

City of Fall River Massachusetts
Office of the City Clerk

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2024 JUN 25 A 8:46

ALISON M. BOUCHARD
CITY CLERK

CITY CLERK
FALL RIVER, MA

INÊS LEITE
ASSISTANT CITY CLERK

ORIGINAL POSTING: JUNE 21, 2024 AT 12:14 P.M.

MEETINGS SCHEDULED
CITY COUNCIL CHAMBER, ONE GOVERNMENT CENTER
JUNE 25, 2024
REVISED AGENDA

5:45 P.M. COMMITTEE ON ORDINANCES AND LEGISLATION

5:55 P.M. PUBLIC HEARINGS (OR IMMEDIATELY FOLLOWING THE COMMITTEE ON ORDINANCES AND LEGISLATION MEETING IF IT RUNS PAST 5:55 P.M.)

Joint Pole Locations

1. Massachusetts Electric Company d/b/a National Grid and Verizon New England, Inc., for three new jointly owned pole locations as follows:

Robin Street

Three (3) new jointly owned pole locations
One (1) new jointly owned anchor

Massachusetts Electric Company d/b/a National Grid is proposing to install three jointly owned poles and one jointly owned anchor along the west side of Robin Street beginning at a point approximately 175 feet north of the centerline of the intersection of Robin Street and Dickinson Street and continuing approximately 245 feet northerly. Proposed Pole #3 will be set approximately 85 feet north of existing pole #2 to service 121 Robin Street. Pole #4, Pole #5 and the anchor will be set another 80 feet apart continuing northerly to service an undeveloped Lot 2 (Parcel D-05-0035, Assessors Plan) in the future.

In accordance with Plan No. 30974496

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

1. Citizen Input
2. *Interviews of the firms provided by Director of Financial Services re: quotes for annual independent audit from the following:
 - a. Marcum, LLP
 - b. Hague, Sahady & Co.
 - c. Roselli, Clark and Associates (referred 6-11-2024)
3. Transfers and appropriations

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

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 confirmation of the appointment of Talos Farris as Veterans' Agent
2. *Mayor and confirmation of the reappointment of David Underhill to the Fall River Housing Authority (tabled 6-11-2024)
3. *Mayor and order to accept a vehicle donation from Jennifer Gergel of a 2006 Nissan Altima to the Fall River Fire Department for vehicular accident safety and extrication training.
4. *Mayor and order establishing a revolving fund within the Health and Human Services Department, pursuant to the provision of M.G.L. Ch. 44, §53 ½, for expenditures allowable under the Municipal Opioid Settlement Abatement Payments
5. *Mayor and order transferring the sum of \$100,000 from the Opioid Stabilization Fund to the Opioid Settlement Revolving Fund
6. *Mayor and order transferring the sum of \$6,400,000 from the FY23 Surplus Revenue to the Stabilization Fund
7. *Mayor and order/resolution with drafted ballot question relative to the new Diman Regional Vocational Technical High School

PRIORITY COMMUNICATIONS - None

COMMITTEE REPORTS - None

ORDINANCES - None

RESOLUTIONS

8. *The Committee on Public Safety convene with the Police Chief, Fire Chief, a representative from the Massachusetts Bay Transit Authority (MBTA) and any other interested parties to discuss ongoing first responder training, public safety information and general security plans related to the MBTA Commuter Rail zones.

CITATIONS

9. Lenny Nicolan – Celebration of his 90th Birthday
10. Christopher Silvia – Recognition of community engagement and outreach

ORDERS – HEARINGS

Joint Pole Location

11. Massachusetts Electric Company d/b/a National Grid and Verizon New England, Inc. – Installation of three (3) new jointly owned pole and one (1) new jointly owned anchor on Robin Street

ORDERS – MISCELLANEOUS

12. Police Chief's report on licenses:
Taxicab Drivers
Kenneth Chace, Jr. James Smith

COMMUNICATIONS – INVITATIONS – PETITIONS

- 13. *Claims
- 14. Planning Board Minutes – April 9, 2024

City Council Minutes

- 15. *Public Hearing – June 3, 2024
- 16. *Public Hearings – June 11, 2024
- 17. *Committee on Finance – June 3, 2024
- 18. *Committee on Finance – June 4, 2024
- 19. *Committee on Finance – June 5, 2024
- 20. *Committee on Finance – June 10, 2024
- 21. *Committee on Finance – June 11, 2024
- 22. *City Council – June 11, 2024

BULLETINS – NEWSLETTERS – NOTICES – None


City Clerk

ITEMS FILED AFTER THE AGENDA DEADLINE
CITY COUNCIL MEETING DATE: JUNE 25, 2024

PRIORITY MATTERS

- 7a. *Mayor and order appropriating a total of \$551,077.75 from the EMS Enterprise Fund FY23 Free Cash as follows:
 - \$297,922.75 to EMS Salaries
 - \$253,155 to EMS Health Insurance

COMMUNICATIONS – INVITATIONS – PETITIONS

- 22a. *Open Meeting Law Complaint filed by Patrick Higgins re: alleged violation by the City Council Committee on Finance regarding the approval of minutes of meetings held on June 3, 2024, and June 4, 2024

OTHER POTENTIAL MATTERS TO BE ACTED UPON (if received):

COMMITTEE REPORTS

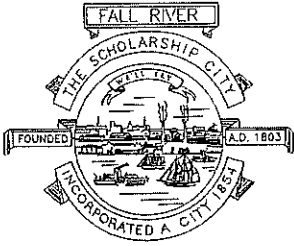
Committee on Ordinances and Legislation recommending:

All readings with Emergency Preamble:

Proposed Ordinance – Traffic, handicapped parking

- Third Street, West, 20 feet south of Branch Street
- Third Street, West, 96 feet south of Branch Street
- Eastern Avenue, East, 268 feet north of Pleasant Street
- Eddy Street, West, 156 feet south of Beattie Street
- Jencks Street, West, 21 feet north of Alden Street
- Palmer Street, North, 318 feet west of East Main Street
- Pitman Street, East, 291 feet north of Harriman Street
- Russell Brogan Boulevard, South, 140 feet east of County Street

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City of Fall River
Massachusetts
Office of the Mayor

7a

PAUL E. COOGAN
Mayor

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2024 JUN 24 P 3:11

CITY CLERK _____
FALL RIVER, MA

June 24, 2024

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. \$551,077.75 That the sum of \$551,077.75 be, and the same is, hereby appropriated to **EMS SALARIES** in the amount of \$297,922.75 and **EMS HEALTH INSURANCE** in the amount of \$253,155 from the EMS FUND FREE CASH.

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

Best Regards,


Paul Coogan
Mayor

July 24, 2024

ORDERED:

That the sum of \$551,077.75 be, and the same is, hereby appropriated from the EMS Enterprise Fund FY23 Free Cash to:


EMS Salaries	\$297,922.75
EMS Health Insurance	\$253,155.00
<hr/>	
Total:	\$551,077.75

7a

FY24 Appropriation/Transfer Number Analysis

Line	Original/Revised Appropriation	Amount Transferred	Adjusted Balance
EMS Fund Free Cash	\$ 871,380.00 \$	(551,077.75) \$	320,302.25
EMS Salaries	\$ 7,349,936.00 \$	297,922.75 \$	7,647,858.75
EMS Health Insurance	\$ 896,660.00 \$	253,155.00 \$	1,149,815.00

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


 City Auditor
 July 25, 2024

22a



OPEN MEETING LAW COMPLAINT FORM

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

RECEIVED

JUN 24 P 12 04

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Patrick Last Name: Higgins

Address: P O Box 290

City: Northport State: AL Zip Code: 35476

Phone Number: 5086743140 Ext: _____

Email: patrick@openmeetinglawenforcer.com

Organization or Media Affiliation (if any): Patrick Higgins and Associates

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): Fall River City Council Committee on Fir

Specific person(s), if any, you allege committed the violation: Joseph D Camara, President

Date of alleged violation: _____

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.

