

City of Fall River Massachusetts

Office of the City Clerk

ALISON M. BOUCHARD
CITY CLERK

INÊS LEITE
ASSISTANT CITY CLERK

REGULAR MEETING OF THE CITY COUNCIL

MEETING: December 3, 2024, at 7:00 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: None

President Camara called the meeting to order at 7:02 p.m. with a moment of silence followed by a salute to the flag and announced that the meeting may be recorded with audio or video and transmitted through any medium.

PRIORITY MATTERS

1. Mayor and confirmation of the appointment of Nicholas S. Silva to Chief of Emergency Medical Services

On a motion made by Councilor Raposo and seconded by Councilor Sampson, it was unanimously voted to confirm the appointment.

2. Mayor and the confirmation of the following re-appointments to the Library Board of Trustees:

- a. Kathryn Clarkin

On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted to confirm the appointment.

- b. Sharon L. Quinn

On a motion made by Councilor Raposo and seconded by Councilor Sampson, it was unanimously voted to confirm the appointment.

- c. Fran E. Rachlin

On a motion made by Councilor Raposo and seconded by Councilor Sampson, it was unanimously voted to confirm the appointment.

3. Mayor and order accepting a donation in the amount of \$70,000 from the Josephine M. Turner Trust to be used for general maintenance and repair of memorials and structures at Oak Grove Cemetery

On a motion made by Councilor Raposo and seconded by Vice President Pereira, it was unanimously voted to adopt the order.

Approved, December 4, 2024

Paul E. Coogan, Mayor

PRIORITY COMMUNICATIONS

4. Traffic Commission recommending amendments to the traffic ordinances

On a motion made by Councilor Raposo and seconded by Councilor Hart, it was unanimously voted to refer the recommendations to the Committee on Ordinances and Legislation.

COMMITTEE REPORTS – None

ORDINANCES – None

RESOLUTIONS

5. The City Council urges the approval of the 310 CMR 9.21 Variance request sought by 52 Ferry, LLC, from the Massachusetts Department of Environmental Protection and endorses the utilization of 52 Ferry Street as the proposed variance satisfies environmental, recreation and economic interests that benefit the City of Fall River

Councilor Cadime provided a summary of the admirable work that 52 Ferry, LLC, has done in the City over the years and stated that this resolution would help support their business growth by developing a new marina in Fall River. On a motion made by Councilor Raposo and seconded by Councilor Sampson, it was unanimously voted to adopt the resolution.

CITATIONS

6. Elsie Audette – 100th Birthday

On a motion made by Councilor Raposo and seconded by Vice President Pereira, it was unanimously voted to adopt the citation.

ORDERS – HEARINGS

Pole Location

7. Massachusetts Electric Company d/b/a National Grid Installation of two (2) new solely owned poles and one (1) anchor on High Street

On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted to adopt the order.

Approved, December 4, 2024

Paul E. Coogan, Mayor

Curb Removals

8. Sacred Heart Lofts, LLC, 30 Adams Street, Milton MA – Removal of 2.4 feet on Seabury Street and removal of 22 feet on Pine Street for a total opening of 44 feet at 160 Linden Street (corner lot)

On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted to adopt the order.

Approved, December 4, 2024

Paul E. Coogan, Mayor

9. Jeffrey Furtado, 118 Primrose Street – Removal of 7 feet for a total opening of 26 feet at 118 Primrose Street

On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted to adopt the order.

Approved, December 4, 2024

Paul E. Coogan, Mayor

ORDERS – MISCELLANEOUS

10. Police Chief's report on licenses
2025 Taxicab Drivers

Dustin J. Cabeceiras

Darril Carlsen

Robert R. DiGuiseppe

David R. LaFrance

Judy Palani

Natasha Smith

Ronald J. Souza

On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted to adopt the order.

11. Auto Repair Shop License Renewal

Luis Pimentel d/b/a L and S Auto, Inc., 1138 Pleasant Street

The City Clerk stated that the Police Chief recommended disapproval of this license renewal.

On a motion made by Councilor Raposo and seconded by Vice President Pereira, it was unanimously voted to refer the matter to the Committee on Regulations.

