CITY COUNCIL MEETING
AGENDA - VERSION 1
October 17, 2011
7:30 PM

1. **OPENING PRAYER**
2. **PLEDGE OF ALLEGIANCE**
3. **CALL TO ORDER**
4. **LATE FILE ITEMS**
5. **PUBLIC COMMENT**

CONSENT AGENDA

NOTE: ALL ITEMS LISTED UNDER CONSENT AGENDA WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS. IF DISCUSSION IS DESIRED, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

6. **APPROVAL OF MINUTES**
   September 21, 2011 (Approve)
   September 26, 2011 (Approve)

7. **TRANSFERS**
   1. Mayor/Health Green Initiatives Rev Fd to Animal Control ($3,700) (Approve)
   2. Mayor Budget Contingence to Planning Tech Stipend ($3,822) (Approve)
   3. City Auditor Rsv Appr Ins Claims to Police Maint of Vehicles ($1,000) (Approve)

8. **COMMUNICATIONS**
   1. Ltr re H1972 "An Act Regulating Election Primaries" (General Gov)
   2. Supplemental recommendation CPC Allocation (P&D, B&F)
   3. Block Party Application October 29, 2011 Eagle Street (Approve)
   4. Outdoor Seating Application – Expansion Agave (L & P)
   5. Audio Visual Equipment upgrade City Council Chambers (R&F)

9. **APPOINTMENTS**

1. Walt Thompson	100 State Street, Unit 2	Bartlett Mall Commission	October 1, 2014
2. John P. Gavin	14 Marquand Lane	Police Officer	
3. Charles T. Ferlauto	4 Park Street	Police Officer	
4. Gregory F. Whitney	23 Low Street, Newbury	Police Officer	
5. Roger E. Jones	37 Storeybrooke Drive	Water Commission	October 1, 2016

END OF CONSENT AGENDA

REGULAR AGENDA

10. **APPOINTMENTS – Second**

1. Dylan McCloy	17 Wildwood Drive	Youth Commission	May 31, 2014
2. Justin Dutcher	45A Washington St.	Harbor Commission	Sept. 1, 2013

11. **ORDERS**
    1. Order amend Waterfront Trust appointment dates

2. Order Renewal of Book Drop at Cushing Park
3. Order accepting Ch 73 sec.4 Acts of 1986 property tax exemption
4. Order Wastewater Treatment Facility Mod. Project financing
5. Order Clipper Heritage Trail Special Revenue Fund
6. Resolution Coffin Street

12. ORDINANCES

1. Amend Ord Zoning Map B1 Zone Storey Ave
2. Amend Ord Zoning Sec. IV delete subsection V-C.1 "Smart growth ordinance"
3. Amend Ord Zoning Sec. V-D, Sec V-E
4. Amend Ord Zoning Sec. IX, Sec. XXI
5. Amend Ord Zoning Sec. VIII Signs
6. Amend Ord Zoning Sec. VI Dimensional Controls
7. Amend Ord Zoning Sec. II Definitions
8. Second Reading -Amend Ord. 3-26 Animals, Dogs leash required

13. COMMITTEE ITEMS

Budget & Finance
In Committee:

1. Mayor Green Initiatives REV APPR ($20,000) to Mayor-CHMM	**11/29/2010*
2. CPA Allocation to Moseley to Maudslay Trail Con. Project	**09/12/2011*
3. Police Sal Officers to Retirement Acct (41,940.93) Brunault and Rice	**09/12/2011*
4. Street Lighting Recommendation	**09/21/2011*
5. Parks Commission-Quail Run to Park Maintenance $2,900, to Atkinson Common $2,000, to Rail Trail $3,000, to Other Supplies $12,100	**09/26/2011*

General Government
In Committee

1. Campaign Finance Reports-Municipal Forms posting on City Website	**05/09/2011*
2. Union Contract posting on City Website	**05/09/2011*
3. Section 13 - 180 Add/Delete Streets By Order	**09/12/2011*

Joint Education
In Committee:

License & Permits
In Committee:

1. Cars Port Taxi rate increase request	**05/31/2011*

Neighborhoods & City Services
In Committee:

1. Newburyport Tree Ordinance	**07/22/2010*

Planning & Development
In Committee:

1. Residential Handicap Parking Ordinance	**01/11/2010*
2. Atmospheric Pollution Ordinance	**02/08/2010*
3. Green Communities Order	**03/29/2010*

4. Zoning Ord – Sec II Definitions/Sec VI Dimensional Contr	**06/28/2010*
5. Letter for Essex St. Inn Visitor Parking	**07/11/2011*
6. Intermunicipal Agreement Newburyport and Newbury	**07/11/2011*
7. Amend Ord.13-182 Traffic and Motor Vehicles	**08/29/2011*

Public Safety
In Committee:

1. Residential Handicap Parking Ordinance	**01/11/2010*
2. Amend Sec. 13-86 Water St. (25mph) State to Federal	**05/09/2011*
3. St. Paul's Church request to restrict parking on Summer Street entrance	**05/31/2011*
4. Amend Ord 13-121 One-Way Streets Griffin Court	**07/25/2011*
5. Amend Ord.13-180 Parking Resident Harris Street from Green to State Sts	**08/29/2011*
6. Amend Ord.13-180 Parking Resident Fruit Street	**08/29/2011*
7. Amend Ord.13-182 Traffic and Motor Vehicles	**08/29/2011*
8. Section 13-176.1 Traffic and Motor Vehicles, High and Ashland	**09/12/2011*
9. Section 13-168 Salem Street, No Parking	**09/12/2011*
10. Section 13-182 entitled: Hotel/Inn and Bed and Breakfast Accommodations	**09/12/2011*

Public Utilities Committee
In Committee:

1. Letter regarding Pole at 114 High Street	**05/31/2011*
2. Mayor's letter regarding True North Solar for renewable energy contract	**08/29/2011*
3. Ltr re Undergd Fuel Storage, Apache Oil, 75 Storey Ave, Biodiesel	**09/12/2011*
4. Street Lighting Recommendation	**09/21/2011*

Rules Committee
In Committee:

14. GOOD OF THE ORDER

15. EXECUTIVE SESSION

16. ADJOURNMENT

CITY COUNCIL MEETING

Minutes

September 21, 2011

7:00 PM

Council President O'Brien called the meeting to order at 7:00 pm. He instructed the City Clerk to call the roll. The following Councillors answered present: Cameron, Connell, Derrivan, Earls, Heartquist, Herzog, Hutcheson, Ives, Jones and O'Brien. 10 present, 1 absent (Cronin). This was followed by the Pledge of Allegiance.

1. PRESENTATION by George Woodbury on street lights in Newburyport, followed by question and answer period.

Motion to refer street lighting recommendation to Budget and Finance and Public Utilities by Councillor Derrivan, seconded by Councillor Cameron. 10 yes, 1 absent (Cronin). So voted.

2. ADJOURNMENT

Motion to adjourn by Councillor Jones, seconded by Councillor Earls. 10 yes, 1 absent (Cronin). So voted.

CITY COUNCIL MEETING
Minutes – September 26, 2011
7:30 PM

Council President O'Brien called the meeting to order at 7:30 pm and led the Pledge of Allegiance. He then instructed the City Clerk to call the roll. The following Councillors answered present: Cameron, Connell, Cronin, Derrivan, Earls, Heartquist, Herzog, Hutcheson, Ives, Jones and O'Brien. All present.

LATE FILE ITEMS –

Appointment #2 and Order #1

Motion to waive the rules and allow the late file items by Councillor Jones, seconded by Councillor Cameron. So voted on a unanimous voice vote.

PUBLIC COMMENT –

1. Ghlee Woodworth, 51 Prospect Street, Off Leash Dog Program
2. Susan Crawford, 54 Temple Street, Off Leash Pilot
3. Kim Kudym, 44 Hale Street, Off Leash

CONSENT AGENDA

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1. APPROVAL OF MINUTES

Sept. 12, 2011 (Approved)

2. TRANSFERS

1. Police Department Officer Salary to Clothing Allowance $2,750 (Approved)

3. COMMUNICATIONS

1. Local Election Districts Review approval (R&F)
2. Block Party Jackson St at Oakland and Woodland Sts. Oct. 22, 2011 (Approved)
3. Ltr re Plum Island Polling Place (R&F)

4. APPOINTMENTS

1. Dylan McCloy	17 Wildwood Drive	Youth Commission	May 31, 2014

END OF CONSENT AGENDA

Motion to approve the consent agenda by Councillor Jones, seconded by Councillor Derrivan. So voted on a unanimous voice vote.

REGULAR AGENDA

5. TRANSFERS

2. Parks Commission-Quail Run to Park Maintenance $2,900, to Atkinson Common $2,000, to Rail Trail $3,000, to Other Supplies $12,100

Motion to refer to Budget & Finance by Councillor Cameron, seconded by Councillor Herzog. So voted on a unanimous voice vote.

6. **LATE FILE APPOINTMENT**

2. Justin Dutcher 45A Washington St. Harbor Commission Sept. 1, 2013

Motion to receive and file by Councillor Derrivan, seconded by Councillor Connell. So voted on a unanimous voice vote.

7. **LATE FILE ORDER**

1. Order Proclamation for October as Breast Cancer Awareness Month

Motion to approve by Councillor Cronin, seconded by Councillor Cameron. So voted on a unanimous voice vote.

8. **ORDINANCES**

1. Second Reading Amend Ch.8 Sec. 8-90 Solid Waste Recycling Collection

Motion to approve by Councillor Jones, seconded by Councillor Herzog. Roll call vote, 11 yes. So voted.

2. Second Reading Amend Ord Ch.12 sec 12-103 Highland Cemetery Commission

CC Agenda 9-26-2011 Page 2 of 3

Motion to approve by Councillor Cronin, seconded by Councillor Cameron. Roll call vote, 11 yes. So voted.

9. **COMMITTEE ITEMS**

Budget & Finance

In Committee:

1. Mayor Green Initiatives REV APPR ($20,000) to Mayor-CHMM **11/29/2010*

2. CPA Allocation to Moseley to Maudslay Trail Con. Project **09/12/2011*

3. Police Sal Officers to Retirement Acct (41,940.93) Brunault and Rice **09/12/2011*

General Government

In Committee

1. Atmospheric Pollution Ordinance **02/08/2010*

Motion to remove by Councillor Earls, seconded by Councillor Derrivan. So voted. Motion to receive and file by Councillor Earls, seconded by Councillor Derrivan. So voted on a unanimous voice vote.

2. Proposed Special Act Water & Sewer Commission **01/10/2011*

Motion to remove by Councillor Earls, seconded by Councillor Derrivan. So voted. Motion to receive and file by Councillor Earls, seconded by Councillor Herzog. So voted on a unanimous voice vote.

3. Proposed Charter on Ballot for November 8, 2011 Municipal Election **05/09/2011*

Motion to remove by Councillor Cameron, seconded by Councillor Connell. So voted. Motion to approve by Councillor Earls, seconded by Councillor Derrivan. So voted on a unanimous voice vote.

4. Campaign Finance Reports-Municipal Forms posting on City Website **05/09/2011*

5. Union Contract posting on City Website **05/09/2011*

6. Section 13 - 180 Add/Delete Streets By Order **09/12/2011*

Joint Education

Councillor Hutcheson announced that the Joint Education Committee is having a meeting in Rm. 118 at the High School with the School Committee on October 3, 2011 at 5:30pm.

In Committee:

License & Permits

In Committee:

1. Cars Port Taxi rate increase request *05/31/2011

Neighborhoods & City Services
In Committee:
1. Newburyport Tree Ordinance *07/22/2010
2. Amend Ord. 3-26 Animals, Dogs leash required *08/29/2011

Motion to remove by Councillor Herzog, seconded by Councillor Cameron. So voted. Motion to approve first reading and order published by Councillor Earls, seconded by Councillor Cameron. Roll call vote, 8 yes, 2 no (Derrivan, O'Brien), 1 present (Cronin). So voted. Motion passed.

Planning & Development
In Committee:
1. Residential Handicap Parking Ordinance *01/11/2010
2. Atmospheric Pollution Ordinance *02/08/2010
3. Green Communities Order *03/29/2010
4. Zoning Ord – Sec II Definitions/Sec VI Dimensional Contr *06/28/2010
5. Letter for Essex St. Inn Visitor Parking *07/11/2011
6. Intermunicipal Agreement Newburyport and Newbury *07/11/2011
7. Amend Ord.13-182 Traffic and Motor Vehicles *08/29/2011

Public Safety
In Committee:
1. Residential Handicap Parking Ordinance *01/11/2010
2. Amend Sec. 13-86 Water St. (25mph) State to Federal *05/09/2011
3. St. Paul's Church request to restrict parking on Summer Street entrance *05/31/2011
4. Amend Ord 13-121 One-Way Streets Griffin Court *07/25/2011
5. Amend Ord.13-180 Parking Resident Harris Street from Green to State Sts *08/29/2011
6. Amend Ord.13-180 Parking Resident Fruit Street *08/29/2011
7. Amend Ord.13-182 Traffic and Motor Vehicles *08/29/2011
8. Section 13-176.1 Traffic and Motor Vehicles, High and Ashland *09/12/2011
9. Section 13-168 Salem Street, No Parking *09/12/2011
10. Section 13-182 Hotel/Inn and Bed and Breakfast Accommodations *09/12/2011

Public Utilities Committee
In Committee:
1. Letter regarding Pole at 114 High Street *05/31/2011
2. Mayor's letter regarding True North Solar for renewable energy contract *08/29/2011

Rules Committee
In Committee:

10. GOOD OF THE ORDER

Councillor Derrivan gave the Council an update on the Crow Lane Landfill.
Councillor Herzog thanked the Kids As Peacemakers organization for their event.

11. ADJOURNMENT

Motion to adjourn by Councillor Derrivan, seconded by Councillor Earls at 8:14pm.

