



Finance Committee Report

City of Newton In City Council

Monday, May 10, 2021

Present: Councilors Grossman (Chair), Malakie, Humphrey, Kalis, Norton, Gentile, Oliver and Noel

Also Present: Councilors Baker and Albright

City staff present: Chief Financial Officer Maureen Lemieux, Comptroller Sue Dzikowski, CPA Program Manager Lara Kritzer, Chief Operating Officer Jonathan Yeo, Commissioner of Public Buildings Josh Morse, Deputy Director of Public Buildings Alex Valcarce, Commissioner of Parks, Recreation and Culture Nicole Banks, Recreation Program Manager Carolyn Stapleton, Commissioner of Inspectional Services John Lojek, Chief Information Officer Joe Mulvey, Open Space Coordinator Luis Perez Demorizi, Interim Chief of Police Howard Mintz, Captain Jeffrey Boudreau, and Director of Transportation Nicole Freedman

#169-21 Appropriate \$200,000 from the CATV Capital Receipts

HER HONOR THE MAYOR requesting authorization to appropriate and expend the sum of two hundred thousand dollars (\$200,000) from the CATV Capital Receipts for the purpose of funding enhancements to the Council Chambers and Conference Rooms 204, 205 and 211 at City Hall as well as the Education Center School Committee room.

Action: **Finance Approved 6-0 (Councilors Gentile and Kalis not voting)**

Note: Joe Mulvey, Chief Information Officer presented the request to appropriate and expend the sum of \$200,000 from the CATV Capital Receipts for the purpose of funding enhancements to the Council Chambers and Conference Rooms 204, 205 and 211 at City Hall as well as the Education Center School Committee room. Mr. Mulvey explained that they have been working with NewTV to use cable licensing funds for this project. The purpose of the work is to enable these rooms to be Zoom-friendly. This will include adding monitors, wall-mounted cameras, speakers and microphones. The intention is to also enhance the video in the Council Chamber. Mr. Mulvey explained that they will also be upgrading the systems at the Education Center. Three companies gave pricing for this project.

Mr. Mulvey explained that cable licensing fees can be used in a limited number of ways. The funds can be used to upgrade this technology.

Councilor Noel motioned to approve which passed 6-0 with Councilors Gentile and Kalis not voting.

#161-21 Appointment of Lucia Panichella to the Horace Cousens Industrial Fund
HER HONOR THE MAYOR appointing LUCIA PANICHELLA, 53 Anthony Circle, Newton, as a trustee of the Horace Cousens Industrial Fund for a term to expire on June 1, 2024. (60 days: 07/02/2021)

Action: Finance Approved 8-0

Note: Lucia Panichella was present to discuss her appointment to the Horace Cousens Industrial Fund. Ms. Panichella explained she has been involved with the Cousens fund for the past three years. She noted that it has been rewarding helping people in the community especially through the pandemic. Ms. Panichella explained that she works as a social worker for a nonprofit in Framingham.

Ms. Panichella explained that the fund was started with an endowment. At the inception of the Cousens fund they helped residents with their mortgages. The focus now is to help any resident in Newton that has financial needs, which could include paying for rent, medical bills and utility bills. She explained that during the pandemic they were looking at applications more often but it is usually on a monthly basis. The applications are reviewed to determine if someone is eligible. The money then goes right to the vendor. There are also additional funds that come from community grants.

Committee members asked the following questions:

Q: What is the average number of people that are helped by the Cousens fund per month?

A: Ms. Panichella explained that the numbers vary month to month. The average is approximately 10 per month. The pandemic has increased the need for the Cousens fund.

Q: Is the goal of this fund to preserve the principal and spend interest/grants?

A: Ms. Panichella explained that they could always use more funds to be able to help the community but the fund is not struggling and is invested well. She also explained that city staff has continued to apply for grants to supplement the Cousens fund.

Q: What are the approximate annual expenditures?

A: Ms. Panichella explained that annual expenditures are approximately \$80,000. She explained that they do meet with Rockland Trust to review the financials and make a plan for the year. Additionally, she noted that the effects of the pandemic will continue to be an issue and they are careful to make sure they will continue to help these residents.

Committee members thanked Ms. Panichella for her willingness to serve.

Councilor Malakie motioned to approve which passed unanimously.

#162-21 Acceptance of \$133,380 from the Massachusetts Office of Business Development
HER HONOR THE MAYOR requesting authorization to accept and expend the sum of one hundred thirty-three thousand three hundred and eighty dollars (\$133,380) in grant funding from the Massachusetts Office of Business Development's Regional Pilot Project grant to implement a program to activate 5-8 vacant storefronts.

Action: Finance Approved 8-0

Note: Nicole Freedman, Director of Transportation presented the request accept and expend the sum of \$133,380 in grant funding from the Massachusetts Office of Business Development's Regional Pilot Project grant to implement a program to activate 5-8 vacant storefronts. Ms. Freedman explained that this grant's aim is to support businesses during and after the pandemic. Newton has partnered with Needham and the goal is to activate vacant store fronts with pop-up retail projects. They will be activating 5-8 storefronts; 3 to 5 will be in Newton and 1 to 3 will be in Needham. Ms. Freedman explained that they have been working with a consulting team who has a background in pop-up retail. Applications have been received and the consultant is actively searching for storefronts. This program will be running through the summer months. Ms. Freedman explained that the goal is to either give the landlord three months to find a permanent tenant, or for this pop-up shop owner to be in a position to open their store full-time. A list of sources and uses of funds is attached to this report.

Committee members asked the following questions:

Q: How are the grant funds being used?

A: Ms. Freedman explained that these funds will be used for rent. They are asking the landlords to subsidize the rent by half. There is also the need to educate owners of the retail stores about this program and funds will have to be spent to set-up these stores. The consulting firm will also need to be paid.

Q: How are locations and pop-up shops decided on?

A: Ms. Freedman explained that it is a long process to find landlords that agree to have these pop-ups in their vacant store fronts at half the price. There will also be a process on deciding on the pop-up shops. There will be a number of city staff that will be involved in the decision process along with the consultants.

Committee members made the following comment:

There should be a more in-depth conversation about a long-term solution for these small businesses.

Councilor Oliver motioned to approve which passed unanimously.

Referred to Public Facilities & Finance Committees

#167-21 **Appropriate \$2.5 million for the Transportation Network Improvement Plan**
HER HONOR THE MAYOR requesting the authorization to appropriate and expend two million five hundred thousand dollars (\$2,500,000) to supplement funding for the Transportation Network Improvement Plan.
Public Facilities Approved 8-0 on 05/05/21
Action: **Finance Approved Subject to Second Call 8-0**

Note: Shawna Sullivan, Chief of Staff for the Public Works Department presented the request to appropriate and expend \$2,500,000 to supplement funding for the Transportation Network Improvement Plan. Ms. Sullivan explained that the funds will be used to pave 11 streets, additional bike lanes, sidewalk improvements and ADA curb ramp adjustments. These funds will bring the FY21 funding for the Transportation Network Improvement Plan to \$8 million. The list of streets is attached.

As the draft Council Order shows, the funding source is subject to the receipt of the ARPA funding.

The Chair asked Sue Dzikowski, Comptroller to explain the source of funding.

Ms. Dzikowski explained that she feels that this docket item should be held until the City receives the ARPA funding to avoid any complications in the future. The executive office has said that if the ARPA funds are not received they will ask the Council to amend the source of funds. The ARPA funds would need to be received before the full City Council meeting on May 17th for the Council to be able to vote to appropriate them.

Maureen Lemieux, Chief Financial Officer explained that they are still waiting for the funds but the United States Department of Treasury has released the guidelines for the funds. Ms. Lemieux asked the Committee to approve this item subject to second call; if the funds are not here by the City Council meeting, she will be asking the Council to amend the source of funds on the floor of the Council. She further explained that an amended request for funds would either come from Free Cash or a combination of Free Cash and savings from attrition from the Department of Public Works.

Committee members asked the following questions:

Q: What type of work is being done on Watertown Street between Pearl Street and Walnut Street?

A: Ms. Sullivan explained that it will be an overlay of Watertown Street. She further explained that the roadway is concrete panels all the way down Watertown Street, so it is a different process than most roads in Newton. Similar work was previously done on Cherry Street.

Q: How are the timing of these improvements affected if this item is held in Committee?

A: Ms. Sullivan explained that other cities and town are going to be receiving similar funds; holding this item could potentially hold up Newton's ability to secure contracts for the work.

Q: Are these funds that would have been requested regardless of the ARPA funds being granted?

