

# City of Fall River Massachusetts

## Office of the City Clerk

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2017 AUG 15 P 4: 47

ALISON M. BOUCHARD  
CITY CLERK

CITY CLERK \_\_\_\_\_ INÊS LEITE  
FALL RIVER, MA ASSISTANT CITY CLERK

*\*AMENDED AGENDA*

*(ORIGINAL AGENDA POSTED ON August 11, 2017 AT 3:09 PM)*

**AUGUST 11, 2017**  
**MEETINGS SCHEDULED FOR NEXT WEEK**  
**CITY COUNCIL CHAMBER, ONE GOVERNMENT CENTER**

**MONDAY, AUGUST 14, 2017**  
**5:15 P.M. COMMITTEE ON ORDINANCES AND LEGISLATION**

**TUESDAY, AUGUST 15, 2017**  
**AGENDA**

**5:30 P.M. PUBLIC HEARINGS**  
**Housing Development Zone**

1. Establishment of a proposed South End Market Rate Housing Zone (HD Zone) and Housing Development Zone Plan (HD Zone Plan).

**Curb Removals**

2. Roland Fournier, 51 Barclay Street, requests the removal of curbing as follows:

	Existing Driveway	Proposed Driveway Access	Existing To Be Replaced	Total Driveway Access
51 Barclay Street	24'	7' 10"	0'	31' 10"

51 Barclay has an existing 12 foot opening to a garage, and a second 12 foot opening on the south side of the house. The petitioner is requesting to expand the southern curb cut to the north by 7 feet 10 inches. There are no evident impacts to signage or utility infrastructure. The work would eliminate one parking spot on the street, but would improve access to the southern driveway for off-street parking.

3. Joe Medeiros, 742 Sharps Lot Road, Swansea, MA, requests the removal of curbing as follows:

	Existing Driveway	Proposed Driveway Access	Existing To Be Replaced	Total Driveway Access
414 Bay Street	0'	18'	0'	18'

414 Bay Street is a corner lot on Bay Street and Sachem Street. There are no existing curb cuts. Any curb cut must be constructed such that the existing utility pole and fire hydrant are not disturbed. The installation does not represent a significant restriction to on street parking access.

**ADA Coordinator: Gary P. Howayeck, Esq. 508-324-2650**

One Government Center • Fall River, MA 02722

TEL 508-324-2220 • FAX 508-324-2211 • EMAIL [city\\_clerks@fallriverma.org](mailto:city_clerks@fallriverma.org)

4. Maria Sarmento, 614 Grinnell Street, requests the removal of curbing as follows:

	Existing Driveway	Proposed Driveway Access	Existing To Be Replaced	Total Driveway Access
614 Grinnell Street	10.5'	12'	0'	22.5'

The petitioner is requesting an additional curb cut on the opposite (east) side of the property from existing curb cut on the west side of the property. There are no evident impacts to signage or utility infrastructure. The installation does not represent a significant restriction to on street parking access.

5. John Moniz, 110 Hemlock Street, requests the removal of curbing as follows:

	Existing Driveway	Proposed Driveway Access	Existing To Be Replaced	Total Driveway Access
110 Hemlock Street	15'	7'	0'	22'

The petitioner is requesting an additional curb cut extending the existing curb cut within the property. There are no evident impacts to signage or utility infrastructure. The installation does not represent a significant restriction to on street parking access and would increase off-street parking availability for tenants of the property.

6. Kenneth Tavares, 107 Mount Hope Avenue, requests the removal of curbing as follows:

	Existing Driveway	Proposed Driveway Access	Existing To Be Replaced	Total Driveway Access
107 Mt. Hope Ave.	25.4'	10'	0'	35.4'

The petitioner is requesting an additional curb cut extending the existing curb cut within the property. There are no evident impacts to signage or utility infrastructure. The installation does not represent a significant restriction to on street parking access and would increase off-street parking availability for tenants of the property.

7. Portuguese Madeirense Sports, Inc., 106 Webster Street requests the removal of curbing as follows:

	Existing Driveway	Proposed Driveway Access	Existing To Be Replaced	Total Driveway Access
102/106 Webster St.	18' 2"	20' 6"	11' 4"	27' 4"

The previously existing structure at 102 Webster Street was demolished. The petitioner is requesting to close up previous driveway access to 102 Webster and increase the existing access to 106 Webster across frontage of 102 Webster. 102 Webster is currently configured as an extension of parking serving 106 Webster. There are no evident impacts to signage or utility infrastructure. The installation does not represent a significant restriction to on street parking access and would increase off-street parking availability for the owners of 102/106 Webster Street.

8. Antonio DaSilva, 148 Summer Street, Rehoboth, MA, requests the removal of curbing as follows:

	Existing Driveway	Proposed Driveway Access	Existing To Be Replaced	Total Driveway Access
116 Lonsdale St.	16'	16'	0'	32'

116 Lonsdale is a multi-family residence at the corner of Lonsdale Street and Nashua Street. An existing 16' driveway opening is located on Lonsdale Street. The petitioner is requesting to open a 16' section facing Nashua Street for additional off-street parking. There are no evident impacts of signage or utility infrastructure. The work would eliminate one parking spot on the street, but would provide two off-street parking spaces.

### **Second Hand Article Store**

9. Beverly Post, d/b/a Anything, 507 King Road, Tiverton, RI 02878 for permission to operate and maintain a second hand article store located at 1791 South Main Street (used furniture and household items to be sold.)

### **6:00 P.M. COMMITTEE ON FINANCE OR IMMEDIATELY FOLLOWING THE CITY COUNCIL PUBLIC HEARINGS IF IT RUNS PAST 6:00 P.M.**

1. \*Order establishing spending limits for Revolving Funds for FY 2018 (referred 7-11-17)
2. \*Order to adopt Chapter 467 of the Acts of 2008 "An Act Relative to the Retirement Benefits of Emergency Medical Technicians" (tabled 2-21-17)

### **7:00 P.M. REGULAR MEETING OF THE CITY COUNCIL OR IMMEDIATELY FOLLOWING THE COMMITTEE ON FINANCE MEETING IF THAT MEETING RUNS PAST 7:00 P.M.**

#### **PRIORITY MATTERS**

1. \*Confirmation of Jason Burns to the Housing Authority
2. \*Confirmation of David H. Saber to the Zoning Board of Appeals (Alternate Member)
3. \*Mayor and request for residency waiver for Rochelle St. Martin Pettenati to serve as member of the Cultural Council
4. \*Mayor and order of land acquisition from the Atlantis Charter School
5. \*Mayor and proposed ordinance establishing a Municipal Hearings Officer and procedures under M.G.L. 40U
6. \*Corporation Counsel regarding Fall River City Council v. Maura Healey, Attorney General

#### **PRIORITY COMMUNICATIONS**

7. Traffic Commission recommending amendments to the traffic ordinances
8. \*Attorney General's Office regarding an open meeting law complaint
9. \*The Preservation Society of Fall River, Inc. requesting the appointment of Kathryn Kenney to the Fall River Historic District Commission
10. \*Board of Election Commissioners re: Charter Commission ballot question and summary to be placed on the Municipal Election Ballot, November 7, 2017
11. \*Board of Election Commissioners and warrant for Preliminary Municipal Election, September 12, 2017 and Municipal Election, November 7, 2017

#### **COMMITTEE REPORTS**

Committee on Public Works and Transportation recommending:

##### Adoption:

12. \*Order – acceptance of a "Complete Streets Policy"

**ADA Coordinator: Gary P. Howayeck, Esq. 508-324-2650**

## **ORDINANCES**

### **Second Reading and enrollment:**

13. \*Proposed Ordinance – Personnel, Manager of Operations – Streets and Highways DCM
14. \*Proposed Ordinance – Personnel, Project Manager, Facilities Maintenance
15. \*Proposed Ordinance – Personnel, Director of Facilities Maintenance
16. \*Proposed Ordinance – Personnel, Network Administrator (IT)

### **Second Reading and enrollment, as amended:**

17. \*Proposed Ordinance – Personnel, Human Resources Generalist

## **RESOLUTIONS**

18. \*Committee on Finance convene with City Administrator and Director of Financial Service to discuss FY2018 budget cuts within various departments
19. \*Committee on Finance convene with Administration to review all expense adjustments made in balancing of the Fiscal Year 2018 budget

## **CITATIONS**

20. Krishan Gupta – service as City Auditor
21. The Vieira Family & CAVS Restaurant – 2<sup>nd</sup> Anniversary
22. Alfredo P. Alves – 70<sup>th</sup> Birthday

## **ORDERS – HEARINGS**

### **Curb Removals:**

23. Roland Fournier, 51 Barclay Street – total of 31 feet 10 inches at 51 Barclay Street
24. Joe Medeiros, 742 Sharps Lot Road, Swansea – total of 18 feet at 414 Bay Street
25. Maria Sarmiento, 614 Grinnell Street – total of 22.5 feet at 614 Grinnell Street
26. John Moniz, 110 Hemlock Street – total of 22 feet at 110 Hemlock Street
27. Kenneth Tavares, 107 Mt. Hope Avenue – total of 35.4 feet at 107 Mt. Hope Avenue
28. Portuguese Madeirense Sports, Inc., 106 Webster Street – total of 27 feet 4 inches at 102/106 Webster Street
29. Antonio DaSilva, 148 Summer Street, Rehoboth – total of 32 feet at 116 Lonsdale Street

### **Second Hand Article Store:**

30. Beverly Post, d/b/a Anything at 1791 South Main Street

## **ORDERS – MISCELLANEOUS**

31. \*Home Rule Petition – An Act Authorizing the City of Fall River to grant additional licenses for the sale of alcoholic beverages
32. Police Chief's report on licenses:  
Taxicab Drivers:

Akeem Barlow	Julieann Bennett	Glen J. Boutin	Michael Chenard
Scott Farias	Susan Griego	Tayyab Hussain	Preston S. McNeil
Ricardo Raposa	David T. Rioux	Ashley Smith	Jeremiah Soares
33. Auto Repair Shop license renewals:  
Kenneth Rapoza, JR's Superlube, Inc. at 155 Milliken Boulevard  
Kenneth Rapoza, JR's Superlube, Inc. at 334 Rhode Island Avenue  
Pedro Albergaria, Pete's Auto Repair LLC at 1058 Slade Street

### **COMMUNICATIONS – INVITATIONS – PETITIONS**

34. Drainlayer licenses
  - Dixon, Inc.
  - T. Ford Company, Inc.
  - MRC Contracting, Inc.
35. \*Claims
36. Structure over a public way – Banner on South Main Street at Center Place for YMCA of Greater Fall River
37. Southcoast MA Mini Maker Faire requesting permission to hang a banner on the rail of Government Center (South Main Street side) from Sept. 25, 2017 to Oct. 1, 2017
38. Fall River Opioid Task Force requesting permission to hang a three (3) banners on the rails of Government Center on August 31, 2017
39. \*Office of Inspector General regarding review of audit report for the period of July 1, 2015 through June 30, 2016
40. \*City resident requesting the City relinquish right, title and interest to a section of the unaccepted portion of Alice Street

#### **City Council Committee/Meeting Minutes:**

41. \*Committee on Ordinances and Legislation – August 1, 2017
42. \*Committee on Ordinances and Legislation – July 11, 2017
43. \*Committee on Ordinances and Legislation – June 26, 2017
44. \*Committee on Ordinances and Legislation – May 23, 2017
45. \*City Council Meeting – March 21, 2017

### **BULLETINS – NEWSLETTERS – NOTICES**

46. Notice of Casualty and Loss at 251 Eastern Avenue
47. Environmental Notification Form on behalf of Liberty Utilities for sediment remediation activities proposed at 120 Charles Street

### **OTHER MATTERS (to be acted upon if recommendation is received:)**

#### **Referred by Committee on Finance:**

Order establishing spending limits for Revolving Funds for FY 2018  
Order to adopt Chapter 467 of the Acts of 2008 "An Act Relative to the Retirement Benefits of Emergency Medical Technicians"

  
City Clerk

**ITEMS FILED AFTER THE AGENDA WAS PREPARED:**  
**CITY COUNCIL MEETING DATE: AUGUST 15, 2017**

**COMMITTEE REPORTS**

Committee on Ordinances and Legislation recommending:

Adoption, as amended:

\*Resolution – Allow submission of communications via email or regular mail for Citizen Input Time

First reading, as amended:

\*Proposed ordinance – Community Utilities personnel modifications

**ORDERS – MISCELLANEOUS**

Order amending dates for September City Council meetings

## CITY OF FALL RIVER

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To the City Council

Councillors:

The Committee on Ordinances and Legislation at a meeting held on August 14, 2017, voted unanimously to recommend that the accompanying resolution be adopted, as amended, with Councilors Joseph D. Camara and Pam Laliberte-Lebeau absent and not voting.

  
Clerk of Committees

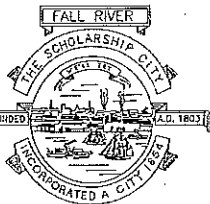
**City of Fall River**  
*Office of the Corporation Counsel*

**JASIEL F. CORREIA II**  
Mayor

**RECEIVED**

2017 AUG 15 P 1:35

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA



**JOSEPH I. MACY**  
Corporation Counsel

**GARY P. HOWAYECK**  
Assistant Corporation Counsel

**JESSICA A. ADLER**  
Assistant Corporation Counsel

August 15, 2017

Fall River City Council  
One Government Center  
Fall River, MA 02722

RE: Citizen Input Time

Dear Councilors :

In accordance with your request of last evening I am enclosing a revised Citizen Input Time Resolution. The change requested is contained in the first full paragraph; the remainder is the same except the last sentence has been changed to reflect the fact that a resident may not be present. It is clear that all time limits still apply and the President determines the legitimacy of any subject.

  
Joseph I. Macy, Corporation Counsel



# City of Fall River, *In City Council*

BE IT RESOLVED, that the City Council does hereby establish a "Citizens Input Time" whereby any resident of the City of Fall River may address the Council sitting at the Committee on Finance at each meeting of the Committee, prior to the beginning of the meeting\* or after all other items have been disposed of, prior to each regular Council meeting, subject to the following rules:

Residents with disabilities who are unable to attend a meeting shall be allowed to forward their comments via email or regular mail and their communication be read during citizen input time, as if the person was present at the meeting.\*

Three (3) minute time limit for each resident.

Subject to be addressed must be matters concerning the City Government.

Address shall be limited to that particular matter.

Address must always remain within the bounds of decorum.

Person will be allowed to deliver his address without interruption.

After the address, the members of the Council may ask pertinent questions of the person, who may respond if he so desires.

President shall determine whether the subject proposed to be discussed is a legitimate issue, subject to appeal and decision of the Council, or the President may request the Council to make such a determination.

Citizen input time shall not exceed thirty (30) minutes at each Finance Committee Meeting.

If resident is present at the meeting\*, must sign in with the City Clerk at any given time until the Committee on Finance adjourns\*.

## **CITY OF FALL RIVER**

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To the City Council

Councillors:

The Committee on Ordinances and Legislation, at a meeting held on August 14, 2017, voted unanimously to recommend that the accompanying proposed ordinance be passed through first reading, with Councilors Joseph D. Camara and Pam Laliberte-Lebeau absent and not voting.

  
Clerk of Committees

# City of Fall River, *In City Council*

BE IT ORDAINED, by the City Council of the City of Fall River, as follows:

That Chapter 50 of the Revised Ordinances of the City of Fall River, Massachusetts, 1999, which chapter relates to Personnel, be amended as follows:

## Section 1

By striking out in Section 50-281 which section relates to classification of position and compensation grades, the following:

<u>Class Title/In House Title</u>	<u>Compensation Grade</u>
Laborer (Water System) Water Maintenance Worker II	10B
Motor Equipment Operator and Water System Laborer/Water Maintenance Worker II or Reservation Caretaker	11B
Special Heavy Motor Equipment Operator (Water Dept.) Water Maintenance Worker I	16B
Water Reservation Caretaker	11B
Water System Foreman/Supervisor Water Distribution and Maintenance	19B
Senior Water Service Inspector/Chief Water Inspector or Water Service Worker II	19C

And by inserting in place thereof the following:

<u>Class Title/In House Title</u>	<u>Compensation Grade</u>
Water Maintenance Worker II	16B
Water Maintenance Worker I	19B
Water Maintenance Worker I (with CDL or Backhoe License)	20B
Water Maintenance Worker I (with CDL and Backhoe License)	22B
Water Maintenance Worker I (advanced backhoe operator)	28B
Water Maintenance Worker I (advanced backhoe operator with MA D-4 license)	29B
Water Maintenance Supervisor	25B
Water Maintenance Supervisor (with MA D-1 license)	27B
Water Maintenance Supervisor (with MA D-4 License)	29B

Water Division Sr. Engineering Aide	26B
Water Maintenance Sr. Engineering Aide (with MA D-4 license)	29B
Chief Water Inspector	26B
Chief Water Inspector (with MA D-4 license)	29B
Community Utilities – Asset Manager/GIS Specialist	§ 50-310
Community Utilities – Deputy Administrator	§ 50-310
Community Utilities – Project Manager	§ 50-310
Community Utilities – Project Specialist	§ 50-310

### **Section 2**

By inserting in Section 50-307, which section relates to salary schedules for positions covered by Local 3177 other than custodial positions, the following:

29B:	<u>Minimum</u>	<u>2<sup>nd</sup> Step</u>	<u>3<sup>rd</sup> Step</u>	<u>4<sup>th</sup> Step</u>	<u>Maximum</u>
7-1-2017	\$1,877.05	\$1,941.34	\$1,964.67	\$1,993.94	\$2,023.18

### **Section 3**

By inserting in Section 50-310, which section relates to salary schedules for Water Department and Sewer Commission Supervisors, the following:

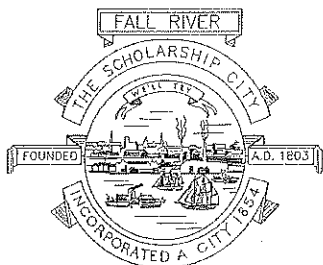
Community Utilities – Asset Manager/GIS Specialist	7/1/17 up to \$60,000 per annum
Community Utilities – Deputy Administrator	7/1/17 up to \$89,000 per annum
Community Utilities – Project Manager	7/1/17 up to \$72,817 per annum
Community Utilities – Project Specialist	7/1/17 up to \$56,494 per annum

CITY OF FALL RIVER  
**IN CITY COUNCIL**  
**AUG 15 2017**

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**Office of the City Clerk**

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**ADA Coordinator: Gary P. Howayeck, Esq. 508-324-2650**

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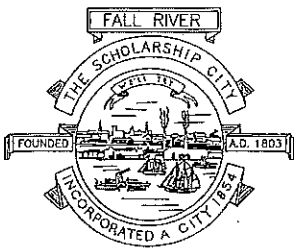
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#### **Referred by Committee on Finance:**

Order establishing spending limits for Revolving Funds for FY 2018  
Order to adopt Chapter 467 of the Acts of 2008 "An Act Relative to the Retirement Benefits of Emergency Medical Technicians"

  
City Clerk



City of Fall River  
Massachusetts  
Office of the Mayor

**FINANCE** /

RECEIVED

2017 JUL -6 P 4:59

CITY CLERK  
FALL RIVER, MA

**JASIEL F. CORREIA II**  
Mayor

July 6, 2017

The Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Dear Honorable Council Members:

Massachusetts General Laws Chapter 44, § 53E½ require spending limits be established for revolving funds for use by the City, departments, boards, committees, agencies and officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities.

Your approval of the associated appropriation order is respectfully requested.

**Ordered, that under the provisions of Massachusetts General Laws, Chapter 44, Section 53 E ½, the City of Fall River by vote of the City Council, hereby establishes authorized spending limits for the following Revolving Funds for FY 18:**

Fire Department	\$20,000	Hazardous Material Recovery
Community Services	\$50,000	Cleaning & Securing Buildings
Community Services	\$200,000	Demolition
Community Maintenance	\$10,000	Home Composting
Community Maintenance	\$10,000	Solid Waste – Recycling Recovery
Community Maintenance	\$40,000	Trolley & handicap Bus
Police Department	\$10,000	Moorings Maintenance
Community Maintenance	\$25,000	Street Light Poles Repairs/Replacement
School Dept	\$100,000	Summer Tuition
School Dept	\$50,000	Athletic Events
School Dept	\$25,000	Music Revolving
School Dept	\$5,000	School Store

# FINANCE /

School Dept	\$50,000	Culinary Arts Meals/ Functions
School Dept	\$200,000	Daycare Services
School Dept	\$175,000	School Buildings Use

Should you have any questions or concerns in this regard, please do not hesitate to contact Mary Sahady or me.

Sincerely,



Jasiel F. Correia II  
Mayor

CITY OF FALL RIVER  
IN CITY COUNCIL

JUL 11 2017

Referred to the Committee  
on Finance

July 11, 2017

Ordered, that under the provisions of Massachusetts General Laws, Chapter 44, Section 53 E ½, the City of Fall River by vote of the City Council, hereby establishes authorized spending limits for the following Revolving Funds for FY 18:

Fire Department	\$20,000	Hazardous Material Recovery
Community Services	\$50,000	Cleaning & Securing Buildings
Community Services	\$200,000	Demolition
Community Maintenance	\$10,000	Home Composting
Community Maintenance	\$10,000	Solid Waste – Recycling Recovery
Community Maintenance	\$40,000	Trolley & handicap Bus
Police Department	\$6,000	Moorings Maintenance
Community Maintenance	\$25,000	Street Light Poles Repairs/Replacement
School Dept	\$100,000	Summer Tuition
School Dept	\$50,000	Athletic Events
School Dept	\$25,000	Music Revolving
School Dept	\$5,000	School Store
School Dept	\$50,000	Culinary Arts Meals/ Functions
School Dept	\$200,000	Daycare Services
School Dept	\$175,000	School Buildings Use

CITY OF FALL RIVER  
IN CITY COUNCIL

JUL 11 2017

*Referred to the  
Committee on Finance*

ORDERED, that Chapter 467 of the Acts of 2008 "An Act Relative to the Retirement Benefits of Emergency Medical Technicians", be and the same is hereby accepted.

*Tabbed in Finance  
2-2-17*

CITY OF FALL RIVER  
IN CITY COUNCIL

FEB 07 2017

Referred to the  
Committee on Finance



City of Fall River  
Massachusetts  
Office of the Mayor

**FINANCE** *2*  
**RECEIVED**

2017 FEB -2 P 3:54

CITY CLERK  
FALL RIVER, MA

**JASIEL F. CORREIA II**  
Mayor

February 2, 2017

The Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Dear Honorable Council Members:

In compliance with the recently approved contract with AFSCME Local 1202 EMS Unit, I am forwarding an Order allowing the City to Adopt Chapter 467, "An Act Relative to the Retirement Benefits of Emergency Medical Technicians," paragraph G of subdivision (2) of Section 3 of Chapter 32 of Massachusetts General Laws, which legislation will place emergency medical personnel within Group 4 of the Retirement System. In accordance with the Collective Bargaining Agreement, this action will take effect on the last day of the contract June 30, 2019. Please know that the benefits of Group 4 are not retroactive, and will only be applied to years of service subsequent to the June 30, 2019 enactment.

Your support for this measure recognizes that our EMS personnel confront many of the same personal safety risks encountered by the members of other public safety departments. Your adoption of this Order is respectfully requested.

