

# City of Fall River Massachusetts

## Office of the City Clerk

**ALISON M. BOUCHARD**  
CITY CLERK

**INÊS LEITE**  
ASSISTANT CITY CLERK

### **SPECIAL MEETING OF THE CITY COUNCIL**

**MEETING:** Wednesday, January 2, 2019 at 5:45 p.m.  
Council Chamber, One Government Center

**PRESENT:** Councilors Shawn E. Cadime, Joseph D. Camara, Steven A. Camara,  
Bradford L. Kilby, Pam Laliberte-Lebeau, Stephen R. Long,  
Leo O. Pelletier, Cliff Ponte and Derek R. Viveiros

**ABSENT:** None

**IN ATTENDANCE:** None

City Clerk Alison M. Bouchard called the meeting to order at 5:48 p.m. with a moment of silence followed by a salute to the flag and announced that the meeting may be recorded with audio or video and transmitted through any medium.

#### **Agenda:**

*On a motion made by Councilor Stephen R. Long and seconded by Councilor Cliff Ponte, it was unanimously voted to take item #2a and #2b out of order.*

2. Council Orders:
  - a. Election of President for the year 2019

*On a motion made by Councilor Shawn E. Cadime and seconded by Councilor Bradford L. Kilby, it was unanimously voted to adopt the order. On a roll call vote, Councilor Cliff Ponte received 8 votes and Councilor Steven A. Camara received 1 vote and Councilor Cliff Ponte was declared President of the City Council for the year 2019. On a motion made by Councilor Steven A. Camara and seconded by Councilor Pam Laliberte-Lebeau it was unanimously voted to make the vote for President unanimous. Councilor Cliff Ponte was then sworn to his duties by the City Clerk.*

- b. Election of Vice President for the year 2019

*On a motion made by Councilor Steven A. Camara and seconded by Councilor Bradford L. Kilby, it was unanimously voted to adopt the order. On a roll call vote, Councilor Pam Laliberte-Lebeau received 9 votes and was declared Vice President of the City Council for the year 2019. Councilor Pam Laliberte-Lebeau was then sworn to her duties by the City Clerk.*

1. Citizen Input  
None

3. Council Orders relating to the Recall Election:

a. Designating polling places

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Stephen R. Long, it was voted 8 yeas, 1 nay to adopt the order designating the polling places with Councilor Steven A. Camara voting in the negative. Councilor Joseph D. Camara asked if there were any changes to the polling places from last year. The City Clerk stated that there were not any changes from last year. On a further motion made by Councilor Shawn E. Cadime and seconded by Councilor Bradford L. Kilby, it was unanimously voted to add the date of March 12, 2019 to the order. On yet a further motion made by Councilor Steven A. Camara and seconded by Councilor Joseph D. Camara, it was voted 3 yeas, 6 nays to waive the rules to allow Corporation Counsel to answer questions, with Councilors Shawn E. Cadime, Bradford L. Kilby, Pam Laliberte-Lebeau, Stephen R. Long, Leo O. Pelletier and Cliff Ponte voting in the negative and the motion failed to carry. Councilor Shawn E. Cadime stated that he feels there has been enough of publicity on the matter. As a result, the Council understands the process. Councilor Stephen R. Long stated that he believes that the City Council needs to continue moving forward.*

b. Warrant

*At the request of President Cliff Ponte, the City Clerk read the warrant, including the date of the election, which will be March 12, 2019 as well as the dates from the 2019 Political Calendar for the Recall Election. Councilor Stephen R. Long asked the City Clerk if early voting was available for this election. The City Clerk stated that early voting is only available for State Elections. On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Leo O. Pelletier, it was voted 8 yeas, 1 nay to adopt the warrant including the March 12, 2019 election date, with Councilor Steven A. Camara voting in the negative.*

*On a motion made by Councilor Bradford L. Kilby and seconded by Councilor Pam Laliberte-Lebeau, it was unanimously voted to adjourn at 6:11 p.m.*

List of documents and other exhibits used during the meeting:

Agenda packet (attached)  
DVD of meeting

A true copy. Attest:

  
City Clerk

In City Council, January 22, 2019  
Approved



City of Fall River Massachusetts  
Office of the City Clerk

ALISON M. BOUCHARD  
CITY CLERK

ORIGINAL POSTING: DECEMBER 21, 2018 AT 4:02 P.M.

