

City of Fall River Massachusetts

Office of the City Clerk

INÊS DA SILVA PAULINO LEITE
CITY CLERK

CHELSEA PACHECO
ASSISTANT CITY CLERK

SPECIAL MEETING OF THE CITY COUNCIL

MEETING: May 19, 2026 at 6:00 p.m.
Council Chamber, One Government Center

PRESENT: President Cliff A. Ponte, presiding;
Councilors Shawn E. Cadime, Joseph D. Camara, Michael G. Canuel,
Paul B. Hart, Christopher M. Peckham, Sr., Linda M. Pereira
and Andrew J. Raposo

ABSENT: Vice President Michelle M. Dionne

IN ATTENDANCE: Alan J. Rumsey, Esq., Corporation Counsel

President Ponte called the meeting to order at 6:00 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.

1. Citizen Input – None

On a motion made by Councilor Raposo and seconded by Councilor Peckham, it was unanimously voted to lift item 2 from the table, with Vice President Dionne absent and not voting.

PRIORITY MATTERS

2. Mayor and request for confirmation of the appointment of Christopher Hathaway as the Director of Community Maintenance

On a motion made by Councilor Cadime and seconded by Councilor Raposo, it was unanimously voted to confirm the appointment, with Vice President Dionne absent and not voting.

On a motion made by Councilor Cadime and seconded by Councilor Raposo, it was unanimously voted to lift item 3 from the table, with Vice President Dionne absent and not voting.

COMMITTEE REPORTS

Committee on Ordinances and Legislation recommending:

Adoption:

3. Resolution – City Council pursues legal action to get a legal determination from a judge on the City Council's authority to confirm reappointments, the City Council's jurisdiction to investigate City departments and the City Council's authority to hire outside agencies to assist with investigations

A motion was made by Councilor Cadime and seconded by Councilor Peckham, to adopt the resolution.

President Ponte stated that a legal opinion on this matter had been submitted earlier in the day at 4:48 p.m. The Council President emphasized the need for Corporation Counsel to provide this type of correspondence in a more timely manner to allow the document to be properly reviewed by the City Council.

On a motion made by Councilor Peckham and seconded by Councilor Canuel, it was unanimously voted to waive the rules to allow Alan J. Rumsey, Esq., Corporation Counsel, to answer questions, with Vice President Dionne absent and not voting.

Councilor Peckham expressed concern that there were no other legal pathways that the City Council could pursue when there is a disagreement with Corporation Counsel's legal opinion on various matters. Attorney Rumsey stated that, as Corporation Counsel of the City of Fall River, it is his duty to provide legal advice to all parties within the municipal offices and explained that this matter has been discussed at length in multiple Committee on Ordinances and Legislation meetings.

Attorney Rumsey read his legal opinion into the record, a copy of which is attached and hereto made a part of these minutes. Corporation Counsel explained that the action listed in the resolution could subject the City Council to civil liability and that the Law Department would not be able to assist anyone found in violation of City code or the City Charter.

Councilor Peckham stated that he had discussed the Fall River Police Department investigation with Attorney Rumsey and that follow-up documents on that matter had not been provided. Corporation Counsel stated that he could not discuss information related to allegedly undercover police officers in a public forum. Councilor Peckham stated that there was a significant lack of transparency regarding the investigation and that he was concerned that the City Councilors were obstructed from obtaining additional information. Councilor Peckham also expressed concern regarding the numerous legal opinions that had been received in opposition to various items in relation to the City Council's jurisdiction in the City code and City Charter.

Attorney Rumsey stated that he provides legal opinions in opposition to various Mayoral actions as well, but that those items are not presented to the City Council, as the Administration follows his legal advice to not violate municipal and state laws in relation to those matters. Corporation Counsel reiterated that he works for all offices within the City of Fall River. Councilor Camara stated that he did not share the same concerns as Councilor Peckham. Councilor Peckham stated that his distrust of Corporation Counsel's legal opinions will continue until all requested documents and evidence are provided in relation to the Fall River Police Department investigation. Attorney Rumsey stated that he would contact the Fall River Police Department to determine if the information requested by Councilor Peckham may be released to the City Councilors, as these documents may not be available to the public.