A: Ms. Lemieux explained that this is in front of the Committee because the City is receiving these funds.

Q: If other cities and towns have these funds and want to use them for their own roads program, could Newton wait another year to use these funds?

A: Ms. Lemieux explained that this is the best time to move forward with this work because the contractors and unit pricing is in place.

Q: If the funds are not received in time and the source needs to be amended, will these accounts be replenished when the ARPA funds are received?

A: Ms. Lemieux explained that she could not answer that at this time. The guidelines for these funds were just released and she is unsure whether reimbursement from ARPA funds would be possible to another account that is used in the meantime.

Q: Is part of the plan to repave from Route 9 to Walnut Street, where MassDOT will be working on a project?

A: Ms. Sullivan explained that MassDOT's project will go up to the ramps and the City will go from the ramps to Walnut Street.

Committee members made the following comments:

The Committee should move forward with this item tonight and approve the item subject to second call. There is confidence in the plan that Ms. Lemieux explained if the ARPA funds are not received in time. It is really important that we are getting ahead of the game with the contractors.

It was noted that the Committee should wait to approve until the funds are available.

Ms. Lemieux noted that if this item is not moved to the full Council tonight, then the full City Council would not be able to take up this item until June 7. This timing was a part of the consideration for the docketed this item in this way. She noted that this could be tabled at the full City Council meeting on May 17 if necessary.

It was noted that even with this \$2.5 million, the budget for the Transportation Network Improvement Plan will not reach the amount that has been spent in the past few years. The condition of the roads and sidewalks are important to the residents of this city. Additionally, the unit pricing for these projects will just continue to increase so it is important for this work to be done as soon as possible.

If the funds do not come in by Friday, then the Council does need to receive the new source of funds that the Council will be asked to vote upon in the Friday Packet.

Councilor Kalis motioned to approve subject to second call which passed unanimously.

Referred to Programs & Services and Finance Committees

#166-21

CPC Recommendation to appropriate \$60,000 in CPA funding for the Gath Pool

COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of sixty-thousand dollars (\$60,000) in Community Preservation Act Recreation funds to the control of the Planning & Development for the hiring of a consultant to work with the Public Building and parks, Recreation and Culture Departments to complete a conditions assessment and feasibility study on the Gath Memorial Pool Complex.

Programs & Services Approved as Amended from the FY21 Current Year Budgeted Reserve Account 8-0 on 05/05/21

Action:

Finance Approved as Amended from the FY21 Current Year Budgeted Reserve Account 7-0-1 (Councilor Kalis abstaining)

Note: Lara Kritzer, CPA Program Manager presented the request to allocate \$60,000 to the control of Planning & Development for the hiring of a consultant to work with the Public Buildings and Parks, Recreation and Culture Departments to complete a conditions assessment and feasibility study on the Gath Memorial Pool Complex. Mr. Kritzer presented the attached presentation.

Ms. Kritzer also provided the attached memo regarding the source of funds for this allocation. The docket item stated that this money would come from a recreation fund but that is just the category for the spending. The funds will be coming from the FY21 Current Year Budgeted Reserve Account. The Committee will need to vote as amended from the FY21 Current Year Budgeted Reserve Account to correct the funding source.

Committee members asked the following questions:

Q: Are these plans just for renovations of the pool?

A: Luis Perez Demorizi, Open Space Coordinator explained that the study will also look at the equipment and the boat house.

Q: What is the need for the consultant and is this for just phase 1 of the project or will the consultant also be working on phase 2?

A: Mr. Perez Demorizi explained that they have been doing upgrades over the years and have done tests to find the origin of the leak. That is why it is recommended a consultant is brought in at this time. He also explained that they would want to keep the same consultant throughout the project. At this point they are considering all options for the pool which could include a repair to the shell of the pool. The consultants will also be assessing the accessibility of the building. Alex Valcarce, Deputy Director of the Public Buildings Department explained that this will be approached the same way as any other project. The consultant is being hired to do an existing facility study. The selection of the consultant will be done through the Designer Selection Committee and it will be someone that has the knowledge and the ability to do the work from the start to the end of the project. Mr. Valcarce explained that they can amend their contract throughout the project.

Q: What is the purpose of the study?

A: Mr. Valcarce explained that they need to understand the existing conditions, address the leak and look at the equipment. Parks, Recreation and Culture does have a goal to add more lanes to the pool and that will need to be addressed. Josh Morse, Commissioner of Public Buildings explained the study will include looking at various options for the pool. These options include repair, expansion and full replacement of the pool and the deck. The community will be involved throughout the project to address the needs.

Q: What is the estimated cost to fully replace the pool?

A: Commissioner Morse explained that the budget was listed at \$5 million in last fall's CIP. He noted that it is still early in the process so this amount could decrease. Mr. Perez Demorizi explained that they had looked at Lexington's pool project and that project fell within the \$5 million range.

Q: Did the Lexington project have a similar leak problem?

A: Mr. Perez Demorizi explained that he does not believe this was the case for the Lexington pool project. They did have to replace the gutters and completely renovate the kiddie pool. Also, they added a new spray feature and renovated a portion of the bath house.

Q: What have been the past attempts to find the source of the leaks and what will the consultant do differently?

A: Mr. Perez Demorizi explained the consultant would be highly qualified in this type of facility and will look at the systems as they are running. They would then look into reasons for the leak that the City has not considered. If the cause of the leak is not found then they would need to do more invasive work. He further explained that the City has done a dye test and repatching of the shell, and these steps did not fix the issue. Commissioner Morse explained that finding where the leak is will impact the proposed solution moving forward.

Q: Is part of the problem the fact that the pool sits on a wetland?

A: Commissioner Morse explained that the water table does not cause issues with the pool itself because it is elevated. He did note that the mechanical room is slightly below grade so it does cause water to enter. The goal is to address this as part of the project.

Q: How much water does the pool hold compared to the amount of water that is being lost?

A: Ms. Kritzer explained that the pool does need to be refilled every 18 days and the pool is losing approximately 5% of its water each day. Mr. Perez Demorizi explained that the main pool is 325,000 gallons of water.

Committee members made the following comments:

The need to repair the pool has been known for many years. The proposed timeline here states that the earliest the City will be able to break ground is 2 years from now. This work should be able to be done sooner than that. There does not seem to be a need for consultants when it has been known the City will need a new pool since these problems have been going on for years.

Commissioner Banks explained that the pool will be open this summer and a large part of the assessment will be to determine where the leak is in the pool shell. It is still unclear if this project will be a repair or a rebuild of the pool shell. Commissioner Morse explained the CPC and the community would also like the City to move this project along as fast as possible. The vast majority of these funds will go towards the feasibility study which the City will need regardless of the option that is chosen. He also explained that they are being conservative with the 2-year timeline.

Community input should be solicited earlier on in the process so that changes do not have to be made further into the project. The timeline for this project seems to be too conservative.

Commissioner Banks explained that this project will require a significant renovation. The goal is to see the pool in use this summer. This will be an opportunity to receive community input. Then the pool would be open the following summer, and construction will begin after that.

This is a highly-specialized field and there are companies who do have experience in the work that needs to be done to the Gath Pool. The City should consider going out to some of these companies and seeing what they have to say about this project. They may have the ability to do what the City needs without having to do the feasibility study.

Commissioner Morse explained that he will investigate this and get back to the Committee with a response.

Councilor Norton motioned to amend the docket item to allocate the funds from the FY21 Current Year Budgeted Reserve Account.

Councilor Norton motioned to approve as amended from the FY21 Current Year Budgeted Reserve Account which passed 7-0-1 with Councilor Kalis abstaining.

Referred to Programs & Services and Finance Committees

#49-20(2)

Requesting establishment of a fee for the registration of leaf blower contractors

Programs and Services Committee requesting an appropriate fee be set for registration of leaf blower contractors pursuant to possible revisions in the Noise provisions of Newton Ordinances, Chapter 20, relating to leaf blowers, to provide for registration of leaf blower contractors and their certification of understanding and intention to comply

with the provisions of the Noise ordinance, contained in possible revisions to Chapter 20, prepared by the Newton Law Department to improve compliance with existing standards for leaf blower operation.

Programs & Services Approved with effective date of 09/06/2021 7-0-1 (Councilor Albright abstaining)

Action: **Finance Approved as Amended (with Police enforcement) 5-0-3 (Councilors Gentile, Humphrey and Noel abstaining)**

Note: The Committee discussed the attached draft ordinance provided by the Programs & Services Committee along with Councilor Norton's amendment with respect to police enforcement of the ordinance.

