

**City of Newton Planning and Development Department
Needham Street Area Vision Plan Community Engagement Group**

Policy Considerations

March 26, 2018

5:00 – 7:00 p.m.

Barry Price Center

27 Christina St

Newton, MA 02461

Meeting Summary

Welcome

Barney Heath, Director of the Planning and Development Department opened the meeting and welcomed the Community Engagement Group members. The goals of the March 26th meeting were: Community Engagement Group learns how the City evaluates projects from a policy standpoint and provides feedback on policy objectives to the City of Newton Planning Team.

Policy Considerations

Mr. Heath began the presentation by stating that fiscal impact analysis is a tool that compares, for a given project or policy change, changes in governmental costs against changes in governmental revenues. Mr. Heath went on to explain how fiscal costs and revenues from new development are analyzed. To view the entire presentation please go to www.newtonma.gov/needhamstreet.

Julie Kirrane, Director of Business and Planning, Newton School Department, spoke about how her department tackles fiscal analysis when new development projects are proposed. This included information regarding enrollment projections, school boundaries and buffer zones, financial impact on facilities, Newton's long-range facilities plan, and the Newton School Department operating budget.

Mr. Heath continued the presentation, next going over housing affordability and choice. Mr. Heath discussed Newton's residential housing market and changing trends. James Freas, Deputy Director of the Planning and Development Department, presented considerations for ensuring a business-friendly climate, which include regulatory environment, transportation options, place making, and diverse housing choices.

Next Mr. Freas discussed community vitality and identity, specifically considerations that guide land use. Lastly, Mr. Freas discussed planning considerations regarding climate change resilience, specifically carbon emissions in building design, carbon emissions in transportation, heat island effect, stormwater management, and protection of natural resources.

Group Discussion

Mr. Heath asked the group if there were any overall clarifying questions or observations before beginning the group discussion about the specific topic sections. A summary of both clarifying questions and comments about the fiscal analysis presentation from the community engagement group included:

- A question regarding how the City addresses newer methods of generating funds for public investment. For example, looking at district increment financing. Mr. Freas described district increment financing as between what the City sees before and after development. This was done in the Chestnut Hill Square project in which future tax revenue is used to invest up front in infrastructure.
- A comment was made regarding things in the area that public or private investments could go towards, including a new school, extension of the rail, or undergrounding of the utility wires. In addition, using funding mechanisms like district increment financing might provide an opportunity to get significant community benefits in return.
- A question about the length of payment periods in district increment financing. Mr. Freas answered that it depends on the project.
- A question about if residential over a certain number of units could be taxed as commercial. Mr. Freas answered that state law prohibits any residential being taxed as commercial.
- A comment that public safety and other considerations of public infrastructure such as water and sewer should be thought about with new development, not just schools.
- A question about the upcoming Northland Development project and the number of units as related to the schools, specifically how does it all get calculated. Ms. Kirrane reviewed buffer zones, and that the Countryside School is planned to be significantly renovated in the next couple of years. Also, the newly renovated Zervas and Angier schools do have some capacity.
- A question concerning the available capacity in Newton South High School, and how it could handle new development. Ms. Kirrane discussed that high school capacity is more difficult to discuss than grade school capacity, however Newton South is currently less full than Newton North High School.
- A question pertaining to how much revenue the City will receive from the proposed Northland development. Mr. Heath responded that the City does not know numbers yet as the City has not received a fiscal analysis for the project.
- A comment that the predictions depend on the make-up of units. This was followed by a question regarding a possible sweet spot and how it is approached. Mr. Heath explained that the forecast with schools is on unit size and it is based on past examples. Furthermore, Mr. Heath explained how the City cannot prefer any unit type due to fair housing regulations.
- A question was raised regarding any correlation between school population and increase in housing costs. In addition, a comment was made about concern regarding housing and student enrollment issues, and less concern regarding water and sewer as there is a plan and requirement in place for large developments to pay into a fund. Ms. Kirrane remarked that in recent years elementary school enrollment has leveled off, middle school enrollment has remained steady, and the high school population has increased; Ms. Kirrane also stated that it was difficult to answer the housing stock question as where people are living is changing.