Councilors Cadime and Peckham made remarks regarding information provided to them by the Acting Chief of Police in relation to an undercover police officer involved in the incident being investigated and agreed that this information is inconsistent with the response from the Administration. Councilor Peckham also stated that there are other operational matters within the City that should be reviewed and that he will be submitting a resolution to the City Council to begin an internal audit of the Department of Community Maintenance.

Councilor Cadime and Attorney Rumsey held a detailed discussion regarding the need of a legal controversy to obtain a judicial opinion in relation to the interpretation of the City code and City Charter. Councilor Cadime stated that the provided legal opinion says there is no current legal controversy, but argued that the City Council's disagreements with Corporation Counsel's legal interpretation of both reappointments of department heads and the Council's ability to conduct investigations would validate the submission of these matters to a court of law.

President Ponte requested clarification regarding the definition of a legal controversy. Attorney Rumsey stated that a controversy would include an illegal act being committed, followed by an arrest or charge of violating the law. Corporation Counsel explained that, once the arrest occurs or a charge is issued, the matter can then be challenged. Attorney Rumsey reiterated that no judge or magistrate will provide a judicial opinion without this process being fulfilled.

Councilor Cadime stated that the Administration is potentially violating the City Charter by not following the language included for City Council approval of appointments and reappointments. Councilor Canuel asked if there is a specific, recent appointment that could be submitted to a judge to challenge the action of the Administration. President Ponte and Councilor Cadime stated that all reappointments of department heads without City Council approval could be submitted as a potential violation of the Charter.

Attorney Rumsey expressed concern that the original discussion on this matter was in relation to the City Council's power to approve contract renewals, but has evolved into the City Council's need to confirm all department head reappointments. Attorney Rumsey reiterated that the City Council may confirm the appointment of a department head, but following that appointment, they become an employee of the City and their tenure is under the jurisdiction of the Mayor.

Councilor Cadime, Councilor Camara and Corporation Counsel discussed the terms placed on the appointment confirmation document and the renewal of contracts. Councilor Cadime read aloud the first sentence of §2-10 of the City Charter, which relates to City Council confirmation of certain appointments, and stated that the City Council's appointment power is equal for City officers, department heads and members of board and commissions.

Councilor Cadime asked why the City Council is asked to confirm reappointments of boards and commissions, but those reappointments for department heads are not submitted by the Administration for a City Council vote. Attorney Rumsey explained that board and commissions are made up of multiple members, who have terms that expire during different years, usually one to three years apart, and do not work full time for the City, unlike City employees. Councilor Cadime stated there may be a conflict of interest in relation to this matter, as Attorney Rumsey is a contracted employee. Attorney Rumsey clarified that his legal opinion applies to all department head employees and also stated that the City Councilors, who all are residents and taxpayers of Fall River, often vote upon tax-related matters for the City, and that is not considered a conflict of interest. Attorney Rumsey stated that he would consider seeking a third, outside legal opinion on this matter. Councilor Cadime stated that the possible legal opinion should be obtained from an attorney who has never worked for the City of Fall River.

Councilor Pereira made remarks regarding former action taken by the City Council to avoid requiring department heads to be re-confirmed following a contract expiration. Councilor Pereira also stated that certain City employees have expressed concern that they may no longer be a City employee if the City Council votes to reject their reappointment.

Councilor Cadime clarified that his intention is to obtain a judicial ruling on the text within the City Charter as it states the City Council has the authority to require reappointment confirmations and that the pursuance of the opinion does not imply that the City Council will act upon this power. Councilor Pereira stated that this type of action will discourage qualified individuals from applying to vacant positions in Fall River and emphasized that the City Councilors are not present in each office every day to determine if department heads are providing satisfactory work, unlike the Mayor.

