

CITY OF NEWTON

IN BOARD OF ALDERMEN

May 7, 2007

EMERGENCY PREAMBLE

WHEREAS, it is the opinion of the Board of Aldermen that the following measure constitutes an Emergency Measure under Section 2-9(b) of the Charter of the City of Newton due to the fact that a safety emergency exists: specifically, that the existing retaining wall at 20 Rogers Street is unstable, causing a public safety risk to swimmers and other members of the public who have access to the City's beach area located in front of the retaining wall; and that upon the City's acquisition of said property pursuant to the following order, the City's Public Works Department intends to enter the property and abate the safety risk;

THEREFORE, the following measure shall be and hereby is adopted as an Emergency Measure which shall take effect immediately upon adoption.

ORDER OF TAKING

WHEREAS, upon the recommendation of the Community Preservation Committee and His Honor the Mayor, and in the opinion of the Board of Aldermen of the City of Newton, the public necessity and convenience require the acquisition by eminent domain of the parcel of land, together with improvements thereon, known as 20 Rogers Street ("the Parcel"); and

WHEREAS, the Parcel consists of 44,449 square feet, as shown as Lot B1 on a plan entitled, "Plan of Land in Newton, Mass." dated July 13, 1950, by Henry F. Bryant & Son, Engineers, recorded with the Middlesex, South, Registry of Deeds at Book 7616 Book 159, being the same premises conveyed in a deed dated July 24, 2002 from Joseph Wm. Viola and Virginia G. Viola to Patrick J. Hannon, recorded with said Registry at Book 36206 Page 167; and

WHEREAS, the City has authorized and received an independent professional appraisal of the value of the Parcel; and

WHEREAS, the Community Preservation Committee has determined that acquisition of the Parcel, which borders Crystal Lake, a Great Pond, constitutes acquisition of land for recreational use; and the Board of Aldermen hereby approves expenditure of Community Preservation funding for such purpose;

THEREFORE, by vote of the Board of Aldermen, acting on behalf of the City of Newton under chapter Chapter 79 of the Massachusetts General Laws, it is hereby

ORDERED: That the Parcel be and hereby is taken in fee, together with all rights, title and interest in the Parcel. So far as is known to the Board, the owner and mortgagee for the Parcel are as follows:

Record Owner: Patrick J. Hannon
Bk 36209 Pg 167

Mortgagee: Merrill Lynch Credit Corp.
Bk 36209 Pg 169; Bk 44823 Pg 529; Bk 48691 Pg 260

In accordance with General Laws Chapter 79, it is further

ORDERED: That upon the recommendation of the Community Preservation Committee and His Honor the Mayor, the award of damages in the amount of Two Million Three Hundred Thousand Dollars (\$2,300,000) is hereby made as a result of this eminent domain taking, to be paid to the persons entitled thereto; and the expenditure therefor by the Director of Planning and Development is authorized and approved; and it is further

ORDERED: That in accordance with General Laws chapter 79 section 1, the trees upon and structures affixed to said land are hereby included as part of this taking; and it is further

ORDERED: That the Parcel is taken for recreational use; and that custody and management of the Parcel is hereby assigned to the Parks & Recreation Department; and it is further

ORDERED: That for the purpose of paying costs of acquiring the property located at 20 Rogers Street for passive recreational uses, and more formally described as Section Block Lot # 62001 0002 on the records of the City of Newton Board of Assessors, and for the payment of any and all other costs associated therewith, there be and hereby is appropriated and authorized to be borrowed under and pursuant to Chapter 44B of the General Laws (the Community Preservation Act), or pursuant to any other enabling authority, the sum of Two Million Three Hundred Thousand Dollars (\$2,300,000), provided, however, that any long term bonds issued pursuant to this order shall be for a maximum term of ten (10) years, exclusive of the term of any bond anticipation notes that may be issued prior to the issuance of any long term bonds for this purpose.

Under Suspension of Rules

Readings Waived and Emergency Measure and Appropriation Approved
22 yeas, 0 nays, 1 absent (Ald. Burg), 1 recused (Ald. Coletti)

(SGD) DAVID A. OLSON
City Clerk

(SGD) DAVID B. COHEN
Mayor

CITY OF NEWTON

IN BOARD OF ALDERMEN

May 21, 2007

ORDERED:

That in accordance with the recommendations of the Community Preservation Committee, through its Chairman, Charles McMillan; the Board of Aldermen Committee on Community Preservation, through its Chairman, Alderman Stephen Linsky; and the Finance Committee through its Chairman, Alderman Paul Coletti, the sum Thirty Four Thousand Five Hundred Dollars (\$34,500) is hereby appropriated and transferred from the Community Preservation General Reserve, to be expended under the direction and control of the Director of Planning and Development for purposes of funding legal fees and debt issuance costs associated with the acquisition of 20 Rogers Street for community recreation purposes.

FROM:

Community Preservation General Reserve
(21R-5790).....\$34,500

TO:

Community Recreation – 20 Rogers Street Land Acquisition
(21D11409-5309)..... \$30,000
(21D11409-5316)..... 4,500
Total \$34,500

Under Suspension of Rules
Readings Waived and Approved
21 yeas, 0 nays, 3 absent (Ald. Albright, Fischman and Harney)

(SGD) DAVID A. OLSON
City Clerk

(SGD) DAVID B. COHEN
Mayor

Date

(SGD) PAUL E. COLETTI
Chairman, Finance Committee