At this point Mr. Heath requested comments from the group regarding the housing affordability and choice section of the presentation. Comments from the community engagement group included:

- A comment that the schools are stretched beyond budget, and stated that PTO fundraising is supplementing, and concern about discussions of additional students. Ms. Kirrane referenced METCO program and explained how METCO program grants raise funds for the Newton school system.
- A question about whether there is a correlation between house size and number of children.
- A comment about mixed use development and zoning and what would be permitted by right.

- A question regarding the difference in City review if a residential unit is a rented or owned. Staff responded that they weren't aware of any differences in the process.

Next, Mr. Heath requested comments from the group regarding the Business-Friendly Climate part of the presentation. Comments from the community engagement group included:

- A question about the discussed change in zoning in the area and whether it could be expedited.
- A comment that traffic needs to be a key consideration for new development.
- A question about various demographics across the City and whether they have been taken into account. Staff answered that Newton is recognized as an age friendly population, and there has been work on a developer checklist in building age-friendly development. A member of the engagement group also responded that, in general, birthrates have been declining for many years meanwhile the population of older people is rising, and it is important to think about where older people live when it comes to planning.
- A comment was raised about providing more affordable business rental space in the area for those starting out in small businesses.
- A question about why the rents along Needham Street are high and why there are so many vacancies. A member of the engagement group responded that things aren't always what they appear, sometimes a space is rented but still vacant, and the reason could be related to zoning instead of the rent.
- A comment about one of the biggest challenges businesses face when hiring is housing workers and providing transportation options for customers and workers, and that housing is important to growing commercial tax revenue.
- A remark that there should be a focus on transportation and economic growth investments which support new transit service; furthermore, there should be consideration to bringing workers into the City who do not drive and that extending the rail into the corridor is consistent with the policies and preconditions regarding growth in the corridor. Mr. Heath added that there is the question of resources, which is a challenge.

Mr. Heath continued the meeting by requesting comments from the group pertaining to the Community Vitality and Identification portion of the presentation. Comments from the community engagement group included:

- A question regarding how the Vision Plan will be implemented parcel by parcel and continue to have a presence. Staff answered that there will now be a compiled document with overarching goals and visions to give the City something to work towards and ensure that projects are implementing the Vision Plan.
- A comment that a lot of projects along Needham Street in the future will be done through special permits, and a question about if there will be a communication mechanism for community advocacy. Staff answered that this will be one of the expected benefits of the Vision Plan, as well as things that can be included in the City's Zoning Reform.

Mr. Heath continued the meeting by requesting comments from the group pertaining to the Climate Change Resilience of the presentation. Comments from the community engagement group included:

- A comment that sustainable waste management should be considered and thoroughly discussed.
- A concern regarding the flooding map and how to prepare for any anticipated increase in climate change.

- A question regarding the Charles River and how high it is above the floodplain. Mr. Freas answered that the City's main issue in this realm is related to stormwater, and that the City is not ignoring flood plains, but it is not as important as stormwater management.
- A comment regarding the heat map shown particularly regarding the amount of asphalt in the City. Further, future projects should consider discourage flat roofs, and instead think about green or pitched roofs.
- A comment relating to the areas with no trees, and that as much as possible a true tree canopy should be created.
- A comment that level 3 car chargers would be best type of electric vehicle charging infrastructure implemented with any new development.
- A remark that awareness of natural features should be promoted.
- A comment that noise mitigation should be controlled and there needs to be more discussed about quality of air.

Vision Plan Outline Update and Feedback

Mr. Heath reviewed with the group an updated outline of the Vision Plan. The sections included Executive Summary, Purpose of the Vision Plan, Community Participation, Vision Statement, a Vision for the Public Realm, a Vision for Transportation, a Vision for Land Uses, a Vision for Design, and a Vision for Implementation. Feedback from the community engagement group included:

- A question about where environmental sustainability falls within the Vision Plan.
- A question about what was going to the Zoning and Planning Committee on April 26th in terms of the Vision Plan. Staff answered that it was an update.
- A question about how the Vision Plan will impact developers, specifically Northland. Staff responded that the Vision Plan is anticipated to be in place before Northland submits their special permit petition and therefore the petitioner would have to refer to it.
- A suggestion to include in the appendixes everything the members of the community engagement group have provided for possible proposals.