Best Regards,

Jasiel F. Correia II  
Mayor

CITY OF FALL RIVER  
IN CITY COUNCIL  
FEB 07 2017

*Referred to the  
Committee on Finance*

**Acts (2008)****FINANCE** *2***Chapter 467****AN ACT RELATIVE TO THE RETIREMENT BENEFITS OF  
EMERGENCY MEDICAL TECHNICIANS.**

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

Paragraph (g) of subdivision (2) of section 3 of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

A municipality may elect to place in Group 4 uniformed employees of municipal or public emergency medical service who are certified at an level by the department of public health as an emergency medical technician. This section shall take effect in a municipality upon its acceptance in the following manner: in a city having a Plan D or Plan I charter, by majority vote of its city council and approved by the manager; in any other city by majority vote of the city council and approved by the mayor; in a town, by vote of the board of selectmen.

*Approved January 9, 2009*

# FINANCE

2

## Fall River EMTs

Cost of Change of Job Group from Group 2 to Group 4 as of January 1, 2017 (brought forward to FY18)

### Demographic Information

Active Members	37
Total Salary	1,884,312
Average Salary	50,927
Average Service	6.8
Average Age	36.9

Costs (determined as of January 1, 2017)

1. Normal Cost	Current Job Group	Proposed Job Group	Increase
a. Total	248,664	414,041	165,377
b. Expected Contributions	170,417	181,934	11,517
c. Net Normal Cost	78,247	232,107	153,860
2. Actuarial Liability	2,884,549	3,116,199	231,650
3. Amortization of Increase in Liability (10 year level basis)			31,394
4. (1c) + (3)			185,254
4. Total estimated increase in appropriation for FY18: (4) with interest to 10/1/17			195,674

All appropriation amounts determined assuming payment made in equal installments on July 1 and January 1.

This is the increase in the FY18 appropriation determined by valuing the cost increase as of January 1, 2017 and adjusting to FY18. FY18 increase in appropriation reflects a 10 year level dollar amortization. Results reflect a 7.50% Investment Return Assumption. All other assumptions are as shown in the January 1, 2105 valuation report.

PERAC

P:\actuarial\cost analyses\Fall River 2017 EMTs Group 2 to Group 4.xls

June 20, 2017





**City of Fall River**  
**Massachusetts**  
Office of the Mayor

**RECEIVED**

2017 AUG 10 P 3:41

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

**JASIEL F. CORREIA II**  
*Mayor*

August 10, 2017

Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Honorable Members of the City Council:

I hereby request the confirmation of the City Council for the following appointment:

Name: Jason Burns  
Address: 622 Valentine Street  
Fall River, MA 02720  
To: Housing Authority  
Term to expire: August 10, 2022

\*To fill the vacancy caused by resignation of Scott Charest.

Very truly yours,

  
Jasiel F. Correia II  
Mayor

# JASON BURNS

622 Valentine St, Fall River, MA 02720  
(774) 319-9617 • Jason.Burns@iafflocal1314.com

---

## PROFESSIONAL FIREFIGHTER

Firefighter with eleven years of functional experience in firefighting and emergency care. Possess exceptional quick-thinking and calm attitude during high-pressure situations. Proven track record in collaborating with team members to suppress an array of fire levels that minimize escalations.

---

## PROFESSIONAL EXPERIENCE

FIRE SERVICES – *City of Fall River, Massachusetts*

2006 – Present

### *Firefighter*

- Assess conditions and responds quickly to contain fires, assist victims, and ensure community safety.
- Perform search and rescue functions in order to quickly remove people from dangerous areas and ensure safety of immediate area.
- Utilize fire suppression techniques designed to quickly put out fires while salvaging as much property as possible.
- Provide quick and immediate response to emergency calls – Assisted in freeing people trapped in building by combating fire and using rescue equipment and provides first-aid before medical emergency services arrive.
- Monitors and maintains the equipment used in case of fire and other emergencies to ensure their being ready at any time.
- Provide emergency response to medical calls and aid patients by applying CPR or first aid.
- Drive or crew firefighting appliances or other vehicles to fires or incident scenes.
- Operate pumps, spray foam or water from hoses, portable extinguishers or other appliances to extinguish fires, or to disperse or neutralize dangerous substances such as chemicals and petroleum.

UNION PRESIDENT – *IAFF Local 1314, Union President*

2013-Present

### *Union President*

- Collective bargaining agent/ liaison between union members and city government.
- Chair of Executive Board meetings, communicating regularly with Executive Board and membership.
- Works in conjunction with all levels of city government for the betterment of my membership.
- Meet regularly with District administration.
- Support Board members in carrying out their duties.
- Manage budgets.
- Negotiate contracts.
- Navigate and settle grievances.
- Run local in accordance with provisions of the constitution by laws of the IAFF and L1314.
- Presides over meetings of Local 1314.
- Supervises activities of other local union officers and chairperson.
- Serves as delegate to IAFF biennial convention.

# JASON BURNS

622 Valentine St, Fall River, MA 02720  
(774) 319-9617 • Jason.Burns@iafflocal1314.com

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HSBC FINANCIAL— *Swansea, Massachusetts*

2006 – 2007

## *Mortgage Account Executive*

- Completed all mortgage and loan duties, including title work, ordering appraisals and attorney scheduling. Completed document reviews and packaging.
- Maintained daily communications with customer base in order to assess needs and place customer within correct product.
- Maintained education on current rates and federally regulated programs

ST.VICENTS HOME – *Westport, Massachusetts*

1997 – 2005

2006 – 2007

## *Residential Counselor/Lead Special Education Assistant*

- Built relationships with residents.
- Monitored behavior and worked with residents to make progress towards goals.
- Supervisor in school classrooms.
- Assisted teachers. Supervised staff to enhance their ability to teach students and support teachers.
- Ensured care, welfare and safety of youth in the program.
- Implemented crisis intervention and behavior management.
- Supervised youth during off site appointments and activities.
- Maintained positive and effective work relationships with both peers and residents.

## AREAS OF EXPERTISE

- ❖ Public Speaking
- ❖ Relationship Building
- ❖ Community Outreach
- ❖ Media Relations
- ❖ Behavior Management
- ❖ Crisis Intervention

## REFERENCES

Available upon request



**City of Fall River**  
**Massachusetts**  
Office of the Mayor

2

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2017 AUG 10 P 4: 57

**JASIEL F. CORREIA II**  
Mayor

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

August 10, 2017

Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Honorable Members of the City Council:

I hereby request the confirmation of the City Council for the following appointment:

Name: David H. Saber as Alternate Member

Address: 276 Nichols Street  
Fall River, MA 02720

To: Board of Appeals

Term to expire: August 10, 2019

To fill the vacancy caused by expired term of Edward Avilla

Very truly yours,

Jasiel F. Correia II  
Mayor

# David H. Saber

276 Nichols Street, Fall River, MA 02720 Telephone: 508-496-7833 dave@comcastbiz.net

## Education

Diman Regional High School, Fall River, MA  
Auto Body Repair,  
June 1979

## Experience

April 1988 - present

Eleventh Street Associates, Inc., Fall River, MA - President  
Auto Body Repair Shop

1990 - present

Saber Investments – President

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2017 AUG 11 P 2:01  
CITY CLERK  
FALL RIVER, MA

## Awards & Acknowledgements

- Massachusetts Auto Body Association
- Massachusetts Tow Association
- USAA Direct Repair Shop
- Progressive Insurance Direct Repair Shop
- American Lebanese Society
- Southcoast Chamber of Commerce
- Fall River Conservation Commission



**City of Fall River**  
**Massachusetts**  
**Office of the Mayor**

3

RECEIVED

2017 AUG 10 P 4: 35

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

**JASIEL F. CORREIA II**  
*Mayor*

August 10, 2017

Honorable Members of the City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

President and Honorable Members of the City Council:

I wish to appoint Rochelle St. Martin Pettenati to the Fall River Cultural Council. I respectfully request the Council's consideration in waiving the residency requirement for this appointment. Ms. St. Martin Pettenati's name has been submitted for consideration by Mr. Richard Pelletier, Chairman, Local Cultural Council and she is employed by the Fall River School Department as an Art teacher.

I hereby request the waiver of residency for the following appointment

Name: Rochelle St. Martin Pettenati

Address: 77 Watuppa Road  
Westport, MA 02790

To: Cultural Council

Term to expire: September 14, 2020

Very truly yours,

Jasiel F. Correia II  
Mayor



City of Fall River  
Massachusetts  
Office of the Mayor

JASIEL F. CORREIA II  
Mayor

August 7, 2017

Alison M. Bouchard  
City Clerk  
One Government Center  
Fall River, MA 02722

Dear Mrs. Bouchard:

I hereby make the following reappointment to:

Name: Rochelle St. Martin Pettenati

Address: 777 Watuppa Road  
Westport, MA 02790

To: Fall River Cultural Council

Term to expire: September 14, 2020

Best Regards,

Jasiel F. Correia II  
Mayor

CITY CLERK  
FALL RIVER, MA

2017 AUG 10 A 9:52

RECEIVED



**City of Fall River**  
**Massachusetts**  
**Office of the Mayor**

4

RECEIVED

2011 AUG 10 P 4: 37

**JASIEL F. CORREIA II**  
*Mayor*

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

August 10, 2017

The Honorable City Council  
One Government Center  
Fall River, MA 02722

Dear Councilors:

Please find enclosed a proposed order of land acquisition for your review and approval. As you recall this is a component of the plan for the improvements off Jefferson Street and the Atlantis Charter School agreement.

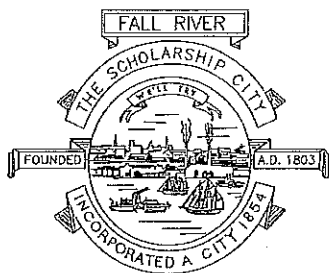
Your expeditious approval is respectfully requested as we are anxious to get the roadway construction started in this construction season to assure that we meet the school's schedule.

Please contact me or Mr. Sullivan if you have any questions.

Sincerely,

Jasiel F. Correia II  
Mayor





**City of Fall River**  
**Massachusetts**  
**Department of Community Utilities**  
WATER • SEWER

4  
**RECEIVED**

2017 AUG 10 P 1:27

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

**JASIEL F. CORREIA II**  
*Mayor*

**TERRANCE SULLIVAN**  
Administrator

August 10, 2017

The Honorable City Council  
One Government Center  
Fall River, MA 02722

Dear Councilors:

Please find enclosed a proposed order of land acquisition for your review and approval. The proposed deed and easement are attached as support information.

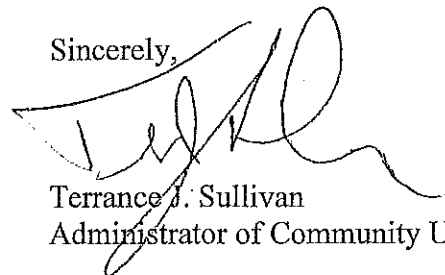
As you recall the donation of these parcels of land to the City was a component of the agreement with the Atlantis Charter School for the improvements on Jefferson Street. This parcel will be owned by the City through the Water Division. The long term intent of the land is for a Water Treatment Facility for the future when the capacity of the South Watuppa Pond is needed, as well as the protection of Sucker Brook and the adjoining wetlands.

Parcel One shall be used to construct the roadway extension and stream crossing for access to the new school from Jefferson Street. The roadway has also been designed to improve access to the industrial area. The transportation easement shall allow access for the school personnel and students. Parcel Two shall be used for wetlands and brook protection.

Funding for the road construction project has already been previously authorized by the City Council. The land is being donated thus there is no land purchase cost.

Your expeditious approval is respectfully requested as we are anxious to get the roadway construction started in this construction season to assure that we meet the school's schedule. Please contact me if you have any questions.

Sincerely,



Terrance J. Sullivan  
Administrator of Community Utilities

# City of Fall River, *In City Council*

4

ORDERED, that the Mayor is hereby authorized to acquire the property as described on the attached deed and plan subject to any changes and final approval by the Corporation Counsel. Said land between Jefferson and Dickinson Streets in Fall River, Massachusetts is delineated on the ANR Plan prepared by Prime Engineering and approved by the Planning Board on 4/25/17. The acquisition and ownership of said lot will provide a location for a future Water Treatment Facility and protection of Sucker Brook.

QUITCLAIM DEED

T.N.E.

The, Atlantis Charter School, a charter school duly organized under the laws of the Commonwealth of Massachusetts and having a principal place of business at 37 Park Street, Fall River, Bristol County, Massachusetts 02721

for consideration paid, and in full consideration of ONE & 00/100 (\$1.00) DOLLAR

.grant to the City of Fall River, a duly organized municipal corporation having an address of One Government Center, Fall River, Massachusetts 02720

with QUITCLAIM COVENANTS,

The land, with all buildings and improvements thereon, if any, in the City of Fall River, Bristol County, Massachusetts, bounded and described as follows:

PARCEL ONE:

Being Parcel A as shown on a Plan of Land entitled: "Approval Not Required Plan in Fall River, Massachusetts; Prepared for Atlantis Charter School; Prepared by Prime Engineering, Inc.; Date: March 15, 2017; Scale 1" = 200'," which is recorded with the Bristol County, Fall River District, Registry of Deeds, Plan Book 160, Page 24. Said Parcel A consists of 429,181 square feet of land (9.853 acres +/-), more or less.

PARCEL TWO:

Being Parcel B as shown on a Plan of Land entitled: "Approval Not Required Plan in Fall River, Massachusetts; Prepared for Atlantis Charter School; Prepared by Prime Engineering, Inc.; Date: March 15, 2017; Scale 1" = 200'," which is recorded with the Bristol County, Fall River District, Registry of Deeds, Plan Book 160, Page 24. Said Parcel B consists of 648,390 square feet of land (14.885 acres +/-), more or less.

Being a portion of the premises conveyed to this Grantor by Deed of Quaker Fabric Corporation of Fall River dated September 21, 2007 and recorded with Bristol County, Fall River District, Registry of Deeds, Book 6768, Page 262.

Said Parcels A & B are subject to a Montaup Electric Company Transmission Easement as is more fully delineated/shown upon said Plan.

Said Parcel A is subject to an Easement granted by this Grantee (the City of Fall River) to the Atlantis Charter School, which is evidenced by the Grant of Easement recorded concurrently herewith.

4

Subject to such other easements or encumbrances as may be in force and applicable.

WITNESS the execution hereof under seal this \_\_\_\_ day of \_\_\_\_\_, 2017.

PROPERTY ADDRESS: **VACANT LAND – PARCELS A & B**  
**FALL RIVER, MASSACHUSETTS**

The Atlantis Charter School

By: \_\_\_\_\_  
Roger H. Saint-Pierre, President of the  
Board of Trustees

**COMMONWEALTH OF MASSACHUSETTS**

**BRISTOL, SS.,** \_\_\_\_\_, 2017

On this \_\_\_\_ day of \_\_\_\_\_ 2017, before me the undersigned notary public, personally appeared Roger H. Saint-Pierre, President as aforesaid, who proved to me through satisfactory evidence of identification, which was his/her/their Massachusetts drivers' licenses, to be the person(s) whose name(s) is/are signed on the preceding or attached document and acknowledged to me that he/she/they signed it voluntarily for its stated purposes on behalf of the Atlantis Charter School.

\_\_\_\_\_  
Notary Public  
My Commission Expires:



4

GRANT OF EASEMENT

KNOW ALL MEN BY THESE PRESENTS that the City of Fall River, a municipal corporation having an address of One Government Center, Fall River, Bristol County, Massachusetts 02720, on behalf of itself and its successors and assigns (hereinafter referred to as the "City") and in consideration of One and 00/100 (\$1.00) Dollar paid, the sufficiency and receipt of which is acknowledged, hereby Grant to the Atlantis Charter School, a charter school duly organized under the laws of the Commonwealth of Massachusetts and having an address of 37 Park Street, Bristol County, Massachusetts 02721, its successors and assigns (hereinafter collectively referred to as "Atlantis"), with Quitclaim Covenants, the perpetual rights and easements to pass and repass, with vehicles or on foot or other mode of transportation, over and across the EASEMENT AREA hereinafter described, and Atlantis shall have the further right to maintain said EASEMENT AREA, which shall include, but not be limited to, the right to remove snow and ice and/or any other obstacles or debris in the EASEMENT AREA as Atlantis may deem necessary and/or appropriate such that Atlantis can utilize the EASEMENT AREA in an unencumbered manner.

The EASEMENT AREA being located on the southerly side of the so called Access or Service Road and is more particularly bounded and described as follows:

Said EASEMENT AREA is more fully identified as the  
" \_\_\_\_\_ " as shown upon a plan of  
land entitled: " \_\_\_\_\_ " and recorded  
with said Registry, Plan Book \_\_\_\_\_, Page \_\_\_\_\_.

To have and to hold the above-described rights and easements unto said Atlantis and its successors and assigns forever.

4

The provisions, terms and obligations contained herein shall constitute covenants running with the land upon which the EASEMENT AREA is located, and each such provision, term or obligation shall run in perpetuity.

The City warrants that the aforesaid easement is free and clear of all liens or encumbrances, that it has good title to transfer the Easement described herein, that it is authorized to be transfer the same.

For the Grantor's title reference, see Quitclaim Deed from Atlantis Charter School to the City of Fall River dated \_\_\_\_\_, 2017 and recorded with the Bristol County, Fall River District, Registry of Deeds, concurrently herewith.

Executed as a sealed instrument this \_\_\_\_ day of \_\_\_\_\_ 2017.

WITNESSES:

City of Fall River

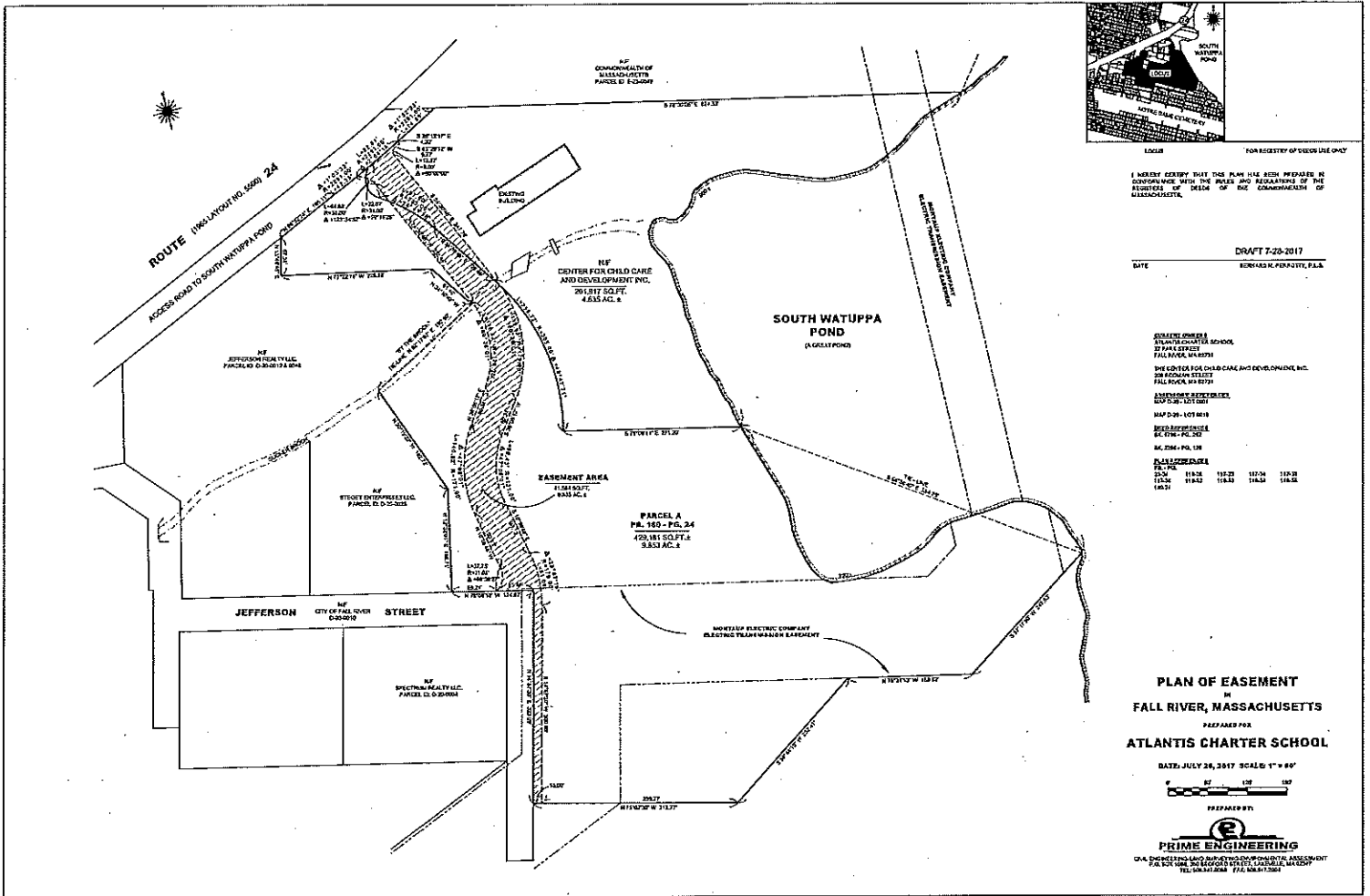
By: \_\_\_\_\_  
Jasiel F. Correia, II, Mayor

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS., \_\_\_\_\_, 2017

On this \_\_\_\_ day of \_\_\_\_\_ 2017, before me the undersigned notary public, personally appeared Jasiel F. Correia, Mayor as aforesaid, who proved to me through satisfactory evidence of identification, which was his/her/their Massachusetts drivers' licenses, to be the person(s) whose name(s) is/are signed on the preceding or attached document and acknowledged to me that he/she/they signed it voluntarily for its stated purposes on behalf of the City of Fall River.

\_\_\_\_\_  
Notary Public:  
My Commission Expires:







**City of Fall River**  
**Massachusetts**  
Office of the Mayor

RECEIVED

2017 AUG 10 A 11:43

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

**JASIEL F. CORREIA II**

*Mayor*

August 10, 2017

The Honorable City Council  
One Government Center  
Fall River, MA 02722

Dear Councilors:

Enclosed is an ordinance establishing a Municipal Hearings Officer and procedures under M.G.L. 40U for your consideration.

Very Truly Yours,

Jasiel F. Correia II, Mayor

I concur,

Joseph I. Macy, Corporation Counsel

5

**BE IT ORDAINED by the City Council of the City of Fall River, as follows:**

WHEREAS, there are multiple Ordinances within the City of Fall River Ordinances presently controlling the administrative disposition of noncriminal violations;

WHEREAS, on May 11, 2010, the Governor of the Commonwealth of Massachusetts signed into law as part of the 2010 Massachusetts Relief Bill, the statute captioned: M.G.L. c. 40U;

WHEREAS, M.G.L. c. 40U modernized the municipal code enforcement process proving municipalities, inter alia, additional authority to combat ongoing code violations and the problem of blighted properties and neighborhoods;

WHEREAS, the City of Fall River seeks to update its Ordinances and its internal administrative disposition of noncriminal violations to accept, comply with and fully implement the contemporary M.G.L. c. 40U process;

WHEREAS, the City of Fall River has various non-criminal appeal processes in the City ordinances, all said sections of administrative disposition of noncriminal violations<sup>1</sup> should be modified to adopt M.G.L. c. 40U and to identify the processes and procedures that the City and its citizenry must follow when issuing and responding to M.G.L. c. 40U code violations;

WHEREAS, the City of Fall River additionally seeks to maintain the M.G.L. c. 40 § 21D process for certain code violations not covered by the new M.G.L. c. 40U system;

WHEREAS, this Amendment and Ordinance is offered to support the City's modernization and improvement of its overall code enforcement process in support of the public interest;

AN ORDINANCE AMENDING ALL SECTIONS OF ADMINISTRATIVE DISPOSITION OF NONCRIMINAL VIOLATIONS OF THE ORDINANCES OF THE CITY OF FALL RIVER AND ACCEPTING MASSACHUSETTS GENERAL LAW CHAPTER 40U IN ITS ENTIRETY

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FALL RIVER AS FOLLOWS:**

That Section 2-1022. Notice to Appear be repealed in its entirety and amended in its entirety to:

Section. 2-1022. Notice to Appear, Hearings Officer, Hearings

**a. Definitions**

“Municipal Hearing Officer”, a person appointed by the appointing authority of a municipality to conduct hearings of alleged code violations pursuant to this chapter.

