

CITY OF NEWTON

BOARD OF ALDERMEN

REFERRAL DOCKET

2016-2017

REFERRED TO LAND USE COMMITTEE

REFERRED TO ZONING & PLANNING, LAND USE AND FINANCE COMMITTEES

- #104-15 ALD. JOHNSON, LAREDO, AND GENTILE requesting a report from the Planning Department re how many of the affordable units developed at Commonwealth Avenue, Pearl Street, and Eddy Street qualify for inclusion on the State's Subsidized Housing Inventory List; if a property is not on the list, what can be done to make it eligible.

REFERRED TO LAND USE AND FINANCE COMMITTEES

- #49-14 LAND USE COMMITTEE requesting discussion with the Chief Financial Officer and the Chief Information Officer regarding the critical need to implement technology which enables the development, management and use of shared, searchable, mobile-accessed (both read and write) database which contains parcel-based information that can be accessed by all city departments (including Planning, Inspectional Services (ISD), Assessing, Engineering, Fire, Police, Health), the Board of Aldermen and the community. This technology must support the work of ISD and other departments in both the office and the field to more effectively and efficiently monitor and enforce compliance with approved special permits and other related Board Orders.

Public Hearing assigned for January 12, 2016:

- #326-15 BERTUCCI'S RESTAURANT CORPORATION/KNAPP FOOD INC. to AMEND Special Permit/Site Plan Approval #573-88 to increase the seating capacity from 129 to 170 seats and to waive up to three parking stalls at 275 CENTRE STREET, Ward 1, Newton Corner, on land known as SBL 71, 2, 1, 2, and 4, containing a total of 58,248 sf of land in districts zoned BUSINESS 1 and BUSINESS 2. Ref: Sec. 6.4.29.C.1, 5.1.4, 5.1.13 of the City of Newton Rev Zoning Ord, 2015.

Public Hearing assigned for January 12, 2016:

#230-15(2) BRENDAN M. EVERETT petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a rear addition to the basement and first floor and to enlarge an existing attic dormer, which will increase the Floor Area Ratio from .42 to .55, where .48 is the maximum allowed by right, at 239 CYPRESS STREET, Ward 6, Newton Centre, on land known as SBL 65, 15, 26, containing approximately 5,490 square feet of land, in a district zoned SINGLE RESIDENCE 3. Ref: Sec 7.3, 7.4, and 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Public Hearing assigned for January 12, 2016:

#348-15 NATALIA ASTAPUK petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE and USE in order to add a shed dormer to the half story above the second floor, which will increase the existing nonconforming Floor Area Ratio from .51 to .62, where .48 is the maximum allowed by right, and to extend the legally nonconforming two-family dwelling use at 27-29 TALBOT STREET, Ward 3, West Newton, on land known as SBL 34, 30. 5, containing approximately 5,000 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3, 7.4, 7.8.1C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Public Hearing assigned for January 12, 2016:

#349-15 GREGORY KESHISHYAN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE by adding a pitched roof half-story addition to an existing two-family dwelling in order to create an attic with storage and living space, which will increase the structure within the existing nonconforming setbacks, at 28 BEECHER PLACE, Ward 6, Newton Centre, on land known as SBL 65, 8, 30, containing approximately 5,574 sf of land in a district zoned MULTI-RESIDENCE 1. Ref: Sec. 7.3, 7.4, 3.2, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Public Hearing assigned for January 12, 2016:

#350-15 WENDY & JASON KRITZER petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a rear addition to enlarge the existing basement garage , to enlarge the kitchen and family room on the first floor, and to enlarge the master bedroom on the second floor, which will increase the Floor Area Ratio from .38 to .46, where .43 is the maximum allowed by right, on a single-family dwelling at 17 EAST BOULVEVARD ROAD, Ward 7, Newton Centre, on land known as SBL 73, 34, 5, containing approximately 7,135 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3, 7.4, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Public Hearing assigned for January 12, 2016:

#351-15 CHARLES ZAMMUTTO/DOUGLAS & MAGDALENA TURCOTTE petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to create four attached dwelling units in an existing two-family dwelling including waivers from the height and number of stories, the side setback, and to locate parking and a driveway within a setback at 1110 CHESTNUT STREET, Ward 5, Newton Upper Falls, on land known as SBL 51, 41, 2, containing approximately 22,800 sf of land in a district zoned MULTI-RESIDENCE 1. Ref: Sec 7.3, 7.4, 2.4.1, 3.2.4, 5.4.2, 6.2.3B.2, 5.1.7.A, 5.1.13, 6.2.3.B.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Public Hearing assigned for January 12, 2016:

#480-14(4) STEPHEN VONA petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to change one nonconforming use to another by restoring and expanding an existing structure known as the Turtle Lane Playhouse with office space above, to provide a mixed-use building with an addition containing 4 dwelling units at street level and above and a second building containing a 16-unit multi-family dwelling with a below grade parking garage for 27 cars at 283 MELROSE STREET, Ward 4, Auburndale, on land known as SBL 41, 14, 10 containing approximately 43,783 sf of land currently zoned MULTI-RESIDENCE 1 or in the alternative in a proposed MIXED USE 4 DISTRICT. Ref: Sec. 7.3, 7.4, 7.8.2.C, 4.4.1, 4.2.2.B.1, 4.2.5.A.1, 4.2.5.A.6.b, 5.4.2, 5.1.4, 5.1.13, 5.1.4.C, 5.1.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Public Hearing assigned for January 12, 2016:

#416-12(6) MAIN GATE REALTY LLC petition to AMEND Special Permit/Site Plan Approval for a Change in Nonconforming Use #416-12(3), granted August 12, 2013, which limited two existing tenant spaces to office, low parking demand/turnover service, or retail uses, in order to restripe an existing parking facility to create five parking stalls, where four currently exist, and to waive the dimensional requirements for the parking stalls at 242-244 COMMONWEALTH AVENUE, Ward 7, Chestnut Hill, on land known as SBL 61, 13, 11, containing approximately 7,452 sq. ft. of land in a district zoned MULTI-RESIDENCE 1. Ref: 7.3, 7.4, 7.8.2.C.2, 5.1.7, 5.1.13 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

