

CITY COUNCIL MEETING AGENDA - VERSION 1
CITY COUNCIL CHAMBERS
MARCH 28, 2017

7:30PM

(Sound Check)

1. **MOMENT OF SILENCE**
2. **PLEDGE OF ALLEGIANCE**
3. **CALL TO ORDER**
4. **LATE FILE ITEMS Mayor's Update**
5. **PUBLIC COMMENT**
6. **MAYOR'S 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.

7. APPROVAL OF MINUTES

March 13, 2017

(Approve)

8. TRANSFERS

- **TRAN009_03_28_17** Mult Accts \$1,578,044 to Mult Accts \$1,578,044 (B&F)
- **TRAN010_03_28_17** Free Cash \$18,162 Clean River Project \$18,162 (B&F)
- **TRAN011_03_28_17** DPS Gas \$30,000 to Fuel/Oil \$30,000 (B&F)

9. COMMUNICATIONS

- **COMM030_03_28_17** Pres. Trust Ltr to City Council re: 1690 House (P&D)
- **COMM031_03_28_17** FY17-FY21 Capital Improvement Program Submission (B&F)
- **COMM032_03_28_17** Line Items Reduced in FY17 Adopted Budget (B&F)
- **COMM033_03_28_17** Retirement Board Meeting for Voting on COLA (R&F)
- **COMM034_03_28_17** Evergreen Special Permit Issued by Planning Board (P&D)
- **COMM035_03_28_17** Rules of Professional Conduct Rule 3.9 (P&D)
- **COMM036_03_28_17** Unicorn Street Block Party - 6/3/2017 (PS)
- **COMM037_03_28_17** 7th Annual GNOCA 5K Walk - 9/24/17 (PS)

10. APPOINTMENTS

Appointments

- **APPT029_03_28_17** James McCarthy 17 Russia St Community Pres Act Comm 5/1/2020

Re-Appointments

- **APPT030_03_28_17** Robert Uhlig 10 Ocean St NRA 4/1/2018

END OF CONSENT AGENDA
REGULAR AGENDA

11. MAYOR'S UPDATE

12. COMMUNICATIONS

- **COMM038_03_28_17** Lower Custom House Way

13. APPOINTMENTS

Second Reading

Appointments

- **APPT016_03_13_17** Adam Armstrong 5 Buck St Harbor Comm (Alt) 4/1/2019
- **APPT017_03_13_17** Walter Lesynski 364 Merrimac St Harbor Comm (Alt) 4/1/2019

Re-Appointments

- **APPT018_03_13_17** Dr. Robin Blair 18 Market St Board of Health 3/31/2020
- **APPT019_03_13_17** Christopher Carey 25 Temple St Disabilities Comm 3/1/2020
- **APPT020_03_13_17** Andrew Casson 240 Merrimac St Harbor Comm 3/31/2020
- **APPT021_03_13_17** Robert Dow 185 Storey Ave Harbor Comm 5/1/2020
- **APPT022_03_13_17** Kristen M. Farrell 28 Spofford St Disabilities Comm 2/1/2020
- **APPT023_03_13_17** James Knapp 24 Cutting Dr Harbor Comm 5/1/2020
- **APPT024_03_13_17** Arthur M. Levine 43B Kent St Disabilities Comm 4/30/2020
- **APPT026_03_13_17** Katherine D. Preftes 6 H St Human Rights Comm 2/1/2020
- **APPT028_03_13_17** Ronald S. Ziemba 58 Lime St #1 Cultural Council 4/30/2020

14. ORDERS

- **ORDR009_02_27_17** Revolving Fund Spending Limits (**TABLED**)
- **ORDR014_03_28_17** Excess Bond Proceeds Transfer

15. ORDINANCES

- **ODNC013_07_11_16** Amend Outdoor Seating (Two Year Renewals) (**2nd reading**)
- **ODNC002_03_28_17** Amend Sec 2 – 368, 14 – 32, Water and Sewer Board

15. COMMITTEE ITEMS

Budget & Finance

In Committee:

- **ORDR002_01_25_16** Accept Gift of \$25,000 Repairing Brown's Wharf Culvert (**COW**)
- **ORDR009_02_08_16** Increase Fees for Fire Dept.
- **ORDR010_02_08_16** Increase Fines Parking Violations
- **ORDR039_05_31_16** Increase Hourly Parking Rate to \$1.50
- **ORDR079_09_26_16** Movie Location Order (**L&P**)
- **ORDR080_09_26_16** **LATE FILE** Order of Taking Parking Facility (**P&D**)
- **COMM013_01_30_17** FY2017 Mid-Year Budget Report
- **TRAN005_02_27_17** Free Cash 25K to Dog Park Project 25K
- **ORDR010_02_27_17** Dog Park Grant Acceptance
- **TRAN006_03_13_17** Free Cash \$27,100 to Cherry Hill Soccer Field \$27,100
- **TRAN007_03_13_17** Free Cash \$89,000 to Water Safe Yield Est. \$89,000 (**PU**)
- **TRAN008_03_13_17** Free Cash \$66,342 to Wastewater Collect Sys Analysis \$66,342 (**PU**)

General Government

In Committee:

- **ORDR005_01_30_17** Human Rights Commission Resolution (**COW**)
- **APPT025_03_13_17** Leah McGavern | 21 Marlboro St | Planning Board | 5/31/2022 (**P&D**)
- **APPT027_03_13_17** Bonnie Sontag | 10 Upland Rd | Planning Board | 5/31/2022 (**P&D**)

Joint Education

In Committee:

License & Permits

In Committee:

- **COMM010_01_25_16** Licensing Commission Acoustic & Amplified Entertainment
- **ODNC011_05_31_16** Amend Transient Vendors for Cashman (**COW**)
- **ORDR079_09_26_16** Movie Location Order (**B&F**)
- **ODNC001_01_30_17** BYOB Ordinance
- **COMM026_03_13_17** Outdoor Seating Application - The Purple Onion
- **COMM027_03_13_17** Outdoor Seating Application - Atomic Café
- **COMM028_03_13_17** **LATE FILE** Ltr from Smitten LLC re: A-Frames
- **COMM029_03_13_17** **LATE FILE** Outdoor Seating Application - West Row Café

Neighborhoods and City Services

In Committee:

- **ODNC001_01_11_16** Amend Ch11 Parks and Recreation (**COW**)
- **ORDR048_06_13_16** Sidewalk Order
- **COMM099_10_31_16** Proposed Improvement in Our Scenic Byway
- **ORDR007_02_13_17** Change the Name of Park Circle to Kelleher Way (**PU**)
- **ORDR008_02_27_17** Change the Name of Crow Lane to Colby Farm Lane (**PU**)

Planning & Development

In Committee:

- **COMM020_02_08_16** Memo re: Hiring Process for Building Commissioner
- **COMM076_07_11_16** **LATE FILE** Boyd Drive Petition
- **ORDR080_09_26_16** **LATE FILE** Order of Taking Parking Facility (**B&F**)
- **COMM091_10_11_16** Ltr to Council from J. Sweet on ZBA
- **COMM096_10_31_16** Draft of Newburyport's Master Plan
- **COMM114_12_12_16** Memo on Master Plan - Work Plan and Appendix XX
- **COMM014_01_30_17** 30% Garage Design Docs (**COW**)
- **COMM023_02_27_17** Zoning Changes to Waterfront West (**COW**)
- **COMM024_03_13_17** Newburyport's Master Plan - Final Document (**COW**)
- **APPT025_03_13_17** Leah McGavern | 21 Marlboro St | Planning Board | 5/31/2022 (**GG**)
- **APPT027_03_13_17** Bonnie Sontag | 10 Upland Rd | Planning Board | 5/31/2022 (**GG**)

Public Safety

In Committee:

- **ODNC015_08_29_16** 25 MPH Speed Zones
- **ORDR077_09_12_16** Parking Restricted on Daniel Lucy Way

- **ORDR012_02_27_17** Update of Rules for Special Events

Public Utilities

In Committee:

- **COMM060_05_31_16** Mobilitie, LLC Highway Access Permit
- **ORDR006_2_13_17** TW Excavating & Dev, Newbury, Licensed Contractor
- **ORDR007_02_13_17** Change the Name of Park Circle to Kelleher Way (**NCS**)
- **ORDR008_02_27_17** Change the Name of Crow Lane to Colby Farm Lane (**NCS**)
- **TRAN007_03_13_17** Free Cash \$89,000 to Water Safe Yield Est. \$89,000 (**B&F**)
- **TRAN008_03_13_17** Free Cash \$66,342 to Wastewater Collect Sys Analysis \$66,342 (**B&F**)

Rules Committee

In Committee:

- **ORDR013_02_27_17** Amend City Council Rules Relating to Bonding Funds (**COW**)

16. GOOD OF THE ORDER

17. EXECUTIVE SESSION

18. ADJOURNMENT

CONSENT AGENDA

CITY COUNCIL MEETING MINUTES
CITY COUNCIL CHAMBERS
MARCH 13, 2017

7:15PM PUBLIC HEARING

- **ORDR008_02_27_17** Change the Name of Crow Lane to Colby Farm Lane
The hearing commenced at 7:15 pm. 11 Councillors present, 0 absent. Councillor O'Brien presided and asked for anyone to speak in favor or against the proposed name change from Crow Lane to Colby Farm Lane. One spoke in favor, no one spoke against. Motion to adjourn at 7:21pm by Councillor Giunta, seconded by Councillor Zeid. So voted.

7:30PM

The City Council President called the meeting to order at 7:31pm. A moment of silence was held for Alan P. Lavender, George W. Duffy, Maurice F. Donovan, and Joanne B. Brislin, followed by the Pledge of Allegiance. The City Council President then instructed the City Clerk to call the roll. The following Councillors answered present: Eigerman, Giunta, Tontar, Vogel, Zeid, Cameron, Connell, Cronin, Devlin, Earls, OBrien. 11 present, 0 absent.

(Sound Check)

1. **MOMENT OF SILENCE**
2. **PLEDGE OF ALLEGIANCE**
3. **CALL TO ORDER**

4. **LATE FILE ITEMS Mayor's Update, COMM028_03_13_17, COMM029_03_13_17**

Motion to waive the rules, to accept late files, by Councillor Zeid, seconded by Councillor Cameron. So voted.

5. **PUBLIC COMMENT**

- | | | |
|---------------------|-----------------|-------------------|
| 1. Adam Armstrong | 5 Buck St | Harbor Commission |
| 2. Ann Ormond | 38R Merrimac St | Use of Streets |
| 3. Jay Lesynski III | 364 Merrimac St | Harbor Commission |

6. **MAYOR'S COMMENT**

The mayor gave an update pursuant to her written communication.

CONSENT AGENDA

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7. **APPROVAL OF MINUTES**

February 27, 2017

(Approve)

8. **TRANSFERS**

- **TRAN006_03_13_17** Free Cash \$27,100 to Cherry Hill Soccer Field \$27,100 (B&F)
- **TRAN007_03_13_17** Free Cash \$89,000 to Water Safe Yield Est. \$89,000 (B&F, PU)
- **TRAN008_03_13_17** Free Cash \$66,342 to Wastewater Collect Sys Analysis \$66,342 (B&F, PU)

9. **COMMUNICATIONS**

- **COMM024_03_13_17** Newburyport's Master Plan - Final Document (P&D)
- Removed Councilor Cameron**
- **COMM025_03_13_17** Merrimack Valley Planning Commission Assessment (R&F)
 - **COMM026_03_13_17** Outdoor Seating Application - The Purple Onion (L&P)
 - **COMM027_03_13_17** Outdoor Seating Application - Atomic Café (L&P)

10. APPOINTMENTS

Appointments

- **APPT016_03_13_17** Adam Armstrong 5 Buck St Harbor Comm (Alt) 4/1/2019
- **APPT017_03_13_17** Walter Lesynski 364 Merrimac St Harbor Comm (Alt) 4/1/2019

Re-Appointments

- **APPT018_03_13_17** Dr. Robin Blair 18 Market St Board of Health 3/31/2020
- **APPT019_03_13_17** Christopher Carey 25 Temple St Disabilities Comm 3/1/2020
- **APPT020_03_13_17** Andrew Casson 240 Merrimac St Harbor Comm 3/31/2020
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- **APPT024_03_13_17** Arthur M. Levine 43B Kent St Disabilities Comm 4/30/2020
- **APPT025_03_13_17** Leah McGavern 21 Marlboro St Planning Board 5/31/2022
- **APPT026_03_13_17** Katherine D. Preftes 6 H St Human Rights Comm 2/1/2020
- **APPT027_03_13_17** Bonnie Sontag 10 Upland Rd Planning Board 5/31/2022
- **APPT028_03_13_17** Ronald S. Ziemba 58 Lime St #1 Cultural Council 4/30/2020

APPT025_03_13_17 and APPT027_03_13_17 removed Councillor Cronin

**END OF CONSENT AGENDA
REGULAR AGENDA**

Motion to approve the Consent Agenda as amended by Councillor Zeid, seconded by Councillor Cameron. So voted.

11. MAYOR'S UPDATE

Motion to receive and file by Councillor Cameron, seconded by Councillor Zeid. So voted.

12. COMMUNICATIONS

- **COMM024_03_13_17** Newburyport's Master Plan - Final Document
Removed from the Consent Agenda by Councillor Cameron. Motion to refer to Planning & Development and Committee of the Whole by Councillor Cameron, seconded Councillor Giunta. So voted.
- **COMM028_03_13_17 LATE FILE** Ltr from Smitten LLC re: A-Frames
Motion to refer to License & Permit by Councillor Vogel, seconded by Councillor Giunta. So voted.
- **COMM029_03_13_17 LATE FILE** Outdoor Seating Application - West Row Café
Motion to refer to License & Permit by Councillor Vogel, seconded by Councillor Zeid. So voted.

13. APPOINTMENTS

Second Reading

Re-Appointments

- **APPT014_02_27_17** Susanne F. Gallagher 3 Garnet St Brd of Registrars 3/31/2020
- **APPT015_02_27_17** Richard Goulet 19 Kent St ZBA 3/30/2022

Motion to approve second reading appointments by Councillor Cameron, seconded by Councillor Zeid. Roll call vote, 11 yes. Motion passed.

- **APPT025_03_13_17** Leah McGavern 21 Marlboro St Planning Board 5/31/2022
- **APPT027_03_13_17** Bonnie Sontag 10 Upland Rd Planning Board 5/31/2022

Motion to refer to Planning & Development and General Government by Councillor Cronin, seconded by Councillor Giunta. Roll call vote, 8 yes, 3 no (Vogel, Connell, Earls). Motion passed.

14. ORDERS

- NONE

15. ORDINANCES

- NONE

15. COMMITTEE ITEMS

Budget & Finance

In Committee:

- **ORDR002_01_25_16** Accept Gift of \$25,000 Repairing Brown's Wharf Culvert (**COW**)
- **ORDR009_02_08_16** Increase Fees for Fire Dept.
- **ORDR010_02_08_16** Increase Fines Parking Violations
- **ORDR039_05_31_16** Increase Hourly Parking Rate to \$1.50
- **ORDR079_09_26_16** Movie Location Order (**L&P**)
- **ORDR080_09_26_16** **LATE FILE** Order of Taking Parking Facility (**P&D**)
- **ORDR094_12_12_16** Resolution on Funding Capital from Operating Budget
Motion to remove from Budget & Finance by Councillor Tontar, seconded by Councillor Zeid. Motion to approve by Councillor Tontar, seconded by Councillor Zeid. Roll call vote, 9 yes, 2 no (Tontar, Vogel). Motion passed.
- **COMM013_01_30_17** FY2017 Mid-Year Budget Report
- **TRAN002_2_13_17** Mayor's Office - Free Cash, 10K to Maint. Trees
Motion to remove from Budget & Finance by Councillor Tontar, seconded by Councillor Zeid. Motion to approve by Councillor Tontar, seconded by Councillor Zeid. So voted.
- **TRAN003_2_13_17** Clerk's Office - Free Cash, 5K to Elections & Reg
Motion to remove from Budget & Finance by Councillor Tontar, seconded by Councillor Cameron. Motion to approve by Councillor Tontar, seconded by Councillor Giunta. So voted.
- **TRAN004_02_27_17** K9 Unit Grant 14K, Rsv. Appr. Sale Municipal Property 2K, POL Fuel/Oil Vehicles 23.5K, POL Purchase Cruisers 5.5K to Utility Vehicle Purchase 45K
Motion to remove from Budget & Finance by Councillor Tontar, seconded by Councillor Vogel. Motion to approve by Councillor Tontar, seconded by Councillor Vogel. So voted.
- **TRAN005_02_27_17** Free Cash 25K to Dog Park Project 25K
- **ORDR009_02_27_17** Revolving Fund Spending Limits
Motion to remove from Budget & Finance by Councillor Tontar, seconded by Councillor Vogel. Motion to approve by Councillor Tontar, seconded by Councillor Connell. Roll call vote, 9 yes, 2 no (Tontar, Vogel). Motion to table by Councillor Cronin, seconded by Councillor Devlin. So voted.
- **ORDR010_02_27_17** Dog Park Grant Acceptance

General Government

In Committee:

- **ORDR005_01_30_17** Human Rights Commission Resolution (**COW**)

Joint Education

Councillor Giunta announced there would be a meeting on 3/28 at NHS in Room 118.

In Committee:

License & Permits

In Committee:

- **COMM010_01_25_16** Licensing Commission Acoustic & Amplified Entertainment
- **ODNC011_05_31_16** Amend Transient Vendors for Cashman (**COW**)
- **ODNC013_07_11_16** Amend Outdoor Seating (Two Year Renewals)
Motion to remove from License & Permit by Councillor Vogel, seconded by Councillor Zeid. Motion to approve by Councillor Vogel, seconded by Councillor Zeid. Roll call vote, 11 yes. Motion passed.
- **ORDR079_09_26_16** Movie Location Order (**B&F**)
- **ODNC001_01_30_17** BYOB Ordinance

Neighborhoods and City Services

Councillor Connell has postponed the meeting on March 14, 2016

In Committee:

- **ODNC001_01_11_16** Amend Ch11 Parks and Recreation (**COW**)
- **ORDR048_06_13_16** Sidewalk Order
- **COMM099_10_31_16** Proposed Improvement in Our Scenic Byway
- **ORDR007_02_13_17** Change the Name of Park Circle to Kelleher Way (**PU**)
- **ORDR008_02_27_17** Change the Name of Crow Lane to Colby Farm Lane (**PU**)

Planning & Development

In Committee:

- **COMM020_02_08_16** Memo re: Hiring Process for Building Commissioner
- **COMM076_07_11_16** **LATE FILE** Boyd Drive Petition
- **ORDR080_09_26_16** **LATE FILE** Order of Taking Parking Facility (**B&F**)
- **COMM091_10_11_16** Ltr to Council from J. Sweet on ZBA
- **COMM096_10_31_16** Draft of Newburyport's Master Plan
- **COMM114_12_12_16** Memo on Master Plan - Work Plan and Appendix XX
- **COMM014_01_30_17** 30% Garage Design Docs (**COW**)
- **COMM023_02_27_17** Zoning Changes to Waterfront West (**COW**)

Public Safety

In Committee:

- **ODNC015_08_29_16** 25 MPH Speed Zones
- **ORDR077_09_12_16** Parking Restricted on Daniel Lucy Way
- **COMM015_02_13_17** Ltr from Charter School re: Flasher Beacons, Low Street
Motion to remove from Public Safety by Councillor Cronin, seconded by Councillor Cameron.
Motion to approve by Councillor Cronin, seconded by Councillor Giunta. So voted.

- **COMM016_02_13_17** Ltr from Chamber re: Use of Downtown Streets
Motion to remove from Public Safety by Councillor Cronin, seconded by Councillor Cameron.
Motion to approve by Councillor Cronin, seconded by Councillor Giunta. So voted.
- **COMM018_02_13_17** Chocolate Tour, Central Cong, May 20, 2017
Motion to remove from Public Safety by Councillor Cronin, seconded by Councillor Cameron.
Motion to approve by Councillor Cronin, seconded by Councillor Giunta. So voted.
- **ORDR012_02_27_17** Update of Rules for Special Events

Public Utilities

In Committee:

- **COMM060_05_31_16** Mobilitie, LLC Highway Access Permit
- **ORDR006_2_13_17** TW Excavating & Dev, Newbury, Licensed Contractor
- **ORDR007_02_13_17** Change the Name of Park Circle to Kelleher Way (NCS)
- **ORDR008_02_27_17** Change the Name of Crow Lane to Colby Farm Lane (NCS)

Rules Committee

In Committee:

- **ORDR013_02_27_17** Amend City Council Rules Relating to Bonding Funds (COW)

16. GOOD OF THE ORDER

Councillor Zeid gave a report on the two Plum Island beach meetings: PITA and 'walk on the beach'. More meetings will be coming in the future.

17. EXECUTIVE SESSION

Motion to go in to Executive Session, to discuss purchase and taking of real estate, by Councillor Tontar, seconded by Councillor Connell. Roll call vote, 11 yes. The City Council President stated the Council would not come back into regular session. 9:19pm.

18. ADJOURNMENT

Motion to adjourn by Councillor Tontar, seconded by Councillor Vogel. Roll call vote, 10 yes, 1 absent (Earls). 10:00pm.

TRANSFERS



City of Newburyport

FY 2017

BUDGET TRANSFER REQUEST

Department: Mayor's Office

Submitted by: Donna D. Holaday, Mayor **Date Submitted:** 3/28/2017

Transfer From:

Account Name	<u>Multiple Accounts (see attached)</u>	YTD Bal:	<u>\$</u>	<u>-</u>
Account Number:	<u>See attached</u>	Trans In:	<u>\$</u>	<u>-</u>
Amount:	<u>\$1,578,044.24</u>	Trans Out:	<u>\$</u>	<u>-</u>
Why are Funds Available:	<u>See attached spreadsheet.</u>			

Transfer To:

Account Name	<u>Multiple Accounts (see attached)</u>	YTD Bal:	<u>\$</u>	<u>-</u>
Account Number:	<u>See attached</u>	Category:	<u>\$</u>	<u>-</u>
Amount:	<u>\$1,578,044.24</u>	Trans I/O:	<u>\$</u>	<u>-</u>
Why are Funds Required:	<u>See attached spreadsheet.</u>			

Donna D. Holaday, Mayor
 Ethan R. Manning, Auditor
 City Council Approval: (Stamp)

Donna D. Holaday
Ethan R. Manning

Date: 3/21/17
 Date: 3/21/17

**Transfer Requests to Fund FY2017 Capital and Reserves
March 28, 2017**

Transfer From:

Transfer To:

Account Name	Account Number	Amount	Account Name	Account Number	Amount
General Fund - Free Cash	01-35910	\$1,294,000.00	Compensated Absences Fund	8270-49700	\$250,000.00
			Sidewalk Improvements	New	\$60,000.00
			2 Ton Dump Truck w/ Plow	New	\$55,000.00
			Nock-Parking Lot Repairs and Repaving	New	\$300,000.00
			Nock-Elevator Controls Modernization	New	\$140,000.00
			Multipurpose Tractor	New	\$35,000.00
			3/4 Pickup Truck w/ Plow	New	\$43,000.00
			1 1/2 Ton Dump Truck w/ Plow	New	\$85,000.00
			Replace/Update Radio Equipment	New	\$100,000.00
			Communications System	New	\$88,500.00
			IT Hardware	New	\$52,500.00
			High School Fire Alarm Panel Replace.	New	\$60,000.00
			Nock-Furniture Replacement	New	\$25,000.00
1st Floor Men's Bathroom Renov	3500-59600	\$684.73	Capital Stabilization Fund	8268-49700	\$84,044.24
Tree Brush Chipper	3502-59600	\$7,005.00			
3/4 Ton Pickup Truck w/ Plow	3503-59600	\$6,843.85			
Boom Truck Certification	3607-59600	\$1,676.66			
Front End Loader w/ Backhoe	3609-59600	\$64,839.00			
Biter Bucket	3611-59600	\$2,992.00			
3/4 Ton Pickup Truck w/ Plow	3615-59600	\$3.00			
Rev Electrical Inspections	2806-59600	\$150,000.00	Stabilization Trust Fund	8263-49700	\$150,000.00
Rev Transient Vendors	2807-59600	\$25,000.00	OPEB Trust Fund	8280-49700	\$25,000.00
RRFA Cemetery Receipts	2721-59600	\$25,000.00	Landscaping Equipment	New	\$25,000.00
Total		\$1,578,044.24	Total		\$1,578,044.24

009-03-28



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR

DONNA D. HOLADAY

60 PLEASANT STREET • P.O. BOX 550

NEWBURYPORT, MA 01950

(978) 465-4413 • (978) 465-4402 (FAX)

WWW.CITYOFNEWBURYPORT.COM

Donna D. Holaday

To: President and Members of the City Council
From: Donna D. Holaday, Mayor
Date: March 21, 2017
Subject: Transfer Requests to Fund FY17 Capital and Reserves

Now that we are likely past major snow events, the City can definitively ascertain what our current financial capacity is to fund this year's Capital Improvement Program (CIP). Over the past several weeks, I have worked with Department Heads and our Finance Team to identify priority capital expenditures that require immediate attention in the months ahead. Based on their feedback and consistent with the FY17 CIP, I am requesting transfers to fund the following projects/accounts:

- **Stabilization Trust Fund**
Cost: \$150,000
Rationale: Infusing our Stabilization Trust Fund with free cash will bring us closer to our financial policy target of maintaining 5% of the General Fund budget, increasing the ratio from 4.7% to 4.9%.
- **Capital Stabilization Fund**
Cost: \$84,044
Rationale: This transfer closes out seven capital project accounts with residual balances that are no longer needed. This transfer increases the Capital Stabilization Fund balance from \$117,428 to \$201,472.
- **Other Post-Employment Benefits (OPEB) Trust Fund**
Cost: \$25,000
Rationale: An annual contribution to the OPEB Trust Fund is recommended as a financial best practice to offset the long-term liability associated with these benefits. This liability is closely monitored by financial rating agencies. This transfer increases the OPEB Trust Fund balance from \$479,543 to \$504,543.
- **Compensated Absences Fund**
Cost: \$250,000
Rationale: Upon retirement, employees are paid out unused vacation time as well as contractually obligated benefits such as unused sick leave. We have calculated these

funding obligations for known retirements in FY17 and FY18, and are hopeful that funding this line will carry us through the current and next fiscal year.