---

<sup>1</sup> This ordinance revises every section without delineating the same. If and when those sections are amended we may further amend this ordinance to make specific reference to them.

5

“Unpaid Charge”, an unpaid fine increased as a result of a violation of a rule, regulation, order, or by-law regulating the housing, sanitary or municipal snow and ice removal requirement.

**b. Effective Date of Chapter in Municipality**

This chapter shall take effect in a municipality upon its acceptance.

**c. Procedures for Payment of Municipal Fines; Power to Revoke or Rescind**

A municipality that adopts this chapter shall, in the manner provided in this adopt procedures for the payment of the municipal fines provided in this chapter and may revoke or rescind any such acceptance.

**d. Procedures for Payment of Fines Determined by a Majority Vote**

The adoption of procedures for the payment of certain municipal fines under this chapter shall be by majority vote of the city council or town meeting.

**e. Sidewalk Snow and Ice Removal; Penalties for Non-Compliance; Standards for Clearance**

A municipality shall by ordinance and by-laws provide for the removal of snow and ice from sidewalks with such portions of the municipality as they consider expedient by the owner of land abutting such sidewalks. Such ordinances and by-laws shall determine the time and manner of removal and shall affix penalties, not exceeding \$200, for each such violation. Such ordinances and by-laws shall be specific as to the width of the area to be cleared and standards for clearance.

**f. Municipal Hearing Officer**

A municipality shall appoint a municipal hearing officer. The officer shall hear appeals of violation notices issued within the municipality. The municipal hearing officer may be the same person appointed as a municipal hearing officer pursuant to Chapter 148A.

**g. Administrative Disposition of Noncriminal Violations**

A municipality may implement a system for the administrative disposition of noncriminal violations pursuant to section 21D of Chapter 40.

**h. Violation Notices**

Every officer and inspector who takes notice of a violation of a rule, regulation, order, ordinances or by-law regulating the housing, sanitary or snow and ice removal requirement shall provide the offender with a notice forthwith, which shall be in tag form, to appear before the municipal hearing officer or the hearings officer's designee during regular officer hours, not later than twenty-one (21) days after the date of such violation. All tags shall be prepared in triplicate or by the use of an automated device and shall be pre-numbered.

5

#### **i. Affixing of Violation Tags**

The tag shall be affixed securely to the building or, for a building with an onsite professional managed property office, delivered to the office during normal business hours and shall contain, but shall not be limited to: the date, time and place of the violation, the specific violation charged, the name and badge number of the officer or inspector and his division, a schedule of payment for established fines and instructions for return of tag.

#### **j. Retention and Delivery of Violation Notice Copies**

Within three (3) business days after completion of each shift, the officer or inspector shall give to his superior those copies of each notice or a violation issued during such shift. The superior shall retain and preserve one (1) copy and shall, not later than the beginning of the next business day after receipt of the notice, deliver another copy to the municipal hearing officer before whom the offender has been notified to appear, unless the ticket was produced by an automated ticketing device, in which case no duplicate copies need to be retained. The municipal hearing officer shall maintain a docket of all such notices to appear.

#### **k. Schedule of Fines for Violation**

The municipality shall, by ordinance or by-law, establish a schedule of fines for violations subject to this chapter committed within the municipality; provided, however, that all such fines shall be uniform for the same offense committed in the same zone or district, if any. A fine established under this chapter shall not exceed the maximum allowable amount under the relevant sections of the housing or sanitary code or municipal snow and ice removal requirement, excluding late fees.

#### **l. Return of Notice of Violation; Payment; Request for Hearing; Additional Charges for Non-Payment**

Where a notice of violation is issued for a code violation, the alleged violator, within twenty-one (21) days, shall return the notice of violation by mail, personally or by an authorized person, to the municipal hearing officer and shall either: (1) pay in full the schedule fine by check, postal note, money order or other legal tender or (2) request a hearing before the municipal hearing officer. Each violation issued shall contain a statement explaining the procedure or adjudicate the violation by mail. Any amounts paid shall be payable to the municipality. If a fine remains unpaid for twenty-one (21) days and no hearing has been requested, a letter shall be sent to the property owner of records' mailing address and, if appropriate to the local individual or property management company responsible for the maintenance of the property, with a processing fee of not more than ten dollars (\$10), notifying him that the fine shall be paid within thirty (30) days after receipt of that notice unless within fourteen (14) days of receiving that notice the property owner requests a hearing before the municipal hearing officer and swears in writing under the pains and penalty of perjury that the property owner did not receive the

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notice of violation. If the fine remains unpaid after the thirty (30) day period, additional penalties and interest may be attached. Thereafter, any fine and additional penalties thereto may also be a lien upon such real estate as provided in section 42B of Chapter 40. A municipality's determination of whether to place a lien on the property may involve the number of and the dollar amount of the violation on the property. The property owner of record shall be notified by certified mail of the lien on the property. No lien shall be removed without notice from the tax collector that all such matters have been disposed of in accordance with law. Additional charges equal to the amount required to file the lien and the amount required to release the lien shall be assessed against the owner of record for the purpose of ensuring that all costs associated with filing and release are recovered.

**m. Challenge to Validity of Violation Notice**

Any person notified to appear before the municipal hearing officer, as provided herein may, without waiving the right to a hearing provided by this chapter and without waiving judicial review as provided in section 14 of Chapter 30A, challenge the validity of the violation notice and review and disposition of the violation from the municipal hearing officer by mail. The alleged violator may, upon receipt of the notice to appear, send a signed statement of objections to the violation notice as well as signed statements from witnesses, police officers, government officials and other relevant parties. Photographs, diagrams, maps and other documents may also be sent with the statements. Any statements or materials sent to the municipal hearing officer for review shall have attached the person's name and complete address as well as the ticket number and the date of the violation. The municipal hearing officer shall, within twenty-one (21) days after the receipt of such material, review the material and dismiss or uphold the violation and notify the alleged violator by mail of the disposition of the hearing. If the outcome of the hearing is against the alleged violator, the municipal hearing officer shall explain the reasons for the outcome on the notice. Such review and disposition conducted by mail shall be informal, the rules of evidence shall not apply and the decision of the municipal hearing officer shall be final, subject to any hearing provisions by this chapter or to judicial review as provided in said section 14 of said Chapter 30A.

**n. Written Request for Hearing; Time and Location of Hearing**

Notwithstanding section 21D of chapter 40, a person who desires to contest a violation of any ordinance or by-law of a municipality alleged in a notice to appear, pursuant to violations issued by a municipality in accordance with said section 21D of said chapter 40, shall request in writing a hearing before a municipal hearing officer. The notice to appear shall be in format specified in said section 21D of said Chapter 40, except that the third copy of the notice shall be submitted to the municipal hearing officer unless the ticket was produced by an automated ticketing device.

If the alleged violator requests a hearing before the municipal hearing officer in a timely manner, the municipal hearing officer shall schedule a hearing not later than forty-five (45) days after receiving the hearing request. The municipal hearing officer shall duly

notify the alleged violator of the date, time and location of the hearing. Hearings shall be held on at least two (2) evenings each month. When a hearing notice is sent, the alleged violator shall be given an opportunity to request a rescheduled hearing date. The municipal hearing officer so designated shall not be an employee or officer of the department associated with the issuance of the violation.

The municipal hearing officer shall receive annual training in the conduct of administrative hearings. The hearing and disposition shall be informal and shall follow the rules set forth in chapter 30A. Rules for judicial proceedings shall not apply. In conducting the hearing, the municipal hearing officer shall determine whether the violation occurred and whether it was committed by the person notified to appear.

**o. Appeal of Decision of Municipal Hearing Officer**

A person aggrieved by a decision of the municipal hearing officer may appeal to the district court, housing court or other court of competent jurisdiction pursuant to section 21D of chapter 40, on a form provided by the municipality, and shall be entitled to a de novo hearing before a clerk magistrate of the court. The court shall consider such appeals under a civil standard. The aggrieved person shall file the appeal within ten (10) days after receiving notice of the decision from the municipal hearing officer who conducted the hearing.

**p. Effect of Failure to Pay, Request Hearing or Appear**

Any person who has received a notice of violation issued in accordance with this chapter who, within the prescribed time, fails to pay the same or fails to request a hearing before the municipal hearing officer or who fails to appear at the time and place of the hearing, shall be deemed responsible for the violation as stated in the notice of violation. Such findings of responsibility shall be considered prima facie evidence of the violation in a civil proceeding regarding that violation and shall be admissible as evidence in a substantial criminal proceeding. If a person fails to appear at the scheduled hearing without good cause, the appeal shall be dismissed and the violator shall waive any further right of appeal. If the condition which caused the notice of violation to issue continues to exist, the finding of responsibility may also be used by a municipality as prima facie evidence of the existence of a violation in any proceeding to suspend or revoke any license, permit or certificate issued by such municipality relative to that building, structure or premises pending the correct or the condition.

**q. Payments of Fines, Penalties or Assessments to the General Fund of Municipality**

All fines, penalties or assessments in actions under this chapter shall be paid to the general fund of the municipality.

**r. Local Ordinances and By-Laws Superseded**

In a municipality that has accepted this chapter, this chapter shall supersede any local ordinances or by-laws to the contrary.

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**City of Fall River**  
*Office of the Corporation Counsel*

**JASIEL F. CORREIA II**  
Mayor



**JOSEPH I. MACY**  
Corporation Counsel

**GARY P. HOWAYECK**  
Assistant Corporation Counsel

**JESSICA A. ADLER**  
Assistant Corporation Counsel

August 9, 2017

Fall River City Council  
One Government Center  
Fall River, MA 02722

RECEIVED  
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CITY CLERK  
FALL RIVER, MA

RE: Fall River City Council v Maura Healey, Attorney General

Dear Councilors:

On August 3 the above matter was heard by Judge Marita Hopkins in the Superior Court sitting in New Bedford. The "hearing" consisted of oral arguments only. I argued on behalf of the City and Atty. Kevin Manganaro from the Attorney General's Open Meeting Law division argued for the A.G..

I think the argument went well for our side as the judge clearly understood the issues and appeared receptive to our argument. However, I offer no prediction as to how she will rule although I am still confident in and comfortable with our position.

It does not appear that I have sent you the pleadings in this matter as I thought I had. I am therefore enclosing a copy of our Memorandum of Law as well as the Attorney General's for your reference.

Very truly yours,

Joseph I. Macy, Corporation Counsel

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COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

TRIAL COURT  
SUPERIOR COURT DEPT.  
CIVIL ACTION NO: 1673CV00865

FALL RIVER CITY COUNCIL,  
Plaintiff,

v.

MAURA HEALEY, ATTORNEY GENERAL  
OF THE COMMONWEALTH OF  
MASSACHUSETTS,  
Defendant.

**DEFENDANT ATTORNEY GENERAL'S  
MEMORANDUM IN SUPPORT OF HER OPPOSITION TO THE PLAINTIFF'S  
MOTION FOR JUDGMENT ON THE PLEADINGS AND IN SUPPORT OF HER  
CROSS-MOTION FOR JUDGMENT ON THE PLEADINGS**

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Now comes Defendant Maura Healey, Attorney General of the Commonwealth ("Attorney General"), and respectfully moves this Honorable Court to enter an order denying Plaintiff's Motion for Judgment on the Pleadings and affirming her September 1, 2016 decision, OML 2016-17.

INTRODUCTION

This is an action for judicial review pursuant to G.L. c. 30A, § 23(d) of a decision by the Attorney General finding that the Fall River City Council ("the City Council") violated G.L. c. 30A, §§ 18-25 ("the Open Meeting Law"). As the City Council has failed to identify a basis for overturning the Attorney General's decision, it should be affirmed.

FACTS

On March 30, 2016, the Attorney General received an Open Meeting Law complaint from CJ Ferry ("Mr. Ferry"). Administrative Record ("AR") 8-9. The complaint was originally



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filed with the City Council on February 16, 2016,<sup>1</sup> and alleged that the City Council had violated the Open Meeting Law when a quorum of the City Council was present and deliberated at a meeting of the Council's Subcommittee on Ordinances and Legislation ("the Subcommittee"), though the meeting was not noticed as a joint meeting. Id.

The City Council is a nine-member public body. Five members constitute a quorum. AR 18. The Subcommittee was, at all relevant times, comprised of five Councilors: Cliff Ponte, Joseph Camara, Pam Laliberte-Lebeau, Stephen Long, and Linda Pereira. Id.

On February 10, 2016, the Subcommittee posted notice of a meeting scheduled for February 16, 2016. AR 3. The notice indicated that the Subcommittee would be considering a proposed ordinance regarding the Department of Community Maintenance and discussing a zoning ordinance. The notice did not indicate that the meeting would be a joint meeting of the Subcommittee and the City Council. Id.

On February 16, 2016, the Subcommittee held the meeting as planned in the Council chamber. Four Subcommittee members were present. AR 19. They sat at a rectangular table in front of the raised dais where the Councilors regularly sit during City Council meetings. Over the course of the Subcommittee meeting, four other City Councilors arrived, taking their seats at the Council's dais, and bringing the total number of Councilors in the chamber to eight.

Councilors Richard Cabeceiras, Shawn Cadime, Raymond Mitchell, and Steven Camara were recognized to speak and addressed the Subcommittee from the Council dais, asking questions and engaging with the Subcommittee members. AR 19. During the meeting, they were referred to by the honorific "Councilor." Ultimately, the Subcommittee voted to refer one issue to the full Council for discussion.

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<sup>1</sup> The complaint was subsequently amended on February 22, 2016, adding additional detail. AR 10-12.

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## LEGAL FRAMEWORK AND STANDARD

The Open Meeting Law confers upon the Attorney General authority under § 25(a) to “promulgate rules and regulations to carry out enforcement of the open meeting law.” Pursuant to the authority granted by § 25(b) of the Open Meeting Law, the Attorney General created a Division of Open Government within the office “to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.” The mission of the Division of Open Government is to balance the interests of transparency in government processes with government efficiency.

To this end, the Division of Open Government’s decisions interpreting the Open Meeting Law affirm the statutory and regulatory requirements, including the posting of meetings, and express a preference for conducting discussions in public view. See, e.g., OML 2013-155<sup>2</sup>; OML 2013-9. The preference for transparency has been affirmed by Massachusetts courts. McCrea v. Flaherty, 71 Mass. App. Ct. 637, 650 (2008) (“the notice requirement contained in the statute is an essential attribute of the law; it is manifestly pointless to conduct a meeting to which the law requires public access if no member of the public is aware that the meeting is taking place”).

The Subcommittee is a distinct public body, separate from City Council. G.L. c. 30A, § 18. Both the Council and the Subcommittee are obligated to comply with the posting provisions and other requirements of the Open Meeting Law.

Pursuant to G.L. c. 30A, § 20(a), “all meetings of a public body shall be open to the public,” except in limited circumstances. Other than in case of emergency, notice of the meeting must be posted at least 48 hours prior to the meeting, excluding Saturdays, Sundays, and legal

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<sup>2</sup> Open Meeting law determinations may be accessed via the Attorney General’s website: [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting).

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holidays. G.L. c. 30A, § 20(b). The statute defines a "meeting" as "a deliberation by a public body with respect to any matter within the body's jurisdiction." G.L. c. 30A, § 18.

The definition specifically exempts "attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, *so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate.*" Id. (emphasis added). The statute defines "deliberation," as "an oral or written communication through any medium... between or among a quorum of a public body on any public business within its jurisdiction," though it specifically excludes the distribution of agendas, scheduling information or reports or documents as long as members' opinions are not expressed. Id. The statute defines "quorum" as "a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision." Id.

Judicial review of decisions made pursuant to the Open Meeting Law is in the nature of certiorari. G.L. c. 30A, § 23(d).

#### ARGUMENT

- Judicial review of the Attorney General's decision is narrow and deferential.

When reviewing the Attorney General's decision, the Court must give deference "to the experience, technical competence, and specialized knowledge of the [Attorney General], as well as to the discretionary authority conferred upon [her]." G. L. c. 30A, § 14 (7); see also, Felix A. Marino Co. vs. Comm'r of Labor and Indus., 426 Mass. 458, 460-61 (1998). Accordingly, "[a] court may not displace a choice between two fairly conflicting views, even though the court would justifiably have made a different choice had the matter been before it *de novo*." Embers

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of Salisbury, Inc. v. Alcoholic Bevs. Control Comm'n, 401 Mass. 526, 529 (1988).

Review is confined to the administrative record and the burden of proof rests with the City Council, which must overcome the presumption that the Attorney General's decision is valid. Faith Assembly of God v. State Building Code Comm'n, 11 Mass. App. Ct. 333, 334 (1981). Thus, the decision of the Attorney General may be set aside or modified only upon a finding that the substantial rights of a party have been prejudiced because the decision is: (a) in violation of constitutional provisions; or (b) in excess of the statutory authority or jurisdiction of the agency; or (c) based upon an error of law; or (d) made upon unlawful procedure; or (e) unsupported by substantial evidence; or (f) unwarranted by facts found by the court on the record as submitted or as amplified under paragraph (6) of this section, in those instances where the court is constitutionally required to make independent findings of fact; or (g) arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law. G.L. c. 30A, §14(7).

- The Attorney General's determination that the City Council deliberated during the February 16, 2016 subcommittee meeting is supported by substantial evidence.

The Open Meeting Law complaint filed by Mr. Ferry alleges that the City Council held a meeting for which it did not post notice on February 16, 2016, when members of the City Council attended a Subcommittee meeting and engaged in deliberation.

The Open Meeting Law permits the attendance of members of a parent public body at a subcommittee meeting, as long as there is no deliberation. See OML 2013-38. To determine whether deliberation has occurred during a subcommittee meeting, the Attorney General looks for indicia, including whether the parent public body members sat with the subcommittee, and whether they discussed matters within their jurisdiction. Mere participation by City Councilors as audience members would not constitute deliberation. Id. Council members may listen and participate as members of the audience, at the discretion of the chair of the subcommittee. See

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OML 2012-6; AR 28-31. However, where Council members sit in their regular seats in the Council chambers and participate on the same terms as members of the Subcommittee, except for voting, the Council violates the Open Meeting Law because it engages in deliberation as defined by the Open Meeting Law without posting notice. Id.

After reviewing of the videotaped subcommittee meeting, the Attorney General determined that the City Council had deliberated, based on the presence of several factors. During the meeting, Councilors Cabeceiras, Cadime, Mitchell, and Camara sat in their seats at the Council dais. When they spoke, they were referred to by the honorific "Councilor." The four Councilors spoke, addressing the Subcommittee from the Council dais and asking questions. Though each factor alone is not dispositive, taken together, these elements support the Attorney General's finding that the City Council had deliberated.

The City Council now argues that, because the Subcommittee's jurisdiction is conferred through City Ordinance that requires the Subcommittee to vote and send a report to the full Council for consideration, no deliberation could have occurred between the Subcommittee members and Councilors Cabeceiras, Cadime, Mitchell, and Camara. However, this argument is unavailing.

The Open Meeting Law clearly defines deliberation as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction." G.L. c. 30A, § 18. Whether deliberation occurred hinges not on particular city ordinances or procedural requirements, but on whether, in the course of the Subcommittee meeting, a quorum of the City Council communicated regarding public business within its jurisdiction.<sup>3</sup>

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<sup>3</sup> As discussed in OML 2016-117, a quorum of a public body may sit on a subcommittee without having to post a separate meeting notice, provided that discussions are limited to matters within the jurisdiction of the subcommittee.

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Eight of the nine City Council members attended the February 16, 2016 Subcommittee meeting. Though not members of the Subcommittee, City Councilors Cadime, Mitchell, Cabeceiras, and Camara were recognized to speak and to ask questions from the Council dais during the meeting.

Where the Subcommittee meeting was not noticed as a joint meeting between the City Council and the Subcommittee, the communication among the eight City Councilors regarding issues within the Council's jurisdiction was deliberation within the meaning of the statute and therefore, a clear violation of the Open Meeting Law.

- The Attorney General's decision does not disenfranchise voters or deprive City Councilors of their right to hold elective office.

The City Council's argument that the Attorney General's decision somehow disenfranchises City Councilors or impinges on their right to hold elective office is without merit. The City Council argues that treating the Councilors as "members of the public with no greater rights or responsibilities than the average citizen" is somehow to disenfranchise those who voted for them; this is not the case.

The purpose of the Open Meeting Law is to provide the public with notice of discussions of public business. When members not on the Subcommittee participated in the Subcommittee's discussion, in effect, they held a joint meeting of the City Council and Subcommittee, without properly noticing the meeting as a joint meeting. This lack of transparency contravenes the purpose of the Open Meeting Law and deprives citizens of their right to have notice of and participate in the deliberations.

Additionally, the Open Meeting Law itself, the Attorney General's decision, and prior decisions from the Attorney General, make clear that members of the parent public body may

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attend the meeting of a subcommittee, provided they refrain from deliberating with the subcommittee. G.L. c. 30A, § 18; AR 19; OML 2013-38; OML 2012-6. That is, Councilors may attend the meetings of subcommittees on which they do not sit, and may participate in those meetings in the same manner and to the same extent as any other citizens: by listening as audience members and by participating openly and on the same terms as members of the public, at the discretion of the subcommittee's chair. See OML 2012-6. Alternately, the parent body and subcommittee may simply notice the meeting as a joint meeting, thus allowing all members to participate in deliberation without violating the statute. The Attorney General expressed no preference for either option.

The City Council elected to choose neither option and instead, deliberated with the Subcommittee without posting the requisite notice, in violation of the Open Meeting Law.

- The Attorney General's decision is not arbitrary and capricious.

The City Council contends that the Attorney General's determination is arbitrary and capricious. A decision is not arbitrary and capricious unless it "lacks any rational explanation that reasonable persons might support." City of Cambridge v. Civil Service Comm'n, 43 Mass. App. Ct. 300, 303 (1997). The Attorney General will not be found to have abused her discretion unless the decision "rest[s] on whimsy, caprice, or arbitrary or idiosyncratic notions." Massachusetts Ass'n of Minority Law Enforcement Officers v. Abban, 434 Mass. 256, 266 (2001) (internal quotation marks omitted).

In the present case, the decision of the Attorney General is firmly grounded in facts. Specifically, during the Subcommittee meeting, City Council deliberated because a quorum engaged in discussion on matters within the jurisdiction of the City Council without posting notice.

The purpose of the Open Meeting Law is "to eliminate much of the secrecy surrounding

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deliberations and decisions on which public policy is based.” Ghiglione v. School Committee of Southbridge, 376 Mass. 70, 72 (1978). The goal of transparency is served when members of the parent body who attend a subcommittee meeting are seated with the general public and participate by open participation, and not by deliberation or, in the alternative, when a joint meeting of the parent body and subcommittee is properly noticed, thus communicating to the public that the meeting is a joint meeting and therefore will include deliberation by the parent body.

A reasonable observer watching the February 16, 2016 interactions between the Subcommittee and Councilors Cabeceiras, Cadime, Mitchell, and Camara would have believed that it was a joint meeting of the City Council and the Subcommittee, or perhaps a meeting of the full City Council.

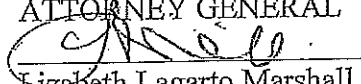
Where the meeting was not noticed as a joint meeting, the deliberation of the City Councilors constituted a violation of the Open Meeting Law.