CONSENT AGENDA

TRANSFERS

MAYOR'S OFFICE

DONNA D. HOLADAY
MAYOR

NEWBURYPORT CITY HALL

60 PLEASANT STREET

NEWBURYPORT, MA 01950

TEL: 978.465.4413

FAX: 978.465.4402

TO: President O'Brien & City Councilors

FROM: Mayor Donna D. Holaday

DATE: October 12, 2011

RE: Transfer to address dog waste

Managing the dog waste generated along the Rail Trail has become an issue for residents abutting the trail as well as users of the trail. After meeting with the Department of Public Services, Health Department, Planning Office and Parks it was agreed that a new system should be established that includes outsourcing the task of servicing the dog waste receptacles to the private sector, and allocating a dedicated revenue stream from the municipal dog license fees to support this activity. We agreed that the focus should be first on the Rail Trail, and then could perhaps be expanded to other public spaces if this is successful and funding is available.

This is a natural evolution from the City's amending of the ordinances to clearly allow for disposal of dog waste in public receptacles, increasing fines for dog waste left on the ground, and installation of bag dispensers. The Rail Trail is walked by hundreds of people a day, including many dog walkers, and there is currently one informal 30-gallon receptacle for the whole mile-long trail located at Washington Street for dog waste, which the DPS has been servicing approximately once a week. However, the servicing arrangement is difficult for the DPS due to manpower shortages and other priorities, and they do not have the capacity to increase the frequency of servicing. Additional dedicated dog waste barrels are needed at the northern end of the Rail Trail on the waterfront, where people often place dog waste inside the existing recycling receptacle, as well as the southern end of the trail at Parker Street where people often leave bags of dog waste lying on the ground.

On the revenue side, the City issues approximately 900+ dog licenses annually at $10-$15/each plus late fees, generating about $11,000 per year. These fees currently are included in the general fund and we would need to set up a special account next fiscal year to dedicate the fees. We have received a quote from Joe Gliottone of "Doody Calls" of an upfront cost of about $1000 for three new smaller receptacles which would be attached to the existing bag dispenser posts, and then an annual charge of about $3,744 for servicing the three receptacles twice per week throughout the year – disposing of the waste, replacing the liners plus the bags, and cleaning around the stations as necessary for $12/service. The frequency of the servicing for each barrel can be adjusted once a track record is established based on extent of use, season, etc. I believe this is a reasonable and cost effective solution to address this problem.

Transfer #1
October 17, 2011

City of Newburyport
FY 2012
BUDGET TRANSFER REQUEST

2011 OCT 11 P 2:11

Department: Mayor / Health

Submitted by: Mayor Holaday / Molly Ettenborouc **Date Submitted:** 10/11/2011

Transfer From:

Account Name	Green Initiatives REV APPR	YTD Bal:	$	366,538.60
Account Number:	2755-59600	Trans In:	$	-
Amount:	$3,700.00	Trans Out:	$	-

Why are Funds Available: *Funds are available for expenses associated with activities related to Green Initiatives throughout the city including maintenance of parks and parkways.*

Transfer To:

Account Name	Animal Control - Care of Animals	YTD Bal:	$	1,143.70
Account Number:	01292002-53009	Trans In:	$	-
Amount:	$3,700.00	Trans Out:	$	-

Why are Funds Required: *Transfer is required for the purchase and maintenance of containers used along the Rail Trail for the dispose of dog feces.*

Transfer To:

Account Name
Account Number:
Amount:
Why are Funds Required:

YTD Bal:
Trans In:
Trans Out:

Transfer To:

Account Name
Account Number:
Amount:
Why are Funds Required:

YTD Bal:
Trans In:
Trans Out:

Donna D. Holaday, Mayor — Donna D. Holaday — Date: 10/11/2011
William B. Squillace, Auditor — Date: 10/11/2011
City Council Approval: (Stamp)

City of Newburyport
FY 2012
BUDGET TRANSFER REQUEST

Transfer #2
October 17, 2011

Department: Mayor

Submitted by: Mayor Donna D. Holaday **Date Submitted:** 10/11/2011

Transfer From:

Account Name	Mayor - Budget Contingence	YTD Bal:	$ 10,000.00
Account Number:	01129007-57805	Trans In:	$ -
Amount:	$3,822.00	Trans Out:	$ -

Why are Funds Available: *Funds are available for budget expenses that were not included in the original FY 2012 budget request.*

Transfer To:

Account Name	Planning - Technology Stipend	YTD Bal:	$ -
Account Number:	01182001-51403	Trans In:	$ -
Amount:	$3,822.00	Trans Out:	$ -

Why are Funds Required: *Funds are required to pay a stipend for serving as the City Web-Master. These are extra duties over and above the current level of responsibility of the Administrative Assistant within the Planning Department. Duties will include updating City Web-site content and adding new information as required.*

Transfer To:

Account Name		YTD Bal:	
Account Number:		Trans In:	
Amount:		Trans Out:	

Why are Funds Required:

Transfer To:

Account Name		YTD Bal:	
Account Number:		Trans In:	
Amount:		Trans Out:	

Why are Funds Required:

Donna D. Holaday, Mayor — Donna D Holaday — Date: 10/11/2011

William B. Squillace, Auditor

City Council Approval: (Stamp) — Date: 10/11/2011

City of Newburyport

Office of the Mayor

Donna D. Holaday, Mayor
60 Pleasant Street - P.O. Box 550
Newburyport, MA 01950
(978) 465-4413 (978) 465-4402 (Fax)

To: President and Members of the City Council

From: Donna D. Holaday, Mayor

Date: 10/11/11

Subject: Webmaster Stipend

2011 OCT 11 P 2:38

Attached please find a transfer in the amount of $3,822 (prorated based on an annual amount of $5,000) which will allow the city to fund a webmaster position. As you are aware, the city's website is dated and in need of an overall upgrade. Ms. Dianne Eppa, Administrative Assistant in the Planning Office has been selected to assume these responsibilities. Ms. Eppa will be responsible for all web related upgrades, updates to the website and in charge of making the site more user friendly to both staff and most importantly residents. Ms. Eppa will evaluate each departmental web page and will be working to make each department's web page consistent with one another for easier navigation.

The city relies on its website as an instrument to inform the public and to serve as a source for information. The new IT upgrade will allow the city to utilize its website much more as a resource and as such will require dedicated staff to handle its maintenance.

I would appreciate an affirmative vote from the Council on this request.

City of Newburyport
FY 2012
BUDGET TRANSFER REQUEST

Transfer #3
October 17, 2011

Department: City Auditor

Submitted by: William Squillace, City Auditor **Date Submitted:** 10/11/2011

Transfer From:

Account Name	RSV APPR - Insurance Claims	YTD Bal:	$ 44,969.22
Account Number:	2741-49900	Trans In:	$ -
Amount:	$1,000.00	Trans Out:	$ -

Why are Funds Available: *Funds are received from insurance companies for claims paid and are used to off-set insurance costs, deductibles, and losses.*

Transfer To:

Account Name	POLICE - Maintenance of Vehicles	YTD Bal:	$ 17,883.52
Account Number:	01210002-52403	Trans In:	$ -
Amount:	$1,000.00	Trans Out:	$ -

Why are Funds Required: *Funds will be used to pay the insurance deductible for damage to a police vehicle.*

Transfer To:

Account Name		YTD Bal:	
Account Number:		Trans In:	
Amount:		Trans Out:	

Why are Funds Required:

Transfer To:

Account Name		YTD Bal:	
Account Number:		Trans In:	
Amount:		Trans Out:	

Why are Funds Required:

Donna D. Holaday, Mayor — Donna D. Holaday — Date: 10/11/2011

William B. Squillace, Auditor — Date: 10/11/2011

City Council Approval: (Stamp)

COMMUNICATIONS

Communication #1
October 17, 2011

William C. Campbell
Woburn City Clerk

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT

September 15, 2011

2011 SEP 21 A 11: 11

Richard B. Jones, City Clerk
Newburyport City Hall
PO Box 550
Newburyport, MA 01950

Dear Clerk Jones:

Enclosed please find a proposed Resolution in support of H1972 "An Act Regulating Election Primaries" now pending before the General Court at the State House. I request that you place this matter on the agenda before your City Council or Board of Alderman for action.

Adoption of H1972 will ensure that the votes of our troops serving overseas will count on election day and will save taxpayers at least $8,000,000.00 by streamlining elections. The Department of Defense Federal Voting Assistance Program (FVAP), in written testimony supporting the bill, noted that the bill is in line with federal law and is also in line with a number of states that have recently moved their primary elections earlier in the year to comply with the federal requirement. The FVAP testimony concluded **"passing HB1972 will significantly improve voter success for many military members, overseas voters, and their families."**

In the 2010 State election, the Commonwealth requested a waiver from the federal MOVE Act, which requires that, at least 45 days before an election, ballots be sent to Americans overseas. The only reason for the Secretary's waiver request was "due to a late primary." The temporary solution was a bill that allowed our troops to vote by fax or email, but the voter was required to sign a statement waiving his or her right to a secret ballot.

Deadlines for the 2012 election are approaching quickly. To be effective, this bill has to be passed soon. **The support of your Aldermen or Councilmen now will move the bill forward.** It is important that our state legislators hear from their constituents of their support for H1972. More importantly, our troops deserve to know that their votes count.

A bill summary and a copy of the FVAP testimony are enclosed. If I can provide any additional information, please feel free to contact me.

Thank you for your support in moving along this important legislation.

Very truly yours,

William C. Campbell

P.O. Box 2, Woburn, Massachusetts 01801
wcampbell40@yahoo.com

RECEIVED
CLERK'S OFFICE
NEWBURYPORT, MA

RESOLVED 2011 SEP 21 A 10:43

Whereas, according to the Department of Defense Federal Voting Assistance Program (FVAP), there are 11,691 active military duty Massachusetts residents residing overseas; and

Whereas, for the November 2010 election, Massachusetts requested a waiver from a requirement of the Military and Overseas Voter Empowerment Act (the MOVE Act) to send absentee ballots to Americans overseas at least 45 days before an election "due to a late primary"; and

Whereas, a report by the Secretary of the Commonwealth revealed that in the November 2010 election only 400 ballots from Massachusetts active duty military personnel stationed overseas were counted; and

Whereas, the General Court is considering H1972 "An Act Regulating State Primaries", a bill that moves the state primary to allow Massachusetts residents residing overseas to vote privately and securely, and combines the presidential primary with the state primary to save taxpayers at least $8,000,000.00; and

Whereas, a number of states have moved their primary dates earlier in the year to comply with the federal MOVE Act and to provide relief to taxpayers by reducing the cost of elections; and

Whereas, the Massachusetts state primary scheduled for September 18, 2012 stands alone as the last state primary in the country in 2012; and

Whereas, in written testimony the FVAP concluded "passing HB1972 will significantly improve voter success for many military members, overseas voters, and their families"; and

Whereas, HB1972 simplifies the election process, decreases the opportunity for "voter fatigue", reduces the cost of elections for taxpayers, and establishes fairness among candidates;

Now, Therefore, Be It Resolved by the _____ of the [Town/City] of _____ that the [Town/City] of _____ supports the adoption of HB1972 "An Act Regulating Election Primaries" pending before the 187th General Court of the Commonwealth of Massachusetts and directs the [Town/City] Clerk to transmit a copy of this action to the municipality's State Delegation and to the Joint Committee on Election Laws.

H1972 - An Act Regulating Election Primaries
Executive Summary

Purpose:

1. To increase the time between the State Primary and State Election so that military personnel and Massachusetts residents residing overseas can vote without having to waive their right to a secret ballot.
2. To save the Commonwealth and communities at least $8,000,000.00 by consolidating elections.
3. To simplify the election process, decrease opportunity for "voter fatigue" and establish fairness among candidates.

Executive Summary:

1. Moves the state primary to the first Tuesday in June. This will increase the time to mail ballots to military personnel and other residents of Massachusetts stationed or residing overseas. The trend across the country has been to move the primary earlier in the year to comply with the requirements of the Military and Overseas Voter Empowerment Act (the MOVE Act). The MOVE Act requires that absentee ballots be transmitted to voters at least 45 days before an election.

2. Moves presidential primary to the first Tuesday in June. Combining the state election and presidential primary into one day will result in savings of at least $8,000,000.00 ($3,500,000.00 for the state according to testimony of the Secretary of the Commonwealth before the General Court and a minimum of $4,500,000.00 based on the State Auditor's reimbursement to municipalities following the January 2010 special election). This will place Massachusetts towards the end of the presidential primary schedule and could draw the attention sought in the event of a primary season without a clear front-runner in the major parties. In 2008, the election was moved from March to February so that the primary coincided with the so-called Super Tuesday. It did not have the anticipated effect of drawing attention to the state in view of the large number of primaries held on that day. California has moved its presidential primary and state primary to the first Tuesday after the first Monday in June for fiscal reasons. Combining the state primary with the presidential primary in Massachusetts makes fiscal sense.

3. Establishes a new method of selecting political party ward and town committee members and eliminates the primary ballot method of selecting the ward and town committee members. The outdated primary method is costly in that it requires significant ballot design and voting machine programming expenses. For example, looking at voting machine coding costs in the 2008 election cycle, the City of Woburn paid $1,474.00 for coding the September primary, $1,330.00 for coding of the November general election, but the February presidential primary with ward committees on the ballot cost the city $3,807.00 for voting machine coding. The

state committeeman and state committeewoman will continue to be selected by primary ballot. The respective state committees will then oversee the selection of ward and town committee members based on a system of rules and procedures established by the party and filed with the Secretary of the Commonwealth.

4. Brings greater consistency to deadlines relating to elections and nominations across all elections and for all candidates.

