

City of Fall River Massachusetts

Office of the City Clerk

RECEIVED

2023 JUN -2 A 11:19

CITY CLERK
FALL RIVER, MA

ALISON M. BOUCHARD
CITY CLERK

INÊS LEITE
ASSISTANT CITY CLERK

MEETINGS SCHEDULED
CITY COUNCIL CHAMBER, ONE GOVERNMENT CENTER
TUESDAY, JUNE 6, 2023
AGENDA

6:00 P.M. CITY COUNCIL COMMITTEE ON FINANCE MEETING

1. Citizen Input
2. Continue discussion of the proposed Fiscal Year 2024 Municipal Budget as follows:
 - Departments carried over from the June 1, 2023 Committee on Finance agenda, if needed
 - General Government
Elections; Veterans
 - Facilities/Community Maintenance
Facilities; Community Maintenance; Engineering
 - Administrative Services
City Administration; Management Information Systems; Law
 - Financial Services
Director of Financial Services

7:00 P.M. REGULAR MEETING OF THE CITY COUNCIL (OR IMMEDIATELY FOLLOWING THE COMMITTEE ON FINANCE MEETING IF IT RUNS PAST 7:00 P.M.)

PRIORITY MATTERS

1. *Mayor and order establishing spending limits of Revolving Funds for Fiscal Year 2024
2. *Mayor and order transferring the sum of \$16,000.00 to the Operating Reserve Fund from the Library Salaries

PRIORITY COMMUNICATIONS - None

COMMITTEE REPORTS

- Committee on Public Safety recommending:
Grant Leave to Withdraw
3. *Resolution – Discuss concerns regarding traffic, noise and air pollution in area of Northeast Alternatives, 999 William. S. Canning Blvd.

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

ORDINANCES - None

RESOLUTIONS - None

CITATIONS - None

ORDERS – HEARINGS - None

ORDERS – MISCELLANEOUS

4. Auto Repair Shop License Renewal
Frank Correia d/b/a Mello Services Station, Inc. – 801 Bay Street

5. Auto Repair Shop License Transfer:
Transfer of auto repair shop license no. 161 located at 714 Globe Street from Henry J. Gauthier d/b/a Henry's Tire Service, Inc. to Jewel Saeed d/b/a Henry's Tire Enterprises, Inc.

6. Police Chief's report on licenses:
Taxicab Driver
Gary Freitas

Livery Drivers
Amanda DesRoches Elizabeth Llorca Tara Mello Hugh Williams

Livery Vehicles
New Generation Transportation – Four (4) Vehicles
Joseph Ozak – One (1) Vehicle

COMMUNICATIONS – INVITATIONS – PETITIONS

7. *Claims
8. *Attorney General Response to Open Meeting Law complaint filed by Patrick Higgins re: January 24, 2023 alleged violation by City Council

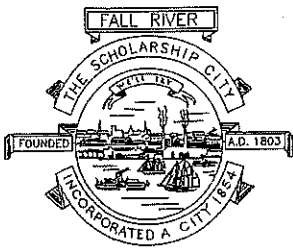
9. Drainlayer Licenses
a. S. Oliveira Construction Corp.

City Council Minutes:

10. *Public Hearing – May 30, 2023
11. *Committee on Finance – May 30, 2023
12. *Regular Meeting – May 30, 2023

BULLETINS – NEWSLETTERS – NOTICES – None


City Clerk



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

PAUL E. COOGAN
Mayor

RECEIVED

2023 JUN -1 P 3:30

CITY CLERK _____
FALL RIVER, MA

June 1, 2023

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.

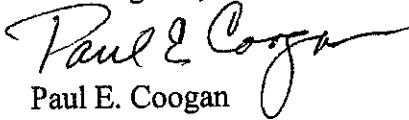
Ordered, that under the provisions of Massachusetts General Laws, Chapter 44, Section 53 E ½, the City of Fall River by vote of the City Council, hereby establishes authorized spending limits for the following Revolving Funds for FY 24:

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
Community Maintenance	\$25,000	Street Light Poles Repairs/Replacement
Facilities Maintenance	\$50,000	Vehicle Trade-In
Police Department	\$6,000	Moorings Maintenance
Police Department	\$40,000	Police Cruiser
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
CVTE Revolving Fund	\$200,000	Durfee High School

Should you have any questions or concerns in this regard, please do not hesitate to contact my office.

Best Regards,



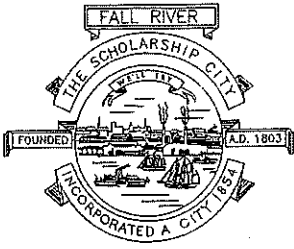
Paul E. Coogan
Mayor

City of Fall River, *In City Council*

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 24:

Fire Department	\$20,000	Hazardous Material Recovery
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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
CVTE Revolving Fund	\$200,000	Durfee High School

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

PAUL E. COOGAN
Mayor

RECEIVED

2023 JUN -1 P 3:30

CITY CLERK _____
FALL RIVER, MA

June 1, 2023

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

Dear Honorable Council Members:

In accordance with the provisions of Chapter 44, Section 32 of the Massachusetts General Laws, I recommend the following appropriations to your Honorable Body.