The Fall River City Council Committee on Finance violated the open meeting law as follows:

1. They did not accept the meeting minutes of their June 3, 2024 meeting within 3 meetings as required by the open meeting law.
2. They did not accept the meeting minutes of their June 4, 2024 meeting within 3 meetings as required by the open meeting law.
3. The city Council Committee on Finance held budget meetings on June 3, June 4, June 5, June 10, and June 11, 2024. The open meeting law requires public bodies to accept or adopt their meeting minutes within 3 meetings, which required the June 3, 2024 meeting minutes to be acted on during their June 10, 2024 meeting. They failed to comply with the open meeting law on this set of meeting minutes by not acting to accept or adopt their June 3, 2024 meeting minutes.
4. The City Council Committee on Finance held budget meetings on June 3, June 4, June 5, June 10 and June 11, 2024. The open meeting law requires public bodies to accept or adopt their meeting minutes within 3 meetings, which required the June 4, 2024 meeting minutes to be acted on during their June 11, 2024 meeting. They failed to comply with the open meeting law on this set of meeting minutes by not acting to accept or adopt their June 4, 2024 meeting minutes.
5. This has been a recurring problem with the Fall River City Council making accepting of their meeting minutes a priority. See 2016-118; 2018-64; 2019-39; 2023-54. This public body has been warned over and over again that this will be an intention violation if it continues and now it is time for this public body to be found to be in willful and intentional violation and

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.

Make approval of the meeting minutes within 3 meetings a priority.

All members MUST attend a formal open meeting law training without any delays, schedule can be found at <https://www.mass.gov/info-details/open-meeting-law-trainings>.

All members MUST make compliance with the Open Meeting Law a priority.

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, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish 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.

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: 6/22/24

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:

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5. This has been a recurring problem with the Fall River City Council making accepting of their meeting minutes a priority. See 2016-118; 2018-64; 2019-39; 2023-54. This public body has been warned over and over again that this will be an intention violation if it continues and now it is time for this public body to be found to be in willful and intentional violation and be fined the \$1000. In 2023, just a year ago, this public body was notified that "Furthermore, in its response the Council explains that when calculating the next three

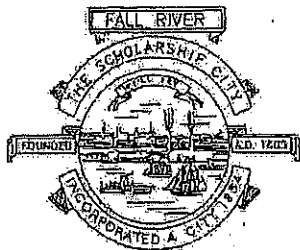
meetings for purposes of timely approving the June 14 meeting minutes, "the Special Meeting of the City Council, held on June 15, 2022 to discuss the Fiscal Year 2023 Budget, was inadvertently not counted."3 We credit the Council's explanation that it inadvertently miscalculated the number of meetings between June 14 and August 16. For these reasons, we decline to find an intentional violation in this instance."

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

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PRIORITY COMMUNICATIONS - None

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RESOLUTIONS

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BULLETINS – NEWSLETTERS – NOTICES – None

Alison M. Bouchard
City Clerk

OTHER POTENTIAL MATTERS TO BE ACTED UPON (if received):

COMMITTEE REPORTS

Committee on Ordinances and Legislation recommending:

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 - Palmer Street, North, 318 feet west of East Main Street
 - Pitman Street, East, 291 feet north of Harriman Street
 - Russell Brogan Boulevard, South, 140 feet east of County Street

COMMITTEE ON FINANCE

MEETING: June 3, 2024, at 6:00 p.m.
Council Chamber, One Government Center

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

ABSENT: None

IN ATTENDANCE: Seth Thomas Aitken, City Administrator
Bridget Almon, Director of Financial Services
Maria Pontes, Superintendent, Fall River Public Schools
Kevin Almeida, Chief Financial Officer, Fall River Public Schools
Kenneth Pacheco, Chief Operating Officer, Fall River Public Schools
Chief Paul Gauvin, Fall River Police Department
Chief Jeffrey Bacon, Fall River Fire Department
Captain Barrett Castro, Fall River Fire Department
Richard Aguiar, Director, Emergency Management Agency
Allison M. Bouchard, City Clerk
Ryan Lyons, Director, Board of Elections Department

The chair called the meeting to order at 6:08 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 - None

2. School Department Presentation and Discussion of the Proposed Fiscal Year 2025 Budget

Superintendent Maria Pontes provided a review of the Fall River School Department's Proposed Budget for Fiscal Year 2025 (FY25), which focused on eliminating vacant positions to decrease overall costs while working to ensure necessary special education staffing is sufficient for students within the City. Superintendent Pontes explained that many positions were funded by Elementary and Secondary School Emergency Relief Funds (ESSER) and cannot be maintained when such funding is no longer available.

Councillor Raposo requested additional details regarding enrollment trends within the public schools, development of new pre-kindergarten locations for young children, general costs per pupil within the Fall River School Department, school bus costs and the number of students that move to one of the regional schools after eighth grade. Kevin Almeida, Chief Financial Officer, Fall River Public Schools, stated that the public school system currently has about 11,200 students enrolled and the cost per student was roughly \$19,532 per year. Mr. Almeida also stated that about 100 to 175 students move to regional high schools, such as Dismas Regional Vocational Technical High School and Bristol County Agricultural High School, each year after finishing eighth grade. Superintendent Pontes provided information regarding the redevelopment of older schools and buildings within the City that will be utilized for pre-kindergarten classrooms, including portions of the closed Bishop Connolly High School, and explained that more students require early intervention programs due to the recent pandemic. The Superintendent also emphasized that they are working on obtaining the staffing needed for these special education programs and have been hosting job fairs to attract candidates. Kenneth Pacheco, Chief Operating Officer, Fall River Public Schools, provided a detailed summary of school bus costs, and explained that there is a plan to switch to electric school buses to reduce fuel costs. Mr. Pacheco also provided information regarding the need to update the current school bus zones so more students can be picked up in groups within a block of homes, which will reduce the number of stops required and allow the bus to operate more efficiently. A brief discussion was held between Councillor Raposo and Superintendent Pontes regarding the plan to reassign district schools to alleviate the overabundance of students at certain schools. Councillor Raposo and Mr. Pacheco held a detailed discussion regarding renovation plans for the old B.M.C. Durfee High School, including the installation of a new roof, the potential use of offices and the large parking lots.

Councillor Hart and Superintendent Pontes held a detailed discussion regarding different locations within the City that will be used for the pre-kindergarten classrooms, such as the Fall River Early Learning Center at 2501 South Main Street, and the plan for adjusting classrooms within the new B.M.C. Durfee High School, which is close to maximum capacity. Councillor Hart expressed concern regarding the large population of students at some schools, while others are not experiencing the same enrollment due to districting. Mr. Pacheco explained that the School Department is working to re-district the public schools to reduce the burden on overpopulated schools, such as the Mary L. Fonseca Elementary School. Superintendent Pontes stated there has been a twelve-point improvement in the attendance of students over the past few years. Councillors Hart and Kilby complimented Superintendent Pontes' hard work to improve the Fall River Public School system.

Councillor Dionne requested additional information regarding the increased enrollment within the public school system, plans to utilize older schools for classroom space and requirements of the pre-kindergarten programs. Mr. Almeida stated that over the past few years, enrollment within the middle schools has significantly increased and could be related to the growth of market-rate housing within the community. Mr. Pacheco provided information regarding the School Department's attempt to obtain additional funding to renovate older schools, but there were significant financial limitations due to the renovations that would be required to get these facilities up to current building codes. The Chief Operating Officer also explained that additional schools may be needed in the future, so the School Department will continue to discuss ways this need can be addressed, which may include building new elementary schools. Superintendent Pontes explained that there are state laws that require compliance with pre-kindergarten programs for students over the age of three who require service interventions, and the department is focusing on properly funding those programs.

Vice President Pereira expressed concern regarding regional schools receiving more grant and state funding than public schools within the area, and emphasized her support for schools that teach students from kindergarten to eighth grade (K-8) in one building. The Superintendent stated that she also supports the concept of K-8 schools, but that concept presents the challenge of retro-fitting older schools to fit all the needed classrooms. A brief discussion was held between Vice President Pereira and Superintendent Pontes regarding lingual diversity within the schools, the need to increase compensation for educators and the important value of School Resource Officers (SRO) from the Fall River Police Department.

Councillor Ponte and the Chief Financial Officer held a lengthy discussion regarding the increased expenditure related to school buses. Mr. Almeida explained that the school bus contracts increase in costs when they are renewed and provided details regarding the increased student population, which attributes to more buses being used. Councillor Ponte and Mr. Almeida also discussed the expiration of ESSER funds in September of 2024 and long-term plans for the School Department to decrease the overall budget.