5. Requires unenrolled candidates for office to meet the same filing deadlines as for party candidates. For example, currently, party candidates for statewide office have to file nomination papers in early May while unenrolled candidates have until early August to file nomination papers. This proposal would create consistency among all candidates as well as ensuring that ballots can be printed and transmitted to be sent out in compliance with the MOVE Act.

6. Most community polling places are located in schools. Every election day causes disruption to the educational process and increases security issues in the schools. Although relationships are cooperative, many municipal chief election officials have been advised by their local school departments that alternative locations other than the schools should be sought. Limiting the number of elections held in a year could reduce this friction and reduce these concerns.

7. March is a challenging month to conduct elections as the election is held early in the month and winter weather conditions such as snow and ice are still a concern. In addition, the vast majority of poll workers are retired citizens, many of whom travel to Florida and other warm weather locations during the winter months. Election officials often struggle with filling the void created by so-called "snow birds" for March elections. Labor unions, political parties, stay at home mothers and senior citizens for many years filled the role of poll workers. However, as cultural conditions have changed the bulk of election workers now come from the retired citizens pool.

Prepared by: *William C. Campbell, Woburn City Clerk*
Woburn City Hall – 10 Common Street
Woburn, MA 01801
Tel: (781) 897-5850
Email: wcampbell@cityofwoburn.com

Rev .September 6, 2011

FVAP.GOV
FEDERAL VOTING ASSISTANCE PROGRAM

FEDERAL VOTING ASSISTANCE PROGRAM
Department of Defense
Rosslyn Plaza North
1777 North Kent Street
14th Floor, Suite 14003
Arlington, VA 22209-2162

May 10, 2011

The Honorable Barry Finegold
Senate Chairman, Joint Committee on Election Law
The Honorable Michael Moran
House Chairman, Joint Committee on Election Law
Commonwealth of Massachusetts
State House, Room 443
Boston, MA 01233

Re: Attached Written Testimony in Support of HB 1972

Dear Senator Finegold and Representative Moran:

Attached please find a copy of written testimony from Scott Wiedmann, Deputy Director of the Federal Voting Assistance Program in support of HB 1972, which we understand will be heard tomorrow in the Joint Committee on Election Law.

Many thanks for your consideration of our testimony.

Sincerely,

QUINN.
CAMERON.
P.1397545870

Digitally signed by QUINN.
CAMERON.P.1397545870
DN: c=US, o=U.S. Government,
ou=DoD, ou=PKI, ou=DOD HRA,
cn=QUINN.CAMERON.
P.1397545870
Date: 2011.05.10 18:59:23 -04'00'

Cameron P. Quinn
Senior Policy Analyst

FEDERAL VOTING ASSISTANCE PROGRAM
Department of Defense
Rosslyn Plaza North
1777 North Kent Street
14th Floor, Suite 14003
Arlington, VA 22209-2162

Written Testimony

May 2011
In support of HB 1972
From
Scott Wiedmann - Deputy Director
Federal Voting Assistance Program
U.S. Department of Defense

The Federal Voting Assistance Program (FVAP) of the US Department of Defense presents this written testimony in support of a bill before the Legislature of the Commonwealth of Massachusetts to move its primary from September to June of federal election years. FVAP was created to assist military and overseas civilian voters to effectively cast a ballot and to have it counted.

We submit this testimony in an effort to assist our targeted voting population during elections in Massachusetts -- the 11,691 men and women of the armed services, and their 3,899 spouses and voting age dependents, as well as those citizens of Massachusetts who are overseas on Election Day, whether federal workers, Peace Corps Volunteers, business men and women, missionaries or students abroad.

Late last month FVAP sent letters to Speaker DeLeo, Senator Murray, and Secretary of State Galvin in which FVAP outlined three legislative initiatives that are recommended, but still lacking, in Massachusetts Code. Adoption of HB 1972 would significantly improve the possibility that Massachusetts' military and overseas citizens will be able to successfully mark and return a ballot and have it counted in the upcoming presidential elections in 2012.

The Problem

As President Truman recognized in 1952, the men and women of the armed forces, "in many cases risking their lives, deserve above all others to exercise the right to vote."[1] For over half a century, this still remains a significant problem for this nation. Congress has determined that it is the right of absent uniformed services voters and overseas voters to vote by absentee ballot in all elections for federal office. Congress has codified this right through the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA), as amended in 2009, by the Military and Overseas Voter Empowerment Act

[1] March 28, 1952 letter from President Truman to Congress, contained in the 1952 Report of the Subcommittee on Elections, Committee on House Administration, U.S. House of Representatives.

(MOVE Act), and by other federal legislation. As Congress has stated: "All eligible American voters should have an equal opportunity to cast a vote and have their vote counted."[2]

Military and overseas voters still face many challenges almost 60 years after President Truman's concern. FVAP's 2008 Report to Congress indicates the existence of a significant discrepancy in the number of successfully returned ballots between the stateside non-UOCAVA absentee voting population (91% return rate) and the UOCAVA absentee voters, of whom only 67% were able to successfully return their ballots in U.S. elections.

The overwhelming area of failure in the absentee voting process for UOCAVA voters, comprising the military, their spouses and voting age dependents and overseas citizens, was not registration problems or absentee ballot application failures, but, primarily, ballot return problems and, secondarily, voted ballots that were returned by UOCAVA voters, but not counted, usually because they arrived back too late. In fact, FVAP's surveys indicate that over 78% of all UOCAVA voting problems fell into these two areas.

FVAP's goal is that military and overseas voters have the same absentee ballot return and acceptance rate as the general absentee voter population. Towards that end, States need to address a variety of problems facing UOCAVA voters, such as:

- Difficulty in registering to vote from outside the State;
- Frequent address changes among military voters;
- Slow mail delivery that causes ballots and ballot applications to arrive late or not at all;
- Difficulty in obtaining information about candidates or issues from outside the State, particularly when internet access is spotty or non-existent;
- Inability to comply with witness or verification procedures in places where there may not be other Americans, much less voters from the same State; and
- A voter's unintentional failure to properly comply with seemingly insignificant requirements to vote absentee, such as the use of "8 1/2 x 11" size paper, in a location where the available standard paper size is different.

The challenges to voting presented to military and overseas citizens are myriad. Finding the forms to register or to apply for an absentee ballot, whether on paper or online, and then returning these forms can be a challenge. Even more difficult, however, is timely receipt and return of absentee ballots. Many of the problems faced are often not the fault of the military or overseas voter; these can be, for example, postal delays when a Peace Corps volunteer uses foreign postal services, or postal delays for military serving on the front lines or on ships at sea, when the military postal service is also the transportation/delivery network for food, ammunition, medical supplies and other wartime essentials. Other minor challenges, but still significant barriers to participation when they arise, include the inability of the voter to find a proper witness under state law, the inability to properly print forms when the paper available overseas does not match stateside paper size or layout, difficulty in determining who is the proper local election official, or who the general election political nominees are when access to the internet is minimal or non-existent. Different military and overseas voters face unique challenges, and, therefore, the best solutions are multiple solutions. Providing emailed blank ballots assists some voters;

[2] Pub. L. 107-107

making blank ballots available for a military or overseas citizen to access online and print out at the cyber-café, simplifies the voting process for other voters; some voters can use fax, but many cannot.

Most overwhelming are the logistical challenges presented by the transit by mail of paper applications and ballots. FVAP acknowledges that there are significant logistical challenges for state officials to send ballots at least 45 days in advance. Yet, for some UOCAVA voters, ballots sent 45 days in advance by mail may still not give them enough time to vote. In November 2008, MPSA, the military postal service agency, recommended on its website the allowance of a period of 28 days for a one-way transit of mail to Iraq and Afghanistan. The average Priority mail delivery times to aircraft carriers frequently exceed two weeks; and carriers are the first stop in mail distribution to the smaller ships in a carrier battle group. If a soldier or sailor is at the end of this logistics distribution chain and cannot open, act upon and return mail during the short time that the mail delivery personnel are in the area, it can be weeks before this voter is again able to post his/her ballot for return.

FVAP does want to acknowledge the hard work and innovative comprehensive plan for UOCAVA voters that was implemented in 2010 by Massachusetts' elections officials. Use of priority mail both to voters and for voters to return their ballots did assist in allowing more voters than otherwise would have been able to successfully participate in the 2010 elections. Even though this had some positive impact, however, due to the challenges outlined above priority mail only improves delivery times by a very small margin. Despite the hard work and significant resources devoted to this solution, it pales in comparison to moving the primary date back sufficiently to ensure ballots are mailed at least 45 days in advance of the general election. Moreover, while Massachusetts requested and was granted a waiver under the MOVE Act for the 2010 election cycle and met their commitments under their comprehensive plan, each election cycle requires a new waiver request, and there is no guarantee that future waiver requests will be granted.

Potential Solution

HB 1972 proposes moving Massachusetts' September primary back into June. This is in line with the recently passed federal amendment to UOCAVA in the 2009 MOVE Act. It is also in line with a number of states that have recently moved their primary elections earlier to more easily comply with the new federal requirement, and would provide ample time for Massachusetts' election officials to certify a ballot and ensure it is mailed at least 45 days prior to Election Day.

Conclusion

Military sacrifice should not include sacrificing the right to vote. Passing HB1972 will significantly improve voter success for many military members, overseas voters, and their families.

Many thanks for your consideration of FVAP's testimony.

Communication #2
October 17, 2011

CITY OF NEWBURYPORT
COMMUNITY PRESERVATION COMMITTEE
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400 • (978) 465-4452 (FAX)

RECEIVED
CITY CLERK
NEWBURYPORT, MA
2011 OCT 11 P 12:59

October 11, 2011

Thomas O'Brien, President
Newburyport City Council
60 Pleasant Street
Newburyport, MA 01950

Dear Council President O'Brien and Members of the Council,

As you know, the Community Preservation Committee recently recommended that the City Council appropriate $45,000 to the "Moseley to Maudslay Trail Connection Project" (Project 11). This project was sent back to the Budget and Finance Committee and has not been acted on. In recent weeks, Planning Department staff has responded to a number of questions and concerns regarding this project. Because of both delays from the Whittier Bridge project and progress made on land acquisition for the rail trail, it is now their opinion that these funds would be better prioritized for Phase II of the Clipper City Rail Trail project instead. We agree.

At our September 27th meeting, the Committee voted to withdraw our original recommendation to the City Council to fund the "Moseley to Maudslay Trail Connection Project" and recommend those funds be instead added to the "Clipper City Rail Trail Phase II Project" (Project 12). Attached is our supplemental recommendation, labeled Project 12A.

The Committee would like to note that we are still in support of the "Moseley to Maudslay" project, though we understand that the timing for funding the project may not be as crucial as originally thought.

If you have any questions, please feel free to contact me.

Sincerely,

Michael Dissette (de)

Michael Dissette
Chair

The Newburyport Community Preservation Committee submits the following supplemental recommendation.

PROJECT NO. 12a
CLIPPER CITY RAIL TRAIL EXTENSION PROJECT
(9/29/11)

The CPC recommends an additional appropriation of $45,000 (in addition to the $53,000 that was appropriated on August 29, 2011) to the City of Newburyport to support the second phase of the Clipper City Rail Trail Project. The project is managed by the Office of Planning and Development.

This recommendation assumes the withdrawal of the CPC's prior recommendation to fund Project 11, "Moseley to Maudslay Trail Connection Project".

The CPA category for this project is Recreation.

Project Summary

The City of Newburyport has been working on the Clipper City Rail Trail for well over a decade, but conversion of the old Eastern Line railroad corridor into a multi-use, recreation trail was finally completed last year. This first phase of the Rail Trail Project now allows people to walk, run, and bike between the commuter rail station and the Merrimack River.

Phase II of the Rail Trail will follow the old City Branch corridor, which runs along the waterfront and through the South End. Eventually the trail will extend along the central waterfront, through the South End, past March's Hill, and back to the MBTA commuter rail station. The entire loop will run approximately three miles, with the potential to connect to other trail networks in neighboring communities. In order to leverage state and federal construction funding to build this next portion of the Rail Trail, the City must first secure funding for survey, design and permitting.

CITY OF NEWBURYPORT
OFFICE OF PLANNING AND DEVELOPMENT
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400 • (978) 465-4452 (FAX)

MEMORANDUM

TO: **Honorable members of the City Council**

FROM: **Andrew Port, Director of Planning & Development**

CC: **Donna D. Holaday, Mayor**

RE: **CPC Funds Reallocation - Moseley/Maudslay Trail to Clipper City Rail Trail (Phase II)**

DATE: **September 29th, 2011**

As you know the Community Preservation Committee (CPC) voted earlier this year to recommend that $45,000 be appropriated from FY2012 Community Preservation Fund Revenues for the project entitled "Moseley to Maudslay Trail Connection." In the past several weeks we have responded to a number of questions from Council members regarding this project, with issues ranging from anticipated usage, to public safety, to maintenance and construction costs. While it is essential that design and construction of the new Whittier Bridge, abutments, and surrounding grading work (by MassDOT) does not present a barrier to construction of a bike path in this area in the coming years, we recognize that there is a desire to place current efforts on Phase II of the Clipper City Rail Trail. In addition, recent delays in the work undertaken by MassDOT to complete an environmental review of the overall project have extended the timeframe available to address this project.

In accordance with my September 12, 2011 memorandum to the Council a request was made to the Community Preservation Committee to recommend a reallocation and appropriation of the above referenced $45,000 from the "Moseley to Maudslay Trail Connection" to the "Clipper City Rail Trail (Phase II)." On September 27, 2011, the Community Preservation Committee voted accordingly to make this recommendation to the Council.

