

CITY COUNCIL MEETING AGENDA

REMOTE

March 29, 2021

7:30PM

City Council Meeting

Zoom Details

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84975753373>

Or One tap mobile :

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Dial(for higher quality, dial a number based on your current location):

US: +1 929 205 6099 Webinar ID: 849 7575 3373

1. CALL TO ORDER

2. LATE FILE ITEMS ODNC073_03_29_2021 Late File Zoning Amendment Storage Warehousing

3. PUBLIC COMMENT

4. 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.

5. APPROVAL OF MINUTES

- February 25, 2021 (Approve)
- March 8, 2021 (Approve)

6. COMMUNICATIONS

- COMM314_03_29_2021 FY2022-FY2026 Capital Improvement Program Submission (B&F)
- COMM315_03_29_2021 FY22 Budget Process (R&F)
- COMM317_03_29_2021 Listing of Outdoor Occupancy Applications (R&F)
- APPL024_03_29_2021 Plum Island Classic Cars (L&P)

7. TRANSFERS

8. APPOINTMENTS

- APPT236_03_29_2021 Michael Nary 20 Riverview Dr. Sp.Police Ofc.
- APPT237_03_29_2021 Rich Traister 325 Merrimac St. Disabilities Comm. 3/31/2024
- APPT238_03_29_2021 Walter Lesynski 364 Merrimac St. Harbor Comm. 4/1/2024

ALL ITEMS NOTED BELOW ARE REMOVED FROM THEIR RESPECTIVE COMMITTEES WITH THE MOTION TO APPROVE THE CONSENT AGENDA:

Budget and Finance

- COMM310_03_08_2021 Annual City Audit, Melanson, FY 2020 Fin Statements
- COMM312_03_08_2021 MVPC FY 2022 Assessment
- TRAN088_03_08_2021 WATER Ret/Sick Leave Acc.\$25,533.66 to Comp. Absences Fd \$25,533.66
- TRAN089_03_08_2021 HWY Streetlights \$12,000 to PARK Maint-Trees \$12,000

License & Permits

- APPL021_02_22_2021 Newburyport Sunoco 2nd Hand MV License

Planning and Development

- ODNC068_01_27_2021 Late File Zoning Amend Sec VI-C re: the # of residential structures per lot (As Amended)
- ODNC069_02_22_2021 Chapter 6.5 Barrier Beach Development definitions

Public Utilities

- APPT235_03_08_2021 Late File Owen Smith 175 Storey Ave Water/Sewer 03/31/2023

**END OF CONSENT AGENDA
REGULAR AGENDA**

9. MAYOR'S UPDATE

10. PRESENTATION BY MAYOR ON CAPITAL IMPROVEMENT PROGRAM

11. COMMUNICATIONS

- COMM311_03_08_2021 Cllr Tontar letter re: KP Law Legal Opinion on Council Salaries (Continued to March 29, 2021)
- COMM316_03_29_2021 Memo on Charter Change Procedure by Clerk

12. SECOND READING APPOINTMENTS

13. ORDERS

- ORDR216_10_13_2020 Supplemental Budget Charter Sec. 2-4 42K (continued from March 8, 2021)
- ORDR242_03_29_2021 EP Outdoor Property License Emergency Preamble
- ORDR242_03_29_2021 Outdoor Property License

14. ORDINANCES

- ODNC070_02_22_2021 Amend to Home Rule Charter 2nd Reading
- ODNC072_03_29_2021 Parks COVID extend 1st Reading
- ODNC073_03_29_2021 Late File Zoning Amendment Storage Warehousing

15. COMMITTEE ITEMS

Ad Hoc Committee on Economic Development

In Committee:

- COMM262_08_31_2020 Gasbarro Ltr re: Awareness

Ad Hoc Committee on Market Landing Park and COTW

In Committee:

- COMM261_08_31_2020 Proposed Timeline, Waterfront
- ORDR227_12_14_2020 Appropriate NRA funds for RFP award

Budget & Finance

In Committee:

- **COMM310 03 08 2021 Annual City Audit, Melanson, FY 2020 Fin Statements**
- **COMM312 03 08 2021 MVPC FY 2022 Assessment**
- **TRAN088 03 08 2021 WATER Ret/Sick Leave Acc.\$25,533.66 to Comp. Absences Fd \$25,533.66**
- **TRAN089 03 08 2021 HWY Streetlights \$12,000 to PARK Maint-Trees \$12,000**

Education

In Committee:

- COMM240_04_27_2020 Memo re: SOI Submission Info
- COMM273_10_13_2020 Ltr of Non-Support from Mayor on Acts of 1987
- COMM293_02_08_2021 Ltr. From Jane Snow

General Government

In Committee:

License & Permits

In Committee:

- ODNC047_01_27_2020 General Ordinance - Short Term Rental Units Rules
- ODNC067_01_27_2021 License to Occupy Outdoor Property Ch. 12-1
- **APPL021 02 22 2021 Newburyport Sunoco 2nd Hand MV License**
- COMM229_02_24_2020 Ltr re: Implementation of Short-Term Rental Ordinance
- APPL022_03_08_2021 Banter Barber & Clothier-Pool Table App.

Neighborhoods & City Services

In Committee:

- COMM234_03_30_2020 Ltr from Newburyport Livable Streets March 11, 2020
- COMM285_01_27_2021 Memorandum from Councillor Christine Wallace
- COMM299_02_08_2021 LATE FILE Phillips Dr. Neighborhood Committee Ltr.

Planning & Development

In Committee:

- COMM215_01_13_2020 Ltr re: Colby Farm Open Space Beautification
- ODNC046_01_27_2020 Zoning Amendment - Short Term Rental Units Definition
- COMM231_03_09_2020 Ltr re: Short-Term Rental Ordinance
- ORDR196_07_13_2020 Open Space and Recreation Plan 2020 (COTW)

- **ODNC068 01 27 2021 Late File Zoning Amend Sec VI-C re: # of residential structures per lot (As Amended)**
- **ODNC069 02 22 2021 Chapter 6.5 Barrier Beach Development definitions**

Public Safety

In Committee:

- COMM216_01_13_2020 Ltr re: Ban the Use of Glyphosate
- APPT165_04_13_2020 Dr. Robin Blair 18 Market St. Board of Health 4/30/2023
- COMM243_05_11_2020 Ltr from Jane Rascal re: NMMCD
- ORDR200_07_30_2020 List of Crosswalks Amended
- COMM282_01_27_2021 Ltr from Jim McCarthy re: Sign Proposal
- COMM283_01_27_2021 Ltr from Jim McCarthy-speed limit
- APPL023_03_08_2021 LATE FILE Event App The Moving Wall

Public Utilities

In Committee:

- COMM290_02_08_2021 Falmouth Broadband Feasibility Study (full text in Clerk's office)
- COMM295_02_08_2021 Best Best & Krieger Small Cells Order Annual Meeting
- COMM296_02_08_2021 Natoa FCC Small Wireless Facilities Rules Compliance Guide
- COMM292_02_08_2021 Memo - Electricity Aggregation Program
- **APPT235 03 08 2021 Late File** **Owen Smith** **175 Storey Ave** **Water/Sewer** **03/31/2023**

Rules

In Committee:

- COMM220_01_27_2020 Proposed City Council Rule 9F
- ORDR170_02_24_2020 Amendment Council Rules 2020 (COTW)
- ORDR171_02_24_2020 Amendment to Rule 17B (COTW)
- ORDR239_02_8_2021 Council Rule 7 and 10B

16. GOOD OF THE ORDER

17. ADJOURNMENT

CONSENT AGENDA

SPECIAL CITY COUNCIL MEETING
MINUTES
PURSUANT TO CHARTER SECTION 2-6(c)(ii)
REMOTE – MEETING DETAILS BELOW
FEBRUARY 25, 2021

7:30 PM

1. **Call to Order** the City Council President, Jared J. Eigerman called the meeting to order at 7:30 pm and asked the City Clerk, Richard B. Jones to call the roll. The following Councillors answered present, Lane, McCauley, Connell, Shand, Tontar, Vogel, Wallace, Zeid, Devlin, Khan, and Eigerman. Eleven present using Zoom as a platform.
2. **Public Comment**
 - Sarah Hall, 8 Arthur Welch Dr.
 - Joe Teixeira, 44 Hale St.
 - Mike Olson, 28 Charles St.
 - Sandhya Douglas, 2 Moseley Ave.
 - Kathryn Basson, 5 Tyng St.
 - Raechel Blinderman, 9 Ashland Ct.
3. **ORDR214_10_13_2021 Low Street Purchase (Pending Motion to Approve)**
Motion to approve pending from City Council meeting 02_22_2021.
 - a. **ORDR214_10_13_2021 with Amended Language**
 - b. **Including the following documents**
 - i. Letter of Intent 7/10/2020
 - ii. Release Deed
 - iii. Restriction and Transfer of Control Document
with Exhibit A entitled ‘Lot-A-1 Plan’ and further depicted on detailed plan as “Area of Conservation Restriction”
 - c. **MEPA agreement**

Motion to Amend by Councillor Tontar, seconded by Councillor Khan, Roll Call 6 Y, 5 (CW, BL,SZ, JD, BC) Motion passes. (Clerk correction) Motion to approve as amended by Councillor Tontar, seconded by Councillor Khan. Discussion held with Mayor Holaday addressing the City Council. Motion to move the question by Councillor Vogel, seconded by Councillor Tontar. Roll call 6 yes, 5 no (BL, CW, JD, SZ, JE). Motion fails. Roll call on pending motion to approve amended. 6 no, 5 yes (BC, HS, CT, BV, AK). Motion fails.
4. **Good of the Order**
5. **Adjournment**
Motion to adjourn at 9:18 pm by Councillor Zeid, seconded by Councillor Shand. Roll call vote. 11 yes. Motion passes.

MEETING DETAILS:

Please click the link below to join the webinar:

external e-mail use caution opening

Link to join Webinar

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Dial: US: +1 929 205 6099

Webinar ID: 874 4489 6875

CITY COUNCIL MEETING MINUTES

REMOTE

March 8, 2021

7:30PM

City Council Meeting

Zoom Meeting Details:

Please click the link below to join the webinar:

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Dial: US: +1 312 626 6799 Webinar ID: 890 7317 4359

1. **CALL TO ORDER** The City Council President, Jared J. Eigerman called the meeting to order at 7:30 pm and asked the City Clerk, Richard B. Jones to call the roll. The following Councillors answered present, McCauley, Connell, Shand, Tontar, Vogel, Wallace, Zeid, Khan, Lane, and Eigerman. 10 present, 1 absent (JD), using Zoom as a platform.

2. **LATE FILE ITEMS**

- APPT235_03_08_2021 LATE FILE Owen Smith 175 Storey Ave Water/Sewer 03/31/2023
- COMM313_03_08_2021 LATE FILE Ltr to Postmaster from Cllr Connell & J Donahue
- APPL023_03_08_2021 LATE FILE Event App The Moving Wall

Motion to waive the rules and accept the Late Files by Councillor Zeid, seconded by Councillor Tontar. Roll call vote. 10 yes, 1 absent (JD). Motion passes.

3. **PUBLIC COMMENT**

- Ted Epstein 46 Warren St.
- Owen Smith 175 Storey Ave.
- Jennie Donahue 18 Cherry St.
- Nancy Caswell 3 Jefferson Ct.
- Mike McCormick 16 Norman Ave.
- Peter Fitzsimmons 7 Arlington St.
- Thomas Murray 7 Fox Run
- Sean Reardon 5 Lois St.
- Chris Kealey 8 Payson
- Paul LaRosa 8 Wildwood Dr.

4. **MAYOR'S COMMENT**

**CONSENT
AGENDA**

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5. **APPROVAL OF MINUTES**

- February 22, 2021 (Approve)
- February 25, 2021

Minutes_02_25_2021 moved to City Council meeting March 29, 2021 as requested by Council President Eigerman.

6. COMMUNICATIONS

- COMM310_03_08_2021 Annual City Audit, Melanson, FY 2020 Fin Statements (B&F)
- COMM312_03_08_2021 MVPC FY 2022 Assessment (B&F)

7. TRANSFERS

- TRAN088_03_08_2021 WATER Ret/Sick Leave Acc.\$25,533.66 to Comp. Absences Fd \$25,533.66 (B&F)
- TRAN089_03_08_2021 HWY Streetlights \$12,000 to PARK Maint-Trees \$12,000 (B&F)

8. APPOINTMENTS

- *APPT235_03_08_2021 LATE Owen Smith 175 Storey Water/Sewer 03/31/2023
FILE Ave

*Referred to Public Utilities Cmte

ALL ITEMS NOTED BELOW ARE REMOVED FROM THEIR RESPECTIVE COMMITTEES WITH THE MOTION TO APPROVE THE CONSENT AGENDA:

Budget and Finance

- ORDR132_07_15_19 CPC FY2020 Recommended Appropriations (COTW)
Project No. 9 held in committee.
- ORDR136_08_19_19 Fuller Track Phase II Loan Order
- COMM189_09_09_19 CPC Revised Recommendation for FY2020 Appropriations
- ODNC063_09_29_2020 Bond and Transfer Limit
- ORDR216_10_13_2020 Supplemental Budget Charter Sec. 2-4 42K
- COMM284_01_27_2021 Ltr. from Susanne Gallagher

Planning and Development

- COMM297_02_08_2021 Land Vest Appraisal Property Off Middle St, W.Newbury & Nbpt
- ORDR238_02_8_2021 Conservation Restriction and Easements, ECGB
- COMM305_02_22_2021 Artichoke River Memo and Aerial Photo
- COMM303_02_22_2021 Ltr from Craig Douglas

Public Utilities

- ORDR230_01_11_2021 Water and Sewer fees

Councillor Devlin present.

Motion to approve the Consent Agenda as amended by Councillor Zeid, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes.

**END OF CONSENT AGENDA
REGULAR AGENDA**

9. MAYOR'S UPDATE

Motion to receive and file by Councillor Khan, seconded by Councillor Tontar. Roll call vote. 11 yes. Motion passes.

10. COMMUNICATIONS

- COMM306_02_22_2021 LATE FILE UPDATED Memo for Market Landing Appropriation
Motion to receive and file by Councillor Zeid, seconded by Councillor Khan. Roll call vote. 11 yes.
Motion passes.

- COMM311_03_08_2021 Cllr Tontar letter re: KP Law Legal Opinion on Council Salaries
Motion to move to a date certain, March 29, 2021 by Councillor Tontar, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes.
- COMM313_3_08_2021 LATE FILE Ltr to Postmaster from Cllr Connell & J Donahue
Motion to instruct the Clerk to send a letter to the Postmaster and Congressman Moulton with an invitation to Councillors to add their signatures by Councillor Connell, seconded by Councillor Tontar. Roll call vote. 11 yes. Motion passes.
- APPL022_03_08_2021 Banter Barber & Clothier-Pool Table App.
Motion to refer to License & Permits by Councillor Zeid, seconded by Councillor Tontar. Roll call vote. 11 yes. Motion passes.
- APPL023_03_08_2021 LATE FILE Event App The Moving Wall
Motion to refer to Public Safety by Councillor Zeid, seconded by Councillor McCauley. Roll call vote. 11 yes. Motion passes.