Jonathan Yeo, Chief Operating Officer explained that on Wednesday night (05/12/21) when the Mayor gives her budget address, they will be adding a position that will help Inspectional Services and the Police Department enforce the new registration process. This will be a seasonal compliance enforcement inspector added to Inspectional Services, whose job will be to travel around the City before Memorial Day and after Labor Day to determine compliance. There will still be the need to turn to the Police Department to respond to calls.

In the Programs & Services Committee, there was concern expressed from residents as to how the leaf blower ordinance is being enforced. The Programs & Services Committee discussed the confusion around who would be fined when there was a need to issue a ticket. The Law Department has worked with Councilors on the enforcement process. This proposed ordinance adds a registration fee to the process. This would also protect the homeowner if they chose a landscaping company that is registered with the City. If the landscaping company does not comply with the regulations once they are registered, they will first receive a warning. Subsequent offences could result in a suspension of work and fines. Programs & Services did vote to keep the Police Department out of the enforcement. The effective date was set for 09/06/21 so that there is time to educate people about the changes to this ordinance.

It was explained that currently there is no registration process so there is no fee. The proposed registration fee will be nominal. The proposed ordinance gives the Commissioner of Inspectional Services or their designee the ability to set the fee. The fines for violating the ordinance have not changed. The new fine is \$300 for failing to register.

Commissioner of Inspectional Services, John Lojek and the Interim Chief of Police, Howard Mintz were also present for the discussion. Commissioner Lojek explained that it is important to determine how this ordinance will be enforced. The solution from the Mayor of adding a new position to Inspectional Services could be a compromise on this issue. He further explained that enforcement within the Inspectional Services Department can be difficult. The current inspectors are doing inspections that are scheduled in advance, so it would be difficult to pull them off these inspections to enforce the leaf blower ordinance. Commissioner Lojek explained that Inspectional Services should only be a part of the enforcement. He explained that they can take in registrations and keep the paperwork.

Interim Chief Mintz explained that the addition of a position in Inspectional Services and the amendment offered by Councilor Norton is a good compromise. He explained that part of the problem with enforcement in the past year was the pandemic. The policy was for an officer not to take an unnecessary risk while approaching someone. Additionally, there was a problem when the police officer would arrive on the scene and no one would be there. Interim Chief Mintz also explained that officers were concerned with approaching the workers of the landscaping companies with a fine. In the proposed ordinance the contractor would be fined, which would help with the officers' concerns.

Committee members asked the following questions:

Q: What was the thought process around enforcement in Programs & Services?

A: It was noted that Programs & Services wanted enforcement to fall under the Inspectional Services Department. The other changes to the ordinance should help with the compliance issue.

Q: Who would enforce this ordinance if a complaint was filed on the weekend?

A: Commissioner Lojek explained that an inspector would not be around if a complaint is filed during the weekend. Mr. Yeo noted that the intent behind creating the new position in Inspectional Services is to provide proactive enforcement, rather than complaint-driven enforcement. The new inspector would provide surveillance across the City of landscapers. The complaints coming through the existing system will still go to the Police Department. The coordination between the two departments will be improved.

Q: If someone calls in a complaint because someone is using a gas leaf blower over the summer, who would enforcement fall to?

A: Mr. Yeo explained that this would fall to the Police Department.

Q: What does the Commissioner of Inspectional Services think that he will set the registration fee at?

A: Commissioner Lojek explained that he believes a \$50 fee would be nominal and appropriate.

Committee members made the following comments:

The conversation regarding Councilor Norton's amendment should happen on the floor of the full City Council. The idea that Mr. Yeo presented tonight could be the solution to whether or not the Police Department should be involved in enforcement of this ordinance. As Mr. Yeo explained, the addition of this position to the Inspectional Services Department will be discussed in the Mayor's budget address.

Regarding the previous comment, it was noted that it is important to move this item to the full City Council to make sure that there is time to educate landscaping companies and residents before the new ordinance takes effect. It is also important to address the motion to amend which is before the Committee.

It is important to include the Police Department as part of enforcement to ensure compliance.

It was noted that the Finance Committee can set the registration fee if that is the direction the Committee wants to go in. The Committee felt comfortable with Commissioner Lojek's representation that he expects the fee to be at or about \$50.

Councilor Norton motioned to amend the Programs & Services draft ordinance as shown in her attached memo and draft ordinance. The motion carried 6-2 with Councilors Humphrey and Noel opposed. This amendment would keep the Police Department involved in enforcement.

Councilor Norton motioned to approve as amended (with Police Enforcement) which passed 5-0-3 with Councilors Gentile, Humphrey and Noel abstaining.

Chair's Note: *The following two items were discussed together.*

Referred to Programs & Services and Finance Committees

#163-21 Request for an increase to off-leash dog fines

COUNCILORS KRINTZMAN AND ALBRIGHT requesting an increase to the fine for failure to leash a dog under section 3-26 and the off leash dog program under section 3-30, as well as implementing a separate penalty for a second and third offense of the same ordinance.

Programs & Services Approved 8-0 on 05/05/21

Action: **Finance Approved 8-0**

Referred to Programs & Services and Finance Committees

#164-21 Request for an increase to dog license fees

COUNCILORS KRINTZMAN AND ALBRIGHT requesting an increase in the canine registration fee to help support pet waste disposal efforts across the city.

Programs & Services Approved 7-1 (Councilor Ryan opposed) on 05/05/21

Action: **Finance Approved 8-0**

Note: Nicole Banks, Commissioner of Parks, Recreation and Culture explained that the current fine for violating the City's off-leash dog ordinances is \$50. Docket item #163-21 would set a fine for second and third offenses at increasing amounts. Commissioner Banks explained that currently the Parks, Recreation and Culture Department is only in charge of the education piece and is not a part of the enforcement piece of this ordinance. If a Parks, Recreation and Culture employee sees someone violating the off-leash ordinance than they would call the Police Department. She noted that she is supportive of the fine increase. The fees would be \$50, \$75 and \$100 for any subsequent offences.

Commissioner Banks explained that they are also proposing an increase in the dog license fee. Currently the dog license fees are at \$10 for spayed and neutered dogs and \$15 for dogs that are not.

These fees would each be increased by \$10. These fees help with the maintenance of the pet waste receptacles throughout the City.

It was noted that the funds from the off-leash dog fees and fines had been used to pay for more than 50 pet waste barrels across the City when they should more properly be used for the maintenance of the off-leash parks themselves. The increase in the dog license fees will allow for the maintenance of the waste barrels and spread the cost of waste barrels to all dog owners.

Committee members asked the following questions:

Q: Who will be in charge of enforcing this ordinance?

A: Commissioner Banks explained that fines will be issued by the Police Department. There are Animal Control Officers and back-up officers that are able to issue fines. Captain Jeffrey Boudreau explained that the amount of the fine does not change the process as to how the department issues the fines. But there will be a need to keep a record of the violations to see if someone has been fined before.

Q: Is the fine given to whoever is walking the dog?

A: Captain Boudreau explained that the enforcement goes by who has the dog. If a dog walker violates the ordinance than they will be the one that the officer gives the ticket to.

Q: What would the policy be if a youth is the individual accompanying an off-leash dog?

A: Captain Boudreau explained that they have not issued tickets to youth in the past and do not plan to do so in the future. It was noted that it may be better to mail the citation to the household and Captain Boudreau explained that they could mail it to the owner of the dog in appropriate scenarios.

Q: How is the off-leash dog issue at the Ward School being addressed?

A: Captain Boudreau explained that they are at the Ward School almost daily and have not issued a citation. The goal is to try to educate the dog walkers and owners that the dogs can't be off-leash in this area. Commissioner Banks noted that there are two off-leash parks within 2 miles of the Ward School.

Councilor Humphrey motioned to approve item #163-21 which passed unanimously.

Councilor Humphrey motioned to approve item #164-21 which passed unanimously.

#168-21 Appropriate \$1,000,000 for the Rainy Day Stabilization Account

HER HONOR THE MAYOR requesting authorization to appropriate and expend the sum of one million dollars (\$1,000,000) from June 30, 2020 Certified Free Cash to the Rainy Day Stabilization Fund for the purpose of bringing the Rainy Day Stabilization Fund to

slightly over \$23.1 million or 5% of the Mayor's Proposed FY22 General Fund Operating Budget.

