.