11. SECOND READING APPOINTMENTS

- APPT233_02_22_2021 Joe Carper 8 Fruit St. Fruit St. Hist. 03/31/2024
Cmte.
- APPT234_02_22_2021 Cheryl H. 24 Milk St. NBPT Housing 03/31/2026
Amey Auth.

Motion to approve collectively on second reading by Councillor Zeid, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes.

12. ORDERS

- ORDR241_02_22_2021 Market Landing Appropriation 150K (Continued to March 8, 2021)
President Eigerman steps down, Councillor Connell becomes President Pro Tempore. Motion to approve by Councillor Eigerman, seconded by Councillor Khan. Roll call vote. 10 yes, 1 no (SZ). Motion passes.

13. ORDINANCES

- ODNC070_02_22_2021 Amend to Home Rule Charter (Continued to March 8, 2021)
Councillor Connell continues as President Pro Tempore. Motion to approve on 1st reading by Councillor Eigerman, seconded by Councillor Tontar. Motion to amend Sec. 6-4as follows:

Adoption of the *budget*. The city council shall adopt the proposed operating *budget*, with or without amendments, ~~within forty five days following the date the proposed budget on or before the last day of the current fiscal year or period is filed with the city clerk.~~ In amending the proposed operating *budget*, the city council may delete or decrease any amounts except expenditures required by law, but except on the recommendation of the mayor, the city council shall not increase any item in or the total of the proposed operating *budget*, unless otherwise authorized by the General Laws. If the city council fails to take action on any item in the proposed operating *budget* ~~within forty five days after its receipt by the last day of the current fiscal year or period~~, that amount shall, without any action by the city council, become a part of the appropriations for the year, and be available for the purposes Specified.

.... by Councillor Zeid, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes. Roll call vote on pending motion to approve as amended. 11 yes. Motion passes.

Councillor Eigerman returns as Council President.

14. COMMITTEE ITEMS

Ad Hoc Committee on Economic Development

In Committee:

- COMM262_08_31_2020 Gasbarro Ltr re: Awareness

Ad Hoc Committee on Market Landing Park and COTW

In Committee:

- COMM261_08_31_2020 Proposed Timeline, Waterfront
- ORDR227_12_14_2020 Appropriate NRA funds for RFP award

Budget & Finance

In Committee:

- **ORDR132 07 15 19 CPC FY2020 Recommended Appropriations (COTW)**
Project No. 9 held in committee.

Motion to receive and file collectively ORDR132_07_15_2019 and COMM189_09_09_2019 by Councillor Zeid, seconded by Councillor Tontar. Roll call vote. 11 yes. Motion passes.

- **ORDR136 08 19 19 Fuller Track Phase II Loan Order**

Motion to approve with the following amendments: Line 1- \$694,800 to \$640,000; Line 3- 500 to 1000 change to 300; Line 8- \$699,820 to \$640,000, by Councillor Zeid, seconded by Councillor Khan. Roll call vote. 10 yes, 1 no (JM). Motion passes.

- **COMM189 09 09 19 CPC Revised Recommendation for FY2020 Appropriations**

Motion to receive and file collectively ORDR132_07_15_2019 and COMM189_09_09_2019 by Councillor Zeid, seconded by Councillor Tontar. Roll call vote. 11 yes. Motion passes.

- **ODNC063 09 29 2020 Bond and Transfer Limit**

Motion to receive and file by Councillor Zeid, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes.

- **ORDR216 10 13 2020 Supplemental Budget Charter Sec. 2-4 42K**

Motion to receive and file by Councillor Zeid, seconded by Councillor Khan. Motion to continue to a date certain, March 29, 2021 by Councillor Tontar, seconded by Councillor Lane. Roll call vote. 11 yes. Motion passes.

- **COMM284 01 27 2021 Ltr. from Susanne Gallagher**

Motion to receive and file by Councillor Zeid, seconded by Councillor Tontar. Roll call vote. 11 yes. Motion passes.

Education

In Committee:

- COMM240_04_27_2020 Memo re: SOI Submission Info
- COMM273_10_13_2020 Ltr of Non-Support from Mayor on Acts of 1987
- COMM293_02_08_2021 Ltr. From Jane Snow

General Government

In Committee:

- COMM289_02_08_2021 Newburyport Litigation Status Report for February, 2021 (CONFIDENTIAL) COTW

Motion to remove from committee by Councillor Eigerman. Councillor Devlin recused. Roll call vote. 10 yes, 1 recused (JD). Motion to receive and file by Councillor Eigerman, seconded by Councillor Khan. Roll call vote. 10 yes, 1 recused (JD). Motion passes.

License & Permits

In Committee:

- ODNC047_1_27_20 General Ordinance - Short Term Rental Units Rules
- COMM229_02_24_2020 Ltr re: Implementation of Short-Term Rental Ordinance
- ODNC067_1_27_2021 License to Occupy Outdoor Property Ch. 12-1
- APPL021_02_22_2021 Newburyport Sunoco 2nd Hand MV License

Neighborhoods & City Services

In Committee:

- COMM234_03_30_2020 Ltr from Newburyport Livable Streets March 11, 2020
- COMM285_01_27_2021 Memorandum from Councillor Christine Wallace
- COMM299_02_08_2021 LATE FILE Phillips Dr. Neighborhood Committee Ltr.

Planning & Development

In Committee:

- COMM215_01_13_2020 Ltr re: Colby Farm Open Space Beautification
- ODNC046_01_27_20 Zoning Amendment - Short Term Rental Units Definition
- COMM231_03_09_2020 Ltr re: Short-Term Rental Ordinance
- ORDR196_07_13_2020 Open Space and Recreation Plan 2020 (COTW)
- ORDR229_12_14_2020 Disposition and Funding for Rehabilitation former Brown School COTW
- ODNC068_01_27_2021 Late File Zoning Amend Sec VI-C re: the # of residential structures per lot
- **APPT231_02_08_2021** *Walter 43 Lime ZBA 03/31/2026
Chagnon Street

Motion to approve by Councillor Shand, seconded by Councillor Khan. Roll call vote. 10 yes, 1 recused (JD). Motion passes. Councillor Devlin returns.

- **COMM297_02_08_2021 Land Vest Appraisal Property Off Middle St, W. Newbury & Nbpt**
Motion to receive and file collectively COMM297_02_08_2021 and COMM305_02_22_2021 by Councillor Shand, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes.
- **ORDR238_02_8_2021 Conservation Restriction and Easements, ECGB**
Motion to approve by Councillor Shand, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes.
- **COMM305_02_22_2021 Artichoke River Memo and Aerial Photo**
Motion to receive and file collectively COMM297_02_08_2021 and COMM305_02_22_2021 by Councillor Shand, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes.
- ODNC069_02_22_2021 Chapter 6.5 Barrier Beach Development definitions
- **COMM303_02_22_2021 Ltr from Craig Douglas**
Motion to receive and file by Councillor Shand, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes.

Public Safety

In Committee:

- COMM216_01_13_2020 Ltr re: Ban the Use of Glyphosate
- COMM243_05_11_2020 Ltr from Jane Rascal re: NMMCD
- APPT165_04_13_2020 Dr. Robin Blair 18 Market St. Board of Health 4/30/2023
- ORDR200_07_30_2020 List of Crosswalks Amended
- COMM282_01_27_2021 Ltr from Jim McCarthy re: Sign Proposal
- COMM283_01_27_2021 Ltr from Jim McCarthy-speed limit

Public Utilities

In Committee:

- **ORDR230_01_11_2021 Water and Sewer fees**

Motion to approve by Councillor Tontar, seconded by Councillor McCauley. Roll call vote. 11 yes. Motion passes.

- COMM290_02_08_2021 Falmouth Broadband Feasibility Study (full text in Clerk's office)
- COMM295_02_08_2021 Best Best & Krieger Small Cells Order Annual Meeting
- COMM296_02_08_2021 Natoa FCC Small Wireless Facilities Rules Compliance Guide
- COMM292_02_08_2021 Memo - Electricity Aggregation Program

Rules

In Committee:

- COMM220_01_27_2020 Proposed City Council Rule 9F
- ORDR170_02_24_2020 Amendment Council Rules 2020 (COTW)
- ORDR171_02_24_2020 Amendment to Rule 17B (COTW)
- ORDR239_02_8_2021 Council Rule 7 and 10B

15. GOOD OF THE ORDER

16. ADJOURNMENT

Motion to adjourn at 9:52 pm by Councillor Khan seconded by Councillor McCauley. Roll call vote. 11 yes. Motion passes.

COMMUNICATIONS



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 23, 2021
Subject: FY2022-FY2026 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 (CIP) for Fiscal Years 2022 through 2026. The CIP document will be presented to the City Council at its next meeting and posted online for the public to review no later than March 29, 2021.

The CIP serves as a planning tool that provides a means of identifying, prioritizing and scheduling needed capital improvements projects over the next five years. These projects include purchases of major pieces of equipment, infrastructure improvements, facility construction and renovation projects, major improvements to or acquisition of parks/grounds/open space, as well as, major studies and surveys. As defined in the City's Financial Policies, a capital improvement project must be valued over \$15,000 with an expected useful life of at least five years to be included in the CIP.

I submitted last year's CIP at a time of immense uncertainty in the world surrounding the COVID-19 pandemic. Most funding requests for capital projects were deferred, where possible, so that the City would have more time to better understand the implications of the global pandemic on City revenue, as well as, the economy and society as a whole. A year later, with the roll-out of the vaccines, along with the passage of federal relief packages, I have a greater level of confidence as we work to plan and execute this year's CIP.

I urge the members of the City Council to carefully review the plan, and I look forward to working with you through the public hearing and adoption process as specified in the Charter.

Thank you for your consideration.

Memo

To: Newburyport City Council

From: Sharif Zeid

Date: March 23rd, 2021

Re: FY22 Capital Improvement Plan and Budget Workshop Schedule

Councillors,

Attached, please find the schedule of workshops, hearings, and votes for the FY22 Fiscal Year Capital Improvement Plan and FY22 Budget.

This schedule has been created in consultation with the Administration as well as the City Council President.

Thank you,
Sharif

FY22 Budget Process and Schedule

High-Level Concepts:

- 1) Spread out meetings while adhering to Charter schedule, avoid Council special meetings, when possible
- 2) Put meetings together by theme so that the night has cohesiveness and aligns with City Council Committees
- 3) Do the budget deliberation and final vote on its own night to avoid other business
- 4) Align the CIP and budget as much as possible as allowed by Charter and relative to City Council regular schedule

Schedule (see next page for detail):

Month	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Mar 2021	1	2	3	4	<div style="border: 1px solid black; padding: 5px;"> <p>A. Charter/Statutory Deadline</p> <p>B. Regular meeting of the City Council</p> <p>C. Regular meeting of B&F Committee</p> <p>D. Mayor Action</p> <p>E. City Council Meeting/Hearing</p> <p>F. City Council Vote</p> </div>		
	8	9	10	11 (C)			
	15	16	17	18			
	22	23	24	25			
	29 (D)	30	31	1 (C)			
	(D) CIP Submitted to City Council	(A) Advertise Public Hearing on CIP (min. 2 week notice)		(A) Deadline to Submit CIP (E) CIP Discussion			
Apr 2021	5	6	7	8	9	10	11
	12 (D)	13	14	15 (C)	16	17	18
				(E) CIP Public Hearing (E) CIP Discussion			
	19	20	21	22	23	24	25
26 (D)	27	28	29 (C)	30	1	2	
			(E) CIP Discussion (potential)				
May 2021	3	4	5	6	7	8	9
	10 (D)	11	12	13 (C)	14	15	16
	(D) Budget Submitted to City Council (F) Council Vote on CIP	(A) Advertise Public Hearing on Budget (min. 2 week notice)	(E) Workshop 1: Revenue Forecast, General Administration, Finance, Shared Services			(A) Deadline to Submit Mayor's Proposed Budget	
	17	18	19	20	21	22	23
			(E) Workshop 2: Education	(E) Workshop 3: Social Services			
24	25	26	27 (C)	28	29	30	
		(E) Workshop 4: Public Safety (Fire, Police, Harbormaster)	(E) Workshop 5: Public Services (Water, Sewer, Highway)				
31	1 (B)	2	3	4	5	6	
(A) Deadline for Council on CIP		(E) Workshop 6: Planning & Development					
Jun 2021	7	8	9	10	11	12	13
			(E) Budget Public Hearing (E) Workshop 7: Clean up discussion				
	14 (D)	15	16	17 (C)	18	19	20
	21	22	23	24	25	26	27
	(F) Special City Council Meeting to Vote on Budget		(A) 45 th day from 5/10, last day for Council to act on budget				
28 (D)	29	30	1 (C)	2	3	4	

Workshop Detail:

Agenda:

Item	Estimated Time
Budget and Finance/COTW meeting opened and roll taken	2 minutes
Public Comment (expands to allow any member of the public an opportunity to speak)	8 minutes
Department heads of each department offer thoughts and outlook	20 minutes (~5 mins/dept.)
Line-item Review (Last year's spending, Proposed amounts, etc)	30 minutes
Discussion and Q&A	35 minutes
City-wide discussion (e.g. how does this fit into the City budget & goals)	10 minutes
Information request compilation	5 minutes
Public comment (expands to allow any member of the public an opportunity to speak)	8 minutes
Adjournment	2 minutes
Total:	2 Hours

Detailed Breakdown:

Workshop 1: Revenue Forecast, General Administration, Finance, and Shared Services	<ul style="list-style-type: none"> • City Clerk <ul style="list-style-type: none"> ○ City Council ○ Board of Registrars ○ Parking Clerk • Mayor's Office <ul style="list-style-type: none"> ○ Legal ○ General Administration • Information Technology (IT) • Auditor • Assessor • Treasurer/Collector • Human Resources <ul style="list-style-type: none"> ○ Health Insurance • Retirement System • Debt Service
Workshop 2: Education	<ul style="list-style-type: none"> • Newburyport Public Schools • Essex North Shore Technical High School • Whittier Regional Vocational Technical High School
Workshop 3: Social Services	<ul style="list-style-type: none"> • Council on Aging • Newburyport Public Library • Youth Services • Veteran's Services
Workshop 4: Public Safety	<ul style="list-style-type: none"> • Emergency Management • Fire • Police • Health <ul style="list-style-type: none"> ○ Animal Control • Sustainability • Harbormaster Enterprise Fund
Workshop 5: Public Services	<ul style="list-style-type: none"> • DPS: Highway Division • Snow and Ice • Water Enterprise Fund • Sewer Enterprise Fund
Workshop 6: Planning and Development	<ul style="list-style-type: none"> • Planning and Development • Building Department • Parks
Workshop 7: Hearing/Clean-up/Discussion	<ul style="list-style-type: none"> • Public Hearing • Open discussion/initial deliberation