Action: **Finance Approved 8-0**

Note: Maureen Lemieux, Chief Financial Officer presented the request to appropriate and expend the sum of \$1,000,000 from June 30, 2020 Certified Free Cash to the Rainy Day Stabilization Fund for the purpose of bringing the Rainy Day Stabilization Fund to slightly over \$23.1 million, or 5% of the Mayor's Proposed FY22 General Fund Operating Budget. Ms. Lemieux explained that interest rates are nonexistent at this point. Currently there is approximately \$22 million in the fund, and the Mayor will present a budget of \$463 million for the General Fund. Once the new Treasurer settles into the City, the expectation is that he will work with the Investment Advisory group on the investment strategy for the Rainy Day Stabilization Fund.

Committee members asked the following questions:

Q: Where is the City at with Free Cash right now?

A: Ms. Lemieux explained that they have tried not to spend money from Free Cash this year. She explained that they came to the Council for funds for the new permitting software, new storage area network and a new firewall. The goal is for the Transportation Network Improvement plan to come from the ARPA funds, but if the ARPA funds do not arrive in time, Free Cash could be used for a portion of these costs. Free Cash was at approximately \$7 million this year which is lower than what has been in the account for the last three to four years. Ms. Lemieux explained that they will also be coming to the Committee for funds for the Fire Department's overtime. The hope is that the CARES Act will pay for some of these overtime costs.

Q: How was the decision made to move these funds to the Rainy Day fund?

A: Ms. Lemieux explained that when she began here, there was not anything in the Rainy Day Fund. The goal since that time and moving forward is to have the Rainy Day fund at 5% of the City's budget.

Councilor Malakie motioned to approve which passed unanimously.

#114-21 Discussion on Covid-19 expenditures

FINANCE COMMITTEE requesting updates from the Chief Financial Officer on the expenditure of funds for Covid-19.

Action: **Finance Held 8-0**

Note: Maureen Lemieux, Chief Financial Officer explained that the Department of Treasury just released the guidelines for the ARPA funding. The guidelines are 150 pages long. Ms. Lemieux explained that there will be a comment period but a timeline has not been set. The City will work with the MMA and the Governor's office to create comments with other municipalities in the State. The category that deals with lost revenue is important to the City. There is a generic formula on how to

calculate lost revenue during the pandemic. Ms. Lemieux explained that they have been discussing how these funds should be spent and will reach out to the Council and other groups to address the needs of the City. There is also a Covid-19 section of the budget.

Councilor Kalis motioned to hold which passed unanimously.

The Committee adjourned at 9:49 p.m.

Respectfully submitted,

Rebecca Walker Grossman, Chair



SCOPE OF WORK

Overview

UpNext LLC will implement a program to activate 5-8 vacant storefronts as pop-up retail and/or innovation centers, for use by a mix of small businesses, artists and/or makers.

Deliverables

- Fill 4-5 vacant storefronts in Newton and 1-3 in Needham
- Provide pop-up retail space for 8+ emerging businesses over 3 months during summer 2021
- Storefronts made available at low or no cost access
- Each pop-up site will include gallery space for local art exhibitions and sales. Space may be shared by multiple businesses, magnifying impact.
- The program will assist approved applicants in designing and conceptualizing a successful space.
- UpNext will implement a widespread cross-promotional campaign to brand, unify, and market the program.
- Dedicated efforts will be made to recruit BIPOC entrepreneurs to incentivize a diverse and vibrant mix of businesses.

Partners

UpNext will partner with the following individuals and organizations to implement the pilot:

- Newton Mayor and Needham Town Manager
- Municipal staff: Economic Development, Planning, Cultural Development, Law
- Newton Needham Regional Chamber of Commerce
- Art/Creative partners

Milestones, Metrics and Timeline

Milestone	Metrics	Date
Assemble Team	<ul style="list-style-type: none"> Individual outreach to team and partners Convene kickoff meeting 	4/1-4/31/2021
Planning	<ul style="list-style-type: none"> Solidify 5-8 retail locations Optimize space for pop-up use Build and launch application process Create cross-promotional marketing & PR campaign 	4/15-5/31/2021
Applications	<ul style="list-style-type: none"> Rolling application process for small businesses – live for a minimum of four weeks 	4/15-5/31/2021
Launch & Activate	<ul style="list-style-type: none"> Activate emerging businesses (up to 2+ per space) – each space will be activated for a minimum of two months 	6/1-8/31/2021

Budget

City will pay UpNext LLC \$133,380 to cover all expenses, including but not limited to expenses for supplies, subcontractors, events, other.

UpNext LLC will solicit all match funding.

Spending Category	Amount Request	Match	Total Project Budget	Source of Match
Personnel (including taxes/fringe)				
Consultants / Professional Fee	\$90,000	\$30,000	\$120,000	UpNext Consulting
Partner Subcontracts	\$15,400		\$15,400	
Program Supplies	\$15,980		\$15,980	
Events / Meeting Expenses	\$0		\$0	
Other - (Rent Stipend)	\$12,000	\$12,000	\$24,000	Property Owners
Subtotals	\$133,380	\$42,000	\$175,380	
General Administration / Overhead				
Grand Total	\$133,380	\$42,000	\$175,380	



167-21

City of Newton, Massachusetts
Office of the Mayor

Ruthanne Fuller
Mayor

Telephone
(617) 796-1100
Fax
(617) 796-1113
TDD/TTY
(617) 796-1089
Email
rfuller@newtonma.gov

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

2021 APR 26 PM 5:00
RECEIVED
CITY CLERK
NEWTON, MA 02459

Honorable City Councilors:

I respectfully submit this docket item to this Honorable Council requesting the authorization to appropriate and expend \$2,500,000 to supplement funding for the Transportation Network Improvement Plan. Funding will come from the City's first tranche of American Rescue Plan Act funds set to arrive in City accounts shortly. In the last few years, this supplemental funding has come from Free Cash, Overlay Surplus or the Capitalization Fund. The pandemic-related revenue shortfalls left the City with much less Free Cash this fiscal year.

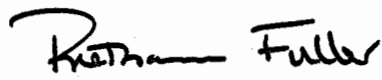
Below is a table showing the Transportation Network Improvement Plan's sources of funding since FY2018. The FY2021 budget for the program, revised when the pandemic hit, was \$5.5 million. This additional \$2.5 million increases it to \$8.0 million.

Newton Transportation Network Improvement Program Funding FY18-FY21				
Source	FY18	FY19	FY20	FY21
Chapter 90	\$ 2,445,000	\$ 2,309,000	\$ 1,850,000	\$ 2,750,000
2013 Override and Operating Budget	\$ 2,154,873	\$ 1,640,117	\$ 1,710,000	\$ 1,350,000
Reclassified Revenues/Savings	\$ 982,903	\$ 669,235		\$ 400,000
Free Cash	\$ 3,929,011	\$ -	\$ 3,000,000	\$ 1,000,000
Overlay Surplus	\$ -	\$ 5,000,000	\$ 1,750,000	
Capital Stabilization			\$ 1,250,000	
ARPA	\$ -	\$ -	\$ -	\$ 2,500,000
TOTAL	\$ 9,511,787	\$ 9,618,352	\$ 9,560,000	\$ 8,000,000

As noted in Commissioner McGonagle's attached memo and road listings, the additional funds will allow the city to address high priority road and sidewalk improvements in village center areas. The American Rescue Plan Act is designed in part to allow municipalities to move forward with economic recovery projects and to fund projects hurt by lost revenues. The City is anticipating approximately \$65 million in total ARPA funding, as well as grant program funds that are expected at the state level.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink that reads "Ruthanne Fuller". The signature is written in a cursive style with a large, looping initial "R".

Mayor Ruthanne Fuller

City of Newton

DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE COMMISSIONER

1000 Commonwealth Avenue
Newton Centre, MA 02459-1449

Ruthanne Fuller
Mayor

To: Maureen Lemieux, Chief Financial Officer
Jonathan Yeo, Chief Operating Officer

From: James McGonagle, Commissioner of Public Works

Subject: Request to Appropriate \$2,500,000 for the Transportation Network
Improvement Plan

Date: April 26, 2021

I respectfully request that the Mayor docket the following request to appropriate and expend two million five hundred thousand dollars (\$2,500,000) to supplement funding for the Transportation Network Improvement Plan.

The Department of Public Works will use the funds to increase the number of streets being paved. In addition, these funds will allow for additional bicycle accommodations, sidewalk safety improvements and curb ramp adjustments to increase ADA compliance.

Given the American Rescue Plan Act's focus on economic recovery, DPW has highlighted sections of the city near village centers that need substantial road and sidewalk improvements based on the latest road condition assessment. Please see the attached list of streets.

Thank you for your consideration of this matter.