As such, **we respectfully request that the Council vote to appropriate these additional funds ($45,000) accordingly, as an addition to the $53,000 already appropriated for the Clipper City Rail Trail (Phase II) by the City Council on August 29, 2011.**

With or without funding for design and permitting of the "Moseley to Maudslay Trail Connection", we will continue to advocate for public access under the new Whittier Bridge abutment, and an overall design that does not impede future trail connections for the public in either direction. We consider this request merely a postponement of the project "Moseley to Maudslay Trail Connection," until such time as unresolved issues can be addressed.

Thank you in advance for your consideration of the above request. Please do not hesitate to contact me if you have any questions regarding this, or any other, planning initiatives.

Communication #3
October 17, 2011

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA
2011 OCT -7 A 11:41

CITY OF NEWBURYPORT
60 PLEASANT STREET
NEWBURYPORT, MA 01950

BLOCK PARTY APPLICATION

Please fill out the application below and obtain the approving signatures for the street closure. Mail or drop off the completed signed application at: City Clerk's Office, City Hall, 60 Pleasant St., Newburyport, MA 01950 **at least 8 business days prior** to a City Council meeting. The requested Block Party needs approval by the City Council. For any questions, please contact The City Clerk's Office at (978)465-4407.

DATE OF REQUEST: October 4, 2011

CONTACT INFORMATION

FIRST AND LAST NAME: Katharine Lee

MAILING ADDRESS: 15 Eagle Street Newburyport

PHONE NUMBER: 617-233-4931

E-MAIL ADDRESS: klaurence@gmail.com

BLOCK PARTY INFORMATION

BLOCK PARTY DATE: October 29th

DESIRED STREET CLOSING LOCATION: 14 Eagle to 10 Eagle
Please indicate cross streets when requesting the closing of street sections

STREET TO BE BARRICADED: Eagle Street

DESIRED STREET CLOSING TIME: 3:00 pm – 8:00 PM
Block Parties should run no later than 10:00 p.m.

REGULATIONS

By signing, I agree that I am a legal adult 18 years of age or older and understand this permit does not release me of any liability for damages that may result from the conducting of this Block Party. Further, I agree to comply with all requirements listed below:

I understand that applications for block party permits may take up to four weeks to process.

Block parties will be conducted only on low-volume residential streets, dead-end streets, or cul-de-sacs, No thoroughfares or collector streets may be used.

It is hereby agreed that, by signing and presenting this application, signer(s) represents to the City of Newburyport that the following statements are true and correct, and agrees to and will abide by the following:

1. All residents living on the street or block for which the party is planned request the Block party, or have been contacted and do not object to the Block Party.
2. To be responsible for placement, maintenance and removal of barricades.
3. A block party permit does not allow the sale of alcohol or the consumption of alcohol on public property (in city streets, sidewalks, parks, etc.) alcohol is allowed only on private property. All state and city alcohol laws still apply during Block Parties.
4. Amplified music shall be permitted with permission of the City Council.
5. To leave **AT LEAST a TWELVE (12) FOOT AISLE** in the street to permit passage of emergency vehicles or vehicles of residents. Failure to maintain a ten foot aisle during the entire period of the party will necessitate denial of requests for subsequent block parties. **Public safety personnel will monitor the party for strict adherence to this rule**.
6. To maintain adult supervision at all times during the party.
7. Applicant(s) shall be responsible for the pick-up of trash and garbage within 2 hours of the end the party.
8. Streets may not be barricaded later than 10:00 P.M.
9. No residents of the area designated shall be prohibited from attending the party.
10. No such activity may be conducted within 500 feet of any school, church, hospital, nursing home or similar operation unless endorsed by the management of such institution e
11. Only approved readily removable Barricades will be permitted such as, orange cones and sawhorses with a sign. No vehicles will permitted to be used as a Barricade.
12. Block parties are permitted 10AM-10PM

Applicant Signature _____ Date 10/4/2011

APPROVAL SIGNATURES REQUIRED FOR STREET CLOSURE

CITY MARSHALL _____
4 Green Street

FIRE CHIEF Dep SHB 10/6/11
Greenleaf Street

DEPUTY DIRECTOR _____, DIRECTOR
1 Perry Way

CITY CLERK _____
60 Pleasant St.

City use only:

Approved_____ -Denied_____ Date_____

Communication #4
October 17, 2011

City of Newburyport

Application

Food Establishment Outdoor Seating on Public Property

2011 OCT -7 A 10:22

Date: Oct 7, 2011

Name of Business Owner: Dawn McCandless

Name of Property Owner: Dawn McCandless

Business Name: Agave Mexican Bistro

Cell 617-794-8045
978-499-0428

Business Address: 50 State Street Newburyport, MA 01951

Number of Tables Requested: 3 Dimensions: 30" Round Material: metal / Black

Number of Chairs Requested: 9 Dimensions: 17" wide standard chair height Material: metal / Black

☐ Applicant requests approval of outdoor seating for the sole purpose of food consumption.

☒ Applicant requests approval of outdoor seating for food *and* alcohol consumption.

Application Requirements

Please submit the following documents with the completed application to:

City Clerk's Office
Newburyport City Hall
PO Box 550
60 Pleasant Street
Newburyport, MA 01950

1) Applicants must provide evidence of liability insurance to the City Clerk with minimum coverage in the amount of one million dollars, naming the City of Newburyport as co-insured. This insurance coverage must be in force for the duration of the approved period.

2) 8 ½ x 11 sketch of outdoor seating detailing: a) measurements of tables and chairs b) total width of sidewalk and c) distance between proposed seating and sidewalk

Application

Food Establishment Outdoor Seating on Public Property (continued)

3) obstacles such as streetlights, signs, trees, benches, and garbage barrels.

4) Applicants seeking approval of outdoor seating for food and alcohol consumption must also submit:

a) Written and dated approval of the Newburyport License Commission for the outdoor service of alcohol, including the information and sketch used for the basis of the License Commission approval.

b) 8 ½ x 11 sketch of outdoor seating cited above must also include a depiction and information on the placement, dimensions, and materials used to create a demarcated area for the service of alcohol.

A completed application for outdoor seating for the service of food and alcohol will also include a written recommendation from the Newburyport Police Department. Upon the City Clerk's receipt of a completed application, the Clerk will request from the Newburyport Police Department a recommendation regarding the application.

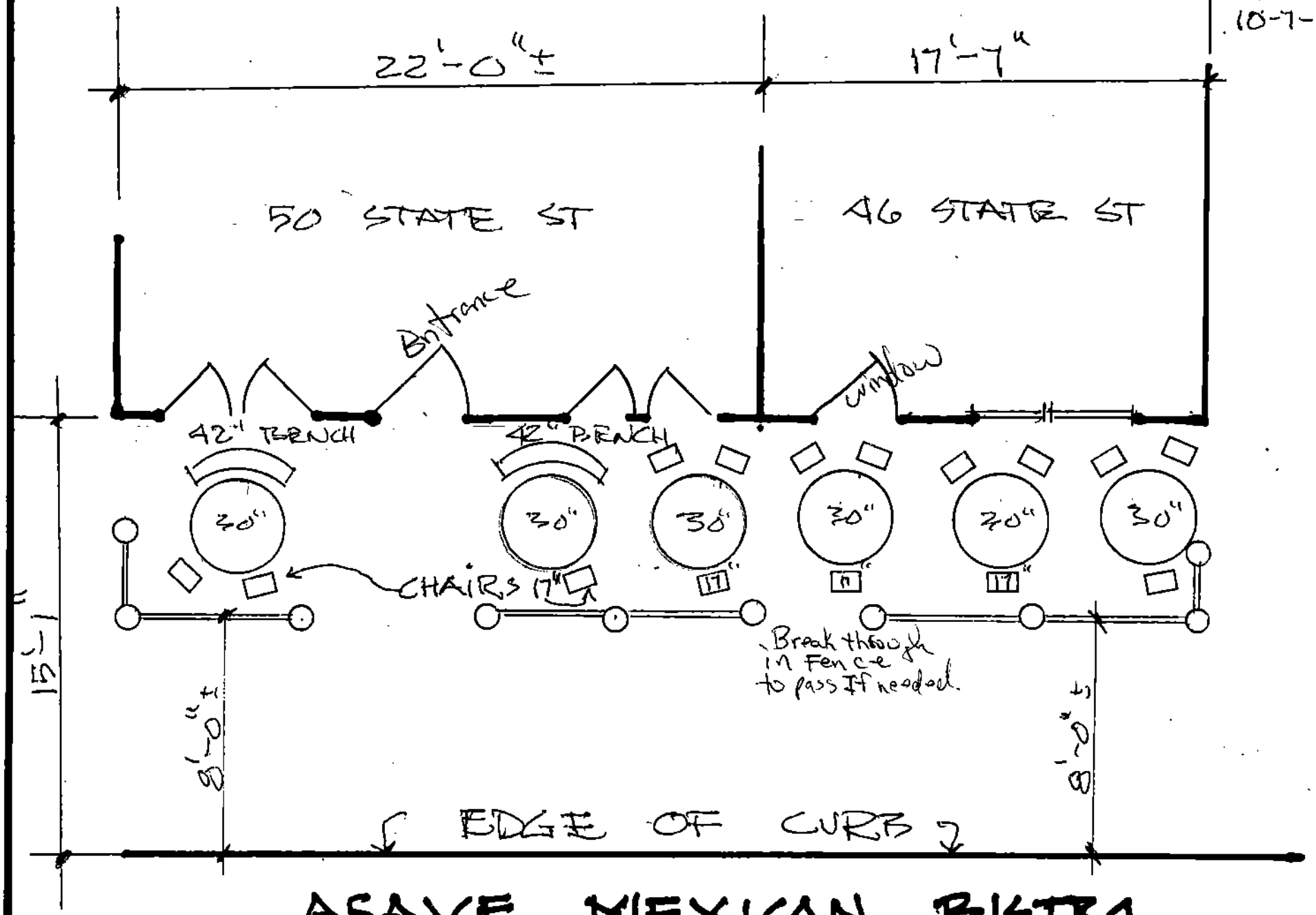
RELEASE AND INDEMNITY AGREEMENT TO ENCUMBER A PUBLIC WAY

I, the undersigned Applicant or Duly Authorized Agent, hereby agree to RELEASE, DISCHARGE, and HOLD HARMLESS, the City of Newburyport, a municipal corporation of the Commonwealth of Massachusetts, and its officers, employees, agents, and servants from all actions, causes of action, claims, demands, damages, costs, loss of services, expenses and compensation associated with the undersigned's use of the public way as described herein.

Dawn McCandless

Signature of Business Owner

D. JAY
10-7-11



AGAVE MEXICAN BISTRO

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/6/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Elliot Whittier Insurance
3 Centennial Drive
Peabody MA 01960

CONTACT NAME: Lin Schwarz
PHONE (A/C, No, Ext): (978) 977-4884 FAX (A/C, No): (978) 977-0850
E-MAIL ADDRESS: lschwarz@elliotwhittier.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Assurance Company of America	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Agave Restaurant, Inc.
dba Agave Mexican Bistro
50 State Street
Newburyport MA 01950

COVERAGES CERTIFICATE NUMBER: 11/12 MA GL REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC			PPS04806016	6/5/2011	6/5/2012	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $			PPS04806016	6/5/2011	6/5/2012	EACH OCCURRENCE	$ 3,000,000
							AGGREGATE	$ 3,000,000
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					WC STATU-TORY LIMITS OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
City of Newburyport is an Additional Insured for General Liability as required by written contract with the Named Insured, but only in accordance with the policy terms, conditions and exclusions

CERTIFICATE HOLDER

City of Newburyport
City Hall
60 Pleasant Street
Newburyport, MA 01950

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Lin Schwarz/LIN

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City of Newburyport

Office of the Mayor

Donna D. Holaday, Mayor

60 Pleasant Street - P.O. Box 550

Newburyport, MA 01950

(978) 465-4413 (978) 465-4402 (Fax)

Communication #5
October 17, 2011

2011 OCT 11 P 3:46

To: President and Members of the City Council

From: Donna D. Holaday, Mayor

Date: 10/11/11

Subject: City Council Chambers Audio Visual Equipment

Please accept this communication as an indication that in the coming weeks I ask the City Council to approve a transfer in the amount of approximately $65,000 to $70,000 to replace all of the audio/visual equipment in City Council Chambers. The current equipment has outlived its useful life and it's been determined that it can no longer be upgraded. The City needs to replace this equipment in order to be able to broadcast City Council meetings to the public.

The City is currently in the process of putting together a request for proposal to ensure that the City receives the best price. I anticipate using free cash which I anticipate being certified in the coming week to fund this transfer.

APPOINTMENTS

CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY, MAYOR
60 PLEASANT STREET - P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4413 (978) 465-4402 (FAX)

Appointment #1
October 17, 2011

2011 OCT 11 A 11:56

To: President and Members of the City Council

From: Donna D. Holaday, Mayor

Date: October 11, 2011

Subject: Appointment

I hereby appoint, subject to your approval, the following named individual as a member of the Bartlett Mall Commission. This term will expire on October 1, 2014.

Walt Thompson
100 State Street, Unit #2
Newburyport, MA 01950

October 11, 2011

Mayor Donna D. Holaday
Office of the Mayor
60 Pleasant Street
Newburyport, MA 01950

Dear Mayor Holaday,

Thank you for your time to discuss the exciting quality of life opportunities within Keep Newburyport Beautiful.

This note is to formally request that you consider me to be a commissioner of the Bartlett Mall. My wife and I live around the corner from it and walk our golden retriever there almost every day. We pick up the occasional pieces of litter and enjoy the beauty of this historic treasure.

It would be my pleasure to follow your leadership towards the effective management of the Bartlett Mall.