COMMUNICATIONS – INVITATIONS – PETITIONS

12. Claims

On a motion made by Councilor Raposo and seconded by Councilor Sampson, it was unanimously voted to refer the claims to Corporation Counsel.

13. Communication regarding lack of emergency exit easement at 239 Bedford Street

The City Clerk stated that a communication was received from the representatives of 239 Bedford Street on December 2, 2024, stating that the matter was being addressed by the property owners, and that Council involvement was not necessary at this time. On a motion made by Councilor Raposo and seconded by Councilor Kilby, it was unanimously voted that the communication be granted leave to withdraw.

14. Drainlayer License

Dixon Inc.

On a motion made by Councilor Raposo and seconded by Councilor Sampson, it was unanimously voted to approve the drainlayer application.

Approved, December 4, 2024

Paul E. Coogan, Mayor

15. Zoning Board of Appeals Minutes

October 17, 2024

On a motion made by Councilor Raposo and seconded by President Camara, it was unanimously voted that the minutes be accepted and placed on file.

City Council Minutes

16. Committee on Finance – November 19, 2024

On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted that the minutes be approved.

17. Regular Meeting of the City Council – November 19, 2024

On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted that the minutes be approved.

BULLETINS – NEWSLETTERS – NOTICES

18. Department of Environmental Protection – Notice of responsibility of diesel fuel release, Win Waste Innovations of Northern New England, in the vicinity of 14 Rodman Street on November 11, 2024

Councilor Cadime asked if this matter had been forwarded to the Board of Health and the City Clerk confirmed that they received a copy of this notice. On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted that the notice be accepted and placed on file.

19. GEI Consultants, Inc., on behalf of Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty – Notice of a Release Abatement Measure Plan for 120 Charles Street, a former manufactured gas plant site

On a motion made by Councilor Raposo and seconded by President Camara, it was unanimously voted that the notice be accepted and placed on file.

ITEMS FILED AFTER THE AGENDA DEADLINE **CITY COUNCIL MEETING DATE: DECEMBER 3, 2024**

PRIORITY MATTERS

3a. Mayor and order accepting a donation in the amount of \$500 for the Fall River Public Library from Climate Democracy

On a motion made by Councilor Raposo and seconded by President Camara, it was unanimously voted that the order be adopted.

Approved, December 4, 2024

Paul E. Coogan, Mayor

RESOLUTIONS

5a. The Administration proceed with the issuance of a Request for Proposals regarding the sale of the Bank Street Armory if the currently anticipated bid for the property does not occur.

On a motion made by Councilor Ponte and seconded by Councilor Raposo, it was unanimously voted to adopt the resolution.

On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted to adjourn at 7:11 p.m.

List of documents and other exhibits used during the meeting:

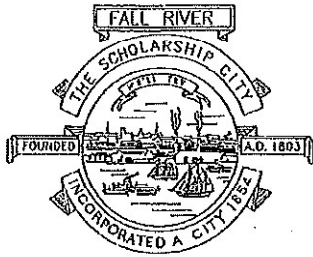
Agenda packet (attached)

A true copy. Attest:



City Clerk

In City Council, December 17, 2024
Approved.



City of Fall River Massachusetts
Office of the City Clerk

RECEIVED

2024 NOV 27 A 11:58

ALISON M. BOUCHARD
CITY CLERK

CITY CLERK
FALL RIVER, MA

INÊS LEITE
ASSISTANT CITY CLERK

MEETINGS SCHEDULED
CITY COUNCIL CHAMBER, ONE GOVERNMENT CENTER
DECEMBER 3, 2024
AGENDA

5:55 P.M. PUBLIC HEARINGS

Pole Location

1. Massachusetts Electric Company d/b/a National Grid for two new solely owned pole locations and one solely owned anchor as follows:

High Street

Two (2) new pole locations
One (1) new anchor

Install two new solely owned poles and one solely owned anchor on High Street between Franklin Street and Pine Street. Proposed Pole 6 will be installed approximately 100 feet northerly of existing Pole 5 on High Street. Proposed Pole 7 will be installed 100 feet northerly of proposed Pole 6 on High Street. The proposed anchor will be installed on the northerly side of proposed Pole 7.