James McGonagle
Commissioner

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

2021 ARPA-Funding: Roadways in Economic Development Areas

- Albemarle Road (between Watertown Street and Crafts Street) – This portion of Albemarle Road is the access and parking for a major recreation area used by residents and visitors to the City. The recreation area includes soccer, football, baseball, and softball fields, tennis courts, a playground, and a public pool. In addition, this portion of Albemarle Road is the bus and parent drop-off for a public preschool and middle school. This road project will include paving, sidewalk and ramp improvements, new pavement markings including ADA symbols, potentially a new bike path, and a refreshed parking area that will better serve the residents and visitors.
- The following pavement management projects are roadways that serve as gateways to village centers and serve several small businesses. Roadway improvements and new pavement markings including ADA symbols to these streets will provide better access for pedestrians, cyclists, and motor vehicle users to retail shops, restaurants, community centers, and houses of worship in these centers.
 - Parker Street and Cypress Street – Newton Centre
 - Centre Street (from the Route 9 ramps to Walnut Street) - Highlands
 - Washington Street from Commonwealth Avenue to Perkins Street – West Newton
 - Curve Street from Prospect Street to Auburn Street – West Newton
- Auburndale: Grove Street from Woodland Road to just before Hotel Indigo – This portion of road serves a large commuter rail/bus station, several large office buildings, a college, and an assisted living center. Roadway and pavement marking improvements to this area will benefit employees of the businesses, public transportation users, and residents and visitors to both the college and assisted living center.
- Nonantum: Watertown Street (between Pearl Street to Walnut Street) – This portion of roadway runs through a village center with a variety of retail shops, small businesses, restaurants, and a small but well-utilized park. The pavement project and new pavement markings will compliment recent ADA improvements along this portion of Washington Street and will encourage shopping and dining.
- Newton Corner: Belmont Street, Arlington Street, Ricker Road, Marlboro Street, and Ricker Terrace (cluster of streets in Newton Corner) are major walking routes to a nearby village Center with small businesses, restaurants, and a transportation node. In addition, these roadways are in proximity to Bigelow Middle School and are walking routes for the students. Improvements to roadways, sidewalks, and pavement markings will encourage visits to the village center and use of public transportation.



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Office of the Mayor

167-21

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May 14, 2021

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Councilors:

I respectfully withdraw Docket Item # 167-21 from your Honorable Council requesting authorization to appropriate and expend two million five hundred thousand dollars (\$2,500,000) to supplement funding for the Transportation Network Improvement Plan.

As we have learned more about the ARPA Funding, and have consulted with the Comptroller's Office, we have concluded that usage of the ARPA funds will not be subject to transfer and appropriation, but rather will be spent directly from the ARPA accounts that the Comptroller's Office will establish, much as the ventilation work has been expended directly from the CARES accounts.

As I mentioned in my budget address on Wednesday evening, I have only made two decisions involving investments with ARPA funds. First, because of the impact of the pandemic on the City's finances last year, we cut \$4 million dollars of spending out of our paving budget; I recognize how critical our roadwork is to all of you and to all of our residents, and therefore, am moving forward now dedicating \$2.5 million of ARPA funding as our roads need so much work. Second, we continue to face softness in revenues. We expect, for example, to have lower than usual receipts from hotel and meal taxes as well as interest income, building permits, and parking. I have augmented our FY2022 operating budget by 1%, or \$4.6 million with ARPA funding.

Beyond these two decisions, there are still many opportunities for ARPA investments. Therefore, I have reached out to Council President Susan Albright to initiate small group meetings with all of you to help us prioritize our needs. We will want to focus on our most vulnerable residents (from our youngest to our oldest) who have been negatively impacted by this pandemic; and we will want to make critical investments in Newton's future to spur economic development and invest in a Newton that is even more livable, more vibrant, more green, more inclusive, and more sustainable. .

I look forward to listening to you, our City Councilors (through the small group meetings, or individually if you prefer), our residents, business and non-profit organizations, and community groups as we determine what to invest in and how to prioritize our needs.

Please know I will continue to not only work closely with you on these decisions but also communicate frequently and provide plenty of easily accessible information on the spending. For example, we will be developing an ARPA Dashboard and will continue to provide regular updates at all of your Finance Committee Meetings.

I also look forward to brighter days ahead as we emerge from this pandemic and begin the hard work of recovering, reopening, and rebuilding to achieve our shared goals for this good city.

Sincerely,

Ruthanne Fuller
Mayor

RECEIVED
2021 MAY 14 PM 2:50
CITY CLERK
NEWTON, MA, 02459



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
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Barney S. Heath
Director

Community Preservation Committee

MEMORANDUM

Date: May 5, 2021
From: Lara Kritzer, Community Preservation Program Manager
To: Finance Committee
Programs & Services Committee
Cc: Sue Dzikowski, Comptroller
Cassidy Flynn, Committee Clerk
RE: Funding account clarification for Finance Committee Review of Gath Memorial Pool Feasibility Study Project CPA Funding Recommendation

This memo seeks to clarify the funding source for the CPC's CPA funding recommendation for the Gath Memorial Pool Feasibility Study Project. The recommendation and docketing request begin with a reference to the project as requesting "CPA Recreation funding" to complete the proposed study of the Gath Memorial Pool Facility. This statement was intended as a reference to the CPA funding category that the project falls under – the project is eligible for CPA funding as it is a step towards the preservation, restoration, and rehabilitation of an existing city-wide recreational resource. The CPC is required to document and track how the City's CPA funding is used and considers this project to contribute to its established goal of spending 20% of the City's annual CPA funding on recreation projects.

Unfortunately, the wording of this reference has caused confusion as to the CPA account to be used for this project. While 10% of CPA funding is required to be set aside annually for Community Housing, Historic Resource, and Open Space projects, there is no required set aside for Recreation. The wording of the recommendation suggested that the project should be funded from a recreation account which does not exist. Instead, all recreation projects must be funded out of general CPA funds. In this case, the CPC has recommended that the project be funded out of the FY21 Current Year Budgeted Reserve Account (Account #58R10498-579000) which has a current total of \$949,541 available for use in any category.

website www.newtonma.gov/cpa

contact Lara Kritzer, Community Preservation Program Manager

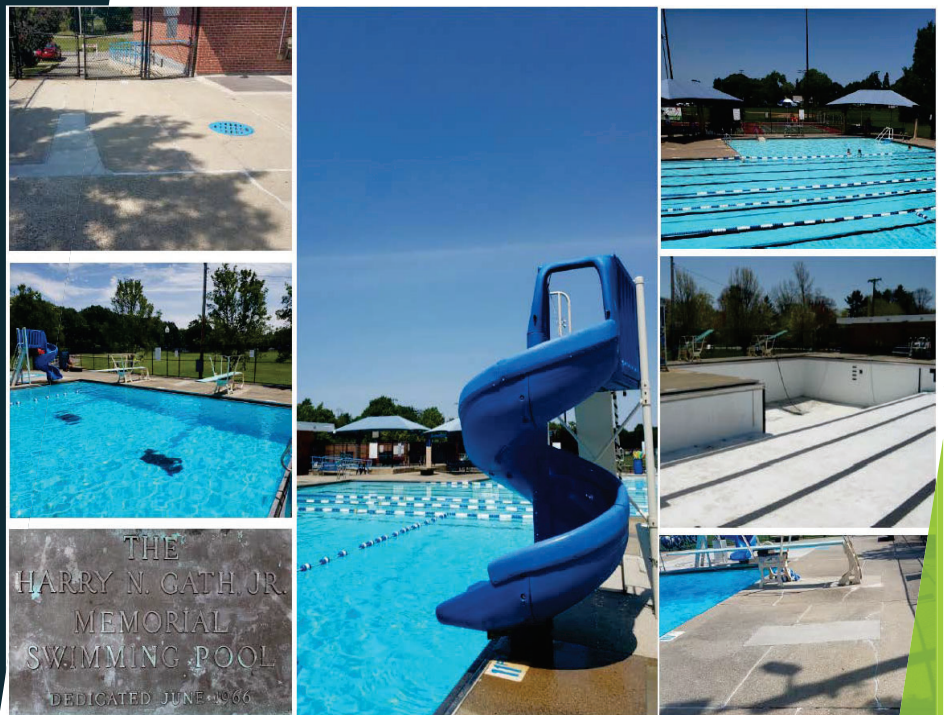
email lkritzer@newtonma.gov *phone* 617.796.1144

Gath Memorial Pool Renovation Project Funding Recommendation

Community Preservation Committee
Presentation to Finance Committee
May 10, 2021

Project Overview

- ▶ Newton's only public swimming pool, the 60+ year old facility serves approximately 30,000 guests each season
- ▶ The pool is used for swim lessons, summer camps, senior programs, the Bluefish Swim Team, and the Summer Suburban Swim League
- ▶ The pools, decks, systems and equipment have deteriorated and are past end-of-life, causing significant leaks that lose 18,000 gallons a day
- ▶ Site is also in need of grading and accessibility improvements



Current Funding Request

CPA funding under the Recreation category is requested to hire outside consultants to complete an existing conditions assessment and feasibility study for the site including:

- ▶ A list of the improvements necessary to continue to run the existing facility
- ▶ A list of additional improvements to meet community needs,
- ▶ A list of changes necessary to increase and improve accessibility at the site and to the pools
- ▶ A plan with costs for the phased restoration of the facility
- ▶ The information necessary for the City to assess the merits of replacement vs. repair of the swimming facility

Project Funding Sources

Funding Source	Amount
CPA Funds from Current Year FY21 Budgeted Reserve Account	\$60,000
City Staff Time for Oversight and Management of Feasibility Study	\$21,300
TOTAL PROJECT COST:	\$81,300

The current CPA funding is only for Phase I of the Gath Memorial Pool Renovation Project. The CPC anticipates that additional funding will be requested for later phases of the project in the future.

