



# Real Property Reuse Committee Agenda

## City of Newton In City Council

Thursday, November 3, 2016

7:00 PM  
Room 211

### Items Scheduled for Discussion:

- #92-16**      **Amendments to the Real Property Reuse Ordinance**  
COUNCILORS ALBRIGHT AND KALIS requesting amendments to Chapter 2, Section 7. Sale or lease of city owned real property, of the City of Newton Revised Ordinance, 2012 (The Real Property Reuse Ordinance) to clarify how properties are classified in regards to purpose, use, and ownership; the procedure to handle reused properties; and to address any other changes that might be needed. [02/17/16 @ 12:04 PM]
- #258-16**      **Discussion of the proper use of city owned land at 38 Elliot Street**  
COUNCILOR YATES requesting a discussion of the proper use of city-owned property at 38 Elliot Street. [07/01/2016 @ 2:57 PM]
- #360-16**      **Reuse of the Stanton Avenue water tower site**  
DIRECTOR OF PLANNING& DEVELOPMENT submitting on October 7, 2016 a letter stating that the water tower site located at Stanton Avenue declared surplus by the COMMISSIONER OF PUBLIC WORKS on September 15, 2016, should be declared unnecessary for municipal purposes pursuant to Ordinance Section 2-7. [10/10/16 @ 10:48 PM]

Respectfully submitted,

Susan S. Albright, Chair

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The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, *please contact Jini Fairley, at least two days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov), or 617-796-1253. For Telecommunications Relay Service dial 711.*

## May 17, 2016 Draft – for discussion purposes only

### Sec. 2-7. Disposition of interests in~~Sale or lease of~~ city owned real property.

A. Whenever a vote is taken or a policy decision has been adopted by the appropriate city agency or officer to declare any city owned real property or portion thereof available for potential sale or lease, or for continued use of such real property by the city agency or officer for a different purpose, the procedure for determining the use to which the real property shall be put and the terms of any disposition thereof shall be in accordance with the provisions of this section. Notwithstanding the foregoing, an easement in city owned real property or the lease of city owned real property for the purpose of wireless communication equipment or solar energy generation shall be granted in accordance with the procedures in subsection ( ) of this section. ~~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 30-6.9, 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 30-6.9, then the procedures outlined in subsection (8) of this section shall apply. 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.~~

- (1) The city agency or officer declaring said property available for sale or lease, or for use by the same city agency or officer for a different purpose, shall submit to the clerk of the city council a written record of the vote or policy decision, The city agency or officer shall also state whether such sale or lease shall be conditioned upon continued municipal use of the real estate for the same or a different municipal purpose within thirty (30) days of said vote or decision. The clerk of the council shall forthwith notify the director of planning and development of said vote or decision. Within thirty (30) days of said notification, the director of planning and development shall submit a written report to the clerk of the council with recommendations as to whether this property, or any portion thereof, should be transferred to another city agency or officer or declared available for sale or lease including any conditions regarding continued municipal use unnecessary for all municipal purposes. Upon receipt of the report of the director of planning and development, the clerk of the council shall place the matter on the docket of the city council for referral to its real property reuse committee. The membership of the real property reuse committee shall include one councilor from each ward in the city, to be designated by the president of the city council. The chairman of the real property reuse committee shall be designated by the president of the city council.

**Comment [OCMY1]:** No sure that 30 days is sufficient time for this report to be written. Plus, as a practical matter, planning should be initially determining if any other City agency or officer wants to have the real property transferred to the custody of that agency or officer.

- (2) The real property reuse committee shall oversee the following steps:

- a) There shall be an initial determination made as to whether some or all of the subject property shall be continue to be used by the sending city agency or officer, transferred to another city agency or officer, or declared available for sale or lease including any conditions regarding continued municipal declared available for sale or lease use. Prior to making this initial determination, the real property reuse committee [may][shall] hold a public hearing to solicit public comment. If the decision is made that the property continue to be utilized by the sending city agency or officer, or if the decision is made to transfer the care, custody, management or control over the subject property to another city agency or officer, then this recommendation shall be referred to the city council. In such event, the city council may, by a vote of two-thirds (2/3) of the full city council, transfer the care, custody and control of the subject property to another city agency or officer, or to the same city agency or officer for use

**Comment [OCMY2]:** Is this the right time for a public hearing? Notice requirements? Note, no specific notice requirements for the public hearing that the re-use ordinance requires following the

for another purpose subject to the approval of the mayor, pursuant to G.L. c. 40, § 15A. Should the vote to transfer the subject property to another city agency or officer or to the same city agency for use for another purpose fail to pass by the required two-thirds vote, then the subject property shall return to the sending agency for use for the same purpose.