Public Hearing assigned for January 12, 2016:

#416-12(7) JULIA WILLIAMSON/WALLY ZAINOUN, MAIN GATE REALTY petition to AMEND Special Permit/Site Plan #416-12(3), granted on August 12, 2013, with respect to EXTENDING a NONCONFORMING USE, to permit more than 3 customers for the service use on site at any one time and change the hours of operation of MODERN BARRE at 242-244 COMMONWEALTH AVENUE, Ward 7, Chestnut Hill, on land known as SBL 61, 13, 11, containing approximately 7,452 sq. ft. of land in a district zoned MULTI-RESIDENCE 1. Ref: Sec 7-3, 7-4 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

REFERRED TO ZONING & PLANNING COMMITTEE**REFERRED TO FINANCE AND APPROPRIATE COMMITTEES**

- #288-15 HIS HONOR THE MAYOR submitting the FY 2017-FY 2021 Capital Improvement Plan pursuant to section 5-3 of the Newton City Charter. [10/01/15 @ 1:53 PM]
- #195-15(3) ALD. ALBRIGHT, BAKER, BLAZAR, BROUSAL-GLASER, CICCONE, COTE, CROSSLEY, DANBERG, FULLER, GENTILE, HESS-MAHAN, JOHNSON, KALIS, LAPPIN, LEARY, LAREDO, LENNON, LIPOF, NORTON, RICE, SANGIOLO, SCHWARTZ, AND YATES requesting that, in order to preserve the conservation and recreation values of the land, and to protect existing adjacent public open spaces, the Board of Aldermen vote to acquire for the City of Newton either the undeveloped portion of the land at 300 Hammond Pond Parkway or a conservation restriction on such land. [10/23/15 @ 2:55 PM]
- #170-15 ALD. HESS-MAHAN, JOHNSON, CROSSLEY AND ALBRIGHT requesting a discussion relative to the HUD Settlement with Supporters of Engine 6, the Fair Housing Center of Greater Boston and the Disability Law Center in conjunction with the Law and Planning Departments, to explain the settlement and possible implications for the Zoning Board of Appeals and the Board of Aldermen in terms of the City's obligation to identify sites and facilitate the creation of, and issue permits for, affordable housing for 9-12 chronically homeless persons in Newton. [07/06/15 @4:18PM]
- #169-15 ALD. SANGIOLO requesting a zoning amendment which would require any residential structures in Single Residence or Multi Residence zoning districts built after the demolition of an existing structure conform to new lot standards. [07/02/15 @ 3:20PM]
- #168-15 THE NEWTON-NEEDHAM CHAMBER OF COMMERCE requesting a discussion of the Metropolitan Area Planning Council's 2015 Wells Avenue Market Study. [07/06/15 @ 5:34PM]
- #110-15 HIS HONOR THE MAYOR requesting discussion of The Smart Growth Zoning Overlay District Act M.G.L. Chapter 40R and its potential application in Newton. [04/24/15 @ 2:38PM]
- #109-15 HIS HONOR THE MAYOR requesting consideration of changes to the inclusionary housing provisions of the Zoning Ordinance to increase the required percentage of affordable units to 20% with the additional 5% set aside for middle income households. [04/24/15 @ 2:38PM]

- #108-15 HIS HONOR THE MAYOR requesting consideration of changes to the Zoning Ordinance that would facilitate the creation of accessory apartment units, supportive of Newton's seniors. [04/24/15 @ 2:38PM]
- #107-15 HIS HONOR THE MAYOR requesting discussion of approaches to create middle income housing as a means of allowing City of Newton employees the opportunity to live in the community in which they work. [04/24/15 @ 2:38PM]

REFERRED TO ZONING & PLANNING, LAND USE AND FINANCE COMMITTEES

- #104-15 ALD. JOHNSON, LAREDO, AND GENTILE requesting a report from the Planning Department with the following information: How many of the affordable units developed at Commonwealth Avenue, Pearl Street, and Eddy Street qualify to be included on the State's Subsidized Housing Inventory List. If a property is not currently on the list, what can be done to make it eligible. [04/09/15 @ 12:00PM]
FINANCE VOTED NO ACTION NECESSARY 7-0
- #95-15 ALD. CROSSLEY, JOHNSON, LEARY, HESS-MAHAN, DANBERG, ALBRIGHT AND BLAZAR requesting a discussion with the Planning Department to consider the mix of uses in the Wells Avenue Office Park, with and without a second egress to the site, pursuant to the recent MAPC study recommending a strategic introduction of retail and restaurant uses to attract and sustain healthy commercial uses, and some number of residential units sufficient to support an economically viable and vibrant mixed use environment. [04/13/15 @ 2:46PM]
- #86-15 ALD. CROSSLEY, ALBRIGHT, HESS-MAHAN, & JOHNSON requesting a review and discussion of Community Development Block Grant expenditures and past years' accounting to assess progress in meeting citywide program goals as adopted in the consolidated plan, including creating and sustaining affordable housing, as well as facilities improvements in approved neighborhood districts. [03/30/15 @ 6:02 PM]
- #447-14 ALD. SANGIOLO proposing an ordinance requiring the submission of building plans with applications for full or partial demolitions. [11/13/14 @ 2:03pm]
- #446-14 ALD. SANGIOLO requesting a discussion with the Commission on Disability regarding the status of City compliance with ADA regulations. [11/13/14 @ 2:03pm]
- #445-14 ALD. SANGIOLO requesting an update with members of the Newton Fair Housing Committee on the status of housing opportunities in the City of Newton. [11/13/14 @ 2:03pm]

REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES

- #315-14 **ALD. HESS-MAHAN, ALBRIGHT, CROSSLEY AND DANBERG** proposing an amendment to Chapter 2 of the City of Newton Ordinances setting forth requirements for procurement of materials and services by non-governmental recipients of federal, state or local funds administered by the City, such as CDBG and CPA funds. In order to encourage non-profit and other private organizations to participate in affordable housing, cultural and other public-private collaborations, such procurement requirements should accommodate the needs of non-governmental recipients for flexibility given the multiple public and private sources of funds necessary for any project by not placing undue or unreasonable burdens on them. [08/04/14 @ 5:08PM]
FINANCE VOTED NO ACTION NECESSARY 7-0
- #265-14 **ALD. BLAZAR, YATES AND DANBERG** requesting:
1. to amend Section 22-50 to increase the time period for determinations of historical significance to 30 days, and to increase the time period for hearings, rulings and written notice on appeals from historical significance determinations to 60 days;
 2. to amend Section 22-50 to increase the time period to hold a public hearing as to whether or not a historically significant building or structure is preferably preserved to 60 days;
 3. to amend Section 22-50 to increase the demolition delay period for buildings and structures on or eligible for listing in the National Register of Historic Places to 30 months;
 4. and to amend Section 22-50 to increase the demolition delay period for all other preferably preserved buildings or structures to 24 months.
- #266-14 **ALD. BLAZAR, YATES AND DANBERG** requesting:
1. to amend Section 22-50 to require that in the event there is a transfer of legal or beneficial ownership of a preferably preserved property during the demolition delay period, the full demolition delay period will restart from the date of the transfer of ownership;
 2. and further requesting to amend Section 22-50 to require that in the event a transfer of legal or beneficial ownership of a preferably preserved property occurs after the expiration of a demolition delay period but prior to the issuance of a demolition permit, no demolition permit shall issue until the new owner complies with the procedures of Section 22-50(c)(5). [07/07/14 @ 12:35PM]
- #238-14 **ALD. SANGIOLQ** requesting the Executive Department and Planning Department work with the Board of Aldermen to develop a Housing Production Plan in accordance with 760 CMR 56.03(4) and guidelines adopted by the Department of Housing and Community Development as soon as possible.
[06/09/14 @ 11:55AM]

- #140-14 ALD. CROSSLEY AND HESS-MAHAN requesting to amend **Chapter 30**, City of Newton Zoning Ordinances, to include a "lodging house" ordinance to promulgate rules requiring annual fire, safety and health inspections and licensing of buildings providing single room occupancy and/or congregate living arrangements. [04/04/14 @ 6:29 PM]
- #429-13 ALD. HESS-MAHAN requesting repeal and/or amendment of Zoning Ordinances Section 30-1, Definitions, 30-8(b)(2), Special Permits in Single Family Residential Districts, and 30-10(d)(4), Number of Parking Stalls, concerning "Congregate Living Facility", as required by federal and state anti-discrimination and fair housing laws and regulations. [12/06/13 @ 9:51 AM]
- #427-13 ALD. HESS-MAHAN requesting discussion and periodic updates of steps the City of Newton is taking to ensure that its implementation of the Consolidated Plan, Annual Action Plan and Citizen Participation Plan and use of CDBG, HOME and ESG funds comply with federal and state fair housing and anti-discrimination laws and regulations, and its duty to affirmatively further fair housing. [12/06/13 @ 9:51 AM]
- #222-13(2) THE ZONING AND PLANNING COMMITTEE proposing to amend **Chapter 30**, City of Newton Zoning Ordinances, to regulate the dimensions and setbacks of front facing garages in residential zoning districts. [08/03/15 @ 10:15AM]
- #129-13 ALD. HESS-MAHAN proposing to amend and/or clarify definition and provisions for granting a special permit for "attached dwellings" in the City of Newton Zoning Ordinances, **Chapter 30-1, 30-8(b)(13) and 30-9(b)(5)**. [05/25/13 @5:14 PM]
- #80-13 THE PLANNING DEPARTMENT requesting update discussions of the zoning reform project. [02/25/13 @ 12:31 PM]
- #308-12 ALD. HESS-MAHAN & ALBRIGHT requesting a discussion with the Mayor's office and the Planning & Development Department of policies, procedures, and criteria relating to determinations concerning expenditures of Community Development Block Grant (CDBG) funds. [10/09/12 @3:59 PM]
- REFERRED TO ZONING & PLANNING, LAND USE & FINANCE COMMITTEES**
- #273-12 ALD. CROSSLEY & HESS-MAHAN requesting a restructuring and increase in fees for permits charged by the Inspectional Services Department and fees charged by the Planning Department and City Clerk to assure that fees are both sufficient to fund related services provided and simple to administer.
LAND VOTED NO ACTION NECESSARY 7-0
FINANCE VOTED NO ACTION NECESSARY 7-0

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #257-12 RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates.
FINANCE VOTED NO ACTION NECESSARY 7-0
- #61-10 ALD. CICCONE, SWISTON, LINSKY, CROSSLEY AND HESS-MAHAN requesting a discussion relative to various solutions for bringing existing accessory and other apartments that may not meet the legal provisions and requirements of Chapter 30 into compliance. [02/23/10 @ 2:48 PM]
- #391-09 ALD. DANBERG, MANSFIELD, VANCE AND HESS-MAHAN requesting an amendment to §30-19 to allow payments-in-lieu of providing required off-street parking spaces when parking spaces are waived as part of a special permit application.
- #22-15 ALD. YATES requesting that utilization of the Massachusetts Rental Voucher Program be added as an allowable means of complying with the inclusionary zoning provision in Phase II of Zoning Reform. [01/05/15 @ 9:53PM]
- #323-14 ALD. YATES, NORTON, COTE AND SANGIOLO proposing to amend Chapter 30 to require that the front doors of single-family homes, two-family homes and other residential structures face the street on which their lots are located. [08/25/14 @11:42AM]
- #139-14 ALD. ALBRIGHT requesting to amend **Chapter 30**, City of Newton Zoning Ordinances, to clarify rules relative to retaining walls. [04/09/14 @ 8:32 AM]