- **Groundskeeper/Landscaping Equipment**

Cost: \$25,000

Rationale: Purchase of two stand-behind lawnmowers and three snow blowers. These will replace equipment that is over ten years old. Funded from the Cemetery Receipts Reserved for Appropriation Fund.

- **Sidewalk Improvements**

Cost: \$60,000

Rationale: Additional funding beyond the annual allocation of 50% of annual meals tax receipts to the sidewalk account in the annual operating budget.

- **Purchase of 2 Ton Dump Truck with Plow**

Cost: \$55,000

Rationale: The Parks Department currently uses 2 personal vehicles and one non-dumping trailer to haul material, tow equipment and move 3 work crews to separate sites on a daily basis. Using personal vehicles for hauling and/or towing is a liability for the City and damaging to our staff's vehicles. The truck is a two ton gas powered truck, equipped with a dump body and 8 foot fisher plow.

- **Nock/Molin Parking Lot Repairs and Repaving**

Cost: \$300,000

Rationale: The Nock/Molin parking lot is in extremely poor condition and needs a total replacement. Lighting is also poor in most areas of the parking lot and needs to be improved for safety reasons. The estimated cost comes from quotes provided during the recent renovation project. This project was considered to be included as part of that project, but there was insufficient budget to do so.

- **Nock/Molin Elevator Controls Modernization**

Cost: \$140,000

Rationale: The controls for the elevator are original to the 1972 construction; do not meet current codes and cannot be tied into the fire alarm system in the way that a modern elevator would. After a recent inspection, the state elevator inspector commented that the controller and hydraulic oil tank would need to be replaced in the near future due to age. Further discussions with an elevator professional brought up the point that replacement of the piston should be considered as well. This budget cost approve is to replace the controller and hydraulic tank, call buttons and other hardware and the piston. It also includes an allowance for engineering.

- **Multipurpose Tractor**

Cost: \$35,000

Rationale: The vehicle would replace Truck #24, a 1995 John Deere 855 tractor used throughout the year for mowing and snow clearance on sidewalks.

- **Purchase of ¾ Ton Pickup Truck with Plow**

Cost: \$43,000

Rationale: This vehicle will replace a 2000 Chevrolet pickup truck that has high mileage and frame issues. The vehicle has passed its life expectancy and, most likely, will not pass the next yearly Mass State vehicle inspection due to the front end falling off and doors rotting out.

- **Purchase of 1½ Ton Dump Truck with Plow**

Cost: \$85,000

Rationale: This truck will replace truck #12 which is a 2001 Chevy C3500. This truck is in very poor condition and must be taken off the road.

- **Replace/Update Radio Equipment**

Cost: \$100,000

Rationale: Replaces portable radios for Fire and Police Departments. The current portable police radios are going on 8 years old. They are starting to break down and becoming costly to repair. A bulk public safety procurement is the most cost effective method of purchasing these radios.

- **Communication System**

Cost: \$88,500

Rationale: The purpose of this project is to upgrade all networked phone systems that were initially installed in 2011. The scope of work is to upgrade all locations to latest Vertical telephony software releases, replace phone systems' server hardware and add more storage capacity including 5.0 upgrade enhanced feature sets. Currently we are unable to add new manufacturer phone sets to our older systems and software and older phone sets that do still work with existing older systems are hard to find and are increasingly more expensive to purchase. The need to perform this upgrade is also a public safety need as our police and fire communications rely on this platform. The cost of the project also includes support and maintenance for 5 years going forward; similar to the initial installation in 2011.

- **Information Technology Hardware**

Cost: \$52,500

Rationale: Replaces 30 computers, 4 networking switches and 2 multifunction large volume copier/scanners. The City's Computer Inventory is being replaced on a 48 month cycle to ensure that equipment is maintained within warranty, performs adequately with sufficient specification to run all required applications as efficiently as possible. The City's networking Switch infrastructure is being replaced on a similar cycle so as to maintain network performance and integrity upon which the server, computer and communications systems rely. Lastly, every year we schedule two of our large volume multifunction copier/scanners to be replaced due to wear and tear. This schedule is working well and serves to maintain an efficient functioning printing environment.

- **High School Fire Alarm Panel Replacement**

Cost: \$60,000

Rationale: The existing fire alarm panel was installed as part of the building renovation/addition in 1999-2002. The panel contains a number of programming chips, some of which are faulty, causing false trouble signals on the panel. The manufacturer no longer supports this particular panel and these programming chips and other parts are not available.

- **Nock/Molin Furniture Replacement**

Cost: \$25,000

Rationale: Much of the office and classroom furniture is old and or "hand me down" furniture in need of replacement. This project would replace the furniture that was not replaced during the renovation project over a series of years. \$25,000 per year would outfit six classrooms per year through FY20.

The projects outlined above represent \$509,044 in reserve appropriations and \$1,069,000 in total capital investments, which leaves us with \$842,489 (including pending transfers) remaining in free cash for FY17. In addition to utilizing free cash, my funding request hereto draws down on other available funding sources as follows:

Funding Source	Amount
Free Cash	\$1,294,000
Electrical Inspections Revolving Fund	\$150,000
Transient Vendor Revolving Fund	\$25,000
Cemetery Receipts Reserved for Appropriation	\$25,000
Unspent Capital Project Balances	\$84,044
Total	\$1,578,044

I look forward to discussing these funding needs in further detail when this request has been referred to the Budget and Finance Committee for their review.



City of Newburyport

FY 2017

BUDGET TRANSFER REQUEST

Department: Mayor's Office

Submitted by: Donna D. Holaday, Mayor **Date Submitted:** 3/28/2017

Transfer From:

Account Name	<u>General Fund - Free Cash</u>	YTD Bal:	<u>\$ 2,337,094.00</u>
Account Number:	<u>01-35910</u>	Trans In:	<u>\$ -</u>
Amount:	<u>\$18,162.66</u>	Trans Out:	<u>\$ (36,908.00)</u>
Why are Funds Available:	<u>The Massachusetts Department of Revenue certified Free Cash for</u>		
	<u>FY2017 at \$2,374,002. These funds are available for any legal expenditure with the approval of the</u>		
	<u>Mayor and a vote of the City Council.</u>		

Transfer To:

Account Name	<u>Clean River Project</u>	YTD Bal:	<u>\$ -</u>
Account Number:	<u>New Account</u>	Category:	<u>\$ -</u>
Amount:	<u>\$18,162.66</u>	Trans I/O:	<u>\$ -</u>
Why are Funds Required:	<u>See attached explanatory memorandum from Mayor Holaday.</u>		

Donna D. Holaday, Mayor
 Ethan R. Manning, Auditor
 City Council Approval: (Stamp)

Donna D. Holaday
Ethan R. Manning

Date: 3/28/17
 Date: 3/28/17



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

To: President and Members of the City Council

From: Donna D. Holaday, Mayor

Date: March 28, 2017

Subject: Request for Free Cash Transfer for Merrimack River Coalition of the Clean River Project

Donna D. Holaday

The Clean River Project was started 13 years ago with a small effort to clean up local sand bars on the Merrimack River that had become unsightly. Since then, the effort has grown and the organization now involves an on-going effort to clean the river and rid it of tons of debris each year. Prior to this year, the organization was funded by private donations from individuals and businesses, small grants and fundraisers.

The organization is now interested in developing a coalition of communities that abut the river and benefit from its provision of water to some and its recreational beauty for all. It is seeking a small annual commitment from each community to help with this effort. I have submitted a Free Cash Transfer Request for the amount of \$18,162.66 for Newburyport's share of this need.

You will each receive a blue folder at your desk on March 28th that will provide information about the organization, its operating costs as well as letter of support from other communities and businesses that benefit from their efforts. The pictures of what they have been able to clean out of the river, and continue to clean out, are compelling.

I am sure you will agree that the beauty and appeal of Newburyport is due largely to our gorgeous river waterfront and Plum Island beaches. The health and cleanliness of these natural resources are critical for the economic success of our City and vital in keeping it an attractive and desirable destination for residents and visitors.

I look forward to further discussions regarding this important project and Newburyport's involvement in helping to protect on of our most important natural resources. Please go to www.cleanriverproject.org for additional information.



City of Newburyport

FY 2017

BUDGET TRANSFER REQUEST

Department: DPS - HIGHWAY

Submitted by: Anthony Furnari, Director

Date Submitted: 3/28/2017

Transfer From:

Account Name	<u>RSV APP - DPS GAS</u>	YTD Bal:	\$	<u>129,579.20</u>
Account Number:	<u>2722-59600</u>	Trans In:	\$	<u>-</u>
Amount:	<u>\$30,000.00</u>	Trans Out:	\$	<u>-</u>
Why are Funds Available:	<u>This is the standard method of funding the DPS fuel and oil account. As City departments pay for gasoline, the funds are deposited into this reserve for appropriation account and then transferred into the fuel and oil expenditure account within the Highway budget to purchase more fuel.</u>			

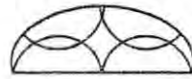
Transfer To:

Account Name	<u>DPS Highway - Fuel and Oil</u>	YTD Bal:	\$	<u>9,213.31</u>
Account Number:	<u>01421004-54801</u>	Trans In:	\$	<u>-</u>
Amount:	<u>\$30,000.00</u>	Trans Out:	\$	<u>-</u>
Why are Funds Required:	<u>Funds are required by buy gasoline and oil that is used by City vehicles.</u>			

Donna D Holaday, Mayor
 Ethan R. Manning, City Auditor
 City Council Approval: (Stamp)

<u>Donna D Holaday</u>	Date:	<u>3/21/17</u>
<u>Ethan R Manning</u>	Date:	<u>3/21/17</u>

COMMUNICATIONS



NEWBURYPORT
PRESERVATION TRUST

LINKING THE PAST WITH THE PRESENT AND FUTURE

March 21, 2017

Newburyport City Council
Newburyport, Massachusetts
By Email

Re: TCROD, Towle "1690 House" Preservation

Dear President O'Brien and City Council Members,

One purpose of the Towle Complex Redevelopment Overlay District is "to preserve and enhance the significant historic features...exhibited in the c. 1690 residential structure," also known as the "1690 House." Ordinance Special Permit criteria include rehabilitation consistent with the Secretary of the Interior's "Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings."

Changes made to the 1690 House do not comply – the building has been ruined from an historic perspective – and the developer, First Republic Corporation, is now seeking a "remuneration" agreement for the violation through the Newburyport Historical Commission.

On February 22, 2017, after completely gutting both the interior and exterior historic features of the 1690 House, First Republic asked for NHC approval of a Preservation Restriction (also required under the TCROD). The NHC, not wanting to "convey benefits to the developer based on what was done to the building," and to seek Planning Office guidance, postponed its vote on the Preservation Restriction.

At the following NHC meeting, March 8, First Republic offered and asked to discuss "remuneration." Continuation of this discussion is on the NHC agenda for tomorrow, Wednesday, March 22.

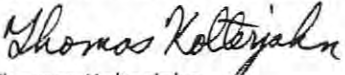
We wanted the City Council to be aware of the ordinance violation and of these discussions, and ask that you be involved in any agreement the City reaches with the developer.

We have attached "before and after" pictures of the 1690 House, and the NHC February 22 Meeting Minutes, highlighted.

Respectfully,

Newburyport Preservation Trust, Inc.

On behalf of its board of directors,


Thomas Kolterjahn
Co-President


Linda Miller
Co-President

cc: Mayor Donna Holaday; Andrew Port, Planning Director; Sarah White, Chair, Newburyport Historical Commission; Jim McCarthy, Chair, Newburyport Planning Board
P.O. Box 184 • Newburyport, MA 01950

www.nbptpreservationtrust.org

4. Advisory Review

George Carey

1 Market Square

DOD Advisory Review

Mark Griffin, George Carey, Dan Ricciarelli described the plans for renovating the restaurant space at the Firehouse. The Commission is to provide an advisory report to the Planning Board for the March 1 public hearing on the project. On the front façade, upward-opening doors would be added. New awnings would be installed that attach to the doorframes. Signage would be installed utilizing existing holes. No damage would be done to the granite lintel or bricks. At the rear of the structure the glass wall would be moved outwards to the face of the upper deck to expand the dining area. A permanent pergola structure with hipped-roof awnings would replace the existing tent. The applicant is proposing to paint a large sign on the brick of the rear façade.

Sarah White opened the hearing to comments from the public. Tom Kolterjahn, 64 Federal Street, said he supports the plan, which is a wonderful adaptive reuse project that benefits both the community and the theatre. He said the paint should not be removed from the interior brick by sandblasting and lime mortar should be used. Lois Honegger said both Mayor Holaday and the board of the Firehouse fully support the project.

Sarah White closed the public comment portion of the hearing and asked for comments from the Commission members. The members emphasized no holes should be made in the brick or granite. Ned McGrath spoke against a sign being painted on the brick. He said the structure houses the theater in addition to the restaurant and any signage for the restaurant should be at street level. Sarah White moved to recommend the project to the Planning Board with the conditions discussed while conveying the concern expressed about signage on the rear façade. Malcolm Carnwath seconded the motion. The motion was unanimously approved.

5. General Business

Lisa Mead

1690 House, 262 Merrimac Street

Preservation Restriction

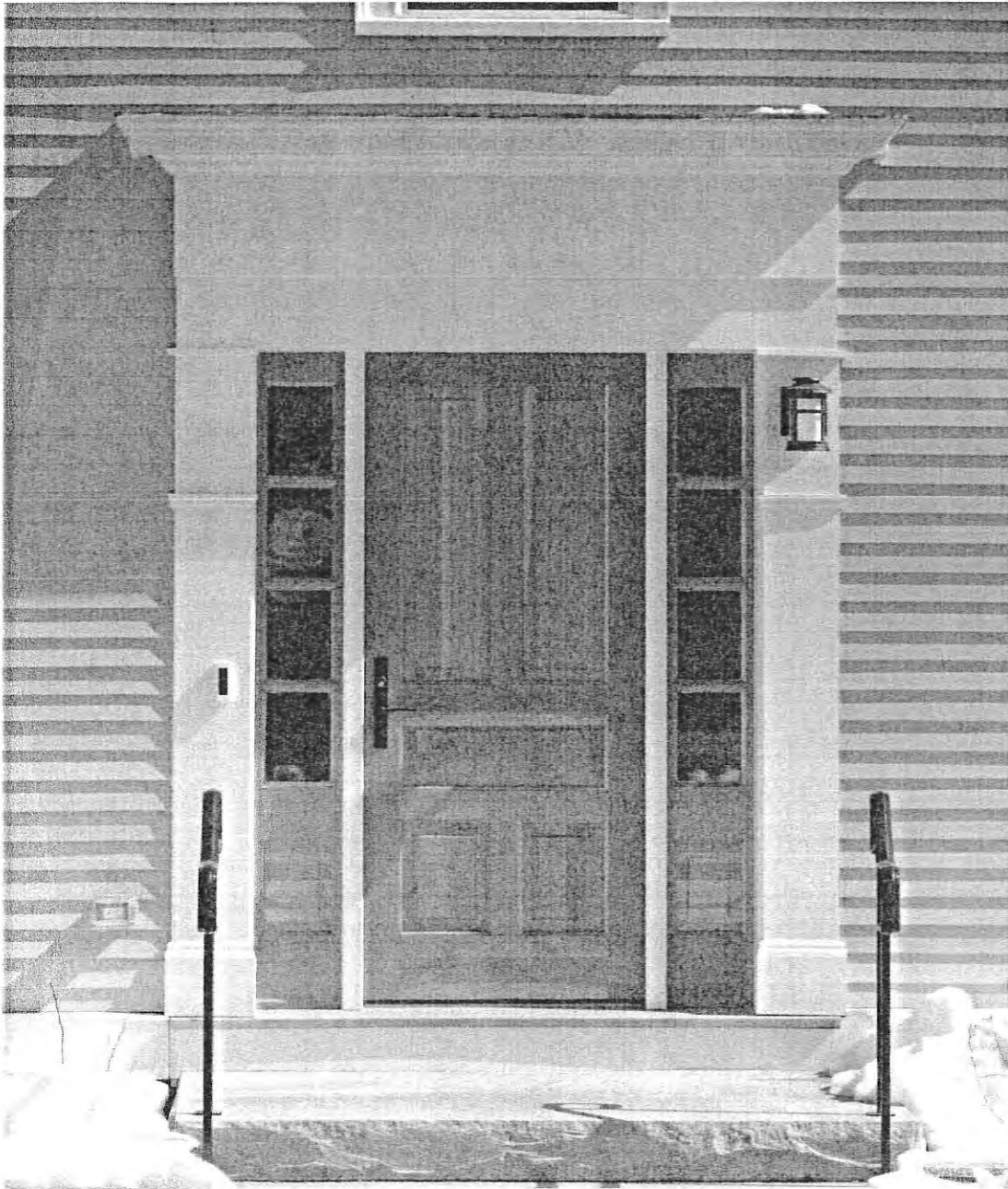
Adam Costa represented the applicant and the First Republic Corporation. A preservation restriction was to apply to certain interior elements of the 1690 House along the exterior features. The staircase, floors, windows, paneling and mantles were all to have been retained. Instead the interior was gutted and most of these elements were not preserved. With regards to the exterior elements, the Greek Revival entrances were not preserved and the entablatures were discarded. Tom Kolterjahn, 64 Federal Street, said what the developer did to the building is a tragedy. The developer made representations that building would be preserved and did not keep these promises. Sarah White said First Republic destroyed the architecture integrity of the structure's interior and what was done was abhorrent. Ned McGrath said the document is a hollow one and does not contain enough detail to warrant being signed. He does not wish to convey benefits to the developer based on what was done to the building. He asked what recourse the City might seek from the developer. Sarah White moved to postpone the vote on the preservation restriction until the March 8 meeting to allow her time to speak with the Planning Director and the City Attorney. Malcolm Carnwath seconded the motion. The motion was unanimously approved.

1690 House Before and After – Examples

Merrimac Street Entrance 2007



Merrimac Street Entrance - 2017



* MORE PHOTOS AVAILABLE IN CLERK'S OFFICE

Stephanie (& All) –

I have reviewed your letter and spoken with Sarah White, Chair of the Newburyport Historical Commission (NHC) about this. The Commission is meeting to discuss this matter with the developer's representative (Lisa Mead) tonight. In the meantime Sarah and I agreed it would be best to schedule a site visit and inspection. I presume a suitable date for that will be determined after tonight's discussion with the Commission. I will make myself available and include the Planning Board Chair (Jim McCarthy) if possible. I will assist with coordination of this on-site meeting pending tonight's discussion and information regarding the availability of each party. I will also attend any committee meetings if possible.

I am in agreement with the NPT that financial "remuneration" should not become a "pattern" with developers hoping to make "payment in lieu" of prior commitments to historic preservation. I believe Lisa represented the Lime Street developer where that was also proposed "after the fact." The "surprise" demolition of 8 Strong Street also appears to have been one of these convenient "circumventions."

However, it is important that we distinguish matters of perspective (i.e. what is viewed as acceptable work) from what is a clear legal violation of the Newburyport Zoning Ordinance (NZO) and permits issued thereunder (in this case the Special Permit issued by the Planning Board). You are correct to point out that the NZO requires a Preservation Restriction (PR) for the 1690 House, and that [work on] the structure was to be consistent with the Secretary's Standards for Historic Buildings. However, as I'm sure you are aware, application of the Secretary's Standards for Historic Buildings requires some interpretation in the field based on actual conditions and feasibility/applicability. Unfortunately that discussion was never completed.

I will defer to the NHC on which provisions of the Standards have been violated by the developer. I have not had the time to monitor their work on this building in the field, but have previously asked that NHC Chair Sarah White let me know if there are any concerns as the work was progressing. The last involvement I have had with this appears to have been site visits and exchanges with the developer on which items would remain and be restored vs. replaced/altered. As I recall this conversation included Planning Board Chairman Jim McCarthy. I do not, however, recall a formal or final document summarizing all agreed upon alterations (or items to be preserved). I believe that was last being addressed by Sarah and the developer, however according to Sarah they may have been making changes in the field without first circling back with Sarah for review/approval.

In either case, there does not appear to be a PR on record with a written agreement between the City and developer over what can and cannot be done. This is partly due to the Planning Board's original condition of approval (issued back in 2007, prior to my time) which required a PR, but unfortunately did not specify a deadline for that PR. In the case of the Kelley School (more recently) we made sure that a condition was placed on the developer specifying that no work could proceed until the PR was recorded, including photographs of "baseline conditions" and the list of approved alterations thereto. Not so with the earlier Towle Special Permit. For this reason I make it a habit (wherever possible) to recommend deadlines for conditions required within permits issued by our boards – in this case it would have been recording of a locally approved PR prior to any work on the building. Period. Terms of the PR could then be enforced clearly and without debate over what was agreed to informally, verbally or "in the field." In my opinion this is the "lesson learned" here (for the City). We will continue to recommend deadlines and triggers in permit conditions moving forward. That being said, based on the language of the

Ordinance provision involved, the developer clearly should have worked these issues out with the NHC before doing all this work (i.e. which is not in accordance with the Standards), via a formal signed document agreed to by both parties (i.e. the PR).

The Mayor and our Human Resources Director are in the process of hiring a part-time enforcement officer who can assist with monitoring permit compliance (due to our other responsibilities, limited time and resources). This person could also help to monitor compliance with PRs imposed/approved by the City. However, please note that PRs typically address exterior elements of structures that are visible to the public. This is the arguable "public benefit" of regulating the appearance of, and limiting alterations to, historic structures. There is less of an argument to be made for regulating what is done on the private interior spaces of dwelling units – as much as that may be desirable or admirable. And while there are clearly internal elements that are important and feasible to preserve, it is not clear in this instance where that line was intended to be drawn, since there is no PR in place yet between the NHC and developer (as with the Kelly School).

I will wait to hear from Sarah White before coordinating further meetings and/or site visits. Clearly we need to address the instant situation as well as note the "lesson learned" (for permit conditions and enforcement) moving forward. Thank you.

Andrew R. Port, AICP
Director of Planning & Development

Office of Planning & Development
City of Newburyport
60 Pleasant Street
Newburyport, MA 01950

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To: President and Members of the City Council
 From: Donna D. Holaday, Mayor
 Date: March 21, 2017
 Subject: FY2017-FY2021 Capital Improvement Program Submission

In accordance with Section 6-5 of the Charter, which requires the submission of a capital improvement plan to the City Council by April 1 of each year, I am pleased to submit an updated Capital Improvement Program for Fiscal Years 2017 through 2021.

The enclosed Capital Improvement Program continues the process initiated six years ago in the FY13 budget. The format of this document remains consistent - it includes an executive summary, cost estimates, supportive documentation, projected methods of financing, and long-term financial planning for a five-year window of capital investment needs. The fact that the Government Finance Officers Association has designated our annual budget document with a Distinguished Budget Presentation Award for the past five years speaks to the level of quality and detail contained in our CIP submissions for those fiscal years.

As was done previously, we have included projects that we have funded or proposed to be funded in the course of the current fiscal year to demonstrate the City's ongoing commitments to investing in our infrastructure and to show the strides being made to attend to the City's ongoing capital needs. As a result, this CIP constitutes a selection of projects and equipment that either have received funding already in FY17 or that we have requested funding before the end of the fiscal year.

This document should be viewed as a tool to illustrate how effective a coordinated approach to capital planning can be in the acquisition of equipment or completion of significant infrastructure improvement projects. Additionally, the fact that the revised Charter requires that this document be updated annually demonstrates the importance of this information being communicated to the City Council and the community as a whole.

I have placed significant emphasis on the importance of developing an organized and coordinated CIP for the City. Over the past few years, we have made progress in allocating funding for capital improvements into the operating budget and I am committed to continuing that trend to the greatest extent possible in FY18 and beyond.

I urge the members of the City Council to carefully review the plan, which will also be made available for public viewing on the City's website, and look forward to working with you through the public hearing and adoption process as specified in the Charter.

COMM032 ADP

Line Items Reduced in FY2017 Adopted Budget

As of 1/31/2017 (58.3%)

Org	Object	Account	Proposed Budget	Approved Budget	YTD Spent	Remaining	% Used
01111002	53001	CCN LEGAL ADS	\$5,000	\$2,500	\$409	\$2,091	16.3%
01121001	51501	MYR TRAVEL EXP STPND	\$5,100	\$3,100	\$1,656	\$1,444	53.4%
01121007	57801	MYR MISC EXPENSE	\$20,000	\$15,000	\$10,244	\$4,756	68.3%
01129002	52403	GEN PUBLIC RESTROOMS	\$10,000	\$7,000	\$6,429	\$571	91.8%
01135004	55800	AUD MISC SUPPLIES	\$1,750	\$1,500	\$1,350	\$150	90.0%
01145004	54200	TRS OFFICE SUPPLIES	\$2,000	\$1,500	\$781	\$719	52.0%
01151004	55800	IT MISC SUPPLIES	\$1,800	\$1,600	\$1,275	\$325	79.7%
01220004	55101	FIR EDUCATIONAL MATERIAL	\$5,000	\$3,000	\$370	\$2,630	12.3%
01291004	54200	EMR MISC EXPENSE	\$2,000	\$1,000	\$535	\$465	53.5%
01292002	53009	ANC CARE OF ANIMALS	\$5,000	\$3,000	\$682	\$2,318	22.7%
01421004	52411	HWY ELECTRICAL SUPPLIES	\$35,000	\$30,000	\$4,054	\$25,946	13.5%
01541002	52101	COA UTILITIES	\$40,000	\$25,000	\$12,615	\$12,385	50.5%
01914001	51707	INS FICA PAYROLL TAXES*	\$200,000	\$160,000	\$115,809	\$44,191	72.4%

*Transfer request of \$25,000 anticipated

Patricia Barker

From: Charles Tontar <tontar44@comcast.net>
Sent: Tuesday, March 21, 2017 10:44 AM
To: Edward Cameron; Bob Cronin; Richard Jones; Patricia Barker; Patricia Moore
Subject: Communication on Lines Cut from FY17 Budget
Attachments: Line Items Reduced in FY17 Adopted Budget 1.31.17.pdf

Please include the attached in the packet for Tuesday night's meeting as a communication. I requested this information from the Finance Director on the status of the lines that were cut in last year's budget process so the Council would have a sense as to whether or not transfers would be necessary. It appears that a transfer of at least \$25,000 will be necessary.