#### CONCLUSION

For the foregoing reasons, the Attorney General respectfully requests that (1) Fall River City Council’s motion for judgment on the pleadings be DENIED; and (2) the Attorney General’s cross-motion for judgment on the pleadings be ALLOWED.

Respectfully submitted,

MAURA HEALEY  
ATTORNEY GENERAL



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January 31, 2017



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SUPERIOR COURT DEPARTMENT  
C.A. NO: 1673CV00865

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## Introduction

Plaintiff, the Fall River City Council (hereinafter "City Council") is a local public body formed and operating under a Plan A Charter. The City Council has nine members who are elected at large. Pursuant to the Charter, the City Council Rules, and Ordinances of the City of Fall River, the City Council has formed various subcommittees comprised of between three and five sitting councilors, save for the finance committee which consists of the entire body of the City Council. Subcommittee members sit at a table in front of the City Council seats. All subcommittee meetings are properly advertised, recorded, and open to the public. Such meetings

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are often attended by City Councilors who are not members of the subcommittees. The City Council's Subcommittee on Ordinances and Legislation (hereinafter "Ordinance Committee") consists of five members and, ipso facto, constitutes a quorum. When other councilors attend the Ordinance Committee meetings and other subcommittee meetings, their attendance can, and often does, create a quorum of the City Council (e.g., the Real Estate Subcommittee consists of three members of the City Council, however if two additional members of the City Council attend, a quorum of the City Council is created). On those occasions when City Councilors who are not subcommittee members attend a subcommittee meeting, they sit in their regularly assigned City Council seats, are allowed to speak on the issues before the subcommittee, and are recognized as "Councilor", but do not vote on any issue before the subcommittee. Subcommittees may take no action which binds the City Council. They may refer matters to the City Council for action, with or without a recommendation, or they may give a matter "leave to withdraw". In no event is any matter final until the full City Council duly convened takes action.

#### Facts

On or about February 16, 2016, the Fall River City Council Ordinance Subcommittee (hereinafter "Ordinance Committee") received an Open Meeting Law Complaint. (Administrative Record, p. 8). The Complaint was thereafter amended on February 22, 2016. (Administrative Record, p.11). The essence of the Amended Complaint pertinent to this petition was that a duly posted Ordinance Committee meeting on September 16, violated the Open Meeting Law when members of the City Council, who were not members of the Ordinance Committee, "deliberated" in violation of the Open Meeting Law, and that the duly posted Ordinance Committee meeting was, in essence, an undeclared City Council Meeting that was not

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separately "noticed". On March 10, 2016, the City Council through its legal counsel, provided a written response to the Amended Complaint denying the violation. Specifically, said response provided in pertinent part:

The Ordinance Committee is comprised of five members, four of whom were present on February 16. There is no question that five councilors constitute a quorum of the Fall River City Council concerned citizens were allowed to address the meeting in accordance with long established practice and procedure. During the meeting other councilors arrived and sat in their regular seats. At one time eight of the nine elected City Councilors were present in the Council Chambers. The four subcommittee members present discussed the issues and asked questions of the administrative staff ultimately referring the matter to the Full Council. Other than the referral **no votes were taken nor were any recommendations made. (emphasis supplied).** During the meeting those councilors present, who were not members of the committee, asked questions of the administrative staff regarding the factual basis for the recommendations and commented thereon. However, a fair viewing of the contemporaneous video shows little, if any, interaction between the committee members and the non-committee councilors. Moreover, the non-committee members did not even vote to refer the matter to full council . . . The valid posting, since it of necessity included a quorum of the City Council, was both *ipso facto* and *de jure* posting of the City Council meeting . . . Even if these considerations are put aside there was no "deliberation" including the nonmembers of the committee and any "deliberation" by members of the committee was perfectly appropriate, legal and noticed.

(Administrative Record, p.14).

On or about March 1, 2016, the Attorney General received said Amended Complaint.

(Administrative Record, p. 13). The Division of Open Government established within the Office of the Attorney General, is charged with enforcement of the Open Meeting Law. G.L. c. 30A, §19(a). After conducting an informal investigation into the matter pursuant to G.L. c. 30A, §23(c), the Attorney General issued a decision, OML 2016-117, dated September 1, 2016, finding that the City Council violated the Open Meeting Law, and ordered immediate and future compliance with the Open Meeting Law. (Administrative Record, p.18)

Specifically, the Attorney General found that the City Council violated the Open Meeting Law by "deliberating" during the February 16 meeting without posting notice. The Attorney General stated in its decision that [i]n considering whether members of the parent public body

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have 'deliberated' during a subcommittee meeting, we look for "indicia such as whether the parent public body members were seated with the general public and whether they participated by open participation." (Administrative Record, p. 19, emphasis added).

The Attorney General concluded that a "deliberation" took place because the non-Ordinance Committee councilors "sat in their seats at the Council dais, and [w]hen they were recognized to speak it was done with the honorific 'Councilor' . . . a reasonable member of the public watching the recording the meeting would have believed they were watching a joint meeting of the Council and the Subcommittee" (Administrative Record, p. 19, emphasis added). Therefore, according to the Attorney General, in order for a member of a parent public body (here, the City Council) to participate in a subcommittee meeting (here, Ordinance Committee) and that participation not constitute "deliberation", he must sit in the seats designated for the general public, cannot be recognized with the term "Councilor" and can only participate, if at all, as a member of the public if recognized by the chair and only if other members of the public are recognized as well. (Administrative Record, p. 32).

#### Standard of Review

M.G.L.A. c. 249, § 4 expressly provides that a civil action in the nature of certiorari will "to correct errors in proceedings which are not according to the course of the common law, which proceedings are not otherwise reviewable by motion or appeal . . . " M.G.L. c. 249, § 4; *Mayor of Revere v. Civil Service Commission*, 31 Mass.App.Ct. 315, 321, 577 N.E.2d 325, 329 (1991).

To obtain certiorari review of an administrative decision, the following three elements must be present: (1) a judicial or quasi judicial proceeding, (2) from which there is no other

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reasonably

adequate remedy, and (3) a substantial injury or injustice arising from the proceeding under review. *Frawley v. Police Com'r of Cambridge*, 473 Mass. 716, 46 N.E.3d 504 (2016). In a civil action in the nature of certiorari, judicial factual review is limited to the record before the administrative agency, governmental body or officer that made the decision complained of. See *Board of Selectmen of Oxford v. Civil Service Commission*, 37 Mass.App.Ct. 587, 588 n. 4, 641 N.E.2d 714, 715 n. 4 (1994). M.G.L.A.c. 30A, § 23(d) provides in pertinent part: "A public body . . . aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari . . . Any order issued under this section shall be stayed pending judicial review;"

M.G.L.A. c. 30A, § 14 provides in pertinent part:

- (7) The court may affirm the decision of the agency, or remand the matter for further proceedings before the agency; or the court may set aside or modify the decision, or compel any action unlawfully withheld or unreasonably delayed, if it determines that the substantial rights of any party may have been prejudiced because the agency decision is --
  - (a) In violation of constitutional provisions; or
  - (b) In excess of the statutory authority or jurisdiction of the agency; or
  - (c) Based upon an error of law; or
  - (d) Made upon unlawful procedure; or
  - (e) Unsupported by substantial evidence; or
  - (f) Unwarranted by facts found by the court on the record as submitted . . . or
  - (g) Arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.

M.G.L.A. c. 30A, §14.

The fundamental purpose of certiorari review is to correct substantial errors of law apparent on the record adversely affecting material rights. *Seales v. Boston Housing Authority*, 88 Mass.App.Ct. 643, 40 N.E.3d 1046 (2015), review denied 473 Mass. 1113; *Higby/Fulton*

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*Vineyard, LLC v. Board of Health of Tisbury*, 70 Mass.App.Ct. 848, 852, 877 N.E.2d 955 (2007); *Northboro Inn, LLC v. Treatment Plant Bd. Of Westborough*, 58 Mass.App.Ct. 670, 792 N.E.2d 690 (2003). A court undertaking certiorari review decides, on the entire record, whether the questioned proceedings were erroneous or whether error of law was made. *State Board of Retirement v. Woodward*, 446 Mass. 698, 704, 847 N.E.2d 298, 304 (2006).

### Argument

**I. THE ATTORNEY GENERAL'S EXPANSION OF THE STATUTORY DEFINITION OF "DELIBERATION" TO INCLUDE "INDICIA" SUCH AS WHETHER A COUNCILOR SITS IN THE COUNCIL DAIS OR VISITORS' GALLERY, OR WHETHER HE IS RECOGNIZED BY HIS OFFICIAL TITLE, IS ARBITRARY AND CAPRICIOUS AND CONSTITUTES ERROR OF LAW, ELEVATING FORM OVER SUBSTANCE.**

**A. Open Meeting Law, M.G.L.A. c. 30A §§ 18 -25**

The purpose of the Open Meeting Law as set forth in M.G.L.A. c. 30A §§ 18 -25 (See Petition for Certiorari, Ex. 6) is "to eliminate much of the secrecy surrounding deliberations and discussions on which public policy is based." *Ghiglione*, 376 Mass. at 72, 378 N.E.2d at 987; *McCrea*, 71 Mass.App.Ct. at 641-642, 885 N.E.2d at 840.

M.G.L.A. c. 30A, § 20 provides in pertinent part: "Except as provided in section 21, all meetings of a public body shall be open to the public . . . a public body shall post notice of every meeting . . . " M.G.L.A. c. 30A § 20. A "meeting" is defined in pertinent part as "a deliberation by a public body with respect to any matter within the body's jurisdiction; provided, however, 'meeting' shall not include: . . . (c) attendance by a quorum of a public body at a meeting of

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another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;" M.G.L.A. c. 30A, § 18 (emphasis added).

M.G.L.A. c. 30A § 18 clearly and unambiguously provides for an exception to the open meeting law requirements to allow for visiting members of a public body to attend and "communicate by open participation in the meeting on those matters under discussion by the host body and do not deliberate;" "Deliberation" is defined in the statute as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; . . . ." M.G.L.A. c. 30A, § 18 (emphasis added). A "public body" is defined as "a multiple-member . . . committee or subcommittee within . . . any . . . city, . . . established to serve a public purpose; . . . and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body." M.G.L.A. c. 30A, § 18. A "quorum" is defined as "a simple majority of the members of the public body, unless otherwise provided in general or special law, executive order or other authorizing provision." M.G.L.A. c. 30A, § 18

### B. Rules of Statutory Construction

When engaging in statutory interpretation, "Courts must ascertain the intent of a statute from all its parts and from the subject matter to which it relates, and must interpret the statute so as to render the legislation effective, consonant with sound reason and common sense". *DiGiacomo v. Metropolitan Property & Cas. Ins. Co.*, 66 Mass.App.Ct. 343, 847 N.E.2d 1107, 1110 (2006) (citations omitted). "Where . . . the meaning of a statute is in dispute,

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unquestionably it is for the courts to interpret it and apply it to the facts at hand. Statutory interpretation is a quintessential judicial responsibility to be undertaken using well-established guiding principles. *DiGiacomo*, 66 Mass.App.Ct. at 344, 847 N.E.2d at 1110. The general and familiar rule is that "a statute must be interpreted according to the intent of the legislature ascertained from all its words construed by the ordinary and approved usage of the language, considered in connection with the cause of its enactment, the mischief or imperfection to be remedied and the main object to be accomplished, to the end that the purpose of its framers may be effectuated." *Hanlon v. Rollins*, 286 Mass. 444, 447, 190 N.E. 606 (1934); *In re Angela*, 445 Mass. 55 (2005). "None of the words of a statute is to be regarded as superfluous, but each is to be given its ordinary meaning without overemphasizing its effect upon other terms appearing in statute, so that the enactment considered as a whole shall constitute a consistent and harmonious statutory provision capable of effectuating the presumed intention of the legislature." *Bolster v. Commissioner of Corporations and Taxation*, 319 Mass. 81, 84-85, 64 N.E.2d 645 (1946). "[E]very word of a legislative enactment is to be given force and effect so far as is reasonably practicable. No part is to be treated as immaterial or superfluous unless no other rational course is open." *Commissioners of Public Works v. Cities Service Oil Co.*, 308 Mass. 349, 360, 32 N.E.3d 277, 283 (1941) and cases cited. "[A] statute should be read as a whole to produce an internal consistency." *Telesetsky v. Wight*, 395 Mass. 868, 872, 482 N.E.2d 818 (1985). "It is a fundamental principle of statutory construction that in interpreting any particular provision it should be construed as part of a statute as a consistent whole." *Walker v. Board of Appeals of Harwich*, 388 Mass. 42, 51, 445 N.E.2d 141 (1983).

Courts will generally construe the provisions of the Open Meeting Law liberally to reflect its purpose, which is "to eliminate much of the secrecy surrounding deliberations and discussions



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on which public policy is based." *Ghiglione v. School Committee of Southbridge*, 376 Mass. 70, 72, 378 N.E.2d 984, 987 (1978); *McCrea v. Flaherty*, 71 Mass.App.Ct. 637, 641-642, 885 N.E.2d 836, 840 (2008).

### C. Attorney General's Misinterpretation of the Open Meeting Law

M.G.L.A. c. 30A, § 25 confers upon the Attorney General, authority to interpret the Open Meeting Law and issue written letter rulings or advisory opinions. Over the years, however, the Attorney General has taken a position which has expanded the statute's definition of "deliberation" beyond what is a reasonable interpretation of the statutory language and is inconsistent with the statute's purpose so as to render the legislation effective, consonant with sound reason and common sense. See *DiGiacomo*, 66 Mass.App.Ct. at 343.

As stated earlier, a "meeting" is defined in pertinent part as "a deliberation by a public body with respect to any matter within the body's jurisdiction; provided, however, 'meeting' shall not include: . . . (c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;" M.G.L.A. c. 30A, § 18 (emphasis added).

Consistent with section 18, the Attorney General has ruled that "a quorum of a [parent] public body may sit on its subcommittee without having to post a separate meeting notice, provided that the discussion is **limited to matters within the jurisdiction of the subcommittee.**" Administrative Record, p. 18 (OML 2016-117) (emphasis added); (Administrative Record, p.

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21 (OML 2013-155 Fn. 2); Additionally, members of a parent public body may attend the meeting of a subcommittee provided there is no deliberation. (See Petition for Certiorari, Ex. 5 (OML 2013-38))<sup>1</sup>;

However, in issuing determinations involving circumstances where members of a parent public body attend subcommittee meetings, the Attorney General has veered off from what should be the logical and reasonable interpretation of the statutory prohibition of "deliberation" by the parent body members.

The Attorney General, has erroneously and arbitrarily and capriciously interpreted section 18 to require that for there to be no "deliberation" visiting members of public bodies can participate merely as members of the public (See e.g., Petition for Certiorari, Ex. 5 (OML 2013-38); Administrative Record, p. 28 (OML 2012-6)).<sup>2</sup> With regard to the present case, the Attorney General has also imposed the requirement that when parent body members who are elected officials attend subcommittee meetings, they cannot be recognized by their official titles. (See e.g., Administrative Record, p. 18 (OML 2016-117);

Whether a visiting City Councilor attending a subcommittee meeting asks questions from the audience or from his Council seat, or is addressed as "Councilor" or "Mr." or "Ms." is irrelevant to determining whether parent body members "deliberate" at the meeting. The title

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<sup>1</sup> In OML 2013-38, members of the Hingham Board of Selectmen (Board) attended a Hingham Municipal Light Board meeting. Although they sat in the audience with the general public, the Attorney General found the Board "did not participate merely as individual audience members" and concluded that the Board "deliberated" without posting notice because they "responded to each other's comments when addressing the [Hingham Light Board meeting] and "gave direct orders to Town employees to make decisions regarding implementation" which were "policy decisions constitut[ing] public business within the Board's jurisdiction."

<sup>2</sup> In OML 2012-6 the Attorney general ruled that "[m]embers of the Council, who are not members of the Finance Committee, may attend a subcommittee meeting without it being a meeting of the Council as long as they do not deliberate. See G.L. c. 30A, § 18. This means that Council members may attend the meeting and listen as members of the audience, and participate as members of the audience at the discretion of the chair of the subcommittee." They may not discuss matters as a quorum, or discuss topics which are not under consideration by the subcommittee. Doing so would constitute a deliberation and a separate meeting notice for the public body would be required.

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of "Councilor" is attached to the elected individual and not to his seat. For example, a judge's title is that of a judge regardless whether he presides from the judge's bench or gives a lecture to a group of students. A senator's title is that of a senator whether he is addressing the assembly or dining out with friends. A councilor's title is that of a councilor whether he sits in the audience or in his council seat when attending a subcommittee meeting. In each of these examples, these elected officials do not lose their title simply because they are not acting within their official capacity at a specific time.

The Attorney General's unlawful expansion of the clear and unambiguous statutory meaning of "deliberation" as set forth in the present case as well as in prior determination, (See, e.g., Petition for Certiorari, Ex. 5 (OML 2013-38); and Administrative Record, p. 28 (OML 2012-6)) requires that the City Council engage in a sham and a subterfuge. A City Councilor presumably violates the law when he sits in his Council seat but does not if he sits in the audience theoretically stripped of his elected office. This clearly and unlawfully elevates form over substance. It serves no legitimate public purpose to engage in hyper-technical analysis in order to prevent the open and lawful conduct of the public's business. Such an interpretation unlawfully circumscribes the operation of government.

Throughout the Attorney General's investigation into the present matter, it has been the City Council's position that its conduct does not violate the Open Meeting Law, as all meetings, whether those of a subcommittee or of the full City Council, are appropriately posted, open to the public, and only matters on the published agenda are discussed.

It is clear under § 18, that no meeting occurs where there is "attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the Open Meeting Law, so long as the visiting members communicate only by open

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participation in the meeting on those matters under discussion by the host body and do not deliberate." In the present case, City Councilors who attended the Ordinance Committee meeting openly "participated" when they openly asked questions of the Ordinance Committee members and made comments in the properly posted subcommittee meeting on subjects that were within the Ordinance Committee's jurisdiction. The City Councilors did not "deliberate" within the clear and unambiguous meaning of §18. The Attorney General's interpretation is clearly erroneous because the conduct of the City Council comported with both the letter and the spirit of the statute.

**II. WHEN VISITING MEMBERS OF THE CITY COUNCIL ATTEND AND OPENLY PARTICIPATE AT A SUBCOMMITTEE MEETING, THEY ARE NOT DELIBERATING ON MATTERS "WITHIN THEIR JURISDICTION" THEREFORE IT IS IRRELEVANT WHETHER THEY SIT IN THEIR ASSIGNED SEATS OR ARE RECOGNIZED IN THEIR OFFICIAL TITLES FOR PURPOSES OF THE OPEN MEETING LAW.**

"Deliberation" is defined in the statute as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business **within its jurisdiction; . . .**" M.G.L.A c. 30A, § 18 (emphasis added).

The jurisdiction of the City Council's Ordinance Committee is conferred through City Ordinance which reads as follows:

Sec. 2-155. Reports. (a) It shall be the duty of any committee of the city council to which a subject may be specially referred to report thereon within one month from the time the subject is referred to it, or at the next meeting thereafter, or ask for further time. (b) **No report shall be received from any committee unless the subject matter thereof shall have been considered in committee actually assembled, and unless the report shall state the vote by which the report was adopted, indicating by name in case the vote was unanimous the members absent, if any, and in case the vote was not unanimous, the members voting in the affirmative, the members voting in the negative and the members absent at the meeting of the committee at which such action was taken.**

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Rev. Ords. 1988, § 2-126 (emphasis added).

Pursuant to City Ordinance, City Council committees are conferred very specific and limited jurisdiction related to the subjects referred to them. The City Council cannot even receive a report from the Ordinance Committee or any committee until the committee votes and assembles a report to the City Council. Thus, any comments or opinions that visiting councilors constituting a quorum would provide when attending an open meeting of the Ordinance Committee cannot equate to a "deliberation" for purposes of the open meeting law, since the visiting councilors have no say in what the Ordinance Committee ultimately decides and/or or votes upon, and therefore any communication of a visiting committee member which constitutes communication . . . among a quorum of a public body" is not "public business **within its jurisdiction.**" (emphasis added).

The Attorney General has correctly recognized the specific jurisdiction of subcommittees when it determined that "a quorum of a public body may sit on its subcommittee without having to post a separate meeting notice, provided the discussion is limited to matters within the jurisdiction of the subcommittee. (See Administrative Record, p. 21 (OML 2013-155 Fn. 2); Administrative Record, p. 18 (OML 2016-117)). However, she has erroneously concluded that in order for there to be no "deliberation" visiting members of public bodies can participate merely as **members of the public, and cannot be recognized in their official titles.** (See e.g., Administrative Record, p. 18 (OML 2016-117); and Administrative Record, p. 28 (OML 2012-6)). It is unreasonable and an error of law for the Attorney General to presume under the Open Meeting Law that comments or opinions of visiting councilors are not somehow magically elevated to non-deliberation status simply by where they sit or whether they are recognized in their official capacity when they speak. Moreover, in these later determinations with the added

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requirements to the "deliberation" analysis, the Attorney General has seemingly contradicted her prior recognition of the specific jurisdiction conferred upon subcommittees. In fact, by now imposing additional requirements in deciphering whether deliberation occurs, the Attorney General has effectively negated the Open Meeting Law requirement that deliberation concerns communication within the body's jurisdiction, and its earlier recognition of the specific jurisdiction conferred upon subcommittees.

A clear and unambiguous reading of section 18 presumes that any commentary or opinion of a visiting member of the City Council at a sub-committee meeting, regardless whether it is made from the audience or from Council seat, or whether the individual is recognized in his official capacity, is not a "communication . . . between or among a quorum of a public body on any public business **within its jurisdiction.**" (emphasis added).

**III. THE ATTORNEY GENERAL COMMITTED ERROR OF LAW WHEN IT ARBITRARILY AND CAPRICIOUSLY DETERMINED THAT THE CITY COUNCIL VIOLATED THE OPEN MEETING LAW BECAUSE IN ITS OPINION "A REASONABLE MEMBER OF THE PUBLIC WATCHING THE RECORDING OF THE MEETING WOULD HAVE BELIEVED THAT THEY WERE WATCHING A JOINT MEETING OF THE COUNCIL AND SUBCOMMITTEE."**

The Attorney General concluded that a "deliberation" took place because the non-Ordinance Committee councilors "sat in their seats at the Council dais, and [w]hen they were recognized to speak it was done with the honorific 'Councilor' [and] . . . a reasonable member of the public watching the recording the meeting would have believed they were watching a joint meeting of the Council and the Subcommittee" (Administrative Record, p. 19, emphasis added).

What "a reasonable member of the public watching the recording of the meeting would

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have believed" is completely irrelevant to a determination of whether the meeting was a violation of the Open Meeting Law which is "to eliminate much of the secrecy surrounding deliberations and discussions on which public policy is based." *Ghiglione*, 376 Mass. at 72, 378 N.E.2d at 987; *McCrea*, 71 Mass.App.Ct. at 641-642, 885 N.E.2d at 840. That purpose is in no way thwarted simply by the fact that members of the full body sit in their assigned seats and ask questions from their council seats, (as opposed to sitting in the audience) when attending and openly participating in subcommittee meetings. There is no factual basis for the Attorney General's determination the public would perceive that a joint meeting between the City Council and subcommittee was taking place simply because visiting council members were sitting in their assigned seats and were addressed as "Councilor." The Open Meeting Law's requirement that the subcommittee meeting be properly posted is designed to prevent such a perception. Moreover, it is clear error of law for the Attorney General to base the validity and interpretation of the laws of the Commonwealth upon public perception. Finally, there is no legal requirement under the open meeting law that meetings be televised. Therefore, it is arbitrary and capricious to conclude the public's perception upon viewing of a televised recording of an otherwise openly public meeting should constitute indicia of whether the Open Meeting Law was violated.