INÈS LEITE  
ASSISTANT CITY CLERK

SPECIAL MEETING OF THE CITY COUNCIL

WEDNESDAY, JANUARY 2, 2019 AT 5:45 PM

CITY COUNCIL CHAMBER, ONE GOVERNMENT CENTER

REVISED AGENDA

1. Citizen Input
2. Council Orders:
  - a. Election of President for the year 2019
  - b. Election of Vice President for the year 2019
3. Council Orders relating to the Recall Election:
  - a. Designating polling places
  - b. Warrant

CITY CLERK  
FALL RIVER, MA

2018 DEC 21 P 5:00

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Inês Leite  
Assistant City Clerk

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

City of Fall River, In City Council

2A

January 2, 2019

ORDERED, that we now proceed, by a vive-voce vote to elect a  
President of the City Council for the year 2019.

City of Fall River, *In City Council*

2B

January 2, 2019

ORDERED, that we now proceed, by a vive-voce vote to elect a  
Vice President of the City Council for the year 2019.

City of Fall River, In City Council

3A

ORDERED, that the following places be and the same are hereby designated as polling places for the Municipal Election to be held on Tuesday, \_\_\_\_\_ The polls to be opened from 7:00 A.M. to 8:00 P.M., and all polling places shall be used.

CITY OF FALL RIVER  
2019 - POLITICAL CALENDAR

RECALL ELECTION

(300 SIGNATURES REQUIRED FOR THE OFFICE OF MAYOR)

<u>DATE</u>	<u>EVENT</u>	
January 4	"NOMINATION PAPERS" are available from the Office of the Board of Election Commissioners for the office of Mayor. Each candidate must file with this office, before obtaining nomination papers, a signed statement containing the person's name and address and the office for which the person intends to be a candidate. Anyone other than a candidate must also present the signed candidates' authorization before securing papers in the candidates' behalf. Each candidate can be issued only eleven (11) Nomination Papers.	53:47
January 21 5:00 PM	Last day and hour for OBTAINING Nomination Papers.	53:9A (2 days, 48 hrs weekday hrs)
January 23 5:00 PM	Last day and hour for SUBMITTING Nomination Papers for Certification with the Election Commissioners.	53:7A (14 days)
February 6 PM	Last day and hour for FILING Certified Nomination Papers with the Election Commissioners.	53:10 (35 days)
February 8 5:00 PM	Last day and hour for FILING withdrawals and/or objections of Nomination Papers with the Election Commissioners.	53:11 55B:7 (2 days)
February 20 8:00 PM	Last day and hour for Registration of Voters for the City Election at Government Center, Room 636.	51:26 (20 days prior to election)
March 4 5:00 P.M.	Last day and hour for ALL Candidates and Political Committees to FILE campaign finance reports with the City Clerk.	55:18B (8 days prior to election)
March 11 NOON	Last day and hour for FILING Absentee ballot applications for the City Election with the Election Office.	54:89
March 12	<b>CITY ELECTION - POLLS OPEN FROM 7AM TO 8 PM</b>	
April 16, 2019 5:00 PM	Last day and hour for ALL Candidates and Political Committees to FILE Campaign Finance reports with the City Clerk.	55:18B

CITY OF FALL RIVER  
2019 – POLITICAL CALENDAR

RECALL ELECTION

(300 SIGNATURES REQUIRED FOR THE OFFICE OF MAYOR)

<u>DATE</u>	<u>EVENT</u>	
January 11	"NOMINATION PAPERS" are available from the Office of the Board of Election Commissioners for the office of Mayor. Each candidate must file with this office, before obtaining nomination papers, a signed statement containing the person's name and address and the office for which the person intends to be a candidate. Anyone other than a candidate must also present the signed candidates' authorization before securing papers in the candidates' behalf. Each candidate can be issued only eleven (11) Nomination Papers.	53:47
January 28 5:00 PM	Last day and hour for OBTAINING Nomination Papers.	53:9A (2 days, 48 hrs weekday hrs)
January 30 5:00 PM	Last day and hour for SUBMITTING Nomination Papers for Certification with the Election Commissioners.	53:7A (14 days)
February 13 5:00 PM	Last day and hour for FILING Certified Nomination Papers with the Election Commissioners.	53:10 (35 days)
February 15 5:00 PM	Last day and hour for FILING withdrawals and/or objections of Nomination Papers with the Election Commissioners.	53:11 55B:7 (2 days)
February 27 8:00 PM	Last day and hour for Registration of Voters for the City Election at Government Center, Room 636.	51:26 (20 days prior to election)
March 11 5:00 P.M.	Last day and hour for ALL Candidates and Political Committees to FILE campaign finance reports with the City Clerk.	55:18B (8 days prior to election)
March 18 NOON	Last day and hour for FILING Absentee ballot applications for the City Election with the Election Office.	54:89
March 19	CITY ELECTION – POLLS OPEN FROM 7AM TO 8 PM	
April 19, 2019 5:00 PM	Last day and hour for ALL Candidates and Political Committees to FILE Campaign Finance reports with the City Clerk.	55:18B