Public Hearing to be assigned:

- #404-13 NATASHA STALLER et al. requesting a revision to the zoning District boundary Lines so as to transfer from Multi-Residence 1 District to a Single Residence 3 District the following properties:
Assessors' parcels SBL nos. 61-037-0004 through 61-037-0013; 61-042-0007 through 61-042-0023; 65-019-0001; 65-019-0007 through 65-019-0012; 65-019-0014 through 65-019-0022; 65-019-0009A; 65-019-0017B and 65-019-0022A.
Also requesting transfer from a Single Residence 2 District to a Single Residence 3 District SBL no. 65-019-0015A. [11/01/13 @ 12:57 PM]
ITEM RECOMMENDED BY THE BOA ON MARCH 17, 2014

- #264-13 ALD. YATES requesting that the Zoning Reform Group or its successor consider amending City of Newton Zoning Ordinances Chapter 30 to develop additional residential districts reflecting the small lots in older sections of the City and map changes to bring the zones of more residential sections of the City into conformity with the existing land uses. [08/05/13 @ 12:28PM]
- #81-13 DIRECTOR OF PLANNING & DEVELOPMENT on behalf of the Newton Housing Partnership requesting consideration of naturally affordable compact housing opportunities in MR1 zones. [02/22/13 @ 1:13 PM]
- #65-13 ALD. YATES, FISCHMAN, KALIS requesting that Chapter 30 be amended to require a special permit for major topographic changes. [02/12/13 @ 12:30 PM]
- #64-13 NEWTON HISTORICAL COMMISSION requesting the creation of an administrative permitting process for converting historic barns and carriage houses into accessory apartments to assist in their preservation. [02/05/13 @ 11:35 AM]
- #153-11 ALD. DANBERG, ALBRIGHT, HESS-MAHAN, JOHNSON requesting that Chapter 30 be amended by adding a new Sec. 30-14 creating certain Retail Overlay Districts around selected village centers in order to encourage vibrant pedestrian-oriented streetscapes which would allow certain uses at street level, including but not limited to financial institutions, professional offices, and salons, by special permit only and require minimum transparency standards for street-level windows for all commercial uses within the proposed overlay districts. [05/10/11 @3:19 PM]
- #152-10 ALD. BAKER, FULLER, SCHNIPPER, SHAPIRO, FISCHMAN, YATES AND DANBERG recommending discussion of possible amendments to **Section 30-19** of the City of Newton Ordinances to clarify parking requirements applicable to colleges and universities. [06/01/10 @ 4:19 PM]
- #164-09(2) ALD. HESS-MAHAN requesting that the Planning Department study the dimensional requirements for lot and building size for accessory apartments and make recommendations for possible amendments to those dimensional requirements to the board of Aldermen that are consistent with the Newton Comprehensive Plan. [01/07/10 @ 12:00 PM]

- #142-09(7) ALD. HESS-MAHAN AND JOHNSON proposing a Resolution to request that the Director of Planning and Development and the Commissioner of Inspectional Services reconvene a Floor Area Ratio working group to review and analyze the definition of “*Floor area, gross*” for residential structures as it is used in the definition and calculation of “*Floor area ratio*” in **Section 30-1** with respect to actual usage, and, if necessary, make recommendations for amendments thereto and in the dimensional regulations contained in **Section 30-15(u)** and *Table A* of **Section 30-15(u)**, the purpose of which is to regulate the size, density and intensity of use in the construction or renovation of, or additions to a residential structure, to more accurately reflect and be compatible with neighborhood character, and to ensure that a proposed residential structure is consistent with and not in derogation of the size, scale and design of other existing structures in the neighborhood, and is not inconsistent with the City’s Comprehensive Plan. [07/03/14 @ 9:10AM]

REFERRED TO PROGRAMS & SERVICES COMMITTEE

- #31-15 PROGRAMS & SERVICES COMMITTEE proposing an ordinance to limit the use of leafblowers. [01/26/15 @ 2:20PM]
- #31-15(2) THE PROGRAMS & SERVICES COMMITTEE requesting to amend *Chapter 20-13, Noise Control*, relative to time restrictions on the use of yard, garden or grounds maintenance equipment. [03/19/15 @ 12:14PM]

Appointment by His Honor the Mayor

- #331-15 NICOLA CURTIN, 236 Bellevue Street, Newton, appointed as a member of the HUMAN RIGHTS COMMISSION for a term to expire March 15, 2017 (60 days 2/6/16) [11/13/15 @ 11:16AM]
- #332-15 CITY CLERK reporting that the November 3, 2015 Non-binding Ballot Question asking that a resolution be sent by the City of Newton to Governor Charles Baker asking him to instruct the Nuclear Regulatory Commission (NRC) to revoke the operating license of the 42-year-old Pilgrim Nuclear Station, 38 miles from Newton in Plymouth, MA, because the safety of the public cannot be assured, was approved by the voters of Newton, 6,168 in favor and 2,819 opposed.
- REFERRED TO PROGRAMS & SERVICES AND PUBLIC SAFETY COMMITTEES**
- #312-15 ALD. COTE, HARNEY AND NORTON, requesting a review and discussion of the opiate overdose epidemic including an update from the Health Department appraising the board on the current situation to include comparative statistics from previous years as to the number of opiate overdoses handled by first responders. In addition, what is being done immediately to take this on and what support can the Board provide. [10/19/15 @ 1:30 PM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #288-15 HIS HONOR THE MAYOR submitting the FY 2017-FY 2021 Capital Improvement Plan pursuant to section 5-3 of the Newton City Charter. [10/01/15 @ 1:53 PM]