**IV. THE ATTORNEY GENERAL'S ERRONEOUS INTERPRETATION OF SECTION 18 UNLAWFULLY DISENFRANCHISES VOTERS AND DEPRIVES CITY COUNCILORS OF THEIR RIGHT TO HOLD ELECTIVE OFFICE IN VIOLATION OF ARTICLE IX OF THE MASSACHUSETTS CONSTITUTION.**

The appropriate participation by elected officials in matters legitimately before them is both their right and responsibility as a consequence of their office. The Attorney General's unlawful characterization of "deliberation" for purposes of the open meeting law has the effect of

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disenfranchising the voters and deprives city councilors their right to hold elective office in violation of M.G.L.A. Const. Pt.1, Art. 9 which reads as follows: "ART. IX. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments."

If this Court were to allow the Attorney General's unlawful expansion of the meaning of "deliberate" and "participate" as it pertains to the requirements it has prescribed for full City Council members attending subcommittee meetings, it would, in effect, relegate elected officials to mere spectators in the function of the government. It would effectively disenfranchise those voters who elected the councilors to represent them by treating such councilors as members of the public with no greater rights or responsibilities than the average citizen. Further, the Attorney General's interpretation of the open meeting law, which in effect, treats every subcommittee meeting as a full Council meeting, is nothing more than a subterfuge elevating form over substance. Doing so would allow a subcommittee to refer a matter to the full body, the full body to vote on an emergency preamble, pass a resolution through both readings at the same meeting, and essentially frustrate the intent of due deliberation and the Open Meeting Law. This is the exact opposite of the clear meaning and interpretation of the law. The performance of the Fall River City Council is open, above board, totally public and in full compliance with both the letter and the spirit of the Open Meeting Law.

Over and above the reasons above set forth to reverse the Attorney General's decision there is an overriding constitutional and policy reason it is arbitrary, capricious and not in accordance with the law. It effectively disenfranchises the voters of Fall River who elected City Councilors to represent them. This is a fundamental tenet of representative democracy. Since



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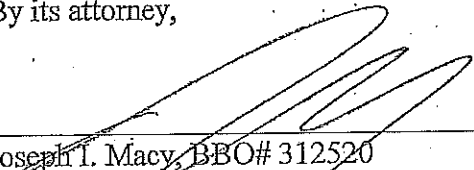
each citizen cannot attend every meeting of every public body they elect individuals, in this case City Councilors, to attend and participate for them. To limit the people's elected representatives, as the Attorney General seeks to do, from participation by virtue of where they sit or their omission from a particular sub-committee is anathema to this fundamental tenet.

### Conclusion

For all the aforementioned reasons, the plaintiff respectfully requests this Honorable Court grant judicial review of the Attorney General's final order, and find that the Attorney General committed error of law in its unlawful interpretation and expansion of the Open Meeting Law, was violative of Massachusetts constitutional provisions, and/or that its interpretation was otherwise arbitrary and capricious and an abuse of discretion.

Respectfully submitted,  
PLAINTIFF,

The Fall River City Council,  
By its attorney,



\_\_\_\_\_  
Joseph I. Macy, BBO# 312520  
Corporation Council  
City of Fall River  
One Government Center  
Fall River, MA 02721  
Tel. (508) 324-2650  
Fax. (508) 324-265  
jmacy@fallriverma.org

Dated: January 5, 2016

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COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

TRIAL COURT  
SUPERIOR COURT DEPT.  
CIVIL ACTION NO: 1673CV00865

FALL RIVER CITY COUNCIL,  
Plaintiff,

v.

MAURA HEALEY, ATTORNEY GENERAL  
OF THE COMMONWEALTH OF  
MASSACHUSETTS,  
Defendant.

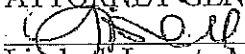
DEFENDANT ATTORNEY GENERAL'S  
CROSS-MOTION FOR JUDGMENT ON THE PLEADINGS

Now comes Defendant Maura Healey, Attorney General of the Commonwealth of Massachusetts ("Attorney General"), and respectfully moves this Honorable Court to enter an order denying Plaintiff's Motion for Judgment on the Pleadings and affirming her September 1, 2016 decision, OML 2016-17.

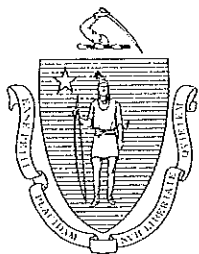
The grounds for this Opposition and Cross-Motion are set forth in the Attorney General's Memorandum of Law in Support of Her Opposition to the Plaintiff's Motion for Judgment on the Pleadings and Cross-Motion for Judgment submitted herewith.

Respectfully submitted,

MAURA HEALEY  
ATTORNEY GENERAL

  
Elizabeth Lagarto Marshall, BBO 667729  
Assistant Attorney General  
105 William Street  
New Bedford, MA 02740  
(508) 742-4516  
[Lizabeth.Marshall@state.ma.us](mailto:Lizabeth.Marshall@state.ma.us)

Dated: January 31, 2017



MAURA HEALEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

(617) 727-2200  
www.mass.gov/ago

July 5, 2017

OML 2017 - 109

Joseph I. Macy, Corporation Counsel  
City of Fall River  
One Government Center  
Fall River, MA 02722

CITY CLERK  
FALL RIVER, MA

2017 JUL -7 A 11:40

RECEIVED

**RE: Open Meeting Law Complaint**

Dear Attorney Macy:

This office received a complaint from CJ Ferry, dated February 27, 2017, alleging that the Fall River City Council (the "Council") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Council on January 23, 2017, and the Council responded by letter dated February 6, 2017. In his complaint, Mr. Ferry alleges that the Council failed to respond to an Open Meeting Law complaint within the time frame required by law.

Following our review, we find that the Council violated the Open Meeting Law as alleged. Further, we find that this violation was intentional. The complaint concerns the time frame in which the Council responded to an earlier Open Meeting Law complaint. That earlier complaint was filed with the Council on December 27, 2016, and the Council responded on January 23, 2017.

The Open Meeting Law requires that, within 14 business days after receiving a complaint, the public body must review the complaint's allegations; take remedial action, if appropriate; and send the Attorney General a copy of the complaint and a description of any remedial action taken. G.L. c. 30A, § 23(b); 940 CMR 29.05(5). Here, the Council exceeded the 14 business day time frame for responding to the complaint and did not request an extension of time from our office. We have previously informed the Council that such failure to respond within 14 business days violates the Open Meeting Law. See OML 2016-118.<sup>1</sup> Because the Council had received clear written warning from the Division prior to this violation, we find that the Council's violation was intentional. See 940 CMR 29.02 (defining "Intentional Violation"). On March 22, 2017, we issued a determination letter finding that the Council intentionally violated the Open Meeting Law with respect to this issue and recommended the imposition of a

<sup>1</sup> Open Meeting Law determinations may be found at the Attorney General's website, [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting).




7/11/17 emailed to all Councilors

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fine of \$1,000.00. See OML 2017-45. While the Division has the discretion to issue a separate fine based on the violation addressed in the present letter, see G.L. c. 30A, § 23(c), we decline to do so here, concluding instead that the fine issued in OML 2017-45 is sufficient to address the Council's violation of the law. However, future intentional violations of the same nature may incur further fines.

We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Council. Please feel free to contact the Division at (617) 963 - 2540 if you have any questions.

Sincerely,

  
Kevin W. Manganaro  
Assistant Attorney General  
Division of Open Government

cc: Fall River City Council  
CJ Ferry

**This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.**



## OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: CJ Last Name: Ferry

Address: 300 Buffinton Street

City: Fall River State: MA Zip Code: 02721

Phone Number: +1 (508) 646-9026 Ext.

Email: cj.ferry@comcast.net

Organization or Media Affiliation (if any):

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual

☐ Organization

☐ Media

### Public Body that is the subject of this complaint:

☒ City/Town

☐ County

☐ Regional/District

☐ State

Name of Public Body (including city/  
town, county or region, if applicable): City Of Fall River City Council

Specific person(s), if any, you allege  
committed the violation:

Date of alleged violation: Jan 17, 2017

CITY OF FALL RIVER  
IN CITY COUNCIL

Jan. 24, 2017  
a/c placed on file

1/24/2017 emailed to all Councilors

## Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On December 27, 2016, the entire Fall River City Council was served with this Open Meeting Law Complaint with copies to the Fall River City Clerk and the Fall River Corporate Council.

Under MGL 30A §23(b), the public body is allowed fourteen (14) business days to respond to the complaint from the date of filing.

The Fall River City Council, failed to provide a response to the complaint of December 27, 2016 within the fourteen business days as required by MGL 30A §23(b).

This is evidenced by the response of the Fall River City Corporate Counsel hereto attached dated January 23, 2017.

The City Council deliberately chooses to assign responses to another individual, office or entity by which they regularly and continuously fail to meet the requirements under MGL 30A § 23(b), these acts are willful and deliberate and refuse to meet with the complainant regarding these issues as does the assigned individual, office or entity.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

The City Council should implement a policy where a meeting or discussion with the complainant on possible resolutions to the complaint be held to amicably resolve these issues. The assessment of the maximum pecuniary assessment against the City Council members as they have the legal responsibility to insure that the law is complied with and have regularly failed to comply with the law.

## Review, sign, and submit your complaint:

### I. Disclosure of Your Complaint.

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, will be considered a public record and available to any member of the public upon request. In response to such a request, the AGO generally will not disclose your contact information.

### II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

### III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: \_\_\_\_\_

Date: January 23, 2017

For Use By Public Body

For Use By AGO

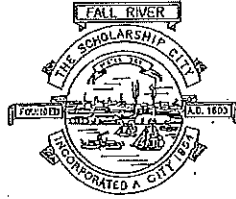
Date Received by Public Body:

Date Received by AGO:

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**City of Fall River**  
*Office of the Corporation Counsel*

**JASIEL F. CORREIA II**  
Mayor



**JOSEPH I. MACY**  
Corporation Counsel

**GARY P. HOWAYECK**  
Assistant Corporation Counsel

January 23, 2017

CJ Ferry  
300 Buffington Street  
Fall River, MA 02721

**RE: OPEN MEETING LAW COMPLAINT  
FALL RIVER CITY COUNCIL  
DATE OF ALLEGED VIOLATION: 12/27/2016**

Dear Mr. Ferry:

This letter is in response to your Open Meeting Law Complaint filed against the Fall River City Council on or about December 27, 2016. Specifically, you allege the following:

1. On local radio media, WSAR, the Mayor of the City of Fall River, discussed via text messaging with all nine city councilors the possibility of allowing "Amnesty of Trash and recycling Fines." He [Mayor] stated he wanted to do this to remain in compliance with city ordinance. This communication appears to be serial communication and deliberation with a quorum of the City Council if not the entire City Council.

As you are aware, the purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. It requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently.

The Open Meeting Law requires that all meetings of a public body be properly noticed and open to members of the public, unless an executive session is convened. See G.L. c. 30A, §§ 20(a)-(b), 21. The Law's purpose is to eliminate much of the secrecy surrounding deliberations and decisions on which public policy is based." Ghiglione v. School Committee of Southbridge, 376 Mass. 70, 72 (1978). A "meeting" is defined, in relevant part, as "a deliberation of a public body with respect to any matter within the body's jurisdiction." G.L. c. 30A, § 18. The law defines "deliberation" as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that 'deliberation' shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of

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reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed." Id.

A member of a public body may distribute a document for discussion at a meeting via email, so long as the document does not contain the opinion of a member of the public body. G.L. c. 30A, § 18; OML 2012-84. "Expression of an opinion on matters within the body's jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds." OML 2013-186.

A public body may not engage in a serial communication whereby a quorum communicates in a non-contemporaneous manner outside of a meeting, on a particular subject matter within the public body's jurisdiction. See OML 2012-84 (improper deliberation where committee Chair made request to non-committee members to forward his opinions to other Committee members to circumvent the OML requirements-the Chair was attempting to facilitate communication between and among a quorum of the Committee on public business within the Committee's jurisdiction.; McCrea v. Flaherty, 71 Mass. App.Ct. 637 (2008) (holding that private serial communications violate the spirit of the Open Meeting Law and may not be used to circumvent the intent of the law). A public body may not use a non-member, such as a staff member, to communicate on matters that the Board would otherwise save for discussion at an open meeting. See District Attorney for the Northern District v. School Committee of Wayland, 451 Mass. 561, 570-571 (2009) ("Governmental bodies may not circumvent the requirements of the open meeting law by conducting deliberations via private messages, whether electronically, in person, over the telephone, or in any other form.")

First, the mayor's text to the councilors did not constitute serial communication between or among members of the City Council, as he did not express or solicit opinions between/among members of the Council. See e.g., OML 2015-3 (where quorum of commission members agreed to elect the leadership of the commission through email and in-person communications, it constituted deliberation outside of noticed meeting in violation of OML); OML 2013-186 (where Board of Selectmen Chair sent communications through telephone, email, and through a third party, asking to get the boards thoughts and expressing opinion on matter of public business within the board's jurisdiction to a quorum of the board, it constituted deliberation outside of properly posted meeting in violation of OML); and OML 2013-186 (where town administrator facilitated serial communication between Board members where he took a poll of the board about whether to close Town Hall for inclement weather); OML 2012-105 . . . .;



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OML 2012-84 (former School Committee Chair sent emails to a quorum of the Committee covering a variety of topics, containing communications about Committee business)

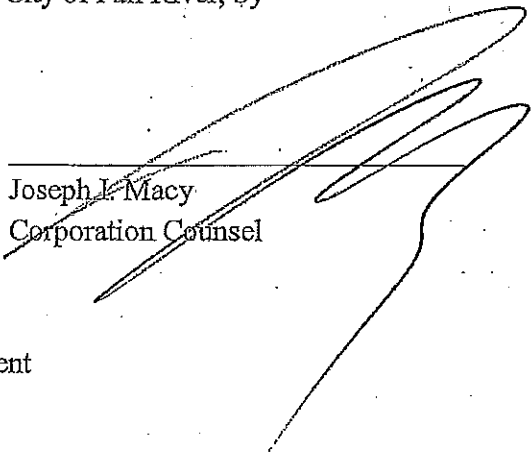
Moreover, no councilors responded to the communication, no dialogue or exchange of opinions resulted between or among a quorum of the Council and therefore the Council as a whole did not violate the Open Meeting Law. See OML 2012-84 (where no other dialogue or exchange of opinions resulted between or among a quorum of the Committee outside of a meeting as a result of Chair's communications, Committee as a whole did not violate the Open Meeting Law)

As such, the City Council did not violate the Open Meeting Law by engaging in deliberation outside of a properly posted meeting when it received text from the Mayor.

The Fall River City Council acted in good faith compliance with the law and should not be considered to have committed an intentional violation of the law. G.L. c. 30A, §23(g); 940 CMR20.02.

Since a determination has been made that no violation has occurred, we consider this matter closed. Please note that you have the right to appeal to the Massachusetts Attorney General – Division of Open Government.

City of Fall River, by

  
\_\_\_\_\_  
Joseph L. Macy  
Corporation Counsel

Cc: Attorney General – Division of Open Government

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**City of Fall River**  
*Office of the Corporation Counsel*

**JASIEL F. CORREIA II**  
Mayor



**JOSEPH I. MACY**  
Corporation Counsel

**GARY P. HOWAYECK**  
Assistant Corporation Counsel

February 6, 2017

CJ Ferry  
300 Buffington Street  
Fall River, MA 02721

**RE: OPEN MEETING LAW COMPLAINT**  
**FALL RIVER CITY COUNCIL**  
**DATE OF ALLEGED VIOLATION: January 17, 2017**

Dear Mr. Ferry:

This letter is in response to your Open Meeting Law Complaint filed against the Fall River City Council on or about January 23, 2017. Specifically, you allege the following:

1. The Fall River City Council failed to provide a response to the complaint of December 27, 2016 within the fourteen (14) business days as required by M.G.L. 30A § 23(b). This is evidenced by the response of the Fall River City Corporate Counsel hereto attached dated January 23, 2017.

As you are aware, the purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. It requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently.

You allege the response received dated January 23, 2017 from Corporation Counsel regarding an alleged Open Meeting Violation that occurred on December 27, 2016 is outside the fourteen (14) business days to respond under M.G.L. 30A § 23(b).

According to Massachusetts Attorney General Open Meeting Law Guide (Effective July 1, 2015) "The Public body has 14 business days from the date of receipt to review the complainant's allegation, take remedial action if appropriate, notify the complainant of the remedial action, and forward a copy of the complaint and description of the remedial action taken to the Attorney General".

However, I refer you to my letter dated February 3, 2017, requesting reconsideration so that this office may use one date as a firm reference with respect to response time.

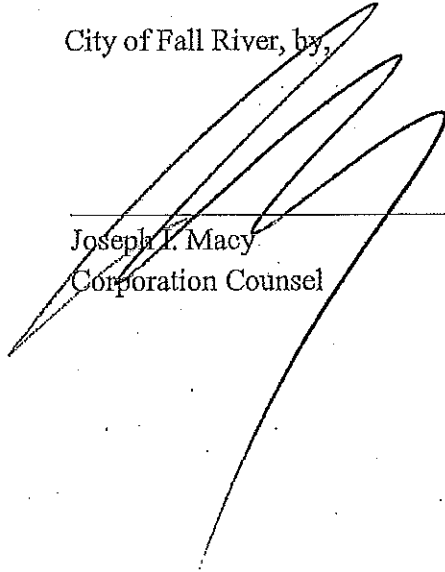
One Government Center • Fall River, MA 02722 • TEL (508) 324-2650  
Workers' Compensation (508) 324-2540 • FAX (508) 324-2655 • EMAIL [lawoffice@fallriverma.org](mailto:lawoffice@fallriverma.org)  
*Equal Justice Under Law*

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The Fall River City Council acted in good faith compliance with the law and should not be considered to have committed an intentional violation of the law. G.L. c. 30A, §23(g); 940 CMR20.02.

Since a determination has been made that no violation has occurred, we consider this matter closed. Please note that you have the right to appeal to the Massachusetts Attorney General – Division of Open Government.

City of Fall River, by,



\_\_\_\_\_  
Joseph L. Macy  
Corporation Counsel



THE PRESERVATION SOCIETY OF FALL RIVER, INC.

Aug 9 2017

To: City of Fall River, City Council

RE: Fall River Historic District Commission Appointments

Dear City Council President and Members,

The Fall River Historic District Commission has one vacancy given Mr. Richard Pelletier's recent resignation. The Preservation Society humbly requests that the Council make an appointment as soon as conveniently possible.

Per Mass Historic Commission guidelines, appointments should come from nominees whom can be recommended by the Massachusetts Landscape or Architect Institute.

The Society submits attached resume of Kathryn Kenney for your consideration.

Sincerely,

Jim Soule, Pres.  
508 361 2714

CITY CLERK  
FALL RIVER, MA

2017 AUG -9 A 11:23

RECEIVED

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**Kathryn E. Kenney**  
4980 North Main Street, Apt #519  
Fall River, MA 02720  
774.526.1198 (c) | kathrynkenney@gmail.com

## Education

Boston Architectural College, Boston, Massachusetts  
*Master of Interior Design*, 2014

University of Miami, Coral Gables, Florida  
*Bachelor of Architecture*, Minor in Spanish Language & Literature, May 2007

## Certificates

University of Miami, Coral Gables, Florida  
*Principles and Practices of New Urbanism*, June 2009

## Technology

Adobe Photoshop, Adobe InDesign, ArchiCAD15, AutoDesk 2012, Revit Arch. 2009, SketchUp

## Experience

Diman Regional Vocational Technical High School

Fall River, Massachusetts

*MCAS Saturday Preparatory Program Math Instructor* ..... March 2017 to present

- Provide high school sophomore students with instruction in MCAS math and test taking strategies.

*Drafting Related Instructor & SkillsUSA Architectural Drafting Advisor*..... August 2016 to present

- Provide high school sophomore students with instruction in basic drafting & mechanical drafting.
- Provide high school junior students with engaging instruction in architectural and advanced mechanical drafting.
- Provide high school seniors with instruction in various drafting fields (electrical/electronics, plumbing, and structural), advanced mechanical drafting, and work skills training.
- Advisor for students competing in Architectural Drafting at SkillsUSA District/State/National Conferences.

## Division of Capital Asset Management and Maintenance

Boston, Massachusetts

*Program Coordinator II/Leasing Coordinator* ..... December 2014 to August 2016

- Receive training in IBM TRIRIGA in order to achieve proficiency
- Actively manage all licenses, leases, acquisitions, and dispositions using IBM TRIRIGA
- Provide administrative support, including preparation of confidential reports, for the Deputy Commissioner, Deputy Director, Transaction Manager, and Project Managers.
- Create PowerPoint presentations, respond to external and internal inquiries, maintain Disclosure Statement database (Access), and FoxPro database.
- Support the Telecommunications Leasing Program by creating agenda, assisting Project Managers as needed, updating leases and payments in TRIRIGA.
  - Assisting Project Managers with issuance of Real Estate Services Master Service Agreement contracts.

*Accessibility Compliance Assistant* ..... December 2012 to December 2014

- Assist the Senior Project Manager with managing four (4) accessibility consultant firms; contracted under the Statewide Accessibility Initiative, to provide Americans with Disabilities Act (ADA) compliance reports, accessibility technical assistance, and accessibility training.

- Schedule and coordinate accessibility investigations on site, organize data, and generate reports for future planning.
- Provide recommendations based on requirements as set forth by the ADA and/or the Massachusetts Architectural Access Board (MAAB).
- Conduct reviews of design development drawings and construction drawings.
- Manage Statewide Accessibility Initiative financial appropriations.
- Manage Prolog Converge ftp website for use by consultants.

#### Diman Regional Vocational Technical High School

Fall River, Massachusetts

*Title I Library Paraprofessional/ Virtual High School (VHS) Coordinator ..... June 2011 – November 2012*

- Recruit and support students taking VHS courses; coordinate program with students, teachers, parents and school administration.

#### New England Medical Design, Inc.

Cranston, Rhode Island

*Architectural Intern ..... June 2007 – December 2008*

- Computer-assisted drafting of Construction Documents and coordination with M/E/P/FP documents under the supervision of Project Managers.
- Assist Project Managers with shop drawing notes, RFIs, plotting, and code research

#### BPC Architecture

Nantucket, Massachusetts

*Architectural Intern ..... Summer 2005, Summer 2006*

- Conduct residential "as-built" documentation.
- Computer-assisted drafting of plans, sections, and elevations for proposed additions/renovations under the guidance of Project Managers in preparation for Historic District Commission hearings.

#### Independent Projects

Franklin Park Zoo – Veterinary Hospital Improvement Project (Dorchester, MA)

*Boston Architectural College - Student Project Manager (January 2012 – May 2012)*

Nursing Suite Renovations - Diman Regional Vocational Technical High School, Fall River, MA

*Pro Bono Project Designer (April 2009 – October 2009)*

#### Affiliations

Mass. Board of Registration of Landscape Architects, *Member (appointed by Gov. Deval Patrick)*, August 2011-August 2013

International Interior Design Association - New England Chapter, *Student Member*, March 2011 - May 2014

American Institute of Architects, *Associate Member*, October 2008 – December 2012

# City of Fall River, *In City Council*

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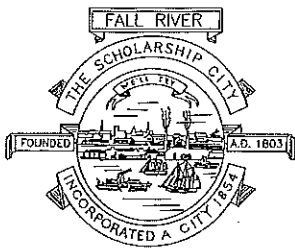
ORDERED, that the City Council hereby appoints the following individual to serve on the Fall River Historic District Commission as designated:

NAME

TERM TO EXPIRE

Kathryn E. Kenney

8-15-2020



**City of Fall River**  
**Massachusetts**  
Office of the Mayor

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2017 AUG 10 A 11:43

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

**JASIEL F. CORREIA II**

*Mayor*

August 10, 2017

The Honorable City Council  
One Government Center  
Fall River, MA 02722

Dear Councilors:

At the request of the Charter Commission I am forwarding the following order to you.