# CITY OF FALL RIVER

3A

## List of Wards, Precincts and Polling Places

<u>Ward</u>	<u>Precinct</u>	<u>Polling Place Name</u>	<u>Polling Place Address</u>
1	A	Alfred Letourneau School	323 Anthony Street
	B	Edward F. Doolan Apartments	Corner of Laurel and Mitchell Drive
	C	Alfred Letourneau School	323 Anthony Street
2	A	Blessed Trinity Church	1340 Plymouth Avenue (Entrance on Winthrop St.)
	B	Blessed Trinity Church	1340 Plymouth Avenue (Entrance on Winthrop St.)
	C	Candeias-Niagara Fire Station	Corner Plymouth Avenue and Warren St
3	A	Mitchell Apartments	2100 South Main Street
	B	Carlton M. Viveiros School	200 Lewis Street
	C	Matthew J. Kuss Middle School	Entrance on Shaw Street
4	A	Frank B. Oliveira Apartments	170 William Street
	B	James O'Brien Apartments	Morgan & Second Streets
	C	The Atrium – Government Center	Entrance on Sullivan Drive
5	A	Candeias-Niagara Fire Station	Corner Plymouth Avenue and Warren Street
	B	Chor Bishop Eid Apartments	33 Quequechan Street
	B1	Chor Bishop Eid Apartments	33 Quequechan Street
6	C	Mary L. Fonseca School	160 Wall Street
	A	Francis J. Barresi Heights	1863 Pleasant Street
	B	George H. Cottell Heights	1685 Pleasant Street
	C1	Renev/Eastwood Fire Station	400 Eastern Avenue
7	A	Union United Methodist Church	600 Highland Avenue
	B	The Atrium – Government Center	Entrance on Sullivan Drive
	C	Raymond D. Holmes Apartments	Entrance on Fulton Street
8	A	Mary L. Fonseca School	160 Wall Street
	B	Cardinal Medeiros Towers	1197 Robeson Street (Entrance on Stanley Street)
	C	Spencer Borden School	Entrance on Chestnut Street
9	A	James Tansey School	711 Ray Street
	B	Calvary Temple Assembly of God	4321 North Main Street
	C	Calvary Temple Assembly of God	4321 North Main Street

City of Fall River, *In City Council*

3B

ORDERED, that in accordance with the provisions of Section 8-5 of the City Charter, the City Clerk be and is hereby authorized and directed to cause notices to be given that meetings of the voters of the city qualified to vote at a Municipal Election, to be held on Tuesday, \_\_\_\_\_ in the several polling places designated by this Council, to cast their votes for the following:

FOR THE RECALL OF JASIEL F. CORREIA II  
AGAINST THE RECALL OF JASIEL F. CORREIA II


and, to cast their votes for the nomination of candidates for the office of:

MAYOR

BE IT FURTHER ORDERED, that the Election Commission be and they are hereby authorized and empowered to cause all necessary rooms, fixtures, apparatus and supplies for the holding of the Municipal Election to be prepared and furnished for the same, the use of same to be charged to the appropriation for elections.