Councillor Sampson requested additional information regarding McKinney Vento grants for the School Department and why Fall River must pay larger fees for school buses compared to regional schools. Mr. Almeida explained that the McKinney Vento grants allow schools to provide additional services to students who are experiencing homelessness. The Chief Financial Officer also explained that the regional schools receive more state funding for school buses than the public schools due to the multiple cities and towns that must have students transported to school. Councillor Sampson commended Superintendent Ponte on her approach to problem solving within the School Department.

President Camara made brief remarks regarding Superintendent Pontes' contributions to the Fall River Public School system and presented her with the citation the City Council had adopted during a Regular Meeting of the City Council on April 9, 2024, in recognition of her retirement after 39 years as an educator.

3. Public Safety

Police, Fire, Emergency Management Agency

Councillor Ponte requested additional information regarding vacant positions within the Fall River Police Department, grant funding, overtime budgeting and capital needs within the department. Police Chief Paul Gauvin provided information regarding the fourteen vacant positions that have been removed due to three retirements and eleven medical retirements. Chief Gauvin stated that some employees are utilizing their collected time prior to retirement, so while they are on the payroll they are not physically in the office. Chief Gauvin also provided information regarding positions that are grant funded, such as officers who work within the schools, and emphasized that he does not expect those grant funds to be declined after submitting renewal applications. A detailed discussion was held between Councillor Ponte and Chief Gauvin regarding staffing within the Police Department. The Police Chief explained that while additional staffing would be ideal, he does not anticipate increased issues with vacancies over the next few years as many employees are not of retirement age and a portion of the bargaining agreement was amended to change the procedure for compensation time limits. Chief Gauvin stated that the Fall River Police Department's largest financial costs each year are related to vehicle purchases and repairs, and that the FY25 budget proposes sufficient funding to meet those needs.

Councilor Sampson and Chief Gauvin discussed federal grant funding, such as the COPS Grant, that helps to fund additional positions within the department and his work with the Mayor to increase these federal grant awards to maintain staffing. Councilor Raposo requested clarification regarding the vacant Signal Operators positions and Chief Gauvin explained that they are actively searching for additional dispatch staff in the department. Chief Gauvin stated that employees tend to move to other municipalities due to salary increases and that the department utilizes the 911 Grant Program for a portion of the Signal Operator salaries to offset budget costs.

A lengthy discussion was held between Vice President Pereira and Chief Gauvin regarding the number of officers on each shift, the lack of SROs at certain schools, the number of warrants issued within the City, coordination with federal agencies, such as the Drug Enforcement Agency (DEA) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and staffing changes within the Fall River Police Department. Chief Gauvin stated that shifts can be affected by lack of staff, so some officers may be called in for overtime, and that staffing shortages also affect schools that do not currently have an SRO, such as the Argosy Collegiate Charter School. Chief Gauvin stated that the number of warrants issued within the City is not related to the budget, so he was not prepared to provide that information, and stated that the partnership between the Fall River Police Department and federal agencies is important. Chief Gauvin explained that the City has their own DEA agent assigned to the district and while they work closely with them, the local police officers often monitor low-scale, illegal drug sales on their own. Chief Gauvin emphasized the competitive wages in nearby cities and towns, which result in frequent staffing changes. Vice President Pereira requested information regarding available funding for officer training and Seth Thomas Aitken, City Administrator, stated that there are ongoing bargaining discussions regarding officer training funds, so additional details could not be disclosed. Vice President Pereira emphasized the need to keep officers working in Fall River. Chief Gauvin provided information regarding how overtime is assigned to the officers with the least amount of seniority and advised that he is working to adjust that rule in the bargaining agreement to allow overtime to be shared by all officers under the age of fifty. A brief discussion was held between Vice President Pereira and Chief Gauvin regarding the Auxiliary Police and their volunteer services for feasts and processions.

Councilor Dionne requested additional information regarding City-funded financial assistance for the Police Academy, clarification of certain line items, Environmental Police Officers and civil service employees. Chief Gauvin and the City Administrator confirmed that the City pays the Police Academy expenditures for the trainee as long as they remain within the Fall River Police Department for at least five years. Mr. Aitken explained that those who do not complete the academy or those who leave within the first five years are required to reimburse the City with the cost of expenditures, which are usually between \$9,000 and \$10,000. Chief Gauvin explained that the two lines related to overtime reflected that there was officer overtime versus dispatch overtime and that the "Body Camera Officer" line item was included for potential staff who handle public records requests of camera footage. Chief Gauvin stated that there are currently two Environmental Police Officers and that the Police Department's use of civil service employees allows them to utilize their own tests within the hiring process.

Councilor Cadime requested additional information regarding revenue and expenditures within the Police Department, specifically local receipts, plans to hire additional staff, buy-back changes and traffic signals. Chief Gauvin explained that the local receipts line item was due to new software that was recently installed that assists with follow-up after individuals do not appear in court or have an outstanding warrant. Chief Gauvin also explained that his ideal goal is to return the department to about 252 staff members. Councilor Cadime and the City

Administrator discussed the realistic expectations of future staffing along with decreased retirement rates and decreased compensation time accrual. Councilor Cadime, Chief Gauvin and Mr. Aitken agreed that 183 employees would be a reasonable goal to increase staffing. Mr. Aitken explained that the buy-back changes would reduce the number of officers who are not present at work but are still being compensated prior to retirement. Chief Gauvin stated that the traffic signals were assisting significantly to decrease speeding and other traffic violations. A brief discussion was held between Councilor Cadime and Chief Gauvin regarding the two Deputy Chief of Police positions.

Councilor Hart and the City Administrator held a detailed discussion regarding the Quinn Bill, also known as the Police Career Incentive Pay Program. Mr. Aitken stated that officers receive different benefits from this bill depending on when they were hired. Councilor Hart requested information regarding officers who are assigned to a "Walking Beat," where they travel through an area on foot instead of in a cruiser, and Chief Gauvin explained that while they do a great job with community outreach, that program doesn't have a large quantity of funding. Chief Gauvin reassured Councilor Hart that the intention is to continue the program, even with the funding challenges.

Councilor Sampson requested information regarding the decrease in overtime funding and the District Chief Aide position within the Fall River Fire Department budget. Fire Chief Jeffrey Bacon and Captain Barrett Castro explained that there was additional funding for the overtime line item that was obtained outside of the FY25 budget, therefore, the fund was not decreased, it just isn't reflected in its entirety within the budget. Chief Bacon explained that the District Chief Aide was an older position that is no longer assigned to a single individual, but the salary portion is used to limit time off for District Chiefs during the busiest summer months and helps to cover their overtime as well.

Councilor Raposo requested additional information regarding Fire Academy classes. Chief Bacon explained that the department is planning on putting a class through the program soon due to anticipated retirements. Chief Bacon stated that they will be utilizing the Massachusetts Fire Academy due to their excellent staffing and instructors. Councilor Raposo and Chief Bacon held a brief discussion regarding grant funding, including the SAFER Grant, and Chief Bacon clarified that no firefighters were currently being compensated by that specific grant funding.

Councilor Ponte requested additional information regarding fire trucks, coordination with the Emergency Medical Services (EMS) Division for the renovation of the Central Fire Station, current bargaining agreements, overtime and capital needs within the Fire Department. Chief Bacon explained that the Fire Department currently has one new truck and one new water pumping apparatus, which allows the department to have a viable front line with additional spare machines. The City Administrator stated there has not yet been discussion about additional trucks that may be needed in the future. Mr. Aitken also provided details regarding the EMS funded repairs in the fire station, such as ventilation and living quarter enhancement, and Community Preservation Act (CPA) funding that would be utilized for repair of the exterior of the building and some heating, ventilation and air conditioning (HVAC) renovations. Chief Bacon stated that the EMS Division is working to improve multiple stations within the City and the renovations will include creating dorms for female Emergency Medical Technicians and Paramedics. Chief Bacon clarified the bargaining agreement's cost-of-living adjustment, which is listed at 1.5% per year, and overtime funding, which is provided by public safety grants that operate based on the calendar year, not the fiscal year. Chief Bacon stated that there are currently no other capital needs for the Fall River Fire Department that are not addressed within the FY25 budget.

Vice President Pereira complimented Chief Bacon, and the Fall River Fire Department as a whole, for the services they provide to the City and requested that, in the future, they provide additional information to residents regarding required smoke alarm systems.