Timeline

- ▶ Phase I (3-4 months) - Completion of Existing Facilities Study. Estimated to begin in August/September 2021.
- ▶ Phase II (6-8 months) - Schematic Design Phase/Site Plan Approval
- ▶ Phase III (10-12 months) - Design Development, Construction Documents, and Bidding Phases
- ▶ Phase IV (TBD) - Construction and Close Out Phases

Questions & Discussion

- ▶ Thank you!

**Memorandum**

To: Members of the Finance Committee

From: Councilor Norton

Subject: 49-20 (2) – Improving leaf blower enforcement – proposed amendment to the Programs and Services Committee recommendation to maintain police co-enforcement with ISD

Date: May 7, 2021

The Programs and Services version of the proposed amendments to the noise ordinance relating to leaf blowers is a positive step forward, and having the revised ordinance take effect on Labor Day allows time for educating both landscapers and property owners alike. Having landscapers register that they will use compliant equipment and identify themselves on their trucks, and having them be responsible for their employees – rather than ticket the employees - are all positive improvements in the current ordinance.

I appreciate that the Programs and Services Committee was interested in improving the City's level of enforcement of our leaf blower ordinance and for that reason is proposing moving enforcement to Inspectional Services (ISD). However, I am very concerned that that will actually reduce enforcement further. Effective enforcement requires rapid response. While ISD can help with landscaper registration, it does not have the ability of the Newton Police Department (NPD) to respond swiftly across Newton, much less off-hours or on weekends and holidays.

We have a new Police Chief coming on board who places a value on enforcing quality of life issues, as he communicated to us during our meeting with him on May 6. I believe we should give our new Chief a chance to improve enforcement of this ordinance. In the long term as part of our police reform I would like to see this function carried out by unarmed "quality of life" officers, who could also enforce other quality of life issues such as the noise ordinance, sidewalk snow ordinance and more, but even in that case the enforcement function would remain within NPD.

I will therefore offer the attached language to continue the NPD as a co-enforcer as an amendment the draft leaf blower ordinance modifications approved by the Program and Services Committee, recognizing that this important issue of co-enforcement will likely be resolved finally at the full Council.

Thank you.

Cc: City Council, Jonathan Yeo

Proposed Amendment Programs and Services Draft Amendments to continue Police Department as co-enforcer for leaf blowers (with thanks to Ms. Lawlor of the Law Department)

1. Make no change to Sec.20-13 (l) so it continues to read as follows:

(l) *Enforcement.* The Newton Police Department and the Inspectional Services Department shall be responsible for enforcement of this ordinance. Each department shall document the disposition of all complaints by written report available to the public. The written report shall clearly indicate whether the complaint resulted in a warning or fine. If a warning or fine was not issued for a complaint, the responding city employee shall clearly indicate the reason.

2. Amend Sec. 17-23(d) as follows:

Add the following language (redline underscored) to the provisions of Sec. 17-23 (d):

(d) POLICE DEPARTMENT: City police officers shall be authorized to issue written notice of the following violations:

..... FINE Sec. 20-13.

Noise Control, any section except Sec. 20-13 (h)(6)

() First offense in calendar year Warning

() Second offense in calendar year \$100.00

() Third offense in calendar year \$200.00

() Fourth or subsequent offense in calendar year \$300.00

Sec. 20-13 (h)(6) Commercial leaf blower operator– operation of leaf blower without a permit \$300.00

Move the definition of leaf blower from section 20-13 (d) to section 20-13 (h) and amend the provisions of Sections. 20-13 (h), (j) and (n) as follows:

(h) *Restrictions on use of leaf blowers.*

Notwithstanding the provisions of sections 20-13 (f) and (g), ~~on or after January 1, 2017~~ no property owner or property manager or other person in control of a property shall authorize or permit the operation of leaf blowers on property under their control; no contractor or commercial landscaper, including a City contractor or employee, shall use or operate or authorize or permit any agent or employee to use or operate a leaf blower; nor shall any person, including any City employee or contractor, shall use or operate a leaf blower within the City unless they do so in compliance with the provisions of this section. The following definitions shall apply to this section:

Leaf blower: any portable motorized device, whether carried or pushed, whether powered by gasoline or other fuel, electricity or battery, used in any landscape or property construction or maintenance activity, for the purpose of blowing, dispersing, redistributing, or removing dust, dirt, leaves, grass or plant clippings, litter or other debris.

Commercial leaf blower operator: any individual, entity or organization, including a contractor or commercial landscaper, that receives compensation for services that include operation of a leaf blower.

(1) *Summer Ban.* No leaf blower may be operated from Memorial Day through Labor Day in each year, except that one 65 dB(A) electric or battery powered leaf blower per lot may be used during this period subject to the permitted hours of use specified in (2) below. At all other times leaf blowers may be operated subject to the following provisions:

(~~1~~2) Permitted hours of use. Leaf blowers may be operated only during the following times:

Monday – Friday: 7:00 a.m. – 5:00 p.m., except that the City of Newton, through its parks, recreation and culture department, shall be allowed to use leaf blowers prior to 7:00 a.m. for the sole purpose of maintaining city village centers.

Saturday: 8:00 a.m. – 5:00 p.m.

Sundays and legal holidays: prohibited except for operation by a resident of the property on which the leaf blower is operated between 9:30 a.m. and 5:00 p.m.; and except for operation of leaf blowers on contiguous lots under single ownership that total a minimum of thirty acres used for institutional or recreational purposes between 9:30 a.m. and 12:00 p.m.

(~~3~~2) Only leaf blowers meeting the following criteria are permitted for use:

- A. Leaf blowers must be manufactured after January 1, 2005 for EPA Class 4 engines and after January 1, 2008 for EPA Class 5 engines;
- B. Leaf blowers must bear an affixed manufacturer’s label indicating the model number of the leaf blower;

C. Leaf blowers must bear an affixed manufacturer's label documenting a noise rating of 65 dB(A) or less; and

D. Leaf blowers may only be used with any muffler, full extension tube and sound attenuating devices supplied by the manufacturer of the leaf blower. Non-factory modifications are not permitted.

(43) During times of emergency caused by a storm or other special circumstance, the Mayor or his designee may temporarily suspend application of all or a portion of this section for purposes of cleaning up from such storm or other special circumstance.

(54) The provisions of section 20-13 (i) shall not apply to leaf blower operation.

(6) Any violation of the restrictions contained in sections 20-13 (h)(1) through (h)(6) above shall be subject to the penalties set forth in sections 20-13 (k) and (m) below, provided that the first offense by any person subject to this section shall be subject to a warning only, and provided further that a violation committed by a commercial operator holding a valid permit and in good standing on the public list provided for in section (7) A, shall be enforced against the commercial operator only, and not against the property owner, manager or person in control of the property upon which the violation has occurred.;

(7) Commercial Leaf Blower Operators – permit required.

A. No commercial leaf blower operator may operate a leaf blower or permit or authorize an agent or employee to operate a leaf blower in the City of Newton without an annual permit from the commissioner of inspectional services, who shall provide application forms; who may establish rules governing the display of permits on permittee's vehicles; and who shall maintain a public list of commercial leaf blower operators who hold a valid permit under this section. The fee for such permit shall be \$1050.00. The commissioner may set a reasonable fee for such permit. Such application form shall require the name and telephone number of a contact and shall require the applicant to certify under pains and penalties of perjury that they have read and understand this ordinance pertaining to leaf blower restrictions, and that they will inform all employees of the restrictions. If a violation of any leaf blower restriction under this ordinance is committed by an employee or agent of and while performing work for said commercial leaf blower operator, the commercial leaf blower operator shall be responsible for the violation and the employee or agent shall not be individually liable.