Occupancy Applications	Business Name	Business Address	Parklet App	Alcohol	Insurance	Application	Contact Name	Phone	Needed Docs	Date Sent to:
Clerk's List										
Public Property	Paddle Inn	State St	Yes	Yes	Incomplete	The Paddle Inn	Beau Sturm	978.572.1242	needs ins. 1M/3M	
	Port Tavern	84 State St	Yes	Yes	Yes	The Port Tavern	Philip Wynne	617.818.0903	Complete	
	Lorreta's Restaurant	15 Pleasant St	Yes	Yes	Yes	Loretta	Ted Epstein	508-380-1347	Complete	
	Lins Little Kitchen	Pleasant St	Yes	Yes	Yes	Lin's Little Kitchen	David Vargas	207.752.6908	Complete	
	Brine Oyster	17 State St	Yes	Yes	Incomplete	Brine Oyster	Nancy Caswell	508.542.4772	needs city added ins.	
	Carmine	25 State St	Yes	Yes	Yes	Carmine	Gianluca Onofri	978-831-4852	Complete	
	Vera Ristorante	35 Market Sq	No	Yes	Yes	Vera Ristorante	John Santaniello	917-733-9117	Complete	
	Bar25	38 State St	No	Yes	Yes	Bar 25	Reza Rahmani	617549-7453	Complete	
	Sea Level Oyster Bar	Market Sq	No	Yes	Incomplete	Sea Level Oyster Bar	George Carey	978-580-9585	needs ins. 1M/3M	
	Angies	7 Pleasant St	No	Yes	Yes	Angie's Food & Diner	Steve Luz	978.479.8913	Complete	
	Oregano's	16 Pleasant St	No	Yes	Yes	Oregano Pizzeria & Ristorante	Claude Elias	603.475.1262	Complete	
	Mission Oak	26 Green St	No	Yes	Yes	Mission Oak	Wellington Augusto	978.423.6636	Complete	
	Figtree Kitchen	3 Liberty St	No	No	Incomplete	Figtree Kitchen	Michael Shea	978.549.0897	needs 1M/3M insurance	
	McLaughlin Flowers	Middle St	No	No	No	McLaughlin Flowers	Amy McLaughlin-Veno	978.358.8036	needs insurance	
	Brass Lyon	36 Market Sq	No	No	Incomplete		Deanne Ready	978.465.5002	needs ins. 1M/3M	
Private Property	Giuseppe	257 Low St	No	Yes	Yes	Giuseppe's	Giuseppe Masia	978-495-0202	Complete	Lic. Comm 3/10/2021
	Starboard Galley	55 Water St	No	Yes	Yes	Starboard Galley	Gary Greco	978.462.1326	Complete	Lic. Comm 3/10/2021
	Brick & Ash	10 Center St	No	Yes	Yes	Brick + Ash	Laura & John Wolfe	978.255.2642	Complete	Lic. Comm 3/24/2021
	The Poynt	31 Water St	No	Yes	Yes	The Poynt	Laura & John Wolfe	978.358.8501	Complete	Lic. Comm 3/24/2021

THE COMMONWEALTH OF MASSACHUSETTS
City OF Newburyport
CITY CLERK'S OFFICE
NEWBURYPORT, MA

2021 MAR 24 AM 9:00

APPLICATION FOR A LICENSE TO BUY, SELL, EXCHANGE
OR ASSEMBLE SECOND HAND MOTOR VEHICLES
OR PARTS THEREOF

I, the undersigned, duly authorized by the concern herein mentioned, hereby apply for a Type 2 Dealer class license, to Buy, Sell, Exchange or Assemble second hand motor vehicles or parts thereof, in accordance with the provisions of Chapter 140 of the General Laws.

1. What is the name of the concern? Plum Island Classic Cars, LLC

Business address of concern. No. 18 Graf Road Unit # 22 St.,
Newburyport, MA 01950 City — Town.

2. Is the above concern an individual, co-partnership, an association or a corporation? _____
I am an individual with a company named Plum Island Classic Cars, LLC

3. If an individual, state full name and residential address.
Residential Address: 7 Cinder Ave. Newbury, MA 01951

4. If a co-partnership, state full names and residential addresses of the persons composing it.

5. If an association or a corporation, state full names and residential addresses of the principal officers.

President _____

Secretary _____

Treasurer _____

6. Are you engaged principally in the business of buying, selling or exchanging motor vehicles? Yes

If so, is your principal business the sale of new motor vehicles? No

Is your principal business the buying and selling of second hand motor vehicles? Yes

Is your principal business that of a motor vehicle junk dealer? No

7. Give a complete description of all the premises to be used for the purpose of carrying on the business. At the business location, I will store no more than 4 vehicles. I purchase classic cars and sell them once I have cleaned them up and taken them to a mechanic to address any engine issues.

8. Are you a recognized agent of a motor vehicle manufacturer? No
(Yes or No)

If so, state name of manufacturer _____

9. Have you a signed contract as required by Section 58, Class 1? Yes
(Yes or No)

10. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? No
(Yes or No)

If so, in what city — town _____

Did you receive a license? _____ For what year? _____
(Yes or No)

11. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? No
(Yes or No)

Sign your name in full Michela Simone
(Duly authorized to represent the concern herein mentioned)

Residence 7 Cinder Ave. Newbury, MA 01951

IMPORTANT

EVERY QUESTION MUST BE ANSWERED WITH FULL INFORMATION, AND FALSE STATEMENTS HEREIN MAY RESULT IN THE REJECTION OF YOUR APPLICATION OR THE SUBSEQUENT REVOCATION OF YOUR LICENSE IF ISSUED.

NOTE: If the applicant has not held a license in the year prior to this application, he must file a duplicate of the application with the registrar. (See Sec. 59)

APPLICANT WILL NOT FILL THE FOLLOWING BLANKS

Application after investigation _____
(Approved or Disapproved)

License No. _____ granted _____ Fee \$ _____

Signed _____

CHAPTER 140 OF THE GENERAL LAWS, TER. ED., WITH AMENDMENTS THERETO (EXTRACT)

SECTION 57. No person, except one whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells second hand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells second hand vehicles, shall engage in the business of buying, selling, exchanging or assembling second hand motor vehicles or parts thereof without securing a license as provided in section fifty-nine. This section shall apply to any person engaged in the business of conducting auctions for the sale of motor vehicles.

SECTION 58. Licenses granted under the following section shall be classified as follows:

Class 1. Any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of second hand motor vehicles being incidental or secondary thereto, may be granted an agent's or a seller's license; provided, that with respect to second hand motor vehicles purchased for the purpose of sale or exchange and not taken in trade for new motor vehicles, such dealer shall be subject to all provisions of this chapter and of rules and regulations made in accordance therewith applicable to holders of licenses of class 2.

Class 2. Any person whose principal business is the buying or selling of second hand motor vehicles may be granted a used car dealer's license.

Class 3. Any person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts, may be granted a motor vehicle junk license.

SECTION 59. The police commissioner in Boston and the licensing authorities in other cities and towns may grant licenses under this section which will expire on January first following the date of issue unless sooner revoked. The fees for the licenses shall be fixed by the licensing board or officer, but in no case shall exceed \$100. Application for license shall be made in such form as shall be approved by the registrar of motor vehicles, in sections fifty-nine to sixty-six, inclusive, called the registrar, and if the applicant has not held a license in the year prior to such application, such application shall be made in duplicate, which duplicate shall be filed with the registrar. No such license shall be granted unless the licensing board or officer is satisfied from an investigation of the facts stated in the application and any other information which they may require of the applicant, that he is a proper person to engage in the business specified in section fifty-eight in the classifications for which he has applied, that said business is or will be his principal business, and that he has available a place of business suitable for the purpose. The license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business. Permits for a change of situation of the licensed premises or for addition thereto may be granted at any time by the licensing board or officer in writing, a copy of which shall be attached to the license. Cities and towns by ordinance or by-law may regulate the situation of the premises of licensees within class 3 as defined in section fifty-eight, and all licenses and permits issued hereunder to persons within said class 3 shall be subject to the provisions of ordinances and by-laws which are hereby authorized to be made. No license or permit shall be issued hereunder to a person within said class 3 until after a hearing, of which seven days' notice shall have been given to the owners of property abutting on the premises where such license or permit is proposed to be exercised. All licenses granted under this section shall be revoked by the licensing board or officer if it appears, after hearing, that the licensee is not complying with sections fifty-seven to sixty-nine, inclusive, or the rules and regulations made thereunder; and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the registrar. The hearing may be dispensed with if the registrar notifies the licensing board or officer that a licensee is not so complying. Any person aggrieved by any action of the licensing board or officer refusing to grant, or revoking a license for any cause may, within ten days after such action, appeal therefrom to any justice of the superior court in the county in which the premises sought to be occupied under the license or permit applied for are located. The justice shall, after such notice to the parties as he deems reasonable, give a summary hearing on such appeal, and shall have jurisdiction in equity to review all questions of fact or law and may affirm or reverse the decision of the board or officer and may make any appropriate decree. The decision of the justice shall be final.

Massachusetts



Western Surety Company

SECOND HAND MOTOR VEHICLE DEALER BOND

(Mass. Gen. Laws Ann. 140, § 58(c))

Bond No. 65408485

KNOW ALL PERSONS BY THESE PRESENTS:

Effective Date: February 24th, 2021

That we, Plum Island Classic Cars, LLC, as Principal, and WESTERN SURETY COMPANY, a corporation authorized to do surety business in the Commonwealth of Massachusetts, as Surety, are held and firmly bound unto persons who purchase a vehicle from the Principal and who suffer loss on account of a breach of the condition of this bond described below, in the sum of not to exceed TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00), for the payment of which well and truly to be made, we bind ourselves and our legal representatives, firmly by these presents.

WHEREAS, the Principal is a second hand motor vehicle dealer and is required to furnish a bond or equivalent proof of financial responsibility pursuant to Mass. Gen. Laws Ann. 140, § 58(c)(1).

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall pay the amount of actual damages, not to exceed the amount of this bond, to any person who purchases a vehicle from the Principal and who suffers loss on account of: (a) the Principal's default or nonpayment of valid bank drafts, including checks drawn by the Principal for the purchase of motor vehicles; (b) the Principal's failure to deliver, in conjunction with the sale of a motor vehicle, a valid motor vehicle title certificate free and clear of any prior owner's interests and all liens, except a lien created by or expressly assumed in writing by the buyer of the vehicle; (c) the fact that the motor vehicle purchased from the Principal was a stolen vehicle; (d) the Principal's failure to disclose the vehicle's actual mileage at the time of sale; (e) the Principal's unfair and deceptive acts or practices, misrepresentations, failure to disclose material facts or failure to honor a warranty claim or arbitration order in a retail transaction; or (f) the Principal's failure to pay off a lien on a vehicle traded in as part of a transaction to purchase a vehicle when the Principal had assumed the obligation to pay off the lien, then this obligation to be void; otherwise to remain in full force and effect.

PROVIDED, that recovery against this bond may be made only by a person who obtains a final judgment in a court of competent jurisdiction against the Principal for an act or omission on which this bond is conditioned, if the act or omission occurred during the term of this bond. No suit may be maintained to enforce any liability on this bond unless brought within one (1) year after the event giving rise to the cause of action. This bond shall cover only those acts and omissions described above. The Surety shall not be liable for total claims in excess of the bond amount, regardless of the number of claims made against this bond or the number of years this bond remains in force.

This bond shall be continuous and may be cancelled by the Surety by giving thirty (30) days' written notice of cancellation to the municipal licensing authority at 60 Pleasant St., Newburyport, MA 01950

by First Class U.S. Mail.

Address

Dated this 25th day of February, 2021.



Plum Island Classic Cars, LLC, Principal

By: _____

WESTERN SURETY COMPANY, Surety

By: Paul T. Bruffat
Paul T. Bruffat, Senior Vice President

Western Surety Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That WESTERN SURETY COMPANY, a corporation organized and existing under the laws of the State of South Dakota, and authorized and licensed to do business in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the United States of America, does hereby make, constitute and appoint

Paul T. Bruflat of Sioux Falls,
State of South Dakota, its regularly elected Vice President,
as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, the following bond:

One Second Hand Motor Vehicle Dealer

bond with bond number 65408485

for Plum Island Classic Cars, LLC

as Principal in the penalty amount not to exceed: \$ 25,000.00.

Western Surety Company further certifies that the following is a true and exact copy of Section 7 of the by-laws of Western Surety Company duly adopted and now in force, to-wit:

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

In Witness Whereof, the said WESTERN SURETY COMPANY has caused these presents to be executed by its Vice President with the corporate seal affixed this 25th day of February, 2021.

ATTEST

L. Nelson

L. Nelson, Assistant Secretary

WESTERN SURETY COMPANY

By *Paul T. Bruflat*

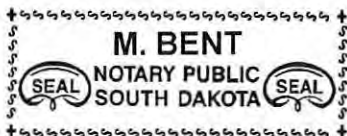
Paul T. Bruflat, Vice President

STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss



On this 25th day of February, 2021, before me, a Notary Public, personally appeared Paul T. Bruflat and L. Nelson

who, being by me duly sworn, acknowledged that they signed the above Power of Attorney as Vice President and Assistant Secretary, respectively, of the said WESTERN SURETY COMPANY, and acknowledged said instrument to be the voluntary act and deed of said Corporation.



My Commission Expires March 2, 2026

M. Bent

Notary Public

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.



**APPOINTMENTS
FIRST READING**



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

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

2021 MAR 25 PM 12:49

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 12, 2021
Subject: Appointment

I hereby appoint, subject to your approval, the following named individual as a Special Police Officer with the Newburyport Police Department to assist the Police Department with traffic details.

Michael Nary
20 Riverview Drive
Newbury, MA 01951



CITY OF NEWBURYPORT RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

2021 MAR 12 AM 10:44

POLICE DEPARTMENT

MARK R. MURRAY
CITY MARSHAL

4 GREEN STREET
NEWBURYPORT, MA 01950

TEL: 978-462-4411

FAX: 978-462-0396

March 9, 2021

TO: Mayor Donna Holaday
FR: City Marshal Mark Murray
RE: Special Police Appointment

Mayor,

I am requesting that Michael Nary, Retired Officer from the Peabody Police Department, be appointed as a Special Police Officer to assist the police department with traffic details. This police department has had a long and successful program of utilizing retired officers for special work. They are well trained, understand policing and how to effectively monitor and direct traffic.

Our special police roster is limited, with older officers no longer able to continue this work. Having officers such as retired Officer Nary willing to continue is a benefit to the police department's ability to meet the demand of traffic officers.

Michael Nary
20 Riverview Drive
Newbury, Ma.
DOB 07/15/54

Thank you for your consideration in this matter. If you need any additional information please let me know.

