



Real Property Reuse Committee Agenda

City of Newton **In City Council**

Tuesday, March 22, 2016

7:00 PM
Room 211

Items Scheduled for Discussion:

- #92-16 **Amendments to the Real Property Reuse Ordinance****
COUNCILORS ALBRIGHT AND KALIS requesting amendments to Chapter 2, Section 7. Sale or lease of city owned real property, of the City of Newton Revised Ordinance, 2012 (The Real Property Reuse Ordinance) to clarify how properties are classified in regards to purpose, use, and ownership; the procedure to handle reused properties; and to address any other changes that might be needed. [02/17/16 @ 12:04 PM]

Respectfully submitted,

Susan S. Albright, Chair

The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, *please contact Jini Fairley, at least two days in advance of the meeting: jfairley@newtonma.gov, or 617-796-1253. For Telecommunications Relay Service dial 711.*

personal, belonging to the city shall, at the close of each financial year, make and transmit to the mayor and comptroller of accounts an inventory thereof and an estimate of its value for each such item of property with a value of one hundred dollars (\$100.00) or more. Each such item shall be tagged with an inventory control number to be assigned by the purchasing agent. The comptroller shall audit at least one department's property inventory each year and shall submit a report of the comptroller's findings to the city council. (Rev. Ords. 1973, § 2-5; Ord. No. U-9, 5-2-94)

Sec. 2-4. Workweek for certain employees; overtime.

(a) The provisions of chapter 149, section 33A of the General Laws shall apply to the services and compensation of persons employed by the city, except such as are excluded by such section, who are compensated upon the basis of an hourly wage or employed as building custodians, janitors, sweepers, time and construction clerks (excluding the senior time and construction clerk), time and equipment control clerks, head water meter reader and water meter inspector, water meter readers or water meter repairmen, but shall not apply to the services or compensation of any other employee. The rate of pay for work required to be compensated for as overtime by such section shall be for hourly wage employees, one and one-half (1-1/2) times the regular hourly wage of such employee; for building custodians, janitors and sweepers, the hourly rate of pay of such employee shall be determined by dividing the annual rate of pay of such employee by two thousand eighty (2,080) hours; and for time and construction clerks, time and equipment control clerks, head water meter reader and water meter inspector, water meter readers and water meter repairmen, one and one-half (1-1/2) times the hourly rate of pay of such employee determined by dividing the annual rate of pay of such employee by two thousand eighty (2,080) hours.

(b) Notwithstanding the above, the rate of pay for work required to be compensated for as overtime by such section for building custodians employed in the city hall shall be one-and-one-half (1-1/2) times the hourly rate of pay of such custodians determined by dividing the annual rate of pay of such custodians by two thousand eighty (2,080) hours. (Rev. Ords. 1973, § 2-7)

Sec. 2-5. Salary list to be appended to appropriation ordinance; increase in compensation.

(a) There shall be appended to the annual appropriation order, as made up by the committee on finance and as passed by the city council, a list specifying under one heading all salaries payable from the tax levy or otherwise, and indicating by grouping all cases in which more than one salary is received by the same person, or in which the same person receives a salary for services in more than one office.

(b) The rate of compensation payable to any officer or employee of the city, except officers or employees under the direction of the school committee, shall not be increased without the approval of the mayor; provided, that this provision shall not apply to regular step rate increases provided for in the annual budget and appropriation orders based thereon. (Rev. Ords. 1973, § 2-8)

Sec. 2-6. City reports.

All city department reports shall be printed in pamphlet form of uniform size and two (2) copies of each report shall be filed promptly with the city clerk who shall cause the two (2) sets of such reports to be bound together and held in the clerk's office for public inspection. Two (2) sets of such reports shall also be filed with the librarian. A further distribution of departmental reports may be made by the various departments with the written approval of the mayor. (Rev. Ords. 1973, § 2-9; Ord. No. 302, 11-6-78)

Sec. 2-7. Sale or lease of city owned real property.