- b) In the event that the city council does not determine that the property continue to be utilized by the sending agency or be transferred to another city agency or officer, then there shall be created a joint advisory planning group (the "JAPG"). The JAPG ~~is group~~ shall consist of not more than fourteen (14) ~~persons~~, half of whom shall be appointed by the city council and half appointed by the mayor. The ~~is group~~ JAPG shall elect its own chairperson. It shall be the responsibility of the ~~is group~~ JAPG to work with the department of planning and development to identify alternatives for the future use of the subject property, including possible continued municipal use. The ~~joint advisory planning group~~ JAPG and the department of planning and development shall file ~~separate~~ written reports containing ~~their~~ respective recommendations to the real property reuse committee. ~~Such reports shall be filed simultaneously. The JAPG shall file its report with the real property reuse committee within one hundred and eighty (180) days from the date when all members have been appointed, or within such is process shall be completed within ninety (90) days from the date of the initial referral of the matter to the real property reuse committee or within such~~ further time as the ~~city council~~ JAPG ~~real property reuse committee~~ may determine.
- c) Following submission of the ~~JAGP report of the department of planning and development and the report of the joint advisory planning group~~ to the real property reuse committee, the item shall be assigned by the city council for a public hearing before said committee, which hearing shall be held not less than thirty (30) days nor more than sixty (60) days from the date of submission of said ~~reports~~. The purpose of this hearing shall be to hear the views of the public and all interested parties with regard to the future use of the subject real property. Notice of said public hearing shall be provided in accordance with G.L. c. 40A, § 11 as amended.
- (3) Within sixty (60) days of the public hearing, the real property reuse committee shall make its recommendation to the city council. In making its recommendation the real property reuse committee shall take into account the effect of the proposal on the neighborhood and on the city as a whole and determine that its recommendation is consistent with the goals and policies of the Comprehensive Plan for the City of Newton. The committee's recommendation shall include recommendations as to (1) the disposition and future use of the subject real property; (2) the specific use characteristics of the subject real property, including recommendations with respect to zoning and other land-use controls; and (3) the minimum financial terms for sale or lease of the property or any portion or portions thereof.
- (4) The city council shall, within sixty (60) days from receipt of the recommendation of the real property reuse committee, submit its recommendations by resolution to the mayor for the disposition and future use of the subject real property, and may authorize the use of the subject real property, and may authorize the mayor to sell or lease the subject real property and set the minimum financial terms for such sale or lease.
- (5) Notwithstanding the foregoing, in the case of the potential sale or lease of all or a portion of city owned real property without buildings thereon, the real property reuse committee may, upon a majority vote, waive the requirement contained in subparagraph (2)(b) that there be created a joint advisory planning group.

**Comment [OCMY3]:** Should the maximum number of members be lowered?

**Comment [OCMY4]:** Do you want to add this to the charge of the JAPG?

**Comment [OCMY5]:** 90 days is tight, especially when it takes time to set up the JAPG. Timing could run from the date all the members are appointed, and then how long? Also, the public complained that it wasn't clear what happened if the dead line of 90 days wasn't met. Should there be a formal extension of time, and if so, why not from real property reuse committee rather than the City Council.

**Comment [OCMY6]:** Again, is this sufficient time, and what happens if the hearing is in the summer. Think more flexibility in hearing date. What about also requiring that there be a posting on the site of the public hearing, same way that special permits are posted on site.

**Comment [OCMY7]:** Again, this deadline hasn't been met, and does there really need to be a deadline?

**Comment [OCMY8]:** The issue of reversing the initial determination regarding making the property available should be expressly identified as a possible outcome.

**Comment [OCMY9]:** Whether this should be a majority vote or 2/3rds should be spelled out.

In such event, the city council shall utilize the report prepared by the director of planning and development as required in paragraph (1). Provided that notice as set forth in subparagraph (2)(c) has been given, the public hearing required by subparagraph (2)(c) may be held on the same night on which the real property reuse committee votes to waive the requirement that there be created a joint advisory planning group, but in any event, such public hearing shall be held no more than sixty (60) days from the date the real property reuse committee votes to waive such requirement.