Thank you,

Charlie Tontar

*Newburyport Retirement Board
16 Unicorn Street
Newburyport, MA 01950*

Board Members

*Joseph Spaulding, Chairman
Jeffrey Cutter, Vice-Chairman
Alexander Kravchuk, Board Appointee
Ethan Manning, City Auditor
John Moak, Mayor Appointee*

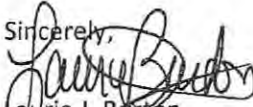
*Laurie Burton, Executive Director
LaurieBurton@NewburyportRetirement.org
Telephone
(978) 465-6619
FAX
(978) 462-4042*

To: President and Members of the City Council
From: Newburyport Retirement Board
Date: March 13, 2017
Re: Retirement Board Meeting for the Purpose of Voting on COLA for Retirees

Per the provisions of Section 51 of Chapter 127 of the Acts of 1999, we are hereby notifying you that the Newburyport Retirement Board will be holding a meeting in the retirement office at 16 Unicorn Street at 9:00 A.M on May 25, 2017.

The Retirement Board, at this meeting, will address the election of paying a COLA of up to 3% to the Retirees for FY 2018, pursuant to Chapter 32, Section 103 and Chapter 127, Section 51 of the Acts of 1999.

Sincerely,


Laurie J. Burton
Executive Director

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

20 March 2017

RE: Evergreen Special Permit issued by the Planning Board

The purpose of this communication is to provide a brief overview of the Special Permit decision issued by the Planning Board for the Evergreen development on Boyd Drive, and to offer to appear before the Council if further discussion is requested.

It is important to note that the scope of the Board's decision had to be limited to the Permit request before us, and the regulations in place at that time. Although there is keen interest in the City's future water resources, the Board agreed that this objective was outside the Board's purview. The two main categories of regulations that the Board applied are the subdivision regulations, and the Water Resource Protection District regulation (WRPD) (Sec. XIX of the Zoning Code).

Application of the subdivision regulations was straightforward, and the Board decided that the compact form of development encouraged by our Open Space Residential Development (OSRD) regulation was best. (This regulation allows development with approximately half size lots and the remaining 60% of the parcel to be given as permanent open space.) The vast majority of our time was spent on the WRPD, which had two main points of deliberation. First, residential housing is not a prohibited use in Zone II. (Sec XIX-G) (In fact, I could find no community that prohibits residential in Zone II.) Second, there is a provision of the WRPD regulation (Sec XIX-F, 10.) that provides that the Board may stop any activity that is likely to cause or contribute to contamination. Although there was some contention about the legality of the Board's ability to apply this contamination provision, the Board agreed with the opinion of our Solicitor. It was clearly understood by the Board that if there was evidence of a likelihood to cause or contribute to contamination, that the Board had the responsibility under the WRPD to vote no.

As the Chair I proactively reached out to all City departments involved, including the DPS, the Conservation Commission, the Board of Health, and the Water and Sewer Commission. The Board received input from several technical experts including a hydrologist, AECOM, as our water peer review, and Christiansen and Sergi, as our engineering peer review. At several points during the process Director Port made inquiries with our Solicitor regarding legal points, and briefed me directly thereafter. In addition to materials presented at meetings, I have reviewed multiple other comminutes regulations and spoken to several of their staff.

After consideration of the copious materials taken as a whole, including City department input and public testimony, the Board voted 6-2 to grant a Special permit for a 38 lot Open Space Residential Development. It was clear from the final deliberation and vote that Board members were not convinced that the approved residential design was likely to cause a contamination risk. The two dissenting votes were focused not on the conclusion that contamination was likely, but that if contamination was found during construction, that there was not enough surety to adequately protect the City. The resulting decision has in part: 1) a chemical test plan (some of which has already been completed), 2) a layout that moves all the lots away from the low-lying flood areas/wetlands, 3) a \$2 million insurance requirement in case of environmental issues during construction, and, 4) a requirement to make a recommendation to the DPS on their ongoing EPA test protocol, if required.

The 26 page Special Permit decision entailed consideration of some 1000+ pages of submitted materials, both technical and legal, 100s of pages of regulations, and more than 20 hours of public input, including a 4 hour long final deliberation. In addition to this OSRD Special Permit, the applicant is still required to provide detailed engineering plans and apply for two additional Special Permits under the WRPD. The Board intends to scrutinizing these engineering plans and Special Permits to insure that the neighborhood and the City receive the safest, most optimized plan possible.

All of the materials have been posted on the City website as they have become available. I would be glad to appear before the Council to discuss any of the above.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jim McCarthy', with a large, sweeping flourish extending to the right.

Jim McCarthy
Chairman, Newburyport Planning Board

Rules of Professional Conduct Rule 3.9: Advocate in Nonadjudicative Proceedings

A lawyer representing a client before a legislative body or administrative agency in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of Rules 3.3(a) through (c) , 3.4(a) through (c) , and 3.5.

Adopted March 26, 2015, effective July 1, 2015.

Comment

[1] In representation before bodies such as legislatures, municipal councils, and executive and administrative agencies acting in a rule-making or policy-making capacity, lawyers present facts, formulate issues and advance argument in the matters under consideration. The decision-making body, like a court, should be able to rely on the integrity of the submissions made to it. A lawyer appearing before such a body must deal with it honestly and in conformity with applicable rules of procedure. See Rules 3.3(a) through (c) , 3.4(a) through (c) , and 3.5.

[2] Lawyers have no exclusive right to appear before nonadjudicative bodies, as they do before a court. The requirements of this Rule therefore may subject lawyers to regulations inapplicable to advocates who are not lawyers. However, legislatures and administrative agencies have a right to expect lawyers to deal with them as they deal with courts.

[3] This Rule only applies when a lawyer represents a client in connection with an official hearing or meeting of a governmental agency or a legislative body to which the lawyer or the lawyer's client is presenting evidence or argument. It does not apply to representation of a client in a negotiation or other bilateral transaction with a governmental agency or in connection with an application for license or other privilege or the client's compliance with generally applicable reporting requirements, such as filing of income tax returns. Nor does it apply to the representation of a client in connection with an investigation or examination of the client's affairs conducted by government investigators or examiners. Representation in such matters is governed by Rules 4.1 through 4.4.

[4] Unless otherwise expressly prohibited, ex parte contacts with legislators and other persons acting in a legislative capacity are not prohibited.



RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

2017 MAR 13 P 12:47

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 Street, Newburyport, MA 01950 **at least eight (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: March 12, 2017

CONTACT INFORMATION

FIRST AND LAST NAMES: Jay Iannini

MAILING ADDRESS: 26 Summit Place

PHONE NUMBER: 978-701-4085

E-MAIL ADDRESS: jay.iannini@gmail.com

BLOCK PARTY INFORMATION

BLOCK PARTY DATE: June 3, 2017

DESIRED STREET CLOSING LOCATION: Unicorn St between Pleasant & Green St lot
Please indicate cross streets when requesting the closing of street sections

STREET TO BE BARRICADED: Unicorn St

DESIRED STREET CLOSING TIME: 12 PM - 6 PM

Block Parties should run no later than 10:00 p.m.

REGULATIONS

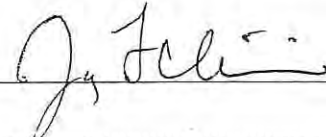
By signing, I agree that I am a legal adult 18 years of age or older and understand this permit does not release me of any liability for damages that may result from the conducting of this Block Party. Further, I agree to comply with all requirements listed below:

I understand that applications for block party permits may take up to four (4) 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:

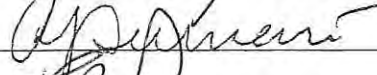
1. All residents living on the street or block for which the party is planned request the block party, or have been contacted and do not object to the Block Party.
2. To be responsible for placement, maintenance and removal of barricades.
3. A block party permit does not allow the sale of alcohol or 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 (10) 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 two (2) hours of the end of 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 e conducted within five hundred (500) feet of any school, church, hospital, nursing home or similar operation unless endorsed by the management of such institution.
11. Only approved readily removable Barricades will be permitted such as orange cones and sawhorses with a sign. No vehicles will be permitted to be used as a Barricade.
12. Block parties are permitted 10 A.M. – 10 P.M.

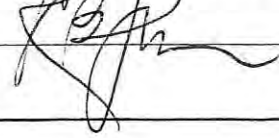
Applicant signature:  Date: March 12, 2017

APPROVAL SIGNATURES REQUIRED FOR STREET CLOSURE

CITY MARSHALL 
4 Green Street

FIRE CHIEF 
Greenleaf Street

DEPUTY DIRECTOR 
1 Perry Way

CITY CLERK 
60 Pleasant Street

City use only:

Approved _____ Denied _____ Date _____

NEWBURYPORT SPECIAL EVENT APPLICATION

Tel.

Fax.

(For Parades, Road Races and Walkathons Only - Please complete page 3 of this application)

NAME OF EVENT: 7th Annual GNOCA 5K Walk/Run in honor of Paula Holm + Jackie Poor

Date: Sunday Sept. 24, 2017 Time: from 10 am to 1 pm

Rain Date: N/A Time: from _____ to _____

2. Location: Michael's Harborside, 1, Tournament Wharf

3. Description of Property: Restaurant Public _____ Private _____

4. Name of Organizer: GNOCA City Sponsored Event: Yes _____ No

Contact Person Stella McCormick

Address: 16 Norman Ave Telephone: 978-462-0117

E-Mail: sacmccormick@gmail.com Cell Phone: 978-884-0896

Day of Event Contact & Phone: 978 884 0896 - Stella McCormick

5. Number of Attendees Expected: 50-100 runners 50+ walkers

6. MA Tax Number: _____

7. Is the Event Being Advertised? yes Where? N.E Runner magazine

8. What Age Group is the Event Targeted to? 18+

9. Have You Notified Neighborhood Groups or Abutters? Yes _____ No Who? _____

ACTIVITIES: (Please check where applicable.) Subject to Licenses & Permits from Relevant City Departments

A. Vending: Food _____ Beverages _____ Alcohol _____ Goods _____ Total # of Vendors _____

B. Entertainment: (Subject to City's Noise Ordinance.) Live Music _____ DJ _____ Radio/CD _____
 Performers _____ Dancing _____ Amplified Sound _____ Stage _____

C. Games /Rides: Adult Rides _____ Kiddie Rides _____ Games _____ Raffle _____
 Other _____ Total # _____
 Name of Carnival Operator: _____
 Address: _____
 Telephone: _____

D. Organizer is responsible for clean-up during and after event. All trash must be collected and removed from event location immediately at the end of the event unless prior written agreement had been made with the Department of Public Services (DPS).

Will you be conducting the clean-up for this event? Yes No _____

RECEIVED
 CITY CLERK'S OFFICE
 NEWBURYPORT, MA
 MAR 15 A 10:56

If yes:

- a) How many trash receptacles will you be providing? 4
- b) How many recycling receptacles will you be providing? 0
- c) Will you be contracting for disposal of : **Trash** Yes No **Recycling** Yes No
- i. If yes, size of dumpster(s): **Trash** _____ **Recycling** _____
- ii. Name of disposal company: **Trash** _____ **Recycling** _____
- iii. If no, will you remove trash & recycling with organizers' cars or trucks? Yes No
- iv. If no, where will the trash & recycling be disposed ? _____

If no:

- a) # of trash container(s) to be provided by DPS _____
- b) # of recycling container(s) to be provided by Recycling Office _____
- c) \$45.00/hr/DPS employee charge must be paid by the organizer to DPS in advance of the event (Fee for Special Events). The hours required for the event will be determined by DPS.

All fees must be paid prior to the event. Check or money order is payable to the City of Newburyport.

E. Portable Toilets: (Each cluster of portable toilets must include at least one ADA accessible toilet)

_____ Standard # _____ ADA accessible

Name of company providing the portable toilets: _____

FOR PARADE, ROAD RACE AND WALKATHON EVENTS ONLY

PARADE _____ ROAD RACE WALKATHON

1. Name of the Group or Person Sponsoring the Road Race, Parade, Walkathon: Greater Newburyport Ovarian Cancer Awareness
Walkathon

2. Name, Address & Daytime Phone Number of Organizer: Stella McCormick
16, Norman Ave, NBPT. 978 462 0117 - home
978 884 0896 - cell

3. Name, Address & 24/7 Telephone Number of Person Responsible for Clean Up As above

4. Date of Event: Sept 24 2017 Expected Number of Participants: 100

5. Start Time: 10 am Expected End Time: 1pm

6. Road Race, Parade or Walkathon Route: (List street names & **attach map of route**): Merrimac Street
Jefferson Street, High Street, Kent Street, Washington Street,
Rail Trail. (See attached map). The walkers will follow a
different route downtown (map attached).

7. Locations of Water Stops (if any): Jefferson Street (left side - midway)

8. Will Detours for Motor Vehicles Be Required? No If so, where? _____

9. Formation Location & Time for Participants: Michaels Harborside 10am

10. Dismissal Location & Time for Participants: Michaels Harborside - 1pm

11. Additional Parade Information:
- Number of Floats: _____
 - Locations of Viewing Stations: _____
 - Are Weapons Being Carried: Yes _____ No _____
 - Are Marshalls Being Assigned to Keep Parade Moving: Yes _____ No _____

APPROVAL SIGNATURES REQUIRED FOR STREET CLOSURE OR ANY USE OF A PUBLIC WAY.

CITY MARSHAL [Signature] 4 Green St. FIRE CHIEF [Signature] 0 Greenleaf St.
 DEPUTY DIRECTOR [Signature] 16A Perry Way CITY CLERK [Signature] 60 Pleasant St.

DEPARTMENT APPROVAL (for Committee Member use only):

It will be necessary for you to obtain permits or certificates from the following Departments: Please note that costs for some City support services during an event are an estimate only. Some Departments may forward an invoice for services rendered at the completion of the event, and others may require advance payment.

<i>Approval Required</i>	Date: _____	Signature _____	
_____	1. Special Events:	_____	_____
_____	2. Police:	_____	_____
	Is Police Detail Required:	_____	# of Details Assigned: _____
_____	3. Traffic, Parking & Transportation:	_____	_____
_____	4. ISD/Health:	_____	_____
_____	5. Recycling:	_____	_____
_____	6. ISD/Building:	_____	_____
_____	7. Electrical:	_____	_____
_____	8. Fire:	Dep STB 3/13/17	_____
	Is Fire Detail Required:	NO	# of Details Assigned: _____
_____	9. Public Works: Fee for Special Events: \$45/hr/DPS employee for trash handling/staging etc. may apply	_____	
	<input type="checkbox"/> Yes: \$ _____ due on _____	<input type="checkbox"/> No Fee for Special Events applies	
	Other requirements/instructions per DPS _____		
_____	10. Recreation Department:	_____	_____
_____	11. License Commission	_____	_____

The Departments listed above have their own application process. Applicants are responsible for applying for and obtaining all required permits & certificates from the various individual Departments.

Limitations

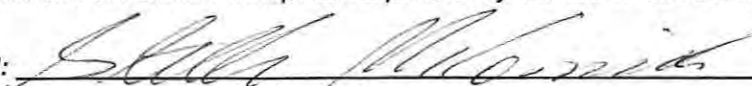
- (a) *"Procedure"* All road racing, walkathon, bicycle, or swimming events shall, through that event's organizer, board of directors, charity foundation or designee apply for authorization to hold the event through the Office of the City Clerk. The City Clerk upon review of the completed form will place the application on the regular City Council agenda. Upon following the procedures of the Council, as deemed appropriated in the sole judgment of the Council, the application will be considered approved if the Council votes favorably by majority. The event will name one person responsible on the application and shall provide contact information to include name, address and telephone number.
- (b) *"Exemptions"* Each event organizer or organization shall comply with this ordinance and no exemptions will be permitted.
- (c) *"Course map"*, All applications shall be accompanied by a course map showing the event route, water stops, refreshment stops, and so-called "porta-potties". The course map shall also include any road closures, detours and parking areas. The course map shall be approved by Police, Fire, Department of Public Services, Parks Commission and Harbormasters Departments prior to submission to the City Clerk.
- (d) *"Electronic Amplifier"* Electronic amplifiers, loudspeakers and bullhorn use shall be requested at time of application. Under no circumstances will they be used for public address announcements or music before 8:00 A.M. except for Sundays when electronic amplifiers, loud speakers or bullhorns will be used for public address announcements or music before 9:00 AM. This shall be deemed a requirement for all permitted events regardless of type or location.

- (e) *"Road Closure"* No ways, public or private, boat ramps or parking lots controlled or patrolled by the city shall be closed without authorization. Authorization shall be considered granted only if said closure(s) are contained in the approved permit. It is the sole responsibility of the race organizers to notify residents ten (10) days in advance that neighborhood roads will be closed if no alternate route is available to those residents.
- (f) *"Insurance"* All events shall have an insurance policy or rider in effect for the event naming the "City of Newburyport" as an insured. The policy shall be no less than two million dollars (\$2,000,000.00).
- (g) *"Event termination"* If in the judgment of the City Marshal, Fire Chief or Department of Public Services (DPS) Director or designees thereof determine that an event is unsafe due to existing conditions, that event may be stopped, terminated or suspended. In the case of a multidiscipline event such as a triathlon, the Harbormaster or his/her designee may likewise stop, terminate or suspend the swimming portion for cause.
- (h) *"Event and traffic Security"* The City Marshal, Fire Chief, DPS Director or in the case of a triathlon, the Harbormaster can require special duty personnel to oversee the safety and security of the event. All special duty assignments will be paid by the event organizers.
- (i) *"Clean-up"* The event organizers shall be responsible for post event trash collection, removal of signage, directional arrows, advertisements or other promotional material associated with the event.

13-101 Enforcement

- (a) *"Regulations"* Consistent with this ordinance, the city shall promulgate regulations to enforce and otherwise implement the provisions of this ordinance upon passage by the City Council. Any event previously approved by City Council shall be deemed permitted.
- (b) *"Warning"* In the circumstance that this ordinance is violated, the enforcement may consist of a warning. Any warnings issued for violation(s) will be reported to the City Clerk and City Council and may be used as a factor in future application approvals and denials.
- (c) *"Noncriminal Disposition"* If the city determines that a violation has occurred in which a noncriminal violation is issued, the named event organizer shall be penalized by a non-criminal disposition as provided in Massachusetts General Law as adopted by the City of Newburyport as a general ordinance in Subsection 1-17 of Chapter 1 of the Code or Ordinances of the City of Newburyport in the amounts set herein in 13-101(d)
- (d) *"Violation"* The non-criminal violation shall be \$100.00 for the first offense and \$250.00 for second and subsequent offenses. Any non-criminal citations issued for violation(s) will be reported to the City Clerk and City Council and shall be used as a factor in future application approvals and denials.

I fully understand and agree to all the terms set forth in this application. The information that I have provided is truthful and accurate. I accept all responsibility related to this event.

Signed:  **Date:** 3/10/17

March 7, 2017

Members of the Newburyport City Council
60 Pleasant Street
Newburyport, MA 01950

Dear Members of the Newburyport City Council,

I am writing to ask your permission to hold the 7th Annual GNOCA 5K Run/Walk, in honor of Jackie Poor and Paula Holm, in Newburyport, on Sunday, September 24, 2017, 10:00 am – 1pm.

The Greater Newburyport Ovarian Cancer Awareness (GNOCA) was founded by Deb Green and Elaine Carroll, Newburyport businesswoman and resident. We raise money for Ovations for the Cure, a non-profit organization, located in Natick. Ovations for the Cure is devoted to educating the public on the signs and symptoms of ovarian cancer. Ovarian cancer is a particularly devastating cancer for women. It has a nearly 50% mortality rate because the symptoms often go unnoticed until it is in its later stages. GNOCA holds events from June through September, which is National Ovarian Cancer Awareness month.

The Winners Circle Running Club and the Joppa Flats Running Club will be providing timing and consultation services for us again this year. The clubs are very experienced with 5K races and will help insure that the event will run smoothly.

I have included the 5K run route used last year. The 3.1 mile route begins and ends at Michael's Harborside Restaurant, 1 Tournament Wharf, who will also be providing the parking. It then travels along Merrimac to Jefferson, onto High, then Kent, onto Washington and follow the Rail Trail, finishing at Michael's Harborside. Please see the attached map. As in the past, we will hire a police detail for traffic control and runner safety.

If acceptable we would like to have the walkers follow a different route than the runners. The walker's route begins and ends at Michaels Harborside (same as runners). The walkers turn left onto Merrimac St., right onto Federal St., right onto Liberty St., onto State Street, right onto High St., right onto Broad Street cross Merrimac Street to Cashman Park. Walkers Continue along the Rail Trail ending at Michaels Harborside. Please see enclosed map. We prefer this route for walkers as it is more interesting and exposes the walkers to the Farmer's Market at the Tannery and downtown merchants.

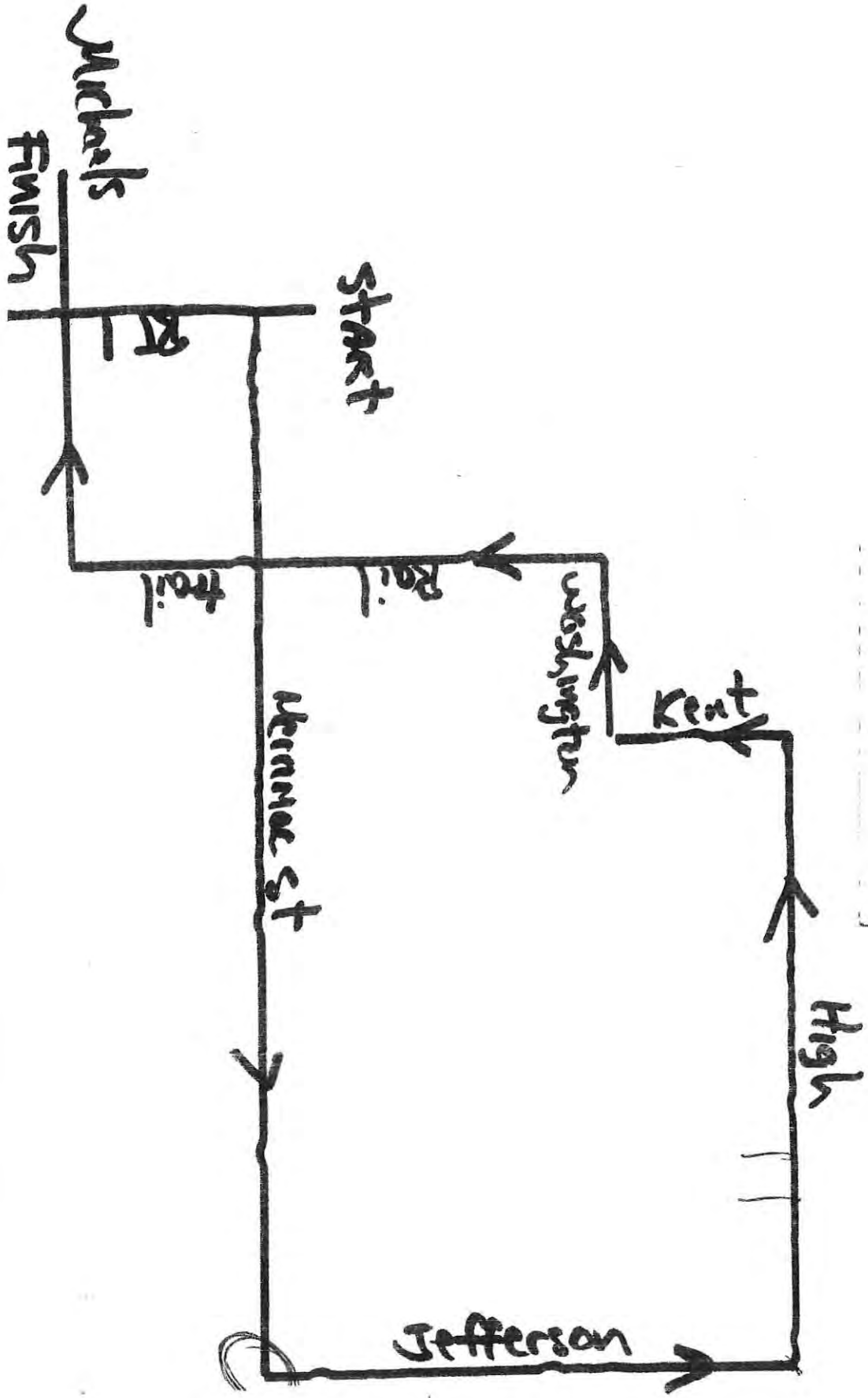
Thank you so much for your support in previous years. I look forward to working with the council. If you have any questions or concerns, please feel free to contact me at 978-462 0117 or info@ocawareness.org