Best,

Walt Thompson
100 State Street, Unit #2
Newburyport, MA 01950

Phone: 914-671-3903

Email: NBPT108@gmail.com

RESUME

Walt Thompson
100 State Street, Unit #2
Newburyport, MA 01950

NBPT108@gmail.com

Objective: Contribute to local quality of life partnerships

2005 – 2011...Program Manager, Keep Putnam Beautiful (KPB), Putnam County Health Department, Brewster, NY. www.putnamcountyny.com/kpb. Initiated and developed community partnerships with businesses, non-profits, residents and governments to improve the quality of life. Putnam County Sheriff Don Smith and District Attorney Adam Levy developed a taxpayer-saving Alternatives-to-Incarceration program that added to the 273 volunteers in our programs.

Major accomplishments with volunteers:
Built Lake Gleneida Walking Trail
Converted concrete traffic island to plantings
Supported the adoption of nine NYS highways and twenty nine County roads by forty seven volunteer groups and individuals
Recognized volunteers and promoted activities via print media and Facebook
Planted 3200 daffodils along roads and highways

Funding for KPB projects came through community partnerships, sponsorships and grants.

1979 – 2005...Developed cost-saving partnerships with 3M, Gestetner, Samsonite Furniture, Vogel Peterson, Consumer Development Group (promoting products to corporate end-users) and S. P. Richards (a nationwide wholesaler of office products). The markets we grew ranged from New England higher education to Boston and Metro-NYC retailers.

My involvement with volunteers started in 1995...on weekends...organizing volunteers in sea kayaks picking up floating debris on the Hudson River near West Point. After five years, I asked Bob Bondi, Putnam County Executive, to hire me to form Keep Putnam Beautiful. His leadership and the support of the County Legislature were keys to our success.

Education
BA...State University of NY at Brockport

Community Connections
Rotary Club of Newburyport
Volunteer, Parker River National Wildlife Refuge

CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY, MAYOR
60 PLEASANT STREET - P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4413 (978) 465-4402 (FAX)

Appointment #2-4
October 17, 2011

2011 OCT 11 P 3:13

To: President and Members of the City Council

From: Donna D. Holaday, Mayor

Date: October 11, 2011

Subject: Appointments

I hereby appoint, subject to your approval, the following named individuals from reserve police officers to full time police officers for the City of Newburyport.

John Patrick Gavin
14 Marquand Lane
Newburyport, MA 01950

Charles Thomas Ferlauto
4 Park Street
Newburyport, MA 01950

Gregory Frederick Whitney
23 Low Street
Newbury, MA 01951

CITY OF NEWBURYPORT

POLICE DEPARTMENT

THOMAS H. HOWARD
CITY MARSHAL

4 GREEN STREET
NEWBURYPORT, MA 01950

TEL: 978-462-4411
FAX: 978-462-0396

October 11, 2011

TO: Mayor Donna Holaday
FR: Marshal Thomas Howard

RE: Full Time Police Officer Appointment

I am requesting the appointment of three Reserve Officers to be promoted as full time police officers with the Newburyport Police Department:

- John Patrick Gavin, 14 Marquand Lane
  Newburyport, MA 01950
- Charles Thomas Ferlauto, 4 Park Street
  Newburyport, MA 01950
- Gregory Frederick Whitney, 23 Low Street
  Newbury, MA 01951

Thank you and the City Council for your attention to this matter.

Any questions please do not hesitate to contact my office.

Sincerely,

Marshal Thomas Howard

Excellence In Policing Through Superior Service

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John Patrick Gavin

14 Marquand Lane • Newburyport, MA 01950
Phone (978) 430-2925 • E-mail jgavin44@yahoo.com

Objective To obtain a reserve officer position with the Newburyport Police Department

Education Fitchburg State College, Fitchburg, MA (Sept. '04-May '08)
B.S. Criminal Justice
- Graduated May '08

Newburyport High School, Newburyport, MA (Sept. '01-June '04)
- Received diploma June '04

Law Enforcement Experience Essex County Sheriff's Department (Sept. '08-Present)

Correctional Officer
- Graduated from Sheriff's Department Academy 2nd in class
- Squad Leader during Academy
- 3rd shift at the Middleton House of Corrections

Summer Internship Lawrence Community Corrections Center (July '06-Sept '07)
- Drug Screening Collector
- Helped with monthly/quarterly reports
- Assisted with security desk on 1st floor
- Helped with sanctions reports

Boxford Police Department (May '08-August '08)
- Ride-alongs

Awards Fitchburg State College (Sept. '04-May '08)
Undergraduate Student
- Dean's List Student
- Criminal Justice Academic Achievement Award
- Graduated Magna Cum Laude with a 3.63 GPA

Newburyport High School (Sept. '01-June '04)
- College Algebra Topics Award
- Honor roll student every semester
- Baseball Captain '04 season
- MVP Baseball team '04 season

Qualifications

- First Responder
- CPR/AED certified
- Class A Large Capacity License to Carry Firearms issued in Massachusetts

References

• Dave Barker	617-438-6570
• AC Calcano	978-319-5000
• Kevin Callahan	978-463-6619

CHARLES T. FERLAUTO

4 Park Street • Newburyport, MA 01950 • (978) 204-8314 • cferlauto@yahoo.com

SUMMARY

Highly-motivated individual with solid educational foundation in criminal justice and an exemplary record in the military service. Enthusiastic leader/mentor, who was commended for demonstrating exceptional levels of leadership and professionalism in the employment of troops. Skilled at interfacing with the public in community policing environments.

EDUCATION

UNIVERSITY OF MASSACHUSETTS/LOWELL, Lowell, Massachusetts
Bachelor of Science degree, Criminal Justice, June 2003
Activities: Member, Football Team (Division II), 2002
Award: "Unsung Hero" (football team and coach recognition), 2002

RELEVANT EXPERIENCE

BOSTON UNIVERSITY MEDICAL CENTER, Boston, Massachusetts
State Special Police Officer/SDO/FTO, Bike Officer October 2003 – present
Provide security for personnel and property of an inner-city university medical complex (3,000,000 sq.ft.). Serve as First Responder in emergencies, contingencies, and disasters in an area with criminal activity that impacts the medical center. Provide access control in order to ensure that all persons/property entering or existing BUMC are in compliance with Medical Center policies and procedures. Serve as liaison with Boston University police, external law enforcement agencies, and the courts. Testify in depositions and/or trials.

WEST NEWBURY POLICE DEPARTMENT, West Newbury, Massachusetts
Intern/Auxiliary Police Officer, April 2000 – May 2001
Provided assistance at headquarters to officers in cruisers by responding to calls. Served as a traffic officer during community events. Participated in sector patrolling in police cruisers. Was selected for Criminal Justice Training Council due to strong potential in law enforcement.

INTERNSHIP EXPERIENCE

MASSACHUSETTS STATE POLICE CRIME LAB, Sudbury, Massachusetts
Intern/Office Assistant, February 2003 – May 2003
Assisted the supervisor of the Combined DNA Index System (CODIS) unit, the FBI's national DNA identification index system which facilitates the storage and exchange of DNA records. Worked in conjunction with supervisor for DNA testing of convicted felons. Interacted with troopers and scientists. Entered information into the database.

MILITARY EXPERIENCE

UNITED STATES MARINE CORPS (RESERVES), 1999 - 2001
Sgt./Squad Leader, B Company, 1st Battalion, 25th Marines, 4th Marine Division,
Conducted small, informal training classes, led tactical decision games, and instructed during practice drills. Trained and drilled platoon on basic safety rules and weapons handling. Participated in amphibious assault training, Naval Amphibious Base (Coronado, California).

UNITED STATES MARINE CORPS (ACTIVE), 1995 - 1999
Sgt./Infantry Rifleman/Squad Leader, 1st Battalion, 8th Marines, 2nd Marine Division
Led training preparation for combat while deployed to Japan and Korea. Participated in noncombatant operations securing zones and evacuating citizens in Albania and Zaire.

TRAINING

CRIMINAL JUSTICE TRAINING COUNCIL:
Basic Course: Reserves/Intermittent Police Officers; Course: Prevention of Suicide, 2000

CERTIFICATION

INT'L ASSOC'N FOR HEALTHCARE SECURITY AND SAFETY (IAHSS): Basic course, 2004
INTERNATIONAL POLICE MOUNTAIN BIKE ASSOCIATION (IPMBA): 2008

AWARDS/ RECOGNITION

UNITED STATE MARINE CORPS:
Navy and Marine Corps Achievement Medal, National Defense Service Medal; NATO Medal, Sea Service Deployment Ribbon; Meritorious Unit Citation, Armed Forces Service Medal, Humanitarian Service Medal, Meritorious Mast, Good Conduct Medal, Rifle Expert Badge.

Reference:

Brian Doak
Massachusetts State Trooper
8 Powhapan Road, Pepperell, MA 01463
(978) 302-0163

Thomas Farrell
Sales Representative
23 Viola Circle, Seabrook, NH 03874
(978) 423-2753

William Pettingell
Retired Teacher
4 Anchors Way, Newbury, MA 01951
(978) 462- 9819

Ellin McSweeney
Mortgage Officer
81 State Street, Newburyport, MA 01950
(978) 462-2344

Paul Stone
Manager Of Operations, Boston University Medical Center
710 Albany Street, Boston, MA 02118
(617) 414-2164

Donald C Gravelle, Barbara A Gravelle
Landlords/Home Owner
227 High Street
Newburyport, MA 01950
(978) 462-3870

Danielle Bernier
Marketing Manager
472 W. Lowell Avenue
Haverhill, MA 01832
(978) 317-2431

NBPT PD Officers
Sgt. Stephen Chaisson, Officer Charles Eaton, Officer Michael Surgrue, Officer Eric Marshall, Officer John Schmidt, Officer Mathew Simons.

GREGORY FREDERICK WHITNEY

(978) 360-0471
gregorywhitney@yahoo.com

23 Low Street
Newbury, MA 01951

EDUCATION

Northeastern University — Boston, MA
December 2007

- Bachelor of Science Degree in Criminal Justice
- Graduated *Magna cum Laude*
- Treasurer, *Alpha Phi Sigma National Criminal Justice Honor Society*
- Editorial Assistant, *Northeastern University College of Criminal Justice Newsletter*

EXPERIENCE

West Newbury Police Department — West Newbury, MA
Reserve Police Officer — July 2006-present

- Protect life and property and maintain public order
- Respond to emergency and non-emergency calls for service
- Enforce traffic laws and regulations through directed patrol
- Work independently and as a member of a team to further public safety
- Participate and testify in court proceedings
- Perform dispatch duties
- Interact with the public with the highest level of customer service

Public Safety Dispatcher — October 2005- July 2006

- Dispatch police, fire, medical, animal control, and highway departments
- Answer incoming emergency and non-emergency phone lines

Massachusetts General Hospital — Boston, MA
Police and Security Officer — April 2010- present

- Provide for the safety and well being of hospital staff, patients, and visitors
- Respond to emergencies within the hospital
- Perform access control
- Patrol assigned areas and high risk areas including Emergency Department and psychiatric floors

Essex County Sheriff's Department — Middleton, MA
Assistant Director of Administrative Operations — December 2007- July 2009

- Applied for state and federal grants
- Managed and maintained programmatic and financial records for state and federal grants
- Special projects coordinator
- Advised the Sheriff of Essex County on criminal justice policy
- Served simultaneously as the Assistant Director of the Lynn Community Corrections Center for three months

CERTIFICATIONS

- Massachusetts Criminal Justice Training Council Basic Reserve/Intermittent Police Officer
- LEAPS Operator
- Standardized Field Sobriety Tester
- Certified Radar Operator
- Breath Test Operator
- CPR/AED at the Healthcare Provider Level
- First Aid at the First Responder Level

City of Newburyport

Office of the Mayor

Donna D. Holaday, Mayor

60 Pleasant Street - P.O. Box 550

Newburyport, MA 01950

(978) 465-4413 (978) 465-4402 (Fax)

Appointment #5
October 17, 2011

NEWBURYPORT, MA

2011 OCT 11 P 3:52

To: President and Members of the City Council

From: Donna D. Holaday, Mayor

Date: October 11, 2011

Subject: Appointment

I hereby appoint, subject to your approval, the following named individual as a member of the Water Commission. This term will expire on October 1, 2016.

Roger E. Jones
37 Storeybrooke Drive
Newburyport, MA 01950

Personal

Birthdate:	August 23, 1947
Marital Status:	Married, three children
Residency:	Newburyport, Mass, since 1975
Address:	37 Storeybrooke Drive Newburyport, Mass. 01950
Telephone:	home 978-465-5132 Cell 978-621-4223

Education

Brunswick High School, Brunswick, Maine – 1965
Bachelor of Science in Mechanical Engineering (BSME), University of Maine, 1969
Master of Science Mechanical Engineering (MSME) Northeastern University, 1976

Professional Experience

2009 – Present — Gear Consultant (part-time)

Current part-time consulting activities with GE and other gear manufacturers include the areas of design, manufacture, and operation of propulsion gearing.

1969 - 2009 — General Electric Company, Lynn, Mass.

Retired after 40 years in ship propulsion gear design. Positions included gear design engineering, management (12 years), and retired as Principal Engineer - Marine Drives and Gear Systems. Responsibilities included all GE ship propulsion gearing, but primarily to U.S. Navy. Designs included U.S. Navy ships the SSN-688 and Trident class submarines, the Nimitz and Ford class aircraft carriers, the DDG-51 Class destroyers, and the Freedom class Littoral Combat Ships, as well as the PGG-511 and PCG-612 class ships for the Saudi Arabian Navy.

Professional Affiliations

Professional Engineer – Licensed in Massachusetts, since 1979

American Society of Mechanical Engineers (ASME), since 1967 (student member) to current status as Life Member.

American Society of Metals (ASM), from 1982 to retirement

GE local representative to American Gear Manufacturers Association (AGMA) prior to retirement.