REFERRED TO PROG & SERV AND PUBLIC FACILITIES COMMITTEES

- #201-15 ALD. SANGIOLO requesting a discussion with the Commissioner of Public Buildings, the Commissioner of Parks and Recreation, and the Executive Department regarding the condition of the property located at 246 Dudley Road (Kennard Estate) and how much, if any, repairs and upgrades will be needed as the City relocates the Parks and Recreation Department to that location. [09/01/15 @ 4:00 PM]

REFERRED TO PROG & SERV AND PUBLIC FACILITIES COMMITTEES

- #141-15 ALD. BROUSAL-GLASER, SANGIOLO, HESS-MAHAN, COTE, NORTON AND ALBRIGHT requesting a discussion with *the Director of Urban Forestry*, a representative of the Department of Public Works and a representative of the Law Department about tracking and improving the condition of the gas utility infrastructure in Newton, new state statutes governing infrastructure repairs, coordination of increased repair work with city operations, the status of negotiations with National Grid to compensate for tree deaths resulting from gas leaks, and the possibility of creating a utilities working group to monitor progress on these and related issues. [05/26/15 @ 2:52 PM]

REFERRED TO PROG & SERV AND PUBLIC FACILITIES COMMITTEES

- #140-15 PROGRAMS & SERVICES AND PUBLIC FACILITIES COMMITTEES requesting that the School Department and/or the Executive Department provide updates on the progress of the potential purchase of the Aquinas site as well as short and long term plans for uses and operations at the site. [05/20/15 @8:53 PM]
PUBLIC FACILITIES VOTED NO ACTION NECESSARY 8-0

REFERRED TO PUB FACIL, PROG & SERV, AND PS&T COMMITTEES

- #46-15 ALD. JOHNSON & CICCONE, requesting a discussion with the Commissioner of Department of Public Works and the School Department to determine and discuss parking options including use of school properties based on the current municipal parking lot programs including the issuance of permits. [02/11/15 @ 1:35 PM]

- #483-14 PROGRAMS & SERVICES COMMITTEE proposing a RESOLUTION to promote a cooperative program with food establishments in the City, the Newton-Needham Chamber of Commerce, the Economic Development Commission, the Director of Economic Development and members of the Board of Aldermen, to find opportunities for these establishments to provide their food services for events in the City. [12/02/14 @ 3:56PM]

#377-14 THE PROGRAMS & SERVICES COMMITTEE requesting a discussion with the Director of Senior Services, the Council on Aging and the Executive Department relative to changes in the use of the Senior Center at 345 Walnut Street. [10/16/14 @ 5:43PM]

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#216-14 ALD. HESS-MAHAN, ALBRIGHT, BAKER, CROSSLEY, NORTON AND SANGIOLO proposing the following amendments to Chapter 12 Health and Human Services of the Revised Ordinances to:

- require owners of dwellings requiring a Certificate of Habitability under Section 12-1 and real estate agents/brokers who receive compensation in connection with the particular real estate transaction to notify the Commissioner of Health and Human Services whenever an apartment, tenement, or room in a lodging house is vacated by the occupant or when an area in an existing building is converted to a condominium prior to being reoccupied by a new tenant, lodger or occupant;
- require educational institutions to disclose addresses of undergraduates living off-campus in Newton;
- require a fee for certification; and
- impose a fine for violation of these provisions. [05/14/14 @11:51 AM]

FINANCE VOTED NO ACTION NECESSARY 7-0 on 12/14/15

REFERRED TO PROGRAMS & SERVICES AND PUBLIC FACILITIES COMMITTEES

#119-14 ALD. ALBRIGHT AND CROSSLEY requesting discussion with the Inspectional Services Department to explain the development of short and long term plans to identify and correct buildings, sidewalks, playgrounds, etc., that do not conform to American Disability Act (ADA) standards. The discussion should include information on how improvements will be incorporated into the Capital Improvement Plan or if less than \$75,000 into a comprehensive budget plan to correct ADA deficiencies. [03/12/14 @ 4:18 PM]

REFERRED TO FINANCE AND PROGRAMS & SERVICES COMMITTEE

#402-13 ALD. FULLER, GENTILE, RICE and LINSKY requesting a Home Rule Petition to amend Article 9 of the Charter to clarify that Neighborhood Area Councils shall maintain and control their own financial accounts and records, independent of City finances; and to further clarify that such independent financial accounts and records shall remain subject to City audit. [10/28/13 @ 10:18 AM]

#398-13 ALD. BAKER & DANBERG requesting a discussion of a possible ordinance, regulations or otherwise, to complement zoning regulation of any licensed Registered Marijuana Dispensaries to respond to any secondary impacts so as to make the operation of such dispensaries as successful as possible. [10/28/13 @ 10:00 AM]

#34-13 ALD. DANBERG, ALBRIGHT, BLAZAR, RICE, LINSKY AND CROSSLEY requesting a prohibition on polystyrene-based disposable food or beverage containers in the City of Newton if that packaging takes place on the premises of food establishments within the City. [01/03/13 @ 11:01 AM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#257-12 RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates.

FINANCE VOTED NO ACTION NECESSARY 7-0

#229-12 RECODIFICATION COMMITTEE recommending a review and possible amendment to the *Board of Aldermen Rules & Orders 2012-2013* relative to review of draft ordinances by the Law Department.