Sincerely,



Stella McCormick

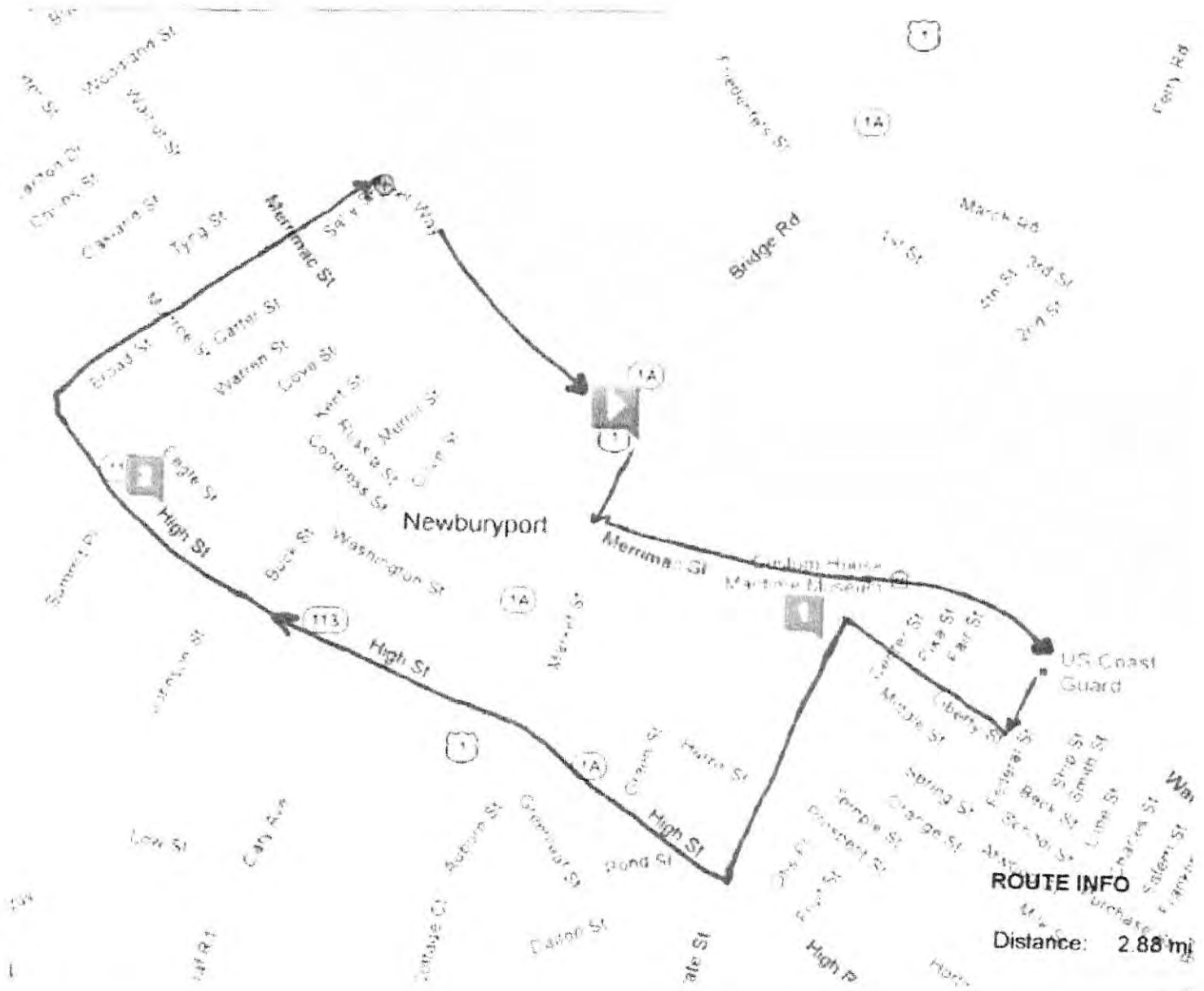
5K Run Route



5k Walk Route

Directions for walk

- Turn left onto Merrimac St Right on Federal St
- Right on Liberty St to State St
- Turn left on State St
- Right on High St
- Right on Broad
- Cross Merrimac St to Cashman Park
- Continue along Rail Trail
- Ending at Michael's Harborside





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/06/17

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 have ADDITIONAL INSURED provisions or 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 Twinbrook Insurance Brokerage 400A Franklin Street Braintree, MA 02184	CONTACT NAME: Carol McHugh	FAX (A.C. No): 781-848-6100
	PHONE (A.C. No, Ext): 781-843-7000	E-MAIL ADDRESS: cmchugh@twinbrook.com
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED Ovations For the Cure 79 Main Street Suite 202 Framingham, MA 01702	INSURER A : Philadelphia Insurance Co.	
	INSURER B : Travelers Insurance Co.	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES

CERTIFICATE NUMBER:

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM-DD-YYYY)	POLICY EXP (MM-DD-YYYY)	LIMITS			
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			PHPK1511281	08/07/16	08/07/17	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							
GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO. JECT <input type="checkbox"/> LOC OTHER:							GENERAL AGGREGATE \$ 2,000,000			
							PRODUCTS - COMP/OP AGG \$ 2,000,000			
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK1511281	08/07/16	08/07/17	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000			
	BODILY INJURY (Per person) \$									
	BODILY INJURY (Per accident) \$									
	PROPERTY DAMAGE (Per accident) \$									
							\$			
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						EACH OCCURRENCE \$			
	ACCELERATED \$									
	DED RETENTION \$									
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR, PARTNER, EXECUTIVE OFFICER, MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A	IEUB-0231T92-7	08/07/16	08/07/17	PER STATUTE OTH ER			
	E.L. EACH ACCIDENT \$ 500,000									
	E.L. DISEASE - EA EMPLOYEE \$ 500,000									
	E.L. DISEASE - POLICY LIMIT \$ 500,000									

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Event - Newburyport Ryder - September 2017 The City of Newburyport is added as an Additional Insured for the above referenced event.

CERTIFICATE HOLDER

CANCELLATION

City of Newburyport
60 Pleasant Street
Newburyport, MA 01950

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

Joseph P. Rizzo/cm

**APPOINTMENTS
FIRST READING**



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY, MAYOR

60 PLEASANT STREET - P.O. BOX 550
NEWBURYPORT, MA 01950
978-465-4413 PHONE
978-465-4402 FAX

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

2017 MAR 16 A 9:41

To: President and Members
of the City Council
From: Donna D. Holaday, Mayor
Date: March 15, 2017
Subject: Appointment

Donna D. Holaday

Donna D. Holaday

I hereby appoint, subject to your approval, the following named individual as a member of the Community Preservation Act Committee representing the Planning Board. This term will expire on May 1, 2020.

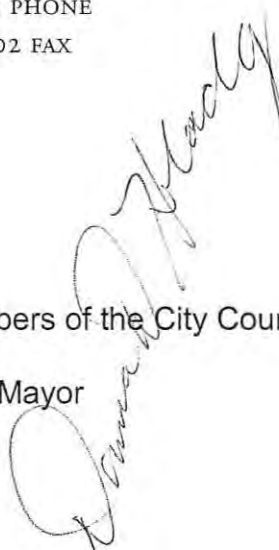
James McCarthy
17 Russia Street
Newburyport, MA 01950



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY, MAYOR

60 PLEASANT STREET - P.O. BOX 550
NEWBURYPORT, MA 01950
978-465-4413 PHONE
978-465-4402 FAX

To: President and Members of the City Council
From: Donna D. Holaday, Mayor
Date: March 21, 2017
Re: Re-Appointment



I hereby re-appoint, subject to your approval, the following named individual as a member of the Newburyport Redevelopment Authority. This term shall expire on April 1, 2018.

Robert Uhlig
10 Ocean Street
Newburyport, MA 01950

**END OF CONSENT AGENDA
BEGINNING OF REGULAR AGENDA**

COMMUNICATIONS

RAINEN LAW OFFICE, P.C.
 ATTORNEYS AND COUNSELLORS AT LAW
 231 SUTTON STREET, UNIT 2-E, SOUTH ENTRANCE
 NORTH ANDOVER, MASSACHUSETTS 01845

TELEPHONE (978) 975-4144
 FAX (978) 975-4149
<http://www.rainenlaw.com>

EDWARD RAINEN
 erainen@rainenlaw.com

SHELLY B. RAINEN
 srainen@rainenlaw.com

CARRIE B. RAINEN
 crainen@rainenlaw.com
also admitted in NH

M E M O R A N D U M

DATE: November 6, 2015
CC: Andrew Port, City of Newburyport
 Michael Mroz Newburyport Maritime Society, Inc.
 William Harris
 Jared Eigerman
FROM: Edward Rainen
RE: Public Way from Water Street to the Merrimack River
 southeasterly side of the Custom House (s/k/a Lower Custom House Road)

As I expected, the rights in and to the former public landing were adjudicated in 1926, following a trial in the Land Court.

Although my staff and I reviewed several hundred pages of documents from Land Court Registration cases numbered 4588, 9769 and 39539, the incredibly detailed, historically based, answer is found in an 11 page decision, dated January 19, 1926 which specifically addresses this very question. This Memorandum contains a brief summary of the findings in that decision.

To acquaint yourselves with the locations of the land adjudicated, I have provided the final survey of the case involving the Atkinson Lumber site. I will be happy to provide the so-called Petitioner's Plans, which predate the various judgments of the Court and contain data not included in the so-called "Decree Plans." Also, all of the material we reviewed is available, on request, for its historic value.

Case 9769 discusses the layout of two public landings by the Town of Newbury, in 1722, and references the creation of the Town of Newburyport in 1764. It highlights a subsequent release by the Town of Newbury of its rights in the public landings in 1826, followed by the 1833 deed to the United States of the Custom House which is described as being bounded by public landings on either side. It discusses the creation of filled land to create dockage which began at primitive high tide and extended further out into the Merrimack River. The Court also discusses the extensive minutia of the local political process, resulting in a petition to the General Court in 1873 for a public act authorizing the City to sell certain landing places to the railroad. Subsequent thereto there is such a deed from the City of Newburyport to the Newburyport City Railroad of the land in question pursuant to the very authority granted by Chapter 136 of the Acts of 1873.

The Court makes a distinction between the new land located between historic mean high water and the river, characterizing that portion as "a landing" and characterizing the landward portion from primitive mean high water to Water Street as being a "public way." Judge Davis then rules that, based on the historic record, the City discontinued that portion he describes as the Public Landing and sold it to the railroad. The Court states on page 11 that "The City is a party to this case, and claims the way as a public highway." The Court defines the extent of said way as being 110 feet from Water Street on its one side and 85 feet from Water Street on the other.

In conclusion, the Court adjudicated that title to the fee in the Public Way belongs to the Petitioner, Atkinson, subject to the rights of the public to use the 110/85 foot section as a public way. We find no notice of Appeal.

Pursuant to General Laws Chapter 185, the Land Court has original and exclusive jurisdiction of the title to registered land. It is fair to say, that as a party to Registration Case No. 9769, the City of Newburyport, had its one bite of the apple 90 years ago, and is subject to *res judicata* concerning the issues of the location and rights in the former public way as well as its own actions in the discontinuance of public rights and sale of the public landing and its sale to a private party. Since the precise issues of location, use and ownership of the public way were actually litigated, I believe that the elements of collateral estoppel have been met and no other party can now or ever, re-litigate those issues.

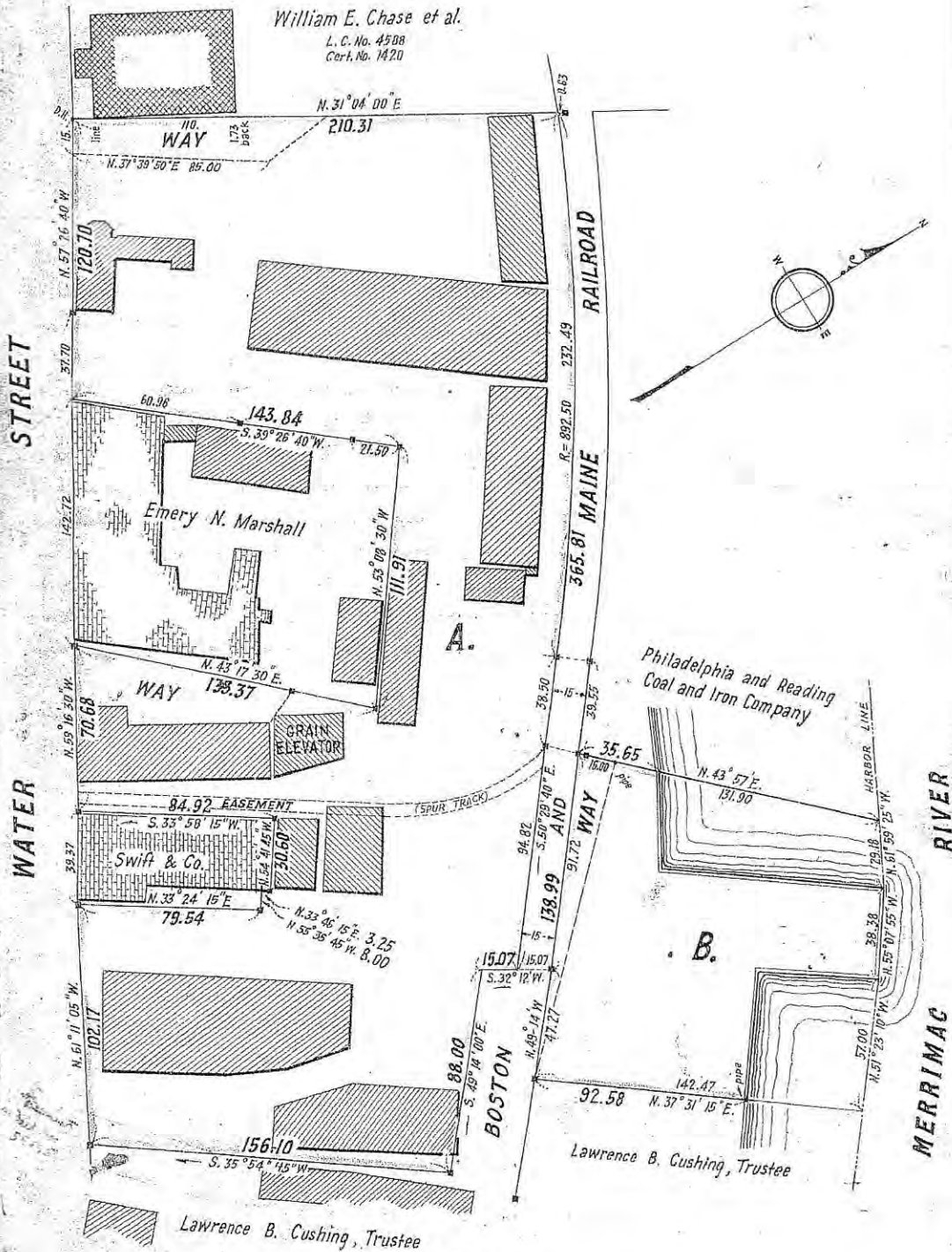
9769A

PLAN OF LAND IN NEWBURYPORT

Scale 20 feet to an inch

AUG. 1923

George E. Hutchins, C.E.



See Notes Over

Essex South Registry District
July 20, 1926

RECEIVED AND FILED

Writ Certificate No. 6194

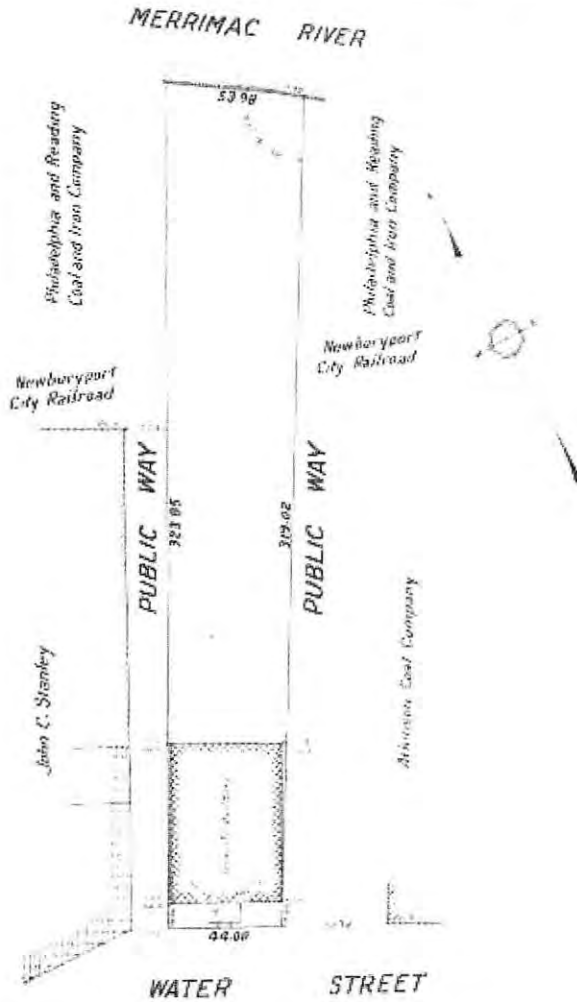
Copy of part of plan
filed in
LAND REGISTRATION OFFICE
OCT. 25, 1923
Scale of this plan 50 feet to an inch
C.B. Humphrey, Engineer for Court

4588A

Plan of Land in Newburyport.
Scale 20 feet to an inch.
OCT. 1913.

John T. Unsworth, Surveyor

كشور انجلیتیا میں مقیم ہے



Dec 22 1913

Copy of part of plan
registered in
LAND REGISTRATION OFFICE
OCT. 7, 1913
Scale of this plan 40 feet to an inch
J. T. Unsworth, Surveyor

**APPOINTMENTS
SECOND READING**

SECOND READING APPOINTMENTS

Appointments

- APPT016_03_13_17 Adam Armstrong 5 Buck St Harbor Comm (Alt) 4/1/2019
- APPT017_03_13_17 Walter Lesynski 364 Merrimac St Harbor Comm (Alt) 4/1/2019

Re-Appointments

- APPT018_03_13_17 Dr. Robin Blair 18 Market St Board of Health 3/31/2020
- APPT019_03_13_17 Christopher Carey 25 Temple St Disabilities Comm 3/1/2020
- APPT020_03_13_17 Andrew Casson 240 Merrimac St Harbor Comm 3/31/2020
- APPT021_03_13_17 Robert Dow 185 Storey Ave Harbor Comm 5/1/2020
- APPT022_03_13_17 Kristen M. Farrell 28 Spofford St Disabilities Comm 2/1/2020
- APPT023_03_13_17 James Knapp 24 Cutting Dr Harbor Comm 5/1/2020
- APPT024_03_13_17 Arthur M. Levine 43B Kent St Disabilities Comm 4/30/2020
- APPT026_03_13_17 Katherine D. Preftes 6 H St Human Rights Comm 2/1/2020
- APPT028_03_13_17 Ronald S. Ziemba 58 Lime St #1 Cultural Council 4/30/2020

Motion to approve the Consent Agenda as amended by Councillor Zeid, seconded by Councillor Cameron. So voted.

ORDERS

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

February 27, 2017

THAT, the City Council of the City of Newburyport authorizes an increase to the spending limit for the following funds for fiscal year 2017 in accordance with MGL, Chapter 44 Section 53E1/2:

<u>Account Name</u>	<u>Spending Limit</u>
Engineering Services	\$90,000
Council on Aging	\$35,000
Electrical Inspector	\$95,000
Plumbing Inspector	\$65,000
Gas Inspector	\$40,000
Downtown Paid Parking	\$750,000
Senior Community Center Maintenance	\$15,000

Councillor Charles F. Tontar
Chair, Budget & Finance Committee



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY

60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
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1977 21 2 34

To: President and Members of the City Council
From: Donna D. Holaday, Mayor
Date: February 21, 2017
Subject: Revolving Fund Spending Limits

I respectfully request your approval of the enclosed order increasing the spending limits for seven departmental revolving funds, established under MGL Ch. 44, Sec 53E ½. In reviewing the year-to-date expenditures, I feel that these revised spending limits should be sufficient to get our departments through the end of the fiscal year.

Below are the proposed revisions. As you can see, all but two funds are still below the limits approved in FY2016:

Fund	FY16 Spending Limit	FY17 Spending Limit	FY17 Revised Spending Limit
Engineering Services	\$100,000	\$60,000	\$90,000
Council on Aging	\$50,000	\$30,000	\$35,000
Electrical Inspector	\$105,000	\$65,000	\$95,000
Plumbing Inspector	\$60,000	\$60,000	\$65,000
Gas Inspector	\$50,000	\$35,000	\$40,000
Downtown Paid Parking	\$481,000	\$504,000	\$750,000
Senior Community Center Maint.	\$50,000	\$5,000	\$15,000

The Plumbing Inspector Revolving Fund has expanded due to increased permit volume in the Building Department. Additionally, the Downtown Paid Parking Revolving Fund has expanded due to the increase in the hourly parking rate, which in turn has increased the amount of funds that are disbursed to the Waterfront Trust and Newburyport Redevelopment Authority based on the existing revenue sharing agreements in place. The prior spending limits of \$481,000 and \$504,000 were based on the cap of 1% of the tax levy, which was removed from state law effective November 7, 2016 as part of the Municipal Modernization Act.

Thank you for your consideration.

**CITY OF NEWBURYPORT
REVOLVING FUNDS**

FY2017 YEAR-TO-DATE ACTIVITY
(AS OF FEBRUARY 8, 2017)

MAY 21 9 30 AM

<u>Account Name</u>	<u>Fund Code</u>	<u>Beginning Balance</u>	<u>YTD Revenue</u>	<u>YTD Expended</u>	<u>Current Balance</u>	<u>Spending Limit</u>
Engineering Services	2801	68,298.16	30,016.50	55,321.56	42,993.10	60,000.00
Council on Aging	2802	39,045.74	23,872.65	18,914.50	44,003.89	30,000.00
Recreational Services	2803	264,910.95	76,440.48	239,717.80	101,633.63	370,000.00
Historical Commission	2804	10,022.08	200.00	300.00	9,922.08	2,500.00
Electrical Inspector	2806	180,582.64	69,773.00	58,324.77	192,030.87	65,000.00
Plumbing Inspector	2807	25,409.65	29,940.00	31,598.29	23,751.36	60,000.00
Gas Inspector	2808	16,107.68	17,185.00	15,441.66	17,851.02	35,000.00
Disabilities Commission	2809	7,683.29	2,545.00	261.00	9,967.29	3,000.00
Emma Andrews Library	2810	18,781.71	10,500.00	2,328.16	26,953.55	30,000.00
M-School Drop-in Center	2811	36,425.98	39,460.13	14,189.64	61,696.47	45,000.00
Transient Vendors	2812	43,817.37	13,165.00	3,725.00	53,257.37	20,000.00
Planning & Zoning	2813	21,622.91	39,560.00	25,767.61	35,415.30	70,000.00
Animal Control	2817	12,455.98	1,185.00	1,997.25	11,643.73	6,000.00
Tree Commission	2818	7,083.11	3,590.00	4,617.88	6,055.23	10,000.00
Medicare/Medicaid	2835	28,054.71	(2,360.69)	15,115.05	10,578.97	25,000.00
Veterans Services	2836	2,408.83	20.00	0.00	2,428.83	2,000.00
Downtown Paid Parking	2839	602,439.88	627,154.70	368,502.81	861,091.77	504,000.00
City Hall Maintenance	2840	3,441.37	1,042.50	1,481.83	3,002.04	5,000.00
Senior Comm. Ctr. Maint.	2841	1,722.26	9,503.03	4,550.60	6,674.69	5,000.00
Parks Maint.	2842	0.00	229.08	127.45	101.63	50,000.00

Total Revolving Funds

\$1,390,314.30

\$993,021.38

\$862,282.86

\$1,521,052.82

\$1,397,500.00

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

March 28, 2017

THAT, in accordance with Chapter 44, Section 20 of the General Laws, \$388,188.31, representing the unexpended balance of funds borrowed to pay the costs of the Bresnahan Elementary School Project (the "Bresnahan Project"), which amount is no longer needed to complete such project, is hereby appropriated by this Council to pay additional costs of the Nock/Molin School Project (the "Nock/Molin Project"); and further, that \$564,407.00 representing the final grant amount received by the City from the Massachusetts School Building Authority ("MSBA") for the Bresnahan Project, which amount represents additional unexpended funds borrowed for such project, shall also be transferred to the Nock/Molin Project upon the receipt of the final grant payment from the MSBA for the Bresnahan Project.

Councillor Charles F. Tontar
Chair, Budget & Finance Committee



CITY OF NEWBURYPORT
FINANCE DEPARTMENT
60 PLEASANT STREET • P.O. BOX 550
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DONNA D. HOLADAY
MAYOR

ETHAN R. MANNING
FINANCE DIRECTOR/CITY AUDITOR

To: President and Members of the Newburyport City Council
From: Ethan R. Manning, Finance Director/City Auditor
Date: March 21, 2017
Subject: Excess Bond Proceeds Transfer

The enclosed order transfers unexpended bond proceeds from the Bresnahan School Project to the Nock/Molin School Project in order to pay down short-term notes coming due on April 21, 2017. The total transfer of \$952,595 represents \$388,188 in unspent bond proceeds, plus the final grant payment of \$564,407, which was approved by the Massachusetts School Building Authority (MSBA) in February.

The MSBA approved the final audit of the Bresnahan School Project on February 15, 2017 and is scheduled to approve the final audit of the Nock/Molin School Project at their next meeting on May 10, 2017. Nearly four years after breaking ground, this transfer of excess bond process allows the City to close the books on these two major construction projects, and moreover, allows the City to reduce its borrowing need by \$952,595, resulting in a budgetary savings of approximately \$70,000 per year.

ORDINANCES

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

March 7th, 2017

**AN ORDINANCE AMENDING FOOD SERVICE ESTABLISHMENT APPLICATION
PROCESS FOR USE OF PUBLIC WAY FOR OUTDOOR EATING:**

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

Chapter 12 Streets, Sidewalks and Other Public Places
Article I In General
Section 12 – 1 Obstructing Streets, Sidewalks Generally

Amend Section 12-1(b)(1) regarding outdoor seating, with deletions ~~double-stricken though~~, and additions double-underlined:

Sec. 12-1(b)(1)- Food Service Establishments on Public Rights-of-Way.