April 23rd Public Forum Discussion

Mr. Heath noted that the scheduled April 23rd meeting will be a public forum and asked for feedback and suggestions from the community engagement group. Responses included:

- A suggestion to have a conversation about scope and impact would be helpful, traffic as that will be a constant question.
- A suggestion to showcase the difference between the MassDOT Plan and the Vision Plan.
- A suggestion to hang plans showing different graphical regions and data.
- A comment that it is helpful for stations to have pads of paper for people to come write things down, which also ensures a clear record of comments.
- A question about whether MassDOT could attend and have their own table.
- A suggestion to have an electronic community bulletin board visible to everyone that can last after the series ends.
- A suggestion to set the context first and provide an overview of the process before people disperse to stations.
- A question about what the purpose of the public forum was. Mr. Heath answered that it was a chance for other members of the public to see what has been worked on and comment further.

- A suggestion to frame it for the public that it is not about the current day but more a plan for the future.
- A suggestion to bring up the topic relevant to development and change as there could be new resistance from members of the public not part of the community engagement group.
- A question of if flyers could be provided to members of the community engagement group to pass around to neighbors and interested parties. Staff replied that they would prepare this and bring to the next meeting.
- A comment that it would be good if a decent amount of city councilors attended.

Summary of Public Comments

Mr. Heath opened the public comment section of the meeting to the audience. A summary of comments from the members of the public included:

- A question about inclusionary zoning and what it means. More specifically, a question about whether inclusionary zoning is really going to help because people of low and moderate income living in Newton Upper Falls would not be able to afford the inclusionary zoning units being provided in the Austin Street project. Furthermore, would people who work on Needham Street be able to live there.
- A comment that it was mentioned in the presentation that noon is the busiest time of the day on Needham Street, and that is not always true.
- A comment relevant to the NSquared project that the Town of Needham is getting the businesses and the City of Newton is getting the dense housing. A member of the community engagement group answered that the Town of Needham is getting a lot of residential units.
- A comment that South Meadow Brook has not been mentioned in a while.
- A comment that the proposed Northland project consists of a lot of units and the group should be talking about other impacts than just schools.
- A point that when thinking about where students will go, it should also be thought about how they will be welcomed.
- A concern about the Nexus link to the Greenway in particular closures and snow issues.

Meeting Adjourned

Community Engagement Group Attendees

Ellen Katz
 Beth Wilkinson
 Peter Standish
 Dennis Tourse
 Claudine Ellyin
 Leo Hannenberg
 Deborah Crossley
 Sonia Parisca
 Jo-Louise Allen
 Linda Green
 Srdjan S. Nedeljkovic
 Marian Knapp
 William Roesner
 Greg Reibman
 Joyce Plotkin

Ben Waltuck
Jean Klugman

City Staff Attendees:

Barney Heath, Director Planning and Development Department
James Freas, Deputy Director Planning and Development Department
Jennifer Caira, Chief Planner for Current Planning
Lily Canan Reynolds, Community Engagement Manager
Rachel Nadkarni, Long Range Planner
Valerie Birmingham, Planning Associate
Julie Kirrane, Director of Business and Planning, Newton School Department

Attachments:

Attachment A: Submitted Community Engagement Group Member's Meeting Materials



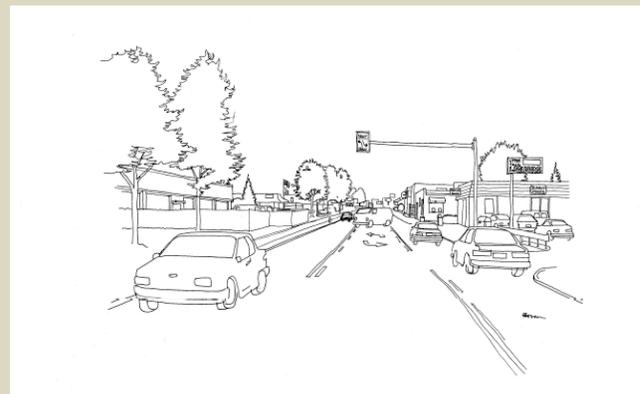
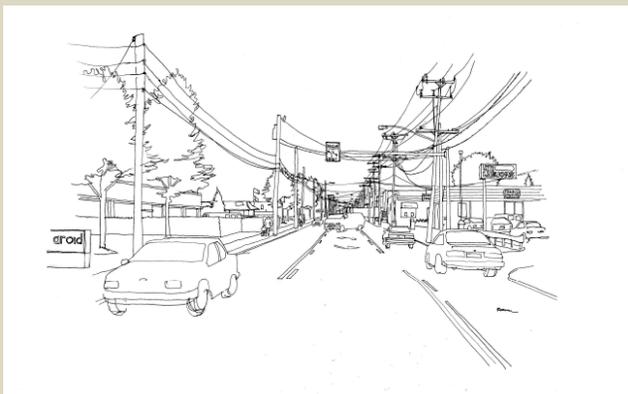
Needham Street Area Vision Plan