In accordance with Plan No. 31051185

Curb Removals

2. Sacred Heart Lofts, LLC, 30 Adams Street, Milton, MA, 02186, for the removal of curbing as follows:

	Existing Opening	Curbing to be Removed	Curbing to be Added	Combined Opening Proposed After Alteration
<u>160 Linden Street</u>				
Seabury Street	19.6'	2.4'	0'	22'
Pine Street	0'	22'	0'	22'
Total for 160 Linden Street:				44'

The existing parcel is currently serviced by a 19.6-foot curb opening on Seabury Street. The applicant proposes to extend that opening by an additional 2.4 feet for a total of 22 feet. Additionally, the applicant proposes to create a new 22-foot opening on Pine Street. The total opening for the location will be 44 feet.

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

3. Jeffrey Furtado, 118 Primrose Street, for the removal of curbing as follows:

	Existing Opening	Curbing to be Removed	Curbing to be Added	Combined Opening Proposed After Alteration
118 Primrose Street	19'	7'	0'	26'

The existing parcel is currently serviced by a 19-foot curb opening. The applicant proposes to extend that existing opening by an additional 7 feet. The total opening for the location will be 26 feet.

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

1. Citizen Input
2. *Resolution – Convene quarterly with the Administration and a representative from the Historical Commission regarding funding plans for the renovation of the Bank Street Armory (adopted 8-13-2024)

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 Nicholas S. Silva to Chief of Emergency Medical Services
2. *Mayor and the confirmation of the following re-appointments to the Library Board of Trustees:
 - a. Kathryn Clarkin
 - b. Sharon L. Quinn
 - c. Fran E. Rachlin
3. *Mayor and order accepting a donation in the amount of \$70,000 from the Josephine M. Turner Trust to be used for general maintenance and repair of memorials and structures at Oak Grove Cemetery

PRIORITY COMMUNICATIONS

4. *Traffic Commission recommending amendments to the traffic ordinances

COMMITTEE REPORTS – None

ORDINANCES – None

RESOLUTIONS

5. *The City Council urges the approval of the 310 CMR 9.21 Variance request sought by 52 Ferry, LLC, from the Massachusetts Department of Environmental Protection and endorses the utilization of 52 Ferry Street as the proposed variance satisfies environmental, recreation and economic interests that benefit the City of Fall River

CITATIONS

6. Elsie Audette – 100th Birthday

ORDERS – HEARINGS

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Curb Removals

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9. Jeffrey Furtado, 118 Primrose Street – Removal of 7 feet for a total opening of 26 feet at 118 Primrose Street

ORDERS – MISCELLANEOUS

10. **Police Chief's report on licenses**

2025 Taxicab Drivers

Dustin J. Cabecelas
David R. LaFrance
Ronald J. Souza

Darril Carlsen
Judy Palani

Robert R. DiGuiseppe
Natasha Smith

11. **Auto Repair Shop License Renewal**

Luis Pimentel d/b/a L and S Auto, Inc., 1138 Pleasant Street

COMMUNICATIONS – INVITATIONS – PETITIONS

12. *Claims
13. *Communication regarding lack of emergency exit easement at 239 Bedford Street

14. **Drainlayer License**
Dixon Inc.

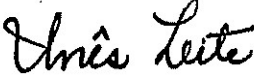
15. **Zoning Board of Appeals Minutes**
October 17, 2024

City Council Minutes

16. *Committee on Finance – November 19, 2024
17. *Regular Meeting of the City Council – November 19, 2024

BULLETINS – NEWSLETTERS – NOTICES

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19. *GEI Consultants, Inc., on behalf of Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty – Notice of a Release Abatement Measure Plan for 120 Charles Street, a former manufactured gas plant site


Assistant City Clerk

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

ITEMS FILED AFTER THE AGENDA DEADLINE
CITY COUNCIL MEETING DATE: DECEMBER 3, 2024

PRIORITY MATTERS

- 3a. *Mayor and order accepting a donation in the amount of \$500 for the Fall River Public Library from Climate Democracy



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

RECEIVED

2024 NOV 22 P 2:02

PAUL E. COOGAN
Mayor

CITY CLERK _____
FALL RIVER, MA

November 21, 2024

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

Honorable Members of the City Council:

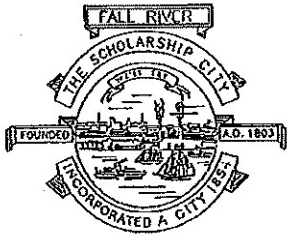
I hereby request the confirmation by the City Council for the following appointment:

Name: Nicholas S. Silva
Address: 714 Sanford Rd. Westport, MA 02790
To: Chief of Emergency Medical Services
Effective Date: January 3, 2025
Annual salary: \$172,000.00

Sincerely,

Paul E. Coogan
Mayor

2a



City of Fall River
Massachusetts
Office of the Mayor

PAUL E. COOGAN
Mayor

November 22, 2024

RECEIVED

2024 NOV 22 P 2:02

CITY CLERK
FALL RIVER, MA

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

Dear Council President and Members of the Honorable Council:

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

Name: Kathryn Clarkin

Address 479 Harvard Street
Fall River, MA 02720

Position: Library Board of Trustees

Expiration: December 5, 2025

Sincerely,

Paul E. Coogan
Mayor

PC/amos



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

PAUL E. COOGAN
Mayor

November 22, 2024

RECEIVED

2024 NOV 22 P 2:02

CITY CLERK
FALL RIVER, MA

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

Dear Council President and Members of the Honorable Council:

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

Name: Sharon L. Quinn

Address 375 Eldridge Street
Fall River, MA 02720

Position: Library Board of Trustees

Expiration: December 5, 2025

Sincerely,

Paul E. Coogan
Mayor

PC/amos

2c



City of Fall River
Massachusetts
Office of the Mayor

RECEIVED

NOV 22 P 2:02

PAUL E. COOGAN
Mayor

CITY CLERK
FALL RIVER, MA

November 22, 2024

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

Dear Council President and Members of the Honorable Council:

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

Name: Fran E. Rachlin

Address 1170 Wilson Road, Unit # 5
Fall River, MA 02720

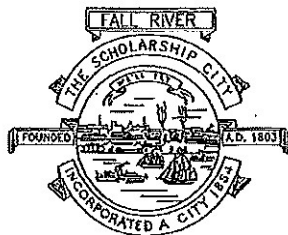
Position: Library Board of Trustees

Expiration: December 5, 2025

Sincerely,

Paul E. Coogan
Mayor

PC/amos



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

PAUL E. COOGAN
Mayor

RECEIVED

2024 NOV 22 P 2:02

CITY CLERK
FALL RIVER, MA

November 21, 2024

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

Dear Council President and Members of the Honorable Council,

Attached please find the correspondence from Kathryn S. Windsor, Esq., representing Bank of America, N.A., trustee for the Josephine M. Turner Trust. The Trustee is requested that the City Council approve and accept the distribution of funds from this Trust to the City of Fall River for the purposes described herein. The total value of the distribution is approximately \$70,000.00.

We respectfully ask for your every consideration with this request. Thank you.

Sincerely,

Paul E. Coogan
Mayor

PC/amos

City of Fall River, In City Council

ORDERED, that under the provisions of M.G.L. Chapter 44, Section 53A, the Mayor is hereby authorized to accept a gift donation from Bank of America, as Trustee of the Josephine M. Turner Trust, in the amount of approximately \$70,000, to be used for general uses and purposes at the Oak Grove Cemetery, to include the maintenance and repair of headstones, mausoleums and other structures.

AP&S ADLER POLLOCK & SHEEHAN P.C.

100 Westminster Street, 16th Floor
Providence, RI 02903
Telephone 401.274.7200
Fax 401.751.0604 / 351.4607

apslaw.com

November 20, 2024

VIA EMAIL (corporatecounsel@fallriverma.gov)

Mayor Paul E. Coogan
City of Fall River
One Government Center
Fall River, MA 02722

RE: Bank of America/Termination of the Josephine M. Turner Trust and Distribution of Trust Funds

Dear Mayor Coogan,

This office represents Bank of America, N.A. ("Trustee") in its capacity as the trustee under agreement with Josephine M. Turner dated October 14, 1931 (the "Trust"). The Trust was created with the sole purpose of maintaining a family mausoleum in Oak Grove Cemetery, Fall River, Massachusetts (the "Cemetery").