Per the Charter Commission the following Ballot Question and Summary will appear on the ballot for the election to be held on November 7, 2017. It will be reproduced to give voters an opportunity to become familiar with it prior to Election Day. Please note that the summary is necessarily brief and describes the most significant of the proposed changes. The Final Report of the Charter Commission contains the entire proposed charter.

Very Truly Yours,

Jasiel F. Correia II, Mayor

I concur,

Joseph I. Macy, Corporation Counsel



An ORDER, Allowing the City of Fall River to Place a Ballot Question On the  
November 7, 2017 Fall River Election Ballot

The Board of Elections shall place on the official ballot for the Fall River election to be held on November 7, 2017 in the City of Fall River the following question:

BALLOT QUESTION AND SUMMARY

Shall this city approve the new charter recommended by the charter commission summarized below?

\_\_\_\_\_ Yes \_\_\_\_\_ No

SUMMARY

Effective at the 2019 municipal election, voters will continue to elect a mayor, a 9 member city council, and 6 members of the school committee, all at-large. The mayor shall continue to serve as chair of the school committee. All elected officials will be elected by the voters citywide for 2-year terms.

The charter contains procedures for adoption of an annual operating budget, a long-term financial forecast, a debt management plan and a capital improvement plan. The council will review and approve all proposed mayoral appointments. There is a public comment provision applying to all elected and appointed bodies. The mayor is responsible for assuring that the planning and management needs of the city are examined on a regular basis. Free petition, initiative petition, referendum, and recall provisions are included allowing for direct voter participation. Elected officials convicted of a felony will be barred from holding any elective or appointed office in the city. Candidates may seek only one office at each election. Members of the city council and school committee will be prohibited from holding any other city position while in office. The charter will be initially reviewed after 5 years. After that review, the charter and ordinances will be reviewed every 10 years.

ORDERED, that in accordance with the provisions of law, the City Clerk be and is hereby authorized and directed to cause notices to be given that meetings of the voters of the city qualified to vote at a Preliminary Municipal Election, to be held on Tuesday, September 12, 2017, in the several polling places designated by this Council, to cast their votes for the nomination of candidates for:

**Mayor  
School Committee**

and at a Municipal Election to be held on Tuesday, November 7, 2017, in the several polling places designated by this Council, to cast their votes for the nomination of candidates for:

**Mayor  
City Council  
School Committee**

and any questions that may appear on the ballot, and

BE IT FURTHER ORDERED, that the Board of Election Commissioners be and the same are hereby authorized and empowered to cause all necessary rooms, fixtures, apparatus, and supplies for the holding of the municipal election to be prepared and furnished for the same, the cost of the same to be charged to the appropriation for elections.

The polls to be opened from seven o'clock A.M. to eight o'clock P.M. and all polling places to be used.

## CITY OF FALL RIVER

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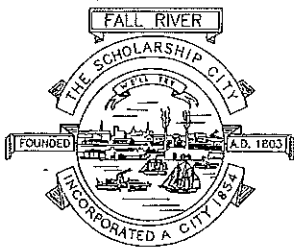
To the City Council

Councillors:

The Committee on Public Works and Transportation, at a meeting held on August 8, 2017,  
voted unanimously to recommend that the accompanying order be adopted, with  
Councilor Pam Laliberte-Lebeau absent and not voting.

  
Clerk of Committees

ORDERED, that the City of Fall River does hereby adopt a "Complete Streets Policy", as recommended by the Planning Board and attached hereto.



City of Fall River  
Massachusetts  
Office of the Mayor

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2017 JUN -8 P 2:31

JASIEL F. CORREIA II  
Mayor

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

June 8, 2017

The Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

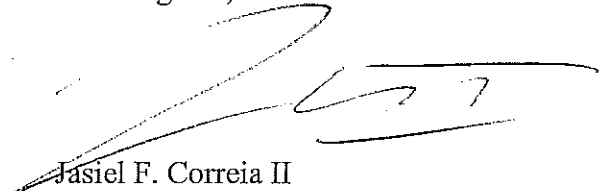
Honorable Council Members:

The Administration is continually looking for opportunities to improve our aging infrastructure. The Complete Streets Program, sponsored by the Massachusetts Department of Transportation, provides annual grants to participating communities to assist in the construction of accessible travel modes for bicycling, walking and motor vehicle use. The City's proposed Complete Streets Policy outlines the parameters for eligibility and is before you for your review and approval.

Of special note is recognition that, while the City should use best efforts to make accommodations for these travel modes during road reconstruction in designated areas, the City retains the right to deviate from the Policy in cases where the cost or impact of these accommodations is excessively disproportionate to their need and probable use. While the Administration is not required to seek City Council support of the Program, I believe the Council should be a partner in its adoption as it will be affecting neighborhoods across the City. Your input will be most welcomed.

The Planning Director, City Engineer and City Administrator are available to answer your questions regarding the Policy guidelines. We look forward to your review and ultimate approval of the Complete Streets Program.

Best Regards,

  
Jasiel F. Correia II  
Mayor

CITY OF FALL RIVER  
IN CITY COUNCIL  
JUN 13 2017

*referred to the Committee  
Public Works & Transportation*

One Government Center • Fall River, MA 02722  
TEL (508) 324-2600 • FAX (508) 324-2626 • EMAIL [mayor@fallriverma.org](mailto:mayor@fallriverma.org)



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**City of Fall River**  
**Massachusetts**  
Department of Community Services  
PLANNING • HEALTH & HUMAN SERVICES  
LIBRARY • INSPECTIONAL SERVICES

*Planning Division*

**JASIEL F. CORREIA, II**  
*Mayor*

**HENRY R. VAILLANCOURT MD, MPH**  
*Director*  
*Department of Community Services*

**WILLIAM G. KENNEY**  
*City Planner*

June 7, 2017

Hon. Jasiel F. Correia, Jr., Mayor  
City of Fall River  
One Government Center  
Fall River, MA 02722

Re: Proposed "Complete Streets Policy"

Dear Mayor Correia:

The Massachusetts Department of Transportation ("MassDOT") "Complete Streets" program provides annual grants to municipalities of up to four hundred thousand dollars for street projects constructed in accordance with "complete streets" design criteria to be safe and accessible for all travel modes – walking, biking, transit and vehicles – for people of all ages and abilities.

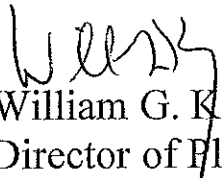
In order to be eligible to apply for this funding, the City must adopt a "Complete Streets Policy". On April 4, 2017, the Planning Board conducted a public hearing to solicit comments on a draft "Complete Streets Policy" prepared by the Planning Department and previously reviewed and approved by you and by City Administrator Cathy Ann

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Viveiros. At the conclusion of the hearing, the Planning Board voted to endorse the draft, as submitted, a copy of which is attached, and to recommend that the Mayor submit same to the City Council for its approval.

On behalf of the Planning Board, I thank you and City Administrator Viveiros for your leadership in this effort to move Fall River towards joining over one hundred other communities in the Commonwealth as participants in the Complete Streets program.

Sincerely,

  
William G. Kenney  
Director of Planning

CITY OF FALL RIVER  
COMPLETE STREETS POLICY  
*(as recommended by the Planning Board after April 4,  
2017, Public Hearing)*

**Vision and Purpose:**

The City of Fall River works toward achieving the vision of “Complete Streets”, principles that call for the design and operation of roadways in such a manner as to create safe, comfortable, and accessible streets for all users, including but not limited to, pedestrians, users of wheelchairs and assisted mobility devices, bicyclists, transit and school bus riders, motorists, delivery and service personnel, freight haulers and emergency responders.

Complete Street principles contribute toward the safety, health, economic viability, and quality of life in a community through improved pedestrian and vehicular environments. Complete Streets are safe, accessible, and comfortable means to travel between home, school, work, recreation and retail destinations. Complete Streets provide safe multimodal travel regardless of age, income, or abilities.

The purpose of the City of Fall River’s Complete Streets Policy is to accommodate all users by creating a road network that meets the needs of individuals utilizing a variety of transportation modes. In working to achieve this, the city’s intent is to routinely formalize a plan for design, operation and maintenance (pavement and sidewalk repairs) of its streets so that they are safe for all users of all ages, abilities and income levels.



This policy directs decision makers to consistently plan, design, construct and maintain streets so that they accommodate the full breadth of potential, anticipated users including, but not limited to able-bodied pedestrians, disabled users of wheelchairs or assisted mobility devices, bicyclists, motorists, emergency vehicles, transit, delivery and service personnel, and those accessing ferry and future commuter rail service.

**Core Commitment:**

The City of Fall River recognizes that users of differing modes of transportation as noted herein are legitimate users of roadways and deserve appropriate facilities. "All users" includes users of all ages, abilities, and income levels.

The City recognizes that all roadway projects – including new construction, reconstruction and infrastructure maintenance (pavement and sidewalk repairs) – are all potential opportunities to apply Complete Streets design principles. The City will, to the maximum extent practicable, design, construct, maintain, and operate all streets to provide for a comprehensive and integrated street network of facilities for people of all ages, abilities, and incomes.

Complete Streets design recommendations/principles shall be incorporated into all publicly funded projects, as appropriate including the following:

- All transportation infrastructure and street design projects requiring funding or approval by the City of Fall River shall adhere to the City of Fall River Complete Streets Policy.
- Projects funded by the State and Federal government, including but not limited to, Chapter 90 Funds, Transportation

Improvement Funds (TIP), MassWorks Infrastructure Program, Community Development Block Grants (CDBG), or other State and Federal Funds for street and infrastructure design must adhere to the City of Fall River Complete Streets Policy to the maximum extent practicable.

- To the extent practicable, state-owned streets must comply with the City of Fall River Complete Streets Policy, including design, construction, and maintenance (pavement and sidewalk repairs) of streets within City boundaries.

### **Complete Streets Committee:**

A Complete Streets Committee will be comprised of the Director of the Department of Community Maintenance, the Director of the Planning Department, the City Engineer, the Administrator of Public Utilities and the Traffic Clerk. The Committee shall be constituted to ensure the execution of this policy and the allowance of appropriate exemptions from/exceptions to this policy and shall conduct a periodic review of the policy's efficacy within the city.

### **Exemptions/Exceptions:**

Exemptions from/exceptions to the City of Fall River's Complete Streets Policy may be granted by the Director of the Department of Community Maintenance with the consent of a majority of the Complete Streets Committee when the following conditions are determined to exist and are documented:

- Roadways where specific users are prohibited by law, such as interstate freeways or pedestrian malls. An effort will be made, in these cases, for accommodations elsewhere.

- Where cost or impact of accommodations, or implementation of this policy, is excessively disproportionate to the need or probable use as recognized by the City of Fall River.
- Where other City policies, regulations, or requirements contradict or preclude implementation of Complete Streets principles.

**Best Practices:**

The City of Fall River’s Complete Streets Policy will focus on developing a connected, integrated network that serves all road users. To the extent practicable, Complete Streets design principles will be integrated into policies, planning, and design of all types of public projects including new construction, reconstruction, rehabilitation, and repair and maintenance (pavement and sidewalk repairs) of transportation networks.

Implementation of the Complete Streets Policy will be carried out cooperatively within all departments in the City of Fall River, and to the greatest extent practicable. This includes coordination with state, regional, and federal agencies undertaking and/or funding work within the City of Fall River.

The City recognizes that Complete Streets principles may be achieved through single elements incorporated into a particular project or incrementally through a series of smaller improvements or maintenance (pavement and sidewalk repairs) activities over time.

The latest design guidance, standards, and recommendations available will be reviewed and applied as practicable in the implementation of Complete Streets including:

- Massachusetts Department of Transportation Project Development and Design Guide.

- American Association of State Highway Transportation Officials publications including *A Guide for Achieving Flexibility in Highway Design*; *Guide for the Development of Bicycle Facilities*.

- The United States Department of Transportation Federal Highway Administration's Manual on Uniform Traffic Design Controls (2009) with Amendments 1 and 2 as well as the Massachusetts Amendments.

- Institute of Transportation Engineers' Recommended Practice, *"Designing Walkable Urban Thoroughfares: A Context-Sensitive Approach"*.

- National Association of City Transportation Officials', "Urban Bikeway Design Guide".

- ADA, Americans with Disabilities Act of 1990.

- ABA, Architectural Barriers Act.

Application of design standards are flexible, recognizing that all streets are not alike and that user needs should be balanced; further that innovative and/or non-traditional design options shall be considered.

Ongoing development and execution of the Complete Streets Implementation will be responsive to the community's physical, economic and social setting. Complete Streets will follow a context-

sensitive approach to process and design, including a range of goals by giving significant consideration to stakeholders and community values. It includes goals related to livability, connectivity, and sustainability with participation of those affected in order to have projects that best serve the community. The overall goal of this approach is to improve or maintain safety and mobility through infrastructure conditions that also preserve and enhance the scenic, aesthetic, historical, and environmental resources.

The latest versions of documents and plans created for the City of Fall River will be reviewed and considered to ensure community context sensitivity of Complete Streets projects proposed, including but not limited to:

- The City of Fall River Master Plan
- The City of Fall River Open Space and Recreation Plan
- Bicycle Network Plans
- Neighborhood and/or District Plans
- Safe Routes to School travel plans
- Walking and Bicycle Audits
- Southeastern Regional Transit Authority (SRTA) Comprehensive Service Assessment
- SRTA routes and bus stop studies
- Plans and studies produced by the Southeastern Regional Planning and Economic Development District (SRPEDD), such as the Regional Transportation Plan, Regional Bicycle Plan, corridor and transit oriented development studies, traffic counts
- SouthCoast Rail Plan

### **Implementation:**

The Complete Streets Policy will be carried out to the greatest extent practicable under the direction of the Complete Streets Committee, and state, regional, and federal agencies working within the city layout will be required to follow this policy.

The Complete Streets Committee shall serve as technical review entity when exceptions to this policy are requested. Project documentation, plans and proposals shall be filed with the Director of the Department of Community Maintenance who shall forward copies of same to all Complete Streets Committee members for comment during the review process. The Complete Streets Committee shall convene as necessary and provide feedback to the Director of the Department of Community Maintenance periodically as requested. In addition, the Complete Streets Committee shall periodically update and solicit feedback on potential projects with the general public to ensure the perspectives of the community are considered and incorporated, as they may be appropriate.

The City shall make the Complete Streets Policy a routine part of everyday operations. The City shall approach every transportation project and program as an opportunity to improve streets and the transportation networks for all users, and shall work in coordination with other departments, agencies, and jurisdictions to achieve Complete Streets. In so doing, the appropriate city department or departments will undertake the following work in support of implementation of the City's Complete Streets Policy:

- Review and revise or develop proposed revisions to all appropriate planning documents, zoning codes, subdivision regulations, laws, procedures, rules, regulations, guidelines, programs and any amendments thereto in order to integrate the

Complete Streets principles in all infrastructure projects, where feasible.

- Maintain a priority list of transportation improvement projects including problem intersections and roadways
- Maintain a comprehensive map and inventory of pedestrian and bicycle facility infrastructure that will prioritize projects to eliminate gaps in the sidewalk, bikeway, and recreational trail networks.
- Utilize inter-department coordination to promote the most responsible and efficient use of resources for activities within the public way.
- Seek out appropriate sources of funding and grants to ensure the successful implementation of the Complete Streets Policy.

#### Evaluation:

The City's Complete Streets Committee will determine the frequency of assessment and appropriate metrics for analyzing the success of this policy. These metrics will include amenities such as, but not limited to, the total number of new bicycle facilities, the linear feet of new pedestrian accommodations, number of retrofitted pedestrian facilities or amenities, number of intersection improvements made to improve Level of Service (LOS) and safety for vehicles, pedestrians and bicyclists, rates of crashes by mode, rate of children walking or bicycling to school, and/or number of trips made by mode. These metrics will be compiled into a report and presented as needed.

CITY OF FALL RIVER  
IN CITY COUNCIL

JUN 13 2017

*Referred to the Committee  
on Public Works & Transportation*

# City of Fall River, In City Council

13

BE IT ORDAINED, by the City Council of the City of Fall River, as follows:

That Chapter 50 of the Revised Ordinances of the City of Fall River, Massachusetts, 1999, which chapter relates to Personnel, be amended as follows:

By striking out in Section 50-309, which section relates to salary schedules for executive officers and department heads, the following:

Director of solid waste collection/street and fleet maintenance

7-1-2013 \$2,473.61

6-30-2014 \$2,498.35

And by inserting in place thereof, the following:

Manager of Operations-Streets & Highways DCM      Not to exceed \$65,000.00 per annum

CITY OF FALL RIVER  
IN CITY COUNCIL  
JUN 27 2017

*Passed through  
first reading, by yes,  
3 rays*



# City of Fall River, *In City Council*

14

BE IT ORDAINED, by the City Council of the City of Fall River, as follows:

That Chapter 50 of the Revised Ordinances of the City of Fall River, Massachusetts, 1999, which chapter relates to Personnel, be amended as follows:

By striking out in Section 50-301, which section relates to salary schedules generally, the following:

Project manager, division of streets and highways:

7-1-2013           \$2,394.64

6-30-2014       \$2,418.59

and by inserting in place thereof, the following:

Project Manager, Facilities Maintenance           Not to exceed \$65,000.00 per annum

CITY OF FALL RIVER  
IN CITY COUNCIL

JUN 27 2017

*A motion made and seconded  
to grant the ordinance leave to  
withdraw failed to carry. 3 yeas, 6 nays.  
The ordinance was then passed through  
first reading, 6 yeas, 3 nays.*

# City of Fall River, *In City Council*

15

BE IT ORDAINED, by the City Council of the City of Fall River, as follows:

That Chapter 50 of the Revised Ordinances of the City of Fall River, Massachusetts, 1999, which chapter relates to Personnel, be amended as follows:

By striking out in Section 50-301, which section relates to salary schedules generally, the following:

Director of Buildings and Grounds  
3-15-16            \$3,769.24

and by inserting in place thereof, the following:

Director of Facilities Maintenance                      Not to exceed \$98,000.00 per annum

CITY OF FALL RIVER  
IN CITY COUNCIL  
JUN 27 2017

*Passed through  
first reading, 8 years,  
one way*

# City of Fall River, In City Council

16

BE IT ORDAINED, by the City Council of the City of Fall River, as follows:

That Chapter 50 of the Revised Ordinances of the City of Fall River, Massachusetts, 1999, which chapter relates to Personnel, be amended as follows:

By striking out in Section 50-301, which section relates to salary schedules generally, the following:

Network Administrator I

7-1-2013           \$2,014.08

6-30-2014       \$2,034.22

and by inserting in place thereof, the following:

Network Administrator (IT)       Not to exceed \$70,000.00 per annum

CITY OF FALL RIVER  
IN CITY COUNCIL

JUN 27 2017

*Passed through first  
reading, 8 years, one way*

# City of Fall River, In City Council

17

BE IT ORDAINED, by the City Council of the City of Fall River, as follows:

That Chapter 50 of the Revised Ordinances of the City of Fall River, Massachusetts, 1999, which chapter relates to Personnel, be amended as follows:

By striking out in Section 50-309, which section relates to salary schedules for executive officers and department heads, the following:

Human Resources Generalist

7-1-2013 \$1,819.86

6-30-2014 \$1,838.06

And by inserting in place thereof, the following:

Human Resources Generalist

Not to exceed \$60,000.00 per annum

CITY OF FALL RIVER  
IN CITY COUNCIL  
JUN 27 2017

*Passed through first reading,  
as amended, 6 years, 3 days*

(Councilor Cliff Ponte)

WHEREAS, there were various suggested cuts in the Fiscal Year 2018 Budget,  
and

WHEREAS, these cuts were only suggestions as to what line items were to be  
cut, now therefore

BE IT RESOLVED, that the Committee on Finance convene with the City  
Administrator and the Director of Financial Services to discuss what items were actually  
cut in various departments.

(Councilor Pam Laliberte-Lebeau)

WHEREAS, the City Council approved a Fiscal Year 2018 budget of \$268,977,320, and

WHEREAS, revenue and specific amounts of expenses were reduced per department, and

WHEREAS, the Administration has shifted expenses from the MIS Department to both the Police and Fire Departments, who did not budget for those expenses and are now forced to make cuts, now therefore

BE IT RESOLVED, that the Administration be invited to a future meeting of the Committee on Finance for a review of all expense adjustments made by the Administration in balancing of the Fiscal Year 2018 budget.

(Councilor Linda M. Pereira)  
(President Shawn E. Cadime)

**AN ACT AUTHORIZING THE CITY OF FALL RIVER TO GRANT  
ADDITIONAL LICENSES FOR THE SALE OF ALCOHOLIC  
BEVERAGES**

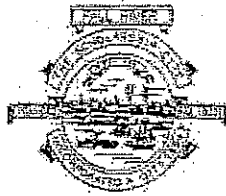
SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city of Fall River may grant Two additional licenses for the sale of all alcoholic beverages not to be drunk on the premises under section 15 of said chapter 138 to qualified operators located at 580 William Canning Boulevard and 489 Bedford Street, in the city of Fall River and up to Two additional licenses for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of chapter 138 for locations at 450 William Canning Boulevard, in the city of Fall River and 700 William Canning Boulevard, in the city of Fall River . The licenses shall be subject to all of said chapter 138 except section 17.

The licensing authority shall not approve the transfer of the licenses granted pursuant to this act to any other locations, but it may grant the license to new applicants at the same location if the applicant files with the licensing authority a letter from the department of revenue and a letter from the department of unemployment assistance indicating that the license is in good standing with those departments and that all applicable taxes fees and contributions have been paid.

If the license granted pursuant to this section is cancelled, revoked or no longer in use at the location of original issuance, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority and the licensing authority may then grant the license to a new applicant at the same location under the same conditions as specified in this act.

SECTION 2. The city of Fall River shall charge a fee for the granting of the license authorized in section 1 which shall be paid by the licensee at the time of issuance unless the licensing authority agrees to enter into a contract with the licensee to allow the division of the fee into multiple payments over time from the licensee. If the city elects to accept multiple payments over time from the licensee, the option shall be made available, upon request, to all qualified applicants for a license.