Mark Murray

City Marshal

Michael Nary
20 Riverview Drive
Newbury, MA 01951
978-462-9552

Northeastern University-College of Criminal Justice
Bachelor of Science, 1977

Newbury Police Department, October 2019 to August 2020
Special Police Officer

Peabody Police Department, September 1989 to August 2019
Police Officer

Newbury Police Department, September 1985 to June 2013
Reserve Police Officer

Northshore Shopping Center, Peabody, MA October 1980 to June 1989
Director of Security

Marshal Mark Murray
Newburyport Police Department

Enclosed is a resume for your perusal so that I may be considered for an appointment as a Special Police Officer. I could be hired for construction details after you have called all full time and reserve officers.

Thank you for your consideration.

Michael Nary



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

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA
2021 MAR 23 PM 1:17

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 23, 2021
Subject: Re-Appointment

I hereby re-appoint, subject to your approval, the following named individual as a member of the Disabilities Commission. This term will expire on March 31, 2024.

Rich Traister, M.D.
325 Merrimac Street
Newburyport, MA 01950

MARCH 2021

BIO

Rich Traister, M.D.
325 Merrimac Street
Newburyport, MA 01950

Dr. Richard Traister, MD is a Family Medicine Specialist in Newburyport, MA and has over 46 years of experience in the medical field. He graduated from Universidad Autonoma de Guadalajara, Fac De Med medical school in 1975. Dr. Traister's office is located at 21 Highland Avenue, Suite 12, Newburyport, MA 01950.

Dr. Traister offers primary care services for every member of the family – from children to seniors. His top areas of care treatment for Ataxia, back pain, and chronic neck pain.



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

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA
2021 MAR 23 PM 1:16

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 23, 2021
Subject: Re-Appointment

I hereby re-appoint, subject to your approval, the following named individual as an Alternate Member of the Harbor Commission. This term will expire on April 1, 2024.

Walter (JJ) Lesynski
364 Merrimac Street
Newburyport, MA 01950

MARCH 2021

BIO

Walter (JJ) Lesynski
364 Merrimac Street
Newburyport, MA 01950

JJ Lesynski is owner of Merri-Mar Boat Yard in Newburyport. Merri-Mar Yacht Basin Inc. is a family owned and operated full-service marina, located on the Merrimac River in Newburyport. They offer seasonal moorings and dockage, as well as transient moorings and transient dockage. The boat yard also includes a Ships Store and Parks Department for engine and generator lines, and a Marine Repair and Service Department that caters to both Sail and Power Boats.

JJ is the General Manager for Merri-Mar, having worked there for thirty years. He has extensive experience and expertise in the marina business. He is also very knowledgeable on the waterways of Newburyport and highly qualified for the Harbor Commission.

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

COMMUNICATIONS

TO: Richard Jones, City Clerk
From: Charles Tontar, At Large Councillor
Date: March 2, 2021
Re: Legal Opinion on Reducing Council Salaries

Please find attached a memorandum from Lauren F. Goldberg, Esq. of KP Law in response to Council President Eigerman's request for an opinion on whether or not the City Charter allows the Council to reduce its own salary from that set by ordinance. As a communication between a lawyer and client, the memorandum is privileged and confidential.

I am requesting that the Council waive that privilege so that Attorney Goldberg's memorandum can be made public.

Thank you,

Charles Tontar
Councillor At Large

In City Council March 8, 2021:

Motion to move to a date certain, March 29, 2021 by Councillor Tontar, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes.

TO: Newburyport City Council President (*By Electronic Mail Only*)
CC: Newburyport Mayor
FROM: Lauren F. Goldberg, Esq.
RE: Appropriating Authority of the City Council
DATE: February 18, 2021

Question: You have requested an opinion concerning funding for City Councilor salaries. In particular, you ask about the application of the provisions of G.L. c.44, §33A and Section 2-4 of the City Charter (the Charter), the necessity of providing funding for such salaries in the budget, and the flexibility, if any, for the Council, on its own, to reduce its salary line from that set by ordinance.

Short Answer: In my opinion, the provisions of the Charter and G.L. c.44, §33A mandate that the Mayor include in the proposed budget amounts required to pay Councilor salaries set by ordinance. In my further opinion, however, whether the Council, as the City's appropriating authority, chooses to fund its own salaries at or below the ordinance level implicates different issues under municipal finance laws. For that reason, in my opinion, if a Councilor desires to be paid for their services to the City they would be entitled to be compensated at the rate set in the salary ordinance. Depending on how much the funding for the Council salary line was reduced, in my further opinion, it is possible such funding source would be depleted relatively quickly, or, if some Councilors chose not to take the full amount of their salary, the monies in the reduced line item might suffice.

Brief Facts: The City Charter provides that any increase or reduction in the salaries for Councilors be undertaken through adoption of an ordinance by a two-thirds vote of the City Council. Further, the provisions of G.L. c. 44, §33A require that the "annual budget include sums sufficient to pay the salaries of officers and employees fixed by law or by ordinance." In this case, I understand that the Mayor included in the proposed budget submitted to the Council sums sufficient to pay the salaries of the City Council at the amount set by ordinance. I am further informed, however, that the City Council itself voted to reduce the line item appropriation available for payment of those salaries. Specifically, and importantly, at that time, I understand that no amendment had been made to the salary ordinance. You ask whether such action violates the Charter.

Section 2-4 of the City Charter provides:

Compensation. The members of the city council shall receive such salary for their services as may from time to time be set by ordinance. No ordinance increasing or reducing the salary of the members of the city council shall be effective unless it shall have been adopted by a two-thirds vote of the full city council. No increase or reduction in such salary shall take effect during the term in which such increase or reduction is voted, and no change in such ordinance shall be made between the election of a new council and the qualification of the new council. Subject to appropriation, members of the city council shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties

This provision is similar to that found in G.L. c.44, §33A.

Further, G.L. c.40, §32 provides, “The city council may by majority vote make appropriations for the purposes recommended and may reduce or reject any amount recommended in the annual budget. It shall not increase any amount in or the total of the annual budget nor add thereto any amount for a purpose not included therein.”

Case Law: Only one case has been decided under this statute, albeit the matter presented in a slightly different, and important, way. This 1944 case, entitled, Richard B. Rock v. City of Pittsfield, 316 Mass. 348 (1944), analyzed whether an ordinance increasing salaries for police, fire and labor employees, all covered by the Civil Service Law, was valid even though it was passed over a veto. The court acknowledged that the Council was limited by the provisions of G.L. c.44, §32 l from making any increases to the city budget or any line therein. Further, the court noted that G.L. c.44, §§31 and 33, which limit spending to the amount appropriated (with exceptions not relevant here), and authorizes only certain transfers between line items, “restrict[s] the power of city governments to increase salaries during a year”. The court recognized, therefore, that the duty to provide for the increased salaries arises upon general principles [of municipal finance], and not exclusively upon the terms of Section 33A.” The court continues, “The manifest design of these provisions is to provide early in the municipal year a complete schedule of appropriations for the general uses of the city and to discourage a tendency to spend more than the municipal income. In cities other than Boston, within forty-five days after the annual organization of the city government, the mayor has the duty of submitting the annual budget to the city council, which may reject or reduce items but may not increase or add to them.” See G.L. c.44, §32 (emphasis added). The case then examined whether the ordinance at issue was validly adopted during the fiscal year, and, concluded that it was. The court concluded that the amounts must be paid, despite the apparent lack of funding in the line, for several reasons.

Application of Law to Current Facts: To summarize, the laws concerning municipal finance clearly establish the authority of the Mayor to propose the budget she deems appropriate, and, further the role of the Council as the appropriating authority, the body actually authorizing the expenditures. One statutory limitation, paralleled by the Charter, on the Mayor’s discretion is that the Mayor is required to include in the budget proposed amounts for employee salaries set by ordinance. Regardless, however, the Council is prohibited by law from funding matters at a level higher than the Mayor proposes, or from funding different items than what the Mayor

proposes, subject to an exception not relevant here. The Council may only reduce or remove items with which it disagrees, therefor. As such, where the Council has not amended the Council salary ordinance, that ordinance remains in place, in my opinion.

It must be noted that Council's action to reduce or remove certain budget items may, in fact, create liability in other areas, such as with respect to payment of ongoing services to the municipality provided by a vendor or force layoffs in a particular department. Those other legal issues may serve as impetus to approve amounts proposed by the Mayor. Consider this in conjunction with those tenets of municipal finance discussed above, the Council's job in this arena is one of appropriation, and any expenditure is limited to the amounts appropriated. Thus, if there is no appropriation, there can be no expenditure.

In stark contrast to court's conclusion in Pittsfield, however, here the budgetary line item for Councilor salaries was included by the Mayor at the amount set by ordinance. The Council, the legislative branch and appropriating authority of the City, decided not to fund its own salaries at the level set by ordinance. The Councilors, as the local appropriating authority, has control over whether and how much to appropriate for a given purpose, including for their own salaries. With respect to such salaries, the appropriation is limited to the confines of what is authorized by a salary ordinance and as included in the Mayor's proposed budget. The funding choices open to the Council are expressly limited to decreasing or deleting the amounts for such purposes. Thus, in my opinion, provided that the Mayor includes in the proposed budget the amount required by the Councilor salary ordinance, the Mayor has complied with the law. In contrast, the Council must determine the amount to appropriate for any of the listed purposes, within the Mayor's recommendations. Here, the line at issue is the line for Councilors' own salaries, a matter over which it has direct control.

Looking at the facts and the law together, the outcome in the Pittsfield case is instructive. The employees at issue were civil service employees, governed by an entirely different set of complicated laws protecting advancement and employment of particular persons. Their particular roles were critical to the ongoing public health and safety. In that context, if the Mayor omitted funding for salaries required by ordinance for these three types of essential employees, as appears to have been the case in Pittsfield, the Council would, in theory, have no ability to propose increases to those line items, nor would these employees be able to be paid for their work during the year at the higher level in the absence of a supplemental budget presented by the Mayor and approved by the Council. Apparently, the reduction in the salaries set by ordinance did not result in layoffs sufficient to stay within the budget line approved by the Council, but instead, persons worked and were paid less. In 1944, then, under the particular circumstances that court was asked to consider, including that the appropriation made was not sufficient to pay the salaries under the ordinance, the Pittsfield court concluded that, "Since the salaries were validly increased, the plaintiffs [who were paid less than provided by ordinance] are entitled to recover the unpaid balances of the increased salaries, and the fact that the city has failed to make the necessary appropriation therefor constitutes no defence." This effort is clearly related to the unstated need to ensure that persons who worked for the City were paid at the level the Council had approved, i.e, protecting the workers from shifts by the executive branch during the fiscal year due to political, financial or other concerns.

This conclusion is similar to the way other matters have been resolved since 1944. For example, a large number of municipalities have employees in unions subject to collective bargaining agreements that address how much such employees will be paid. The Council does not have authority to approve or reject such contract; instead, the Council has the choice as to whether to fund the cost items for the first fiscal year of the contract. G.L. c.150E, §7. If the first year cost items are not appropriated, the contract does not take effect, and the parties must return to the table to continue bargaining. There is no mechanism to force a municipality to fund these cost items, even if choosing not to fund them negates the work undertaken by all parties and potentially creates significant problems for the executive branch. Similarly, if the legislative body fails to appropriate funds for a legal obligation there may well be consequences, such as breach of contract claims from vendors or reduction of workforce to enable persons to be paid at the appropriate level under the applicable collective bargaining agreements or ordinance. Even in education, where there are additional considerations governing appropriation of budgets, the provisions of G.L. c.71, §34 have been revised to address the refusal or failure of a municipality to fund what is known as “minimum net school spending”. State law used to provide that the municipality was required to fund the school budget at the amount requested, and the school committee could take court action to collect on the difference. Now, the statute instead provides that, “no city or town shall be required to provide more money for the support of the public schools than is appropriated by vote of the legislative body of the city or town.”

Similarly, here, it is difficult to believe that a reviewing court would find that Council members were entitled to be paid at the amount set by ordinance if the Council itself chooses to appropriate less than was proposed by the Mayor in accordance with the ordinance addressing Councilor salaries, although that is certainly possible, as indicated above. Although there could be many reasons that a Council might choose to underfund its own line, such action is an expression of priorities by the Council, in my opinion.



CITY OF NEWBURYPORT

MASSACHUSETTS

CITY CLERK'S OFFICE

NEWBURYPORT CITY HALL

60 PLEASANT STREET • P.O. BOX 550

NEWBURYPORT, MA 01950

TEL: 978-465-4407 • FAX: 978-462-7936

RICHARD B. JONES

CITY CLERK

MEMORANDUM

To: Members of the City Council
From: Richard B. Jones, City Clerk
Date: March 24, 2021
Re: Procedure for Charter Change

There are several ways to accomplish the suggested minor charter changes that are before the Council. One way would be to hold a public hearing, pass Ordinance 70 and follow the procedure stated in M.G.L. Chapter 43B, §10 and §11. This would require a mailing to residents, a question on the November local ballot, as well as the review by the Attorney General.

On the other hand, we could use another method summarized below that would eliminate the requirements of mailing to the voters and placing it on the ballot. It is possible, not probable, that the Legislature would require it to go on the ballot.

Currently the steps for the Home Rule Petition method to implement our Charter changes are as follows:

Summary of Completed Steps

1. City Council may create Charter Review Committee - DONE
2. Committee may or may not hold a public hearing on any proposed changes.
Public hearings were held - DONE
3. Charter Review Committee thereof submits its report to the City Council. DONE
4. Report is referred to the General Government Committee DONE

Path Forward

1. Council must approve the Home Rule Petition.
2. Mayor must approve the Home Rule Petition.
3. Home Rule petition is then filed with the House or the Senate.
4. The Legislature may refer the petition to the Attorney General.
5. The Legislature may require that the voters approve the Charter changes by a ballot question on our next local election.
6. Home Rule petition needs a supermajority approval of the House and the Senate and then the Governor needs to sign the legislation.

ORDERS

CITY OF NEWBURYPORT

ORDR216_10_13_2020



IN CITY COUNCIL

ORDERED:

October 13, 2020

THAT the City Council of the City of Newburyport approves the Mayor's **Fiscal Year 2021 Supplemental Budget Request** in the total amount of \$42,000, to be appropriated as follows:

Org	Object	Account Description	Amount
01111001	51101	CCN SAL COUNCIL	\$42,000.00

Councillor Charles F. Tontar

Councillor Afroz Khan

In City Council October 13, 2020:

Motion to refer to Budget & Finance by Councillor Tontar, seconded by Councillor Khan. Roll call vote. 7 yes, 3 no (Zeid, Devlin, McCauley), 1 abstain (Eigerman). Motion passes.

In City Council March 8, 2020:

Motion to receive and file by Councillor Zeid, seconded by Councillor Khan. Motion to continue to a date certain, March 29, 2021 by Councillor Tontar, seconded by Councillor Lane. Roll call vote. 11 yes. Motion passes.

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

EMERGENCY ORDER ESTABLISHING PROCEDURE FOR BUSINESSES AND OTHER ORGANIZATIONS TO APPLY FOR LICENSES TO OCCUPY OUTDOOR CITY PROPERTY DURING 2021

EMERGENCY PREAMBLE

Pursuant to Newburyport Charter Section 2-9(b), and as further defined in section 1-7(7) thereof, an emergency exists to the ongoing COVID-19 virus pandemic. Therefore, the City Council hereby affirmatively declares that an emergency exists such that ORD242_03_29_2021 may be voted upon at its first introduction.