Community Activities

Belleville Elementary School (Newburyport) PTA (1975 – 1986)
Massachusetts State PTA (1981 – 1982)
R.A.N. Middle School (Newburyport) PTO (founding member 1982)
Newburyport High School APT (founding member 1986)
Senior Celebration Committee (founding Co-Chair 1989 - 1990)
Citizens Advisory Committee, Newburyport (1979 – 1982)
School Improvement Council, RAN Middle Newburyport (1986 – 1987)
Designer Selection Board for School Committee Newburyport (intermittent from 1987 to 2000)
NHS Building Committee, Newburyport (2000 – 2006)
NHS Band Parents and Booster's Newburyport (Co-Manager refreshment stand from 1984 – 2011)
Pioneer League, Newburyport (Coach/Manager 1980 – 1988)
Senior Girls Softball League, Greater Newburyport (Manager/President 1985 – 1994)
Newburyport Jaycees (1978 – 1985)
St Paul's Episcopal Church, Newburyport (1975 – 1987)
Central Congregational Church, Newburyport (1991 – 2005)
Main Street Congregational Church, Amesbury (2007 – Present)
Newburyport Lions Club (1987 – Present)
School Building Committee, Newburyport (2011)

END OF CONSENT AGENDA

BEGINNING OF REGULAR AGENDA

APPOINTMENTS
SECOND READING

MAYOR'S APPOINTMENTS
OCTOBER 17, 2011
SECOND READING

APPOINTMENTS

1. Dylan McCloy	17 Wildwood Drive	Youth Commission	May 31, 2014

In City Council Sept. 26, 2011:

Councillor moved to approve first reading as part of the Consent Agenda as amended seconded by Councillor. 11 yes, so voted.

2. Justin Dutcher	45A Washington St.	Harbor Commission	Sept. 1, 2013

In City Council Sept. 26, 2011:

Motion to receive and file by Councillor Derrivan, seconded by Councillor Connell. So voted on a unanimous voice vote.

ORDERS

Order #1
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED: Date:

Confirmatory Order

October 17, 2011

THAT THE CITY COUNCIL of the City of Newburyport amends the expiration dates to the end of the calendar year of each term of the Trustees of the Waterfront Trust as follows:

Current Trustees

Name	Position	Term	Appointed	Expires	Expires[1]
Clifford Goudey	Co-Chair	2nd	27-Apr-09	08-Dec-13	31-Dec-13
Joyce Enderle	Events Coordinator	1st	11-Feb-08	31-Dec-11	31-Dec-11
Joseph Brown	Treasurer	1st	28-Apr-08	30-Apr-12	31-Dec-12
Douglas Locy	Co-Chair	1st	12-Apr-10	01-Mar-15	31-Dec-14
Catherine Russell	Beautification Coordinator	1st	14-Mar-11	01-Feb-16	31-Dec-15

Councillor Gregory D. Earls

Order #2
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED: **Date:**

October 17, 2011

THAT the City Council allow the Friends of the Newburyport Council on Aging the placement of a "Got Books" box at Cushing Park, located on the Kent Street side, for an additional year.

Councillor Gregory D. Earls

Order #3
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED:

Date:
October 17, 2011

THAT the City Council of the City of Newburyport accepts the provisions of Chapter 73, § 4 thereof of the Acts of 1986, as amended by Chapter 125 of Acts of 1988 so as to act under the aforesaid statute to increase by up to 100% the amount of property tax exemptions for persons who qualify for said exemptions under clauses 17D, 22, 22A, 22B, 22C, 22D, 22E, 37A and 41C of § 5 of Chapter 59 of the General Laws and take any other action relative thereto.

Explanation
The order proposes that the City accept a state law provision that allows for increases in all property tax exemptions currently granted by the City. If voted, a uniform percentage increase of up to (100%) would be applied to all of the exemptions.

Clause 17D currently allows for an exemption of $215 for surviving spouses and minor children occupying a property. Clauses 22, 22A, 22B, 22C, 22D and 22E currently allow for veterans exemptions of various types and amounts between a maximum of $400 and $1,000. Clause 37A currently allows for an exemption of $500 for a blind person owning and occupying a property. Clause 41C currently allows for an exemption of $500 for elderly persons owning and occupying a property. Each clause has certain eligibility requirements that must be satisfied to receive the exemption and only one type of exemption can be granted for each property.

Councillor Edward C. Cameron
Budget & Finance Chairperson

STATUTORY EXEMPTIONS

		EXEMPTION AMOUNT	DOUBLED	STATE REIMBURSEMENT	FISCAL 2011 NO.	GRANTED AMOUNT	AMOUNT REIMBURSED
22	Veteran 10% or Surviving Spouse	$400	$800	$225	52	$33,770	$11,700
22A	Veteran - Loss of foot, hand or eye, during duty	$750	$1,500	$575	1	$1,380	$575
22D	Veteran deceased due to Combat Illness/Injury	Infull 1st 5 yrs Max $2500 after		AMOUNT GRANTED	1	$3,258.90	$3,258.90
22E	Veteran 100%	$1,000	$2,000	$825	21	$27,334	$16,825
37A	Blind	$500	$1,000	$87.50	19	$15,110	$1,663
41C	Elderly - 65 & older	$500	$1,000	$500 Plus $2 admin.fee	61	$48,863	$30,622
41A	TAX DEFFERAL (AMOUNT PAID BACK IN FULL WITH INTERST UPON SALE OR DEMISE OF TXPYR	TAX IN FULL		NONE	1	$4,726.61	$0
42	Surviving Spouse or dependent of Police/Firefighter killed in the line of duty.	100% Exempt of Total Tax		NONE	0	$0	$0
17D	Widow/Widower, over 70 or minor	$215	$430	$175	19	$6,880	$6,006
18	HARDSHIP	N/A	N/A		4	$4,747.96	$0

Order #4
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED: **Date:**

October 17, 2011

Ordered: that $6,270,000 is appropriated, in addition to the $26,380,000 previously appropriated, for the purpose of financing the City's Wastewater Treatment Facility Modernization Project, including improvements to the treatment processes and support facilities (buildings, electrical, instrumentation and control systems, etc.), replacement of failing and outdated equipment, construction of the aeration system improvements as required by the Department of Environmental Protection, and related engineering services and land acquisition costs, and including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow $6,270,000 and issue bonds or notes therefore under G.L. c.44 and/or Chapter 29C of the General Laws; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the Mayor determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Mayor is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project.

Councillor Kathleen O'Connor Ives

City of Newburyport

Office of the Mayor

Donna D. Holaday, Mayor

60 Pleasant Street - P.O. Box 550

Newburyport, MA 01950

(978) 465-4413 (978) 465-4402 (Fax)

2011 OCT 11 P 3:46

RECEIVED CLERK'S OFFICE NEWBURYPORT, MA

To: President and Members of the City Council

From: Donna D. Holaday, Mayor

Date: 10/11/11

Subject: Bond Authorization Increase

Attached is a request for a bond authorization increase and a memo from M. Pieter Hartford which outlines the City's need to increase the bond authorization for the Wastewater Treatment Facility Improvements project from $26.38 million to $32.65 million, a total increase of $6.27 million. This increase is needed as a result of higher than anticipated costs for engineering design, permitting, and construction of the project which is detailed in the attached memo from Mr. Hartford. The City will use the $4.41 million in federal stimulus money it received to offset the increased bond authorization leaving approximately $1.86 million that the city will have to repay over the life of the bond.

Please carefully review Mr. Hartford's memo as it provides a comprehensive breakdown of the need for the increased authorization. I would suggest that we take the following steps in moving forward: Schedule a site visit to review construction, hold an information session to review Phase 1 of the project, and conduct a financial review of the work that has been done and what is planned for Phase 2.

I thank you for taking the time to review the attached information. My office will be in contact with you to schedule dates for the site visit and information session.

MPH Environmental, Inc.

Memo

To: Mayor Holaday

From: M.P. Hartford MPH

cc: Tony Furnari & Andrew Flanagan

Date: October 10, 2011

Re: Bond Authorization Increase for WWTF Improvements Project

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The Newburyport Sewer Commission voted at its September 28, 2011 meeting to request City Council approval of an increase to the bond authorization for the WWTF Improvements project, from $26.38M to $32.65M. This increase is required due to higher than anticipated costs for engineering design, permitting, and construction of the project as detailed further below. Although it is anticipated that a significant portion of these costs will be offset by the federal stimulus money the city received for the project ($4.41M), the city must first have authorization to borrow the full amount of the project cost exclusive of any grant/rebate money. After the project is completed and the costs are permanently financed, the final amount the city will have to repay is approximately $1.86M more than the $26.38M that was originally authorized.

Contract 2 Bid & Award

On September 15, 2011, the city accepted bids for the construction of Contract 2. The bid package included the Base Bid for construction of a new Process Operations Building and improvements to the headworks facility and gravity thickeners and two bid alternates. Alternate A to the Base Bid included the installation of a new step screen in the headworks facility to replace the existing channel grinders. In recent years, the WWTF has experienced a significant increase in the maintenance and repair of the grinders. Installation of a new step screen will increase the amount of screenings material removed from the influent flow and reduce the amount of maintenance required on downstream pumping equipment.

Alternate B to the Base Bid included the installation of a second Fournier Rotary Press in the new Process Operations Building. By providing a second unit, the WWTF will have redundancy built into its sludge dewatering operation. This is standard practice in the design of all water and wastewater treatment facilities to allow continuous operation.

The two bid alternates above were considered to be potential cost reduction measures in the event that the bids came in higher than the $10M estimated cost for this phase of the project. Prior to bidding Contract 2, it was believed that any increase in the total project cost would be offset by the federal stimulus money that the city received. Unfortunately, the Contract 2 bid results came in approximately $1.5M higher than anticipated. As a result, the approach to financing the second phase of the project has changed. Instead of seeking City Council approval for the federal stimulus amount ($4.41M) only, it is necessary to request the approval of additional funds in order to award Contract 2 regardless of whether the Base Bid, the Base Bid plus Alternate A, or the Base Bid plus Alternates A & B are awarded.

At its September 28, 2011 meeting, the Sewer Commission voted to award the Base Bid plus Alternates A & B. Since additional funding approval would be required under any contract award scenario, the consensus was to request the full amount at this time. To this end, Bond Counsel has prepared a draft loan order to appropriate an additional $6.27M (see Attachment 1).

Total Project Cost

Based on the as-bid results for Contract 1 & 2, the total estimated cost of the project is $32.65M as compared to the original estimated cost of $26.38M. Attachment 2 presents a summary of the WWTF Improvements project costs as of September 30, 2011. As indicated, the costs are divided between the design phase and the construction phases of the project. The design phase costs have been tracked separately since these costs are considered local, or ineligible for SRF funding (see Attachment 3 for additional breakdown of design phase costs). The total design phase cost is currently $4.33M.

The construction phase costs are divided between Contract 1 and Contract 2. For budgeting purposes, the total construction cost for Contract 1 has been fixed at $12.73M. To date, there have been four change orders issued on Contract 1 to adjust the contract price based on the following: 1) the cost for additional work performed by the contractor and 2) credits for reductions in the scope of work that were negotiated at the outset of the project to reduce the overall project cost. Further, there are a number of potential change order costs that have been identified. Taking these costs into consideration, the revised construction cost for Contract 1 is currently $12.31M and the contingency remaining is $0.42M as shown at the bottom page 1 of the summary table.

In addition to the construction cost for Contract 1, there are the costs for engineering, owner's project manager (OPM), archaeological assessment, and licensed site professional (LSP) services as well as police details. These costs are shown on page 2 of the summary table, and by adding together, the resulting total project cost for Contract 1 is $14.91M.

Following the same format in the summary table, the total construction cost for Contract 2 has been fixed at $12.21M. This includes the Contract 2 bid price of $11.48M, the rental cost for a mobile sludge dewatering unit of $0.15M, and 5% contingency as allowed by the DEP for SRF funding purposes. To be conservative, however, an additional 5% contingency has been included for Contract 2. Due to the unforeseen conditions encountered during Contract 1 (i.e., archaeological assessment for Coomb's Wharf and shifting of the OCL Building), and the potential for encountering contaminated groundwater from past activities at the James Steam Mill Building, it would be prudent for the city to include additional contingency in the Contract 2 budget. However, it should be noted that since Contract 1 is nearly completed, the amount of contingency allocated to this phase of the project may be carried forward to Contract 2.

For budgeting purposes, it was assumed that $0.30M of the $0.42M in contingency remaining under Contract 1 could be carried forward to Contract 2. This is shown on page 2 of the summary table together with the additional costs for engineering. The resulting total project cost for Contract 2 is $13.41M. Following is a summary of the total project costs as compared to the original estimated cost of $26.38M.

Total Estimated Project Cost as of September 30, 2011	$32,650,000
less Original Estimated Project Cost	($26,380,000)
Gross Increase in Project Cost	$6,270,000
less Federal Stimulus Money	($4,414,000)
Net Increase in Project Cost	$1,856,000

Total Project Cost Increases

Following is a summary of the major factors that contributed to the increases in the total project cost since its inception in May 2009.