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



35

RECEIVED

City of Fall River  
Notice of Claim

2017 JUL 12 P 1:14

CITY CLERK #1763  
FALL RIVER, MA

1. Claimant's name: Lynn Reagan
2. Claimant's complete address: 74 Barnaby St.
3. Telephone number: Home: 508-677-3175 Cell Work: 508-677-3453
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
Pot Hole, That I've been calling for last 4 months
5. Date and time of accident: 6/25/17 Numerous Amount of damages claimed: \$ 127.81  
7/17/17 Times Especially when it rains + at night.
6. Exact location of the incident: (include as much detail as possible):  
Between 61 + 72, Barnaby St.
7. Circumstances of the incident: (attach additional pages if necessary):  
City Pot on my street. Bent both of my Rims on brand New Tires. I've complain Personally to Nuno In the Mayor's office for the last 3 months Almost weekly, And he states everytime there'll Take care of it.
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company: ☐ Yes ☒ No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 7/11/17Claimant's signature: Lynn Reagan

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

Return this from to : City Clerk, 2<sup>nd</sup> FL, One Government Center, Fall River, MA 02722

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:

Copies forwarded to: ☒ City Clerk ☒ Law ☒ City Council ☐ City Administrator ☒ DPW

Date: 7/12/17



**City of Fall River  
Notice of Claim**

RECEIVED

2017 JUL 18 A 9:03

CITY CLERK #17-64  
FALL RIVER, MA

35

1. Claimant's name: John Monte
2. Claimant's complete address: 50 Richmond ST Fall River Ma 02721
3. Telephone number: Home: 508-942-6462 Work: 508-942-6462
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
Tire
5. Date and time of accident: 7/16/17 Amount of damages claimed: \$ 430.00
6. Exact location of the incident: (include as much detail as possible):  
Stafford rd and Edmund
7. Circumstances of the incident: (attach additional pages if necessary):  
Going north on Stafford rd hit pot hole causing bubble in tire which required tire to be replaced
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company: ☐ Yes ☒ No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 7/18/17

Claimant's signature: [Signature]

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

**Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722**

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:

Copies forwarded to: ☒ City Clerk

☐ Law

☒ City Council

☐ City Administrator

DCM

Date: 7/18/17



RECEIVED

35

City of Fall River  
Notice of Claim

2017 JUL 24 P 1:37

CITY CLERK  
FALL RIVER, MA

#17-64.5

1. Claimant's name: OLGA Medeiros
2. Claimant's complete address: 4234 N. Main St. Fall River, MA 02720 Apt. 607
3. Telephone number: Home: 508-971-3900 Work: 508-730-5023
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
Flat tire and Damaged Rim- Due to water main sticking up at  
of the Road
5. Date and time of accident: 7/18/17 5:08 P.M. Amount of damages claimed: \$ 738.94
6. Exact location of the incident: (include as much detail as possible):  
Driving South on Stafford Road Right before Back entrance  
to Harbor Mall.
7. Circumstances of the incident: (attach additional pages if necessary):  
I was driving South on Stafford Road and there was a water  
main sticking above the ground 3 feet I could not avoid it due  
to coming cars on the opposite side. The city did work to it and  
left it expose. It gave me a flat tire and damaged my rim. I called
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company: ☐ Yes ☒ No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 7/19/17Claimant's signature: Olga Medeiros

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

**Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722**

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:

Copies forwarded to: ☒ City Clerk ☒ Law ☒ City Council ☐ City Administrator ☒ DPW Date: 7/24/17



*Ronald J. Resmini Ltd.*

*155 South Main Street, Suite 400*

*Providence, Rhode Island 02903*

*Law Offices*

August 1, 2017

#17-65



35

401-751-8855

Fax: (401) 228-6577

*Resmini@ResminiLaw.com*

- \* *Ronald J. Resmini*
- \* *R. Jason Resmini, MBA*
- \*+△ *Adam J. Resmini*
- \*❖ *Andrew O. Resmini*
- \* *Amy G. Rice*

**VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Ms. Colleen A. Taylor  
Secretary of the Town Council  
One Government Center, Second Floor  
Fall River, MA 02722

RE: OUR CLIENTS: ALLISON KNIGHT, HALLEY TRAVASSO  
D/INCIDENT : 3/30/17  
POLICE REP. NO: 17-661-AC

CITY CLERK  
FALL RIVER, MA

2017 AUG - 3 P 12:09

RECEIVED

Dear Ms. Taylor:

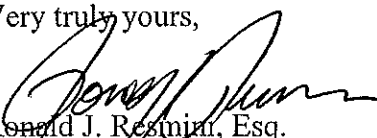
The purpose of this letter is to provide Proper Notice pursuant to M.G.L. Chapter 258 §4.

Please be advised this office represents the above-named individuals with regard to a motor vehicle accident which we believe was as a result of a police chase which ensued between the Fall River Police Department and their driver, Mr. Aaron Afonso, on 3/30/17.

Kindly retain copies of any and all recordings, voice recordings, video surveillance for this incident in question. Failure to do so could result in a charge of spoliation to a jury should this matter proceed to a trial.

Thank you for your attention to this matter.

Very truly yours,

  
Ronald J. Resmini, Esq.

RJR:brl

*41 Mink Street, Seekonk, Massachusetts 02771 (508) 336-0500*

○ *Rhode Island*, \* *Massachusetts*, ❖ *Connecticut*, + *Florida*, △ *Washington D.C.* and ■ *New York*

*Board Examiner National Board of Trial Advocacy (1991)*

*Massachusetts Senior Attorney of The Year 2010*

RECEIVED

35

STEVEN P. SABRA

ssabra@sabraandaspden.com

MATTHEW M. ASPDEN\*

maspden@sabraandaspden.com

MATTHEW W. ASPDEN, II

mwa@sabraandaspden.com

1026 COUNTY STREET

SOMERSET, MA 02726

Tel (508) 674-0890

Fax (508) 679-5998

August 2, 2017

2017 AUG -4 A 11: 16  
CITY CLERK #17-66  
FALL RIVER, MACERTIFIED MAIL NO. 7015 0640 0002 9838 9712

Alison M. Bouchard, City Clerk  
City of Fall River  
One Government Center  
Fall River, MA 02722

Re: Notice of Injury to Maurene V. Pinsonneault  
on March 14, 2017 at approximately 3:30 p.m.  
at 1661 Highland Avenue  
Fall River, MA

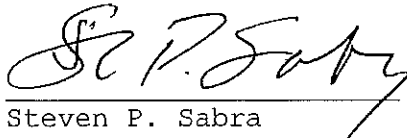
Dear Ms. Bouchard:

Please be advised that I represent the above named, Maurene V. Pinsonneault, with regard to personal injuries sustained in a fall that occurred on or about March 14, 2017 at 1661 Highland Avenue, Fall River, Massachusetts.

Ms. Pinsonneault alleges, through counsel, that on the above date, the City of Fall River, its agents, servants, or employees, were negligent and careless in its plowing of the roadway in front of said property thereby causing injuries to Ms. Pinsonneault. More specifically, Ms. Pinsonneault was in front of her property when snow plows caused snow/slush to strike her knocking her to the ground. Ms. Pinsonneault did suffer serious personal injuries which required and continue to require medical care and treatment.

I forward you this notice in accordance with the provisions of Massachusetts General Laws, Chapter 258 and advise you that Ms. Motta hereby makes a claim for damages against the City of Fall River.

Very truly yours,

  
Steven P. Sabra

SPS:da

cc: Ms. Donna A. Motta

dic: 8/1

C: Law  
City Council  
City Clerk  
DCM

James J. Almond  
210 Grove St. Apt 1  
Fall River, MA 02720  
1(508) 837-3859

RECEIVED

2017 AUG -4 P 12: 46

CITY CLERK #1767  
FALL RIVER, MA

35

July 31<sup>st</sup>, 2017

Ms. Alison M. Bouchard  
City Clerk  
One Government Center, Room 227  
Fall River, MA 02722

Dear Ms. Alison M. Bouchard:

This letter serves as notice to the city of Fall River, Massachusetts regarding damage to my vehicle, a 2013 Nissan Altima, on the date July 11<sup>th</sup> 2017.

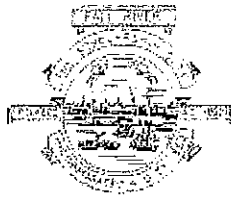
On July 11<sup>th</sup> 2017 I was traveling East on Bank St. in Fall River at approximately 12:00pm. During this time period there was ongoing road work. While traveling between purchase and high street there were a number of unmarked trenches and raised structures (sewer caps). While traveling my vehicle hit one of these objects at approximately 15 miles per hour. At the point of impact I heard a loud "bang" and my vehicle began to shake. After driving approximately two blocks towards Winter Street I noticed that my vehicle was leaning slightly to the right. I drove to my house (210 Grove St.) where I exited the vehicle to find the front, passenger's side tire had sustained massive damage. In addition the wheel sustained cosmetic damage however the structural integrity of the wheel was intact.

After changing my tire to the spare tire, I drove my vehicle to Henry's Tire Service located on 714 Globe St., Fall River MA where the vehicle was assessed for damages. Ultimately the outcome was a replacement, mounting and balancing of a new General G-Max AS 05 tire, near identical replacement to the existing tire. The vehicle was repaired and returned to me the same day at approximately 5:00pm. The cost of the total repair was \$180.01.

At this point I believe the oversight of the City of Fall River to place signage, warnings and orange markings regarding the road work and additional trenches and raise structures is what caused the damage to my vehicle. Although I have paid for the repair of my vehicle, I believe the city to be liable for reimbursement. Additionally I 'am not seeking reimbursement for damage to my wheel however this could have been a further expense to seek reimbursement; I'm just happy I was able to fix my vehicle quickly.

I have been a city resident for 29 years and have driven in the city for 13 of those years. I would consider myself a safe and responsible operator of a motor vehicle and drive cautiously in all settings. In areas where there are potential hazards I believe my senses to drive cautiously are heightened. However this was an unavoidable event due to poor planning and notice by the city. Additionally since this accident I have called the city municipal offices as there continues to be little signage in this areas after hours, while

C: Law  
City Council  
City Clerk  
DCM



RECEIVED

35

2017 AUG 10 P 2:41

City of Fall River  
Notice of ClaimCITY CLERK 17-68  
FALL RIVER, MA

1. Claimant's name: Diane Barnhart
2. Claimant's complete address: 681 Stafford Rd. Tiv. R.I. 02878
3. Telephone number: Home: 401-662-9014 Work: 401-841-4462
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
Auto Accident
5. Date and time of accident: 8.7.17 3:00pm Amount of damages claimed: \$ ?
6. Exact location of the incident: (include as much detail as possible):  
Henry Diesels 867 State Rd. Wiscasset, ME 02790
7. Circumstances of the incident: (attach additional pages if necessary):  
vehicle was in parked crossing lane in front of building, was stopped waiting for him to leave he was blocking parking area, he put in reverse and backed up to me
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company: ☒ Yes ☐ No  
Allstate 530 Main Rd. Tiv. R.I. 02878

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 8.9.17Claimant's signature: Diane Barnhart

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

**Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722**

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:

Copies forwarded to: ☒ City Clerk ☒ Law ☒ City Council ☒ City Administrator ☒ DPWDate: 8/10/17



DEPARTMENT OF HEALTH AND HUMAN SERVICES

## OFFICE OF INSPECTOR GENERAL



39

OFFICE OF AUDIT SERVICES  
NATIONAL EXTERNAL AUDIT REVIEW CENTER  
1100 WALNUT STREET, SUITE 850  
KANSAS CITY, MO 64106

AUG 04 2017

Report Number: A-01-17-31676

CITY COUNCIL  
CITY OF FALL RIVER  
ONE GOVERNMENT CENTER  
FALL RIVER, MASSACHUSETTS 02720

RECEIVED  
2017 AUG -9 P 2:56  
CITY CLERK  
FALL RIVER, MA

Dear Council Members:

We have completed our initial review of the audit report on the City for the period July 1, 2015, through June 30, 2016. The report was accepted by the Federal Audit Clearinghouse on March 16, 2017, (identification number 147936). Based on our initial review, we believe the audit, performed by HAGUE AND SAHADY AND COMPANY, Certified Public Accountants, met Federal audit requirements.

Please refer to Attachment A, where we have summarized the finding and recommendation and identified the Federal department responsible for resolution. Final determinations with respect to actions to be taken on the Department of Health and Human Services (HHS) recommendation will be made by the HHS resolution agency identified on Attachment A. You may receive separate communications from the resolution agencies requesting additional information to resolve the findings.

Any questions or correspondence related to the findings identified on Attachment A should be directed to the following HHS resolution official address. The above report number should be referenced in any correspondence relating to this report.

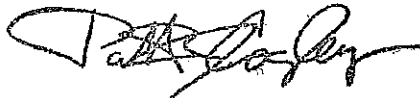
### HHS RESOLUTION OFFICIAL

Centers for Medicare and Medicaid Services  
Kansas City Regional Office  
Division of Financial Management and  
Fee for Service Operations  
601 East 12th Street, Room 235  
Kansas City, MO 64106

In accordance with the principles of the Freedom of Information Act (Public Law No. 90-23), reports issued on the Department's grantees and contractors are made available, if requested, to members of the press and general public to the extent that information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5 Section 5.21 of the Department's Public Information Regulations.)

If you have any questions, please contact our office at (800) 732-0679.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick J. Cogley", written over a horizontal line.

Patrick J. Cogley  
Regional Inspector General for Audit Services

Enclosure



<i>Recommendation Codes</i>	<i>Page</i>	<i>Amount</i>	<i>Resolution Agency</i>	<i>Recommendations</i>
---------------------------------	-------------	---------------	------------------------------	------------------------

## GAO and Uniform Guidance Reports

	12	N/A	Footnote A	2016-001. Capital Assets and Debt.
	13	\$2,279,087	Education	2016-002.
217905100	15	N/A	HHS/CMS	2016-003. Suspension and Debarment. We recommend procedures be implemented to ensure adequate documentation is maintained to support the suspension and debarment requirements.
#	#	#	#	Footnote A: The finding and related recommendation has not been identified for formal Federal resolution by HHS. Appropriate corrective action should be taken by the City, as recommended by the auditors. This action could involve necessary financial adjustments to Federal program accounts and reports.

RECEIVED

40

2017 AUG -7 P 4: 40

August 3, 2017

CITY CLERK  
FALL RIVER, MA

Dear Members of the City Council,

My name is Doreen Frazier and I recently bought a home at 1109 Wilson Road. I am writing to request that the council relinquish the rights to the portion of Alice Street that abuts my property. There are two reasons for my request. The first is that my garage sits two feet over the property line. I have been told it is grandfathered in and I wouldn't have to tear it down should the land on the other side of Alice Street be developed. However, I do not have this in writing and with zoning laws constantly changing I want to ensure that I will not be forced to tear down my garage. I understand that the land is owned by the city and the Water Department. I have been told that it is water shed property and wouldn't be developed but I want to protect my assets. My second and most important reason is that I would like a buffer between my property and the land on the other side of Alice Street. Alice Street is a paper road, which has already been utilized by a developer who built two homes on the lower part of Alice Street and Aldea Street. My concern is Alice Street becoming a thruway. I feel obtaining the rights to this land will be the only way to protect my assets. I appreciate your consideration in this matter. If you have any questions, please don't hesitate to call me at 401-486-8196.

Sincerely,

Doreen Frazier

## COMMITTEE ON ORDINANCES AND LEGISLATION

MEETING                      Tuesday, August 1, 2017 at 5:30 p.m.  
                                     Council Chamber, One Government Center

PRESENT                     Councilor Cliff Ponte, presiding  
                                     Councilors Pam Laliberte-Lebeau,  
                                     Stephen R. Long and Linda M. Pereira

ABSENT                      Councilor Joseph D. Camara

IN ATTENDANCE          Cathy Ann Viveiros, City Administrator  
                                     Joseph I. Macy, Corporation Counsel  
                                     Jessica A. Adler, Assistant Corporation Counsel

The chairman called the meeting to order at 5:35 p.m. and announced that the meeting may be recorded with audio or video and transmitted through any medium.

### Agenda:

1. Communication and draft report from the Corporation Counsel relative to solid waste, health, environment, and buildings ordinances (tabled 3-21-17).

*On a motion made by Councilor Stephen R. Long and seconded by Councilor Linda M. Pereira the item was lifted from the table with Councilor Joseph D. Camara absent and not voting. Councilor Linda M. Pereira questioned if the Mayor or Corporation Counsel has taken a position on the draft ordinances. Corporation Counsel stated that no one had taken a position in favor of or against, although the Mayor is in support of the establishment of a Municipal Hearings Officer. Chairman Ponte stated that he doesn't agree with the Rental Inspection section of the draft and stated that he doesn't believe Fall River is ready for such a program. The following is a list of proposed ordinances that were requested to be drafted by Corporation Counsel to be discussed at the next meeting:*

### Draft Report on City Ordinances

*Page 7, Sections 10-38, 10-39 & 10-99  
 Page 8, Sections 46-16(b), 46-16(c), 46-16(d)  
 Page 9, Section 46-16(d)  
 Page 10, Section 46-16(d), (6) add a dollar amount to the fines  
 Page 10, Section 46-16(e) Appeals (If the City adopts MGL 40U, the establishment of a Municipal Hearings Officer, then that would change)  
 Page 19, Section 26-60 Blight and Decay  
 Page 20, Section 26-60 (3) Delete the words, free of extensive peeling, flaking or chipped paint and replace with the words, weather resistant and water tight.  
 Page 20, Section 26-62 Enforcement – Insert in the second sentence or the Director of Code Enforcement.*

Page 21, Section 26-63 Violations, change to:

1. First violation – warning
2. Second violation - \$50.00
3. Third violation - \$100.00
4. Fourth and subsequent violations - \$200.00

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Councilor Linda M. Pereira requested a list of all the nuisance properties in the City of Fall River (copy of said list is attached hereto and made a part of these minutes). On a motion made by Councilor Linda M. Pereira and seconded by Councilor Stephen R. Long, it was unanimously voted to table the matter with Councilor Joseph D. Camara absent and not voting. On a further motion made by Councilor Linda M. Pereira and seconded by Councilor Stephen R. Long, it was unanimously voted to adjourn at 7:06 p.m., with Councilor Joseph D. Camara absent and not voting.

List of documents and other exhibits used during the meeting:

Agenda packet (attached)

CD and DVD of meeting

Letter from CJ Ferry (attached)

Table of Contents and updated report on City Ordinances (attached)

*Clement A. Taylor*  
Clerk of Committees

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## COMMITTEE ON ORDINANCES AND LEGISLATION

MEETING Tuesday, July 11, 2017 at 5:45 p.m.  
Council Chamber, One Government Center

PRESENT Councilor Cliff Ponte, presiding  
Councilors Joseph D. Camara, Pam Laliberte-Lebeau,  
Stephen R. Long and Linda M. Pereira

ABSENT None

IN ATTENDANCE Cathy Ann Viveiros, City Administrator

The chairman called the meeting to order at 5:52 p.m. and announced that the meeting may be recorded with audio or video and transmitted through any medium.

### Agenda:

1. Communication from Mayor and proposed ordinance establishing the King Philip Mills Overlay District

*The Chairman stated that the reason for the meeting was to refer a copy of this proposed ordinance to the Planning Board for recommendation. The City Administrator questioned if this matter would be voted on by the full council this evening. The Chairman stated that it would be voted on at the City Council meeting scheduled for 7:00 p.m. On a motion made by Councilor Linda M. Pereira and seconded by Councilor Steven R. Long, it was unanimously voted to recommend a copy of the proposed ordinance be referred to the Planning Board.*

On a motion made by Councilor Linda M. Pereira and seconded by Councilor Stephen R. Long, it was unanimously voted to adjourn at 5:55 p.m.

### List of documents and other exhibits used during the meeting:

Agenda packet (attached)  
CD and DVD of meeting

  
Clerk of Committees

# COMMITTEE ON ORDINANCES AND LEGISLATION

MEETING Monday, June 26, 2017 at 5:15 p.m.  
Council Chamber, One Government Center

PRESENT Councilor Cliff Ponte, presiding  
Councilors Joseph D. Camara, Pam Laliberte-Lebeau,  
Stephen R. Long and Linda M. Pereira

ABSENT None

IN ATTENDANCE Mary Sahady, Director of Financial Services  
Cathy Ann Viveiros, City Administrator  
Chief John D. Lynch, Fall River Fire Department  
Madeline Coelho, Director of Human Resources  
Dawn Lewis, Director of Information Technology

The chairman called the meeting to order at 5:16 p.m. and announced that the meeting may be recorded with audio or video and transmitted through any medium.

## Agenda:

1. Communication from Mayor and proposed ordinance re: personnel title and wage change for Manager of Operations – Streets and Highways DCM  
*The Director of Financial Services stated that the position is not filled at this time. On a motion made by Councilor Joseph D. Camara and seconded by Councilor Pam Laliberte-Lebeau, it was unanimously voted to recommend the proposed ordinance be passed through first reading.*
2. Communication from Mayor and proposed ordinance re: personnel title and wage change for Director of Emergency Medical Services  
*The City Administrator stated that the salary of the Deputy Director will be increasing with the new EMS contract. Chief John Lynch stated that this position is equal to a Deputy Chief in the Fire Department. He also stated that there has been a tremendous turnover in paramedics due to low salaries and he does not want to lose more good employees. Councilor Stephen R. Long asked if the funding for this salary increase was coming from the EMS Enterprise Fund. The Director of Financial Services stated that it was. Chairman Ponte called for a three minute recess at 5:52 p.m. as Councilor Linda M. Pereira stepped away from the table. At 5:54 p.m. the committee reconvened. On a motion made by Councilor Stephen R. Long and seconded by Councilor Pam Laliberte-Lebeau, it was voted 3 yeas, 2 nays to recommend the proposed ordinance be passed through first reading, with Councilors Linda M. Pereira and Cliff Ponte voting in the negative.*

3. Communication from Mayor and proposed ordinance re: personnel title and wage change for Project Manager – Facilities Maintenance  
*Chairman Cliff Ponte asked for the current annual salary. The Director of Financial Services stated that the current annual salary is \$62, 883 and the position is not filled at this time. On a motion made by Councilor Joseph D. Camara and seconded by Councilor Linda M. Pereira, it was voted 5 yeas, to recommend the proposed ordinance be passed through first reading.*
4. Communication from Mayor and proposed ordinance re: personnel title and wage change for Assistant Treasurer  
*Councilor Linda M. Pereira asked what the salary is for the Treasurer/Collector position. The City Administrator stated that it is not to exceed \$105,000.00 per year and the salary for the Assistant Treasurer is being proposed not to exceed \$75,000.00 per year. She also stated that the position of Treasurer/ Collector is being advertised at this time. On a motion made by Councilor Stephen R. Long and seconded by Councilor Pam Laliberte-Lebeau, it was voted 4 yeas, 1 nay to recommend the proposed ordinance be passed through first reading, with Chairman Cliff Ponte voting in the negative.*
5. Communication from Mayor and proposed ordinance re: personnel title and wage change for Director of Facilities Maintenance  
*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Pam Laliberte-Lebeau, it was unanimously voted to recommend the proposed ordinance be passed through first reading.*
6. Communication from Mayor and proposed ordinance re: personnel title and wage change for Network Administrator (IT)  
*The City Administrator stated that the current salary for this position is \$52,598.00 and they are unable to find qualified individuals to fill this position at this salary. Chairman Cliff Ponte questioned if two vacant positions could be combined into one position with a higher salary. The City Administrator stated that an IT Department to service a city of our size, needs four qualified individuals. On a motion made by Councilor Stephen R. Long and seconded by Councilor Linda M. Pereira, it was unanimously voted to recommend the proposed ordinance be passed through first reading.*
7. Communication from Mayor and proposed ordinance re: personnel title and wage change for Human Resources Generalist  
*The City Administrator stated that the Affordable Care Act has added an extreme amount of paperwork and the Human Resources Generalist has taken on this responsibility. Subcontractors are charging \$35,000 to manage all paperwork related to the Affordable Care Act. On a motion made by Councilor Linda M. Pereira and seconded by Councilor Stephen R. Long, it was unanimously voted to recommend the proposed ordinance be amended by reducing the proposed salary from not to exceed \$65,000.00 per annum to not to exceed \$60,000 per annum. On a further motion made by Councilor Joseph D. Camara and seconded by Councilor Linda M. Pereira, it was unanimously voted to recommend the proposed ordinance be passed through first reading, as amended.*
8. Communication from Mayor and proposed ordinance re: personnel title and wages for Wellness Coordinator  
*On a motion made by Councilor Pam Laliberte-Lebeau and seconded by Councilor Stephen R. Long, it was unanimously voted to lift the proposed ordinance from the table. On a further motion made by Councilor Linda M. Pereira and seconded by Councilor Pam Laliberte-Lebeau, it was unanimously voted to recommend the proposed ordinance be granted leave to withdraw.*

9. Communication from Mayor and proposed ordinance re: personnel title and wages for Director of Tourism and Cultural Affairs

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*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Stephen R. Long, it was unanimously voted to lift the proposed ordinance from the table. On a further motion made by Councilor Linda M. Pereira and seconded by Councilor Pam Laliberte-Lebeau, it was unanimously voted to recommend the proposed ordinance be tabled to allow the Administration time to submit a job description for this position.*

On a motion made by Councilor Joseph D. Camara and seconded by Councilor Stephen R. Long, it was unanimously voted to adjourn at 6:29 p.m.