Councillor Jared Eigerman

Councillor Byron J. Lane

Councillor Joseph H. Devlin

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

WHEREAS on March 10, 2020, due to the worldwide COVID-19 virus pandemic and pursuant to the Chapter 639 of the Acts of 1950, as amended, and Section 2A of Chapter 17 of the Massachusetts General Laws, Governor Charles D. Baker issued a proclamation that there exists in the Commonwealth a state of emergency, which proclamation has been followed by orders, and related regulations and advisories, as so authorized (the “State COVID-19 Orders”;

WHEREAS, consistent with the State COVID-19 Orders, the City Council finds that it serves the health, safety, and general welfare of the residents of Newburyport to create a streamlined procedure for businesses and other organizations to apply for licenses to occupy outdoor city property to place tables, chairs, and/or merchandise displays during the current public health emergency, to a greater extent than normally permitted under the Newburyport Code; and

WHEREAS, on June 8, 2020, the City Council adopted an order similar in form to this Order, which expired later than year;

ORDERED:

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

1. Effective Period. This order shall remain in effect until the earlier of: (a) November 15, 2021, or (b) its repeal by subsequent order of the City Council.
2. Conflicting Provisions Superseded. While this order is in effect, to the extent that its provisions conflict with the following two provisions of the Newburyport Code, this provisions of this order shall control:
 - a. Section 12-1(b) (Food service establishments on public rights-of-way); and
 - b. Section 12-1.5 (Signage, merchandising and beautification on public ways).

3. Applications to Occupy Outdoor Portions of City Property:

- a. Any business or other organization may submit a written application to the City Clerk to obtain a license to place and maintain tables, chairs, and/or merchandising displays on property under the control of the City, including, without limitation, portions of a public way or within a park or playground.
- b. The City Clerk shall prepare and provide to applicants a form for such applications, and each applicants shall complete such form and submit it to the City Clerk together with:
 - i. Evidence of liability insurance with minimum coverage in the amount of one million dollars (\$1,000,000) per occurrence / three million dollars (\$3,000,000) aggregate, naming the City of Newburyport as co-insured, and in force for the duration of the approved period of occupancy;
 - ii. Written authorization signed by the applicant's landlord, if any, acknowledging and consenting to the applicant's occupancy of areas abutting the applicant's place of business;
 - iii. A clear, legible diagram of the proposed area of occupancy, no smaller than 8½-inches by 11-inches, detailing the following, which shall be in addition to any other requirements of law, regulation or ordinance, including state alcohol law:
 - A. Perimeter of such area, with relevant linear dimensions;
 - B. If such area includes portions of a public way traveled by pedestrians, such as a sidewalk, the public, pedestrian path of travel, which shall be no narrower than five (5) feet in width and must be contiguous to the face of the buildings along which it runs;
 - C. All tables, chairs, seats, total seating count and total occupancy and the separation between customer seats tables in accordance with current public health orders;
 - D. All relevant obstacles such as streetlights, signs, trees, etc.; and
 - E. Means to enclose such proposed area of occupancy by a fence or rope, to control access and demarcate the area proposed for the service of food and alcohol, or the display or sale of merchandise.
- c. Applications under this order shall be delivered to the Office of the City Clerk by hand, mail, or email (rjones@cityofnewburyport.com) no later than March 31, 2021, for any licenses proposed to commence during April 2021, or, alternatively, thereafter, to be heard and processed on a rolling basis, in the normal course.
 - i. All applications received by March 31, 2021, shall be processed together, but applications received after such initial deadline shall be accepted and processed on a rolling basis, all pursuant to this order.
 - ii. Each application shall be reviewed by (x) an *ad hoc* committee of the City Council, hereby expressly authorized to act on its behalf, which shall comprise the Council President, the Chair of its Committee on Public

Safety, and the Chair of its Committee on Licenses and Permits, (y) the Mayor, and (z) the Licensing Board after a public hearing.

- A. No later than the public hearing scheduled by the Licensing Board on such application under this order, the City Clerk shall transmit to such board the recommendation of the *ad hoc* committee, which shall be to approve, to disapprove, or to approve with conditions.
 - B. The *ad hoc* committee shall exercise its reasonable discretion in making its recommendation, but shall, in all cases, consider, without limitation, (I) the degree to which the application minimizes the area of City property to be occupied, and accommodates its shared use, (II) the input of neighboring residents, other city residents, and nearby business owners, and (III) any frustration of the public way's primary use by the public.
- iii. The Licensing Board shall hold a public hearing regarding all applications under this order, and may consider multiple applications at one hearing. After such hearing, the board shall render its written decision regarding each such application, which shall be to approve, to disapprove, or to approve with conditions; provided, however, that the board shall have no authority to approve any application that has failed to receive a favorable recommendation from both the *ad hoc* committee and from the Mayor.
- d. There shall be no fee charged for applications under this order, nor shall any compensation be required for any occupancy approved under this order.
 - e. No occupancy under this order may extend beyond the order's effective period.
 - f. The City has no obligation whatsoever to approve any individual application, each of which shall be processed, reviewed, and a determination thereon made by the relevant City officers, boards, and commissions in their reasonable discretion.

Councillor Jared Eigerman

Councillor Byron J. Lane

Councillor Joseph H. Devlin

ORDINANCES

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

Introduced February 22, 2021

ORDERED:

AN ORDINANCE TO PROPOSE TO VOTERS CERTAIN MINOR AMENDMENTS THE CITY OF NEWBURYPORT HOME RULE CHARTER

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

The City Council of the City of Newburyport hereby approves the following question to be submitted to the voters of the city at the biennial municipal election scheduled to occur on November 2, 2021:

“Shall the City of Newburyport Home Rule Charter be amended as follows, with ~~deletions italicized and double stricken through~~, and additions italicized and double-underlined?:

Sec. 1-7. – Definitions.

Unless another meaning is clearly apparent from the manner in which the word or phrase is used, the following words and phrases as used in this charter shall have the following meanings:

...

(4) “City office,” a position having charge of a city department, including, without limitation, the position of city solicitor.

(5) “City officer,” when used without further qualification or description, shall mean a person having charge of an office or department of the city who in the exercise of the powers or duties of that position exercises some independent statutory authority, including, without limitation, the city solicitor.

...

Sec. 2-6. – Exercise of powers; quorum; rules.

...

- (c) *Rules of procedure.* The city council shall from time to time adopt rules regulating its procedures which shall be in addition to the following:

...

- (2) Special meetings of the city council shall be held at the call of the president or at the call of any six or more members, for any purpose, by causing a notice of the meeting to be delivered (i) in hand or to the place of business or residence of each member of the city council; or (ii) by email to each member of the city council with electronic confirmation of receipt....

...

Sec. 2-9. – Ordinances and other measures.

- (a) *Measures.* No measure that is an ordinance or an order shall be passed finally on the date on which it is introduced, except in the case of an emergency....

...

- (c) *Charter objection.* On the first occasion that the question on adoption of a measure that is an ordinance or an order is put to the city council, if a single member present objects to the taking of the vote, the vote shall be postponed until the next meeting of the city council whether regular or special....

Sec. 3-1. – Mayor: Qualifications; term of office; compensation; prohibitions.

...

- (d) *Prohibitions.* The mayor shall hold no other city office or city employment for which a salary or other emolument is payable from the city treasury. No former mayor shall hold any compensated appointed city office or city employment, nor shall they appear personally before any city agency as agent or attorney for anyone other than themselves, their spouse, their parents, their children, or their siblings, until one year following the date on which the former mayor's city service has terminated. This provision shall not prevent a city officer or other city employee who has vacated a position in order to serve as mayor from returning to the same office or other position of city employment held at the time the position was vacated, if such position exists, but no such person shall be eligible for any other municipal position until at least one year after the termination of service as mayor. This prohibition shall not apply to persons covered under the leave of absence provisions under the civil service law. Except as state law may otherwise expressly permit, a lawyer who has formerly served as mayor shall at no time represent a client in connection with a matter in which the lawyer participated personally and substantially while serving as mayor, unless the city council gives its informed consent, confirmed in writing, to the representation.

...

Sec. 6-5. – Capital improvement budget.

- (a) *Submission.* No later than ~~April~~ May 15 of each year, the mayor shall submit a capital improvement program to the city council....

...

(c) *Adoption.* At any time after the public hearing but before ~~June~~ July 1 of each year, the city council shall by resolution adopt the capital improvements program with or without amendment, provided that each amendment must be voted separately and that any increase in the capital improvements program as submitted must specifically identify the method of financing proposed to accomplish such increase....

...

Sec. 9-7. – Uniform procedures governing multiple-member bodies.

...

(b) *Meeting documents and submissions.* Each appointed multiple member body shall determine its own rules and order of business and shall provide for the keeping agendas, minutes and related submissions of its proceedings. All such documents shall be a public record, and certified copies shall be placed on file in the office of the city clerk and ~~in the city public library~~ on the website within fifteen days of their approval....

...

Councillor Jared J. Eigerman

Date: _____

Concurrence of the Mayor:

Mayor Donna D. Holaday

Date: _____

In City Council February 22, 2021:

Motion to postpone to a date certain, March 8, 2021 meeting, by Councillor Khan, seconded by Councillor Connell. Roll call vote. 11 yes. Motion passes.

In City Council March 8, 2021:

Councillor Connell continues as President Pro Tempore. Motion to approve on 1st reading by Councillor Eigerman, seconded by Councillor Tontar. Motion to amend Sec. 6-4as follows:

Adoption of the *budget*. The city council shall adopt the proposed operating *budget*, with or without amendments, ~~within forty five days following the date the proposed budget on or before the last day of the current fiscal year or period is filed with the city clerk.~~ In amending the proposed operating *budget*, the city council may delete or decrease any amounts except expenditures required by law, but except on the recommendation of the mayor, the city council shall not increase any item in or the total of the proposed operating *budget*, unless otherwise authorized by the General Laws. If the city council fails to take action on any item in the proposed operating *budget* ~~within forty five days after its receipt by the last day of the current fiscal year or period,~~ that amount shall, without any action by the city council, become a part of the appropriations for the year, and be available for the purposes Specified.

... by Councillor Zeid, seconded by Councillor Khan. Roll call vote. 11 yes. Motion passes. Roll call vote on pending motion to approve as amended. 11 yes. Motion passes.

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

March 19th, 2020

AN TIME-LIMITED ORDINANCE TO AMEND CHAPTER 11 OF THE MUNICIPAL CODE REGARDING PARKS AND RECREATION IN RESPONSE TO THE COVID-19 PANDEMIC

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

Add to Chapter 11, Subsection 11-7, a New Subsection C – "COVID19 Parks Permitting" to read as follows:

In response to the COVID-19 pandemic, the City Council, in consultation with the Parks Commission, establishes a fee of \$0/hour in certain cases defined as follows:

- A) Recurring use of the following Parks:
 - a. Cashman Park Ballfield
 - b. Perkins Park Ballfield
 - c. Cashman Park Soccer Field
 - d. Cherry Hill Soccer Field Parcel A
 - e. Cherry Hill Soccer Field Parcel B
 - f. Bradley Fuller Park Infield
 - g. Bradley Fuller Park North Field
 - h. Woodman Park Multi-Use Field
 - i. Cashman Park Tennis
 - j. Perkins Park Tennis
 - k. Bartlet Mall Basketball Courts
 - l. Cashman Park Basketball Court
 - m. G.W. Brown School Playground Basketball
 - n. Perkins Park Basketball Courts
 - o. Woodman Park Basketball Courts
 - p. Atkinson Common, Lower, Founders Field
 - q. Atkinson Common, Lower, Pepe Field
 - r. Atkinson Common, Lower, Hawkes Field
 - s. Atkinson Common Tennis
 - t. Brown Square
 - u. Atkinson Common, Upper
 - v. Atkinson Common, Lower
 - w. Atwood/Garrison Gardens

- x. Bartlett Mall (other than athletic fields or courts)
 - y. Cashman Park (other than athletic fields or courts)
 - z. Moseley Woods Pavilion
- B) 5 or fewer weekdays in any given week
 - C) No more than 2 hrs. on any given day
 - D) No tents or structures of any kind, temporary or permanent, are permitted
 - E) Requests for usage on any weekend day may not be permitted under this subsection
 - F) No more than 20 participants maximum (subject to other laws and regulations promulgated by other entities)

Any permit being requested under this specific subsection shall be made to the Parks Commission or its designee, which shall render a decision on the application within 7 days, with an application that shall include the following at minimum:

- A) Identification of the individual or organization
- B) Primary contact with contact information (including physical mailing address, phone number, and the cellphone number of the primary contact)
- C) A list of specific dates and time slot(s) requested
- D) A description of the proposed use
- E) A valid insurance binder with a minimum of \$1M of coverage indicating that the City of Newburyport is an additional named insured without limitation or any other additional requirement.

For the purposes of clarity, this subsection alters fees and permitting in specific cases for a defined period of time overriding 11-5v, 11-7 (specifically Group C) but shall not be construed to alter, eliminate, or supersede any other aspect of Chapter 11 or any rules promulgated by the Parks Commission.

Applicants are on notice that these are requests for fee-free usage of public Parks which belong to the residents of Newburyport. The Parks Commission must weigh this against any permit application and across all permit applications. In addition, the Parks Commission must also be mindful of congestion as permit applications are processed.

The Parks Commission may, at its sole discretion, approve or deny permits. Any such grant is a revocable license and, as such, may be revoked by the Parks Commission upon a supermajority vote during a public meeting.

This section and any permits approved under it shall expire on August 31, 2021 ~~April 30th, 2021~~ at 11:59 PM unless this subsection is extended by the City Council or unless any individual permit is revoked by the Parks Commission at any time.

Sharif I. Zeid, Ward 1 City Councillor

Joseph H. Devlin, At Large City Councillor

COMMITTEE ITEMS

Committee Items- March 29, 2021

Budget & Finance

Budget & Finance

In Committee:

COMM310_03_08_2021

COMM312_03_08_2021

TRAN088_03_08_2021

TRAN089_03_08_2021

Audit FY2020 Financial Statements

MVPC FY2022

Wtr. Ret/Sick Leave Acc.\$25,533.66 to Comp. Absences Fund \$25,533.66

HWY Streetlights \$12,000 to PRK Maint-Trees \$12,000



CITY OF NEWBURYPORT
FINANCE DEPARTMENT

60 PLEASANT STREET
NEWBURYPORT, MA 01950
PHONE: 978-465-4404

WWW.CITYOFNEWBURYPORT.COM/FINANCE

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA

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 1, 2021

Subject: Annual Audit of the City's FY2020 Financial Statements

The certified public accounting firm, Melanson, has completed the annual audit of the City's FY2020 financial statements. This audit must be performed by an independent CPA firm and is required by bond rating agencies, financial institutions, local charter and various state and federal agencies. The City's financial statements, as well as, the Popular Annual Financial Report (PAFR) have been filed with the City Clerk and can be located electronically in the "Financial Reports Center" at: <https://www.cityofnewburyport.com/financials>.