REFERRED TO PROG & SERV, PUB. FACIL. AND FINANCE COMMITTEES

#312-10 ALD. LENNON, LAPPIN, SCHNIPPER, SANGIOLO requesting a discussion with the School Committee on its plans to address space needs in the Newton public schools. [10/27/10 @11:07 AM]

REFERRED TO PUBLIC SAFETY & TRANSPORTATION COMMITTEE

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#288-15 HIS HONOR THE MAYOR submitting the FY 2017-FY 2021 Capital Improvement Plan pursuant to section 5-3 of the Newton City Charter. [10/01/15 @ 1:53 PM]

#326-14 ALD. ALBRIGHT, requesting a discussion and a plan to replace all Newton parking meters within two years. [08/19/14 @ 9:16 AM]

#137-11 ALD. DANBERG AND FULLER requesting possible changes to City Ordinance 19-191, Parking Meter Fees, to require a minimum purchase at long-term parking meters in order to discourage short-term use. [04/26/11 @ 9:52 AM]

#72-14 ALD. CICCONE & JOHNSON, requesting a discussion of the installation of a possible bike lane on Walnut Street between Otis Street and Commonwealth Avenue. [03/03/14 @ 8:17 AM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #257-12 RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates.
FINANCE VOTED NO ACTION NECESSARY 7-0 on 12/14/15
- #240-12 RECODIFICATION COMMITTEE requesting that **Chapter 19 MOTOR VEHICLES AND TRAFFIC** be amended to determine who has jurisdiction for parking on municipal land, the owning department as described in **Sec. 19-224. Parking prohibited on city grounds.** or the Traffic Council as described in **Sec. 19-26. Authority and role of Traffic Council.**
- #319-15 ACTING DIRECTOR OF PLANNING & DEVELOPMENT, requesting a discussion and presentation of the draft Newton Centre Parking strategy. [11/9/15 @ 4:16 PM]
- #352-15 TRAFFIC COUNCIL CHAIR providing the Annual Report on the work of the Traffic Council for 2015 pursuant to Section 19-30(g) of the City of Newton Revised Ordinances 2012. [12/09/15 @ 5:03 PM]

REFERRED TO PROGRAMS & SERVICES AND PUBLIC SAFETY COMMITTEES

- #312-15 ALD. COTE, HARNEY AND NORTON, requesting a review and discussion of the opiate overdose epidemic including an update from the Health Department appraising the board on the current situation to include comparative statistics from previous years as to the number of opiate overdoses handled by first responders. In addition, what is being done immediately to take this on and what support can the Board provide. [10/19/15 @ 1:30 PM]
- #197-15 ALD. ALBRIGHT, on behalf of a constituent requesting a discussion with the Chief of Police and the Commissioner of Parks and Recreation on the use of drones in the City of Newton to discuss what means and methods could become policy or ordinances to deal with an increase of privacy complaints as well as uses of more serious consequences. [08/14/15 @ 11:51 AM]

REFERRED TO PUB FACIL, PROG & SERV, AND PS&T COMMITTEES

- #46-15 ALD. JOHNSON & CICCONE, requesting a discussion with the Commissioner of Department of Public Works and the School Department to determine and discuss parking options including use of school properties based on the current municipal parking lot programs including the issuance of permits. [02/11/15 @ 1:35 PM]

REFERRED TO PUBLIC SAFETY & TRANS AND FINANCE COMMITTEES

#465-14 ALD. SANGIOLO, GENTILE AND HARNEY, requesting a discussion regarding reducing the fee charged to residents for permit parking programs. [11/17/14 @ 12:40 PM]

FINANCE VOTED NO ACTION NECESSARY 7-0 on 12/14/15

#28-14 ALD. CICCONE AND FULLER on behalf of the Health Department and the Emergency Medical Services (EMS) requesting a discussion on duplicate street names. [01/09/14 @ 10:57 AM]

REFERRED TO PS&T AND PUBLIC FACILITIES COMMITTEES

#413-11 ALD. CICCONE, SALVUCCI, GENTILE & LENNON updating the Public Facilities and Public Safety & Transportation Committees on the progress of renovations to the city's fire stations. [11/17/11 @11:07 AM]

REFERRED TO PUBLIC FACILITIES COMMITTEE**Referred to Programs & Serv, Public Facil, and Finance Committees**

#357-15 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of two million five hundred thousand dollars (\$2,500,000) from the Community Preservation Fund's open space and general reserves or fund balance to the Parks & Recreation Department, for the rehabilitation of the Newton Highlands Playground at Winchester and Dedham Streets, as described in the proposal submitted to the Community Preservation Committee in November 2015.

Appointment by the President of the Board of Aldermen

#354-15 MICHAEL GEVELBER, 166 Melrose Street, Auburndale, reappointed as a member of the ENERGY COMMISSION to fill the remaining term of John Bliss, which expires on December 31, 2017. [12/14/15 @12:08 PM]

Appointment by the President of the Board of Aldermen

#353-15 JAMES PURDY, 943 Chestnut Street, Newton Upper Falls, reappointed as a member of the ENERGY COMMISSION for a term to expire on December 17, 2018. [12/14/15 @12:08 PM]

#313-15 ALD. LAPPIN requesting an update from the Department of Public Works on the second water meter program including: the progress of the inspection and programming of the approximately 900 new outdoor irrigation meters provided by the City to property owners that have yet to be inspected and/or programmed by the City; the process going forward for the issuance, inspection, programming and tracking of second meters; and the notification of residents who already had second meters regarding the process for registering their meters. 10/26/15 @ 7:15 PM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

- #288-15 HIS HONOR THE MAYOR submitting the FY 2017-FY 2021 Capital Improvement Plan pursuant to section 5-3 of the Newton City Charter. [10/01/15 @ 1:53 PM]
- #237-15 ALD. CROSSLEY, LAREDO, and SCHWARTZ requesting an update on funds accrued from voluntary contributions from Special Permits in Newton Centre, which can be made available to complete a safe pedestrian crossing at 714-724 Beacon Street via Special Permit Board Order #1-15 and conditions noted therein. 09/14/15 @ 10:40 AM]

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

- #223-15 ALD. LAREDO requesting a discussion of the process of licensing the current and future use of city building, including: (a) how licensees may request the use of city buildings; (b) the process for determining which licensees will get the use of city buildings; (c) how the fees for the use of city buildings are set; and (d) how the current process compares to the process for permitting the use of school buildings. [08/13/15 @ 11:20 AM]