- 1. \$16,000.00 That the sum of \$16,000 be, and the same is, hereby appropriated to the OPERATING RESERVE FUND from LIBRARY SALARIES

If you have any questions or concerns regarding this, please feel free to contact me.

Best Regards,

Paul E. Coogan
Paul E. Coogan
Mayor

City of Fall River, *In City Council*

JUNE 6, 2023


ORDERED:

That the sum of \$16,000.00 be, and the same is, hereby transferred from Library Salaries to the Operating Reserve Fund.

FY23 Appropriation/Transfer Number Analysis

Line	Original/Revised Appropriation	Amount Transferred	Adjusted Balance
OPERATING RESERVE FUND	\$ 1,865,909.39	\$ 16,000.00	\$ 1,881,909.39
LIBRARY SALARIES	\$ 767,382.00	\$ (16,000.00)	\$ 751,382.00

I certify that there are sufficient funds available for these transfers.



Sedryk Sousa
June 6, 2023

CITY OF FALL RIVER

To the City Council

Councillors:

The Committee on

Public Safety, at a meeting held on May 31, 2023, voted unanimously to recommend that the accompanying resolution be granted leave to withdraw.


Assistant Clerk of Committees

City of Fall River, In City Council

(Vice President Pam Laliberte-Lebeau)

WHEREAS, the residents around the area of Northeast Alternatives have expressed many concerns in regards to traffic, noise, and air pollution over the past several months, and

WHEREAS, the residents are seeking a solution to their concerns, now therefore

BE IT RESOLVED, that the Committee on Finance along with the City Administrator, Director of Traffic, Director of Code Enforcement, and a representative from Northeast Alternatives convene to discuss possible solutions.

In City Council, November 12, 2019
Adopted, as amended

A true copy. Attest:

Alison M. Bouchard

City Clerk

CITY OF FALL RIVER
IN CITY COUNCIL
January 14, 2020
Referred to the
Comm. on Public Safety
and forwarded to the
Admin. for action and
recommendations.

tabled 12-10-20
tabled 3-30-21

7



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2023 MAY 30 A 11:17 May 23, 2023

FALL RIVER CITY OF FALL RIVER
City Clerk
One Government Center
Fall River, MA 02722

CITY CLERK #23-26
FALL RIVER, MA

PROPERTY SUBROGATION REQUEST

Your Policy:
Your Claim:
Your Insured: FALL RIVER CITY OF FALL RIVER
City Clerk
One Government Center
Fall River, MA 02722

Our Claim: LAMA0239D3
Our Insured: NANCY COSTA
176 OAK GROVE AVE
FALL RIVER, MA 02723

Your Driver: Justin Teixeira
Your Vehicle: 2022 Ford F550
Date of Loss: 5/6/2023

Our Driver: NANCY COSTA
Our Vehicle: 2014 KIA SPORTA

Location: 21 Corbett Street Fall River, MA

Description: IV parked in a driveway and OV backed up into parked IV. OV is an ambulance

Dear FALL RIVER CITY OF FALL RIVER,

Our investigation indicates that your insured is liable for the 5/6/2023 accident. According to MA law, we are entitled to reimbursement for the amount we paid under physical damage coverage.

Physical Damages:	\$	2304.61
Loss Of Use:	\$	0.00
Total Loss:	\$	0.00
Actual Cash Value:	\$	0.00
(includes sales tax, tow and storage charges)		
Salvage:	\$	0.00
Total Physical Damages:	\$	2304.61
Total Subro Receipt:	\$	0.00
Bailment Claimed:	\$	0.00

Visit us at www.safetyinsurance.com/claims for Frequently Asked Claims Questions

Safety Insurance P.O. Box 55098 Boston, MA 02205-5098 800-951-2100

We'll help you manage life's storms®



SUBR_008



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City of Fall River
Notice of Claim

2023 MAY 30 P 12: 24

CITY CLERK #23-27
FALL RIVER, MA

1. Claimant's name: Alishya Anselmo
2. Claimant's complete address: 1082 daniel street, fall river, MA 02770
3. Telephone number: Home: 508 642 0485 Work: _____
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):
flat tire due to roadwork
5. Date and time of accident: 05.26 5:00pm Amount of damages claimed: \$ 270.80
6. Exact location of the incident: (include as much detail as possible):
president ave, metal plates up the entire rd.
7. Circumstances of the incident: (attach additional pages if necessary): some were lifted. metal plates were lifted, there were several no room to go around with two way traffic
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: 05.30.23

Claimant's signature: Alishya Anselmo

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, 2nd 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: 5/30/23



City of Fall River
Notice of Claim

RECEIVED

2023 MAY 31 P 12:08

1. Claimant's name: Ricard Gomes 23-28
2. Claimant's complete address: 73 Home St Fall River MA 02720
3. Telephone number: Home: (508) 360-7214 Work: _____
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):
Property Damage
5. Date and time of accident: March 5 2022 Amount of damages claimed: \$ 2000.00
6. Exact location of the incident: (include as much detail as possible):
73 Home St Fall River MA Unit 4
7. Circumstances of the incident: (attach additional pages if necessary):
ONE of my neighbors called law enforcement for a disturbance at my property. IN the process of conducting a welfare check the officers broke my glass patio door to assess the situation.
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 None

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: 10-14-22

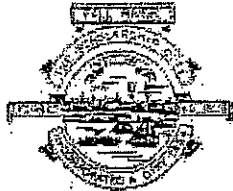
Claimant's signature: [Signature]