B. A commercial leaf blower operator shall ensure that its name, address, telephone number and its commercial leaf blower permit number are clearly visible on any vehicle it uses to conduct business in Newton.

C. In addition to the penalties set forth in sections (k) and (m) below, the permit of any commercial leaf blower operator who has received two or more notices of violation of leaf blower restrictions by it or its employees or agents in a 12-month period shall be suspended for a period of sixty days. The permit of any commercial leaf blower operator whose permit has been suspended two times shall be revoked, and the operator shall be ineligible for a

permit for a period of one year. The operator's name shall be removed from the public list during any period of suspension or revocation. The penalty for operating a leaf blower without a commercial operator permit shall be \$300.00.

D. The commissioner of inspectional services may promulgate rules and regulations to implement this section.

(i) *Permits for exemptions from this ordinance and for extensions of time to comply with this ordinance.*

(1) The mayor or his designee may grant a permit for any activity otherwise forbidden by the provisions of this ordinance upon a determination by the mayor or his designee that compliance in the conduct of such activity would cause undue hardship on the person or persons conducting such activity or on the community, taking into account: (i) the extent of noise pollution caused by not requiring such compliance; and (ii) whether reasonable efforts have been made to abate the noise. The mayor or his designee shall establish appropriate procedures for the processing of requests for such permits, including such hearings as the mayor or his designee deems appropriate. In granting any such permit, the mayor or his designee may impose such appropriate conditions as he deems necessary pursuant to this section. Copies of all such permits shall be filed with the clerk of the city council promptly after issuance. Promptly after issuance, copies of all such permits shall be filed with the clerk of the city council and to each ward city councilor for the affected ward.

(2) The mayor or his designee may extend to a specified date the time for compliance with this ordinance in the case of any particular activity with respect to which a determination is made that such extension is necessary to provide a reasonable opportunity for such activity to be brought into compliance. No such extension shall be granted which has the effect of exempting such activity from compliance with this ordinance. The mayor or his designee shall establish appropriate procedures for the processing of requests for such extensions of time, including such hearings as the mayor or his designee deems appropriate.

(j) *Judicial Review.* Any person aggrieved by the grant or denial of a permit pursuant to subsection (h)(1) or an extension of time pursuant to subsection (h)(2), or a suspension or revocation of a commercial leaf blower operator permit pursuant to subsection (h)(7) may seek relief therefrom by a civil action in any court of competent jurisdiction as provided by the laws of the Commonwealth of Massachusetts.

(k) *Penalties.* Violation of any of the provisions of this section shall constitute a misdemeanor and any person, upon conviction of such violation, shall be fined an amount not to exceed three hundred dollars (\$300.00). Each day that such violation continues shall be considered to be a separate offense.

(l) *Enforcement.* The Newton Police Department and the Inspectional Services Department shall be responsible for enforcement of this ordinance, ~~provided that the Newton Police Department shall not be responsible for enforcement of leaf blower restrictions contained in Sec. 20-13(h).~~ Each department shall document the disposition of all complaints by written report available to the public. The written report shall clearly indicate whether the complaint resulted in a warning or fine. If a warning or fine was not issued for a complaint, the responding city employee shall clearly indicate the reason.

(m) *Non-criminal disposition.* In addition to the penalties set forth in subsection (jk), where non-criminal disposition of specified sections of this ordinance by civil fine has been provided for in sections 17-22 and 17-23 of the Revised Ordinances, as amended, pursuant to the authority granted by G.L. c. 40, sec. 21D, said violations may be enforced in the manner provided in such statute. The civil penalty for each such violation is set out in Sections 17-23(c) and 17-23(d).

(n) In the event the person in violation of section 20-13 (h) pertaining to leaf blower use is a commercial leaf blower operator~~contractor~~, the property owner shall be notified of the violation and of any warning or other enforcement issued to the operator~~contractor~~.

(o) *Severability.* If any provision(s) of this ordinance or the application of such provision(s) to any person or circumstances shall be held invalid, the validity of the remainder of this ordinance and the applicability of such provision to other persons or circumstances shall not be affected thereby. (Ord. No. R-331, 6-20-83; Ord. No. T-62, 12-4-89; Ord. No. T-200, 12-16-91; Ord. No. V-286, 3-6-00; Ord. Z-32, 7-14-08; Ord. No. Z-78, 02-22-11; Ord. No. Z-104, 04-02-12; Ord. No. A-100, 01-17-17; Ord. No. B-53, 03-02-20)

Cross reference—Sounding warning devices on motor vehicles, § 19-72; noise by hawkers and peddlers, § 20-75.

Add the following language (redline underscored) to the provisions of Sec. 17-23 (c):

c) DEPARTMENT OF INSPECTIONAL SERVICES: The commissioner of inspectional services, and/or his or her designee, and building inspectors of the department of inspectional services shall be authorized to issue written notice of the following violations:

..... FINE
Sec. 20-13. Noise Control, any section except Sec. 20-13 (h)(6)

() First offense in calendar year Warning

() Second offense in calendar year \$100.00

() Third offense in calendar year \$200.00

() Fourth or subsequent offense in calendar year \$300.00

Sec. 20-13 (h)(6) Commercial leaf blower operator – operation of leaf blower without a permit \$300.00

Add the following language (redline underscored) to the provisions of Sec. 17-23 (d):

(d) POLICE DEPARTMENT: City police officers shall be authorized to issue written notice of the following violations:

..... FINE

Sec. 20-13. Noise Control, any section except Sec. 20-13 (h) (6)

() First offense in calendar year Warning

() Second offense in calendar year \$100.00

() Third offense in calendar year \$200.00

() Fourth or subsequent offense in calendar year \$300.00

Sec. 20-13 (h) (6) Commercial leaf blower operator – operation of leaf blower without a permit\$300.00

#49-20(2) DRAFT (POLICE ENFORCEMENT VERSION - FINANCE COMMITTEE)

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO.

May , 2021

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON That the Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended with respect to **Section 20-13 of Article II Noise, Chapter 20** as follows:

1. DELETE in its entirety the definition of Leaf Blower from Sec. 20-13 (d)
2. DELETE Sec. 20-13(h) in its entirety and INSERT in place thereof the following language:

(h) *Restrictions on use of leaf blowers.*

Notwithstanding the provisions of sections 20-13 (f) and (g), no property owner or property manager or other person in control of a property shall authorize or permit the operation of leaf blowers on property under their control; no contractor or commercial landscaper, including a City contractor or employee, shall use or operate or authorize or permit any agent or employee to use or operate a leaf blower; nor shall any person use or operate a leaf blower within the City unless they do so in compliance with the provisions of this section. The following definitions shall apply to this section:

Leaf blower: any portable motorized device, whether carried or pushed, whether powered by gasoline or other fuel, electricity or battery, used in any landscape or property construction or maintenance activity, for the purpose of blowing, dispersing, redistributing, or removing dust, dirt, leaves, grass or plant clippings, litter or other debris.

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(1) *Summer Ban.* No leaf blower may be operated from Memorial Day through Labor Day in each year, except that one 65 dB(A) electric or battery powered leaf blower per lot may be used during this period subject to the permitted hours of use specified in

Subsection (2) below. At all other times leaf blowers may be operated subject to the following provisions:

(2) *Permitted hours of use.* Leaf blowers may be operated only during the following times:

Monday – Friday: 7:00 a.m. – 5:00 p.m., except that the City of Newton, through its parks, recreation and culture department, shall be allowed to use leaf blowers prior to 7:00 a.m. for the sole purpose of maintaining city village centers.

Saturday: 8:00 a.m. – 5:00 p.m.

Sundays and legal holidays: prohibited except for operation by a resident of the property on which the leaf blower is operated between 9:30 a.m. and 5:00 p.m.; and except for operation of leaf blowers on contiguous lots under single ownership that total a minimum of thirty acres used for institutional or recreational purposes between 9:30 a.m. and 12:00 p.m.

(3) Only leaf blowers meeting the following criteria are permitted for use:

A. Leaf blowers must be manufactured after January 1, 2005 for EPA Class 4 engines and after January 1, 2008 for EPA Class 5 engines;

B. Leaf blowers must bear an affixed manufacturer's label indicating the model number of the leaf blower;

C. Leaf blowers must bear an affixed manufacturer's label documenting a noise rating of 65 dB(A) or less; and

D. Leaf blowers may only be used with any muffler, full extension tube and sound attenuating devices supplied by the manufacturer of the leaf blower. Non-factory modifications are not permitted.