Councilor Peckham stated that those who serve the City to the best of their ability should not be concerned about the City Council confirming their reappointment and that exercising this legislative power would result in a higher quality of service.

Councilor Raposo stated that there was a lack of performance reviews in the past for department heads, and that the Director of Human Resources is working to remedy that matter. Councilor Raposo supported the City Council's power to confirm all reappointments to ensure a system of checks and balances for all employees.

Councilor Camara expressed concern regarding confirmation of reappointments, as an individual may not be reappointed due to a political conflict with a Councilor. Councilor Camara stated that many outstanding employees do not always agree with the City Council during meetings or discussions, and that requiring a City Council confirmation for their extended employment could negatively affect those who provide the City with exemplary service. Councilor Cadime stated that this matter must be addressed to ensure the adherence to the text within the City Charter.

On a motion made by Councilor Cadime and seconded by Councilor Raposo, it was unanimously voted to table the resolution until the May 26, 2026, Regular Meeting of the City Council, with Vice President Dionne absent and not voting.

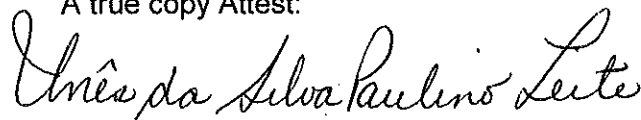
On a motion made by Councilor Raposo and seconded by Councilor Peckham, it was unanimously voted to adjourn at 6:34 p.m., with Vice President Dionne absent and not voting.

List of documents and other exhibits used during the meeting:

Agenda packet (attached)

Legal opinion regarding City Council's resolution to obtain judicial review,
provided by Alan J. Rumsey, Esq., Corporation Counsel

A true copy Attest:


City Clerk

In City Council, June 9, 2026
Approved.



**OFFICE OF THE
CORPORATION COUNSEL**

CITY OF FALL RIVER

RECEIVED

19 May 2026

2026 MAY 19 P 4: 54

Via E-Mail Only

CITY CLERK _____
FALL RIVER, MA

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

Re: Council's Resolution to Obtain Judicial Review

Dear Honorable Members of the Fall River City Council:

I am writing this letter to address the City Council's Resolution to obtain judicial review of the following issues: 1) Renewal of contracts for department heads without council approval; 2) Council's authority to investigate purely executive functions; and 3) Council's authority to retain outside legal counsel. In summary, I respectfully advise this Council to withdraw the proposed legal action for the following reasons.

- I. **The Corporation Counsel is the chief legal officer for the City of Fall River and is the only person authorized to pursue lawsuits involving the rights and interests of the city**

Under Massachusetts law and well-established principles of municipal governance, a city or town must act through a single, unified legal voice. In the City of Fall River, the Corporation Counsel serves as the chief legal officer of the municipal corporation. A key responsibility of the Corporation Counsel is to provide consistent legal representation and advice to all elected officials, board and committee members, and department heads.

Elected officials, board members, and department heads do not possess the authority to independently retain legal counsel. Permitting multiple officials to seek separate legal advice or issue conflicting legal opinions undermines uniform legal policy, may result in unauthorized municipal action, and exposes the city to unnecessary risk. Centralized legal representation through the Corporation Counsel is essential to ensure proper compliance with Massachusetts law and the Charter, to safeguard municipal governance, and to maintain coherent decision-making across all departments.

Elected officials, board members, and department heads do not possess the authority to initiate a lawsuit on behalf of the City of Fall River. Only the Corporation Counsel has the authority to initiate a lawsuit that may involve the rights or interests of the city. See § 2-527 of the Code of the City of Fall River (hereinafter "Code").

One Government Center • Fall River, MA 02722 • TEL (508) 324-2650

Workers' Compensation (508) 324-2540 • FAX (508) 324-2655 • EMAIL lawoffice@fallriverma.org

Equal Justice Under Law

II. Lack of Actual Controversy

Courts and judges do not issue advisory opinions on hypothetical questions or abstract legal disputes. An actual controversy must exist before a court hears an issue.