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, 2nd 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:	Date: <u>5/21/23</u>
<input checked="" type="checkbox"/> City Clerk	<input checked="" type="checkbox"/> Police Dept
<input checked="" type="checkbox"/> Law	
<input checked="" type="checkbox"/> City Council	
<input checked="" type="checkbox"/> City Administrator	



#23-29

RECEIVED

City of Fall River
Notice of Claim

2023 JUN -1 P 3:19

1. Claimant's name: Raul Ortiz
2. Claimant's complete address: 99 South Main St CITY CLERK FALL RIVER MA
3. Telephone number: Home: 508-245-2700 Work: 508-822-7105
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):
Auto Damage
5. Date and time of accident: 5/21/23 Amount of damages claimed: \$ 963.00
6. Exact location of the incident: (include as much detail as possible):
Pearl St Parking Garage
7. Circumstances of the incident: (attach additional pages if necessary):
letter and details attached. incident happened on Pearl St garage in Fall River on 5/21/23.
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: 6/1/23 Claimant's signature: Raul Ortiz

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, 2nd 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: <input checked="" type="checkbox"/> City Clerk <input checked="" type="checkbox"/> Law <input checked="" type="checkbox"/> City Council <input type="checkbox"/> City Administrator <input checked="" type="checkbox"/> Traffic	Date: <u>6/1/23</u>

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THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

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

May 25, 2023

OML 2023 - 91

Gary P. Howayeck, Esq.
Assistant Corporation Counsel
City of Fall River
One Government Center
Fall River, MA 02722

By email only: ghowayeck@fallriverma.org

RE: Open Meeting Law Complaint

Dear Attorney Howayeck:

This office received a complaint from Patrick Higgins on March 3, 2023, 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 or about January 25, 2023, and you responded to the complaint, on behalf of the Council, by letter dated February 6, 2023. The complaint alleges that the Council failed to review a prior Open Meeting Law complaint before voting at its January 24, 2023, meeting to refer the complaint to legal counsel to respond.

We resolve this matter by informal action, in accordance with 940 CMR 29.07(2)(a), after reviewing the original complaint, the Council's response to the complaint, the complaint filed with our office requesting further review, and the relevant portion of the video recording of the Council meeting held on January 24, 2023.¹ For precisely the reasons stated in OML 2021-120 (Fall River City Council) at page 3, a copy of which is enclosed, we find that the Council did not violate the Open Meeting Law in the way alleged.

¹ A video recording of the Council meeting held on January 24, 2023, is available at https://www.facebook.com/watch/live/?ref=watch_permalink&v=1219020382330448.

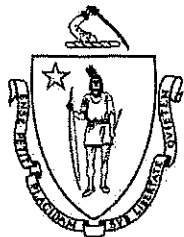
RECEIVED
2023 MAY 25 P 3:56
CITY CLERK
FALL RIVER, MA

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 our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,
Carrie Benedon
Carrie Benedon
Assistant Attorney General
Division of Open Government

cc: Patrick Higgins – By email only: patrick@openmeetinglawenforcer.com
Fall River City Council – By email only: city_council@fallriverma.org
Fall River City Clerk – By email only: city_clerks@fallriverma.org

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.



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

September 7, 2021

OML 2021 – 120

VIA EMAIL

Gary Howayeck, Esq.
Assistant Corporation Counsel
City of Fall River
One Government Center
Fall River, MA 02722

RE: Open Meeting Law Complaint

Dear Attorney Howayeck:

This office received a pair of complaints from Patrick Higgins on December 10, 2020, and December 18, 2020, alleging that the Fall River City Council and Fall River Board of Assessors (the “Council” and the “Board,” respectively) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaints were originally filed with both the Council and the Board on November 18. The Council responded by letter dated December 10 and the Board responded by letter dated December 15.¹ In the complaint filed with the Council, Mr. Higgins alleges that the Council violated the Open Meeting Law by failing to sufficiently discuss an October 27 Open Meeting Law complaint, and by holding a joint meeting with the Board on November 17 without posting notice. Mr. Higgins similarly alleges that the Board violated the Open Meeting Law by failing to sufficiently discuss a November 5 Open Meeting Law complaint, and by holding a joint meeting with the Council on November 17, without posting notice.²

Following our review, we find that neither the Council nor the Board violated the Open Meeting Law with respect to the allegations regarding the discussion of prior Open Meeting Law complaints. We do, however find that the Board, only, violated the Open Meeting Law by failing to post notice for the November 17 joint meeting with the Council. In reaching this

¹ Unless otherwise specified, all dates refer to 2020.

² Mr. Higgins also alleges that the Board violated the Open Meeting Law by failing to announce the name of each member who was participating in the December 16 meeting remotely. Mr. Higgins has since withdrawn this allegation after we addressed a similar issue, and found no violation, in OML 2020-168.

determination, we reviewed the original complaints, the Council's and Board's responses to the complaints, and the complainant's requests for further review. We also reviewed meeting notices, meeting minutes and video recordings of the Board's and Council's November 17 meetings. Finally, we emailed with Attorney Howayeck on several occasions in July of 2021.³

FACTS

We find the facts as follows. On November 13, the Board posted notice for a meeting to take place at 4:00 p.m. on November 17. Among other topics, the Board listed two items, "5. Open Meeting Law complaint from Patrick Higgins dated 11/5/2020," and "6. Discussion of Fiscal Year 2021 Tax Classifications." Also on November 13, the Council posted notice for a meeting to take place at 5:55 p.m. on November 17. Amongst others, the Council's meeting notice contained two items "2. Adoption of the percentage of the local tax levy to be borne by each class of property for Fiscal Year 2021," and "21. Open Meeting Law Complaint from Patrick Higgins re: alleged violation by the City Council President on October 27, 2020." Neither meeting notice indicated that a joint meeting of the two bodies would take place during the Council's evening meeting.