The above shall not apply to any restaurant or food service establishment located on a public way which includes a sidewalk and which is restricted to pedestrian traffic only and which has a sidewalk of no less than five (5) feet in width. Any such restaurant or food service establishment seeking to place such tables on a public way shall apply for a permit from the City Council ~~on a~~ yearly basis.

Initial Permit:

May be issued for a period of one (1) year subject to City Council approval by majority vote.

Renewal Permits:

No Material Changes – may be issued for a period of two (2) years subject to administrative approval by the City Clerk

Material Changes – may be issued for a period of one (1) year subject to City Council approval by a majority vote

Said permit shall be seasonal in nature and shall be ~~issued~~ valid from March 1 through October 31 during any calendar year for which a valid permit has been issued. The City Clerk shall notify in writing any business with an expiring permit of such expiration no later than 60 days prior to the expiration date.

Any condition of approval and submitted plan shall be in force for the entire duration of any validly issued permit. Any validly issued permit can be revoked at any time by supermajority vote of the City Council.

Councillor Bruce L. Vogel

Councillor Sharif Zeid

Councillor Robert J. Cronin

CITY OF NEWBURYPORT



 IN CITY COUNCIL

ORDERED:

March 28, 2017

AN ORDINANCE TO CONFORM THE CODE TO CHAPTER 66 OF THE ACTS OF 2014

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

Amend existing Section 2-368, as follows, with deletions ~~double-stricken through~~, and additions double-underlined:

Chapter 2	Administration
Article V.	Departments
Division 5.	Department of Public Services
Section 2-368	Board of water <u>and sewer</u> commissioners.

Sec. 14-32. – Board of water and sewer commissioners.

The board of water and sewer commissioners shall be a part of the department of public services. ~~Except as expressly provided for in this act, the board of water commissioners shall retain all powers, duties and responsibilities previously vested in said commissioners.~~ Pursuant to Section 1 of Chapter 66 of the Acts of 2014, powers and duties granted to and imposed upon the city of Newburyport by Chapter 403 of the Acts of 1908, and Chapter 261 of the Acts of 1963, shall, except the power of borrowing money, be exercised by a board of water and sewer commissioners, hereinafter called the board, consisting of 5 regular and 2 alternate members of the city, to be appointed by the mayor, subject to confirmation by the city council, for 3-year rotating terms.

Members of the board shall hold office, unless sooner removed, until their successors are appointed and qualified. Vacancies shall be filled for the remainder of the term in the same manner as the original appointment. A person shall not be appointed to the board who holds any elected city office at the time. A member of the board, after notice and opportunity for a hearing may be removed by the mayor.

The board shall have all the powers and duties provided in Chapter 403 of the Acts of 1908, as well as those powers and duties provided in chapter 261 of the Acts of 1963. The board shall annually choose a chairman and a secretary; provided, however, that the board may reorganize at any time at its discretion. The board members shall not receive compensation for their services unless an appropriation is made therefor by a two-thirds vote of the city council. The board shall annually, and as often as the city council shall require, render an account of its official acts; and the board's books and

accounts shall be open to the inspection of the finance director at any time.

~~The board of water commissioners shall fix such prices and rates for the use of water. The board of water commissioners may grant such abatements from water rates or charges as may be lawful and necessary.~~

The board of water and sewer commissioners shall, subject to the advice and consent of the mayor, set all policies relative to the water supply of the City of Newburyport, and to the construction and operation of a system or systems of sewerage and sewage disposal for the City of Newburyport, while the director shall be responsible for the day to day operations of the department. The board of water and sewer commissioners shall, with respect to the director, unless otherwise specifically provided for in this legislation, act in an advisory capacity.

The board of water and sewer commissioners shall keep the mayor fully advised as to the needs of the city within the scope of its duties, and shall annually, in conformity with the requirements established by said mayor, and in conjunction with the director of public services, furnish to the mayor a carefully prepared and detailed budget and work plan in writing, including estimates of the appropriations and revenue for the board of water and sewer commissioners enterprise funds established under M.G.L.A. c. 44, § 53F1/2 required during the next fiscal year for the proper excise and performance and all said rights and duties.

~~The board of sewer commissioners shall be part of the department of public services. Except as expressly provided for in this act, the board of sewer commissioners shall retain all powers, duties and responsibilities vested in said commissioners. The board of water and sewer commissioners may in its discretion prescribe for the users of said water and sewer system or systems such prices, rates, annual rentals or charges based on the benefits derived therefrom as it may deem proper, subject, however, to such rules and regulations as may be fixed by the vote of the city council, whose affirmative vote shall be required for any change in such prices, rates annual rentals or charges proposed by the board. The board of water and sewer commissioners may grant such abatements from water and sewer rates or charges as may be lawful and necessary.~~

~~The board of sewer commissioners shall, subject to the advice and consent of the mayor, set all policies relative to construction and operation of a system or systems of sewerage and sewage disposal for the City of Newburyport, while the director shall be responsible for the day to day operation of the department. The board of sewer commissioners shall, with respect to the director, unless otherwise specifically provided for in this act, act in an advisory capacity.~~

~~The board of sewer commissioners shall keep the mayor fully advised as to the needs of the city within the scope of its duties, and shall annually, in conformity with the requirements established by said mayor, and in conjunction with the director of public services, furnish to the mayor a carefully prepared and detailed budget and work plan in writing, including estimates of the appropriations and revenue for the board of sewer commissioners enterprise funds established under M.G.L.A. c. 44, § 53F1/2 required during the next fiscal year for the proper exercise and performance of all said rights and duties.~~

Amend existing Section 14-32, as follows, with deletions ~~double-stricken through~~, and additions double-underlined:

Chapter 14	Utilities
Article 2	Sanitary Sewer System
Division 1	Generally
Section 14-32	Fees and charges.

Sec. 14-32. - Fees and charges.

- (a) *Sewer user charge.* Pursuant to Section 10 of Chapter 261 of the Acts of 1963, as amended by Chapter 66 of the Acts of 2014, the board of the water and sewer commission may in its discretion prescribe for the users of the sewer system or systems such annual rentals or charges based on the benefits derived therefrom it may deem proper, subject, however, to such rules and regulations as may be fixed by a vote of the city council. Accordingly, a sewer user charge shall be paid by each user in accordance with rules and regulations approved by city council on June 14, 1982, as they may, from time to time, be amended.
- (b) *Service charge for monitoring, analytical testing and reporting.* Any category of user subject to pretreatment standards and requirements will be charged for monitoring and analytical testing and reporting conducted by the sewer department. The service charge will be calculated by allocating each user or industrial user a proportional share of the total cost of the pretreatment program taking into consideration the number of sampling site visits and the number and type of analytical tests required.
- (c) *Connection permit and inspection fee.* A connection permit and inspection fee of ~~five~~ [TBD] dollars (~~\$50.00~~ [TBD]) for each residential building sewer permit and two hundred fifty dollars (\$250.00) for each initial industrial or commercial sewer permit and connection application shall be paid to the city at the time the application is filed.

Councillor Jared J. Eigerman

is hereby amended by inserting after the word "hunt", in the second line, the words: — pursue, trap or kill any wild bird or quadruped, — so as to read as follows: —

Section 1. It shall be unlawful for any unnaturalized, foreign born person to hunt, pursue, trap or kill any wild bird or quadruped anywhere within the limits of the commonwealth, unless he is licensed so to do as hereinafter provided.

Unnaturalized, foreign born persons not to hunt unless licensed.

SECTION 2. Section two of said chapter is hereby amended by inserting after the word "transferable", in the seventeenth line, the words: — shall expire on the thirty-first day of December of the year of issue, — so as to read as follows: —

Section 2. City and town clerks shall, upon the application of any unnaturalized, foreign born person who is a resident of the city or town in which the application is made, and upon the payment of a fee of fifteen dollars, issue to such person a license, upon a form to be supplied by the commissioners on fisheries and game, bearing the name, age and place of residence of the licensee, with a description of him, as near as may be, and authorizing the said licensee to hunt and to kill game on any lands in which such hunting or killing is not forbidden by law or by written or printed notices posted thereon by the owner, lessee or occupant thereof. Such license shall be good only for that period of the year when game may lawfully be killed, and shall authorize the hunting or killing of game only under such restrictions and for such purposes as are imposed or authorized by law. The said license shall not be transferable, shall expire on the thirty-first day of December of the year of issue, and shall be exhibited upon demand to any of the commissioners on fisheries and game or their deputies, and to any game warden or deputy game warden, and to any sheriff, constable, police officer or other officer qualified to serve process. The fees received for the said licenses shall annually be paid into the treasury of the commonwealth.

1905, 317, § 2, amended.

Licenses to be issued by city and town clerks upon application, etc.

Licenses not transferable, etc.

SECTION 3. This act shall take effect upon its passage.

Approved April 16, 1908.

AN ACT RELATIVE TO THE WATER SUPPLY OF THE CITY OF NEWBURYPORT. *Chap. 403*

Be it enacted, etc., as follows:

SECTION 1. The city of Newburyport may continue to supply its inhabitants with water for the extinguishment

City of Newburyport to supply

itself with
water, etc.

of fires and for domestic, manufacturing and other purposes; may establish fountains and hydrants, and relocate or discontinue the same; and may regulate the use of such water, and fix and collect rates to be paid for the use of the same.

May take cer-
tain waters,
etc.

SECTION 2. The said city, for the purposes aforesaid, may take, or acquire by purchase or otherwise, and hold the waters of any pond, stream, spring or wells within the limits of said city and the waters of the Artichoke river in West Newbury and Newburyport, and the water rights connected therewith; and may obtain water by means of bored, driven, artesian or other wells on any land within the city. Said city may hold said water and convey it through the city and through the town of West Newbury;

May take
certain lands,
etc., erect
structures, etc.

and may take, or acquire by purchase or otherwise, and hold all lands, rights of way and easements necessary for collecting, storing, holding and preserving the water and securing the purity thereof, and for conveying the same to any part of said city, and may erect on the land thus acquired or held proper dams, buildings, fixtures and other structures; and may make excavations, procure and operate machinery and provide such other means and appliances as may be necessary for the establishment and maintenance of complete and effective water works; and may construct and lay down conduits, pipes and other works, under or over any lands, water courses, railroads, railways, or public or private ways and along any such way in such manner as not unnecessarily to obstruct the same; and for the purpose of constructing, maintaining and repairing such conduits, pipes and other works and for all proper purposes of this act, said city may dig up any such lands, and, under the direction of the board of selectmen of the town in which any such ways are situated, may enter upon and dig up any such ways in such manner as to cause the

May lay
conduits,
pipes, etc.

Proviso.

least hindrance to public travel thereon: *provided, however*, that no source of water supply for domestic purposes or lands necessary for preserving the purity of any source shall be purchased, taken or otherwise acquired under this act without the consent of the state board of health, and that the location of all dams, reservoirs, filters, wells, or other works for collecting, storing or purifying water shall be subject to the approval of said board. Said city shall not enter upon, construct or lay any conduits, pipes or

other works within the location of any railroad corporation, except at such time and in such manner as it may agree upon with such corporation, or, in case of failure so to agree, as may be approved by the board of railroad commissioners.

SECTION 3. The city shall, within sixty days after the taking or acquiring of any lands, rights of way, water rights, water sources or easements as aforesaid, otherwise than by purchase, file and cause to be recorded in the registry of deeds for the county within which the same are situated a description thereof sufficiently accurate for identification, with a statement of the purpose for which the same were taken, signed by the water commissioners hereinafter provided for. The title to all lands or rights acquired in any way under the provisions of this act shall vest in the city of Newburyport, and the property so taken shall be managed, improved and controlled by the board of water commissioners hereinafter provided for, in such manner as they shall deem for the best interest of the city.

Description of lands, etc., taken to be recorded, etc.

Title to lands, etc., to vest in city, etc.

SECTION 4. The city shall pay all damages to property sustained by any person or corporation by the taking of any land, right of way, water, water source, water right or easement, or by any other thing done by the city under authority of this act. Any person or corporation sustaining damages as aforesaid, who fails to agree with said city as to the amount thereof, may have the same determined in the manner provided by law in the case of land taken for the laying out of highways, on application at any time within the period of two years after the taking of such land or other property, or the doing of other injury, under the authority of this act; but no such application shall be made after the expiration of said two years. No application for assessment of damages shall be made for the taking of any water or water right, or for any injury thereto, until the water is actually withdrawn or diverted by the city under the authority of this act.

Damages.

SECTION 5. The city of Newburyport may supply the inhabitants of the town of Newbury with water for the extinguishment of fires and for domestic and other purposes, and may construct and lay conduits, pipes and other works, under or over any lands, water courses, railroads, railways, and public or private ways, and along any such ways within the town of Newbury in such manner as not

May supply the inhabitants of the town of Newbury with water, etc.

Provisos.

unnecessarily to obstruct the same; and for the purpose of constructing, maintaining and repairing such conduits, pipes and other works, and for all other proper purposes of this act, the city of Newburyport may enter upon, dig up, raise and embank any such lands and ways: *provided, however,* that the said city shall not enter upon and dig up, raise or embank any public ways in the town of Newbury, except with the consent of the selectmen of the town, and the city of Newburyport shall restore to the satisfaction of the selectmen of the town the public ways dug up or otherwise disturbed in said town, and shall pay all damages sustained by any person in consequence of any act or neglect upon the part of the city of Newburyport, its agents or employees, in digging up or otherwise disturbing any lands or public or private ways within the town of Newbury; and *provided, further,* that said city shall not enter upon, construct or lay conduits, pipes or other works, within the location of any railroad corporation, except at such time and in such manner as it may agree upon with such corporation, or, in case of failure so to agree, as may be approved by the board of railroad commissioners.

Distribution of water, etc.

SECTION 6. The city of Newburyport may distribute water through the town of Newbury or any part thereof, may regulate the use of such water and fix and collect rates for the use of the same; and the town of Newbury or any fire district now or hereafter established therein, or any individual or corporation, may make such contract with the city of Newburyport for the extinguishment of fires and for other purposes as may be agreed upon between said town, fire district, individual or corporation and the city of Newburyport, and the said city may establish and maintain fountains and hydrants and relocate or discontinue the same.

Town of Newbury may take property, etc.

SECTION 7. The town of Newbury shall have the right at any time to take, or acquire by purchase or otherwise, the property and all the rights and privileges of the city of Newburyport within the town of Newbury, held under the provisions of this act, on payment to said city of the actual cost of its said property, rights and privileges. The city of Newburyport shall keep a separate account of the construction expenses of its plant within the town of Newbury, which account shall be open to the selectmen or any committee appointed for that purpose by the town. In

case said town shall vote to purchase said property, rights and privileges, and cannot agree with the city of Newburyport upon the amount of the total actual cost thereof, then upon a suit in equity by either the city or the town the supreme judicial court shall ascertain and fix such total actual cost, in accordance with the foregoing provisions, and shall enforce the right of the town of Newbury to take possession of said property, rights and privileges, upon the payment of such cost to the city of Newburyport.

SECTION 8. The said city may, for the purpose of paying the necessary expenses and liabilities incurred under the provisions of this act, issue from time to time bonds, notes or scrip to the amount of seventy-five thousand dollars, as provided for in the vote of the city council on the twenty-fourth day of January in the year nineteen hundred and eight, and to a further amount not exceeding fifty thousand dollars. Such bonds, notes or scrip shall bear on their face the words, City of Newburyport Water Loan, shall be payable at the expiration of periods not exceeding thirty years from the dates of issue, shall bear interest payable semi-annually at a rate not exceeding five per cent per annum, and shall be signed by the treasurer of the city and countersigned by the water commissioners hereinafter provided for. The city may sell such securities at public or private sale, or pledge the same for money borrowed for the purposes of this act, upon such terms and conditions as it may deem proper: *provided*, that such securities shall not be sold for less than the par value thereof.

City of
Newburyport
Water Loan.

Proviso.

SECTION 9. Said city shall, at the time of authorizing said loan, provide for the payment thereof in such annual proportionate payments as will extinguish the same within the time prescribed by this act; and when a vote to that effect has been passed a sum which, with the income derived from water rates, will be sufficient to pay the annual expense of operating its water works and the interest as it accrues on the bonds, notes or scrip heretofore or hereafter issued by said city for water supply purposes, and to make such payments on the principal of said bonds, notes or scrip as may be required, shall without further vote be assessed by the assessors of the city in each year thereafter, in the same manner in which other taxes are assessed, until the debt is extinguished. The sum to be

Payment of
loan.

raised annually by taxation under the provisions of this section shall in no event be less than five thousand dollars, and may be raised in excess of the statutory limit of taxation for said city.

Water commissioners, appointment, terms, etc.

SECTION 10. The powers and duties granted to and imposed upon the city by this act shall, except the power of borrowing money, and except as herein otherwise provided, be exercised by a board of water commissioners, consisting of five residents of the city to be appointed by the mayor with the approval of the city council. The present commissioners shall continue to hold office until the expiration of their respective terms, unless sooner removed as hereinafter provided, and until their successors are appointed and confirmed. Hereafter one commissioner shall be appointed each year for the term of five years from the first Monday of May. All such commissioners, unless sooner removed as hereinafter provided, shall hold office until their successors are appointed and confirmed.

Vacancies, etc.

Vacancies occurring during the term may be filled for the remainder of the term. No person shall be appointed commissioner who holds at the time any city office by popular election. Any commissioner, after due notice and a hearing, may be removed at any time by a two thirds vote of each branch of the city council, for any cause which shall be deemed sufficient and shall be expressed in the vote of removal. The commissioners shall receive no compensation for their services unless the city council by a two thirds vote of each branch thereof otherwise determines, and in such case the amount of compensation may be fixed by a like two thirds vote. Said commissioners shall annually, and as often as the city council may require, render an account of their official acts; and their books and accounts shall be open to the inspection of the city auditor at any time.

Water rates, etc.

SECTION 11. The water commissioners shall fix such prices or rates for the use of water as will produce annually, as nearly as may be, an amount sufficient, with the sum of not less than five thousand dollars which is to be raised by the city by general taxation as aforesaid, to defray all current operating expenses, including maintenance, all interest charges and payments on principal as they accrue upon any bonds, notes or scrip heretofore or hereafter issued by said city for water supply purposes, and may so

- Item
- 0443-01 } The unexpended balances remaining in item 0443-01 of section two of
 0445-01 } chapter five hundred and ninety-one of the acts of nineteen hundred and
 0441-10 } sixty-two and item 0445-01 of section two of chapter seven hundred and
 ninety-one of the acts of nineteen hundred and sixty-two are hereby
 transferred and made available for the purposes of the following item: —
 0441-10 For the fiscal affairs division, including not more than one hun-
 dred and five permanent positions, to be in addition to any federal funds
 available for the purpose; provided, that the comptroller shall transfer
 to the General Fund the sum of seven thousand and fifty dollars from
 the Highway Fund in addition to the sums provided to be so transferred
 in said items 0443-01 and 0445-01.
- 0441-20 For the central services division, including not more than four permanent
 positions, to be in addition to any federal funds available for the pur-
 pose \$10,600
- 0446-01 } The unexpended balance remaining in item 0446-01 of section two of chap-
 0441-21 } ter seven hundred and ninety-one of the acts of nineteen hundred and
 sixty-two is hereby transferred and made available for the purposes of
 the following item: —
 0441-21 For the bureau of building construction, within the central serv-
 ices division, including not more than forty-eight permanent positions,
 to be in addition to any federal funds available for the purpose.
- 0450-01 } The unexpended balance remaining in item 0450-01 of section two of chap-
 0441-22 } ter five hundred and ninety-one of the acts of nineteen hundred and
 sixty-two is hereby transferred and made available for the purposes of
 the following item: —
 0441-22 For the bureau of state buildings, within the central services
 division, and for the maintenance of the state house and the Ford build-
 ing, including not more than one hundred and seventy-two permanent
 positions.

SECTION 3. This act shall take effect upon its passage.

Approved April 12, 1963.

Chap. 261. AN ACT AUTHORIZING THE CITY OF NEWBURYPORT TO
 CONSTRUCT AND OPERATE A SYSTEM OR SYSTEMS OF SEWER-
 AGE AND SEWAGE DISPOSAL.

Be it enacted, etc., as follows:

SECTION 1. Chapter 233 of the acts of 1889, chapter 227 of the acts of 1896, and chapter 59 of the acts of 1900 are hereby repealed; provided, that the repeal of said chapters shall not affect any act done, any liability incurred, or any right accrued or established, under any of said chapters.

SECTION 2. The city of Newburyport, hereinafter called the city, may lay out, construct, maintain and operate a system or systems of common sewers for a part or the whole of its territory, with such connections and other works as may be required for a system or systems of sewerage and sewage treatment and disposal, and may construct such sewers in said city as may be necessary.

SECTION 3. The city may make and maintain, in any way therein where common sewers are constructed, such connecting sewers within the limits of such way as may be necessary to connect any estate which abuts upon the way.

SECTION 4. The mayor, as soon as may be after the effective date of this act, shall appoint, subject to confirmation by the city council, at least three but not more than five citizens of said city who shall constitute a board of sewer commissioners, hereinafter called the board. Each member of said board shall be appointed for a term of not in excess of

three years, and the appointments shall be so made that the terms of not more than two members shall expire in any single year. In any year in which any appointments are required to be made hereunder, such appointments shall be made on or before the first Monday of February. All members shall hold office until their respective successors are appointed. The commission shall annually in the month of February choose by ballot, from its own membership, a chairman and a secretary.

SECTION 5. The board, acting for and on behalf of said city, may request the mayor and the city council to take by eminent domain under chapter seventy-nine of the General Laws, or acquire by purchase or otherwise, any lands, water rights, rights of way or easements, public or private, in said city, necessary for accomplishing any purpose mentioned in this act, and may construct such sewers under or over any bridge, railroad, railway, boulevard or other public way, or within the location of any railroad, and may enter upon and dig up any private land, public way or railroad location, for the purpose of laying such sewers and of maintaining and repairing the same, and may do any other thing proper or necessary for the purposes of this act; provided, that they shall not take in fee any land of a railroad corporation, and that they shall not enter upon or construct any sewer within the location of any railroad corporation except at such time and in such manner as they may agree upon with such corporation, or, in case of failure to agree, as may be approved by the department of public utilities.

SECTION 6. Any person injured in his property by any action of the board under this act may recover damages from said city under said chapter seventy-nine.

SECTION 7. The city council shall determine whether the city shall pay the whole or any portion of the cost of said system or systems of sewerage and sewage disposal and, if a portion, the amount thereof. If said city council votes that the city is to pay less than the whole cost, in providing for the payment of the remaining portion of the cost of said system or systems, the city council may avail itself of any or all of the methods permitted by the General Laws, and the provisions of said General Laws relative to the assessment, apportionment, division, re-assessment, abatement and collection of sewer assessments, to liens therefor and to interest thereon, shall apply to assessments made under this act, except that interest shall be at the rate of four per cent per annum.

SECTION 8. For the purpose of paying the necessary expenses and liabilities incurred under this act, the city may from time to time, within five years after the passage of this act, borrow such sums as may be necessary, not exceeding in the aggregate one million, three hundred and seventy-seven thousand dollars and may issue bonds or notes therefor, which shall bear on their face the words, Newburyport Sewerage Loan, Act of 1963. Each authorized issue shall constitute a separate loan and such loans shall be payable in not more than thirty years from their dates. Indebtedness incurred under this act shall be in excess of the statutory limit, but shall, except as provided herein, be subject to chapter forty-four of the General Laws.

SECTION 9. The receipts from sewer assessments and from payments made in lieu thereof shall be applied to the payment of charges and expenses incident to the maintenance and operation of said system or systems of sewerage and sewage disposal or to the extension thereof, to

the payment of interest upon bonds or notes issued for sewer purposes or to the payment or redemption of such bonds or notes.

SECTION 10. The board may in its discretion prescribe for the users of said sewer system or systems such annual rentals or charges based on the benefits derived therefrom as it may deem proper, subject, however, to such rules and regulations as may be fixed by vote of the city council.

SECTION 11. All contracts made by the board shall be made in the name of the city and shall be signed by the board, but no contract shall be made or obligations incurred by said board for any purpose in excess of the amount of money appropriated by the city therefor.

SECTION 12. The board may, from time to time, prescribe rules and regulations for the connection of estates and buildings with sewers, and for inspection of the materials, the construction, alteration and use of all connections entering into such sewers, and may prescribe penalties, not exceeding twenty dollars, for each violation of any such rule or regulation. Such rules and regulations shall be published at least once a week for three successive weeks in a newspaper published in the city of Newburyport, and shall not take effect until such publications have been made.

SECTION 13. No act shall be done under authority of the preceding sections, except in the making of surveys and other preliminary investigations, until the plan for said system or systems of sewerage and sewage disposal has been approved by the state department of public health.

SECTION 14. The duties and responsibilities of the board may be broadened at any time upon a majority vote of the city council so as to include, in addition to the matters herein enumerated, jurisdiction over all or any part of the matters under the control or supervision of the street and sewer department of said city.

SECTION 15. This act shall take effect upon its acceptance by the city of Newburyport. No expenditure shall be made and no liability shall be incurred hereunder until such acceptance.

Approved April 15, 1963.

Chap. 262. AN ACT VALIDATING CERTAIN PROCEEDINGS OF THE TOWN OF IPSWICH.

Be it enacted, etc., as follows:

SECTION 1. The vote of the town of Ipswich adopted by ballot on December twenty-seventh, nineteen hundred and sixty-two, pursuant to section eight of article three of the town by-laws, appropriating a sum of money for sewer purposes and authorizing bonds therefor, is hereby ratified and confirmed in all respects notwithstanding the fact that such vote was not passed at a deliberative session of a town meeting, and such vote shall constitute full authority to the treasurer and selectmen of the town to issue bonds of the town in accordance therewith.

SECTION 2. This act shall take effect upon its passage.