Whenever a vote is taken or a policy decision has been adopted by the appropriate city agency or officer to

declare any city owned real property or portion thereof available for potential sale or lease, the procedure for determining the use to which the real property shall be put and the terms of any disposition thereof shall be in accordance with the provisions of this section. Notwithstanding the foregoing, this section shall not apply to the lease of city owned real property for wireless communication equipment which is permitted as of right pursuant to section 30-6.9, provided, however, where the lease of city owned real property for wireless communication equipment is subject to the requirement of a special permit pursuant to section 30-6.9, then the procedures outlined in subsection (8) of this section shall apply. Notwithstanding the foregoing, this section shall not apply to the lease of city owned real property for solar panels; provided, however, that in the case of such a lease the procedures outlined in subsection (9) of this section shall apply.

- (1) The city agency or officer declaring said property available for sale or lease shall submit to the clerk of the city council a written record of the vote or policy decision within thirty (30) days of said vote or decision. The clerk of the council shall forthwith notify the director of planning and development of said vote or decision. Within thirty (30) days of said notification, the director of planning and development shall submit a written report to the clerk of the council with recommendations as to whether this property, or any portion thereof, should be declared unnecessary for all municipal purposes. Upon receipt of the report of the director of planning and development, the clerk of the council shall place the matter on the docket of the city council for referral to its real property reuse committee. The membership of the real property reuse committee shall include one councilor from each ward in the city, to be designated by the president of the city council. The chairman of the real property reuse committee shall be designated by the president of the city council.
- (2) The real property reuse committee shall oversee the following steps:
 - a) There shall be an initial determination made as to whether some or all of the subject property shall be declared available for sale or lease. If the decision is made that the property continue to be utilized by the sending city agency, or if the decision is made to transfer the care, custody, management or control over the subject property to another city agency or office, then this recommendation shall be referred to the city council. In such event, the city council may, by a vote of two-thirds (2/3) of the full city council, transfer the care, custody and control of the subject property to another city agency or officer, or to the same city agency for use for another purpose subject to the approval of the mayor, pursuant to G.L. c. 40, § 15A. Should the vote to transfer the subject property to another city agency or to the same city agency for use for another purpose fail to pass by the required two-thirds vote, then the subject property shall return to the sending agency for use for the same purpose.
 - b) In the event that the city council does not determine that the property continue to be utilized by the sending agency or be transferred to another city agency or officer, then there shall be created a joint advisory planning group. This group shall consist of not more than fourteen (14) persons, half of whom shall be appointed by the city council and half appointed by the mayor. This group shall elect its own chairperson. It shall be the responsibility of this group to work with the department of planning and development to identify alternatives for the future use of the subject property. The joint advisory planning group and the department of planning and development shall file separate written reports containing their respective recommendations to the real property reuse committee. Such reports shall be filed simultaneously. This process shall be completed within ninety (90) days from the date of the initial referral of the matter to the real property reuse committee or within such further time as the city council may determine.
 - c) Following submission of the report of the department of planning and development and the report of the joint advisory planning group to the real property reuse committee, the item shall be assigned by the city council for a public hearing before said committee, which hearing shall be held not less than thirty (30) days nor more than sixty (60) days from the date of submission of said reports. The

purpose of this hearing shall be to hear the views of the public and all interested parties with regard to the future use of the subject real property. Notice of said public hearing shall be provided in accordance with G.L. c. 40A, § 11 as amended.