On November 17, the Board and the Council held two separate meetings that were each livestreamed. The Board met at 4:00 pm and discussed a variety of topics, one of which was Mr. Higgin's November 5 Open Meeting Law complaint, which the Board voted to refer to legal counsel for a response without discussion. Specifically, the Board did not address the merits of the complaint, nor verbally identify when and by whom the complaint was filed.⁴

The Board then recessed around 4:30 p.m., stating that the Board would reconvene during the Council's later meeting to discuss Fiscal Year 2021 tax classifications with the Council. The Council met at 5:55 p.m. that evening and was joined by the Board for a portion of that meeting to discuss tax classifications.⁵

The remote access instructions contained on the meeting notices for the public to view the meetings were different for the two meetings. The notice for the Board's meeting stated that the meeting could be viewed on YouTube at "[YouTube.com/FallRiverGovernmentTV](https://www.youtube.com/FallRiverGovernmentTV)," whereas the notice for the Council's meeting stated that the meeting could be viewed on the Fall River Government Television website, "www.frgtv.frgtv.us/live." Thus, the livestreams were only accessible to the public via separate links and a member of the public who watched the 4:00 p.m. meeting would have had to open a new livestream to follow the second part of the Board's discussion, which took place jointly with the Council.

After the joint portion of its meeting with the Board, the Council addressed Mr. Higgin's October 27 Open Meeting Law complaint. After briefly describing the complaint as being filed by Patrick Higgins about an alleged violation by the City Council President, the Council voted to refer the complaint to legal counsel. The Council then voted by roll call to refer the complaint to legal counsel for a response.

³ For the sake of clarity, we refer to you in the third person.

⁴ A recording of the Board's meeting can be found here: <https://www.youtube.com/watch?v=wOFTmtYw1oo>

⁵ A recording of the Council's meeting can be found here: <https://www.youtube.com/watch?v=YnKLH3P69Os>

DISCUSSION

1. The Board and Council did not violate the Open Meeting Law by voting to refer Open Meeting Law complaints to legal counsel rather than discussing their substance.

The Open Meeting Law requires that, unless an extension has been granted by the Attorney General, within 14 business days of receipt of an Open Meeting Law complaint, a public body must meet to review the complaint’s allegations; take remedial action, if appropriate; and send to the complainant a response and a description of any remedial action taken. 940 CMR 29.05(5). The public body must also send the Attorney General a copy of the complaint and a description of any remedial action taken, when the response is sent to the complainant. *Id.* A public body may delegate the responsibility for responding to an Open Meeting Law complaint to its legal counsel; however, the public body must still meet to consider and refer all complaints. See OML 2020-164 (a public body may review a complaint during a meeting and refer to a designee to respond, or a designee may receive and draft a response to the complaint for the public body to approve during a meeting, but a public body may not remove itself entirely from the process); OML 2017-197; OML 2017-148 (“That the Board may have chosen to refer the complaint rather than discuss its substance is the Board’s prerogative.”).⁶ The Open Meeting Law does not require a public body to engage in a substantive discussion of the the merits of each complaint. See OML 2020-38; See OML 2018-134.

Here, during its November 17 meeting, the Board voted to delegate responsibility for responding to Mr. Higgin’s November 5 complaint to legal counsel, though it did not discuss the merits or details of the complaint. During the Council’s November 17 meeting, after briefly describing the complaint as being filed by Patrick Higgins about an alleged violation by the City Council President, the Council voted to refer the complaint to legal counsel. We have previously explained that referring a complaint to legal counsel rather than discussing its substance is permissible, and we therefore find that neither the Board nor the Council violated the Open Meeting Law in this respect.

2. The Board violated the Open Meeting Law by joining the Council’s 5:55 p.m. meeting on November 17 without posting notice.

The Open Meeting Law states that a public body “shall post notice of every meeting at least 48 hours prior to such meeting excluding Saturdays, Sundays and legal holidays.” G.L. c. 30A, § 20(b). When two public bodies contemplate a joint meeting, they may either post a single joint notice that clearly indicates that both public bodies will meet together, or they may each post their own notice for the joint meeting. See G.L. c. 30A, § 20(b); OML 2020-9; OML 2016-117; OML 2021-69.