Approved April 15, 1963.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Fourteen

AN ACT ESTABLISHING A BOARD OF WATER AND SEWER COMMISSIONERS IN THE CITY OF NEWBURYPORT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 403 of the acts of 1908 is hereby amended by striking out section 10 and inserting in place thereof the following section:-

Section 10. The powers and duties granted to and imposed upon the city of Newburyport by this act shall, except the power of borrowing money, be exercised by a board of water and sewer commissioners, hereinafter called the board, consisting of 5 regular and 2 alternate members of the city, to be appointed by the mayor, subject to confirmation by the city council, for 3-year rotating terms. Members of the board shall hold office, unless sooner removed, until their successors are appointed and qualified. Vacancies shall be filled for the remainder of the term in the same manner as the original appointment. A person shall not be appointed to the board who holds any elected city office at the time. A member of the board, after notice and opportunity for a hearing may be removed by the mayor. The board shall have all the powers and duties provided in this act, as well as those powers and duties provided in chapter 261 of the acts of 1963. The board shall annually choose a chairman and a secretary; provided, however, that the board may reorganize at any time at its discretion. The board members shall not receive compensation for their services unless an appropriation is made therefor by a two-thirds vote of the city council. The board shall annually, and as often as the city council shall require, render an account of its official acts; and the board's books and accounts shall be open to the inspection of the finance director at any time.

SECTION 2. Section 11 of said chapter 403, as amended by chapter 56 of the acts of 1956, is hereby further amended by striking out the word "commissioners" and inserting in place thereof the following words:- and sewer commissioners.

SECTION 3. Section 12 of said chapter 403, as amended by said chapter 56 of the acts of 1956, is hereby further amended by striking out the word "commissioners" and inserting in place thereof the following words:- water and sewer commissioners.

SECTION 4. Chapter 261 of the acts of 1963 is hereby amended by striking out section 4 and inserting in place thereof the following section:-

Section 4. The powers and duties granted to and imposed upon the city by this act shall, except the power of borrowing money, be exercised by a board of water and sewer commissioners, hereinafter called the board, consisting of 5 regular and 2 alternate members of the city, to be appointed by the mayor, subject to confirmation by the city council, for 3-year rotating terms. Members of the board shall hold office, unless sooner removed, until their successors are appointed and qualified. Vacancies shall be filled for the remainder of the term in the same manner as the original appointment. A person shall not be appointed to the board who holds at the time any elected city office. A member, after notice and opportunity for a hearing, may be removed by the mayor. The board shall have all the powers and duties provided in this act, as well as those powers and duties provided in chapter 403 of the acts of 1908. The board shall annually choose a chairman and a secretary; provided, however, that the board may reorganize at any time at its discretion. The board members shall not receive compensation for their services unless an appropriation is made therefor by a two-thirds vote of the city council. The board shall annually, and as often as the city council shall require, render an account of its official acts; and the board's books and accounts shall be open to the inspection of the finance director at any time.

SECTION 5. Notwithstanding any general or special law to the contrary, there shall hereby be established in the city of Newburyport a board of water and sewer commissioners consisting of 5 members and 2 alternates appointed for 3-year terms by the mayor, subject to confirmation by the city council. The board shall have all duties and responsibilities assigned originally to the board of sewer commissioners and the board of water commissioners of the city of Newburyport.

SECTION 6. Upon the appointment and qualification of the board of water and sewer commissioners established by section 5, the board of sewer commissioners and the board of water commissioners of the town of Newburyport shall be abolished, and the terms of the persons holding such offices terminated. Initial appointments of the consolidated board of water and sewer commissioners shall be made as follows: 2 members for 3 years, 2 members for 2 years, and 1 member for 1 year, and 1 alternate shall be appointed for 1 year, and 1 alternate shall be appointed for 2 years.

SECTION 7. Contracts or liabilities in force on the effective date of this act shall not be affected by abolition of the offices of the board of water commissioners and the board of sewer commissioners and consolidation of the water and sewer-related functions of the city as provided for herein, and the newly established consolidated board of water and sewer commissioners shall in all respects be the lawful successor of the offices so abolished and consolidated. All records, property and equipment whatsoever of any office, department, or part thereof, of said board of sewer commissioners and said board of water commissioners are hereby assigned to the board of water and

sewer commissioners established in this act. Notwithstanding any other provision of this act to the contrary, the enactment hereof shall not affect the validity or legality of any act done, any liability incurred, or any right accrued or established under the authority of the board of water commissioners pursuant to chapter 261 of the acts of 1963 or the board of sewer commissioners pursuant to chapter 403 of the acts of 1908.

SECTION 8. This act shall take effect upon its passage.

House of Representatives, April 2, 2014.

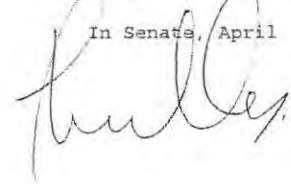
Passed to be enacted,



Acting
Speaker.

In Senate, April 3, 2014.

Passed to be enacted,

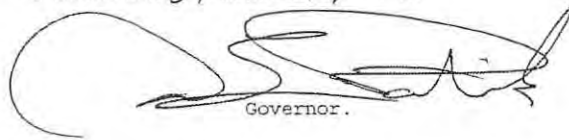


President.

8 April, 2014.

Approved,

at 6 o'clock and 07 minutes, P. M.



Governor.

COMMITTEE ITEMS

BUDGET & FINANCE COMMITTEE ITEMS

1. **COMM013_01_30_17** – FY2017 Mid-Year Budget Report.
2. **ORDR009_02_27_17** - Revolving Fund Spending Limits.
3. **TRAN006_03_13_17** - Free Cash \$27,100 to Cherry Hill Soccer Field \$27,100.
4. **TRAN007_03_13_17** - Free Cash \$89,000 to Water Safe Yield Est. \$89,000.
5. **TRAN008_03_13_17** - Free Cash \$66,342 to Wastewater Collect Sys Analysis \$66,342.



CITY OF NEWBURYPORT
 FINANCE DEPARTMENT
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 NEWBURYPORT, MA 01950
 (978) 465-4404 • (978) 462-3257 (FAX)
 WWW.CITYOFNEWBURYPORT.COM

RECEIVED
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 NEWBURYPORT, MA

2017 JAN 24 P 3:51

DONNA D. HOLADAY
 MAYOR

ETHAN R. MANNING
 FINANCE DIRECTOR/CITY AUDITOR

To: Mayor Donna D. Holaday
 President and Members of the Newburyport City Council

From: Ethan R. Manning, Finance Director/City Auditor

Date: January 24, 2017

Subject: FY2017 Mid-Year Budget Report

Attached is the FY2017 Mid-Year Budget Report that includes a summary of budget expenditures for the period of July 1, 2016 through December 31, 2016. The report covers expenditures within the General Fund and the Water, Sewer, and Harbormaster Enterprise Funds. Also included is an update on the City's revenue collections.

The City budget is approved by the City Council in budget categories. These categories include: Personnel Services, Purchase of Services, Supplies, Other Charges and Expenses, Capital Outlay and Debt Service. This format is recommended by the Massachusetts Department of Revenue and is in accordance with the best practices recognized by the Government Finance Officers Association (GFOA). Once the annual budget is approved by the City Council, spending, in each budget category, cannot exceed the total appropriation for that category unless additional funding is provided through a budget transfer or supplemental budget appropriation.

FY2017 Mid-Year Expenditures

Mid-year expenditures within the General Fund and Enterprise Funds were made within the budgetary appropriations approved by the City Council and are on target for this point in the fiscal year. Typically, however, expenditure levels are not exactly 50% at mid-year as major expenditures occur during various times of the year depending on the department or cost center.

On the following page is a summary of the mid-year expenditures by fund, which is broken out in greater detail in the reports that follow.

*BoF
TAS/line
03/13/17*

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

February 27, 2017

THAT, the City Council of the City of Newburyport authorizes an increase to the spending limit for the following funds for fiscal year 2017 in accordance with MGL, Chapter 44 Section 53E1/2:

<u>Account Name</u>	<u>Spending Limit</u>
Engineering Services	\$90,000
Council on Aging	\$35,000
Electrical Inspector	\$95,000
Plumbing Inspector	\$65,000
Gas Inspector	\$40,000
Downtown Paid Parking	\$750,000
Senior Community Center Maintenance	\$15,000

Councillor Charles F. Tontar
Chair, Budget & Finance Committee



CITY OF NEWBURYPORT
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2017 FEB 21 P 3:54

To: President and Members of the City Council
From: Donna D. Holaday, Mayor
Date: February 21, 2017
Subject: Revolving Fund Spending Limits

I respectfully request your approval of the enclosed order increasing the spending limits for seven departmental revolving funds, established under MGL Ch. 44, Sec 53E ½. In reviewing the year-to-date expenditures, I feel that these revised spending limits should be sufficient to get our departments through the end of the fiscal year.

Below are the proposed revisions. As you can see, all but two funds are still below the limits approved in FY2016:

Fund	FY16 Spending Limit	FY17 Spending Limit	FY17 Revised Spending Limit
Engineering Services	\$100,000	\$60,000	\$90,000
Council on Aging	\$50,000	\$30,000	\$35,000
Electrical Inspector	\$105,000	\$65,000	\$95,000
Plumbing Inspector	\$60,000	\$60,000	\$65,000
Gas Inspector	\$50,000	\$35,000	\$40,000
Downtown Paid Parking	\$481,000	\$504,000	\$750,000
Senior Community Center Maint.	\$50,000	\$5,000	\$15,000

The Plumbing Inspector Revolving Fund has expanded due to increased permit volume in the Building Department. Additionally, the Downtown Paid Parking Revolving Fund has expanded due to the increase in the hourly parking rate, which in turn has increased the amount of funds that are disbursed to the Waterfront Trust and Newburyport Redevelopment Authority based on the existing revenue sharing agreements in place. The prior spending limits of \$481,000 and \$504,000 were based on the cap of 1% of the tax levy, which was removed from state law effective November 7, 2016 as part of the Municipal Modernization Act.

Thank you for your consideration.

**CITY OF NEWBURYPORT
REVOLVING FUNDS**

FY2017 YEAR-TO-DATE ACTIVITY
(AS OF FEBRUARY 8, 2017)

2017 FEB 21 P 3:54

<u>Account Name</u>	<u>Fund Code</u>	<u>Beginning Balance</u>	<u>YTD Revenue</u>	<u>YTD Expended</u>	<u>Current Balance</u>	<u>Spending Limit</u>
Engineering Services	2801	68,298.16	30,016.50	55,321.56	42,993.10	60,000.00
Council on Aging	2802	39,045.74	23,872.65	18,914.50	44,003.89	30,000.00
Recreational Services	2803	264,910.95	76,440.48	239,717.80	101,633.63	370,000.00
Historical Commission	2804	10,022.08	200.00	300.00	9,922.08	2,500.00
Electrical Inspector	2806	180,582.64	69,773.00	58,324.77	192,030.87	65,000.00
Plumbing Inspector	2807	25,409.65	29,940.00	31,598.29	23,751.36	60,000.00
Gas Inspector	2808	16,107.68	17,185.00	15,441.66	17,851.02	35,000.00
Disabilities Commission	2809	7,683.29	2,545.00	261.00	9,967.29	3,000.00
Emma Andrews Library	2810	18,781.71	10,500.00	2,328.16	26,953.55	30,000.00
M-School Drop-in Center	2811	36,425.98	39,460.13	14,189.64	61,696.47	45,000.00
Transient Vendors	2812	43,817.37	13,165.00	3,725.00	53,257.37	20,000.00
Planning & Zoning	2813	21,622.91	39,560.00	25,767.61	35,415.30	70,000.00
Animal Control	2817	12,455.98	1,185.00	1,997.25	11,643.73	6,000.00
Tree Commission	2818	7,083.11	3,590.00	4,617.88	6,055.23	10,000.00
Medicare/Medicaid	2835	28,054.71	(2,360.69)	15,115.05	10,578.97	25,000.00
Veterans Services	2836	2,408.83	20.00	0.00	2,428.83	2,000.00
Downtown Paid Parking	2839	602,439.88	627,154.70	368,502.81	861,091.77	504,000.00
City Hall Maintenance	2840	3,441.37	1,042.50	1,481.83	3,002.04	5,000.00
Senior Comm. Ctr. Maint.	2841	1,722.26	9,503.03	4,550.60	6,674.69	5,000.00
Parks Maint.	2842	0.00	229.08	127.45	101.63	50,000.00
Total Revolving Funds		<u>\$1,390,314.30</u>	<u>\$993,021.38</u>	<u>\$862,282.86</u>	<u>\$1,521,052.82</u>	<u>\$1,397,500.00</u>

BPT



City of Newburyport

FY 2017

BUDGET TRANSFER REQUEST

Department: Mayor's Office

Submitted by: Donna D. Holaday, Mayor **Date Submitted:** 3/6/2017

Transfer From:

Account Name	<u>General Fund - Free Cash</u>	YTD Bal:	<u>\$ 2,352,094.00</u>
Account Number:	<u>01-35910</u>	Trans In:	<u>\$ -</u>
Amount:	<u>\$27,100.00</u>	Trans Out:	<u>\$ (21,908.00)</u>
Why are Funds Available:	<u>The Massachusetts Department of Revenue certified Free Cash for FY2017 at \$2,374,002. These funds are available for any legal expenditure with the approval of the Mayor and a vote of the City Council.</u>		

Transfer To:

Account Name	<u>Cherry Hill Soccer Field</u>	YTD Bal:	<u>\$ 3,073.00</u>
Account Number:	<u>3513-49710</u>	Category:	<u>\$ -</u>
Amount:	<u>\$27,100.00</u>	Trans I/O:	<u>\$ -</u>
Why are Funds Required:	<u>The \$27,100 will fund the completion of the Cherry Hill Soccer Field construction project. See attached memorandum for a detailed explanation.</u>		

Donna D. Holaday, Mayor
 Ethan R. Manning, Auditor
 City Council Approval: (Stamp)

Donna D. Holaday
Melissa M. Melnick
 Asst. City Auditor

Date: 3/7/17
 Date: 03.07.17



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY

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NEWBURYPORT, MA 01950
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To: President and Members of the City Council

From: Lisè Reid, Parks Director

CC: Donna D. Holaday, Mayor
Kimberly Turner, Parks Commission Chair
Ethan Manning, Finance Director
Patricia Moore, Chief Administrative Officer

Date: 6 March 2017

Subject: Cherry Hill Project Funding Request

I am writing to offer supporting information for a free cash transfer request of \$27,100 to fund completion of the Cherry Hill Soccer Field construction project. The City entered construction of the Cherry Hill Field project with no contingency funding available. We encountered unforeseen conditions resulting in the following added costs:

- significant amount of ledge that needed to be removed,
- temporary fencing,
- need to trench across Daniel Lucy Way to power the site (prior site plans had originally shown an electrical connection existed on the soccer field side of the street, but this was not the case in actuality),
- changes to the irrigation plan resulting from lack of electricity.

Newburyport Youth Soccer Association paid for a good portion of these cost overruns, and may be willing to help fund more. We are still discussing that with them. We may also be getting a \$4,000 credit from the general contractor. The amount of \$27,100 represents the greatest amount of funding the city will be responsible for to meet its contract requirements and complete the project.

BDF/PU



City of Newburyport

FY 2017

BUDGET TRANSFER REQUEST

Department: Mayor's Office
Submitted by: Donna D. Holaday, Mayor **Date Submitted:** 3/6/2017

Transfer From:

Account Name	<u>General Fund - Free Cash</u>	YTD Bal:	<u>\$ 2,352,094.00</u>
Account Number:	<u>01-35910</u>	Trans In:	<u>\$ -</u>
Amount:	<u>\$89,000.00</u>	Trans Out:	<u>\$ (21,908.00)</u>
Why are Funds Available:	<u>The Massachusetts Department of Revenue certified Free Cash for FY2017 at \$2,374,002. These funds are available for any legal expenditure with the approval of the Mayor and a vote of the City Council.</u>		

Transfer To:

Account Name	<u>Water Safe Yield Est./Demand Projection Updates</u>	YTD Bal:	<u>\$ -</u>
Account Number:	<u>New Account</u>	Category:	<u>\$ -</u>
Amount:	<u>\$89,000.00</u>	Trans I/O:	<u>\$ -</u>
Why are Funds Required:	<u>See attached memorandum for explanation.</u>		

Donna D. Holaday, Mayor
 Ethan R. Manning, Auditor
 City Council Approval: (Stamp)

Donna D. Holaday
Melissa J. Desnick
 Asst. City Auditor

Date: 3/7/17
 Date: 03-07-17



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY

60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4413 • (978) 465-4402 (FAX)
WWW.CITYOFNEWBURYPORT.COM

To: President and Members of the City Council
From: Donna D. Holaday, Mayor
Date: March 6, 2017
Subject: Request for Transfer to fund

Safe Yield Estimates / Demand Projection Updates for Newburyport DPS - Water Division

I am writing to respectfully request approval of an appropriation from "Free Cash" in the amount of \$89,000 to fund the Safe Yield Estimates / Demand Projection Updates for Newburyport DPS - Water Division.

At the January 30, 2017 City Council meeting, during discussion of the Water division transfer request, the need for updated water demand projections and safe yield estimates was raised. This matter was also discussed at the February 22, 2017 Water and Sewer Commission meeting. The Commission is in full support of this work.

It was recommended that AECOM prepare a Scope of Work that will include a review of water supply and future growth demand evaluation. The review will consist of four (4) tasks. The ideal time to conduct the study is spring before growth occurs.

The Scope of Work consists of:

Tasks	Action Steps
Task 1 - Update Water Demand Projections	Update the September 15, 2008 water demand projection letter report.
Task 2 – Update Safe Yield of the Indian Hill / Artichoke Reservoir System	Re-run 2005 safe yield based on updated hydrologic data & revised bathymetric data.
Task 3 – Review the Approved Yield of Wells 1 and 2	Review the 1999 Zone II report for Wells #1 and #2; review historical pumping test records; obtain groundwater-level information and monthly pumping statistics for past 10 years.
Task 4 – Final Report	Prepare a report summarizing the findings of the Task 1 through Task 3 work, including a comparison of available supply versus projected water demands.

The goals of this project are two-fold: (1) update the September 15, 2008 water demand projection letter report and (2) update the Safe Yield of the Indian Hill/Artichoke Reservoir Systems.

I thank you in advance for your consideration.



Estimate

CR ENVIRONMENTAL, INC.
 639 Boxberry Hill Road
 EAST FALMOUTH, MA 02536

DATE	ESTIMATE NO.
2/20/2017	1707

NAME / ADDRESS
Doug Gove AECOM 250 Apollo Drive Chelmsford, MA

PROJECT
Artichoke Reservoir

DESCRIPTION	QTY	COST	TOTAL
CR Environmental, Inc. 639 Boxberry Hill Rd, East Falmouth, MA 02536			
2017 BATHYMETRIC AND SEDIMENT THICKNESS SURVEYS ARTICHOKE AND INDIAN HILL RESERVOIRS NEWBURYPORT, MA			
LABOR			
Senior Environmental Scientist (Report Review and QA)	8	103.00	824.00
CR Project Manager (Management,data review,QA)	4	96.00	384.00
Senior Hydrographer (Planning)	4	103.00	412.00
Senior Oceanographic Technician (Equipment Mob)	8	75.00	600.00
Senior Hydrographer (Survey)	48	103.00	4,944.00
Senior Oceanographic Technician (Travel/Survey)	60	75.00	4,500.00
Senior Hydrographer (Bathymetric, Sediment Probing, Sub-bottom Data Processing)	32	103.00	3,296.00
Senior Hydrographer (Volume Calculations)	8	103.00	824.00
Senior Hydrographer (Reporting)	8	103.00	824.00
SUBTOTAL			16,608.00
BOAT & EQUIPMENT			
12 FT Aluminum Survey Boat	4	150.00	600.00
Hemisphere RTK GPS	4	300.00	1,200.00
Navigation Software (HYPACK)	4	75.00	300.00
Odom Hydrographics EchoTrac CV100 Echosounder	4	100.00	400.00
Sontek Castaway CTD	4	50.00	200.00
Water Level Recorder	4	25.00	100.00
SyQuest Stratabox 10kHz Sub-bottom profiling system	1	150.00	150.00
Sediment Probing System	4	50.00	200.00
GMC Truck Rental	4	100.00	400.00

TOTAL

Phone #	Fax #
508 563-7970	508 563-7970

Web Site
www.crenvironmental.com



Estimate

CR ENVIRONMENTAL, INC.
 639 Boxberry Hill Road
 EAST FALMOUTH, MA 02536

DATE	ESTIMATE NO.
2/20/2017	1707

NAME / ADDRESS
Doug Gove AECOM 250 Apollo Drive Chelmsford, MA

PROJECT
Artichoke Reservoir

DESCRIPTION	QTY	COST	TOTAL
SUBTOTAL			3,550.00
OTHER CHARGES			
Travel Expenses (Food & Lodging)	5	200.00	1,000.00
Travel Expenses (Meals Only)	4	50.00	200.00
Truck/Car Mileage (2)	400	0.535	214.00
Expendable Supplies	1	100.00	100.00
SUBTOTAL			1,514.00
TOTAL SURVEY COSTS WITHOUT OPTIONS			21,672.00
OPTIONAL GIS-Georeferencing old maps and depth difference maps			
Senior Hydrographer	16	103.00	1,648.00
SUBTOTAL			1,648.00
OPTIONAL WEATHER CONTINGENCY DAY			
Senior Hydrographer	2	103.00	206.00
Senior Oceanographic Technician	8	75.00	600.00
Travel Expenses	1	200.00	200.00
SUBTOTAL			1,006.00

TOTAL \$24,326.00

Phone #	Fax #
508 563-7970	508 563-7970

Web Site
www.crenvironmental.com

Scope of Work

Safe Yield Estimate / Demand Projection Update for Newburyport DPS – Water Division

Task 1 – Update Water Demand Projections

- Update the September 15, 2008 water demand projection letter report to represent estimated full build out demand projections for Newburyport and the area of Newbury which is served by the City.
- Assumptions:
 - o The City will provide a build out analysis for the City of Newburyport for AECOM to use. No additional build out analysis will be conducted by AECOM.
 - o The Town of Newbury will provide build out information for the section of town served by the City of Newburyport water system. No additional build out analysis will be conducted by AECOM.
 - o The City will provide information on proposed or planned developments.
 - o The City will provide water use data for the past 5 years for Newburyport / Newbury and for water sold to West Newbury. Water use data for Newburyport / Newbury will include a breakdown of residential and non-residential.

Task 2 – Update Safe Yield of the Indian Hill / Artichoke Reservoir System

- Use the safe yield model last updated in 2005 to re-run the safe yield based on updated hydrologic data and revised bathymetric data. The safe yield model is an Excel based hydrologic mass balance spreadsheet.
- Obtain daily streamflow and precipitation data for 2002 to 2016 from the USGS Station on the Parker River at Byfield (USGS 01101000).
- Obtain monthly water system demand data from the City for the last 5 years.
- Subcontract work to CR Environmental to conduct a bathymetric survey of Indian Hill Reservoir, Upper Artichoke Reservoir, and Lower Artichoke Reservoir. Calculate the storage volume of each reservoir and determine the reservoir volume and area versus elevation relationships for each reservoir.
- Run the model to determine the safe yield of the reservoir system for the worst drought of record (1965-1967) and for a less severe drought (early 1980's).
- Assumptions:
 - o The Bartlett Spring Pond yield will not be recalculated.

Task 3 – Review the Approved Yield of Wells 1 and 2

- Review the Zone II report for Wells 1 and 2 prepared by TEEM in 1999 for information on well yield. Review historical pumping test records available from the TEEM report or from the City.
- Obtain groundwater-level information and monthly pumping statistics for Wells 1 and 2 from the City for the past 10 years.

- Obtain precipitation data for the last 10 years to coincide with the groundwater and pumping information provided by the City.
- Tabulate and graph monthly pumping statistics, precipitation and water-level data in a form that will allow for a direct comparison of these variables over the 10 year period of interest.
- Provide an opinion on whether the yield from Well No. 1 and Well No. 2 is less than the yield originally reported by TEEM in 1999.

Task 4 – Final Report

- Prepare a report summarizing the findings of the Task 1 through 3 work, including a comparison of available supply versus projected water demands.

**Newburyport DPS - Water Division: Safe Yield Estimate / Demand Projection Update
Estimated Level of Effort**

Task Description	Estimated Effort, Hrs								Estimated	Estimated	
	Principal in Charge	Project Manager	Project Eng. / Scientist	Engineer / Scientist	Hydrogeologist	Sr. Planner	GIS	Other	Total Hours	Subs	ODCs Costs
er Demand Projections	2	12							14		\$240
Water Demand Data			2	20		2			24		
Newburyport Build Out Info			16			8	8		32		
Newbury Build Out info			12			6	8		26		
Proposed Developments with City			16			8	8		32		
Water Demands / Letter Report			32			16			48		
Yield of Artichoke Reservoir System	2								2		
Tric Study by CRE		4	20						24	\$24,400	
Excel Model Spreadsheet		2	6	40					48		
Model Runs to Estimate Yield		4	8	20					32		
roved Groundwater Yield	2								2		\$100
Historic precipitation, pumping, GW levels		2	8		18				28		
ield versus aquifer performance		2	8		18				28		
Summary Letter Report / Meet w/ City	2	12	32	12	8	4			70		\$200
Total	8	38	160	92	44	44	24	0	410	\$24,400	\$540
Billing Rate 2017	\$251	\$218	\$142	\$104	\$208	\$175	\$142			1.05	
Total Cost	\$2,008	\$8,284	\$22,720	\$9,568	\$9,152	\$7,700	\$3,408	\$0	\$62,840	\$25,620	\$89,000



City of Newburyport

FY 2017

BUDGET TRANSFER REQUEST

bdf/po

Department: Mayor's Office

Submitted by: Donna D. Holaday, Mayor

Date Submitted: 3/6/2017

Transfer From:

Account Name	General Fund - Free Cash	YTD Bal:	\$ 2,352,094.00
Account Number:	01-35910	Trans In:	\$ -
Amount:	\$66,342.00	Trans Out:	\$ (21,908.00)
Why are Funds Available:	<i>The Massachusetts Department of Revenue certified Free Cash for</i>		
	<i>FY2017 at \$2,374,002. These funds are available for any legal expenditure with the approval of the</i>		
	<i>Mayor and a vote of the City Council.</i>		

Transfer To:

Account Name	Wastewater Collection System Capacity Analysis	YTD Bal:	\$ -
Account Number:	New Account	Category:	\$ -
Amount:	\$66,342.00	Trans I/O:	\$ -
Why are Funds Required:	<i>A study is required to determine the capacity of the City's</i>		
	<i>sewer system as it relates to additional wastewater flows resulting from future development.</i>		
	<i>See attached explanatory memorandum from Mayor Holaday.</i>		

Donna D. Holaday, Mayor
 Ethan R. Manning, Auditor
 City Council Approval: (Stamp)

Donna D. Holaday

Michelle Melnick

 Asst City Auditor

Date: *3/7/17*
 Date: *03.07.17*



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

To: President and Members of the City Council
From: Donna D. Holaday, Mayor
Date: March 6, 2017
Subject: Request for Transfer to fund

Wastewater Collection System Capacity Analysis for Newburyport DPS - Sewer Division

I am writing to respectfully request approval of an appropriation from "Free Cash" in the amount of \$66,342 to fund the Wastewater Collection System Capacity Analysis for Newburyport DPS - Sewer Division.