III. Lack of Contracting Authority

The City Council does not possess the authority to unilaterally enter into a contract on behalf of the city. Any attempt to directly engage outside legal counsel without proper approval could subject the individual council member to personal liability. See § 2-941 of the Code.

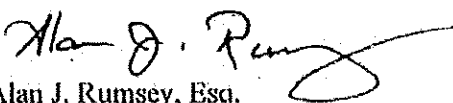
IV. Potential Misuse of Appropriated Funds

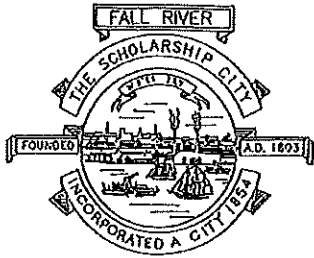
The City Council does not have the authority to expend funds appropriated for audits or other purposes to pay for legal services.

V. No Duty to Defend or Indemnify for Intentional Torts

The City of Fall River has no duty to defend or indemnify municipal officials for intentional torts, willful misconduct, or knowing violations of law, even if such acts are committed within the scope of their employment. In such circumstances, the individual official may be personally responsible for legal defense costs, judgments, or penalties resulting from the knowing violation of law. See G.L. c.258.

Sincerely,


Alan J. Rumsey, Esq.
Corporation Counsel



City of Fall River Massachusetts

Office of the City Clerk

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2026 MAY 15 A 10: 29

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CITY CLERK

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FALL RIVER, MA

CHELSEA PACHECO
ASSISTANT CITY CLERK

SPECIAL MEETING OF THE CITY COUNCIL

MAY 19, 2026, AT 6:00 P.M.

CITY COUNCIL CHAMBER, ONE GOVERNMENT CENTER

AGENDA

1. Citizen Input

PRIORITY MATTERS

2. *Mayor and request for confirmation of the appointment of Christopher Hathaway as the Director of Community Maintenance (objected to 5-12-2026)

COMMITTEE REPORTS

Committee on Ordinances and Legislation recommending:

Adoption:

3. *Resolution – City Council pursues legal action to get a legal determination from a judge on the City Council's authority to confirm reappointments, the City Council's jurisdiction to investigate City departments and the City Council's authority to hire outside agencies to assist with investigations (objected to 5-12-2026)

Inês da Silva Paulino Leite
City Clerk

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

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2



City of Fall River
Massachusetts
Office of the Mayor

PAUL E. COOGAN
Mayor

RECEIVED

2026 MAY -7 P 2:30

CITY CLERK
FALL RIVER, MA

May 5, 2026

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

Honorable Members of the City Council:

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

Name: Christopher Hathaway
Address: 259 High Hill Rd.
Swansea, MA 02777
To: Director of Community Maintenance
Effective Date: June 1, 2026
Annual salary: \$140,000.00

Sincerely,

Paul E. Coogan
Mayor

CITY OF FALL RIVER
IN CITY COUNCIL

MAY 12 2026

*Objected to & laid on the
table in accordance with the
Charter*

CITY OF FALL RIVER

To the City Council

Councillors:

The Committee on Ordinances and Legislation, at a meeting held on May 6, 2026, voted unanimously to recommend that the accompanying resolution be adopted, with Councilor Pereira absent and not voting.



Assistant Clerk of Committees

City of Fall River, In City Council

(Committee on Ordinances and Legislation)

WHEREAS, the Committee on Ordinances and Legislation has met with Corporation Counsel and received and discussed his legal opinions and differing legal interpretations regarding Section 2-7(a) of the City Charter, related to City Council access to information, and Section 2-10 of the City Charter, related to City Council confirmation of certain appointments, now therefore

BE IT RESOLVED, that the City Council pursues legal action to receive a legal determination from a judge on the City Council's authority to confirm reappointments, jurisdiction to investigate City departments and authority to hire outside agencies to assist with investigations.

(Filed 5-6-2026)

CITY OF FALL RIVER
IN CITY COUNCIL

MAY 12 2026

Objected to on a laid on
the table in accordance
with the Charter