Here, the Board posted notice of its own 4:00 p.m. meeting for November 17, but did not post notice of its joint meeting with the Council during the Council’s 5:55 p.m. meeting that same evening. The Board’s legal counsel has confirmed that members of the public could only access the Board’s individual meeting, which began at 4:00 p.m. and “recessed” at 4:30 p.m., and its joint meeting with the Council, which began at 5:55 p.m., from two different links to two

⁶ All previous determinations issued by the Division can be found on the Attorney General’s website: <https://www.mass.gov/the-open-meeting-law>.

different livestreams. A member of the public could not merely keep the Board's original livestream playing in order to see the resumption of the Board's discussion when the Council convened. We therefore conclude that the Board held two separate meetings on November 17, with approximately an hour and a half between them, and did not post notice for the second meeting. Because the Board failed to post notice of its November 17 joint meeting with the Council 48 hours in advance of the meeting, we find that the Board violated the Open Meeting Law.

On the other hand, we find that the Council properly posted notice of its November 17 meeting in accordance with G.L. c. 30A, § 20(b) and therefore did not violate the Open Meeting Law.

CONCLUSION

For the reasons stated above, we find that the Board violated the Open Meeting Law by holding a meeting on November 17 without posting notice. We find that the Board did not violate the Law in the other way alleged, and that the Council did not violate the Open Meeting Law. We order the Board's immediate and future compliance with the Open Meeting Law and caution the Board that a determination by our office of a similar violation in the future may be considered evidence of intent to violate the Open Meeting Law.

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, the Board, or the Council. Please feel free to contact the Division at (617) 963 - 2540 if you have any questions.

Sincerely,



Sarah Monahan
Assistant Attorney General
Division of Open Government

Assisted by Alexis Kenney, Legal Intern, Division of Open Government.

[Redacted]

[Redacted]

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.

CITY COUNCIL PUBLIC HEARING

MEETING: Tuesday, May 30, 2023 at 5:55 p.m.
Council Chamber, One Government Center

PRESENT: President Joseph D. Camara, presiding;
Councilors Shawn E. Cadime, Michelle M. Dionne, Bradford L. Kilby,
Linda M. Pereira, Andrew J. Raposo, and Laura-Jean Washington

ABSENT: Councilors Pamela S. Laliberte and Leo O. Pelletier

IN ATTENDANCE: Aaron Roy, National Grid Engineer, 1250 Brayton Point Road,
Somerset, MA 02725

The President called the meeting to order at 5:57 p.m. and announced that the meeting may be recorded with audio or video and transmitted through any medium and that the purpose of the hearing was to hear all persons interested and wishing to be heard on the following:

On a motion made by Councilor Raposo and seconded by Councilor Washington, it was unanimously voted to open the hearing, with Councilors Laliberte and Pelletier absent and not voting.

Joint Pole Location

1. Massachusetts Electric Company and Verizon New England, Inc, for new jointly owned pole locations and relocations as follows:

President Avenue and North Main Street One (1) new jointly owned pole location,
Two (2) jointly owned pole relocations,
One (1) solely owned pole relocation

North Main Street – Install one jointly owned pole on President Avenue. Relocate one solely owned on North Main Street. Relocate two jointly owned poles on North Main Street. National Grid to relocate three poles (two jointly owned and one solely owned) and set one new jointly owned pole on North Main Street at President Avenue due to the reconstruction of the intersection. Pole 40 will move six feet west, Pole 41 and anchor will move six feet southwest and pole 41-1 will move twelve feet south. Pole 13-50. President Avenue is the new set that will better service Riverside Gas Station on the northeast corner of the intersection.

In accordance with Plan No. 30752775

The President asked if there were any proponents to be heard.

Aaron Roy, National Grid Engineer, stated that this project will assist with the North Main Street and President Avenue intersection. Mr. Roy explained that relocating the transformers will

remove the wires across the intersection and provide power to the nearby gas stations.

The President asked if there were any opponents to be heard and no one came forward.

On a motion made by Councilor Kilby and seconded by Councilor Raposo, it was unanimously voted to close the hearing, with Councilors Laliberte and Pelletier absent and not voting.

List of documents and other exhibits used during the meeting:

Agenda (attached)

DVD of meeting

A true copy. Attest:



City Clerk

COMMITTEE ON FINANCE

MEETING: Tuesday, May 30, 2023 at 6:00 p.m.
Council Chamber, One Government Center

PRESENT: President Joseph D. Camara, presiding;
Councilors Shawn E. Cadime, Michelle M. Dionne,
Bradford L. Kilby, Pamela S. Laliberte, Linda M. Pereira,
Andrew J. Raposo, and Laura-Jean Washington

ABSENT: Councilor Leo O. Pelletier

IN ATTENDANCE: Seth Thomas Aitken, City Administrator
Bridget Almon, Director of Financial Services
Daniel Aguiar, City Engineer
Valerie Kilduff, Project Manager,
Massachusetts Department of Transportation

The chair called the meeting to order at 6:02 p.m. and announced that the meeting may be recorded with audio or video and transmitted through any medium.

In accordance with a resolution adopted, as amended May 8, 2012, persons are allowed to address the Council for a period of three minutes prior to the beginning or at the conclusion of business in the Committee on Finance.

1. Citizens' Input Time – Before Discussion of Financial Matters: None

2. Discussion with administration regarding park fee revenue being directed to the Park Division budget

Vice President Pereira asked why the revenue received by the Board of Park Commissioners isn't appropriated to their budget. Ms. Almon stated that the revenue is typically around \$10,000 per year and the annual budget of the Park Division is significantly larger than that amount and American Rescue Plan Act (ARPA) funding is also being utilized. Vice President Pereira emphasized the need for more sources of funding for maintenance and employees as the ARPA funding will eventually end. Councilor Dionne requested clarification regarding the annual revenue for park fees and Ms. Almon provided the amounts for the past five years, which were between \$10,000 and \$11,000 annually, except for the year 2020 which was approximately \$5,000.