Policy and Ordinance on Underground Utilities

Community Engagement Group Meeting

March 26, 2018

Presented by Srdjan S. Nedeljkovic



Towards a Safer and More Aesthetically Pleasing Needham Street

Safety and Aesthetics in the Needham Street Corridor Policy on Underground Utilities

Needham Street Area Vision Plan

When discussing improvements in the Needham Street corridor, a topic of perhaps the greatest agreement is that of the unsightly appearance of the overhead utilities. There is substantial consensus that it would be preferable to have the utilities undergrounded. From an economic perspective, eliminating the jumbled mess of overhead wires would certainly make the corridor a more attractive place to visit and to conduct business. The risk of power loss due to damaged overhead utility infrastructure is a matter of great importance. Safety concerns have been brought up regarding the overhead wires and the utility poles. The appearance and location of the utility infrastructure has a negative effect on creating a pedestrian-friendly streetscape. And there are no design drawings that include the overhead utilities as a part of planned projects.

Therefore, the City of Newton and its Planning Department, along with the Department of Public Works, hereby adopt the goal of:

Having all overhead utilities placed underground in the Needham Street corridor, within adjacent private parcels, and on portions of intersecting and connecting streets within the corridor area.

It is recognized that there are obstacles that will need to be overcome in accomplishing the broad goal of undergrounding. Among those include the following issues:

- The current state plans for reconstructing Needham Street do not include undergrounding, and nor do they have funding for undergrounding.
- There are no design documents that show how undergrounding could be accomplished.
- There is no clear source of funding for accomplishing undergrounding.
- There is no legal requirement, as there is currently no ordinance that requires undergrounding in this corridor or elsewhere in Newton.
- There is no mechanism for private property owners to connect to an undergrounded system of utilities in the main corridor.

Upon adopting the policy that utilities will be undergrounded in the Needham Street corridor, these issues will need to be addressed. The costs of the project will need to be recaptured from the value that the undergrounded utilities will bring to the corridor.

The most likely way in which undergrounding will occur successfully is through a joint collaboration between the City of Newton, businesses in the Needham Street corridor, and all of the residents of Newton. However, once the utilities are indeed undergrounded, the benefits of this project will be enjoyed by all of the above parties, and by the many others who will visit a safe, pleasant, and aesthetically improved new neighborhood in Newton.

A Way Forward Regarding Undergrounding:

- 1) A design plan for undergrounding should be commissioned. As this is a city initiative, the cost will need to be included in the city budget. However, funds that have been dedicated towards undergrounding as part of the special permit approval for Avalon should be made available to utilize to pay for this study.
- 2) Plans for undergrounding, once developed, should be incorporated into a future design process for the corridor as soon as possible. The current Mass DOT reconstruction plans may continue, although we should not preclude placing conduit for future undergrounding as part of the trenching and digging that will be occurring.
- 3) Once actual plans and engineering documents for undergrounding exist, property owners will need to be notified that they will be required to underground utilities from the newly installed conduit to their on-site destination within each parcel at the time of roadway reconstruction, or whenever the conduit has been placed. Many recent projects have already undergrounded within their property sites.
- 4) An ordinance that requires undergrounding of utilities needs to be developed. A draft version of such an ordinance is included with this document. The ordinance will need to be passed by the City Council.
- 5) A business improvement district model needs to be explored to pay for the portion of the project that is in the public right-of-way. This type of model may be very useful as the construction process unfolds in terms of coordination of the project. Please see below for more details.
- 6) If the improvement district model is unsuccessful, then options should be considered for Newton citizens to pay an undergrounding surcharge on their utility bills until the costs are paid off. This isn't as bad as it sounds: in fact, it is a remarkably good investment in terms of future tax benefits from the corridor. These tax benefits will more than recover the costs of undergrounding by leading to greater commercial development, more tax revenues from the corridor, which may lead to overall reductions in individual residential property tax bills.