List of documents and other exhibits used during the meeting:

Agenda packet (attached)

CD and DVD of meeting

Letter from Dr. Wayne Christianson in support of increasing the salary of the Director of Emergency Medical Services

*Colleen A. Taylor*  
Clerk of Committees



# COMMITTEE ON ORDINANCES AND LEGISLATION

MEETING Tuesday, May 23, 2017 at 5:30 p.m.  
Council Chamber, One Government Center

PRESENT Councilor Cliff Ponte, presiding  
Councilors Joseph D. Camara, Pam Laliberte-Lebeau,  
Stephen R. Long and Linda M. Pereira

ABSENT None

IN ATTENDANCE Mary Sahady, Director of Financial Services  
Cathy Ann Viveiros, City Administrator  
Madeline Coelho, Director of Human Resources  
Deputy Chief Alfred Dupere, Fall River Police Department  
Terrance J. Sullivan, Director of Community Utilities

The chairman called the meeting to order at 5:36 p.m. and announced that the meeting may be recorded with audio or video and transmitted through any medium.

The meeting began with the Chairman announcing that anyone wishing to speak about any item on the agenda may have three minutes for Citizen Input.

## Citizen Input

M. Earle Gaudette, 38 Gaudette Drive – water rates

## Agenda:

1. Proposed Ordinance – Traffic, Handicapped Parking  
*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Stephen R. Long, it was unanimously voted to recommend the proposed ordinance be accompanied by an emergency preamble. On a further motion made by Councilor Stephen R. Long and seconded by Councilor Pam Laliberte-Lebeau it was unanimously voted to recommend the proposed ordinance, accompanied by an emergency preamble be passed through first reading, second reading, passed to be enrolled and passed to be ordained.*

2. Proposed Ordinance – Traffic, miscellaneous  
*On a motion made by Councilor Stephen R. Long and seconded by Councilor Pam Laliberte-Lebeau, it was unanimously voted to recommend the proposed ordinance be passed through first reading.*

*On a motion made by Councilor Stephen R. Long and seconded by Councilor Pam Laliberte-Lebeau it was unanimously voted to take item #5 out of order.*

5. Communication from Mayor and proposed ordinance re: personnel title and wage changes

Deputy Chief Alfred Dupere stated that the Account Manager for the Police Department is a position to oversee all grants for the Police Department. At present various officers are monitoring different grants. It would be much better to have one person in charge of overseeing all grants. This would also allow officers to focus on police duties. On a motion made by Councilor Stephen R. Long and seconded by Councilor Joseph D. Camara, it was voted 2 yeas, 3 nays to recommend the proposed ordinance be passed through first reading, with Councilors Pam Laliberte-Lebeau, Linda M. Pereira and Cliff Ponte voting in the negative and the motion did not carry. On a further motion made by Councilor Pam Laliberte-Lebeau and seconded by Linda M. Pereira it was unanimously voted to separate the various positions and salaries, as follows:

Account Manager/Police Department Not to exceed \$60,000.00 per annum  
On a further motion made by Councilor Joseph D. Camara and seconded by Councilor Stephen R. Long, it was unanimously voted to recommend the proposed ordinance for the Account Manager for the Police Department be passed through first reading, as amended.

Director of Tourism and Cultural Affairs Not to exceed \$60,000.00 per annum  
On a motion made by Councilor Pam Laliberte-Lebeau and seconded by Councilor Joseph D. Camara, it was unanimously voted to table the proposed ordinance for the Director of Tourism and Cultural Affairs.

Mayor's Administrative Assistant Not to exceed \$40,000.00 per annum  
On a motion made by Councilor Joseph D. Camara and seconded by Councilor Pam Laliberte-Lebeau it was unanimously voted to recommend the title change of Receptionist, Mayor's Office to Mayor's Administrative Assistant. On a further motion made by Councilor Stephen R. Long and seconded by Councilor Joseph D. Camara, it was voted 5 yeas to recommend the proposed ordinance be passed through first reading, as amended.

Wellness Coordinator Not to exceed \$70,000.00 per annum  
A motion was made by Councilor Linda M. Pereira to table the position of Wellness Coordinator, but the motion was withdrawn. The Director of Human Resources stated that she would like to see the Wellness Coordinator start with a one year contract and see how much it benefited the City. On a further motion made by Councilor Linda M. Pereira and seconded by Councilor Pam Laliberte-Lebeau, it was unanimously voted to table the matter.

Architect/Facilities Maintenance Not to exceed \$105,000.00 per annum  
Councilor Pam Laliberte-Lebeau asked what the City spent on Architects the previous two years. The City Administrator stated that she would forward that information to the City Council. On motion made by Councilor Linda M. Pereira and seconded by Councilor Stephen R. Long, it was unanimously voted to recommend the proposed ordinance for an Architect/Facilities Maintenance be passed through first reading, as amended.

3. Communication from Mayor and proposed ordinances re: water and sewer rates  
The Administrator of Community Utilities stated that 60 miles of water mains have been replaced, but there are still 50 miles remaining that needs replacement.  
On a motion made by Councilor Linda M. Pereira and seconded by Councilor Stephen R. Long, it was unanimously voted to recommend the proposed water rate ordinance be passed through first reading.

The Administrator of Community Utilities stated that the City of Fall River has made great progress in improving our sewer services over the last few years. Councilor Joseph D. Camara asked the Administrator of Community Utilities what would happen if

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the sewer rates are not increased. He stated that it would put the sewer department in a very bad light with DEP and the EPA. Back in the 1980s no increases were implemented which caused serious problems and then the City was court mandated to implement the CSO Project.

On a motion made by Councilor Linda M. Pereira and seconded by Councilor Pam Laliberte-Lebeau, it was unanimously voted to recommend the proposed water rate ordinance be passed through first reading.

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4. Communication from Administrator of Community Utilities re: Water and Sewer Divisions Staff Reorganization Report

The Administrator of Community Utilities stated that if the water and sewer rates pass, along with the budgets then he will make a formal presentation at a later date. On a motion made by Councilor Joseph D. Camara and seconded by Councilor Linda M. Pereira, it was unanimously voted to recommend that the communication be accepted and placed on file.

6. Communication from Mayor re: changing the name of the Department of Buildings and Grounds to Facilities Maintenance

On a motion made by Councilor Linda M. Pereira and seconded by Councilor Pam Laliberte-Lebeau it was unanimously voted to recommend the proposed ordinance be passed through first reading.

On a motion made by Councilor Linda M. Pereira and seconded by Councilor Joseph D. Camara, it was unanimously voted to adjourn at 7:49 p.m.

List of documents and other exhibits used during the meeting:

Agenda packet (attached)

CD and DVD of meeting

Job description of Wellness Coordinator

  
Clerk of Committees

**REGULAR MEETING OF THE CITY COUNCIL**

MEETING: Tuesday, March 21, 2017 at 7:00 p.m.  
Council Chamber, One Government Center

PRESENT: President Shawn E. Cadime, presiding;  
Councilors Richard Cabeceiras, Joseph D. Camara, Steven A. Camara,  
Pam Laliberte-Lebeau, Stephen R. Long, Raymond A. Mitchell, Linda M.  
Pereira and Cliff Ponte

ABSENT: None

IN ATTENDANCE: None

President Shawn E. Cadime called the meeting to order at 8:18 p.m. with a moment of silence followed by a salute to the flag and announced that the meeting may be recorded with audio or video and transmitted through any medium.

**PRIORITY MATTERS**

1. Transfers and appropriations  
a. \$32,883 from Administrative Services, Expenditures to Administrative Services, Salaries  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Stephen R. Long, it was voted 9 yeas to adopt the order.*

b. \$150,000 from EMS Stabilization Fund to EMS Salaries  
*On a motion made by Councilor Richard Cabeceiras and seconded by Councilor Stephen R. Long, it was voted 7 yeas, 2 nays to adopt the order, with Councilors Cliff Ponte and President Shawn E. Cadime voting in the negative.*

2. Mayor and order for emergency CPA funding for an elevator at the Maritime Museum (formerly the Marine Museum)  
*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Pamela Laliberte-Lebeau, it was unanimously voted to table the matter.*

3. Mayor requesting amendment to Section 42-1(c) of city ordinances re: regulation and maintenance of vacant and foreclosing residential properties  
*On a motion made by Councilor Cliff Ponte and seconded by Councilor Linda M. Pereira, it was unanimously voted to refer the matter to the Committee on Ordinances and Legislation.*

## PRIORITY COMMUNICATIONS

4. Traffic Commission recommending amendments to the traffic ordinances  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted to refer the matter to the Committee on Ordinances and Legislation.*

## COMMITTEE REPORTS

Committee on Ordinances and Legislation recommending:

### First Reading:

5. Proposed ordinance – Traffic, miscellaneous  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted to pass the proposed ordinance through first reading.*

### All readings with Emergency Preamble:

6. Proposed ordinance – Traffic, handicapped parking  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Cliff Ponte, it was voted 9 yeas to adopt an emergency preamble. On a further motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted to pass the proposed through all readings.*  
*Approved, April 3, 2017, Mayor Jasiel F. Correia II*

### Adoption, as amended:

7. Resolution – removal of city employees from boards and commissions  
*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Raymond A. Mitchell, it was unanimously voted to adopt the resolution, as amended.*

### Adoption:

8. Order - Corporation Counsel prepare home rule petition to separate cemeteries from Board of Park Commissioners  
*A motion was made by Councilor Raymond A. Mitchell to adopt the order, but received no second. On a further motion made by Councilor Steven A. Camara and seconded by Linda M. Pereira, it was voted 3 yeas, 6 nays to refer the order to the Committee on Ordinances and Legislation with Councilors Pam Laliberte-Lebeau, Stephen R. Long, Raymond A. Mitchell, Linda M. Pereira, Cliff Ponte and President Shawn E. Cadime voting in the negative and the motion failed to carry. Councilor Steven A. Camara stated that he felt the matter should be referred back to the Committee on Ordinances and Legislation for further discussion. Councilor Linda M. Pereira stated that she feels by instituting a separate board to oversee the cemeteries, it will allow them to focus just on cemeteries. She acknowledges that the Board of Park Commissioners has overseen the cemeteries for over one hundred years, but back in that time there were fewer parks to oversee. On a motion made by Councilor Richard Cabeceiras and seconded by Councilor Linda M. Pereira it was unanimously voted to move the question. On yet a further motion made by Councilor Linda M. Pereira and seconded by Councilor Cliff Ponte, it was voted 6 yeas, 3 nays to adopt the order with Councilors Richard Cabeceiras, Joseph D. Camara and Steven A. Camara voting in the negative.*  
*Approved, April 3, 2017, Mayor Jasiel F. Correia II*

### Grant leave to withdraw:

9. Communication – City resident requesting cap on tobacco licenses  
*On a motion made by Councilor Linda M. Pereira and seconded by Councilor Raymond A. Mitchell, it was unanimously voted to grant the communication leave to withdraw.*

Committee on Public Works and Transportation recommending:

Grant leave to withdraw:

10. Order – curb removal - Robert Maynard, 394 Hancock Street – total of 44 feet at 394 Hancock Street

*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Linda M. Pereira, it was unanimously voted to grant the order leave to withdraw.*

11. Orders – To install backhaul transport equipment on new single utility pole locations with electricity connection for Mobilitie, LLC, as follows:
- a. West of the intersection of Pleasant and Thirteenth Street on Pleasant Street
  - b. East of the intersection of Pleasant and Eighth Streets on Pleasant Street
  - c. Southwest of the intersection of Highland Avenue and Prospect Street on Highland Avenue
  - d. Southwest of the intersection of Prospect and Hanover Streets on Hanover Street
  - e. Northeast of the intersection of Bedford Street and Stonehaven Road on Stonehaven Road
  - f. Northwest of the intersection of North Main and Cherry Streets on Cherry Street
  - g. Southwest of the intersection of Seventeenth and Pleasant Streets on Seventeenth Street
  - h. East of the intersection of Pine and High Streets on Pine Street
  - i. Northeast of the intersection of Graham and Currant Roads on Graham Road
  - j. Northeast of the intersection of Rodman and Lonsdale Streets on Rodman Street
  - k. Northeast of the intersection of Dover and Snell Streets on Dover Street
  - l. South of the intersection of Elsbree and Montgomery Streets on Elsbree Street
  - m. Northeast of the intersection of Plymouth Avenue and Tecumseh Street on Plymouth Avenue
  - n. Northeast of the intersection of Orange and Pine Streets on Orange Street

*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Linda M. Pereira, it was unanimously voted that orders #11a. through 11n. be granted leave to withdraw.*

**ORDINANCES** – None

**RESOLUTIONS**

12. Committee on Ordinances and Legislation convene to discuss certification and licensing of Sober Houses

*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted to adopt the resolution. Councilor Pereira stated that she has become aware of many Sober Houses operating in the City with no regulations and she feels that we need to put some ordinances together to regulate these residences.*

13. Committee on Finance convene with Administration to provide update on street light pole and bulb replacement

*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted to adopt the resolution. Councilor Linda M. Pereira stated that there are numerous street lights out in the City that need to be replaced. One is in front of the Boys and Girls Club on Bedford Street and she witnessed a child almost being hit by a vehicle due to the darkness in that area. Councilor Raymond A. Mitchell stated that this is a public safety hazard that needs to be addressed as soon as possible.*

14. Committee on Finance convene with Administration to provide update on how the City is addressing abandoned properties  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Linda M. Pereira, it was unanimously voted to adopt the resolution. Councilor Linda M. Pereira stated that the City needs to start ticketing residents who continually allow their properties to be overgrown with weeds and littered with trash.*
15. Administration provide information on presence of Tobey Disposal at Lewiston Street Garage  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Linda M. Pereira, it was unanimously voted to adopt the resolution. Councilor Linda M. Pereira asked the Council President to place this on the next Committee on Finance agenda if possible.*
16. City Council support House Bill No. 5151 designating June as Seatbelt Awareness Month  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted to adopt the resolution. Councilor Linda M. Pereira stated that she filed this resolution in support of the work of former City Councilor Michael Miozza, who is the grandfather of Hannah Raposo that lost her life in a car accident on the way to the Durfee Senior Prom last year while not wearing her seatbelt.*
17. City Council support the work initiative of Somerset Selectman Holly McNamara and Team Lead John Myron regarding Hyperloop transportation  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted to adopt the resolution.*
18. City Council items lifted from the table not be discussed unless listed on the agenda  
*A motion was made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras to adopt the resolution. Councilor Mitchell then stated that he wished to amend his motion to refer the resolution to the Committee on Ordinances and Legislation, which was seconded by Councilor Cliff Ponte and voted unanimously with Councilor Joseph D. Camara opposed.*

**CITATIONS** – None

**ORDERS – HEARINGS**

**Auto Repair Shop License:**

19. Timothy Cabral d/b/a Aberdeen Auto LLC at 163-165 Aberdeen Street  
*On a motion made by Councilor Richard Cabeceiras and seconded by Councilor Raymond A. Mitchell, it was unanimously voted to refer the order to the Committee on Regulations.*

**Curb removals:**

20. Lidia Cardoso, 192 Haffards Street – total of 23 feet at 192 Haffards Street  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted to adopt the order.*  
 Approved, April 3, 2017, Mayor Jasiel F. Correia II

21. Matthew Hiscock, 946 Walnut Street – total of 61.6 feet at 946 Walnut Street  
*On a motion made by Councilor Joseph D. Camara and seconded by Councilor Raymond A. Mitchell, it was unanimously voted to refer the order to the Committee on Public Works and Transportation.*

**ORDERS – MISCELLANEOUS**

22. The sum of \$20,000 be transferred from Law Department Expenses to City Council Expenses for legal counsel

*Council President Shawn E. Cadime relinquished the chair to Vice President Linda M. Pereira at 9:10 p.m. in order to speak on item number 22. Council President Shawn Cadime stated that he filed this order because the City Council has no legal representation that is not working for the Administration. He also stated that when an opinion is rendered by Corporation Counsel that the City Council does not agree with, the City Council cannot get a second opinion without any funding. Councilor Joseph D. Camara stated that he doesn't agree with the order because the City Council can disagree with any decision of the Corporation Counsel at any time. The Council President returned to the podium at 9:16 p.m. A motion was made by Councilor Richard Cabeceiras and seconded by Councilor Raymond A. Mitchell to move the question. Councilor Richard Cabeceiras then withdrew the motion. On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Linda M. Pereira, it was voted 6 yeas, 3 nays to adopt the order with Councilors Joseph D. Camara, Steven A. Camara and Stephen R. Long voting in the negative.*

23. Seating area located in front of Columbia Street Municipal Parking Lot be dedicated to Antone "Tony" Avilla

*On a motion made by Councilor Richard Cabeceiras and seconded by Councilor Raymond A. Mitchell, it was unanimously voted to adopt the order.  
 Approved, April 3, 2017, Mayor Jasiel F. Correia II*

24. City Engineer prepare plans for acceptance of Bell Street from Corbett Street to dead end  
*On a motion made by Councilor Richard Cabeceiras and seconded by Councilor Cliff Ponte, it was unanimously voted to refer the order to the Planning Board.*

25. Police Chief's report on licenses

Taxicab Drivers:

Timothy E. Adams	Adam DeMedeiros	Starley Dorcelly
Michael V. Friedlander	Stephen Furtado	Jacquelin Hardy
Darren Machado	Amaka K. Onwukwe	Todd Pina
David Rioux	Brian Tetrault	Christopher Younie

Private Livery Drivers:

Lisa F. Defrias	Michael V. Friedlander	Luis M. Silva
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Second Hand Licenses:

Wayne Confoey d/b/a Cash for Gold  
 Howard Sperberg & Andrew Jaynes d/b/a Pawtucket Pawnbrokers Too  
 Alan Confoey d/b/a Alan's Jewelry  
 Robert Janelle d/b/a Our Place  
 TVI d/b/a Savers  
 Joey & Ana Pacheco d/b/a Pacheco's Used Furniture

*A motion was made by Councilor Raymond A. Mitchell and seconded by Councilor Stephen R. Long to adopt the order. The City Clerk then stated that two of the Second Hand Licenses were denied by the Police Chief. Councilor Raymond A. Mitchell stated that the Police Chief denies*



these same two licenses every year and there have been no issues with these two businesses, so he would like to approve both licenses. The City Clerk stated that Alan Confoey d/b/a Alan's Jewelry has an open court case. On a further motion made by Councilor Steven A. Camara and seconded by Councilor Pam Laliberte-Lebeau, it was voted 3 yeas, 6 nays to approve all licenses except for Alan Confoey d/b/a Alan's Jewelry and Wayne Confoey d/b/a Cash for Gold being referred to the Committee on Regulations with Councilors Richard Cabeceiras, Joseph D. Camara, Stephen R. Long, Raymond A. Mitchell, Linda M. Pereira and President Shawn E. Cadime voting in the negative and the motion failed. On yet a further motion made by Councilor Raymond A. Mitchell and seconded by Councilor Linda M. Pereira, it was voted 9 yeas to refer Alan Confoey d/b/a Alan's Jewelry to the Committee on Regulations and adopt all remaining licenses on the Chief's Report.

Auto Repair Shop license transfers:

26. Miller Garcia d/b/a Global Care Auto Service, Inc. to Zaqueu Francisco Da Silva d/b/a Zack's Garage Auto Service at 65 Manchester Street

*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted to adopt the order.*

*Approved, April 3, 2017, Mayor Jasiel F. Correia II*

27. Gary Dutra d/b/a G & D Auto Sales LLC to Phillip DeDucca d/b/a 851 Motor Sales at 851 Globe Street

*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Linda M. Pereira, it was unanimously voted to adopt the order.*

*Approved, April 3, 2017, Mayor Jasiel F. Correia II*

**COMMUNICATIONS – INVITATIONS – PETITIONS**

28. Claims

*On a motion made by Councilor Richard Cabeceiras and seconded by Councilor Raymond A. Mitchell, it was unanimously voted to refer the claims to Corporation Counsel.*

29. Drainlayer license – Steen Realty and Development Corporation

*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Stephen R. Long, it was unanimously voted to approve the license.*

*Approved, April 3, 2017, Mayor Jasiel F. Correia II*

30. City resident requesting to purchase city owned property adjacent to 270 London Street

*On a motion made by Councilor Richard Cabeceiras and seconded by Councilor Cliff Ponte, it was unanimously voted to refer the communication to the Committee on Real Estate.*

31. Communication from Attorney General regarding OML complaint of January 23, 2017 regarding alleged violation occurring on December 27, 2016

*On a motion made by Councilor Richard Cabeceiras and seconded by Councilor Cliff Ponte, it was unanimously voted that the communication be accepted and placed on file.*

32. Communication from Attorney General closing matter of OML complaint from meeting held on October 11, 2016

*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted that the communication be accepted and placed on file.*

City Council Committee/Meeting Minutes:

33. Special City Council Meeting – February 28, 2017  
34. Special City Council Meeting – March 1, 2017

35. Committee on Ordinances and Legislation – February 27, 2017  
 36. Committee on Public Works and Transportation – February 28, 2017  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted to take items #33 through #36 together. On a further motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted to approve the minutes.*

**BULLETINS – NEWSLETTERS – NOTICES**

37. Notice of Casualty and Loss at 367 Stetson Street  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was unanimously voted that the notice be accepted and placed on file.*
38. Mass DEP re: Emergency authorization – Floating Dock Extension at Bicentennial Park Boat Ramp  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Cliff Ponte, it was unanimously voted that the notice be accepted and placed on file.*

**ITEMS FILED AFTER THE AGENDA WAS PREPARED:**  
**CITY COUNCIL MEETING DATE: MARCH 21, 2017**

**COMMITTEE REPORTS**

Committee on Finance:

Collective bargaining agreement for Teamsters Local 251 Public Works Unit  
*On a motion made by Councilor Richard Cabeceiras and seconded by Councilor Cliff Ponte, it was voted 8 yeas, 1 nay to adopt the order with Councilor Linda M. Pereira voting in the negative. Approved, April 3, 2017, Mayor Jasiel F. Correia II*

Collective bargaining agreement for IAFF Local 1314 Fall River Firefighters  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Richard Cabeceiras, it was voted 9 yeas to adopt the order. Approved, April 3, 2017, Mayor Jasiel F. Correia II*

**RESOLUTIONS**

Committee on Public Works and Transportation meet with various parties re: Newton Street parking issues  
*On a motion made by Councilor Raymond A. Mitchell and seconded by Councilor Cliff Ponte, it was unanimously voted to adopt the resolution.*

*On a motion made by Councilor Richard Cabeceiras and seconded by Councilor Raymond A. Mitchell, it was unanimously voted to adjourn at 9:54 p.m.*

List of documents and other exhibits used during the meeting:

Agenda packet (attached)  
 CD and DVD of meeting

A true copy. Attest:

*Alison M Bouchard*

City Clerk