

CITY OF NEWTON

IN CITY COUNCIL

December 2, 2019

ORDER OF TAKING

WHEREAS, upon the recommendation of the Conservation Commission, the Community Preservation Committee and Her Honor the Mayor, and in the opinion of the City Council of the City of Newton, the public necessity and convenience require that approximately 17.4 acres of undeveloped woodlands (the "Parcel"), being a portion of a lot located at 300 Hammond Pond Parkway, Newton, Middlesex County, Massachusetts (SBL 65008 0003) be taken in fee by eminent domain pursuant to Chapter 79 of the General Law as authorized by Chapter 40C, sec. 8 and Chapter 44B, sec. 5 (e) of the General Law for open space and conservation purposes; and

WHEREAS, the Parcel is a portion of the lands conveyed in a deed dated May 20, 2016 from Congregation Mishkan Tefila, a Massachusetts religious corporation, to the Trustees of Boston College, a Massachusetts Institution of Higher Education, recorded with the South Middlesex Registry at Book 67338 Page 386; and

WHEREAS, the City 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 the Webster Conservation Area and the Hammond Pond Reservation held by the Massachusetts Division of Conservation and Recreation, constitutes acquisition of land for open space purposes; and the City Council hereby approves expenditure of Community Preservation funding for such purpose;

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

ORDERED: That the following described Parcel be and hereby is taken in fee, together with all rights, title and interest in the Parcel.

Beginning at a point in the southwesterly sideline of Carlisle Street at land now or formerly of the City of Newton thence;

N62°08'35"E forty and sixty six hundredths (40.66) feet to a point, thence turning and running;

S17°32'05"E forty and thirty six hundredths (40.36) feet to the point, thence;

Along a curve to the left having a radius of one hundred seventy and zero hundredths (170.00) feet a length of eighty two and thirty four hundredths (82.34) feet, and a chord of  $S31^{\circ}24'37''E$  eighty one and fifty four hundredths (81.54) feet to a point, thence;

Along a curve to the left having a radius of twenty and zero hundredths (20.00) feet a length of thirty two and fifty three hundredths (32.53) feet, and a chord of  $N88^{\circ}07'05''E$  twenty nine and six hundredths (29.06) feet to a point, thence;

Along a curve to the right having a radius of five hundred seventy one and thirty nine hundredths (571.39) feet a length of three hundred fourteen and fifty seven hundredths (314.57) feet, and a chord of  $N57^{\circ}17'38''E$  three hundred ten and sixty one hundredths (310.61) feet to a point, thence;

$N73^{\circ}04'09''E$  ninety one and fifty seven hundredths (91.57) feet to the point, thence;

Along a curve to the right having a radius of five hundred thirty four and forty one hundredths (534.41) feet a length of four hundred ninety one and twenty eight hundredths (491.28) feet, and a chord of  $S80^{\circ}35'42''E$  four hundred seventy four and sixteen hundredths (474.16) feet to a point, thence;

$S54^{\circ}15'35''E$  one hundred thirty and forty five hundredths (130.45) feet to the point, thence;

Along a curve to the left having a radius of two thousand nine hundred thirteen and thirty one hundredths (2913.31) feet a length of thirty five and eighty six hundredths (35.86) feet, and a chord of  $S54^{\circ}36'44''E$  thirty five and eighty six hundredths (35.86)

$S30^{\circ}04'12''W$  one hundred and nineteen hundredths (100.19) feet to a point, thence turning and running;

$S58^{\circ}06'41''E$  eighty three and thirteen hundredths (83.13) feet to a point, thence turning and running;

$S29^{\circ}43'29''W$  two hundred fifty three and thirty eight hundredths (253.38) feet to a point, thence;

Along a curve to the left having a radius of forty three and ninety seven hundredths (43.97) feet a length of sixty three and sixty three hundredths (63.63) feet, and a chord of  $S11^{\circ}43'42''E$  fifty eight and twenty two hundredths (58.22) feet to a point, thence;

$S58^{\circ}41'43''E$  seventy nine and sixty four hundredths (79.64) feet to a point, thence turning and running;

$N31^{\circ}05'51''E$  three hundred fifteen and twenty four hundredths (315.24) feet to a point, thence turning and running;

S70°47'10"E eighty seven and eighty two hundredths (87.82) feet to a point, thence;

Along a curve to the right having a radius of thirty and zero hundredths (30.00) feet a length of thirty eight and thirty one hundredths (38.31) feet, and a chord of S34°12'12"E thirty five and seventy six hundredths (35.76) feet to a point, thence;