At the January 30, 2017 City Council meeting, during discussion of the Sewer division Graf Road Bond Order, the need for updated sewer system capacity projections was raised. This matter was also discussed at the February 22, 2017 Water and Sewer Commission meeting. The Commission is in full support of this work.

It was recommended that BETA Engineering prepare a Scope of Services that will include a review of the capacity within major wastewater lines and future growth demand evaluation. Approximately 800 pipe segments within the collection system totaling almost 160,000 linear feet that could be subject to increased flows due to future development have been identified. The review will consist of three (3) tasks.

The Scope of Work consists of:

Tasks	Action Steps
Task 1 – Project Kick-Off and Data Collections	Review existing information, establish the portions of the collection system that will be analyzed, and identify specific needs for analysis.
Task 2 – Capacity Analysis	A spreadsheet capacity analysis will be developed for each segment of the collection system to be analyzed.

Task 3 – Report and Mapping	A report outlining the methodology of analysis will be developed and color-coded mapping showing available capacity of each segment will be created. This mapping will allow City personnel to identify areas of the wastewater collection system that may need to be upgraded to provide increase capacity required by future development and expansion.
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The goals of this project are two-fold: (1) update the September 15, 2008 water demand projection letter report and (2) update the Safe Yield of the Indian Hill/Artichoke Reservoir Systems.

I thank you in advance for your consideration.



March 3, 2017

Anthony J. Furnari, Director
Department of Public Services
City of Newburyport
16A Perry Way
Newburyport MA 01950

**Reference: Professional Services Agreement
City of Newburyport, Massachusetts
Wastewater Collection System Capacity Analysis**

Dear Mr. Furnari:

This letter and attached Standard Conditions will serve as an Agreement between the City of Newburyport (Owner) and BETA Group, Inc. Inc. (Engineer) for professional services on the above-referenced project.

SCOPE OF SERVICES

Engineer will provide Basic Services as outlined below.

Task 1 – Project Kick-Off and Data Collection

The first task in the Wastewater Collection System Capacity Analysis will be to meet with Owner representatives and review existing information, establish the portions of the collection system that will be analyzed, and identify specific needs for the analysis. We have identified approximately 800 pipe segments within the collection system totaling almost 160,000 linear feet that could be subject to increased flows due to future development. These areas will be reviewed and approved for analysis by the Owner.

Task 2 – Capacity Analysis

A spreadsheet capacity analysis will be developed for each segment of the collection system to be analyzed. Pipe inverts, slopes and lengths will be included in the spreadsheet. Estimated flows will be entered for each pipe segment and pipe capacities for each segment will be calculated. Pipe capacities will be compared with estimated flows to develop available capacity within each pipe segment. Meter data collected under a separate contract will be used to calibrate the spreadsheet, with infiltration and inflow estimates included. Pump station capacities and flow rates calculated during the Pump Station Condition Survey assignment will be included in the Wastewater Collection System Capacity Analysis where the stations discharge to the system.

Task 3 – Report and Mapping

A report outlining the methodology of the analysis will be developed and color-coded mapping showing available capacity of each segment will be created. This mapping will allow City personnel to identify areas

of the wastewater collection system that may need to be upgraded to provide increased capacity required by future development and expansion.

ASSUMPTIONS

It is assumed that no field verification or data collection will be necessary to develop the capacity analysis. All system information such as rim elevation, invert elevation, pipe sizes and locations will be provided in Record Drawings or obtained by City personnel in the field. BETA can provide field data collection for the project via amendment at the rates outlined in the Project Budget.

It is assumed that a flow metering program will be done concurrently and information collected from that effort will be used to calibrate flows and estimate infiltration and inflow and incorporated into the capacity analysis.

DELIVERABLES

The Owner will be provided with two (2) draft copies of the report for review and five (5) copies of the final report.

PAYMENTS TO ENGINEER

Owner agrees to pay Engineer in accordance with the following Fee Schedule.

Services for the project work described herein,
the estimated amount of\$66,342

Where not stated as being included in the fees, project-specific subconsultant, contractor and similar third-party expenses will be charged as incurred with a ten percent (10%) markup.

Unless otherwise noted, the fees in this Agreement do not include any value added, sales, or other taxes that may be applied by Government on fees for services. Such taxes will be added to all invoices, as required.

Where the Services or service conditions change, BETA shall submit to the Owner in a timely manner, documentation of the revisions to Attachment A adjusting the Contract Services Time and Price, as required.

Unless otherwise specified, charges for Services are based on BETA's hourly billing rates shown in Attachment A, attached hereto. The rates are subject to escalation from time to time.

PERIOD OF SERVICE

A Project Kick-off Meeting will be scheduled within one week of authorization by the Owner, said authorization as described hereinafter. Subsequent tasks will proceed as mutually agreed upon by Owner and Engineer.



FURTHER SERVICES AND PAYMENTS

This Agreement may be amended to provide authorization and payment for further phases or Additional Services. Engineer may proceed with such services based upon receipt of a mailed or faxed authorization from Owner which, until a formal amendment is executed, shall constitute a Contract Amendment, with payment for such services on the basis of Engineer's Rate Table, attached hereto.

STANDARD CONDITIONS

Attached hereto is the Standard Conditions to this Agreement consisting of six (6) pages, which the Owner has reviewed and acknowledges as a part of this Agreement.

AUTHORIZATION

The return of one (1) signed copy of this Letter Agreement, together with a copy of a formal resolution of approval, constitutes acceptance of this Agreement and shall be written authorization for Engineer to proceed with the Scope of Services outlined above.

This Agreement and the Exhibits identified above constitute the entire Agreement between Owner and Engineer and supersede all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

OWNER: CITY OF NEWBURYPORT

ENGINEER: BETA GROUP, INC.

Donna D. Holaday Date
Mayor of Newburyport

Anthony T. Lionetta Date
Senior Vice President

CERTIFICATION AS TO AVAILABILITY OF FUNDS

Ethan Manning, Finance Director Date

BOARD OF WATER/SEWER COMMISSIONERS

John Tomasz, Chair Date

Robert Cook, Vice Chair Date

Roger Jones Date

Brendan Coffey Date

E. Larry Kelley Date

APPROVED AS TO FORM

City Solicitor Date

A TRUE COPY, ATTEST:

Richard B. Jones, City Clerk Date

Respectfully submitted,
BETA Group, Inc.

Andrew Dennehy, PE
Senior Project Manager



STANDARD CONDITIONS TO ACCOMPANY LETTER FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

OWNER: CITY OF NEWBURYPORT, 157 WATER STREET, NEWBURYPORT, MA 01950

ENGINEER: BETA GROUP, INC., 315 NORWOOD PARK SOUTH, NORWOOD, MA 02062

ASSIGNMENT: ENGINEERING SERVICES FOR THE WASTEWATER COLLECTION SYSTEM CAPACITY
ANALYSIS

OWNER and ENGINEER agree on professional engineering services by ENGINEER and the payment for those services by OWNER as set forth below.

BASIC SERVICES OF ENGINEER

General

ENGINEER shall provide professional services in all phases of the Project to which this Agreement applies pursuant to the Scope of Services in the Letter Agreement to which these Standard Conditions are attached. These services will include serving as OWNER's professional representative, providing professional consultation and advice and furnishing customary services incidental thereto.

Study and Report Phase

ENGINEER shall:

Consult with OWNER to define requirements for the Project and review available data.

Provide analyses of OWNER's needs, studies of prospective solutions, and economic analysis applicable to various alternatives.

Prepare a Report containing schematic layouts, sketches and conceptual design criteria with exhibits to indicate the considerations involved and the alternative solutions available, setting forth ENGINEER's findings and recommendations. This Report will be accompanied by Engineer's opinion of probable costs for the Project.

Furnish five copies of the Study and Report documents.

Design Phase

ENGINEER shall:

On the basis of the accepted documents and the opinion of probable costs, prepare final drawings and specifications to show the general scope, extent and character of the work to be furnished and performed by Contractor(s).

Furnish to OWNER a revised opinion of probable Total Project Costs.

Prepare for review and approval by OWNER, its legal counsel and other advisors contract agreement forms,

general conditions and supplementary conditions, and bid forms, invitations to bid and instructions to bidders.

Furnish five copies of the above documents and of the Drawings and Specifications.

Bidding Phase

ENGINEER shall:

Assist OWNER in advertising for and obtaining bids or negotiating proposals for construction, materials, equipment and services.

Issue addenda as appropriate to interpret, clarify, or expand the Bidding Documents.

Consult with OWNER concerning the acceptability of subcontractors, suppliers and substitute materials and equipment proposed by Contractor(s).

Attend the bid opening, prepare bid tabulation and assist OWNER in evaluating bids or proposals and in assembling and awarding contracts.

Construction Phase

ENGINEER shall consult with and advise OWNER and act as Owner's representative as provided in the Standard General Conditions of the Construction Contract. The extent and limitations of the duties, responsibilities and authority of ENGINEER as assigned in said Standard General Conditions shall not be modified except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor(s) will be issued through ENGINEER who will have authority to act on behalf of OWNER to the extent provided in said Standard General Conditions.

ENGINEER shall make visits to the site at appropriate intervals as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)' work.

The Resident Project Representative will be ENGINEER's agent or employee and under Engineer's Resident Project Representative is set for the in Exhibit B, "Duties, Responsibilities and Limitation of Authority of Resident Project Representative" which will be made a part of the Construction Contract Documents.

The purpose of ENGINEER's visits to and representation by the Resident Project Representative at the site will be to enable ENGINEER to better carry out the duties and responsibilities assigned to ENGINEER during the Construction Phase, and, in addition, by exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept has been implemented and preserved by Contractor(s). ENGINEER shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, ENGINEER can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

ENGINEER may reject Contractor(s)' work while it is in progress if ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.

ENGINEER shall review and approve (or take other appropriate action) Shop Drawings, samples and other data which Contractor(s) are required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

ENGINEER shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of OWNER and Contractor(s) relating to the

supervision. The duties and responsibilities of the

acceptability of the work or the interpretation of the requirements of the Contract Documents. ENGINEER shall not be liable for the results of any such interpretations or decisions rendered in good faith.

ENGINEER shall determine the amounts owing to Contractor(s) and recommend payments. Such recommendations will constitute a representation to OWNER that the work has progressed to the point indicated, and that, to the best of ENGINEER's knowledge, information and belief, the quality of such work is generally in accordance with the Contract Documents. By recommending payment, ENGINEER will not represent that exhaustive, continuous or detailed reviews or examinations have been made by ENGINEER to check the quality or quantity of Contractor(s)' work. ENGINEER's review of Contractor(s)' work for the purpose of recommending payments will not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any of the work, materials or equipment has passed OWNER free and clear of any lien, claims, security interests or encumbrances.

ENGINEER shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed work is acceptable so that ENGINEER may recommend final payment to Contractor.

ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except ENGINEER's own employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s)' work.

ADDITIONAL SERVICES

Services Requiring Authorization in Advance

If authorized in writing by OWNER, ENGINEER will perform Additional Services related to the Project for additional payment as agreed upon when such services are authorized.

Required Additional Services

During construction, when required by the Contract Documents in circumstances beyond ENGINEER's control, ENGINEER shall furnish Additional Services or obtain such services from others, as circumstances require

and without waiting for specific authorization from OWNER. ENGINEER shall advise OWNER promptly after starting any such Additional Services.

OWNER'S RESPONSIBILITIES

OWNER shall designate and advise ENGINEER of a person to act as OWNER's Representative who has complete authority with respect to the ENGINEER's services for the Project. OWNER shall do the following in a timely manner so as not to delay the services of ENGINEER:

Provide all criteria and full information as to OWNER's requirements for the Project and furnish copies of all design and construction standards, which OWNER will require to be included in the Drawings and Specifications.

Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the Project including previous reports.

Furnish to ENGINEER, as required for performance of ENGINEER's services, the following:

- data prepared by or services of others, including borings, probings and subsurface explorations;
- environmental assessment and impact statements;
- property, boundary, easement, right-of-way and topographic surveys;
- property descriptions;
- zoning, deed and other land use restriction;

all of which ENGINEER may use and rely upon in performing services under this Agreement.

Provide engineering surveys to establish reference points for construction.

Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.

Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by ENGINEER, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate.

Furnish approvals and permits from all governmental authorities having jurisdiction over the Project.

Provide accounting, independent cost estimating and insurance counseling services required for the Project,

such legal services as OWNER may require or ENGINEER may reasonable request with regard to legal issues.

Attend the bid opening, construction progress and other job-related meetings and substantial completion inspections and final payment inspections.

Require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.

Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services, or any defect or nonconformance in the work of any Contractor.

PERIODS OF SERVICE

Compensation for ENGINEER's services has been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Construction Phase. ENGINEER's obligation to render services will extend for a period which may reasonably be required for the design, award of contracts, construction and initial operation of the Project. If specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided and if such dates are exceeded through no fault of ENGINEER, all rates, measures and amounts of compensation shall be subject to equitable adjustment.

If OWNER has requested significant modifications in the general scope, extent or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.

If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if the Construction Phase has not commenced within 365 calendar days after completion of the Final Design Phase, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement.

If ENGINEER's services are delayed or suspended in whole or in part by OWNER for more than three months for reasons beyond ENGINEER's control, ENGINEER shall be paid as provided under provisions for termination. If such delay or suspension extends for more than one year for reasons beyond ENGINEER's control, or if ENGINEER for any reason is required to render

Construction Phase services more than one year after Substantial Completion is achieved under that contract, the various rates of compensation provided for elsewhere in this Agreement shall be subject to equitable adjustment.

PAYMENTS TO THE ENGINEER

Methods of Payment for Services and Expenses of ENGINEER

OWNER shall pay ENGINEER for services rendered as provided in the Letter Agreement.

Times of Payments

ENGINEER shall submit monthly statements for services and Reimbursable Expenses. The statements will be based upon ENGINEER's estimate of the proportion of the total services actually completed or for the hours and rates of personnel who have provided services. OWNER shall make prompt payments in response to ENGINEER's monthly statements.

Other Provisions Concerning Payments

If OWNER fails to make any payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's statement therefore, the amounts due ENGINEER will be increased at the rate of 1% per month from said thirtieth day, and in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expense, and charges.

~~In the event of termination by OWNER, ENGINEER will be paid for services rendered on the basis of ENGINEER's Salary Costs times a factor of 2.5 for services rendered to date of termination. ENGINEER also will be reimbursed for the charges of independent professional associates and consultants employed by ENGINEER and paid for all unpaid Additional Services and unpaid Reimbursable Expenses, plus all termination expenses.~~

~~Whenever a factor is applied to Salary Costs in determining compensation payable to ENGINEER that factor will be adjusted periodically and equitably to reflect changes in the various elements that comprise such factor.~~

Definitions

The Salary Costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all

ENGINEER's personnel engaged directly on the Project, plus the cost of customary and statutory benefits including but not limited to, social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.

The amount of customary and statutory benefits all of other personnel of ENGINEER will be considered equal to 42.5% of salaries and wages, subject to equitable adjustment to reflect changes in ENGINEER's overall compensation procedures and practices.

Reimbursable Expenses mean the actual expenses incurred by ENGINEER, directly or indirectly in connection with the Project, such as expenses for transportation and subsistence; CADD and telecommunications charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items; and, if authorized in advance by OWNER, overtime work requiring higher than regular rates.

OPINIONS OF COST

Since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, ENGINEER's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of ENGINEER's best judgment as an experienced and qualified professional engineer. ENGINEER cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by ENGINEER. If OWNER wishes greater assurance as to Total Project or Construction Costs, OWNER shall employ an independent cost estimator.

GENERAL CONSIDERATIONS

Termination

The obligation to provide further services under this Agreement may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. The OWNER may terminate this Agreement for convenience upon thirty days' written notice.

Reuse of Documents

~~All documents including Drawings and Specifications prepared or furnished by ENGINEER are instruments of~~

service in respect of the Project and ENGINEER shall retain an ownership and property interest therein whether or not the Project is completed. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, and OWNER shall indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom.

Standard of Care

In accepting this Agreement for professional services by ENGINEER, OWNER acknowledges that ENGINEER's services often require decisions that are based upon judgmental considerations. In performing ENGINEER's professional services, ENGINEER will use that degree of care and skill ordinarily exercised under similar circumstances by members of the profession. The standard of care shall exclusively be judged as of the time the services are rendered and not according to later standards.

Insurance

ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom.

Indemnification

ENGINEER agrees, to the fullest extent permitted by law, to indemnify and hold the OWNER harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the ENGINEER's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of his or her subconsultants or anyone for whom the ENGINEER is legally liable.

The OWNER agrees, to the fullest extent permitted by law, to indemnify and hold the ENGINEER harmless from any damages, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the OWNER's negligent acts, errors or omissions and those of his or her contractors subcontractors or consultants or anyone for whom the OWNER is legally liable, and arising from the project that is the subject of this Agreement.

The ENGINEER is not obligated to indemnify the OWNER in any manner whatsoever for the OWNER's own negligence.

Limitation of Liability

Either Parties liability with respect to any claims arising out of this Agreement shall be absolutely limited to direct damages arising out of the Services and neither Party shall bear liability whatsoever for any consequential loss, injury, or damage incurred by each Party, including, but not limited to, claims for loss of use, loss of profits, and loss of markets.

Controlling Law

This Agreement is to be governed by the law of the principal place of business of ENGINEER OWNER.

Successors and Assigns

OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives of such other party.

Neither OWNER nor ENGINEER shall assign, sublet or transfer any rights under or interest in this Agreement without the written consent of the other. Nothing contained in this paragraph shall prevent ENGINEER from employing such independent professional associates and consultants as ENGINEER may deem appropriate to assist in the performance of services hereunder.

Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

Dispute Resolution

OWNER and ENGINEER agree to submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

If the parties fail to resolve a dispute through negotiation or mediation, then either or both parties may exercise their rights under law.

Electronic Media

OWNER recognizes that data, plans, specifications, reports, documents, or other information recorded on or transmitted as electronic media are subject to undetectable alteration, either intentional or unintentional. Accordingly, documents provided to OWNER in electronic media are for informational purposes only and are not an end product. ~~OWNER agrees to defend, indemnify, and hold ENGINEER harmless from any claims, liabilities, losses or damages arising out of the reuse or alteration of electronic media. ENGINEER makes no warranties, either expressed or implied, regarding the fitness or suitability of the electronic media.~~

Waste Materials

Waste materials (including soil and water samples, drilling cuttings, oil samples, water, and other materials) produced during the performance of these services are the property of OWNER. ENGINEER shall retain soil and water samples for no longer than forty-five (45) days after sampling, unless other arrangements are agreed upon in writing. It is OWNER's responsibility to select and arrange for lawful transportation, treatment, and disposal of the samples with appropriate licensed parties.

Mold/Biological Pollutants

~~OWNER agrees that ENGINEER shall have no liability for any claim, direct or indirect, for bodily injury or property damage, including loss of use, arising from alleged to arise from, or caused by the presence of, or exposure to, any Mold or other Biological Pollutants in or around any structure designed, modified, or affected by ENGINEER as part of this Agreement. In addition, OWNER shall defend, indemnify, and hold harmless ENGINEER from third party claims for damages arising from, alleged to arise from, or caused by the presence of or exposure to, any Mold or other Biological Pollutants in or around any structure designed, modified, or affected by ENGINEER as part of this Agreement, except for damages arising from or caused by ENGINEER's sole negligence.~~

The term "Mold and other Biological Pollutants" includes, but is not limited to, molds, fungi, spores, bacteria, and viruses, and the by-products of biological organisms.

Disclosure of Hazards (Right-to-Know)

ENGINEER shall take reasonable precautions for the health and safety of ENGINEER's employees while at the work site. OWNER shall furnish ENGINEER, at the time that OWNER authorizes ENGINEER to proceed, all reasonably available information concerning oil, hazardous toxic, or radioactive or asbestos material in, on, or near the site. If a hazardous material or condition is discovered that had not been disclosed to ENGINEER, then, upon notification, OWNER and ENGINEER shall seek to determine an equitable adjustment to be made to this AGREEMENT. ENGINEER shall not be deemed an owner, operator, or generator with respect to hazardous materials discovered at the work site, except to the extent that actions of the ENGINEER cause or contribute to conditions at the work site.

Disclosure

OWNER may be required by federal, state, or local regulation or statute to report the results of services performed by ENGINEER under this Agreement or information uncovered by ENGINEER under this Agreement. It is agreed that OWNER shall be responsible for all such reporting. ENGINEER shall, however, immediately disclose to OWNER any document or information that ENGINEER has reason to believe to be subject to a reporting obligation.

Confidentiality

ENGINEER agrees to keep confidential and not disclose to any person or entity, other than ENGINEER's employees and subcontractors, without the prior written consent of OWNER, which consent shall not be unreasonably withheld, delayed, or conditioned, all data and information not previously known to and generated by ENGINEER, or furnished to ENGINEER and marked "CONFIDENTIAL" by OWNER in the course of ENGINEER's performance of the services contemplated hereunder; provided, however, that this provision shall not apply to data or information which is in the public domain or which was previously known to ENGINEER, or which was acquired by ENGINEER independently from third parties not under any obligation to OWNER to keep such data and information confidential. These provisions shall not be interpreted to restrict ENGINEER from complying with any applicable law, rule, regulation, ordinance, code standard, or court order.

**ATTACHMENT A - PROJECT BUDGET
PROFESSIONAL SERVICES RELATED TO SEWER CAPACITY ANALYSIS
CITY OF NEWBURYPORT, MASSACHUSETTS**

March 3, 2017

	BETA Hours			Sub Total
	Project Manager	Project Engineer	Engineer	
Meetings/Data Collection	12	12	16	40
Capacity Analysis	8	16	400	424
Report, Map and QA/QC	8	16	120	144
Totals	28	44	536	608

DIRECT LABOR COSTS

Project Manager	28	@	\$53.00	=	\$1,484
Project Engineer	44	@	\$40.00	=	\$1,760
Staff Engineer	536	@	\$35.00	=	\$18,760

Total Direct Labor Costs **\$22,004**

SALARY COST \$22,004 1.15 \$25,305

SALARY COST X 2.6 \$25,305 2.6 \$ 65,792

TOTAL LABOR COST \$65,792

DIRECT COSTS (printing, mileage, equip, etc.)

Mileage, miscellaneous \$500

TOTAL EXPENSES w/ 10% MULTIPLIER \$550

TOTAL COST \$66,342

LICENSE & PERMIT COMMITTEE ITEMS

COMM026_03_13_17 Outdoor Seating Application - The Purple Onion

COMM027_03_13_17 Outdoor Seating Application - Atomic Café

By 3/7

LHP



NEW FILING _____
RENEW _____

City of Newburyport

Application

Food Establishment Outdoor Seating on Public Property

Date: 3/4/17

Name of Business Owner: Atemic coffee co. LLC

Name of Property Owner: Eastern Yacht Sales + charters

Business Name: Atemic Cafe

Business Address: 56 state st. Business Phone: 978 358 7530

Number of Tables Requested: 6 Dimensions: 24x24 Material: Iron

Number of Chairs Requested: 12 Dimensions: 18x24 Material: Aluminum

- Applicant requests approval of outdoor seating for the sole purpose of food consumption.
- Applicant requests approval of outdoor seating for food *and* alcohol consumption.

Please note propane is not allowed unless approved by the Fire Department

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**

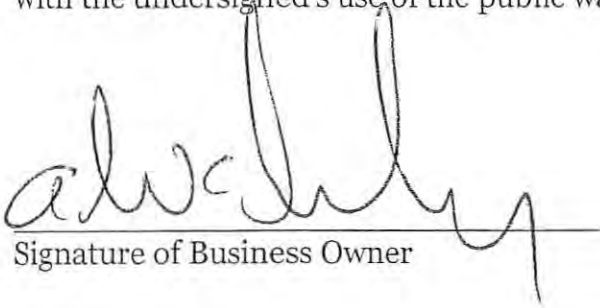
- 1) Applicants must provide evidence of liability insurance to the City Clerk with minimum coverage in the amount of one million dollars, naming the City of Newburyport as co-insured. This insurance coverage must be in force for the duration of the approved period.