Councillor Dionne requested additional information regarding the timeline of the Fire Academy training, salaries for new candidates, the differences between the local and state academies, the discrepancy in budgeted funds for dispatch radio costs between the Police and Fire Departments and general maintenance line items. Chief Bacon explained that the process of training a recruit takes about nine months total and that he'd like to continue hiring staff throughout the year. The Fire Chief also explained that the state academy provides better facilities and staff than the local academy can provide, and the City of Fall River has utilized the state academy since 2003. Chief Gauvin previously explained that the Fire Department utilizes the Police Department's radio equipment as they share dispatch facilities, which is the reason that the Police Department has a larger amount of funding for dispatch-related equipment. Chief Bacon and Mr. Aitken also explained that the Police Department only has one building to maintain, while the Fire Department maintains multiple stations.

Councillor Cadime requested additional information regarding local receipts, changes to part-time positions, and energy funding increases compared to the Police Department. Chief Bacon explained that the local receipts reflect the Fire Department responding to EMS calls, which creates additional revenue. The City Administrator stated that the part-time clerk position has been vacant for about two years. A brief discussion was held between Councillor Cadime, Chief Bacon and the City Administrator regarding permanent salaries within the Fire Department. Mr. Aitken also provided additional information regarding the gas and electricity budget increase and stated that the Fire Department had to utilize the gas pumps provided by the Department of Community Maintenance, whereas the Police Department has their own fuel station, and their cruisers typically run throughout the day.

Councillor Hart and Councillor Dionne requested additional information regarding Fire Department training to prepare for the Massachusetts Bay Transportation Authority (MBTA) trains that will be coming online soon. Chief Bacon explained that training seminars are planned with the MBTA including derailing training and the utilization of large entrances to the train tracks. Chief Bacon also stated that they will be arranging staffing to be congruent with the opening of the train lines.

Vice President Pereira requested additional information regarding grant funding being utilized by the Emergency Management Agency. Richard Aguilar, Director, Emergency Management Agency (EMA), provided information regarding National Emergency Management Association (NEMA) and state grant funding that the City has received to assist with programs and machines. Mr. Aguilar explained that they recently purchased an off-road Polaris vehicle with this grant funding, which will allow them to assist in case of an emergency on the train tracks where no large entrance is available. Vice President Pereira commended Mr. Aguilar on his work to obtain grant funding to improve the EMA's readiness for emergencies throughout the City.

4. General Government

Mayor's Office, City Clerk, City Council, Elections, Veterans

A lengthy discussion was held between Vice President Pereira, Councillors Dionne, Kilby, and Sampson regarding compensation for elected officials and their employees, such as the Mayor and the Chief of Staff. Vice President Pereira and Councillor Kilby supported an increased salary for the Mayor due to the challenges of the mayoral position. Councillors Dionne and Sampson stated that elected officials should not receive compensation that is significantly larger than

long-term, non-elected City employees. Seth Thomas Aitken, City Administrator, stated that the Chief of Staff position has only received increases based off cost-of-living adjustments, not independent salary raises. Mr. Aitken also stated that certain positions did require higher compensation, such as Corporation Counsel, which requires licensed attorneys. Councilor Dionne emphasized that the Chief of Staff salary has increased from \$78,000 to \$100,000 over the past few years and the City Administrator emphasized that while large cost-of-living percentages over the past few years, such as 7% in 2022, have affected these salaries significantly, those types of adjustments are included in employment agreements.

Councilor Raposo requested information regarding the funding of the Event Resource Coordinator position, as it is not listed within the FY25 budget. Mr. Aitken explained that the position is funded entirely by American Rescue Plan Act (ARPA) funding. Vice President Pereira emphasized the need for a Tourism Director within the City to promote public events. Councilor Sampson agreed that a Tourism Director would be beneficial to the community at-large.

Councilor Ponte requested clarification regarding the additional \$45,000 budget line item within the City Council budget for the annual financial audit. Bridget Almon, Director of Financial Services, explained that the \$45,000 portion would be reimbursed by the chargebacks issued to Diman Regional Vocational Technical High School and the Fall River Contributory Retirement Board, which would reconcile the discrepancy.

Vice President Pereira requested clarification regarding the two vacant positions listed within the City Clerk's office and the one vacant position listed within the City Council office. Alison M. Bouchard, City Clerk, explained that all three positions have been filled since the budget was submitted. Councilor Cadima and the City Clerk held a brief discussion regarding potential changes to assist with the retention of employees within the City Clerk's office, such as renaming the positions to allow for higher pay rates. Councilor Kilby made brief remarks regarding how changes in title and pay rates can affect the employee's ability to participate within the American Federation of State, County and Municipal Employees (AFSCME).

Councilor Raposo requested additional information regarding the Board of Elections Department salaries, consolidation of election precincts, the use of free transportation during the elections and facility charges for certain precincts that range from \$100 to \$1,000 for use of the buildings. The City Administrator stated that there are current negotiations occurring to modestly increase salaries within the Board of Elections Department. A brief discussion was held between Councilor Raposo and Ryan Lyons, Director, Board of Elections Department, regarding reimbursement from the state following elections and additional staff for poll locations. Mr. Lyons also explained that overall, the consolidation of election precincts worked well during the most recent election aside from a few parking issues that have since been remedied. Mr. Lyons also provided information regarding large locations that charge higher facility charges and the need to utilize them due to larger populations within certain districts. The Director of the Board of Elections Department explained that no one reached out to the Department to request the use of the van they were using to assist those who needed transportation to vote during the most recent election.

Councilor Sampson emphasized that the salary amounts within the Board of Elections Department were not sufficient. The City Administrator explained that, due to bargaining agreements, the City was unable to use election reimbursement from the state to increase employee pay grades. Mr. Aitken emphasized that discussions to increase pay are ongoing, but he could not provide additional information to the Committee members while the negotiations were occurring.

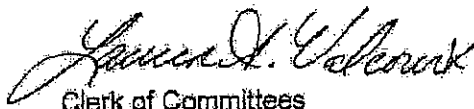
A discussion was held between Councilor Dionne and Mr. Aitken regarding the pay grades within the AFSCME agreements and that different clerks within the same department can be at different grade levels, which is why listed salaries may be different even if the title is the same. The City Administrator also explained that one position had been changed from part-time to full-time, which is why there was a 15% pay increase for that title.

Vice President Pereira asked if there are plans to adjust certain salary limits within the City ordinances. Mr. Aitken stated that the Administration is planning to amend certain positions, such as the Director of the Board of Elections and the Veterans' Services Agent, so they would no longer have salary limits and would instead be "per contract" positions. The City Administrator stated that a candidate had been chosen, on a temporary basis, for the Veterans' Services Agent position and the individual was currently attending training classes. Councilor Raposo asked for additional information regarding the current budgeted salary for the position as many have left due to the low compensation offered by the City. Mr. Aitken stated that, while the Administration would soon be sending a proposed ordinance to the City Council to allow this position to offer higher compensation through a contract agreement, it is currently budgeted for a salary of \$73,936. Mr. Aitken also explained that they are not prioritizing filling the vacant positions within the department at this time. Councilor Raposo stated that the funds that would go toward the vacant positions should be reallocated to assist veterans within the community. Vice President Pereira and Councilor Sampson emphasized the need for additional funding for memorial monument maintenance and parades that are organized by the Veterans Services Office. Councilor Kilby stated that he was hopeful the Administration would consider some of the potential changes that could be made to the proposed budget after the discussions held during the meeting.

On a motion made by Councilor Kilby and seconded by Councilor Raposo, it was unanimously voted to adjourn at 9:51 p.m.

List of documents and other exhibits used during the meeting:

Agenda packet (attached)


Clerk of Committees

COMMITTEE ON FINANCE

MEETING: June 4, 2024, at 6:00 p.m.
Council Chamber, One Government Center

PRESENT: President Joseph D. Camara, presiding;
Councillors Shawn E. Cadime, Michelle M. Dionne, Paul B. Hart,
Bradford L. Kilby, Linda M. Pereira, Cliff Ponte, Andrew J. Raposo
and Laura-Jean Sampson

ABSENT: None

IN ATTENDANCE: Seth Thomas Aitken, City Administrator
Bridget Almon, Director of Financial Services
Ian M. Schachne, City Collector/Treasurer
Sedryk Sousa, City Auditor
Daniel Lane, Administrative Assistant to the Board of Assessors
Emily Arpke, Finance Analyst and Compliance Manager

The chair called the meeting to order at 6:04 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.