REFERRED TO PROGRAMS&SERVICES AND PUBLIC FACILITIES COMMITTEES

- #201-15 ALD. SANGIOLO requesting a discussion with the Commissioner of Public Buildings, the Commissioner of Parks and Recreation, and the Executive Department regarding the condition of the property located at 246 Dudley Road (Kennard Estate) and how much, if any, repairs and upgrades will be needed as the City relocates the Parks and Recreation Department to that location. [09/01/15 @ 4:00 PM]
- #200-15 ALD. LAREDO requesting that the Department of Public Works provide an update on the creation of a strategic plan for the improvement of streets and sidewalks in the City. [08/13/15 @ 11:20 AM]

REFERRED TO PROG & SERV AND PUBLIC FACILITIES COMMITTEES

- #141-15 ALD. BROUSAL-GLASER, SANGIOLO, HESS-MAHAN, COTE, NORTON AND ALBRIGHT requesting a discussion with the Director of Urban Forestry, a representative of the Department of Public Works and a representative of the Law Department about tracking and improving the condition of the gas utility infrastructure in Newton, new state statutes governing infrastructure repairs, coordination of increased repair work with city operations, the status of negotiations with National Grid to compensate for tree deaths resulting from gas leaks, and the possibility of creating a utilities working group to monitor progress on these and related issues. [05/26/15 @ 2:52 PM]

- #133-15 HIS HONOR THE MAYOR requesting authorization to enter into negotiations for the potential lease on city properties for purposes of third-party construction, ownership, and operation of on-site renewable solar energy generation from which the City will purchase electric output and/or net metering credits.
[05/11/15 @ 5:00 PM]
ITEM SPLIT INTO PART A AND PART B
PART A – APPROVED on 11/16/15
PART B – *Solar panels mounted on new carport structures at Newton South High School and solar panels mounted on new carport structures at the Library.*
HELD on 011/04/15
- #100-15 ALD. NORTON, SANGIOLO, LEARY, AND ALBRIGHT requesting that the Administration pursue municipal aggregation of energy purchasing with the goals of reducing and/or stabilizing electricity costs for resident, businesses and the City; and requiring the purchase of Class 1 RECs at some percentage above the level required by the Massachusetts Renewable Portfolio Standard.
[04/06/15 @ 9:12 AM]
- #83-15 ALD. CROSSLEY, GENTILE, & ALBRIGHT requesting a discussion and update from the Administration on the following energy related items: status of municipal power purchasing contracts for gas and electricity; status of the Power Purchase Agreement including solar PV rooftop installations, power offset (cost benefit) to date and review of potential future projects; and an update on municipal energy consumption including the recent Green Communities report filed with the Department of Energy Resources. [03/26/15 @ 9:19 AM]
- #46-15 ALD. JOHNSON & CICCONE, requesting a discussion with the Commissioner of Department of Public Works and the School Department to determine and discuss parking options including use of school properties based on the current municipal parking lot programs including the issuance of permits. [02/11/15 @ 1:35 PM]
- REFERRED TO PUB FACIL, PROG & SERV, AND PS&T COMMITTEES**
- Public hearing assigned for February 3, 2016*
- #455-14 HIS HONOR THE MAYOR recommending amendment to Chapter 29, Section 80 **Sewer/Stormwater use charge.** of the City of Newton Ordinances to create a storm water rate fee structure based upon square footage of impervious surface area.
- #328-14 ALD. ALBRIGHT, DANBERG, & LAREDO requesting a review of double poles in Newton including a random sampling of ten double poles on the north side and ten double poles on the south side of Newton to determine which utility is holding up the removal of double poles. [08/19/14 @ 9:16 AM]

#189-14 PUBLIC FACILITIES COMMITTEE requesting periodic updates on the Zervas Elementary School Project. [04/17/14 @ 10:48 PM]

#188-14 PUBLIC FACILITIES COMMITTEE requesting periodic updates on the Cabot Elementary School Project. [04/17/14 @ 10:48 PM]

REFERRED TO PROGRAMS & SERVICES AND PUBLIC FACILITIES COMMITTEES

#119-14 ALD. ALBRIGHT AND CROSSLEY requesting discussion with the Inspectional Services Department to explain the development of short and long term plans to identify and correct buildings, sidewalks, playgrounds, etc...that do not conform to American Disability Act (ADA) standards. The discussion should include information on how improvements will be incorporated into the Capital Improvement Plan or if less than \$75,000 into a comprehensive budget plan to correct ADA deficiencies. [03/12/14 @ 4:18 PM]

#131-13 ALD. CROSSLEY, FULLER, SALVUCCI, JOHNSON, CICCONE requesting periodic updates and discussion, at the discretion of the members of the Public Facilities Committee or the Commissioner of Public Works, on the condition functioning, operations and management of all elements of the City sewer, water and storm water systems including the following:

- Water meters
- Implementation of the ten project area strategic plan to remove infiltration in the City sewer system
- Implementation of the long range strategic plan to repair and replace City water mains, especially to correct for fire flow
- Status of the City's Private Inflow Removal Program to resolve and disconnect illegal storm water connections to the City sewer system
- Current billing practices
- Rates analyses needed to facilitate an informed comparison of billing options to include the following options either alone or in combination: seasonal rates, second meters, tiered rates, frequency of billing, low income credits.

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#257-12 RECODIFICATION COMMITTEE recommending (1) review of the Fees, Civil Fines/Non-Criminal Disposition contained in Chapter 17 LICENSING AND PERMITS GENERALLY and Chapter 20 CIVIL FINES/NON-CRIMINAL DISPOSITION CIVIL FINES to ensure they are in accordance with what is being charged and (2) review of the acceptance of G.L. c. 40 §22F, accepted on July 9, 2001, which allows certain municipal boards and officers to fix reasonable fees for the issuance of certain licenses, permits, or certificates.