S02°22'46"W four hundred fifty five and fifty three hundredths (455.53) feet to a point on the northerly boundary of land of the Commonwealth of Massachusetts Department of Conservation and Recreation thence turning and running;

S88°39'41"W by land of said Commonwealth of Massachusetts four hundred nine and ninety four hundredths (409.94) feet to a point, thence turning and running;

N63°39'46"W nine hundred forty and zero hundredths (940.00) feet to a point, thence;

Along a curve to the right having a radius of five hundred seventy one and thirty nine hundredths (571.39) feet a length of one hundred forty two and eighty two hundredths (142.82) feet, and a chord of N01°43'12"W one hundred forty two and forty five hundredths (142.45) feet to a point, thence ;

Along a curve to the left having a radius of three hundred fifteen and twenty four hundredths (315.24) feet a length of fourteen and eighty seven hundredths (14.87) feet, and a chord of N04°05'21"E fourteen and eighty seven hundredths (14.87) feet to a point, thence;

N02°44'16"E ten and fifty eight hundredths (10.58) feet to a point in the line of other lands of the City of Newton, thence;

Along a curve to the left having a radius of three hundred fifteen and sixty hundredths (315.60) feet a length of one hundred eleven and sixty seven hundredths (111.67) feet, and a chord of N07°23'55"W one hundred eleven and nine hundredths (111.09) feet thence;

N17°32'05"W seventy nine and seven hundredths (79.07) feet to the point and place of beginning.

The above described parcel contains about seven hundred fifty six thousand nine hundred thirty six (756,936) square feet or seventeen and four tenths (17.4) acres, more or less.

So far as is known to the Council, the owner and mortgagee for the Parcel are as follows:

Record Owner: Trustees of Boston College  
Bk 67338 Pg 386

Mortgagee: None

In accordance with General Laws Chapter 79, it is further

ORDERED: That upon the recommendation of the Community Preservation Committee and Her Honor the Mayor, the award of damages in the amount of Fifteen Million Two Hundred Thousand Dollars (\$15,200,000) 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 City Solicitor is authorized and approved; and it is further

ORDERED: That the Parcel is taken for open space use and conservation purposes; and that custody and management of the Parcel is hereby assigned to the Conservation Commission, and it is further

ORDERED that this taking is subject to any restrictions or easements of record, and more specifically, an easement to New England Telephone and Telegraph Company and Boston Edison Company, and their successors and assigns forever as tenants in common with quitclaim covenants, to erect, operate, maintain and remove a line of poles with the necessary cables, wires, anchors, guys, supports and fixtures thereon for the transmission of electricity and the transmission of intelligence by electricity recorded in the Middlesex South Registry of Deeds Bk 9038 Pg 443, and it is further

ORDERED: That in accordance with General Laws chapter 79 section 1, the trees and waters upon and structures affixed to said land are hereby included as part of this taking, except that all existing light poles and all existing cables, wires, anchors, guys, supports and fixtures thereon for the transmission of electricity and the transmission of intelligence by electricity are excluded from this taking.

Under Suspension of Rules  
Readings Waived and Adopted  
24 yeas 0 nays



(SGD) DAVID A. OLSON  
City Clerk



(SGD) RUTHANNE FULLER  
Mayor

Date: 12/4/19

CPC staff note: This order is based on motion 3 in the CPC recommendation dated 18 November 2019.

#379-19(3)

CITY OF NEWTON

IN CITY COUNCIL

December 2, 2019

ORDERED:

That, in accordance with the recommendations of the Community Preservation Committee, through its Chairman, Mark Armstrong and the Committee of the Whole, through its Chair, President Marc Laredo, the sum of Seven Hundred Twenty-five Thousand and no/100ths (\$725,000) is hereby appropriated and transferred from the Community Preservation Fund's Fiscal 2020 Open Space Reserve and restricted fund balance for open space, to be expended under the direction and control of the City Solicitor for legal services and other costs required for acquisition of approximately 17.4 acres of undeveloped wooded land, including trees, waters and structures located on the property at the rear of 300 Hammond Pond Parkway (known as Webster Woods) for open space purposes.

FROM: Community Preservation Open Space Reserve  
(58A10498-57900D)..... \$351,305

FROM: Restricted Fund Balance for Open Space  
(5840-3599)..... \$373,695

TO: Webster Woods Legal Services  
(58A10803-579500) ..... \$725,000

[Object code 579500 for "undistributed budget" may be changed to 530900 for "legal services."]