The FY2020 audit was conducted in accordance with auditing standards generally accepted in the United States and standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. These standards require that the audit is planned and performed in order to obtain a reasonable assurance that the City's financial statements are free of material misstatements. In addition, the audit assesses the accounting principles used and significant estimates made by City management.

The scope of the audit is discussed in the independent auditor's report, which prefaces the financial statements. With respect to the FY2020 financial statements, it is the opinion of the independent auditor that they "present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Newburyport, Massachusetts, as of June 30, 2020."

The audit also includes a management report that contains recommendations for strengthening internal controls and operating efficiency. Significant progress has been made by the City in implementing the recommendations of the independent auditors. For FY2020 there were no

15

new findings, however the City continues to work on fully implementing three recommendations from prior years:

1) Improve Compensated Absences Accounting (Prior Year)

The auditors recommend that the City centralize and automate the accounting for employee compensated absences (i.e. vacation, sick time), which will increase the accuracy, efficiency, and controls over payment of compensated absences.

The City continues to review time and attendance platforms that would automate the approval and tracking of employee compensated absences. The City's payroll software has the functionality to interface with third-party vendors that provide time and attendance tracking solutions.

2) Improve Bank Account Reconciliations (Prior Year)

The auditors recommend that the City continue to research and resolve old bank account reconciling items. While the number of reconciling items has decreased, as well as, how far back they go, there are still some accounts with lingering reconciling items that should be reviewed and resolved.

Personnel in the Treasurer's and Auditor's Offices continue to meet regularly to address these older reconciling items and have made significant headway in clearing them off the bank account reconciliation. The City also continues to develop and improve upon its tailings process to allow for the timely return of unclaimed checks back to the General Fund. During fiscal year 2021, the City plans to update the Financial Policies to better document processes related this recommendation, including the bank reconciliation and tailings processes.

3) Consider Improving Segregation of Human Resources and Payroll Duties (Prior Year)

In order to improve upon the design and execution of controls related to payroll processing, the auditors recommended last year that the City consider creating a greater segregation of duties between Human Resources (HR) and Payroll. At the beginning of FY2021, the City relocated the Payroll Specialist from HR to the Finance Department. While much improved, there is still further segregation needed with respect to personnel management, benefits administration and payroll processing, which we continue to implement, including standardizing processes and procedures for both school and municipal employees.

As always, please do not hesitate to contact me with any questions.



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160 Main Street, Haverhill, Massachusetts 01830 | P: 978-373-0519 | F: 978-373-2809 | mvpc.org

February 25, 2021

Julie Languirand, Treasurer
City of Newburyport
Pleasant Street
Newburyport, MA 01950

Dear Ms. Languirand:

In accordance with Chapter 40B of the General Statutes and Chapter 849 of the Acts of 1969, the Merrimack Valley Planning Commission has determined the City of Newburyport's share of its Fiscal Year 2022 financial requirements to be \$7,010.45.

This amount is required by law to be paid, under the provisions of Chapter 40B and Chapter 849, on July 1, 2021 or as soon as possible thereafter.

Please send your payment to: Merrimack Valley Planning Commission
160 Main Street
Haverhill, Massachusetts 01830

Very Truly Yours,

A handwritten signature in black ink that reads 'James H. Barnes'.

James H. Barnes
Treasurer

Enclosure

cc: Board of Assessors
City Council

B&P



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February 25, 2021

Board of Assessors
City of Newburyport
Pleasant Street
Newburyport, MA 01950

Dear Assessors:

In accordance with Chapter 40B of the General Statutes and Chapter 849 of the Acts of 1969, I hereby certify that the Merrimack Valley Planning Commission has determined the proportion of its expenses for Fiscal Year 2022 to be paid by the City of Newburyport to be \$7,010.45. This figure is based on the following computations:

Community	2010 Population	Per Capita Rate	Assessment Amount
Amesbury	16,283	\$0.40253	\$6,554.39
Andover	33,201	\$0.40253	\$13,364.38
Boxford	7,965	\$0.40253	\$3,206.15
Georgetown	8,183	\$0.40253	\$3,293.90
Groveland	6,459	\$0.40253	\$2,599.94
Haverhill	60,879	\$0.40253	\$24,505.59
Lawrence	76,377	\$0.40253	\$30,743.99
Merrimac	6,338	\$0.40253	\$2,551.23
Methuen	47,255	\$0.40253	\$19,021.53
Newbury	6,666	\$0.40253	\$2,683.26
Newburyport	17,416	\$0.40253	\$7,010.45
North Andover	28,352	\$0.40253	\$11,412.52
Rowley	5,856	\$0.40253	\$2,357.21
Salisbury	8,283	\$0.40253	\$3,334.15
West Newbury	4,235	\$0.40253	\$1,704.71

Please, therefore, include the amount of \$7,010.45 in the Fiscal Year 2022 tax levy of the City of Newburyport as required under Chapter 40B and Chapter 849.

Very Truly Yours,

James H. Barnes
Treasurer

cc: City Council
Finance Committee
Planning Board



CITY OF NEWBURYPORT FY 2021 TRANSFER/APPROPRIATION REQUEST

RECEIVED
CITY CLERK'S OFFICE

Department: Department of Public Services
Submitted by: Anthony Furnari, Director **Date Submitted:** 3/8/2021

Transfer From:

Account Name:	<u>WAT Retirements/Sick Leave</u>	Balance:	<u>\$ 30,046.91</u>
Account Number:	<u>60450001-51710</u>	Category:	<u>\$ 781,553.65</u>
Amount:	<u>\$25,533.66</u>	Trans I/O:	<u>\$ -</u>

Why Funds Are Available:

The FY2021 budget for the Water Enterprise Fund included a contractual payout of compensated absences (sick leave) for a retired employee. Payment was made from the Compensated Absences Fund, which should now be reimbursed by the Enterprise Fund.

Transfer To:

Account Name:	<u>Compensated Absences Fund</u>	Balance:	<u>\$ 11,840.99</u>
Account Number:	<u>8270-49700</u>	Category:	<u>\$ -</u>
Amount:	<u>\$25,533.66</u>	Trans I/O:	<u>\$ -</u>

Why Funds Are Needed:

To reimburse the Compensated Absences Fund for a retired employee of the Water Enterprise Fund.

Donna D. Holaday, Mayor: *Donna D. Holaday* Date: 3/2/21
 Ethan R. Manning, Auditor: *E. Manning* Date: 3/2/21

Sponsor: Charles F. Tontar, Councillor At-Large

City Council Approval:

85



CITY OF NEWBURYPORT FY 2021 TRANSFER/APPROPRIATION REQUEST

RECEIVED
CITY OF NEWBURYPORT
3/8/2021

Department: Mayor's Office / Parks Department

Submitted by: Donna D. Holaday, Mayor / Lisé Reid, Parks Director

Date Submitted: 3/8/2021

Transfer From:

Account Name:	<u>HWY Streetlights</u>	Balance:	<u>\$ 106,213.07</u>
Account Number:	<u>01421002-52103</u>	Category:	<u>\$ 386,442.25</u>
Amount:	<u>\$12,000.00</u>	Trans I/O:	<u>\$ -</u>

Why Funds Are Available:

A surplus is anticipated at year-end due to net metering credit billing adjustments that have reduced streetlight electricity costs for FY2021.

Transfer To:

Account Name:	<u>PRK Maint-Trees</u>	Balance:	<u>\$ (6,470.00)</u>
Account Number:	<u>01630002-52404</u>	Category:	<u>\$ 55.93</u>
Amount:	<u>\$12,000.00</u>	Trans I/O:	<u>\$ -</u>

Why Funds Are Needed:

Impacts of the 2016-17 year-long drought coupled with this year's drought and an unusual number of wind events coming from the south have caused an unprecedented number of incidents involving high hazard trees in our parks. All of the work that has been done and still needs to be done is essential to avoid catastrophic consequences or to ameliorate site conditions after damage is caused by a fallen tree. Our crew has dealt with many trees internally, and DPS has assisted when they could, but in many cases we are forced to call in a tree contractor to address the problems sufficiently in a timely manner. This line item is currently running a deficit and additional funding is needed for tree maintenance and emergency removals through the end of the fiscal year.

Donna D. Holaday, Mayor:

Donna D. Holaday

Date:

3/2/21

Ethan R. Manning, Auditor:

Ethan R. Manning

Date:

3/2/21

Sponsor: Charles F. Tontar, Councillor At-Large

City Council Approval:

but

**Committee Items-
March 29, 2021
License & Permits**

APPL021_02_22_2021

Newburyport Sunoco

REC'D
CIVIL
FILE

THE COMMONWEALTH OF MASSACHUSETTS
OF _____

APPLICATION FOR A LICENSE TO BUY, SELL, EXCHANGE
OR ASSEMBLE SECOND HAND MOTOR VEHICLES
OR PARTS THEREOF

I, the undersigned, duly authorized by the concern herein mentioned, hereby apply for a _____ class license, to Buy, Sell, Exchange or Assemble second hand motor vehicles or parts thereof, in accordance with the provisions of Chapter 140 of the General Laws.

1. What is the name of the concern? GNFD Inc Dist Newburyport
SUNOCO

Business address of concern. No. 59 Storey Avenue St.,
Newburyport, MA. City - Town.

2. Is the above concern an individual, co-partnership, an association or a corporation? Corporation

3. If an individual, state full name and residential address.

4. If a co-partnership, state full names and residential addresses of the persons composing it.

5. If an association or a corporation, state full names and residential addresses of the principal officers.
President George Daaboul 44 Clipper Way, Newburyport MA
Secretary Joseph Fares 30 Fletcher Rd, WASHINGTON NH 03087
Treasurer Joseph Fares 30 Fletcher Rd, WASHINGTON NH 03087

6. Are you engaged principally in the business of buying, selling or exchanging motor vehicles? No
If so, is your principal business the sale of new motor vehicles? No
Is your principal business the buying and selling of second hand motor vehicles? No
Is your principal business that of a motor vehicle junk dealer? No

7. Give a complete description of all the premises to be used for the purpose of carrying on the business.

Gas station, Car Repairs, state Inspection

8. Are you a recognized agent of a motor vehicle manufacturer? No

(Yes or No)

If so, state name of manufacturer _____

9. Have you a signed contract as required by Section 58, Class 1? _____

(Yes or No)

10. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? yes

(Yes or No)

If so, in what city — town Newburyport

Did you receive a license? yes For what year? alone then 10 years

(Yes or No)

11. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? No

(Yes or No)

Sign your name in full Joseph Fano
(Duly authorized to represent the concern herein mentioned)

Residence 30 Fletcher Rd
Wintham, NH 03087

IMPORTANT

EVERY QUESTION MUST BE ANSWERED WITH FULL INFORMATION, AND FALSE STATEMENTS HEREIN MAY RESULT IN THE REJECTION OF YOUR APPLICATION OR THE SUBSEQUENT REVOCATION OF YOUR LICENSE IF ISSUED.

NOTE: If the applicant has not held a license in the year prior to this application, he must file a duplicate of the application with the registrar. (See Sec. 59)

APPLICANT WILL NOT FILL THE FOLLOWING BLANKS

Application after investigation _____
(Approved or Disapproved)

License No. _____ granted _____ Fee \$ _____

Signed _____

CHAPTER 140 OF THE GENERAL LAWS, TER. ED., WITH AMENDMENTS THERETO (EXTRACT)

SECTION 57. No person, except one whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells second hand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells second hand vehicles, shall engage in the business of buying, selling, exchanging or assembling second hand motor vehicles or parts thereof without securing a license as provided in section fifty-nine. This section shall apply to any person engaged in the business of conducting auctions for the sale of motor vehicles.

SECTION 58. Licenses granted under the following section shall be classified as follows:

Class 1. Any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of second hand motor vehicles being incidental or secondary thereto, may be granted an agent's or a seller's license; provided, that with respect to second hand motor vehicles purchased for the purpose of sale or exchange and not taken in trade for new motor vehicles, such dealer shall be subject to all provisions of this chapter and of rules and regulations made in accordance therewith applicable to holders of licenses of class 2.

Class 2. Any person whose principal business is the buying or selling of second hand motor vehicles may be granted a used car dealer's license.

Class 3. Any person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts, may be granted a motor vehicle junk license.

SECTION 59. The police commissioner in Boston and the licensing authorities in other cities and towns may grant licenses under this section which will expire on January first following the date of issue unless sooner revoked. The fees for the licenses shall be fixed by the licensing board or officer, but in no case shall exceed \$100. dollars. Application for license shall be made in such form as shall be approved by the registrar of motor vehicles, in sections fifty-nine to sixty-six, inclusive, called the registrar, and if the applicant has not held a license in the year prior to such application, such application shall be made in duplicate, which duplicate shall be filed with the registrar. No such license shall be granted unless the licensing board or officer is satisfied from an investigation of the facts stated in the application and any other information which they may require of the applicant, that he is a proper person to engage in the business specified in section fifty-eight in the classification for which he has applied, that said business is or will be his principal business, and that he has available a place of business suitable for the purpose. The license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business. Permits for a change of situation of the licensed premises or for addition thereto may be granted at any time by the licensing board or officer in writing, a copy of which shall be attached to the license. Cities and towns by ordinance or by-law may regulate the situation of the premises of licensees within class 3 as defined in section fifty-eight, and all licenses and permits issued hereunder to persons within said class 3 shall be subject in the provisions of ordinances and by-laws which are hereby authorized to be made. No license or permit shall be issued hereunder to a person within said class 3 until after a hearing, of which seven days' notice shall have been given to the owners of property abutting on the premises where such license or permit is proposed to be exercised. All licenses granted under this section shall be revoked by the licensing board or officer if it appears, after hearing, that the licensee is not complying with sections fifty-seven to sixty-nine, inclusive, or the rules and regulations made thereunder; and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the registrar. The hearing may be dispensed with if the registrar notifies the licensing board or officer that a licensee is not so complying. Any person aggrieved by any action of the licensing board or officer refusing to grant, or revoking a license for any cause may, within ten days after such action, appeal therefrom to any justice of the superior court in the county in which the premises sought to be occupied under the license or permit applied for are located. The justice shall, after such notice to the parties as he deems reasonable, give a summary hearing on such appeal, and shall have jurisdiction in equity to review all questions of fact or law and may affirm or reverse the decision of the board or officer and may make any appropriate decree. The decision of the justice shall be final.

APPLICATION FOR A LICENSE TO BUY, SELL,
EXCHANGE OR ASSEMBLE SECOND HAND
MOTOR VEHICLES OR PARTS THEREOF.