(4) During times of emergency caused by a storm or other special circumstance, the Mayor or his designee may temporarily suspend application of all or a portion of this section for purposes of cleaning up from such storm or other special circumstance.

(5) The provisions of section 20-13 (i) shall not apply to leaf blower operation.

(6) Any violation of the restrictions contained in sections 20-13 (h)(1) through (h)(6) above shall be subject to the penalties set forth in sections 20-13 (k) and (m) below, provided that the first offense by any person subject to this section shall be subject to a warning only, and provided further that a violation committed by a commercial operator holding a valid permit and in good standing on the public list provided for in section (7) A, shall be enforced against the commercial operator only, and not

against the property owner, manager or person in control of the property upon which the violation has occurred.

(7) *Commercial Leaf Blower Operators – permit required.*

- A. No commercial leaf blower operator may operate a leaf blower or permit or authorize an agent or employee to operate a leaf blower in the City of Newton without an annual permit from the commissioner of inspectional services, who shall provide application forms; who may establish rules governing the display of permits on permittee's vehicles; and who shall maintain a public list of commercial leaf blower operators who hold a valid permit under this section. The commissioner may set a reasonable fee for such permit. Such application form shall require the name and telephone number of a contact and shall require the applicant to certify under pains and penalties of perjury that they have read and understand this ordinance pertaining to leaf blower restrictions, and that they will inform all employees of the restrictions. If a violation of any leaf blower restriction under this ordinance is committed by an employee or agent of and while performing work for said commercial leaf blower operator, the commercial leaf blower operator shall be responsible for the violation and the employee or agent shall not be individually liable.
 - B. A commercial leaf blower operator shall ensure that its name, address, telephone number and its commercial leaf blower permit number are clearly visible on any vehicle it uses to conduct business in Newton.
 - C. In addition to the penalties set forth in sections (k) and (m) below, the permit of any commercial leaf blower operator who has received two or more notices of violation of leaf blower restrictions by it or its employees or agents in a 12-month period shall be suspended for a period of sixty days. The permit of any commercial leaf blower operator whose permit has been suspended two times shall be revoked, and the operator shall be ineligible for a permit for a period of one year. The operator's name shall be removed from the public list during any period of suspension or revocation. The penalty for operating a leaf blower without a commercial operator permit shall be \$300.00.
 - D. The commissioner of inspectional services may promulgate rules and regulations to implement this section.
3. DELETE Sec. 20-13 (j) in its entirety and INSERT in place thereof the following language:

(j) *Judicial Review.* Any person aggrieved by the grant or denial of a permit pursuant to subsection (i)(1) or an extension of time pursuant to subsection (i)(2), or a suspension or revocation of a commercial leaf blower operator permit pursuant to subsection (h)(7) may seek relief therefrom by a civil action in any court of competent jurisdiction as provided by the laws of the Commonwealth of Massachusetts.

- 4. DELETE Sec. 20-13(n) in its entirety and INSERT in place thereof the following language:

(n) In the event the person in violation of section 20-13(h) pertaining to leaf blower use is a commercial leaf blower operator, the property owner shall be notified of the violation and of any warning or other enforcement issued to the operator.

- 5. DELETE, in Sec. 17-23(c) DEPARTMENT OF INSPECTIONAL SERVICES, the listing of Sec. 20-13 Noise Control in its entirety and INSERT in place thereof the following language:

Sec. 20-13. Noise Control, any section except Sec. 20-13 (h)(6)

- () First offense in calendar year Warning
- () Second offense in calendar year \$100.00
- () Third offense in calendar year\$200.00
- () Fourth or subsequent offense in calendar year\$300.00

Sec. 20-13 (h)(6) Commercial leaf blower operator – operation of leaf blower without a permit \$300.00

- 6. DELETE, in Sec. 17-23(d) POLICE DEPARTMENT, the listing of Sec. 20-13 Noise Control in its entirety and INSERT in place thereof the following language:

Sec. 20-13. Noise Control, any section except Sec. 20-13 (h)(6)

- () First offense in calendar year Warning
- () Second offense in calendar year \$100.00
- () Third offense in calendar year\$200.00

() Fourth or subsequent offense in calendar year\$300.00

Sec. 20-13 (h)(6) Commercial leaf blower operator – operation of leaf blower without
a permit \$300.00

7. This ordinance shall take effect on Labor Day, 2021.

Approved as to legal form and character:

ALISSA O. GIULIANI
City Solicitor

Under Suspension of Rules
Readings Waived and Adopted

EXECUTIVE DEPARTMENT
Approved:

(SGD) NADIA KAHN
Acting City Clerk

(SGD) RUTHANNE FULLER
Mayor

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO.

May , 2021

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended as follows:

1. **DELETE** Sec. 3-26(b) of Article II, Chapter 3 in its entirety, and **INSERT** in place thereof the following language:

“(b) Penalties: Any owner or keeper of a dog who shall fail to comply with the foregoing provisions of subparagraph (a) shall be punished by a fine of fifty dollars (\$50.00) for the first offense in a calendar year; seventy-five dollars (\$75.00) for the second offense in a calendar year; and \$100.00 for the third and subsequent offenses in a calendar year.”

2. **INSERT** at the end of the sentence contained in Sec. 3-28 of Article II, Chapter 3, the following language:

“, unless otherwise specified.”

3. **DELETE** Sec. 3-30(e) of Article II, Chapter 3 in its entirety, and **INSERT** in place thereof the following language:

“(e) *Penalties.* The owner and/or the person in charge of a dog in a designated off-leash area who fails to control said dog or who violates any of the rules, regulations or restrictions pertaining to the designated off-leash area shall be subject to a fine of fifty dollars (\$50.00) for the first offense in a calendar year; \$75.00 for a second offense in a calendar year; and \$100.00 for a third and subsequent offenses in a calendar year.”

4. **DELETE** Sec. 3-26 Restraint of Dogs in its entirety where it is listed in Sec. 17-23(d) of Chapter 17, Article III, and **INSERT** in place thereof the following language:

“Sec. 3-26. Restraint of dogs.

- () First offense in calendar year.....\$50.00
- () Second offense in calendar year.....\$75.00
- () Third and subsequent offenses in calendar year
..... \$100.00”

5. **INSERT** the following language after Sec. 3-29 where it is listed in Sec. 17-23(d) of Chapter 17, Article III:

“Sec. 3-30. Dogs Off-Leash Program

- () First offense in calendar year.....\$50.00
- () Second offense in calendar year.....\$75.00
- () Third and subsequent offenses in calendar year
.....\$100.00”

6. **DELETE** Sec. 3-30 Dogs Off-Leash Program in its entirety where it is listed in Sec. 17-23(e) of Chapter 17, Article III, and **INSERT** in place thereof the following language:

“Sec. 3-30. Dogs Off-Leash Program

- () First offense in calendar year.....\$50.00
- () Second offense in calendar year.....\$75.00
- () Third and subsequent offenses in calendar year
.....\$100.00”

Approved as to legal form and character:

ALISSA O. GIULIANI
City Solicitor

Under Suspension of Rules
Readings Waived and Adopted

EXECUTIVE DEPARTMENT
Approved:

(SGD) NADIA KAHN
Acting City Clerk

(SGD) RUTHANNE FULLER
Mayor

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO.

May , 2021

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended as follows:

1. DELETE the language “fifteen dollars (\$15.00)” where it appears in Sec. 3-23 (a) of Chapter 3, Article II, and INSERT in place thereof the following language:
“twenty-five dollars (\$25.00)”
2. DELETE the language “ten dollars (\$10.00)” where it appears in Sec. 3-23 (a) of Chapter 3, Article II, and INSERT in place thereof the following language:
“twenty dollars (\$20.00)”
3. DELETE the amount “\$15.00” where it appears in Sec. 17-3 (36) of Chapter 17, Article II, and INSERT in place thereof the amount “25.00”.
4. DELETE the amount “\$10.00” where it appears in Sec. 17-3 (36) of Chapter 17, Article II, and INSERT in place thereof the amount “20.00”.

Approved as to legal form and character:

ALISSA O. GIULIANI
City Solicitor

Under Suspension of Rules
Readings Waived and Adopted

EXECUTIVE DEPARTMENT
Approved:

(SGD) NADIA KAHN
Acting City Clerk

(SGD) RUTHANNE FULLER
Mayor