- (3) Within sixty (60) days of the public hearing, the real property reuse committee shall make its recommendation to the city council. In making its recommendation the real property reuse committee shall take into account the effect of the proposal on the neighborhood and on the city as a whole and determine that its recommendation is consistent with the goals and policies of the Comprehensive Plan for the City of Newton. The committee's recommendation shall include recommendations as to (1) the disposition and future use of the subject real property; (2) the specific use characteristics of the subject real property, including recommendations with respect to zoning and other land-use controls; and (3) the minimum financial terms for sale or lease of the property or any portion or portions thereof.
- (4) The city council shall, within sixty (60) days from receipt of the recommendation of the real property reuse committee, submit its recommendations by resolution to the mayor for the disposition and future use of the subject real property, and may authorize the use of the subject real property, and may authorize the mayor to sell or lease the subject real property and set the minimum financial terms for such sale or lease.
- (5) Notwithstanding the foregoing, in the case of the potential sale or lease of all or a portion of city owned real property without buildings thereon, the real property reuse committee may, upon a majority vote, waive the requirement contained in subparagraph (2)(b) that there be created a joint advisory planning group.

In such event, the city council shall utilize the report prepared by the director of planning and development as required in paragraph (1). Provided that notice as set forth in subparagraph (2)(c) has been given, the public hearing required by subparagraph (2)(c) may be held on the same night on which the real property reuse committee votes to waive the requirement that there be created a joint advisory planning group, but in any event, such public hearing shall be held no more than sixty (60) days from the date the real property reuse committee votes to waive such requirement.

- (6) Notwithstanding the provisions of subparagraph (2)(a) above, proposals for inter-departmental transfers of real property initiated by city departments or agencies shall not be subject to the provisions of section 2-7, but shall comply with the provisions of G.L. c. 40, § 15A.
- (7) Requests for the sale or lease of city owned property, including the abandonment of the city's rights in real property, shall first be made to the city agency or officer having custody of such property. The provisions of section 2-7 shall apply in the event that such city agency or officer declares such property available for sale or lease.
- (8) In any instance where the lease of city owned property for wireless communication equipment is subject to the requirement of a special permit pursuant to section 30-6.9, the following procedures shall apply:
 - a) The executive department shall submit a proposal for such lease to the city council for approval which proposal shall indicate the location of the city owned property for which a lease is sought and such other relevant information as may be available as to the likely types of wireless communication equipment that may be placed at the site. In preparing the proposal, the executive department consultation shall be made with such city departments, councilors for the ward involved and neighborhood groups as the executive department may consider appropriate.
 - b) At the earliest opportunity, the city council shall, for the purposes of this section, assign the proposal

for public hearing before its committee dealing with matters of public buildings and this committee shall hold a public hearing. Due notice of such public hearing shall be given to the abutters of the city owned real property which is proposed for lease and to the abutters of such abutters. Said notice shall include the location of the property proposed for lease for wireless equipment and, if available, a description as to the likely types of wireless communication equipment that may be placed at the site. The committee shall deliberate and, if recommending approval, may affix such restrictions and conditions to the lease terms, other than financial conditions, as it deems in the public interest. The committee shall make a recommendation to the city council within forty-five (45) days following the public hearing as to whether the proposed lease is in the public interest.