The Trustee decided to terminate the Trust because according to the Trustee, to continue the Trust would be impractical and wasteful or impair the Trust's administration. Simply put, the net income of the Trust was insufficient to accomplish the purpose of the Trust. The Trustee also wishes to distribute the remaining trust property to the City of Fall River to be used for the general uses and purposes of the Cemetery. Such uses include the maintenance and repair of headstones, mausoleums and other structures located in the Cemetery.

The City of Fall River consented to the Trustee's actions described above in a Letter of Consent submitted to the Providence County Superior Court (the "Court") dated July 12, 2018, and attached hereto as Exhibit A.

The Trustee submitted to the Court a Verified Petition for Trust Deviation, Termination and Distribution of Trust Property on June 29, 2019, Case Number PM-2019-7112 (the "Petition") to ratify, approve and confirm the Trustee's plan of distribution and termination of the Trust. The

APQS ADLER POLLOCK & SHEEHAN P.C.

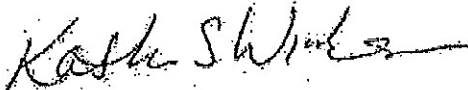
Page 2

Petition is attached hereto as Exhibit B. The Court approved the Petition by the Order dated August 1, 2019, a copy of which is attached hereto as Exhibit C.

The Trustee requests that the Fall River City Council formally approve and accept the distribution of funds from the Trust to the City of Fall River for the purposes described herein. The total value of the distribution is approximately \$70,000.

We request that this matter be included on the agenda at the next scheduled meeting of the Fall River City Council. Thank you for your consideration. Please contact me with any questions or if any additional information is needed. My direct telephone number is (401) 427-6138.

Sincerely,



KATHRYN S. WINDSOR, ESQ.

Kwindsor@apslaw.com

Cc: Timothy W. Quinn, Senior Vice President,
Bank of America Private Bank (via email w/o enclosures)

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EXHIBIT A

Fall River Letter of Consent

City of Fall River
Office of the Corporation Counsel

JASIEL F. CORREIA II
Mayor



JOSEPH I. MACY
Corporation Counsel

GARY P. HOWAYECK
Assistant Corporation Counsel

JESSICA A. ADLER
Assistant Corporation Counsel

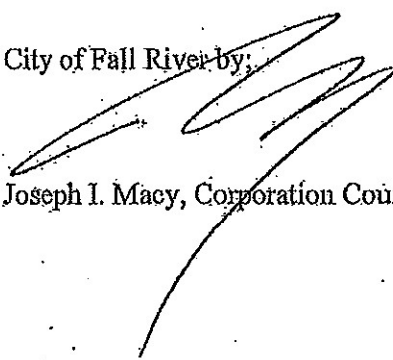
July 12, 2018

Kristin N. Matsko, Esq.
Orson and Brusini Ltd.
144 Wayland Avenue
Providence, RI 02906

Dear Attorney Matsko:

Enclosed please find the City of Fall River's Consent.

City of Fall River by:


Joseph I. Macy, Corporation Counsel

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

IN RE: BANK OF AMERICA N.A.,
SUCCESSOR IN INTEREST TO RHODE
ISLAND HOSPITAL TRUST COMPANY
UNDER AGREEMENT WITH JOSEPHINE M.
TURNER DATED OCTOBER 14, 1931

HEARING DATE: July ____, 2018
(Formal & Special Calendar)

C.A. No. PM-2018-_____

CONSENT (City of Fall River)

The undersigned, authorized representative of the City of Fall River,
Commonwealth of Massachusetts, which owns and operates the Oak Grove Cemetery, a public
cemetery, hereby acknowledges receipt of the Verified Petition for Trust Deviation, Termination
and Distribution of Trust Property (the "Petition") regarding the trust created by Josephine M.
Turner under agreement dated October 14, 1931 (the "Trust"), as presented by Bank of America,
N.A., Trustee of the Trust.