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

RECEIVED

2019 JAN -2 P 3:14

# BB Baker, Braverman & Barbadoro, P.C.

ATTORNEYS AND COUNSELORS AT LAW  
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SUITE 500  
QUINCY, MASSACHUSETTS 02169-0904

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OF COUNSEL  
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JONATHAN BRAVERMAN  
PAUL N. BARBADORO  
GENE J. GUIMOND  
CHRISTOPHER J. SULLIVAN  
LISA BOND  
GARY M. HOGAN\*

LAWRENCE A. DINARDO  
SUSAN M. MOLINARI  
THERESA BARBADORO KOPPANATI\*\*

ELIZABETH A. CARUSO  
KIMBERLY K. KROHA\*\*\*  
THOMAS P. O'NEILL, III  
MICHAEL N. BARBADORO

\*ALSO ADMITTED IN MI  
\*\*ALSO ADMITTED IN NY & CA  
\*\*\*ALSO ADMITTED IN FL

January 2, 2019

Via Email: [city\\_council@fallriverma.org](mailto:city_council@fallriverma.org)

City Council  
1st Floor, Government Center  
One Government Center  
Fall River, MA 02772

RE: Recall Petition of Mayor Jasiel F. Correia II

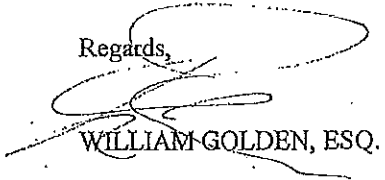
Dear Councilors:

Please be advised that this firm represents Mayor Jasiel F. Correia II in connection with the petition seeking his recall from office under Section 8-5 of the City Charter.

At the City Council hearing on December 18, 2018, I submitted a letter advising that the petition before the council was not valid or actionable. Nonetheless, the council voted to notify the Mayor that he had five days to resign from his duly elected office. As set forth in that letter, dated December 18, the council has no authority to set a date for the recall election. A copy of my letter is attached hereto.

In the interest of assisting the council, ensuring the legality of the recall process, and avoiding the cost and delay of unnecessary court action, all of which would deprive the people of Fall River due process of law, I respectfully request that each member of the council carefully review the attached letter and vote against setting a recall election date in accordance with the City Charter and applicable state law as set forth therein.

Regards,



WILLIAM GOLDEN, ESQ.

cc: Corporation Counsel Joseph Macy  
Attorney Paul J. Machado

**B Baker, Braverman  
& Barbadoro, P.C.**

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OF COUNSEL  
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DOUGLAS C. PURDY (1943-2016)  
DOROTHY O'FLAHERTY NEDELMAN

December 18, 2018

*Via Hand Delivery*

City Council  
1st Floor, Government Center  
One Government Center  
Fall River, MA 02772

RE: Recall Petition of Mayor Jasiel F. Correia II

Dear Councilors:

Please be advised that this firm represents Mayor Jasiel F. Correia II in connection with the petition seeking his recall from office under Section 8-5 of the City Charter. We understand that this recall petition is before the City Council tonight.

It is our opinion that, as a matter of law, the City Council does not have authority to take any action whatsoever with regard to the recall petition currently before the council. The recall petition is not valid because of the duly filed objection by Jasiel F. Correia II, Mayor of the City of Fall River. Applicable law clearly specifies that when such an objection has been filed, a petition referred to the City Council cannot be considered as valid until such time as the objection is ruled on by the Board of Election Commission. Specifically, G.L. c. 43, § 38 governs certifications of signatures transmitted by the city clerk to the city council as follows:

"When such certificate has been so transmitted, said petition shall be deemed to be valid unless written objections are made thereto by a registered voter of the

city within forty-eight hours after such certification by filing such objections with the city council or the school committee, and a copy thereof with the registrars of voters or the board or commission having similar duties. Section seven of chapter fifty-five B shall apply to such objections, and the board of registration of voters shall transmit a copy of its decision to the city council or school committee.” G.L. c. 43, § 38.

Therefore, the City Council does not have a valid recall petition before it and it has no authority to take any action on said petition. The recall petition would only be valid at this time if no objection was filed, but the Mayor timely filed such an objection, a copy of which is attached hereto. Once an objection has been filed, the provisions of G.L. c. 55B, § 7 apply and require the Board of Election Commission to issue a decision within fourteen days of the objection. Because of the timely objection and the period given to the Board to issue a decision, there is no valid petition before the City Council on which it may place a vote.