RESOLVED:

The City Council requests that at the appropriate time the Mayor's office will request a bond authorization for \$740,000 from the CPC to reimburse the CPC Preservation Fund's Fiscal 2020 Open Space Reserve and restricted fund balance for open space that is currently being appropriated for Legal Fees and a Conservation Restriction for Webster Woods.

Under Suspension of Rules  
Readings Waived and Approved  
24 yeas 0 nays



(SGD) DAVID A. OLSON  
City Clerk

*Ruthanne Fuller*  
(SGD) RUTHANNE FULLER  
Mayor

Date: 12/4/19

CPC staff note: This order is based on motion 2 in the CPC recommendation dated 18 November 2019.

#379-19(4)

CITY OF NEWTON

IN CITY COUNCIL

December 2, 2019

ORDERED:


That, in accordance with the recommendations of the Community Preservation Committee, through its Chairman, Mark Armstrong and the Committee of the Whole, through its Chair, President Marc Laredo, the sum of Fifteen Thousand and no/100ths (\$15,000) is hereby appropriated and transferred from the Community Preservation Fund's Fiscal 2020 Open Space Reserve, to be expended under the direction and control of the Director of Planning and Development for costs associated with holding the conservation restriction associated with the acquisition of approximately 17.4 acres of undeveloped wooded land, including trees, waters and structures located on the property at the rear of 300 Hammond Pond Parkway (known as Webster Woods) for open space purposes.


FROM: Community Preservation Open Space Reserve  
(58A10498-57900D)..... \$15,000

TO: Webster Woods-Newton Conservators, Inc.  
(58A11404-579500) ..... \$15,000

[Object code 579500 for "undistributed budget" may be changed to 579700 for "grant."]

Under Suspension of Rules  
Readings Waived and Approved  
24 yeas 0 nays

  
(SGD) DAVID A. OLSON  
City Clerk

  
(SGD) RUTHANNE FULLER  
Mayor

Date: 12/4/19

#379-19(5)(A)

CITY OF NEWTON

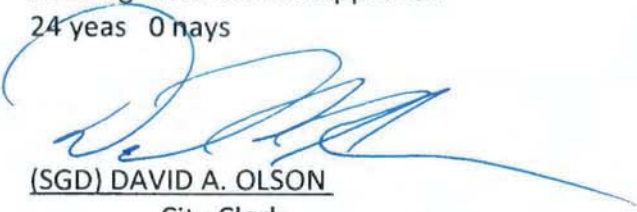
IN CITY COUNCIL

December 2, 2019

ORDERED:

That, for the purpose of paying the costs of taking in fee, by eminent domain, for open space purposes, Webster Woods, so-called, consisting of approximately 17.4 acres of undeveloped woodlands, including trees, waters and structures, located at 300 Hammond Pond Parkway, and for paying all costs incidental and related thereto, there be and hereby is appropriated and authorized to be borrowed under and pursuant to M.G.L. c. 44B (the Community Preservation Act), M.G.L. c. 44, §7(1) or any other enabling authority, the sum of Fifteen Million Dollars (\$15,000,000), provided, however, that any long term bonds issued pursuant to this order shall be for a maximum term of thirty (30) years. The spending of the bond proceeds shall be under the control of the City Solicitor. Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount. The Mayor is authorized to accept and expend any and all grants or donations that may be made available to the City to pay costs associated with acquiring the land described above.

Under Suspension of Rules  
Readings Waived and Approved  
24 yeas 0 nays

  
(SGD) DAVID A. OLSON  
City Clerk

  
(SGD) RUTHANNE FULLER  
Mayor

Date: 12/4/19



CITY OF NEWTON

IN CITY COUNCIL

December 2, 2019


ORDERED:

That, in accordance with the recommendation of the Committee of the Whole through its Chair Marc Laredo, the authorization to accept and expend a donation of Two Hundred Thousand and no/100ths (\$200,000) from members of the Friends of Webster Woods for the purpose of paying the costs of acquiring for open space purposes, Webster Woods, so-called, consisting of approximately 17.4 acres of undeveloped woodlands, including trees, waters and structures, located at 300 Hammond Pond Parkway, be and is hereby approved. Said donation shall be returned to the donors should the City of Newton not acquire Webster Woods.

TO: Friends of Webster Woods Acct  
(5346G108-579500)..... \$200,000

Under Suspension of Rules  
Readings Waived and Approved  
24 yeas 0 nays

  
(SGD) DAVID A. OLSON  
City Clerk

  
(SGD) RUTHANNE FULLER  
Mayor

Date: 12/4/19