Prior to the beginning of the meeting, Vice President Pereira made brief remarks regarding Helen Rago, a member of many official and non-official boards and commissions, who will be turning 90 years old this year and commended her on her services to the City of Fall River.

Councilor Ponte arrived at 6:07 p.m.

1. Citizens' Input Time - None
2. Continue discussion of the proposed Fiscal Year 2025 Municipal Budget as follows:
 - Departments carried over from the June 3, 2024, Committee on Finance agenda, if needed

- Financial Services

Director of Financial Services, Purchasing Department, Assessors, Auditors, Analysis & Compliance, Collectors, Treasurer, Debt Service

Councillor Raposo requested a summary of the current tasks that have been assigned to the newly created Financial Analyst and Compliance Manager hire as well as the current and future salary for this position. Bridget Almon, Director of Financial Services, provided information regarding assigned projects for this employee, such as researching trash collection expenses for future contract negotiations which will significantly affect the overall spending of City funds over the next few years. Seth Thomas Aitken, City Administrator, provided an overview of the changes to many salaries within Government Center that are adjusted by the Consumer Price Index (CPI), per their contract agreements. Mr. Aitken clarified that the salaries listed within the Fiscal Year 2025 (FY25) budget include estimated raises and are not definite as the CPI rate information is not yet available.

Councillor Sampson stated that, while she was not in favor of the new position being created in the Financial Services departments, the new Financial Analyst and Compliance Manager was very well qualified. Councillor Sampson emphasized the need to discontinue the use of outside consultants now that additional staffing is available, as the cost of consultants is excessive.

Councillor Dionne expressed her agreement with the need to eliminate the use of financial consultants. A lengthy discussion was held between Councillor Dionne, Mr. Aitken and Ms. Almon regarding the continued funding, with a \$13,000 salary increase, for the Purchasing Agent position, as it was originally discussed that the position would be unfunded, along with the Assistant Auditor position, to compensate for the Financial Analyst and Compliance Manager in the Financial Services department. The City Administrator explained that there was a misunderstanding when analyzing the requirements of the Purchasing Agent position and that he was, incorrectly, certain that the position could be kept vacant. The Director of Financial Services stated that there were discrepancies within the purchase history of the City over the past few years and a Purchasing Agent will be needed to remedy the information in the software system. Mr. Aitken emphasized that there are many certification requirements to be able to issue Requests for Proposals and Requests for Quotes and the Administration is working to have multiple municipal employees trained for these types of tasks. President Camara asked if purchase orders were being utilized, which Mr. Aitken confirmed. The City Administrator stated that there were financial records for all purchasing transactions, but different channels were used by different departments and the goal is to unify all activity within the same log. The Director of Financial Services explained that the Purchasing Agent serves both the municipal departments and the Fall River School Department, and should not remain vacant.

A discussion was held between President Camara, Councillors Dionne and Ponte and the City Clerk for clarification regarding the City Council's ability to vote for each line item in the FY25 budget individually. President Camara confirmed that method of the vote is determined by the preference of the City Council. Councillors Dionne and Kilby stated that they would support a line-item vote procedure for the proposed budget.

Councillor Ponte requested additional information regarding motor vehicle excise taxes and the anticipated increase of this type of revenue within the FY25 budget. Ms. Almon and Ian M. Schachne, City Collector/Treasurer, explained that over the past year the revenue from the vehicle excise tax has increased significantly and they had reached their anticipated revenue within six months last year. The Director of Financial Services stated that due to this increase, which may be caused by more residents with vehicles moving to the City, they are confident that their conservative increase for this resource will be generated during FY25.

Vice President Pereira and the City Administrator held a brief discussion regarding the ongoing research within the Law Department regarding a trash collection contract. Mr. Aitken stated that they are currently in negotiations for this type of agreement. Vice President Pereira expressed her support for a Purchasing Agent for the City. The City Administrator and Director of Financial Services provided information regarding the challenges of maintaining consistent aggregation for vendors when there are multiple employees handling purchasing within the schools and municipal offices, but Mr. Aitken stated that, ideally, each department should have their own agent going forward.

Councilor Raposo and the Director of Financial Services discussed how the School Department would be given authority to handle their own purchases in the future, so long as the value is under \$50,000, but the City is one financial entity with the Internal Revenue Service, so coordination is needed. Ms. Almon stated that currently the Superintendent signs off on all purchase orders and then they are forwarded to Government Center. Councilor Raposo requested additional information regarding the salary increase for the Purchasing Agent and the funding decrease for licenses and permits. Ms. Almon stated that candidates cannot be found with such a low salary offer, so the increase was pertinent to receive applications for the position. The Director of Financial Services also explained that there is less construction and remodeling being done now than during the pandemic, so they cannot rely on amounts of license and permit funding as they did between 2020 and 2023. The City Collector/Treasurer also explained that new software, along with a partnership with BayCoast Bank, allows payments to be submitted online or in person and that since November of 2023, about 2900 payments have been received.

Councilor Dionne requested additional information regarding the position titled "Project Specialist - Tax Title" within the Treasurer's salaries list. The Director of Financial Services provided information regarding this position's role which includes different types of tax collections and Tax Title processing. A discussion was held between Councilor Dionne and the City Administrator regarding salary changes within the department, which are affected by ongoing bargaining with the American Federation of State, County and Municipal Employees (AFSCME). Councilor Dionne and the Director of Financial Services discussed the method of funding for the new Financial Analyst and Compliance Manager position and Ms. Almon explained that they are utilizing the vacant Assistant Auditor salary amount. Ms. Almon also explained that the Assistant Treasurer has been working extra hours to assist with purchasing bids as there is no current Purchasing Agent. Councilor Dionne emphasized that the past discussions regarding the funding of the new Financial Services position do not match the current funding plan and expressed her concern regarding this discrepancy. Councilor Dionne requested information regarding the salary raise for the Grant Writer position in the Mayor's Office. Ms. Almon stated that the salary increase will be split between the municipal budget and the School Department budget, with a raise equaling \$8,000. Councilor Dionne made brief remarks regarding the difference within the salary budget of the Auditor's Department, specifying that the salary difference for the current City Auditor, along with the vacant Assistant Auditor position, only total \$110,245. Councilor Dionne expressed concern that the remaining \$4,755 to achieve the \$115,000 salary for the new Financial Analyst and Compliance Manager had to have been funded by a reduction somewhere else in the budget. President Camara asked if there are any other positions within the budget that have an estimated salary that may change significantly other than the Financial Analyst and Compliance Manager. The City Administrator confirmed that this position was the only one within the proposed budget that meets that criterion.

Councillor Sampson expressed her displeasure with the Purchasing Agent discrepancies between the Committee on Ordinances and Legislation meeting in April of 2024, and the current budget discussions. Councillor Sampson requested additional information regarding the City's Employer Identification Number (EIN) requirements and if more than one employee can act as a Purchasing Agent under that EIN. The City Administrator and the Director of Financial Services stated that multiple Purchasing Agents can operate under the same EIN, but that there is a threshold for different suppliers that must be considered.

Councillor Cadime agreed that the School Department procurement for purchasing was possible and would assist the Purchasing Agent by delegating work to those who work within the School Department. Councillor Cadime provided a summary of different types of procurement options within the Massachusetts General Laws (M.G.L.), such as centralized procurement and decentralized procurement. Councillor Cadime also requested clarification regarding the M.G.L., Part I, Title VIII, Ch. 41, §103, which relates to the Establishment of a Purchasing Department, which appears to have been accepted by the City of Fall River in 1965. The Director of Financial Services stated that she would research that and provide additional information prior to the next Committee on Finance Meeting. Councillor Cadime expressed his concern regarding the Purchasing Agent position remaining as a funded position. Councillor Cadime also requested clarification as to whether the receipts and revenues for the City were included in the financial order related to the proposed budget and Ms. Almon stated that she would obtain a more detailed chart for the Committee members related to these items at the next Committee meeting. Councillor Cadime and the City Administrator held a brief discussion regarding contractual agreements that include either Cost of Living Adjustments (COLA) or CPI adjustments. Mr. Aitken clarified that 7-9 contracts have CPI adjustments, a few have COLA, and the remaining contractual agreements do not have either adjustment included.