- (6) ~~Notwithstanding the provisions of subparagraph (2)(a) above, proposals for inter departmental transfers of real property initiated by city departments or agencies shall not be subject to the provisions of section 2-7, but shall comply with the provisions of G.L. c. 40, § 15A.~~
- (7) Requests for the sale or lease of city owned property, including the abandonment of the city's rights in real property, shall first be made to the city agency or officer having custody of such property. The provisions of section 2-7 shall apply in the event that such city agency or officer declares such property available for sale or lease.

**Comment [OCMY10]:** This is already provided for as part of the 2-7 outcome, so saying that 2-7 doesn't apply is confusing.

**These provisions need to be revised into a single procedure that also addresses the easement issue.**

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- (8) In any instance where the lease of city owned property for wireless communication equipment is subject to the requirement of a special permit pursuant to section 30-6.9, the following procedures shall apply:
  - a) The executive department shall submit a proposal for such lease to the city council for approval which proposal shall indicate the location of the city owned property for which a lease is sought and such other relevant information as may be available as to the likely types of wireless communication equipment that may be placed at the site. In preparing the proposal, the executive department consultation shall be made with such city departments, councilors for the ward involved and neighborhood groups as the executive department may consider appropriate.
  - b) At the earliest opportunity, the city council shall, for the purposes of this section, assign the proposal for public hearing before its committee dealing with matters of public buildings 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 wireless equipment and, if available, a description as to the likely types of wireless communication 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 city council 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 city council shall vote as to whether to authorize the mayor to lease such city owned property for wireless communication

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 wireless communication equipment, provided, however, that nothing herein shall be construed to preclude the council from authorizing the mayor to lease such property pursuant to a subsequent request to lease such property.

- d) The requirement of notice and a public hearing may be waived by a three-fourths vote of those members of the city council present and voting.
- (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/or 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 city council 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, councilors for the ward involved and abutting property owners as the executive department may consider appropriate, taking into account the procurement requirements applicable under the General Laws.
  - b) At the earliest opportunity, the city council 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 city council 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 city council 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 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, provided, however, that nothing herein shall preclude the council 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 city council present and voting.
- (10) In any sale of city owned real property for which community preservation funds have previously been expended to rehabilitate or restore historic resources pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, such real property shall be bound by a perpetual historic preservation restriction pursuant to G.L. c. 184, sec. 31-33 held by the City or its designee, in a form acceptable to the Massachusetts Historical Commission.

(11) The requirements of this section that are not otherwise required by law or by charter may be waived in whole or in part by a two-thirds (2/3) vote of those members of the city council present and voting.

(Rev. Ords. 1973, § 2-10; Ord. No. 222, 6-6-77; Ord. No. 315, 2-20-79; Ord. No. S-52, 4-2-84; Ord. No. S-52A; Ord. No. T-31, 6-5-89; Ord. No. T-212, 1-21-92; V-209, 11-2-98; Ord. No. X-196, 03-06-06; Ord. No. X-243, 12-4-06; Ord. No. Z-28, 05-19-08; Ord. No. Z-106, 04-02-12)

City of Newton



DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE COMMISSIONER

1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449

Setti D. Warren  
Mayor

September 15, 2016

Honorable Setti D. Warren, Mayor  
David Olson, Clerk, City Council  
City of Newton  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

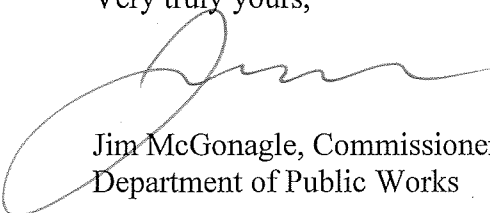
RE: Notice of Intent to Sell or Lease  
Section 2-7, Newton Revised Ordinances  
Stanton Ave Water Tower

Dear Mayor Warren and Mr. Olson:

Please be advised that in accordance with Section 2-7 of the Revised Ordinances of the City of Newton ("Sale or lease of city owned real property"), I have determined that the water tower site located at Stanton Ave is available for sale or lease. The water tower is no longer necessary, as confirmed by both the Utilities Division of the Department of Public Works and the Fire Department. Demolition of the water tower is going out to public bid in early October. The Department is investigating options for the replacement of a utility monitoring antenna currently on the water tower and will provide plans to that effect. In the meantime, there is no reason not to begin the re-use process.

Accordingly, please notify the Director of Planning and Development of this determination in order to commence the re-use process.