In discussions about undergrounding, the main perceived impediment remains the cost. There is little to no public disagreement that the utilities should be left dangling overhead. Generally, there is substantial public support to go ahead and underground.

Cost and Value Recapture:

Current valuations of properties just on or along Needham Street are over \$325 million. The new Northland project is slated to be valued up to \$400 million, according to reports. As a minimum, the Northland developer should be approached by the City to commit to undergrounding their frontage on the street.

Managing the cost of undergrounding is not an insurmountable problem, as exemplified by the following exercise. In considering this analysis, it is useful to consider a recent report from Orleans, MA regarding undergrounding. This report succinctly outlines the relevant laws regarding undergrounding, and provides an estimate of the costs.

The costs quoted in the Orleans report are for a de novo project. In the Needham Street corridor, since a full depth reconstruction of the road is planned, it would certainly make sense to incorporate the installation of underground conduit into the project. Currently, the project involves removing, replacing, and rewiring the entire corridor.

If the roadway is completed without undergrounding, it is possible that conduit can be placed underneath the sidewalk so that the newly reconstructed roadway is left intact. This may simplify the process of undergrounding by designing undergrounding connections to private properties for one side of the street and constructing the conduit and connections on each side of the street separately.

Example of Payment Scenario:

Let's assume a worst scenario from a cost perspective: that the project costs 3x as much as the estimates quoted in the Orleans report, and that there are no savings to be gained related to coordinating undergrounding with the planned construction. So let's just assume that undergrounding utilities on Needham Street would add an additional cost to the project of \$10 million for one mile of corridor. When, amortized over 10 years, the cost is approximately \$1 million per year.

The property valuations on Needham Street are about: \$253,638,000

On Winchester Street they are about: \$17,200,000

The Northland building on Oak Street is: \$25,000,000

The Oak Street condos are at least: \$30,000,000

These estimates do not include properties on other adjacent streets. The estimate therefore does not capture all of the potential valuations in the district, just for purposes of this over-simplified analysis.

That is over \$325 million in valuation, which represents at least \$7 million in tax revenues to Newton annually.

Note that the Avalon project (300 apartments) is assessed at \$73 million. The Crosspoint Newton Nexus project before construction was valued at \$20 million, and the assessment will certainly increase now that the project is completed. Fox & Hound carries assessments also of about \$20 million. Northland currently is assessed a valuation of \$46 million. But the new Northland project is expected to be a \$400 million project if built out as planned, so future assessments on this site will be much higher. In summary, currently, the 4 major property owners are responsible for about half the assessment of the corridor (\$159 million).

The total cost of the Needham Street - Highland Avenue project has been estimated to cost \$15 million (now \$18 million) from Webster Street to Route 9, including the Route 128 bridge, Highland Avenue, the Charles River bridge, and the Oak/Christina intersection, and all the way to Route 9. The portion of the project in Newton along Needham Street itself is likely no more than half the total cost. Therefore, this analysis of the "worst case scenario" for funding the project assumes that the cost of undergrounding would be MORE than the cost of reconstructing the roadway itself, therefore more than doubling the cost of the project in Newton.

How to pay for the project (assuming a cost of \$10 million, "worst case scenario")?

- 1) Require Northland to cover the costs of undergrounding on its section of Needham Street. This may increase the cost of its proposed project by 1%-2% (\$4 million to \$8 million). Density bonuses and other permitting concessions may be used to mitigate against the costs borne by the developer.
- 2) If undergrounding were coordinated with the Needham Street reconstruction project, assume that at least \$500k can be saved by not replacing the current poles and overhead, and that coordinating trenching and digging can save \$1.5 million (total \$2 million).
- 3) That leaves about \$3 million to be covered. If this amount is assessed as a "betterment" over a period of 10 years to the property owners in the corridor, it would increase their annual tax bill by 4% for each property owner x 10 years.
- 4) If the undergrounding project occurs separate from the roadway reconstruction, it would lead to a doubling of the time that the betterment assessment would be borne by the property owners. Their annual tax bill would increase by 4% x 20 years instead of 10 years.

Summary and Conclusion:

With some new initiative and coordination, there is no reason that undergrounding could not be accomplished. Key steps to take may include the City Council passing an undergrounding ordinance, establishment of a business improvement district that allocates costs of this project proportionately, and collaborative meetings between DOT, Eversource, Verizon, and others.