- The engineering report only carried 15% engineering when typically 20% would be used for both design and construction phase services;

- The original design for the OCL Building did not include LEED accreditation or solar photovoltaic system. The size of the building also increased by 500 sq. ft. during design;

- The original design for the aeration system was based on upgrading the existing mechanical air system. However, in order to secure Green Infrastructure funding, DEP required the design change from mechanical air to fine-bubble diffused aeration;

- The new design for the fine-bubble diffused aeration included the addition of a new building to house the air blowers. This was necessary to protect the significant capital investment in equipment, provide ease of maintenance, and reduce noise impacts;

- The scope of exterior building repairs increased during design. For example, it was determined that the dome roofs on the gravity thickeners could not be removed and reinstalled, but rather, they had to be replaced;

- Through the Site Plan Review approval process, the Planning Board required significant changes to the site plan, including the installation of all utilities underground and an 8-ft wide concrete sidewalk for access between Water Street and the Merrimack River walkway;

- Prior to the start of construction, it was determined that the project required the filing of a Chapter 91 License;

- The as-bid price for Contract 1 was approximately $1.5M higher than the estimated cost. Further, the city had to reject the low bid submitted by Kinsmen Corporation because his bid exceeded the company's single project limit as determined by DCAM. The contract was then awarded to the second low bidder, Waterline Corporation, but not until after two bid protests had been filed with the Attorney General's Office and upheld in favor of the city;

- Pilot testing of a rotary drum thickener was conducted as recommended by the Value Engineering study;

- During construction of the new OCL Building, a granite capped stone (Coomb's Wharf) was encountered which required shifting the building 15 feet to the west. This also triggered re-filing local and state approvals with DEP (Chapter 91 License), the Conservation Commission, and the Planning Board. In addition, the Massachusetts Historical Commission required the city to perform an archaeological assessment, including the provision of on-site monitoring during construction;

- Due to the building shift, additional contaminated material had to be excavated and removed from the site for disposal;

- An evaluation of the influent headworks facility was performed to determine the feasibility of installing step screens to remove debris material from the influent flow to the WWTF. Based on the evaluation results, the design of a new step screen system was included in Contract 2 as a bid alternate;

- The construction schedule for Contract 1 & 2 has been extended to the point where little, if any, overlap in the two contracts will occur. Originally, it was anticipated that the two contracts would overlap by approximately nine months, and as a result, there would be less time for engineering services required;

- The as-bid price for Contract 2 was approximately $1.5M higher than the estimated cost.

Sewer Rate Impact

The financial impact of the WWTF Improvements project on the sewer rate has been updated based on the total estimated project cost of $32.65M. As indicated in the table below, the increase in the total project cost is expected to result in an increase of $0.27 per hundred cubic feet (HCF) of water used.

Component Impact	Original Project Cost ($26.5M)	Current Project Cost ($32.65M)
Total Sewer Rate Impact (over 25-year Financing Period)	$2.40/HCF	$2.67/HCF
Typical Residential Sewer Bill Impact	$133/year	$153/year
Typical Business Sewer Bill Impact	$791/year	$869/year

Should you have any questions or require additional information, please call me directly at 508-320-7269. Otherwise, I look forward to meeting with the City Council to discuss the funding for the project further.

SUMMARY OF PROJECT COSTS AS OF SEPTEMBER 30, 2011

Budget Components	Anticipated Costs/Credits	Design Phase	Construction Phase		Total Costs
			Contract 1	Contract 2	
Construction Cost			$12,127,127	$11,482,296	$23,609,423
Rental of Mobile Sludge Dewatering Trailer Unit				$147,744	$147,744
plus Contingency @ 5%			$606,356	$582,000	$1,188,356
Total Construction Cost			$12,733,483	$12,212,040	$24,945,523
Change Order No. 1					
Eliminate Ground Mounted Photovoltaic System			($303,568)		($303,568)
Additional Work Items			$92,731		$92,731
Change Order No. 2					
Site Plan Changes & Delay Claim			$298,552		$298,552
Additional Work Items			$47,314		$47,314
Reduce Generator Size to 1000 kW			($35,250)		($35,250)
Change Order No. 3					
Additional Work Items			$49,170		$49,170
Change from UST to AST			($6,568)		($6,568)
Change Order No. 4					
Additional Work Items			$83,556		$83,556
Defer Primary Clarifier Drives Installation			($59,150)		($59,150)
Defer Primary Clarifier Sandblasting/Painting			($44,300)		($44,300)
	Potential Change Orders				
	#28 Misc. Metal Work in Secondary Splitter Box		$20,000		$20,000
	#39 Lighting Controls		$12,230		$12,230
	#44 Add Temporary Power for Phase 2 Solids Dewatering		$31,412		$31,412
	#53 Painting of Exterior Trim of OCL Building		$2,690		$2,690
Revised Construction Cost			$12,313,945		$12,313,945
Revised Contingency			$419,538		$419,538
Revised Total Construction Cost			$12,733,483	$12,212,040	$24,945,523

SUMMARY OF PROJECT COSTS AS OF SEPTEMBER 30, 2011

Budget Components	Anticipated Costs/Credits	Design Phase	Construction Phase		Total Costs
			Contract 1	Contract 2	
Engineering Services		$2,631,951	$1,524,000	$474,000	$4,629,951
	Increases for Schedule Delay		$240,000	$440,000	$680,000
OPM Services (including LEED Cx)		$96,849	$238,900		$335,749
Archaeological Assessment			$25,000		$25,000
	Increase for Additional On-site Monitoring		$12,000		$12,000
VE Services		$65,595			$65,595
Land Costs (including $60K for Legal Costs)		$1,410,000			$1,410,000
LSP Services		$64,992	$125,000		$189,992
Miscellaneous Costs		$63,240			$63,240
Police			$10,672		$10,672
Additional Contingency for Phase 2				$582,000	$582,000
less Carryover of Phase 1 Contingency				($300,000)	($300,000)
Total Project Costs		**$4,332,627**	**$14,909,055**	**$13,408,040**	**$32,649,722**
less Green Infrastructure Funding					($3,055,000)
less ARRA Funding (11.72% of Contract 1 less $3.055M)					($1,358,666)
TOTAL REFLECTED PROJECT COST					**$28,236,056**

LOCAL FUNDING OF INELIGIBLE PROJECT COSTS AS OF SEPTEMBER 30, 2011

		Cashflow Projection Budget	Contract Budget	Invoice No.	Costs Incurred to Date	Budget Remaining	Budget Surplus
Engineering Design (WSE)		**$2,400,000**	**$2,631,951**				($231,951)
				175128	$299,817		
				176125	$264,399		
				177208	$319,493		
				178221	$384,322		
				179209	$328,931		
				180253	$237,915		
				181235	$124,686		
				183063	$1,469		
				Bid Deposits	($1,800)		
				184163	$10,237		
				187136	$5,875		
				188132	$12,311		
				189176	$28,639		
				190200	$13,982		
				191124	$67,191		
				192175	$56,091		
				193106	$65,379		
				194181	$21,669		
				195159	$34,419		
				196147	$76,057		
				197130	$27,061		
				198156	$64,392		
				199246	$107,217		
	Subtotal				**$2,549,754**	**$82,198**	
Value Engineering (Stantec)		**$196,000**	**$65,655**				**$130,346**
				369996	$63,773		
				404394	$1,823		
	Subtotal				**$65,595**	**$59**	
Owner's Project Manager		**$144,000**	**$100,500**				**$43,500**
- Former DPS Director			$18,000				
				10/29/09	$40		
				12/11/09	$7,500		
				12/25/09	$1,500		
				1/22/10	$1,500		
				2/19/10	$1,500		
				3/19/10	$1,500		
				4/16/10	$1,500		
- MPH Environmental, Inc.			$82,500				
				0001	$3,415		
				0002	$8,101		
				0003	$10,740		
				0004	$4,520		
				0005	$11,983		
				0006	$9,884		
				0007	$7,366		
				0008	$11,289		
				0009	$7,675		
				0010	$6,476		
				0011	($10,747)		
				0012	$1,117		
				0013	$683		
				0014	$1,547		
				0015	$1,230		
				0016	$1,300		
				0017	$1,099		
				0018	$1,152		
				0019	$705		
				0020	$474		
				0021	$1,799		
	Subtotal				**$96,849**	**$3,651**	
Land Costs		**$1,600,000**	**$1,350,000**		**$1,350,000**	**$0**	**$250,000**
Legal Costs		**$40,000**					
- Kopelman & Paige				78791	$5,488		
				79271	$1,615		
				80061	$5,066		

LOCAL FUNDING OF INELIGIBLE PROJECT COSTS AS OF SEPTEMBER 30, 2011

	Cashflow Projection Budget	Contract Budget	Invoice No.	Costs Incurred to Date	Budget Remaining	Budget Surplus
			80523	$5,826		
			80856	$2,921		
			81275	$5,874		
			81717	$6,218		
			81964	$6,962		
			82237	$767		
			82536	$99		
			82670	$373		
			82929	$286		
			83303	$149		
			84809	$262		
			86662	$184		
			87039	$119		
			89018	$51		
- Petersen/Lachance				$4,380		
- Eagle Tribune				$128		
				$464		
				$221		
				$281		
			9/30/10	$286		
			11/30/10	$358		
Subtotal				**$48,375**	($8,375)	
Environmental Assessment Services		**$65,000**				
			174208	$990		
			175253	$14,435		
			176157	$28,908		
			177202	$9,133		
			184155	$8,540		
			185262	$2,986		
Subtotal				**$64,992**	**$8**	
Miscellaneous Costs						
- RDT Pilot Testing		**$19,940**		$18,020	**$1,920**	
- Zip Type Service				$20		
- American Yacht Club (Electric Service)			5/15/11	$3,622		
- Newburyport Planning Department			9/15/10	$1,500		
			10/15/10	$575		
- Newburyport Water Department			6/15/11	$16,780		
- Newburyport Sewer Department			2/15/11	$803		
			6/15/11	$172		
- National Grid						
Gas Acct. #41034-22272			1/20/11	$573		
			2/15/11	$809		
			3/21/11	$312		
			4/15/11	$313		
			5/15/11	$52		
			6/15/11	$22		
			7/15/11	$23		
			8/15/11	$21		
			9/15/11	$24		
Gas Acct. #41034-22721			2/15/11	$961		
			3/21/11	$186		
			4/15/11	$172		
			5/15/11	$65		
Electric Acct. #00407-46012			2/15/11	$233		
			3/21/11	$122		
			4/15/11	$123		
			5/15/11	$40		
			6/15/11	$40		
			7/15/11	$25		
			8/15/11	$10		
			8/15/11	$23		
- Melanson Heath			6/15/11	$2,000		
Subtotal				**$47,640**		
TOTALS	**$4,380,000**	**$4,233,046**		**$4,223,206**	**$79,461**	**$191,894**

Order #5
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED:

Date:

October 17, 2011

THAT, that the City Council approve the establishment of the Clipper Heritage Trail Special Revenue Fund, in accordance with M.G.L. Chapter 44, § 53A. Said fund is established for the receipt and expenditure of contributes, grants, and /or gifts associated with the Clipper Heritage Trail Project.

FURTHER, that the City Council of the City of Newburyport accepts a gift in the amount of $3,500 from The Newburyport Five Cents Savings Bank, Charitable Foundation, Inc. Said gift is to be used to fund Phase I of the Clipper Heritage Trail web-site with downloadable self-guided tours and history of Newburyport.

THAT, the City Council extends its thanks and gratitude to The Newburyport Five Cents Savings Bank, Charitable Foundation, Inc, for their generous gift.

Councillor Edward Cameron

Order #6
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED: Date: October 17, 2011

RESOLUTION

WHEREAS, a December 10, 1973 Resolution of the City Council indicated that "in the latter part of the nineteenth century an owner of property on Jefferson Street in Newburyport purported to create a street to run between Merrimac Street and Jefferson Street" as an extension of the roadway now known as Coffin Street, and

WHEREAS, on December 10, 1973 the City Council Ordered by Resolution "that the Public Works Department of the City of Newburyport hereby proceed to take such steps as are necessary to implement the opening of such street as a public convenience;" and

WHEREAS, in said Resolution, the City Council indicated "it appears that the public convenience and necessity require that said street be opened to permit public travel thereon, between Jefferson Street and Merrimac Street" and resolved "that an opening of said street is necessary for said public convenience and necessity; and

WHEREAS, the City voted on January 29, 1996 to accept as public ways sixty-nine (69) streets which had not previously been recorded as having been accepted by the City Council, including said Coffin Street; and

WHEREAS, the City is not obligated to create (at expense) a connection from Coffin Street to Jefferson Street simply because Coffin Street (as it existed in 1996) was accepted as a public way; and

WHEREAS, Massachusetts General Laws (M.G.L.) Chapter 84 Section 1 requires that the City keep in repair those sections of roadway already constructed "so that they may be reasonably safe and convenient for travelers" but does not require the City to construct new roadways or extensions to existing roadways, and

WHEREAS, the City receives no reimbursement or apportionment from the Commonwealth of Massachusetts under the provisions of Massachusetts General Laws, Chapter 90 for the unconstructed section of roadway referenced in the December 10, 1973 Resolution; and

WHEREAS, no City funds exist for the construction of such an extension to Coffin Street and the City has a large inventory of existing roadways and related infrastructure to maintain with only a limited amount of state and local funds; and

WHEREAS, with all the obligations the City has for maintaining existing roadways and infrastructure, the City must prioritize limited funds accordingly; and

WHEREAS, Coffin Street is a short dead-end street with only a few homes and direct access onto Merrimac Street; and

WHEREAS, it is not clear that there is any overriding public interest in extending Coffin Street to Jefferson Street (as suggested by the December 10, 1973 Resolution), particularly at expense of the City,

NOW THEREFORE LET IT BE RESOLVED AND ORDERED that said December 10, 1973 Resolution adopted and approved by the City Council is hereby repealed.