APPLICANT WILL NOT FILL THE FOLLOWING BLANKS

Application No. _____

Class _____ License No. _____

Name _____

St. and No. _____

City — Town _____

Date Issued _____

Remarks _____

Memorandum

To: Municipal Licensing Authorities of Motor Vehicle Dealers

From: William E. McVey, Deputy General Counsel

Date: May 2004

Re: Issues Relating to Class 2 Dealers under G.L. 140, Section 58

1. Purpose

The primary purpose of this Memorandum is to provide information to Cities and Towns about the amendments relative to Class 2 dealers that were made to G.L. c. 140, §58 by Chapter 422 of the Acts of 2002 (a copy of which is enclosed). The Legislature amended Section 58 to require Class 2 dealers to post and maintain a bond (or, if permitted, equivalent proof of financial responsibility, e.g., certificate of deposit or letter of credit) with the municipal licensing authority in the amount of \$25,000. The amendments also authorize the licensing of two additional types of businesses engaged in used vehicle sales. The amendment became effective almost a year ago, on March 24, 2003, but some municipalities may be unaware of it and some other issues remain to be clarified.

2. Bond Requirement

The bond requirement is only applicable to Class 2 dealers. It is not applicable to a Class 1 dealer who buys and sells used vehicles and it is not applicable to a Class 3 dealer who sells used vehicles. The bond is for the benefit of a person who purchases a vehicle from the Class 2 licensee and suffers a financial loss. The list of intended beneficiaries is contained within the Act. The bonding requirement modifies the municipal licensing process for Class 2 dealers (and affects the dealer's ability to retain the license). It also affects the RMV, since the agency is prohibited from knowingly issuing or renewing Dealer Plates if it becomes aware that a Class 2 dealer lacks the legally required bond. The RMV will revoke the General Registration and Dealer Plates when it becomes aware the dealer does not have a bond or when it is informed by a municipality that it has revoked a Class 2 license. The RMV has become aware that some municipalities are not enforcing the bond requirement and have been licensing Class 2 dealers without a bond. A municipality that fails to enforce the bond requirement faces potential liability from claimants under the bond.

3. Dealers Subject to Bond Requirement

All Class 2 dealer-licensees (no exceptions) renewing or obtaining a new license in 2004 (and in future years) are subject to the bonding requirement of \$25,000. This is true even if the dealer is not selling vehicles covered by the warranty requirements of G.L. c.90, §7N ½. G.L. c.140, §58 (c)(1) states:

The person shall obtain a bond, or equivalent proof of financial responsibility as described in paragraph (5), and continue in effect a surety bond or other equivalent proof of financial responsibility satisfactory to the municipal licensing authority in the amount of \$25,000 executed by a surety company authorized by the insurance department to transact business in the commonwealth.

The law prohibits a city or town licensing authority from issuing or renewing a Class 2 license unless it is satisfied that a bond or the equivalent meeting the requirements of the law is in effect during the term under which the license shall be issued or renewed. Note also that if a dealer has more than one location in a City or Town and goes by a different name at the other location(s), the dealer needs a separate bond for each location.

at which it uses a different name. If a dealer has locations in more than one City or Town, separate bonds must be obtained for each municipality.

4. Bond Issue Clarifications

Two issues needing clarification have recently been raised as to the bond/equivalent requirement.

(a) **Certificates of Deposit and Letters of Credit:** The first has to do with the place where certificates of deposit or irrevocable letters of credit may be deposited. Section 58 (c)(1) states, in part:

In lieu of the bond required by this section, the municipal licensing authority may allow the dealer to deposit collateral in the form of a certificate of deposit or irrevocable letter of credit, as authorized by the banking laws of the commonwealth.... The collateral may be deposited with or executed through any authorized state depository designated by the commissioner....

The statute does not define "authorized state depository" but the Massachusetts Commissioner of Banks has issued an opinion to the Registrar, dated March 5, 2004, stating that "the definition covers any state or federally chartered bank or credit union with a banking office in the Commonwealth which has federal deposit insurance." The Commissioner has recommended that if a "Certificate of Deposit" is used, it should be titled:

"Commonwealth of Massachusetts, name of municipality, In Trust for (dealer) under Massachusetts General Laws chapter 140, section 58"

The Commissioner also recommends that an assignment should be executed, and that a municipality wishing to do so should contact the State Treasurer's Office to discuss the mechanics of that option. The Treasurer's Office is familiar with Certificates of Deposit and other alternative collateral since that office holds such collateral for certain licensees of the Commissioner of Banks.

(b) **Filing the Bond with Licensing Authorities:** The second issue relates to the manner in which the bond should be filed and filled out. The original of the bond needs to be filed with the City or Town when an initial Class 2 license is issued. On renewal, the licensing authority should insist on either a new original bond with power of attorney attached or an original continuation certificate showing that the existing bond is valid through the end of the next license period. Bonds may be written for more than one year so a municipality should be sure the bond covers the whole period during which the Class 2 license will be in effect. The amended statute does not specify the manner in which the bond should be filled out. However, a bond should clearly identify the parties and the purpose of the bond. For example:

Town of Willingboro, as obligee for the benefit of a person who purchases a vehicle from (name of dealer) and suffers a loss as defined by G.L. 140, Section 58.

5. Class 2 Licensee Definition Expanded

The definition of a Class 2 dealer was expanded to include two additional categories of used vehicle sellers that were not previously required to obtain a Class 2 license. A Class 2 licensee had always been defined as a person whose principal business is the buying or selling of second hand motor vehicles. The amended law allows a license to be issued even though it is not the applicant's principal business or he/she is not actually a seller. G.L. c. 140, §58 (c) now reads, in part:

(c) Class 2. A person whose principal business is the buying or selling of second hand motor vehicles, a person who purchases and displays second hand motor vehicles for resale in retail transactions, and any other person who displays second hand motor vehicles not owned by him pursuant to an agreement in which he receives compensation, whether solely for displaying the vehicles, upon the sale of each vehicle, or otherwise, may be granted a used car dealer's license

6. Comment on the Expanded Definition of Class 2 Licensee

(i) "a person who purchases and displays second hand motor vehicles for resale in retail transactions."

This seller is a dealer of motor vehicles at retail even though it may not be his/her principal business and buys vehicles in order to sell them at retail to make a profit. A person who is selling or negotiating the casual sale of his/her own vehicle (one registered to him/her or to a spouse, another relative, a friend, etc.) is not required to obtain a Class 2 license, in the view of the RMV. Nor is a company that leases

vehicles for the use of its employees and then allows the employee to purchase the vehicle at the expiration of the lease. This provision may be applicable to a local garage or other business that purchases vehicles at auction (or from other sources) and repairs or reconditions them and offers them for sale. Any vehicles this licensee sells to a consumer will be subject to the state-mandated warranty protection of G.L. c.90, §7N½, and the dealer must maintain or demonstrate access to repair facilities sufficient to enable him/her to satisfy the warranty repair obligations imposed by that section. The licensee must comply with the Consumer Protection Act, G.L. 93A and the Regulations of the Attorney General, and must post the required warranty notices on vehicles offered for sale. As a Class 2 licensee, this dealer is also required to maintain a Used Vehicle Record Book pursuant to G.L. 140, §62. The "authorized officers" identified in G.L. c.140, §66 (State Police, Attorney General, Chief of Police, Police Commissioner in Boston, the Selectmen of a Town, or police officers authorized by said officials) "may at any time enter upon any premises used by any person licensed under section fifty-nine for the purpose of carrying on his licensed business, ascertain how he conducts the same and examine all second hand motor vehicles or parts thereof kept or stored in or upon the premises, and all books, papers and inventories relating thereto."

(ii) "...any other person who displays second hand motor vehicles not owned by him pursuant to an agreement in which he receives compensation, whether solely for displaying the vehicles, upon the sale of each vehicle, or otherwise." This is a person who does not own the vehicles he displays on his property but he receives compensation for the display or the sale from the vehicle's owner. These are usually consignment sales and they should only involve privately owned vehicles. RMV regulations prohibit the holder of a dealer plate from offering vehicles for sale anywhere other than the licensed premises of the dealer (except for sales at recognized automobile auction facilities or at combined-dealer special sale events). Therefore, a dealer who has been issued Dealer Plates may not display other dealer's vehicles on his/her own lot or display his own vehicles on other dealers' lots. However, any licensed Class 2 dealer who has received Dealer Plates from the RMV may display vehicles for sale on the dealer's lot that are owned by a private party and held for consignment, but the vehicle must be entered in the dealer's Used Vehicle Record Book as a consignment vehicle. (The dealer cannot, however, attach its own Dealer Plate to allow a test drive of the consigned vehicle because the dealer does not own the vehicle. If a test drive is contemplated, the vehicle's owner may opt to leave his/her own valid registration plates on the vehicle if the owner's liability insurance will cover a test drive). The record keeping and inspection requirements as contained in 6.(i) (above) are applicable here also.

7. **Local Review Needed** Municipalities are urged to review the Class 2 licenses they have issued in 2004 to ensure that the bond requirement has been met for each license.

8. **A Note About Licensees Working From Home**

The RMV is aware that some municipalities have been issuing Class 2 licenses even though the applicant is doing business from his/her home. Class 2 licensees almost always apply to the RMV for Dealer Plates. The process is that the RMV asks the State Police to perform a site visit to determine if the dealer has a facility that is appropriate for the issuance of such plates. After the visit, the Trooper makes a report and recommendation to the RMV. If the licensed premises do not comply with the relevant provisions of G.L. c.90 and the Regulations of the Registrar at 540 CMR 18.00, the application for plates will be denied.

Definition of "Dealer." M.G.L. c. 90, 1, defines a "dealer" as: "any person who is engaged principally and substantially in the business of buying, selling or exchanging motor vehicles or trailers or motor vehicle bodies who maintains a facility dedicated to carrying out said business...." (Emphasis added). An applicant for General Registration Dealer Plates must be principally and substantially engaged in the business and have the required dedicated facility. Even a dealer who sells solely on a "wholesale basis" (although no such Class 2 license category exists) must have the required dedicated facility. The RMV will not issue Dealer Plates to an applicant if his/her business is located within the personal living

quarters of a residential building, whether or not the dealer or someone else actually resides there or whether no one resides there. The law regarding the issuance of dealer plates is clear and plates will not be issued even if the municipality has issued a dealer's license for that location.

Further, the regulations at 540 CMR 18.02(2)(a) were adopted under the Registrar's authority and contain the requirements that a dealer must meet to receive or retain Dealer Plates. These requirements indicate the nature of the required "facility." Generally, the following are relevant to a used vehicle dealer:

- > The dealer's business is situated within a permanent building or permanently affixed structure, including an office trailer, owned or leased by the dealer for his exclusive use and located at the address of record noted on the dealer's license issued under the provisions of M.G.L. 140, §59. Except for a dealer who exchanges vehicles or trailers solely on a wholesale basis, the dealer shall be open to the public.
- > The building, structure or office trailer must have adequate office space to conduct the business.
- > If more than one business is located within the same building or structure, the dealer shall maintain a separate and exclusive entrance, unless the multiple businesses are owned or controlled by the same principals.
- > Subject to local law, and except for a dealer who exchanges vehicles or trailers solely on a wholesale basis, the dealer shall display a permanently affixed exterior sign of sufficient size and design, to give the general public notice of the name and nature of the business.
- > The dealer must have a display area/lot to display the vehicles being offered for sale unless the dealer exchanges vehicles or trailers solely on a wholesale basis.

9 Summary

Personal living quarters cannot be the site of a Class 2 dealer's business because the law requires a dealer to maintain a facility dedicated to carrying out that business and that facility must be used exclusively for the dealer's business. It is possible that a dealer may have premises either attached to or detached from a residential building that could be deemed suitable by the RMV. The State Police site inspection may help to determine suitability. The premises would have to be separate and distinct from any personal living quarters (e.g., it would have to be a secure facility with solid floor-to-ceiling walls, adequate office space to conduct the business, direct access from the outside of the building, not be used or shared with any other person or with any portion of personal living quarters and be licensed by the municipality at that location). The licensee must post and maintain reasonable business hours so that State and local police can accomplish the required facility and record book checks when required.

10 New License Application in Draft Stage G.L. 140, §59 states, in part: ..."application for license shall be made in such form as shall be approved by the registrar of motor vehicles..." The RMV is drafting a proposed new version of an *Application for a License as a Motor Vehicle Dealer*. The purpose is to update and standardize the *Application* to include significantly more information about the applicant (including background information on all principals) so that licensing authorities are better informed before issuing or renewing a license. The RMV is willing to receive and discuss suggestions for the proposed new *Application* that local licensing officials may wish to provide. Please email me with your suggestions at: william.mcvey@state.ma.us or write to me at the above address.

Thank you. If you have any questions about this Memorandum you may email or write. You may also call me at: 617-351-9950.



UTICA MUTUAL INSURANCE COMPANY
 NEW HARTFORD, NEW YORK
EXECUTION REPORT FOR BOND

U/W Code

CODING SOURCE 0# Acct Number:		EFFECTIVE DATE 12/19/2020
POLICY NUMBER SU4490005		EXPIRATION DATE 12/19/2021
<input type="checkbox"/> NEW <input checked="" type="checkbox"/> RENEWAL <input type="checkbox"/> ENDORSEMENT		TRANS. EFFECTIVE DATE
INSURED		BOND AMOUNT \$25,000.00
GNFD, Inc. dba Newburyport Sunoco		TOTAL PREMIUM \$250.00
ADDRESS		CSP/POLICY TYPE
59 Storey Avenue		TRANS. 2111 POLICY CT 1 UND. 4
Newburyport, MA 01950		SIC # 55211 BILL CODE 1
OBLIGEE (FULL ADDRESS REQUIRED)		LINE 2273
Commonwealth of MA, Registry of Motor Vehicles		STATE OR FOREIGN COUNTRY 20
One Copley Place		TAX TOWN (Required for AL, FL, GA, KY, LA, SC)
Boston, MA 02119		PLAN 01
NATURE OF RISK Dealer Bond		PLAN WITH SURCHARGE (Required for KY)
SERIES X COMPANY CODE 1	COMMISSION 30%	
REG. OFF. 04 AGENT NO. 70135	CLASS CODE 927	
AGENT	FIDELITY FORM (Col. 48)	
MACDONALD & PANGIONE	SURETY TYPE OF CONTRACT (Col. 50)	
ADDRESS	GROSS LIMIT 000 TREATY LIMIT	
104 MAIN ST	ENDORSEMENT	
NORTH ANDOVER MA 01845		
RENEWAL METHOD: <input checked="" type="checkbox"/> COLLECTION OF PREMIUM <input type="checkbox"/> CONTINUATION CERTIFICATE <input type="checkbox"/> NEW BOND		
BOND APPROVED BY:	BOND SIGNED BY: Lauri A. Emmerich (Attorney-in-Fact)	DATE 10/16/2020
REMARKS:		

**Committee Items-
March 29, 2021
Planning & Development**

In Committee:

ODNC069_02_22_2021

Chapter 6.5 Barrier Beach Development definitions

ODNC068_01_27_2021

Zoning Amend SecVI-C re: the # of residential structures per lot
(As amended)

CITY OF NEWBURYPORT



 IN CITY COUNCIL

ORDERED:

AN ORDINANCE TO AMEND SECTION VI-C OF THE NEWBURYPORT ZONING ORDINANCE AS TO THE NUMBER OF RESIDENTIAL STRUCTURES PERMITTED ON A LOT:

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

THAT Section VI-C of the Zoning Ordinance be amended pursuant to Section XII-B (Adoption and Amendment) to read as follows, with deletions ~~double stricken through and in bold~~, and additions double-underlined and in bold:

VI-C - One Number of residential structure buildings per lot.