- c) Within sixty (60) days of receipt of the committee report, the city council shall vote as to whether to authorize the mayor to lease such city owned property for wireless communication equipment. If the vote is in the affirmative, then the mayor may proceed to issue a request for proposals on such terms and conditions as determined by the mayor to be in the public interest. If the vote is in the negative, then the mayor shall not lease such property for wireless communication equipment, provided, however, that nothing herein shall be construed to preclude the council from authorizing the mayor to lease such property pursuant to a subsequent request to lease such property.
 - d) The requirement of notice and a public hearing may be waived by a three-fourths vote of those members of the city council present and voting.
- (9) In any instance where the lease of city owned property for solar panels is part of an arrangement under which the city uses power produced by the solar panels and/or receives net metering credits pursuant to state law, the following procedures shall apply:
- a) The executive department shall submit a proposal for such lease to the city council for approval. Such proposal shall indicate the location of the city owned property for which a lease is sought and such other information as may be available regarding the likely types of solar panels and related equipment that may be placed at the site. In preparing the proposal, the executive department shall consult with such city departments, councilors for the ward involved and abutting property owners as the executive department may consider appropriate, taking into account the procurement requirements applicable under the General Laws.
 - b) At the earliest opportunity, the city council shall, for purposes of this section, assign the proposal for public hearing before its committee dealing with matters of public buildings and/or other city owned real property and this committee shall hold a public hearing. Due notice of such public hearing shall be given to the abutters of the city owned real property which is proposed for lease and to the abutters of such abutters. Said notice shall include the location of the property proposed for lease for solar panels and related equipment and, if available, a description as to the likely types of solar panels and related equipment that may be placed at the site. The committee shall deliberate and, if recommending approval, may affix such restrictions and conditions to the lease terms, other than financial conditions, as it deems in the public interest. The committee shall make a recommendation to the city council within forty-five (45) days following the public hearing as to whether the proposed lease is in the public interest.
 - c) Within sixty (60) days of receipt of the committee report, the city council shall vote as to whether to authorize the mayor to lease such city owned property for solar panels and related equipment. If the vote is in the affirmative, then the mayor may proceed on such terms and conditions as determined by the mayor to be in the public interest. If the vote is in the negative, then the mayor shall not lease such property for solar panels and related equipment, provided, however, that nothing herein shall preclude the council from authorizing the mayor to lease such property pursuant to a subsequent

request to lease such property.

d) The requirement of notice and public hearing under subsection (9)(b) may be waived by a three-fourths vote of those members of the city council present and voting.

(10) In any sale of city owned real property for which community preservation funds have previously been expended to rehabilitate or restore historic resources pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, such real property shall be bound by a perpetual historic preservation restriction pursuant to G.L. c. 184, sec. 31-33 held by the City or its designee, in a form acceptable to the Massachusetts Historical Commission.

(11) The requirements of this section that are not otherwise required by law or by charter may be waived in whole or in part by a two-thirds (2/3) vote of those members of the city council present and voting. (Rev. Ords. 1973, § 2-10; Ord. No. 222, 6-6-77; Ord. No. 315, 2-20-79; Ord. No. S-52, 4-2-84; Ord. No. S-52A; Ord. No. T-31, 6-5-89; Ord. No. T-212, 1-21-92; V-209, 11-2-98; Ord. No. X-196, 03-06-06; Ord. No. X-243, 12-4-06; Ord. No. Z-28, 05-19-08; Ord. No. Z-106, 04-02-12)

Sec. 2-8. Reserved

Sec. 2-9. Salary and benefits of school committee members.

Each school committee member, with the exception of the mayor, shall receive an annual compensation of four thousand eight hundred seventy-five dollars (\$4,875), payable monthly; and each such member shall be eligible to participate in the group insurance program available to other city officials and employees. (Ord. No. S-88, 3-4-85; V-133, 9-15-97)

Sec. 2-10. Gifts of tangible personal property, acceptance thereof

(a) Definitions: For purposes of this section, the following words shall be defined as follows:

Gift receiving entity: The mayor, a department, board, agency, commission, or committee of the city that receives a gift of tangible personal property.

Tangible personal property: Property that has physical form and characteristics that can be seen, weighed, measured, felt, or touched, or is in any way perceptible to the senses. Money, interests in real property, and intangible property are specifically excluded from this definition.

(b) Whenever a gift receiving entity receives and accepts a gift of tangible personal property, such gift shall be deemed accepted pursuant to G.L. c. 44, §53A½, provided, however that each such gift is subject to the following restrictions:

- (1) A gift may be received and used by the gift receiving entity only in accordance with the purpose of such gift, or if no restrictions are attached to the gift, for such other purpose as it deems advisable; and
- (2) The gift receiving entity may accept only those gifts which are consistent with its respective duties and functions; and
- (3) The receipt and use of such gift may not incur new and different costs on the part of the gift receiving entity.

(c) Gifts of tangible personal property that do not come within the restrictions in subsection (b) may be accepted