Councillor Raposo requested additional information regarding various line items within the Assessor's Department budget including auto allowances and "other personnel." Daniel Lane, Administrative Assistant to the Board of Assessors, explained that the auto allowances were small funds provided to those to use their own vehicle to travel throughout the City to perform assessments of properties. Mr. Lane also stated that the "other personnel" line item provided payment for extra hours worked, with a limit of no more than five hours per week. The Administrative Assistant to the Board of Assessors also provided information regarding the process of reassessing properties within a ten-year period and stated that the current compliance rate for assessments is at 67 percent. Mr. Lane explained that the new Patriot Properties software was recently updated and has a lower price point than previous versions.

Vice President Pereira expressed concern that the auto allowance of \$130/month was not sufficient as gas prices have increased significantly since this rate was created. The City Administrator clarified that they have not received any data regarding the mileage utilized by the assessors and that information would be helpful to determine how the allowance could be adjusted.

Councillor Dionne requested additional information regarding property assessments within the City. Mr. Lane stated that they are working to assess at least 2,000 properties, of all types, each year to meet state requirements. Mr. Lane stated that the Department of Revenue is lenient, so long as there is a plan in place to complete all assessments in a ten-year period. Councillor Kilby and Mr. Lane held a brief discussion regarding neighborhood boundaries, inspections of properties and directives that must be followed during the assessment process. Councillor Kilby commended Mr. Lane for his work to get the City up to date with required property assessments.

Councillor Hart requested a comparison of Fall River to other nearby municipalities in relation to staffing within the Assessor's Department. Mr. Lane stated that Fall River currently has six employees within the department, while New Bedford has twelve and Attleboro has five, but that Attleboro hires an outside contracting company for all assessment inspections.

Councillor Raposo requested additional information regarding the decrease of "Other Purchase Services" within the City Auditor's budget. The Director of Financial Services and Sedryk Sousa, City Auditor, explained that they had decreased the hours needed for outside consultants, so this budget item had been reduced. President Camara, Vice President Pereira and Ms. Almon discussed the history of financial consultants within the Financial Services departments and President Camara emphasized the need to eliminate the use of consultants going forward. Vice President Pereira asked if the City Auditor salary includes CPI adjustments and Ms. Almon explained that it does not and instead follows the AFSCME agreement, even though the position is not part of the union itself. Councillor Sampson commended Mr. Sousa for his work as City Auditor and asked about the impact of the new Financial Analyst and Compliance Manager. Mr. Sousa complimented the new hire for the assistance they have provided. Councillor Dionne and Kilby complimented Emily Arpke, Financial Analyst and Compliance Manager, on her new employment with the City of Fall River.

Vice President Pereira, Councillor Dionne, Councillor Raposo and the City Collector/Treasurer discussed the increased costs of advertisements in local newspapers and the state law requiring the public notices regarding Tax Titles be published. The City Clerk confirmed that the M.G.L. requires Tax Title notices to be posted in a local newspaper. Mr. Schachne provided a summary of the Tax Title legal process, demand letters and the work that the Collector's office does to remedy overdue taxes and fees for properties. The City Collector/Treasurer stated that there were about 140 Tax Titles issued last year and that an estimated 20 property owners are currently on payment plans. Vice President Pereira emphasized that the City Council should reach out to the Fall River Delegation of State Representatives regarding the newspaper advertising requirements, as many residents do not receive newspapers anymore.


Councillor Sampson requested clarification regarding employees who receive "summer hours" and the Director of Financial Services stated that this was an old benefit that is slowly being phased out and that most employees do not receive these extra hours during the summer months.

Councillor Dionne requested additional information regarding the difference in interest rates for overdue taxes versus Tax Titles. Mr. Schachne explained that overdue taxes are billed with a 14% interest rate, while Tax Titles are billed with a 16% interest rate. Mr. Schachne also stated that the employees within the department are able to work more efficiently now that there are online payment portals, coordination with local banks who will receive payments for the City and proper staffing.

Councillor Raposo and the Director of Financial Services held a brief discussion regarding debt services for the new B.M.C. Durfee High School, which will be increasing over the next few years. Ms. Almon stated that the overall goal for City debt is around \$10,000,000 per year and in previous years, before Ms. Almon was employed, the debt had reached a paramount of \$42,000,000. Ms. Almon stated that they are working to invest and borrow more efficiently in the future.

On a motion made by Councilor Raposo and seconded by Councilor Sampson, it was unanimously voted to adjourn at 7:57 p.m.

List of documents and other exhibits used during the meeting:
Agenda packet (attached).


Clerk of Committees

22a



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September 1, 2016

OML 2016 - 118

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

RE: Open Meeting Law Complaints

Dear Attorney Macy:

This office received three complaints from Patrick Higgins, dated April 6, alleging that the Fall River City Council (the "Council") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25.¹ The complaints were originally filed with the Council on March 8, and you responded, on behalf of the Council, in a letter on July 13. In each complaint, Mr. Higgins alleges that, at the beginning of specific Council meetings, the Council President failed to require those individuals who intended to record the meeting to notify him. Additionally, Mr. Higgins alleges that the Council, as a practice, does not create and/or approve written meeting minutes.

Following our review, we find that the Council violated the Open Meeting Law by failing to approve its meeting minutes in a timely manner and by failing to respond to Open Meeting Law complaints within 14 business days. However, we find no violation with respect to the Council's procedure for announcing the recording of its meetings. In reaching this determination, we reviewed the original complaint, the Council's response, and the request for further review filed with our office. We also reviewed portions of the video recordings of the Council meetings held on February 9, February 23, and March 8, which are posted on the Fall River Cable Access Television website.²

FACTS

We find the facts as follows. At the beginning of the Council meetings held on February 9, February 23, and March 8, President Shawn Cadime announced that any person "may make a recording" and that "people are advised that such recordings...are being made." It does not

¹ All dates in this letter refer to the year 2016.

² See <http://frgtrv.fredtv.us/>

appear from the video that President Cadime asked the audience whether anyone intended to record the meeting.

Before the filing of these complaints, the Council drafted minutes of its meetings, but did not approve them. The Council has since changed this practice by approving minutes at the next meeting. The Council has not, however, approved the draft minutes of any meetings held before the filing of these complaints in March.

On March 8, the complainant filed the three Open Meeting Law complaints with the Council. The Council did not respond to the complaints within 14 business days of its receipt, and the complainant subsequently sought further review of the matter by filing a copy of the original complaints with our office on April 6. At no time did the Council request an extension of time to respond to the complaints. In June, the Office informed us that it had experienced some personnel turnover and would respond to the complaints in due course. The Council responded to the complaints in a letter dated July 16.

DISCUSSION

I. The Council Properly Announced that its Meetings Were Being Recorded.

The Open Meeting Law requires that all meetings of a public body be conducted in an open session, with some exceptions. G.L. c. 30A, §§ 20(a), 21(a). The Open Meeting Law states that "[a]fter notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting." *Id.* at § 20(f). The law requires the chair to inform attendees of any recording. *Id.* The requirement that the chair inform attendees that a meeting is being recorded includes the requirement that the chair inform the attendees when those recordings are being made by the public body itself for public broadcasting or administrative purposes. *See* OML 2013-136; OML 2012-24.³

The complaint alleges that President Cadime failed to require those who intended to record the meeting to notify him at the beginning of the meeting. This is not a requirement of the Open Meeting Law. Rather, the law requires the chair to announce that the meeting is being recorded only upon becoming aware that a person intends to record the meeting. *See* OML 2015-151; *see also* OML 2014-8 (the chair must inform members of the public of any recording of which the chair is aware). Here, the City cable channel regularly records the Council meetings. Accordingly, President Cadime properly complied with the law by notifying the public at the beginning of the meeting that the meeting was being recorded. Where this announcement is already being made, the law does not require the chair to inquire about additional recordings. The purpose of the law—to notify the public that the meeting is being recorded—was served with this one announcement. Only in the instance where a chair does not know whether anyone is recording the meeting, and therefore does not know whether to make the announcement, should the chair should make reasonable inquiries of the audience to

³ Open Meeting Law determinations and decisions may be found at the Attorney General's website, www.mass.gov/ago/openmeeting.

determine whether anyone intends to record the meeting. See OML 2014-39; OML 2013-139. Accordingly, we find that the Council did not violate the law in this regard.