Councillor Barry N. Connell

ORDINANCES

Ordinance #1
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED:

Date:

October 17, 2011

AN ORDINANCE ENTITLED AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED ZONING ORDINANCE OF THE CITY OF NEWBURYPORT

Be it ordained by the City Council of the City of Newburyport as follows:

Zoning Ordinance Amendment:

Section III-C: Zoning Map

THAT the Zoning Map of said Zoning Ordinance entitled "Zoning Map of the City of Newburyport" be amended pursuant to Section III-D "Changes to Zoning Map" such that the B1 Zone on Storey Avenue be enlarged to include the following two (2) parcels in their entirety:

Parcel 1:	Assessors Map ID:	109-4
	Address:	81 Storey Avenue
	ESRD Book/Page:	07006/0664
	Owner:	Gerald E. Swofford
	Current Zoning District:	R-2
	Proposed Zoning District:	B-1
Parcel 2:	Assessors Map ID:	109-5
	Address:	83 Storey Avenue
	ESRD Book/Page:	15942/0475
	Owner:	Gerald E. Swofford
	Current Zoning District:	R-2
	Proposed Zoning District:	B-1

Councillor Brian P. Derrivan

Ordinance #2
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED:

Date:

October 17, 2011

AN ORDINANCE ENTITLED AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED ZONING ORDINANCE OF THE CITY OF NEWBURYPORT

Be it ordained by the City Council of the City of Newburyport as follows:

Zoning Ordinance Amendment:

THAT the Zoning Ordinance be amended pursuant to Section XII-B "Adoption and Amendment" as follows:

Section IV: Application and Interpretation

Delete subsection V-C.1, entitled "Smart growth ordinance" in its entirety.

Councillor Barry N. Connell

Ordinance #3
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED:

Date:

October 17, 2011

AN ORDINANCE ENTITLED AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED ZONING ORDINANCE OF THE CITY OF NEWBURYPORT

Be it ordained by the City Council of the City of Newburyport as follows:

Zoning Ordinance Amendment:

THAT the Zoning Ordinance be amended pursuant to Section XII-B "Adoption and Amendment" by the addition of the following:

Section V-D: Table of Use Regulations

Use	NUM	CON	R-1	R-2	R-3	B-1	B-2	B-3	I-1	I-1B	I-2	M	WMD	WMU
Community Center	216	NP	NP	P	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP

Section V-E: List of Allowable Uses

Community Center **216** A municipally operated Community Center or Senior Center.

Councillor Brian P. Derrivan

Ordinance #4
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED: **Date:**

October 17, 2011

AN ORDINANCE ENTITLED AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED ZONING ORDINANCE OF THE CITY OF NEWBURYPORT

Be it ordained by the City Council of the City of Newburyport as follows:

THAT the Zoning Ordinance be amended pursuant to Section XII-B "Adoption and Amendment" as follows:

Section IX: Nonconforming Uses, Structures and Lots

Section IX-B: Extension or alteration

Under item 3.B. "Intensifying nonconformities" insert after the words "lot coverage," and before the word "height" the words "floor area ratio,".

Section XXI: Plum Island Overlay District

Section XXI-F: Nonconforming uses and structures, excluding single and two-family structures.

Add a new paragraph as follows:

5. The enlargement or extension to lot coverage, floor area ratio, height, open space or front, side and rear yard requirements may be allowed upon the grant of a special permit by the board of appeals, and shall not require a variance, notwithstanding that such enlargement or extension may increase existing nonconformities.

Section XXI-G: Nonconforming single and two-family residential structures

Redesignate the existing paragraph 4 as "4.a." and add a new paragraph numbered "4.b." as follows:

4.b. The alteration, reconstruction, extension of, or change to lot coverage, floor area ratio, height, open space or front, side and rear yard requirements may be allowed upon the grant of a special permit by the board of appeals, and shall not require a variance, notwithstanding that such alteration, reconstruction, or extension may increase existing nonconformities.

Councillor Allison Heartquist

Ordinance #5
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED: Date:

October 17, 2011

AN ORDINANCE ENTITLED AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED ZONING ORDINANCE OF THE CITY OF NEWBURYPORT

Be it ordained by the City Council of the City of Newburyport as follows:

Zoning Ordinance Amendment:

THAT the Zoning Ordinance be amended pursuant to Section XII-B "Adoption and Amendment" as follows:

Section VIII: Signs

Section VIII: Purpose and intent

Delete the second and third paragraphs of this section in their entirety and replace said paragraphs with the following:

> The rules and regulations contained herein shall govern the construction, alteration, repair, maintenance and erection of all signs within the City of Newburyport.
>
> Notwithstanding the provisions of this section, all signs and other advertising devices within the B-2, B-3 and WMU zoning districts shall meet the requirements contained within the document entitled "Signage Standards for Downtown Newburyport," dated October 11, 2011 and on file with the City Clerk and Office of Planning & Development.
>
> Additionally, any proposal which requires site plan review as outlined in Section XV "Site Plan Review," shall comply with the standards outlined Section XV.H.b.6.

Councillor Barry N. Connell

Ordinance #6
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED:

Date:

October 17, 2011

AN ORDINANCE ENTITLED AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED ZONING ORDINANCE OF THE CITY OF NEWBURYPORT

Be it ordained by the City Council of the City of Newburyport as follows:

Zoning Ordinance Amendment:

THAT the Zoning Ordinance be amended pursuant to Section XII-B "Adoption and Amendment" as follows:

Section VI: Dimensional Controls

Section VI-A: General Regulations

Under "Mixed Use" (Use # 405) in the Table of Dimensional Requirements, replace the words "Refer to section IV-C for requirements" with "Refer to Section IV-D for requirements."

Councillor Barry N. Connell

Ordinance #7
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED:

Date:

October 17, 2011

AN ORDINANCE ENTITLED AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED ZONING ORDINANCE OF THE CITY OF NEWBURYPORT

Be it ordained by the City Council of the City of Newburyport as follows:

Zoning Ordinance Amendment:

THAT the Zoning Ordinance be amended pursuant to Section XII-B "Adoption and Amendment" as follows:

Section II: Definitions

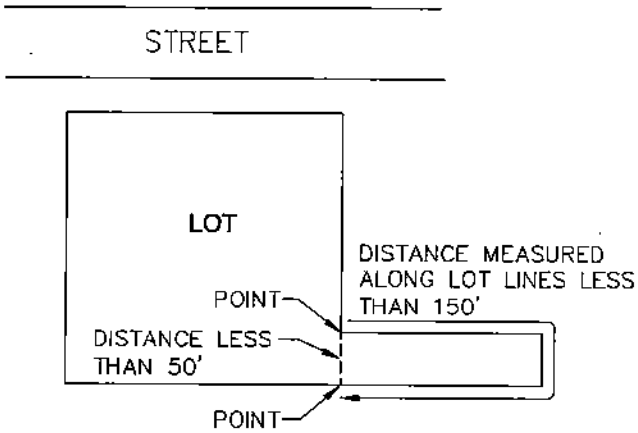
Delete the text (definitions) of the following numbered terms, in their entirety, and replace said terms and definitions with the following (including illustrative diagrams):

19. Frontage. The uninterrupted length of the front lot line(s), as defined herein, whether straight or not, and is on:

A. A public way or a way which the City Clerk certifies is maintained and used as a public way; or
B. A way shown on a previously approved subdivision plan; or
C. A way that predates subdivision control that has, in the Planning Board's opinion, sufficient width, suitable grades, and adequate construction to provide for vehicular traffic, including emergency and snow removal vehicles, and the installation of utilities.

22. Lot area. An area of land which is determined by the limits of the lot lines of land under one (1) ownership bounding that area and expressed in terms of square feet or acres. When the distance between any two (2) points of lot lines is less than fifty (50) feet, measured in a straight line, the smaller portion of the lot which is bounded by such line and lot lines shall not be considered in computing minimum lot area unless the distance along such lot lines between such two points is less than one hundred and fifty (150) feet.

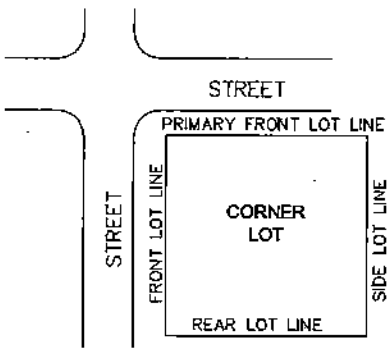
Lot Area Diagram: The area between the two points called out in the adjacent diagram would count toward lot area since the distance along the lot lines is less than 150 feet.



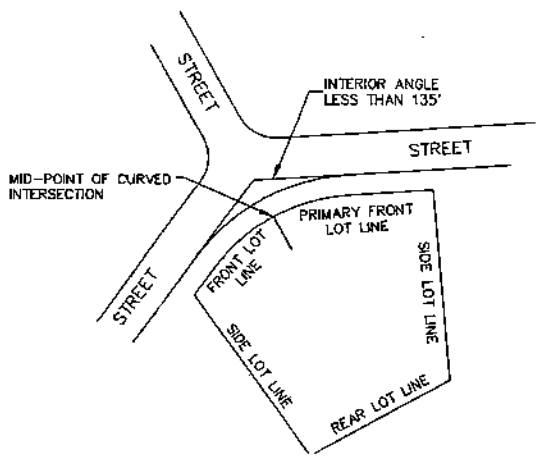
23. Lot, corner. A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or extended lot lines in case of a curved street being not more than 135°. For purposes of this chapter, the yard adjacent to each street shall be considered a front yard; however, this will not affect designation of the frontline.

Corner Lot Diagrams:

A corner lot has two front lot lines. One shall satisfy the frontage requirement. This shall be known as the primary front lot line.



Where the interior angle of intersecting street is less than 135 degrees, the lot shall be considered a corner lot.



25. Lot line, front. The property line dividing a lot from the adjacent a single street right-of-way. In the case of a corner lot, at least one front lot line shall conform to the minimum lot frontage requirement. This line shall be the primary front lot line.

26. Lot line, rear. The property line most nearly opposite and furthest from the front lot line or primary front lot line in the case of corner lots.

27. Lot line, side. Any property line not a front or rear lot line.

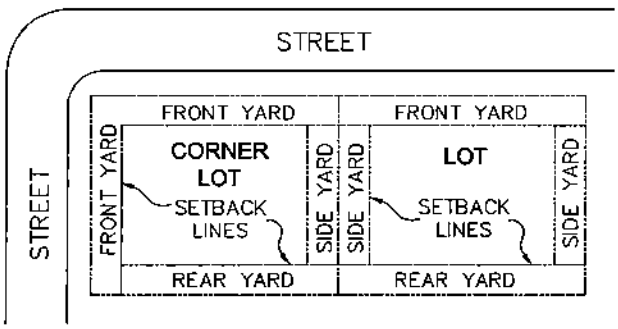
28. Lot, nonconforming. A lot lawfully existing at the effective date of this ordinance, or any subsequent amendment thereto, which is not in accordance with all provisions of this ordinance.

50. Yard, front. The portion of a lot lying between the front line and the front setback line.

51. Yard, rear. The portion of a lot lying between the rear line and the rear setback line.

52. Yard, side. The portion of a lot lying between a side line and the corresponding side setback line and extending from the front yard to the rear yard. In the case of a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a side yard.

Yard Diagram: Setbacks are measured from all lot lines. Yards exist between lot lines and setback lines. Corner lots have two front setbacks.



Section VI: Dimensional Controls

Under VI-A "General regulations." delete the first paragraph in its entirety and replace said paragraph with the following:

> Any structure hereafter altered, constructed, erected, placed, or converted for any use in any district shall be located on a lot only in conformance with the minimum requirements listed on the dimensional controls table and regulations in section VI-B unless specifically allowed by the special permit granting authority under a variance procedure or, in the case of nonconforming uses, structures or lots, in accordance with the provisions of G.L. c.40A, §6 and Section IX of the Ordinance.

Under VI-B "Lot areas." Add the following new subsections:

> C. In addition to the minimum lot area and frontage requirements, lots shall be laid out in such a manner so that a square, with sides equal to the minimum frontage requirement for the zoning district in which it is located, can be placed within the lot with at least one point

of the square lying on the front lot line with no portion of the square extending beyond the boundaries of the lot. This provision shall apply only to lots created after December 31, 2011.

D. All lots created prior to or on December 31, 2011 shall have a lot width minimum that is equal to or greater than the frontage required for the zoning district for a distance measured from the front lot line of the right-of-way to the midpoint of the lot. Such midpoint shall be located on a line ninety (90) degrees extending from the center of the front lot line to the rear lot line. The distance between the side lot lines along a line parallel to the front property line shall represent the lot width minimum.

Councillor Barry N. Connell

Ordinance #8
October 17, 2011

CITY OF NEWBURYPORT

IN CITY COUNCIL

ORDERED:

Date:
August 29, 2011

AN ORDINANCE ENTITLED AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED ANIMALS

Be it ordained by the City Council of the City of Newburyport as follows:

Chapter 3	Animals
Article 2	Dogs
Section 3-26	Leash required
Subsection (d)	

Delete first paragraph.

Add:

Notwithstanding the provisions of subsection (a), dogs are allowed off leash at Cashman Park, Moseley Woods, and March's Hill, subject to the exclusions and restrictions, off leash hours, and seasonal restrictions set forth in the following Table of Designated Off Leash Areas and subject to the Rules set forth in subsection (e), respectively, below:

Table of Designated Off Leash Areas			
Designated off leash area	**Exclusions and restrictions**	**Off leash hours**	**Seasonal restrictions**
Cashman Park	Excluding: playground, basketball court, tennis court, baseball field & soccer field and walkways	7:30a.m.- 9:00a.m. and 4:00p.m.-7:00p.m.	Year round
Moseley Woods	Excluding: playground, pavilion & picnic areas	Dawn - 10:30 a.m. and 4:00p.m.- Dusk	Year round

March's Hill	Excluding: basketball court	Dawn - 10:30 a.m. and 4:00p.m.- Dusk	No off leash dogs allowed at times when children are sledding

Councillor Ari B. Herzog

In City Council August 29, 2011
Motion to refer to Neighborhoods and City Services by Councillor Herzog, seconded by Councillor Cameron. So voted.

In City Council September 26, 2011
Motion to remove by Councillor Herzog, seconded by Councillor Cameron. So voted. Motion to approve first reading and order published by Councillor Earls, seconded by Councillor Cameron. Roll call vote, 8 yes, 2 no (Derrivan, O'Brien), 1 present (Cronin). So voted. Motion passed.