3. Discussion with representatives from the Administration re the Bank Street Armory (Municipal Veterans Memorial)

Councilor Kilby stated that a committee had been created by Mayor Paul E. Coogan to discuss this issue specifically and there is a scheduled meeting for that committee on Thursday, June 1,

2023. Councilor Kilby asked that the Committee on Finance consider tabling this resolution until that meeting is held as there will be a discussion regarding long-term feasibility of the Armory restoration. A motion was made by Councilor Kilby and seconded by Councilor Washington to table the resolution. President Camara asked for a roll call vote and Vice President Pereira objected to the vote to table the resolution.

4. Discussion with a representative of Massachusetts Department of Transportation, the City Administrator and the City Engineer for a general update on the Route 79/Davol Street Corridor Improvements Project

Mr. Aguiar gave an in-depth explanation of the project including utility work, developing intersections between Davol Street, northbound and southbound, and real estate zoning changes that may be required in the area. Councilor Dionne asked for clarification regarding land that may be developed after the project is completed. Mr. Aguiar stated that the project will result in ten parcels of land and six or seven of those parcels can be developed into housing, businesses or parking. President Camara relinquished the podium to Vice President Pereira at 6:16 p.m. to make remarks and asked for clarification regarding property ownership, business development and plans for parking in the project area. Ms. Kilduff gave a brief explanation of the process to transfer property from the Massachusetts Department of Transportation (MassDOT) to the City included a referendum and that the legal process usually takes a few years. Ms. Kilduff also explained that MassDOT will complete the construction and utility updates prior to transfer of the property and decision making will occur at the local, state and federal level as this area is included in the federal highway system.

Councilor Laliberte arrived at 6:21 p.m.

Mr. Aguiar provided information regarding current zoning requirements for residential properties, businesses and parking and that the City will work to adjust these requirements to accommodate development. Mr. Aguiar stated that regular meetings are held with MassDOT to discuss future plans as well as public input meetings and he encouraged residents to attend. President Camara returned to the podium at 6:29 p.m.

Councilor Cadime requested that MassDOT and the City Engineer provide frequent updates to the Committee on Finance as the project progresses. Vice President Pereira expressed concern regarding pedestrian traffic in the development area once it is complete and inquired as to why Davol Street southbound wasn't moved closer to the northbound side. Mr. Aguiar explained that the planned project would allow more development in the area and avoid separating existing property parcels from roadway access. Councilor Laliberte asked if there were maps available to the public of the development and Mr. Aguiar stated there are some available online and that he is happy to provide additional maps if requested. Mr. Aguiar and Ms. Vilduff gave a brief overview of the art projects that will occur at the current U-turn area and that the design should be completed by the end of July. President Camara asked about flood draining and sewer updates in the development area and Mr. Aguiar confirmed that there would still be areas with straight water discharge into the river but there would also be improvements to the sewer system.

Councilor Dionne asked if there were still plans to possibly develop a satellite station for the train near the Braga Bridge and if pedestrian bridges had been considered for Davol Street. Mr. Aguiar stated he could not speak to that, but the Massachusetts Bay Transit Authority has always included a satellite station as a possibility within their documents. Mr. Aguiar also gave information regarding studies that have been done with other municipalities that have used pedestrian bridges and it was determined to be unnecessary due to the short distance that

would be required to cross the roads in this area. Councilors Dionne and Kilby complimented the City Engineer and the MassDOT representative for their progression on the project. Mr. Aguiar and Ms. Kilduff stated that they are happy to continue to provide updates to the Committee on Finance every few months going forward and could return with a presentation for the Committee.

On a motion made by Councilor Pereira and seconded by Councilor Raposo, it was unanimously voted to adjourn at 6:57 p.m., with Councilor Pelletier absent and not voting.

List of documents and other exhibits used during the meeting:

Agenda packet (attached)

DVD of meeting


Clerk of Committees

REGULAR MEETING OF THE CITY COUNCIL

MEETING: Tuesday, May 30, 2023 at 7:00 p.m.
Council Chamber, One Government Center

PRESENT: President Joseph D. Camara, presiding;
Councilors Shawn E. Cadime, Michelle M. Dionne,
Bradford L. Kilby, Pamela S. Laliberte, Linda M. Pereira,
Andrew J. Raposo, and Laura-Jean Washington

ABSENT: Councilor Leo O. Pelletier

IN ATTENDANCE: None

President Camara called the meeting to order at 7:09 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. Mayor and order accepting gift of a framed paintings, sketches and miscellaneous items relating to Lodovico Cremonini for the Fall River Public Library from Rosemary Capanna. *Councilor Pereira asked that a letter of appreciation be sent to Ms. Capanna for her donation, a copy of which is attached hereto and made a part of these minutes. On a motion made by Councilor Kilby and seconded by Councilor Cadime, it was unanimously voted that the communication be accepted and placed on file and that the order be adopted, with Councilor Pelletier absent and not voting.*
Approved, May 31, 2023
Paul E. Coogan, Mayor

PRIORITY COMMUNICATIONS

2. Fall River Retirement Board notification of public meeting re: cost of living adjustment on May 31, 2023
On a motion made by Councilor Kilby and seconded by Councilor Washington, it was unanimously voted that the communication be accepted and placed on file, with Councilor Pelletier absent and not voting.