II. The Council Failed to Approve its Meeting Minutes.

The Open Meeting Law requires that a public body "create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes." G.L. c. 30A, § 22(a). The law does not provide a definition of "timely manner," but a public body should approve minutes at the next meeting where possible. See id.; OML 2012-91. For bodies that meet regularly, we have concluded that a delay of two to three months in approving minutes does not comply with the law. See OML 2016-62.

The Council has failed to create and approve meeting minutes in a timely manner, in violation of the Open Meeting Law. See G.L. c. 30A, § 22(a). The Council had a longstanding practice of drafting minutes, but not approving them. Since the filing of these complaints in March, the Council corrected this practice and began approving minutes at the next meeting. The Council has not, however, approved the draft minutes from any of its meetings held before March. Accordingly, we order the Council to approve the backlog of draft minutes of any of its meetings held since July 1, 2010.⁴

III. The Council Failed to Properly Respond to These Complaints.

We find that the Council failed to properly respond to these complaints. The Open Meeting Law requires that within 14 business days after receiving a complaint the public body shall review the complaint's allegations; take remedial action, if appropriate; and send to 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). At no point did the Council request an extension of time to respond to the complaints. By taking nearly four months to respond, the Board clearly failed to comply with the Law.

CONCLUSION

For the reasons stated above, we find that the Council violated the Open Meeting Law by failing to approve its meeting minutes in a timely manner and by failing to respond to Open Meeting Law complaints within 14 business days. We order immediate and future compliance with the Open Meeting Law's requirements, and we caution that similar future violations may be considered evidence of intent to violate the law. Additionally, we order the Council, within 60 days of receipt of this determination, to approve the backlog of draft minutes of its meetings held since July 1, 2010.

⁴ Our office assumed authority for the interpretation and enforcement of the Open Meeting Law, as it applies to local public bodies, on July 1, 2010. See G.L. c. 30A, § 23(a); see also G.L. c. 30A, §§ 18-25, generally. Prior to July 1, 2010, the law governing meetings of local public bodies was G.L. c. 39, § 23B (now repealed), and the District Attorneys were responsible for its enforcement. One of the practical effects of this change is that our office has authority to enforce the Open Meeting Law only with respect to violations that occurred on or after July 1, 2010. See OML 2015-97.

We now consider the complaints 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,

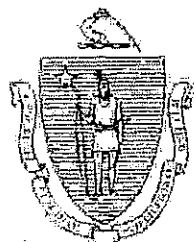


Hanne Rush
Assistant Attorney General
Division of Open Government

cc: Patrick Higgins
Fall River City Council

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

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THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

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

May 8, 2018

OML 2018 - 64

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

RE: Open Meeting Law Complaint

Dear Attorney Macy:

This office received a complaint from Patrick Higgins, dated December 28, 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 November 28, 2017, and the Council responded by letter dated December 28, 2017.¹ In his complaint, Mr. Higgins alleges that the Council failed to approve meeting minutes in a timely manner.

Following our review, we find that the Council violated the Open Meeting Law as alleged in the complaint. In reaching a determination, we reviewed the original complaint, the Council's response, and the request for further review filed with our office. We also reviewed the notice and minutes of a Council meeting held on November 28, 2017. Finally, we reviewed supplementary e-mails from the Council's legal counsel dated April 23 and 24, 2018.

FACTS

We find the facts as follows. At all times relevant to this letter, it was the Council's practice to approve the meeting minutes of its subordinate committees. The Council held regular meetings throughout 2017. The Council posted notice of a meeting to be held on November 28,

¹ The Open Meeting Law requires that within 14 business days after receiving a complaint the public body shall review the complaint's allegations; take remedial action, if appropriate; and send to 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 did not request an extension of time from our office, yet the Council took one month to respond to the complaint. While this issue was not raised in the present complaint, we note that our office has previously found the Council to have violated the Open Meeting Law by failing to timely respond to an Open Meeting Law complaint. See OML 2017-109; OML 2017-45; OML 2016-118. Open Meeting Law determinations may be found at the Attorney General's website: www.mass.gov/ago/openmeeting. The repeated nature of this violations raises serious concerns, and we advise the Council to ensure that it responds to Open Meeting Law complaints within the time frame required by law.

2017. The notice stated that the Council would vote to approve minutes of the following meetings:

Committee on Ordinances and Legislation—October 2, 2017

Committee on Real Estate—June 5, 2017

Committee on Public Safety—October 4, 2017

City Council Meeting—April 25, 2017

The Council held its November 28, 2017 meeting as planned and voted to approve the minutes listed on the meeting notice.

DISCUSSION

A public body must create and maintain accurate minutes of all meetings. G.L. c. 30A, § 22(a). Minutes must be created and approved in a timely manner. G.L. c. 30A, § 22(c). The Attorney General's regulations, which took effect October 6, 2017, require public bodies to create and approve minutes within three meetings, or within 30 days, whichever is later. 940 CMR 29.11(2). Prior to the effective dates of these new regulations, our guidance was that for bodies that meet weekly or bi-monthly, a delay of two to three months in approving meeting minutes was too long. See OML 2016-62.

Here, the complaint alleges that the Council failed to approve its meeting minutes in a timely manner. Specifically, the complaint points to the minutes of the Council's April 25, 2017 meeting and the Committee on Real Estate's June 5, 2017 meeting, each of which was approved several months after the meetings took place. Regardless of which timeliness standard we apply, it is clear that the Council delayed several months before approving the minutes at issue. In so doing, the Council violated the Open Meeting Law. See OML 2017-157.

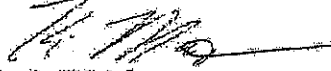
We examine whether this violation was, as the complaint urges, an intentional one. An intentional violation is an act or omission by a public body or a member thereof, in knowing violation of the Open Meeting Law. 940 CMR 29.02. Evidence of intent to violate the Open Meeting Law includes instances where a public body was previously advised that certain conduct violated the law. *Id.* Here, the Council was previously advised of its obligation to create and approve meeting minutes in a timely manner by a written determination from our office on September 1, 2016. See OML 2016-118. Since the issuance of that determination, a quorum of the Council members has changed and new Councilors have been elected. Because a quorum of the members who violated the law in the present instance are not the same members who violated the law before, we decline to find an intentional violation. See OML 2016-70. We note that the recently-added regulatory requirement for new public body members to receive determinations from the past five years in which the body was found to have violated the law will require members to educate themselves about and be responsible for the body's past violations. See 940 CMR 29.04(1)(b).

CONCLUSION

For the reasons stated above, we find that the Council violated the Open Meeting Law. We order the Council's immediate and future compliance with the Open Meeting Law, and we caution that similar future violations may be considered evidence of intent to violate the 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 or the Council. Please feel free to contact the Division at (617) 963 - 2540 if you have any questions.

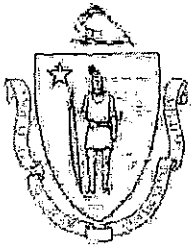
Sincerely,



Kevin W. Manganaro
Assistant Attorney General
Division of Open Government

cc: Fall River City Council
Patrick Higgins

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.



MAURA HEALEY
ATTORNEY GENERAL

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April 24, 2019

OML 2019 - 39

Joseph Macy, Esq.
Fall River Corporation Counsel
One Government Center
Fall River, MA 02722

RE: Open Meeting Law Complaints

Dear Attorney Macy:

This office received two complaints from Patrick Higgins on May 4 and September 18, 2018, alleging that the Fall River City Council (the "Council") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaints were originally with the Council on or about July 16 and August 15, 2018, and you responded to the complaints, on behalf of the Council, by letters dated April 23 and September 18, 2018. In his complaints, Mr. Higgins alleges that the Council failed to approve certain meeting minutes in a timely manner.¹

Following our review, we find that the Board violated the Open Meeting Law in the manner alleged. In reaching a determination, we reviewed the original complaint, the Board's response to the complaint, and the complaint filed with our office requesting further review. We also reviewed the notices for meetings held between September 26, 2017 and August 15, 2018.

FACTS

The Council held meetings on September 26, October 10, October 24, November 14, November 28, December 19, 2017, January 2, January 9, January 16, and January 23, 2018. The Council approved all of the minutes at issue in this determination (for meetings held in the last few months of 2017) on August 15, 2018, except for the November 28, 2017 meeting minutes, which were approved on April 24, 2018.