Additionally, the recall petition before you tonight is not valid for one or more of the reasons set forth below:

- We believe the petition blanks issued by the City Clerk failed to comply with Section 8-5(b) of the Charter;
- the City Clerk’s office lacked authority to issue such certification under Section 8-5 of the City Charter because the Board of Election Commissioners did not certify the signatures as required by Section 8-5(b) of the Charter;
- the Board of Election Commissioners failed to issue a certificate conforming with the requirements of G.L. c. 43, § 38, within five days of the filing of the petition;
- if the Board of Election Commissioners took any action, the action was invalid it purported to carry out its duties without a valid quorum under City Charter;
- if the Board of Election Commissioners took any action, the action as invalid as the board fails to comply with the equal political party membership requirements G.L. c. 51, § 16A;
- the petition failed to include valid authentic signatures from five percent (5%) of registered voters as specifically set forth in the attached objection;
- the sponsors of the petition failed to demonstrate authenticity of the signatures;
- the petition process was tainted with fraud and invalidity; or
- as set forth above, the Mayor submitted a timely written objection to the City Clerk, and the Board of Election Commissioners must issue a decision under G.L. c. 55B, § 7, determining the sufficiency of the certification before the City Council may commence the five-day resignation period triggered by notice to the Mayor under Section 8-5(c) of the Charter.

Recall Petition  
December 18, 2018  
Page 3

Accordingly, we hereby request that the City Council does not take any action on the recall petition at its hearing tonight.

Regards.



WILLIAM GOLDEN, ESQ.

City Clerk  
One Government Center  
Room 227  
Fall River, MA 02772

Dear Madame City Clerk,

The purpose of this correspondence is to object, pursuant to G.L. c. 55B, § 7 and other relevant state and city law, to the certificate of petition for recall issued on December 12, 2018.

Based on information and belief, a substantial number of petition signatures are not valid signatures of registered voters because, on information and belief, they have been forged, duplicated, signed by someone other than the stated signatory without the requisite legal authority to sign on behalf of the stated voter, have an incorrect address, have an illegible signature or address, do not match voter signatures on the voter's signatory cards on file in Fall River, or there was no such registered voter or resident in Fall River at the time of signing. Moreover, there is evidence indicating that proponents of the recall petition were not the persons gathering the signatures. The act providing for recall elections in the City of Fall River, Chapter 292 of the Acts of 1980, requires the city clerk to deliver the petition blanks to the ten voters who are proponents of the petition, indicating that these ten voters were responsible for gathering the signatures themselves. There is no evidence of authenticity and validity of any of the signatures provided by the petitioners or by any other source. The recall petition must have authentic signatures from five percent (5%) of registered voters. When the affidavit required under St. 1980, c. 292 was filed, the stated registered voter count was 50,207, which would require signatures from 2,510 registered voters. The Board of Election Commissioners has not provided an updated number that includes all voters registered at the time of certification.

As a result of such errors and deficiencies, the recall petition does not have the requisite number of registered voter signatures for the petition to be certified as sufficient. At least three (3) days before an evidentiary hearing before the Board of Election Commissioners, we will provide additional evidence supporting the claims herein, including opinions from a handwriting expert.

At such hearing, the proponents of the petition should be obligated to prove the authenticity of the signatures contained thereon. See Stapleton v. Nyhan, 1995 WL 809921, \*5, n.11 (Mass. Sup. Ct. 1995). In Stapleton v. Nyhan, the Superior Court Judge noted that a recall election is considerably different from a typical election where the burden is on the challenger to prove that signatures are invalid. In a typical election scenario, a person challenging voter signatures is attempting to change the outcome expressed by the public will in electing an individual. In a recall election, however, the opposite occurs. As here, the elected official who is challenging the signatures is aligned with the will of the people as expressed in the general election. Fall River only requires five percent (5%) of registered voters to sign a petition to establish a recall election, where the voter turnout is likely to be less than in a general election and could represent something other than the overall will of the people. Under a

recall scenario, the judge recognized that the proper burden would be on the proponent of the recall petition to prove the authenticity of the signatures, not on the elected official.

Additionally, I hereby request that the City Clerk or Elections Commission evaluate the authenticity of the signatures by cross referencing the alleged signatures on the petition with the voter's signatory card, driver's license, or other government document produced in the normal course of business that would contain the signature of the voter.

Regards,

Mayor Jasiel Correia, II

Cc: City Council Chambers  
1st Floor, Government Center  
One Government Center  
Fall River, MA 02772

Board of Elections Commission  
One Government Center  
Fall River, MA 02772