What we need first is a budget allocation of about \$100K by the City of Newton, perhaps using funds that have been committed by developers in the past for this purpose so that the City of Newton can develop a set of actual undergrounding plans.

CITY OF NEWTON

Undergrounding Ordinance

An Ordinance to Require, Manage, Administer and Regulate the Undergrounding of Electric, Telecommunications, and Other Utility Distribution Lines Within the City

WHEREAS, overhead utility wires are a possible source of danger to persons and vehicles; and

WHEREAS, overhead utilities can have an undesirable aesthetic impact on the character and quality of neighborhoods and districts; and

WHEREAS, as a prominent part of the streetscape, overhead utility wires may detract from the visual quality of the city and its neighborhoods; and

WHEREAS, use of underground utilities allows a greater variety of street trees to be planted and to grow to their natural canopy thereby reducing maintenance costs attributable to tree trimming and improving the aesthetic quality of streetscapes; and

WHEREAS, the public necessity, convenience, safety and general welfare require that overhead utility wires in Newton be placed underground; and

WHEREAS, the Board of Aldermen desires to implement the policy stated above by requiring the placement of utility wires underground; now, therefore

NOW, THEREFORE, IT BE ENACTED BY THE CITY COUNCIL OF THE CITY OF NEWTON, MASSACHUSETTS, WHICH DOES ORDAIN AS FOLLOWS:

Section 1: Purpose and Scope. Overhead wires carrying electrical energy, including but not limited to electrical service, telephone, cable television, fiberoptic cables, are a source of possible danger to persons using streets and around homes and buildings. Overhead wires detract from the visual quality and aesthetics of the streetscape and may incur certain maintenance costs. Therefore, in order to promote the health, safety, and general welfare of the public, as well as the orderly development of the City, the location, installation, and reinstallation of said facilities must be made in accordance with this section. This ordinance mandates that all such overhead wires be relocated underground in accordance with the requirements of this section, and that all new electric wires be installed underground.

Section 2: Definitions.

Facility. “Facility” means tangible asset in the public right or way or on private property that is required to provide utility service. Facility refers to electric distribution lines, and does not include electric transmission lines.

Public right-of-way. A “public right-of-way” means the roadway or pedestrian route as identified in the City of Newton official street map.

Overhead and Underground. “Overhead” or “above-ground” means visible from the surface of the earth. “Underground” means not visible from the surface of the earth.

Utility service. “Utility service” means and includes service provided by a public utility (such as Eversource or National Grid), services of a telecommunications right-of-way user (such as Verizon), services provided by a cable telecommunications system (such as Comcast and RCN), and any other energy or telecommunications services provided by private or government units.

Utility equipment. “Utility equipment” means poles, towers, supports, wires, conductors, conduits, guys, stubs, cross arms, braces, transformers, insulators, cut-outs, switches, communication circuits, or other devices used or useful in supplying electricity, telecommunications, or associated services to users of the utility.

Section 3: Undergrounding of Facilities. Facilities placed in the public right of way must be located, relocated and maintained underground pursuant to the terms and conditions of this section and in accordance with applicable construction standards.

All new overhead wires shall be placed underground. New overhead wires must be placed underground when supplied to a new installation of buildings, signs, or other structures and in any new residential or non-residential development.

Upon development or redevelopment of single family or two family residential property in the City in excess of a cost estimate of \$50,000, all existing overhead wires to the property from the public right of way shall be relocated underground.

Upon development or redevelopment in excess of a cost estimate of \$50,000 of multiple family (more than 2 family) residential property and all other commercial, office, retail, business, manufacturing, mixed use and non-residential property in the City, all existing overhead wires to the property from the public right of way and all existing overhead wires in the right of way abutting the real property shall be relocated underground.

For any street paving or reconstruction project that requires reinstallation of supporting overhead wires, or relocation of utility poles, all existing overhead wires shall be relocated underground.

Section 4: Retirement of Overhead Facilities. The City Council may determine whether it is in the public interest that all facilities in certain parts or districts of the City be permanently placed and maintained underground by a date certain or target date, independently of the requirement pursuant to Section 3 of this ordinance. The decision to underground must be preceded by a public hearing after two weeks published notice and 30 days written notice to the utilities and property owners affected. Undergrounding may not take place until the City Council has, after hearing and notice, adopted a plan containing items as outlined in Section 9 of this ordinance.