3. Traffic Commission recommending amendments to traffic ordinances
On a motion made by Councilor Cadime and seconded by Councilor Raposo, it was unanimously voted to refer the recommended amendments to the Committee on Ordinances and Legislation, with Councilor Pelletier absent and not voting.

COMMITTEE REPORTS

Committee on Regulations recommending:

Adoption

- 4. Order - Auto Repair Shop License for Robert Ferraz d/b/a Integrity Auto – 851 Globe Street

On a motion made by Councilor Raposo and seconded by Councilor Pereira, it was unanimously voted to adopt the order, with Councilor Pelletier absent and not voting.

Approved, May 31, 2023

Paul E. Coogan, Mayor

- 5. Order - Auto Repair Shop License Renewal for Mario P. Loureiro d/b/a Mario's Auto Repair and Sales, Inc. – 830 Globe Street

On a motion made by Councilor Raposo and seconded by Councilor Washington, it was unanimously voted to adopt the order, with Councilor Pelletier absent and not voting.

Approved, May 31, 2023

Paul E. Coogan, Mayor

Accept and place on file

- 6. Communication from anonymous resident re: taxi companies

Councilor Pereira expressed concern regarding taxi companies, specifically competition from rideshare companies, and requested that the item be referred to the Committee on Ordinances and Legislation for discussion. Councilor Laliberte stated that the letter was anonymous and only discussed issues with customer service. Councilor Laliberte also stated that it may be more effective to create a new resolution to discuss business concerns with rideshare competition. On a motion made by Councilor Cadime and seconded by Councilor Raposo, it was unanimously voted that the communication be accepted and placed on file, with Councilor Pelletier absent and not voting.

Committee on Ordinances and Legislation recommending:

All readings with Emergency Preamble:

- 7. Proposed Ordinance – Traffic, handicapped parking
Fourth Street Barnaby Street Crawford Street
Grove Street Holden Street Mason Street Rock Street South Oxford Street

On a motion made by Councilor Cadime and seconded by Councilor Raposo, it was voted with 8 yeas to adopt the emergency preamble, with Councilor Pelletier absent and not voting.

On a further motion made by Councilor Raposo and seconded by Councilor Washington, it was unanimously voted to pass the proposed ordinance through first reading, second reading, passed to be enrolled and passed to be ordained, with Councilor Pelletier absent and not voting.

Approved, May 31, 2023

Paul E. Coogan, Mayor

First reading:

8. Proposed Ordinance – Traffic, miscellaneous

Section 1

Handicapped Parking removals:

- Barnaby Street Bogle Street (east side) Bogle Street (west side)
- Bradford Avenue Haffards Street Kilburn Street
- Quequechan Street South Main Street William Street

Section 2

Stop Intersections Designated

Almond Street (Northbound) at the intersection of Ferry Street

On a motion made by Councilor Kilby and seconded by Councilor Raposo, it was unanimously voted to pass the proposed ordinance through first reading, with Councilor Pelletier absent and not voting.

9. Proposed Ordinance – Zoning Board of Appeals and Planning Board fee schedule amendments

On a motion made by Councilor Pereira and seconded by Councilor Raposo, it was unanimously voted to pass the proposed ordinance through first reading, with Councilor Pelletier absent and not voting.

10. Proposed Ordinance – Salary increase for School Committee members

Councilor Washington stated that she had received many phone calls from residents who were opposed to this proposed ordinance. Councilor Kilby agreed and emphasized that he supported the next proposed ordinance that would unfreeze the cost of living adjustments for elected officials, but that he did not agree with this large increase in salary for School Committee members. Councilor Cadime stated that he had not received any phone calls from residents but the equity in pay between the City Council and School Committee was warranted and the School Committee members currently receive less compensation than many sports coaches within the School Department. A discussion was held between President Camara and Councilors Cadime, Dionne and Pereira regarding when the cost of living freeze occurred for the School Committee in comparison to the City Council and Mayoral position. President Camara emphasized that elected officials should serve to help the community, not for compensation, and that many School Committee members have stated that they do not support this salary increase. On a motion made by Councilor Cadime and seconded by Councilor Kilby, it was voted 4 yeas, 4 nays to pass through first reading and the motion failed to carry, with Councilors Kilby, Pereira, Washington as well as President Camara voting in the negative and with Councilor Pelletier absent and not voting.

11. Proposed Ordinance – Cost of Living Adjustments for Elected Officials

On a motion made by Councilor Kilby and seconded by Councilor Laliberte, it was voted 3 yeas, 5 nays to pass through first reading and the motion failed to carry, with Councilors Cadime, Dionne, Raposo, Washington as well as President Camara voting in the negative and with Councilor Pelletier absent and not voting.

ORDINANCES

- 12. Proposed Ordinance – Amendment to the duty of property owners to keep premises free of litter and weeds

On a motion made by Councilor Kilby and seconded by Councilor Raposo, it was unanimously voted to refer the proposed ordinance to the Committee on Ordinances and Legislation, with Councilor Pelletier absent and not voting.