Application - Food Establishment Outdoor Seating on Public Property

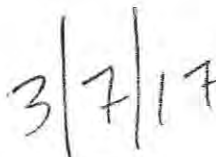
- 2) 8 1/2 x 11 sketch of outdoor seating detailing: a) measurements of tables and chairs; b) total width of sidewalk; and c) distance between proposed seating and sidewalk
- 3) Obstacles such as streetlights, signs, trees, benches, and garbage barrels.
- 4) Applicants seeking approval of outdoor seating for food and alcohol consumption must also submit:
- 5) 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.
- 6) 8 1/2 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.

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.



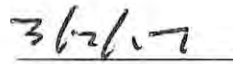
Signature of Business Owner



DATE



Signature of ADA Coordinator
(Building Department)



DATE

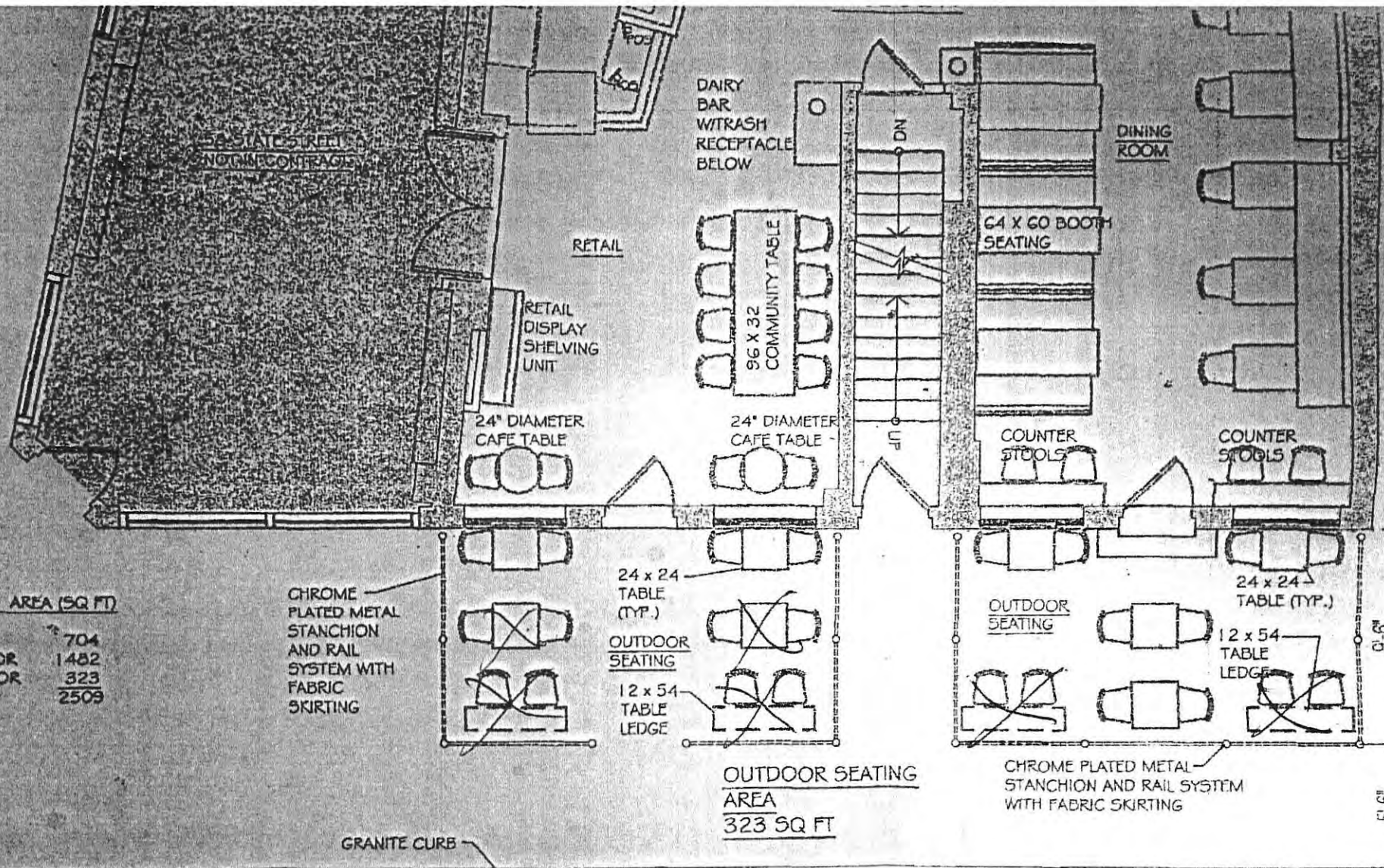


City of Newburyport

Guidelines

Food Establishment Outdoor Seating on Public Property

- 1) A minimum of 5-feet of pedestrian clearance must be maintained on the sidewalk. Tables, chairs, and all enclosure materials used to create a demarcated area may not infringe upon this pedestrian clearance. Tables, chairs and enclosure materials must maintain a minimum of 5-feet of pedestrian clearance from streetlights, signs, trees, benches, garbage barrels, or other sidewalk obstacles.
- 2) Tables, chairs, and enclosure materials used to create a demarcated area cannot interfere with curb ramps, driveways, fire escape and/or doorway access.
- 3) Care, custody, and control of tables and chairs are the sole responsibility of the applicant.
- 4) All approved tables and chairs which are chained, roped, or otherwise tethered together at the end of business hours must be untethered during business hours.
- 5) Placement of tables and chairs on the public way must conform to all federal, state, and local laws and regulations.
- 6) Permission for outdoor seating on public property is revocable at the discretion of the City of Newburyport.
- 7) Applications are subject to review and approval of the City Council. If approved, permission is in effect until the end of the approval year. Applications for outdoor seating must be renewed on an annual basis.



AREA (SQ FT)

INTERIOR	704
EXTERIOR	1482
TOTAL	323
TOTAL	2509

42
24
66

CHROME PLATED METAL STANCHION AND RAIL SYSTEM WITH FABRIC SKIRTING

24 x 24 TABLE (TYP.)
OUTDOOR SEATING
12 x 54 TABLE LEDGE

OUTDOOR SEATING AREA
323 SQ FT

OUTDOOR SEATING

CHROME PLATED METAL STANCHION AND RAIL SYSTEM WITH FABRIC SKIRTING

ATOMIC COFFEE

STATE STREET

First Floor Plan

Atomic Coffee Company
Portland, LLC

Scale	1/8" = 1'-0"
Date	JULY 30, 2013

Drawing Name

Proposed 1st Floor & Basement Plans



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/22/2016

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 Archer Insurance 271 CABOT ST BEVERLY MA 01915	CONTACT NAME: Louis Levesque		
	PHONE (A/C, No, Ext): (978) 922-4600	FAX (A/C, No): (978) 922-9276	
INSURED Atomic Coffee Company Of Newburyport, LLC 45 Mason St. Salem MA 01970	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: MAPPRE Insurance Co		23876
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES CERTIFICATE NUMBER: **CL16112202306** 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	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			8008030000331	9/3/2016	9/3/2017	EACH OCCURRENCE \$ 2,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						MED EXP (Any one person) \$ 10,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						PERSONAL & ADV INJURY \$ 2,000,000
	OTHER:						GENERAL AGGREGATE \$ 4,000,000
	AUTOMOBILE LIABILITY						PRODUCTS - COMPI/OP AGG \$ 4,000,000
	<input type="checkbox"/> ANY AUTO						Liquor Liability \$ 1,000,000
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS					BODILY INJURY (Per person) \$
	UMBRELLA LIAB	<input type="checkbox"/> OCCUR					BODILY INJURY (Per accident) \$
	EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					PROPERTY DAMAGE (Per accident) \$
	DED	RETENTION \$					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N					OTHER
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Policy includes Liquor Liability of 1,000,000.
Policy includes the City of Newburyport as an additional insured.
Coverage in accordance with policy terms & conditions.

CERTIFICATE HOLDER City of Newburyport 60 Pleasant St 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 Neal Hutchins/ALEXA

Ldp



NEW FILING _____
RENEW

City of Newburyport

Application

Food Establishment Outdoor Seating on Public Property

Date: 2/28/17

Name of Business Owner: Tom Andruskevich

Name of Property Owner: New England Development

Business Name: The Purple Onion

Business Address: 42-44 Inn St Business Phone: 978-465-9600

Number of Tables Requested: 5 Dimensions: 28x28x28 Material: metal

Number of Chairs Requested: 15 Dimensions: 16x18x31 Material: metal

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

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

Please note propane is not allowed unless approved by the Fire Department

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**

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA
2017 MAR -1 A 11:39

- 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.

Application - Food Establishment Outdoor Seating on Public Property

- 2) 8 1/2 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
- 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:
- 5) 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.
- 6) 8 1/2 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.

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.



Signature of Business Owner

2/28/17
DATE



Signature of ADA Coordinator
(Building Department)

3-1-17
DATE



City of Newburyport

Guidelines

Food Establishment Outdoor Seating on Public Property

- 1) A minimum of 5-feet of pedestrian clearance must be maintained on the sidewalk. Tables, chairs, and all enclosure materials used to create a demarcated area may not infringe upon this pedestrian clearance. Tables, chairs and enclosure materials must maintain a minimum of 5-feet of pedestrian clearance from streetlights, signs, trees, benches, garbage barrels, or other sidewalk obstacles.
- 2) Tables, chairs, and enclosure materials used to create a demarcated area cannot interfere with curb ramps, driveways, fire escape and/or doorway access.
- 3) Care, custody, and control of tables and chairs are the sole responsibility of the applicant.
- 4) All approved tables and chairs which are chained, roped, or otherwise tethered together at the end of business hours must be untethered during business hours.
- 5) Placement of tables and chairs on the public way must conform to all federal, state, and local laws and regulations.
- 6) Permission for outdoor seating on public property is revocable at the discretion of the City of Newburyport.
- 7) Applications are subject to review and approval of the City Council. If approved, permission is in effect until the end of the approval year. Applications for outdoor seating must be renewed on an annual basis.



CERTIFICATE OF LIABILITY INSURANCE

PURPL-4

OP ID: AC

DATE (MM/DD/YYYY)
02/27/2017

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
Chase & Lunt LLC
65 Parker Street
Newburyport, MA 01950
Select Business Unit

CONTACT NAME: Select Business Unit	
PHONE (A/C, No, Ext): 978-462-4434	FAX (A/C, No): 978-465-6204
E-MAIL ADDRESS:	
INSURER(S) AFFORDING COVERAGE	
INSURER A: Guard Insurance Group	NAIC #
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Purple Onion Newburyport, LLC
Tom Andruskevich
2 Whitehall Road
South Hampton, NH 03827

COVERAGES**CERTIFICATE NUMBER:****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		PUBP700017	03/05/2017	03/05/2018	EACH OCCURRENCE \$ 1,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000
	X Business Owners						PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 2,000,000
	X POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COM/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (PER ACCIDENT) \$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)		Y/N	N/A			E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						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)

Certificate Holder is recognized as Additional Insured for General Liability

CERTIFICATE HOLDER

City of Newburyport
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

James J. Nowlett III

© 1988-2010 ACORD CORPORATION. All rights reserved.

Purple Onion Cafe

Inn Street

Purple Onion
Seating Plan - 2014

Key




Table and chairs

PLANNING & DEVELOPMENT COMMITTEE ITEMS

COMM014_01_30_17 30% Garage Design Docs (COW)

COMM020_02_08_16 Memo re: Process for Building Commissioner

COMM091 10 11 16 Ltr to Council from J. Sweet on ZBA - - -



PARKING CONSULTANTS
GREEN PARKING CONSULTING
PLANNING
ARCHITECTS
STRUCTURAL ENGINEERS
RESTORATION ENGINEERS

FULL TEXT AVAILABLE IN CLERK'S OFFICE

**MVRTA Newburyport Intermodal
Parking Facility**
Newburyport, Massachusetts

Code Analysis
12/9/2016

By:

DESMAN, Inc.



November 7, 2016

Desman Associates
18 Tremont Street, Suite 300
Boston, MA 02108

Attention: Wesley Wilson

Re: Newbury Intermodal Transit and Parking Facility

Dear Wesley,

Please find enclosed our draft cost estimate for the above project based on 30% design documents.

	<u>Area (sf)</u>	<u>\$/sf</u>	<u>\$,000's</u>
New	77,339	96	7,397

This estimate includes all direct construction costs, general contractor's overhead and profit, and design contingency. Cost escalation assumes current rates.

Excluded from the estimate are: hazardous waste removal, loose furnishings and equipment, construction and project contingency, architect's and engineer's fees, moving, administrative and financing costs.

Bidding conditions are expected to reflect 6 to 8 pre-qualified general contractors, open bidding for sub-contractors, open specifications for materials and manufacturers.

This estimate is based on bids received in this market for comparable work. Projected changes in design and inflation are covered by contingency. Variances from these projections can occur due to lack or surplus of bidders at time of bid, proprietary specifications, contractual and procurement practice, documentation and tendering changes, contractor's errors and omissions etc. We expect bids received to be within 5 - 10% of estimated values 19 times out of 20 recognizing the above.

If you have any questions or require further analysis please do not hesitate to contact us.

Yours very truly,

James Vermeulen, PQS
Co-CEO



RWS

HVAC

Electrical

Plumbing

Fire Protection

Code

**MVRTA: NEWBURYPORT
INTERMODAL PARKING FACILITY
NEWBURYPORT, MA**

ENERGY DESIGN NARRATIVE

December 9, 2016

Prepared for:

Desman Associates

**R.W. Sullivan
Engineering**

The Schraff Center
529 Main Street
Suite 203
Boston, MA 02129

617.523.8227
www.rwsullivan.com

MVRTA Newburyport Intermodal Parking Facility

NEWBURYPORT, MASSACHUSETTS

30% SCHEMATIC DESIGN PACKAGE
DECEMBER 9, 2016

CIVIL

C-2 LAYOUT AND MATERIALS PLAN
C-3 GRADING & DRAINAGE PLAN
C-4 UTILITIES PLAN
C-5 OVERALL LANDSCAPE PLAN
C-6 DETAILED LANDSCAPE PLAN

ARCHITECTURAL

A-100 LOWER LEVEL STRIPING PLAN
A-101 GRADE LEVEL STRIPING PLAN
A-102 SECOND LEVEL STRIPING PLAN
A-103 ROOF LEVEL STRIPING PLAN
A-201 BUILDING ELEVATIONS
A-202 AXONOMETRIC ELEVATION

STRUCTURAL

S-002 TYPICAL DETAILS
S-101 FOUNDATION PLAN
S-200 LOWER LEVEL FRAMING PLAN
S-201 GRADE LEVEL FRAMING PLAN
S-202 SECOND LEVEL FRAMING PLAN
S-203 ROOF LEVEL FRAMING PLAN
S-301 TYPICAL PRECAST DETAILS
S-302 TYPICAL PRECAST DETAILS
S-303 TYPICAL PRECAST DETAILS

HVAC

H-000 HVAC GENERAL NOTES AND ABBREVIATIONS
H-001 HVAC SCHEDULES
H-002 HVAC DETAILS
H-100 HVAC LOWER LEVEL PLAN
H-101 HVAC LOWER LEVEL PLAN
H-102 HVAC ROOF LEVEL PLAN

ELECTRICAL & FIRE ALARM

E-000 ELECTRICAL LEGEND AND GENERAL NOTES
E-001 ELECTRICAL SITE PLAN
E-100 ELECTRICAL LOWER LEVEL POWER & LIGHTING PLAN
E-101 ELECTRICAL FIRST LEVEL POWER AND LIGHTING PLAN
E-102 ELECTRICAL SECOND LEVEL POWER AND LIGHTING PLAN
E-103 ELECTRICAL ROOF LEVEL POWER AND LIGHTING PLAN
E-200 ELECTRICAL LOWER LEVEL POWER & LIGHTING
ENLARGED PLAN
E-300 ELECTRICAL POWER RISER DIAGRAM
E-301 ELECTRICAL GROUNDING RISER DIAGRAM
E-501 ELECTRICAL DETAILS
E-502 ELECTRICAL DETAILS
FA-000 FIRE ALARM LEGEND AND GENERAL NOTES
FA-100 FIRE ALARM LOWER LEVEL PLAN
FA-101 FIRE ALARM FIRST LEVEL PLAN
FA-102 FIRE ALARM SECOND LEVEL PLAN
FA-103 FIRE ALARM ROOF LEVEL PLAN
FA-200 FIRE ALARM RISER DIAGRAM

FIRE PROTECTION

FP-101 FIRE PROTECTION LEGEND, SCHEDULES AND NOTES
FP-100 LOWER LEVEL FIRE PROTECTION PLAN
FP-101 FIRST LEVEL FIRE PROTECTION PLAN
FP-102 SECOND LEVEL FIRE PROTECTION PLAN
FP-103 ROOF LEVEL PLAN FIRE PROTECTION PLAN

PLUMBING

P-001 PLUMBING LEGEND, SCHEDULES, NOTES, AND PART PLAN
P-100 LOWER LEVEL PLUMBING PLAN
P-101 FIRST LEVEL PLUMBING PLAN
P-102 SECOND LEVEL PLUMBING PLAN
P-103 ROOF LEVEL PLUMBING PLAN

CITY OF NEWBURYPORT & MVRTA
DESMAN, Inc.
FENNICK MCREIDIE ARCHITECTURE, Ltd.
R.W. SULLIVAN
ALLEN & MAJOR ASSOCIATES, Inc.
TETRA TECH, Inc.
GOTECHNICAL PARTNERSHIP, Inc.

OWNER
ARCHITECT/ENGINEERS
CONCEPT ARCHITECT
MEP/HVAC ENGINEER
SITE/CIVIL
TRAFFIC ENGINEER
GEOTECHNICAL ENGINEER

Traffic Impact and Access Study

MVRTA Intermodal Parking Facility

Newburyport, Massachusetts

Prepared for:

Desman Associates
November 2016

6.0 SUMMARY AND CONCLUSIONS

Tetra Tech has completed a Traffic Impact and Access Study for the proposed Intermodal Parking Facility to be located at the southwest quadrant of Merrimac Street and Titcomb Street in Newburyport, MA (the project). The project consists of 207 parking spaces in a three level garage.

Conceptual level designs for site access and the Merrimac Street/Titcomb Street and Titcomb Street/Pleasant Street intersections were developed through coordination with City of Newburyport and include new crosswalks, handicap ramps and curb extensions. A new 100 foot long bus turnout will be located adjacent to the proposed garage on Merrimac Street. The sidewalk is designed to include fully accessible landing areas for passengers alighting from buses.

The intermodal parking facility will provide additional parking for MVRTA transit riders potentially reducing vehicular traffic to and from Newburyport. It will also provide replacement parking for parking spaces expected to be lost when improvements are made to the Merrimack River waterfront.

The study concludes that the proposed project will not have a significant impact to the study area intersections.

P:\32030\143-32030-1500\DOCS\REPORTS\2016.11.29 FINAL TRAFFIC IMPACT STUDY (30%).DOCX



CITY OF NEWBURYPORT
OFFICE OF THE MAYOR
DONNA D. HOLADAY
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NEWBURYPORT, MA 01950
(978) 465-4413 • (978) 465-4402 (FAX)
WWW.CITYOFNEWBURYPORT.COM

COMM020_02_08_16

RECEIVED
CITY OFFICE
NEWBURYPORT, MA

2016 FEB -2 P 1 31

TO: President and Members of the City Council
FROM: Donna D. Holaday
DATE: 2/2/16
RE: Hiring Process for the City's Next Building Commissioner

As most of you are aware, I will be commencing a hiring process in the next couple of months to fill a critical position within our local government—that of the City's Building Commissioner. With the impending retirement of a long-time, dedicated employee, I have asked our Human Resources Department to update the position's job description and draft a job advertisement.

Given that a key part of serving in this role requires coordination and communication with many boards, commissions, employees, developers and members of the public, I wish to inform you of my intention to convene a search committee to review resumes of qualified applicants, conduct interviews and make recommendations of not fewer than three (3) final candidates to me.

The Search Committee will have ten (10) members consisting of the Chief Administrative Officer who shall serve as chair; the Human Resources Director; a representative from the Planning Department; a representative from the Fire Department; the Health Department Director; one member each from the City Council, Planning Board, Zoning Board of Appeals, and Historical Commission or Newburyport Preservation Trust, each of whom shall be named by the President/Chair of those bodies; and one member of the public chosen by me.

It is my intention to start this process by the end of this month.

p-10

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

2016 OCT -4 P 2: 53

Jennifer Sweet, P.E., LSP
10 Chain Bridge Drive
Newburyport, MA 01950

29 September 2016

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

Ladies and Gentlemen:

I attended the Zoning Board of Appeals (ZBA) meeting on the evening of 27 September 2016. I was attending as an abutter for one of the proposed projects at 2-6 Elmira Avenue for which a variance application was filed. I also listened to two other applicants that were on the agenda for projects on properties located at 14 North Atkinson Street and 15-19 Williamson Avenue. All three of these projects are located in the R-2 Zoning District within the north end. I feel the need to express my concerns with the apparent disregard for the Zoning Ordinance and Zoning Board of Appeals regulations by the ZBA.

There were several residents in attendance at the meeting that raised concerns about subdivision of properties and construction of homes with significant dimensional variances from the Zoning Ordinance. They also raised concerns about how approval of recent variances have set precedent for on-going and continuing development in the City and in particular within the north end which is designated as an R-2 district.

The zoning districts and dimensional controls for each district are established by the "Zoning Ordinance of the City of Newburyport, Massachusetts" under the "Code of Ordinances, City of Newburyport, Massachusetts" authority granted by M.G.L.A. c. 40A.

Section I-C of the Zoning Ordinance states the following:

"The purpose and intent of this ordinance is to:

- 1. Promote the health, safety, convenience and general welfare of the inhabitants of the City of Newburyport,*
- 2. To conserve the value of property, with due consideration for the character of the zones and their peculiar suitability for particular uses,*
- 3. To lessen congestion in the streets,*
- 4. To secure safety from fire, flood, panic, and other dangers,*
- 5. To provide adequate light and air,*

6. To prevent overcrowding of land and to avoid undue concentration of population by regulating the height, number of stories and size of buildings and other structures, the percentage of the area of the lot that may be occupied, the size of the yards, courts, and other open spaces,

7. To control the density of population by regulating the location and use of buildings, structures and land for trade, industry, residence or other purposes; and the height, size and location of these uses within the limits of the City of Newburyport."

Section X-H, Board of Appeals, allows the appointed Board members the right to hear and decide appeals as well as to grant a variance *"where the zoning board of appeals finds that, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this ordinance."*

However, paragraph 6.C. also states that *"The power to vary the application of this zoning ordinance must be sparingly exercised and only in rare instances and under exceptional circumstances peculiar in their nature, and with due regard to the main purpose of this zoning ordinance to preserve the property rights of others."* Additionally, paragraph 6.E. provides several following factors that shall not be construed as eligible for consideration as hardship cases, one of which states *"The applicant with or without knowledge of the provisions of this chapter has acquired the site subsequent to the effective date of this chapter"*.

What I observed during attendance at the 27 September 2016 ZBA meeting was the Board's apparent disregard to both the purpose and intent of the Zoning Ordinance as well as specific requirements of granting variances. In regards to the 2-6 Elmira application, the owner purchased the property in 2013 which as noted above excludes them for consideration of a hardship condition. In at least 2 of the cases that I listened to, hardship cases were argued based on the shape of the lot. These lots were already developed with residential structures. The applicants were simply looking to subdivide the lots to construct additional residential structures solely for financial benefit. The fact that a lot is not perfectly rectangular is not a hardship in the spirit and intent of the Zoning Ordinance. It was apparent that this argument for hardship based on lot shape has become a frequently used "loophole" through the zoning regulations. In dialogue with the ZBA, there appeared to be no consideration to how these variances would **affect the zoning district, the public good, preserve property rights of others, increase density and overcrowding of land, or derogate from the intent or purpose of the ordinance.**

Even more concerning was how the ZBA responded to concerned residents in these cases. Some residents asked why we have zoning regulations if they are not upheld and expressed concern that

the R-2 district dimensional controls were not being complied with. In summary, the ZBA responded that the ordinance is outdated, that these applications are a result of "supply and demand" because the south end and downtown areas are out of space, and to expect to continue to see this kind of denser development to occur in the north end. When asked again about zoning regulations and processes, they explained how the City has been considering changes to the Zoning Ordinance but haven't gotten around to it, that there are a lot of non-conformities in town, and if attendees take issue with the zoning laws that they should talk to their City Councilors.

I don't believe that anyone in attendance, including myself, "takes issue" with the existing R-2 zoning requirements. What we take issue with is the fact that the ZBA seemingly continues to disregard these zoning laws and grant variances in violation with hardship requirements and the intent of the Zoning Ordinance. It is the ZBA's responsibility to ensure that the dimensional controls and requirements under the current Zoning Ordinance are upheld and all regulations are complied with and to grant variances only in rare and exceptional circumstances. A property owner and/or developer simply looking to subdivide lot(s) and construct additional residential structures for sole financial benefit is not a rare and exceptional circumstance. Until changes to the Zoning Ordinance are made and adopted through legislation, the ZBA is required to review appeals as they relate to the **current** Ordinance and not to presume they should be something different. To opine on "supply and demand" in the City of Newburyport is completely inappropriate and should not be a consideration of the ZBA in reviewing appeals.

It is alarming to see how the ZBA is conducting business and I am disheartened to think that the City of Newburyport would allow this type of behavior. I particularly have concern about current and future projects within the north end that substantially deviate from the existing R-2 dimensional controls and what serious impacts this could have to those of us who reside here. The quick and easy approvals for variances that the ZBA are granting are short-sighted, have no consideration for the collective good of the district, and have the potential to destroy the unique attributes of north end neighborhoods for the sole benefit of a few individuals. I urge you to take serious consideration for the concerns raised herein, to review the ZBA's decisions, and to observe the ZBA's practices directly for yourselves.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Sweet". The signature is written in black ink and is positioned above the typed name.

Jennifer Sweet, P.E., LSP

cc: Office of the Mayor, Attn: Mayor Holaday