The issues to be addressed at the public hearings include but are not limited to: the costs and benefits of requiring the undergrounding, the feasibility of undergrounding by a date certain, the payment of costs and intended recovery of incremental costs for undergrounding, and alternative financing options that are available. Upon completion of the hearings, the City Council must make written findings on whether it is in the public interest to establish a plan for undergrounding of said district within the City.

Section 5: Responsibility for Costs.

For a City-initiated and sponsored street reconstruction project, the City of Newton shall be responsible for the cost and expense of placing overhead wires underground in the public right of way. The abutting property owners shall be responsible for their respective costs of placing overhead wires from the right of way to their structure underground, as agreed to by the property owners and the City.

For all other undergrounding of overhead wires, the owners of such wires and the owners of the real property abutting the right of way shall be responsible for the cost and expense of placing such wires underground, as agreed to between the owners of such wires and the owners of such real property. The placement of overhead wires underground shall include but not be limited in scope to the installation of electric and telecommunications wires and cables, the removal of overhead wires and the removal of poles, and the restoring of any road or sidewalk surface.

Section 6: Delay of installation.

The Director of the Department of Public Works may authorize a delay in the placement of overhead wires underground where such placement, in the opinion of the Director of Public Works, could in the foreseeable future be accomplished more efficiently and cost effectively in conjunction with development of contiguous real property or as part of a City financing mechanism, including but not limited to a local improvement district or a City bond issue. In such event, the persons responsible for the cost and expense of such placement shall enter into an agreement with the City regarding delay in performance.

Section 7: Design standards; as-built plans; maintenance.

All underground utility wires shall be installed in accordance with applicable federal, state and city standards, and pursuant to a schedule approved by the Public Works Director. Where possible, utility wires shall be included in a common trench with other utility wires in order to preserve the remainder of the right of way for other uses. As-built, project drawings in a form and scale approved by the Director of Public Works shall be submitted within thirty days of the completion of the underground project. Following installation, the person or entity who placed the utility wires underground shall be responsible for maintaining and replacing such wires in accordance with this Ordinance or applicable federal, state and city laws and regulations.

Section 8: Permits. The installation, removal or replacement of overhead wires underground shall require a permit from the Department of Public Works. Except for street reconstruction projects in which the City is a participant, the property owner and the utility wire owner shall be responsible for obtaining any applicable permits for the installation, maintenance, removal or replacement of overhead utility wires underground.

Section 9: Undergrounding Plan. If the City Council finds that it is in the public interest to underground all facilities in the public right of way, the City of Newton Department of Public Works must establish a plan for such undergrounding.

The plan for undergrounding must include at least the following elements: timetable for undergrounding, designation of the project area, procedures for the undergrounding process, a financing plan for funding the costs of the project as borne by the City. The Department of Public Works shall also implement penalties or other remedies for failure to comply with the undergrounding.

Section 10: Exceptions. The following items shall be exempt from complying with the provisions of this ordinance after being considered on a case-by-case basis.

- Above ground utility equipment installed, maintained, and utilized by utility companies for a period not to exceed 30 days in order to provide emergency utility services.
- Streetlights or other utility equipment utilized for street lighting purposes, as well as utility equipment utilized for traffic control purposes.
- Utility equipment appurtenant to underground facilities, such as service mounted, pedestal mounted, or pad mounted transformers, terminal boxes, meters, cross boxes, cabinets, vaults, electronic enclosures, pedestals, flush to grade hand holes, splice closures.
- Temporary utility equipment utilized or to be utilized exclusively in conjunction with construction projects, seasonal or special event installations. Upon

installation of permanent utility service, the above ground service shall be removed.

- Antennas and associated equipment and supporting structures used for furnishing communications services.

Section 11: Severability. If any portion of this ordinance is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance thereof. Nothing in this ordinance precludes the City from requiring an additional agreement from the applicant, as allowed by law, in addition to the requirements set forth therein.

Section 12: Effective date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City and be available on the City webpage and shall take effect and be in full force fifteen (15) days after passage by the City Council. This ordinance shall take effect and remain in full force from and after its passage and publication.

Dated: Month, Day, 20__.

PASSED BY THE CITY OF NEWTON CITY COUNCIL, this ___ day of _____, 20__.

APPROVED:

Marc Laredo, President Newton City Council

Ruthanne Fuller, Mayor

ATTEST:

City Administrator

Published in the Newton TAB on _____, 20__.