¹ The dates of the meetings, all held in 2017, are the following: September 26; October 10; October 24; November 14; November 28; and December 19.

DISCUSSION

The Open Meeting Law requires that a public body "create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes." G.L. c. 30A, § 22(a). The meeting minutes must be reviewed and approved in a timely manner. G.L. c. 30A, § 22(c). The Open Meeting Law itself does not define "timely manner." However, the Attorney General's Open Meeting Law regulations provide that "timely manner" means "within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay." 940 CMR 29.11(2). Whenever possible, we recommend that minutes of a meeting be approved at the next meeting. See OML 2014-15; OML 2012-91.²

The complaint alleges that the Council failed to timely approve the minutes from its meetings held on September 26, 2017; October 10, 2017; October 24, 2017; November 14, 2017; November 28, 2017; and December 19, 2017. The Council met at least twice per month during this time period. Accordingly, minutes of each meeting should have been approved no later than the third subsequent meeting. See 940 CMR 29.11; OML 2018-111. The Council concedes that its review and approval, which did not occur until April 24 and August 15, was not timely. The Council argues that staffing issues gave it good cause for delay. We understand the demands on a public body with limited staff; however, the Council is still obligated to timely approve minutes. See OML 2018-111; OML 2018-83; OML 2018-67. If staff resources are not available to create minutes for the Council to approve, then Council members must take on this responsibility to ensure compliance with the law. Id. Accordingly, we find that the Council violated the Open Meeting Law.

We must determine whether the violation was, as the complainant urges, intentional. See G.L. c. 30A, § 23(c). An intentional violation is an "act or omission by a public body or a member thereof, in knowing violation of [the Open Meeting Law]." 940 CMR 29.02. An intentional violation may be found where the public body acted with deliberate ignorance of the law's requirement or has previously been advised that certain conduct violates the Open Meeting Law. Id. In a prior determination, OML 2018-64, issued May 8, 2018, we concluded that the Council had failed to timely approve its meeting minutes and ordered its immediate and future compliance with the Open Meeting Law. The fact that we had previously issued a determination finding a violation for the same type of conduct typically would lead to a determination that this subsequent violation was intentional.³ In this situation, however, we are mindful of the fact that all of the meetings at issue here had already taken place, and the meeting minutes were already past due, before we issued OML 2018-64

² Open Meeting Law determinations may be found at the Attorney General's website, www.mass.gov/ago/openmeeting.

³ OML 2018-64 concerned compliance under the standard for approving minutes pursuant to the revised Open Meeting Law regulations, which went into effect on October 6, 2017. The revised regulations expressly defined "timely manner" for the first time. We note that we also found a violation in 2016 for the Council's failure to timely approve meeting minutes, but that determination was issued prior to the effective date of the revised regulations that defined "timely manner." See OML 2016-118.

in May 2018. Therefore, we decline to find that these violations were intentional, but we caution the Council that it has now been amply warned of its obligation to timely approve meeting minutes, and it should not expect such leniency in the future.

CONCLUSION

For the reasons stated above, we find that the Council violated the Open Meeting Law by failing to approve its September 26, October 10, October 24, November 14, November 28, and December 19, 2017 meeting minutes in a timely manner. We order the Council's immediate and future compliance with the Open Meeting Law, and we caution that similar future violations may be considered evidence of intent to violate the law.

We now consider the complaints 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.

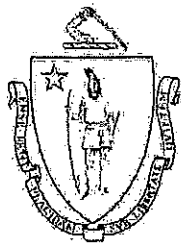
Sincerely,



Hanne Rush
Assistant Attorney General
Division of Open Government

cc: Patrick Higgins
Fall River City Council

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
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April 12, 2023

OML 2023 - 54

VIA EMAIL ONLY

Gary P. Howayeck, Esq.
Assistant Corporation Counsel
ghowayeck@fallriverma.org

RE: Open Meeting Law Complaint

Dear Attorney Howayeck:

This office received a complaint from Patrick Higgins on October 4, 2022,¹ 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 September 14, and you responded on behalf of the Council by letter dated October 4. The complaint alleges that the Council failed to timely approve minutes for its June 14 meeting.

Following our review, we find, and the Council acknowledges, that the Council violated the Open Meeting Law as alleged. In reaching this determination we reviewed the original Open Meeting Law complaint, the Council's response, the request for further review, and notices posted online for Council meetings held from June 14 to August 16, inclusive.

The Open Meeting Law requires public bodies to create and approve meeting minutes, whether for open or executive session, in a timely manner. G.L. c. 30A, § 22(c). The Attorney General's Open Meeting Law regulations provide that "timely manner" means "within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay." 940 CMR 29.11; see OML 2018-48.² Whenever possible, we recommend that minutes of a meeting be approved at the next meeting. See OML 2018-67; OML 2017-133.

¹ All dates are in 2022, unless otherwise noted.

² Open Meeting Law determinations may be found at the Attorney General's website, www.mass.gov/ago/openmeeting

The Council held a meeting on June 14. Thereafter, the Council held meetings on June 15, June 28, July 12, and August 16. The minutes of the Committee's June 14 meeting were approved during the Committee's August 16 meeting. We find, and the Council acknowledges, that it failed to approve the minutes of its June 14 meeting within 30 days or three meetings, thus violating the Open Meeting Law.

Next, we must determine whether the Council's violation was, as the Complainant urges, intentional. See G.L. c. 30A, § 23(c). An intentional violation is an "act or omission by a public body or a member thereof, in knowing violation of [the Open Meeting Law]." 940 CMR 29.02. An intentional violation may be found where the public body acted with deliberate ignorance of the law's requirements or has previously been advised that certain conduct violates the Open Meeting Law. Id.

We have previously found the Council in violation of the Open Meeting Law for failure to timely approve minutes for meetings held between 2016-2018 on three occasions. See OML 2016-118; OML 2018-64; OML 2019-39. Although we have previously warned the Council on several occasions regarding this requirement, we understand that the Council takes its obligation to timely create and approve meeting minutes seriously and has done so diligently for several years. We did not find any instances of the Council's failure to timely approve meeting minutes between July 2018 and September 2022, despite the Complainant having filed over 80 complaints with public bodies in Fall River during that time period. Furthermore, in its response the Council explains that when calculating the next three meetings for purposes of timely approving the June 14 meeting minutes, "the Special Meeting of the City Council, held on June 15, 2022 to discuss the Fiscal Year 2023 Budget, was inadvertently not counted."³ We credit the Council's explanation that it inadvertently miscalculated the number of meetings between June 14 and August 16. For these reasons, we decline to find an intentional violation in this instance.

For the reasons stated above, we find that Council violated the Open Meeting Law by failing to timely approve meeting minutes. We order the Council's immediate and future compliance with the Open Meeting Law, and caution that similar future violations could be considered evidence of intent to violate the Law.

³ The Open Meeting Law and the regulations do not distinguish between "regular" meetings and other types of meetings such as workshops, public hearings, or "special meetings" for purposes of timely approval of minutes. See OML 2017-103 (public body should have created complete minutes for its "workshop" meetings because topics discussed were matters within the public body's jurisdiction); OML 2019-115 (no exception for "single topic" meetings or meetings not "normally scheduled").

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,



Elizabeth Carnes Flynn
Assistant Attorney General
Division of Open Government

cc: Fall River City Council (via e-mail: city_council@fallriverma.org)
Alison M. Bouchard, Fall River City Clerk (via email: City_clerks@fallriverma.org)
Patrick Higgins (via email: [REDACTED])
Fall River Town Clerk (via e-mail: 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

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

Instructions for filing a complaint:

- o Fill out the attached two-page form completely. Sign and date the second page. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
 - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
 - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
 - o Complaints may be filed by mail, by email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address the allegations in the complaint. At the same time, the body must send the Attorney General a copy of the complaint and a copy of the response. The public body may delegate this responsibility to an individual member of the public body, its counsel, or a staff member, but only after the public body has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

Once the public body has responded to the complaint:

- o If you are not satisfied with the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, by email, or by hand, but only once you have waited for 30 days after filing the complaint with the public body. Mail may be sent to: The Division of Open Government, Office of the Attorney General, One Ashburton Place - 20th Floor, Boston, MA 02108. Emails may be sent to: openmeeting@state.ma.us.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by email at openmeeting@state.ma.us.