RESOLUTIONS - None

CITATIONS - None

ORDERS – HEARINGS

Joint Pole Location:

- 13. Massachusetts Electric Company and Verizon New England, Inc – One (1) new jointly owned pole location, two (2) jointly owned pole relocations and one (1) solely owned pole relocation on President Avenue and North Main Street

On a motion made by Councilor Dionne and seconded by Councilor Raposo, it was unanimously voted to adopt the order, with Councilor Pelletier absent and not voting.

Approved, May 31, 2023

Paul E. Coogan, Mayor

ORDERS – MISCELLANEOUS

- 14. Police Chief's report on licenses:

Taxicab Drivers

Pedro L. Fernandez William J. Scurio, Sr.

Livery Drivers

Otis Aliemeke Christopher Botelho

Livery Vehicles

Otis Aliemeke – one (1) vehicle

On a motion made by Councilor Kilby and seconded by Councilor Raposo, it was unanimously voted to adopt the order, with Councilor Pelletier absent and not voting.

- 15. Revocation of permit for the storage of inflammables (removal of tanks):

Yates Realty Trust, 222 Sykes Road

On a motion made by Councilor Kilby and seconded by Councilor Raposo, it was unanimously voted to adopt the order, with Councilor Pelletier absent and not voting.

Approved, May 31, 2023

Paul E. Coogan, Mayor

- 16. City Engineer prepare plans for the acceptance of Lisbon Street from Clay Street to dead end

On a motion made by Councilor Raposo and seconded by Councilor Dionne, it was unanimously voted to refer the order to the Planning Board, with Councilor Pelletier absent and not voting.

COMMUNICATIONS – INVITATIONS – PETITIONS

17. Claims

On a motion made by Councilor Raposo and seconded by Councilor Pereira, it was unanimously voted to refer the claims to Corporation Counsel, with Councilor Pelletier absent and not voting.

18. Letter from Sandra Garcia, 120 Jules Street, re requiring permits to remove trees on private property

On a motion made by Councilor Pereira and seconded by Councilor Kilby, it was unanimously voted that the communication be accepted and placed on file, with Councilor Pelletier absent and not voting.

19. Structure on or over a public way application for Fall River Day of Portugal Festival Committee located at South Main Street near Fall River District Court

On a motion made by Councilor Pereira and seconded by Councilor Raposo, it was unanimously voted that the application be approved, with Councilor Pelletier absent and not voting.

20. Structure on or over a public way application for Steppingstone Inc. located between 111 Durfee Street and 134 Durfee Street

On a motion made by Councilor Pereira and seconded by Councilor Raposo, it was unanimously voted that the application be approved, with Councilor Pelletier absent and not voting.

21. Drainlayer Licenses:

- a. JB Lanagan & Company, Inc.
- b. HM Lopes LLC

On a motion made by Councilor Raposo and seconded by Councilor Pereira, it was unanimously voted that the licenses be approved, with Councilor Pelletier absent and not voting.

On a further motion made by Councilor Dionne and seconded by Councilor Raposo, it was unanimously voted to take items 22 through 24 together, with Councilor Pelletier absent and not voting.

City Council Minutes:

- 22. Public Hearings – May 16, 2023
- 23. Committee on Finance – May 16, 2023
- 24. Regular Meeting – May 16, 2023

On a motion made by Councilor Kilby and seconded by Councilor Raposo, it was unanimously voted to approve the minutes, with Councilor Pelletier absent and not voting.

BULLETINS – NEWSLETTERS – NOTICES – None

ITEMS FILED AFTER THE AGENDA DEADLINE
CITY COUNCIL MEETING DATE: MAY 30, 2023

RESOLUTIONS

12a. The Committee on Regulations meet to discuss taxi ordinances
On a motion made by Councilor Raposo and seconded by Councilor Pereira, it was unanimously voted to adopt the resolution, with Councilor Pelletier absent and not voting, a copy of which is attached hereto and made part of these minutes.

On a motion made by Councilor Raposo and seconded by Councilor Dionne, it was unanimously voted to adjourn at 7:37 p.m., with Councilor Pelletier absent and not voting.

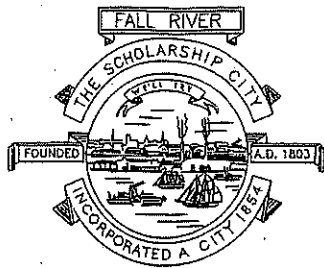
List of documents and other exhibits used during the meeting:

- Agenda packet (attached)
- DVD of meeting

A true copy. Attest:



City Clerk



City of Fall River Massachusetts
Office of the City Clerk

ALISON M. BOUCHARD
CITY CLERK

INÊS LEITE
ASSISTANT CITY CLERK

June 1, 2023

Rosemary Capanna
406 Malden Road
Coal Center, PA 15423

Dear Ms. Capanna,

At a meeting of the City Council held on Tuesday, May 30, 2023, a request was made to forward a letter of thanks to you. Your gifts of framed paintings, sketches and other miscellaneous items relating to Lodovico Cremonini to the Fall River Public Library is greatly appreciated.

The gifting of this work provides an excellent representation of your generosity to the residents of Fall River and will be a priceless piece of American history for those visiting the library. On behalf of the Fall River City Council, please accept our sincerest gratitude.

Sincerely,

Alison M. Bouchard
City Clerk

/jc