- (1) Except as otherwise permitted in this Section VI-C or elsewhere in this zoning ordinance, only Not more than one (1) building or structure intended for use as a containing residential dwelling units shall be erected, placed or converted to use as such on any lot, in a subdivision or elsewhere in the city without a special permit issued by the planning board pursuant to X-II.7 and X-II.8. Additionally, the following five criteria must be satisfied:**
- (2) In a zoning district where a two-family dwelling is allowed by right or by special permit, the planning board may grant a special permit to allow two single-family dwellings on a lot, subject to the following:**
- (1.) The application shall include conceptual by-right development plans, such as a conventional subdivision, to demonstrate to the planning board that more than one residential structure per lot is a reasonable alternative to other allowed developments of the parcel involved.**
- (2.) A clear public benefit is derived from the proposed development, including but not limited to a long term restriction involving one or more of the following:**
- a. Creation of affordable housing;**
 - b. Preservation of historical structures; and/or**

~~c. Conservation of significant natural resources:~~

~~(3.) Unless the residential structures are located side-by-side and have the same front yard setback, then one (1) residential structure shall be subordinate to the other dwelling in appearance by meeting either of the following:~~

- ~~a. Covering at least ten (10) percent less building footprint and built no higher than the existing dwelling; or~~
- ~~b. Located entirely within the envelope of an accessory building in existence on the effective date of this ordinance.~~

~~(4.) The plan provides adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots within a subdivision.~~

~~(5.) The proposed residential structures shall comply with all other applicable zoning regulations.~~

a. The lot and buildings shall comply with the following development standards:

i. The proposed residential density shall comply with the lot area requirements for a two-family dwelling in the zoning district.

ii. Both residential buildings shall comply with the setback requirements for principal single family buildings.

iii. Both residential buildings shall comply with all other applicable zoning regulations.

iv. The proposed buildings shall be arranged on the lot in one of the following manners:

(a) The two residential buildings shall be located side-by-side and shall be set back no more than 10 feet further from the street than the average front yard setbacks for existing dwellings on the same block of the street on which they have frontage; or

(b) If the lot has frontage on two streets (i.e., the lot is a corner lot or a through lot), each residential building may be located fronting on a different street from the existing dwelling, provided that each building has a separate and distinct rear yard conforming to the rear yard requirement for the zoning district; or

(c) One residential building may be created by conversion of an accessory building in existence on the effective date of this ordinance, such as a garage or carriage house. In such case, the

converted building shall not be increased in height, nor expanded outward other than by dormers, porches or decks not exceeding 500 square feet in total.

b. When the lot contains an existing building listing as “Contributing” (C) within the Newburyport Historic District, the application for a special permit shall include a proposed perpetual preservation restriction on said historic building approved by the Newburyport Historical Commission.

c. Before granting a special permit under this section VI-C, the planning board shall find that all of the following criteria are met:

i. The design and layout of buildings and open spaces on the site will be consistent with the established character, scale, massing and density of the surrounding neighborhood.

ii. The buildings and accessory off-street parking areas will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties.

iii. Developing a second residential building on the lot will be equally or more beneficial to the neighborhood than subdividing the lot or providing two dwelling units in a two-family dwelling.

e. In granting a special permit to allow two residential buildings on a lot, the planning board may impose building size or setback standards that are more restrictive than established by the ordinance for a two-family dwelling in the zoning district.

f. In consideration of the increase in value represented by the granting of a special permit under this section VI-C, the applicant shall make a financial contribution to the Affordable Housing Trust Fund in an amount equal to \$10.00 per sq.ft. of the additional second residential building on the lot, said payment to be made prior to the issuance of a building permit for said second residential building.

~~AND FURTHER, THAT the definition of “Multifamily” (Use 103) in Section V-E of the Zoning Ordinance be amended pursuant to Section XII-B (Adoption and Amendment) to read as follows, with deletions ~~double stricken through and in bold~~, and additions double underlined and in bold:~~

~~A building or buildings on one lot where one structure that contains three (3) or more dwelling units and each additional structure contains two (2) or more dwelling units on the same lot, and units within the same structure have either common floor-ceiling assemblies between the dwelling units, or Common Wall Connectors as defined in section II-B, definitions.~~

Councillor Heather L. Shand

In City Council January 27, 2021:

Motion to accept the late file by Councillor Zeid, seconded by Councillor McCauley. So voted.

Motion to refer to Planning & Development by Councillor Khan, seconded by Councillor Shand.
So voted.

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

February 22, 2021

AN ORDINANCE TO AMEND THE MUNICIPAL CODE UNDER SECTION 6.5 REGARDING DEFINITIONS FOR BARRIER BEACH REDEVELOPMENT

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

Amend Section 6.5 – 28, Section b, Item (1) "Specific Performance Standards for the Barrier Beach are:" as follows, with deletions ~~double-stricken-through-in-bold~~, and additions double-underlined and in bold:

(b) Specific performance standards for the Barrier Beach are:

- (1) No development or redevelopment shall be permitted within a FEMA V-zone or AO-zone. Notwithstanding the foregoing, structures damaged or destroyed from fire, storm, or similar disaster may be redeveloped/repared only in accordance with current local, state and federal regulatory standards when damage to or loss of the structure is equal to or greater than fifty (50) percent of the market value of the building. When damage to or loss of the structure is less than fifty (50) percent of the market value of the building, redevelopment/repairs may be allowed to return the structure to pre-damaged conditions. In all instances, reconstruction, renovation or repairs to damaged structures may be authorized as stated herein, provided ~~that~~ there is no increase in floor area or total footprint of structures on site (including decks).

Amend Section 6.5 – 36. Definitions, for "Redevelopment" as follows and Note #1, Item (15) as follows, with deletions ~~double-stricken-through-in-bold~~, and additions double-underlined and in bold:

Redevelopment: As used in section 6.5-28, shall include the following activities:

- (1) Any individual or cumulative increase in the footprint of a building or structure, including without limitation, a coastal engineering structure, a shear wall, vertical wall, a shed, a garage, and/or a solid fence, that would result in the sum of the footprints of all buildings or structures on the lot exceeding the sum of a twenty (20) percent (individual or cumulative) increase in the footprints of the existing structures. ~~(Any such individual or cumulative increase not exceeding this twenty (20) percent threshold shall continue to require Commission review and approval.)~~
- (2) Conversion of porches, carports and decks to usable interior space below the first dwelling floor;

(See Note #1 below.)

Note #1: The terms "development" and "redevelopment", as used in section 6.5-28, shall not include the following activities:

- (15) Replacement of an existing building with a new building that is placed on open pilings and that is located as far landward of the existing building as possible given the requirements of the Plum Island Overlay District, provided that: (a) the sum of the footprints of all buildings or structures on the lot ~~to not exceed the sum of a twenty (20) percent maximum (individual or cumulative) increase in~~ the footprints of the existing structures; (b) the new building complies with all applicable federal, state, and local regulations, including without limitation, the Plum Island Overlay District and the performance standards set forth in the commission's regulations;

Councillor Afroz Khan

Councillor Heather Shand

Committee Items-March 29, 2021
Public Utilities

APPT235_03_08_2021

Owen Smith Water/Sewer Commission 03/31/2023
175 Storey Ave

Removal from Committee Form

Instructions: Remit to rjones@cityofnewburyport.com; pbarker@cityofnewburyport.com; KSullivan@cityofnewburyport.com by Wednesday, 5 PM preceding Council meeting

Committee Name: Committee on Public Utilities

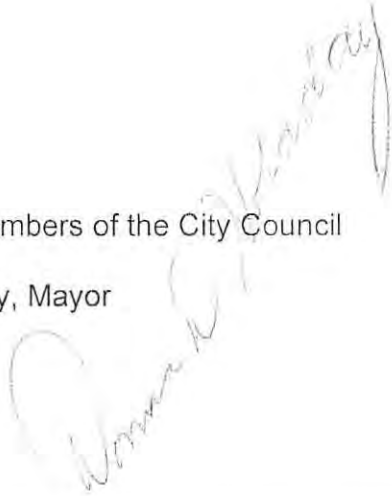
Committee Chair: Tontar

	Measure Identifier	Measure Title	Amended in Committee? (if yes, attach final version)	Consent Agenda or Regular Agenda?
1.	APPT235_03_08_2021	Water/Sewer Comm APPT	No	Consent
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				

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 3, 2020
Subject: Appointment



I hereby appoint, subject to your approval, the following named individual as a member of the Water/Sewer Commission. This term will expire March 31, 2023.

Owen Smith
175 Storey Avenue
Newburyport, MA 01950

pu

Owen Smith
175 Storey Avenue
Newburyport, Massachusetts 01950
osmith87@gmail.com

February 22, 2021

Donna Holaday, Mayor
City of Newburyport Mayor's Office
60 Pleasant Street
Newburyport, Massachusetts 01950

Dear Mayor Holaday:

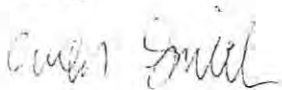
Attached to this letter, please find a copy of my resume. I am sending this letter to express my interest in serving as a Commissioner on the Newburyport Water and Sewer Commission. I believe my experience in the infrastructure field makes me uniquely qualified to serve the city in this capacity.

I received my Bachelor of Engineering degree in Civil Engineering from the University of Delaware in 2009. I have 11 years of progressive experience in the railroad industry. My duties included oversight of railroad infrastructure within railroad company and Federal standards. I worked with contractor and company forces to maintain a safe and efficient transportation system. Other duties included monitoring safety compliance, creating capital program requests, and determining the cause of accidents and other infrastructure failures.

In 2017, I had the opportunity to become a Railroad Safety Inspector with the Federal Railroad Administration. In this role, I am responsible for monitoring compliance with Federal Railroad Safety laws and regulations. These regulations govern railroad workplace safety, bridge safety, and minimum track infrastructure safety standards.

I would be honored to serve the city as Commissioner on the Newburyport Water and Sewer Commission. The services the Water and Sewer Department provide affect the residents and visitors of the city. Many people take this infrastructure for granted with little thought of how its failure could affect them. It is important to have members of the board who recognize the need to represent the interests of all members of the community.

Sincerely,



Owen Smith

Owen D. H. Smith

175 Storey Avenue
Newburyport, MA 01950
(631) 879-7964
osmith87@gmail.com

EDUCATION AND CERTIFICATIONS

University of Delaware, Newark, DE (May 2009)

Bachelor of Engineering, Civil Engineering

Delaware Association of Professional Engineers (October 2008)

Engineer in Training Certificate #2003

EXPERIENCE

Railroad Safety Inspector (Track)– Federal Railroad Administration, Newburyport, MA

December 2017 - Present

Responsible for ensuring compliance with Federal regulations on over 2,500 miles of mainline track:

- Perform field audits of railroads for compliance with Roadway Worker and Track Safety regulations in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut
- Planned inspections based off risk, compliance history, and accident history. Developed a spreadsheet to assist with prioritizing inspection points.
- Initiate enforcement actions against railroads, companies, and individuals based off internal guidance.
- Investigate derailments, close calls, and other incidents to determine if Federal regulations complied with
- Mentor new Railroad Safety Inspectors to assist them with completing the on-the-job training process
- Meet with senior leadership of railroads and FRA to discuss compliance issues.

Assistant Chief Engineer– Keolis Commuter Services, Somerville, MA

March 2016 – December 2017

Responsible for ensuring compliance with MBTA Commuter Rail Contract required maintenance work across the entire system:

- Oversee the daily track maintenance operation for the nation's 5th busiest commuter railroad
- Manage approximately 175 union employees and 12 supervisors
- Plan the annual installation of 50,000 crossties and 10 linear miles of rail
- Develop and hold employees accountable for their safety performance
- Instituted a fair and equitable discipline process
- Conduct frequent inspections to determine asset condition
- Work with multiple departments to improve safety performance
- Investigate safety incidents and document findings

Rail Engineer– HDR Engineering, Boston, MA

January 2014 – March 2016

Worked as a consultant to state agencies focusing on the area of Railroad Track Design and Maintenance:

- Perform preliminary design work for yard and layover facilities for various MassDOT sponsored projects in the Commonwealth of Massachusetts
- Issue bid documents and technical specifications for heavy repair and construction projects sponsored by MassDOT
- Conduct site visits to assess constructability and determine client needs
- Obtain and review field surveys for future design work
- Provide guidance to other staff in regards to industry practice and relevant design standards

- Perform cost estimate work for track construction and maintenance projects

Roadmaster of Production – Massachusetts Bay Commuter Railroad, Somerville, MA

January 2013 – January 2014

Responsible for ensuring compliance with MBTA Commuter Rail Contract required maintenance work across the entire system:

- Supervise 40 union employees on production tie and rail gangs
- Perform pre-trip inspections of project areas to plan for efficient use of labor and material
- Estimate quantities of required material, submit project schedules and project completion dates for various rail and tie projects
- Monitor work processes through various stages of the production sequence to ensure quality standards are met
- Analyze and implement work processes and procedures to improve safety and efficiency
- Oversaw MBCR personnel during the 2013 Cape Flyer upgrade project where 20,000 ties were installed over approximately 20 miles of track. Coordinated with MBTA, Massachusetts Coastal Railroad, project consultants, and contractors to ensure the Middleborough to Buzzards Bay section of track was completed on time

Roadmaster – CSX Transportation, Point of Rocks, MD

January 2011 – January 2013

Responsible for daily maintenance of over 150 miles of mainline track:

- Directly supervised 30 contract employees, ensuring safe work practices, rules compliance, and productivity
- Coordinated manpower to meet the needs of capital projects, outside party requests, and daily maintenance
- Ensured that FRA Part 213 Defects, detected rail defects, and geometry car exceptions were handled with the appropriate remedial actions in a timely manner
- Supervised track inspectors to ensure that defects were being addressed correctly and that the proper frequency was met
- Planned work and allocated resources to ensure necessary maintenance was completed with minimum disruption to operations
- Built rapport with state, county, and municipal governments to address road crossing and storm water management issues affecting CSX Right of Way and local communities
- Worked with industries regarding switch installations and quarterly inspections
- Led the restoration of train service after major snowstorms, hurricanes, and derailments
- Provided input and reviewed design recommendations from CSX's general engineering consultant.

SKILLS

Proficient in MS Office Suite (Word, Excel, PowerPoint, Outlook); Working knowledge in ArcGIS and Microstation; Basic knowledge of AutoCAD

FRA certified track inspector

MEMBERSHIPS AND HONORS

- Full Member – American Railway Engineering and Maintenance of Way Association (2008–Present)