The City of Fall River:

- (i) Consents to the invasion of trust principal on the terms and conditions outlined in the Petition; and
- (ii) Consents to the distribution and termination of the Trust as outlined in the Petition.

CITY OF FALL RIVER

DATED: July 12, 2018

By:

Title:

Joseph F. Macey
Corporation Counsel

Page 4

EXHIBIT B

Trustee Petition to the Court

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

IN RE: BANK OF AMERICA N.A.,
SUCCESSOR IN INTEREST TO RHODE
ISLAND HOSPITAL TRUST COMPANY
UNDER AGREEMENT WITH JOSEPHINE M.
TURNER DATED OCTOBER 14, 1931

HEARING DATE: July 11, 2019
(Formal & Special Calendar)

C.A. No. PP-2019-_____

**VERIFIED PETITION FOR TRUST DEVIATION,
TERMINATION AND DISTRIBUTION OF TRUST PROPERTY**

Bank of America, N.A., successor in interest to Rhode Island Hospital Trust Company ("Petitioner"), in its capacity as Trustee ("Trustee") under agreement with Josephine M. Turner (the "Settlor") dated October 14, 1931 (the "Trust"), respectfully requests that this Honorable Court (i) enter a decree, under the doctrine of equitable deviation, allowing Petitioner to invade trust principal, and (ii) ratify, approve and confirm the Petitioner's plan of distribution and termination of the Trust pursuant to R.I. Gen. Laws § 18-9-16.

Parties

1. Petitioner is a national banking association organized under the laws of the United States of America having its principal place of business in the City of Charlotte, County of Mecklenburg, State of North Carolina and conducting business in the State of Rhode Island. Petitioner is the Trustee of the Trust. Petitioner (or its predecessors) has served as Trustee of the Trust since its inception in 1931 and is the current sole Trustee of the Trust.

2. The City of Fall River, with a principal business address of One Government Center, Fall River, Massachusetts, owns and operates Oak Grove Cemetery, a public cemetery.

3. While not named as a party herein, the Office of the Attorney General of Rhode Island has an interest in this matter in that it concerns a charitable trust and is therefore being provided with notice of this proceeding and an opportunity to be heard pursuant to R.I. Gen. Laws § 18-9-5.

Jurisdiction and Venue

4. This Court has jurisdiction over this matter pursuant to R.I. Gen. Laws § 8-2-13. The Settlor designated a Rhode Island trust company as Trustee of the Trust, and the Trust, for income tax purposes, is a Rhode Island "resident trust" pursuant to R.I. Gen. Laws § 44-30-5(c)(3).

5. Venue is proper pursuant to R.I. Gen. Laws § 9-4-3 because Petitioner maintains a place of business in Providence County.

Statement of Facts

6. The Trust was established by Josephine M. Turner on October 14, 1931. A copy of the Trust is attached hereto as Exhibit A.

7. Paragraph 1 of the Trust names Rhode Island Hospital Trust Company as Trustee of the Trust.

8. Bank of America, N.A. is the successor in interest to Rhode Island Hospital Trust Company. A secretary's certificate evidencing the corporate succession from Rhode Island Hospital Trust Company to Bank of America, N.A. is attached hereto as Exhibit B.

9. The Settlor created the Trust for the sole purpose of maintaining the Mausoleum, as hereafter defined, and funded the Trust with \$25,000.

10. The Settlor's spouse, Wendell E. Turner, a director and treasurer of the Massasoit Manufacturing Company in Fall River, Massachusetts, died on December 2, 1917. He

was interred in the Wendell E. Turner Mausoleum (the "Mausoleum") in Oak Grove Cemetery, Fall River, Massachusetts.

11. Oak Grove Cemetery was established in 1855 and had been in existence for at least 75 years at the time that the Trust was created. A photograph of the Mausoleum from the website maintained by The Friends of Oak Grove Cemetery, available at <https://oakgrovecemetery.files.wordpress.com/2008/02/turner.jpg> (February 14, 2008), is attached hereto as Exhibit C.

12. Paragraph 1 of the Trust provides that net income shall be applied as the Trustee shall deem necessary or advisable for the maintenance of the Mausoleum and, at the discretion of the Trustee, any unused income could be expended for public charitable purposes in Fall River, Massachusetts. The Trust is silent as to principal.