FINANCE VOTED NO ACTION NECESSARY 7-0

REFERRED TO PROG. & SERV AND PUBLIC FACILITIES COMMITTEES

- #36-12 ALD. CROSSLEY & FULLER requesting Home Rule legislation or an ordinance to require inspections of private sewer lines and storm water drainage connections prior to settling a change in property ownership, to assure that private sewer lines are functioning properly and that there are no illegal storm water connections to the city sewer mains.
- A) Sewer lines found to be compromised or of inferior construction would have to be repaired or replaced as a condition of sale;
 - B) Illegal connections would have to be removed, corrected, and re-inspected in accordance with current city ordinances and codes, as a condition of sale.
- [01/24/12 @ 8:07 AM]

PROG & SERV VOTED NO ACTION NECESSARY 6-0 on 11/17/14

REFERRED TO PS&T AND PUBLIC FACILITIES COMMITTEES

- #413-11 ALD. CICCONE, SALVUCCI, GENTILE & LENNON updating the Public Facilities and Public Safety & Transportation Committees on the progress of renovations to the city's fire stations. [11-17-11 @11:07 AM]
- #367-09 PUBLIC FACILITIES COMMITTEE requesting discussion with the Law Department on how to resolve the dispute with NStar regarding whose responsibility it is to repair the streetlight connection between the manhole and the base of the streetlight. [10/21/09 @ 9:00 PM]

REFERRED TO FINANCE COMMITTEE**REFERRED TO LAND USE AND FINANCE COMMITTEES**

- #356-15 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of four hundred seventy-one thousand one hundred seventeen dollars (\$471,117) from the Community Preservation Fund to the Planning & Development Department for a grant to Citizens for Affordable Housing Development in Newton (CAN-DO), to create two units of permanently affordable rental housing at 10-12 Cambria Road, as described in the proposal submitted to the Community Preservation Committee in October 2015.

REFERRED TO PROG & SERV, PUBLIC FACIL. AND FINANCE COMMITTEES

- #357-15 COMMUNITY PRESERVATION COMMITTEE recommending the appropriation of two million five hundred thousand dollars (\$2,500,000) from the Community Preservation Fund's open space and general reserves or fund balance to the Parks & Recreation Department, for the rehabilitation of the Newton Highlands Playground at Winchester and Dedham Streets, as described in the proposal submitted to the Community Preservation Committee in November 2015.

Appointment by His Honor the Mayor

#355-15 WILLIAM PAPPAS, 70 Prospect Street, West Newton, appointed as a Trustee of the Horace Cousens Industrial Fund for a term to expire on June 1, 2018. (60 days 02/19/16) [12/07/15 @ 1:16 PM]

REFERRED TO FINANCE AND APPROPRIATE COMMITTEES

#288-15 HIS HONOR THE MAYOR submitting the FY 2017-FY 2021 Capital Improvement Plan pursuant to section 5-3 of the Newton City Charter.

#287-15 HIS HONOR THE MAYOR submitting the FY 2017-FY 2021 5-Year Financial Forecast for Board of Aldermen review/acceptance.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

#223-15 ALD. LAREDO requesting a discussion of the process of licensing the current and future use of city building, including: (a) how licensees may request the use of city buildings; (b) the process for determining which licensees will get the use of city buildings; (c) how the fees for the use of city buildings are set; and (d) how the current process compares to the process for permitting the use of school buildings.

#190-15 ALD. SANGIOLO requesting a discussion with the Executive Department relative to creating a policy to require audio recordings of all meetings of boards and commissions and requiring them to be posted to the City's website, as well as posting of all documentation that is reviewed by boards and commissions and/or by their designated City staff member.

#133-15 HIS HONOR THE MAYOR requesting authorization to enter into negotiations for the potential lease on city properties for purposes of third-party construction, ownership, and operation of on-site renewable solar energy generation from which the City will purchase electric output and/or net metering credits.

ITEM SPLIT INTO PART A AND PART B

PART A – *Ground mounted solar panels at Rumford Avenue landfill, solar panels mounted on new carport structures at 60 Elliot Street, all roof mounted solar panel locations with the exception of City Hall, which is removed from the list of sites for solar panels.* – BOA APPROVED on 11/16/15

PART B – *Solar panels mounted on new carport structures at Newton South High School and solar panels mounted on new carport structures at the Library.* HELD on 11/09/15

REFERRED TO ZONING & PLANNING, LAND USE AND FINANCE COMMITTEES

- #104-15 ALD. JOHNSON, LAREDO, AND GENTILE requesting a report from the Planning Department re how many of the affordable units developed at Commonwealth Avenue, Pearl Street, and Eddy Street qualify for inclusion on the State's Subsidized Housing Inventory List; if a property is not on the list, what can be done to make it eligible.
- #84-15 ALD. GENTILE requesting a discussion with the Newton Community Development Foundation (NCDF) regarding their plans for repayment of the deferred rental payments and accrued interest on their ground lease with the City for the former Warren Junior High School site.

REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES

Public hearing assigned for February 3, 2016

- #455-14 HIS HONOR THE MAYOR recommending amendment to Chapter 29, Section 80 **Sewer/Storwater use charge**. to create a storm water rate fee structure based upon square footage of impervious surface area.

REFERRED TO LAND USE AND FINANCE COMMITTEES

- #49-14 LAND USE COMMITTEE requesting discussion with the Chief Financial Officer and the Chief Information Officer regarding the critical need to implement technology which enables the development, management and use of shared, searchable, mobile-accessed (both read and write) database which contains parcel-based information that can be accessed by all city departments (including Planning, Inspectional Services (ISD), Assessing, Engineering, Fire, Police, Health), the Board of Aldermen and the community. This technology must support the work of ISD and other departments in both the office and the field to more effectively and efficiently monitor and enforce compliance with approved special permits and other related Board Orders.
- #248-12 RECODIFICATION COMMITTEE recommending that **ARTICLE IV. PURCHASES AND CONTRACTS, Secs. 2-182 through 2-205**, be amended to make it consistent with state law.