Very truly yours,



Jim McGonagle, Commissioner  
Department of Public Works

Jim McGonagle  
Commissioner

Telephone: (617) 796-1009 • Fax: (617) 796-1050 • [jmcgonagle@newtonma.gov](mailto:jmcgonagle@newtonma.gov)



Setti D. Warren  
Mayor

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**Barney Heath**  
Director

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**MEMORANDUM**

**DATE:** October 7, 2016

**TO:** David Olson, City Clerk  
Councilor Susan Albright, Chairman, Real Property Reuse Committee  
Members of the Real Property Reuse Committee

**FROM:** Barney Heath, Director, Department of Planning and Development  
James Freas, Deputy Director

**RE:** Stanton Avenue Water Tower

**CC:** City Council  
Planning and Development Board  
Maureen Lemieux, Chief of Staff  
Dori Zaleznik, Chief Operations Officer  
Jim McGonagle, DPW Commissioner

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The Stanton Avenue water tower is no longer necessary for City purposes and, given its small size and inaccessibility, is not suitable for any other City use. These same factors limit its usefulness for private uses as well. Given its location next to the successful Golda Meir House, run by the Jewish (JCHE) there is a unique opportunity to utilize this parcel to expand the City's affordable housing supply, as identified in the Housing Strategy. The Planning Department recommends that the Real Property Reuse Committee find that the property should be declared unnecessary for all municipal purposes, waive the requirement to form a Joint Advisory Planning Group (JAPG), and proceed directly to a Public Hearing.

City Ordinance Chapter 2, Section 7 governs the sale or lease of City property. Once a Department identifies a property as potentially available for sale or lease, the Planning Department is tasked with identifying any alternative municipal use or confirming the availability of the property for sale or lease. The Reuse Committee then must vote on whether to declare the property available for sale or lease or whether it should be retained by the City, either with the original Department or transferred to another. Should the property be declared available, the Ordinance calls for a JAPG to be established, but the Reuse Committee may waive this requirement for properties with no buildings on them and proceed directly to a public hearing and determination of the dispensation of the property.



The Stanton Avenue water tower once served as storage to support adequate flow for fire protection. Staff from DPW Utilities Division and the Fire Department assessed the necessity of maintaining the water tower at this location and determined that, with modern improvements in the water distribution system, the tower is no longer necessary. On September 15, 2016, DPW Commissioner Jim McGonagle submitted a letter to Mayor Warren and City Clerk David Olson with the determination that the water tower was no longer necessary for municipal purposes and could be made available for sale or lease. DPW does have an essential utility monitoring antenna on the water tower. JCHE has agreed to place a new antenna on the roof of the Golda Meir House so that there is no loss of service when the water tower is demolished.

The Stanton Avenue water tower sits on an approximately 16,900 square foot parcel located off of Stanton Avenue, behind the Golda Meir House (see attached map). The parcel is essentially a square with the Brae Burn Golf Course abutting two sides and the Golda Meir House abutting the other two sides. City crews access the site via an easement through the Brae Burn property; while the easement would likely transfer with the sale or lease of this property to a private entity it is unclear whether the easement as it exists now could be used for anything but for limited access for the maintenance of a water distribution system thus requiring that a new owner seeking to use the easement for a different purpose would probably need to negotiate their own access. The parcel is currently zoned Public Land.

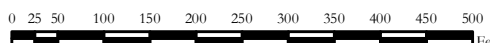
The Planning Department reached out to all City Departments for interest in the use of the parcel. No City Department expressed an interest in controlling or utilizing the parcel. Based on this response and the fact that the parcel is not accessible to the public, the Planning Department recommends that the Real Property Reuse Committee find that the property should be declared unnecessary for all municipal purposes. Further, the significant constraints on the site, its small size and its lack of access to a public street, severely limits the potential for private reuse of the site suggesting that a JAPG process to identify alternatives for the future use of the property is unnecessary. The Planning Department recommends that the Real Property Reuse Committee proceed directly to a Public Hearing so as to hear the views of the public on the future use of the property, as described in Chapter 2 Section 7(2) and (5). The Planning Department will provide additional analysis and recommendation relative to the potential use of this site in advance of that public hearing.



# Stanton Avenue Water Tower

*City of Newton, Massachusetts*

CITY OF NEWTON, MASSACHUSETTS  
 Mayor - Setti D. Warren  
 GIS Administrator - Douglas Greenfield



Map Date: September 20, 2016

**Legend**

- Building Outlines
- Open Space**
- Parks and Conservation Land**
- Median or Traffic Island
- Aqueducts or State Watershed Land
- Golf Courses



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.