

CITY OF NEWTON
IN BOARD OF ALDERMEN
REAL PROPERTY REUSE COMMITTEE AGENDA
TUESDAY, FEBRUARY 28, 2012

7:45 PM
Room 209

#287-11 DIRECTOR OF PLANNING & DEVELOPMENT submitting on October 3, 2011 a letter stating that the building and land at 1294 Centre Street, declared surplus by the COMMISSIONER OF HEALTH & HUMAN SERVICES on September 21, 2011, should be declared unnecessary for all municipal purposes pursuant to Section 2-7.

Note: Please see attached memo from Ouida Young.

#55-12 ALD. ALBRIGHT requesting a discussion and development of a committee to review Section 2-7 of the revised ordinances of 2007 to look at aligning the real property reuse process with state law.

Respectfully submitted,

Susan S. Albright, Chairman

**CITY OF NEWTON
LAW DEPARTMENT
INTEROFFICE MEMORANDUM**

DATE: February 24, 2012
TO: Members, Real Property Reuse Committee
FROM: Ouida C.M. Young, Associate City Solicitor
RE: Use of Space in the War Memorial

The use to which the Auditorium and offices located in the War Memorial can be put has been the subject of several memoranda dating back to the mid-1970s issued by City Solicitors Dangel, Levine, and Funk. In every instance, the City Solicitors concluded that there was no deed restriction or general law that restricted the use of space in the War Memorial to "memorial" purposes only.¹ Said another way, there is nothing that prohibits the City from using space located in the War Memorial for general municipal purposes which are not inconsistent with use of the building for memorial purposes.²

Certain areas in the War Memorial, such as the Rotunda or the Auditorium, are configured in a manner that limits potential alternative municipal use while maintaining their "memorial" character. However, the offices located on the ground floor of the War Memorial, as well as the basement space, have been used for various municipal or veteran purposes for many years.

There is a requirement in Massachusetts general law that municipalities establish a department of veterans' services and provide space to the veterans' department which is physically separate and apart from any other public or private agency or board except one also providing services to veterans. See G.L. c. 115, sec. 14. But as noted by City Solicitor Levine in a 1975 memorandum, the City's use of offices opposite the Veterans' Department "... would not violate the independence and separation of ..." that department as required in G.L. c. 115, sec. 14.

Finally, there is no requirement in general law that the municipalities provide space for veterans groups, although municipalities are permitted to appropriate funds to provide such space if they choose to do so.

¹ Interestingly, as noted in a memorandum to the Public Facilities Committee in 2001 when Balsamo Millennium Park was being planned, the War Memorial is not built on land taken by the City for "war memorial" purposes. The land taken for a war memorial is essentially the triangle of lawn located to the west of the War Memorial building.

² Broadly stated, civic and community events or commemorative structures are all consistent with the purposes recited in the Order of Taking for the War Memorial land or with use of the War Memorial Auditorium itself.