13. The Settlor died on May 3, 1933. A copy of the Settlor's death certificate is attached hereto as Exhibit D.

14. The Trust became irrevocable upon death of the Settlor, as provided in paragraph 3 of the Trust.

15. The Trust assets currently consist of an investment portfolio with an approximate value of \$84,155.50. A recent Account Summary is attached hereto as Exhibit E.

16. Petitioner has made regular distributions from the Trust since 1931 for the maintenance of the Mausoleum, including, but not limited to, repairs, landscaping, cleaning, and casualty insurance.

17. Over the past 85 years, the cost of maintaining the Mausoleum has increased to such an extent that the net income of the Trust is currently insufficient to accomplish

the purpose of the Trust. For example, in 2016, the net income of the Trust was \$1,175.35 and the cost for insurance alone was \$1,355.

18. Petitioner requests authority to deviate from the terms of the Trust to allow invasion of trust principal for the payment of certain necessary expenses. In addition to the insurance coverage, the Mausoleum presently requires the following repairs: power washing, tree removal, and maintenance. These repairs are estimated to cost approximately \$4,900-\$6,700. There also will be certain costs associated with this Petition incurred by the Trust, including attorneys' fees, filing fees, and related costs.

19. After making the repairs and paying the expenses discussed above, Petitioner requests approval to terminate the Trust and distribute the remaining trust property to the City of Fall River to be used for the general uses and purposes of Oak Grove Cemetery (which can include maintenance and repair of headstones, mausoleums and other structures located in the Cemetery), because continuing the Trust on its existing terms would be impractical and wasteful or impair the Trust's administration. The City of Fall River has provided its written consent to the proposed plan of distribution. See Exhibit F.

COUNT I - Invasion of Trust Principal

20. Petitioner incorporates the averments contained in paragraphs 1-19 as if fully set forth herein.

21. Trusts to maintain burial sites date back at least to the mid-1800s. See Richard C. Ausness, Non-Charitable Purpose Trusts: Past, Present and Future, 51 Real Property, Trust and Estate L.J., 321, 331 – 332 (2016), citing James T. Brennan, Bequests for the Erection, Care, and Maintenance of Graves, Monuments, and Mausoleums, 9 Washburn L.J. 23, 25-30 (1969). Originally, courts held burial site trusts invalid because they lacked a human beneficiary

(“*cestui que trust*”) and lasted for an infinite duration thereby violating trust law doctrine.

Brennan, *supra* at 24.

22. To address these problems, some states, including Rhode Island, enacted specific legislation declaring burial site trusts to be “charitable trusts” and therefore not subject to the rule against perpetuities. See R.I. Gen. Laws § 19-3.1-5; see also George Gleason Bogert, et al., The Law of Trusts and Trustees § 377 (2018).

23. R.I. Gen. Laws § 19-3.1-5 provides that:

Every financial institution subject to this chapter shall have the power to accept and hold property given by will or otherwise transferred to it in trust for the care and preservation of burial grounds which have been in existence for at least fifty (50) years before the creation of the trust and of the stones, monuments, fences, and other structures thereon, and to administer and apply the trust property in accordance with the terms of the trust; and shall likewise have the power to accept and hold property given to it by will or otherwise transferred to it for the purposes listed in this section and administer the property in accordance with the terms of the trust. Executors may transfer to any financial institution any legacy given for any of the purposes listed in this section and the transfer shall be a valid discharge for the legacy. *Trusts for any of the purposes listed in this section are hereby declared to be charitable trusts.* (Emphasis added.)

24. A court of equity has inherent powers to modify the terms of a trust in certain situations in order to preserve the trust and carry out the settlor’s intent. David T. Riedel, Wills, Trusts and Gifts, Rhode Island Practice, 479 (Vol. 3, 1998), citing Soar v. N.F.L. Players’ Ass’n, 65 F.R.D. 531 (D.R.I. 1975).

25. Courts have used the doctrine of equitable deviation to modify the administrative provisions of irrevocable trusts due to unforeseen circumstances where strict compliance would otherwise defeat or substantially impair the accomplishment of the purposes of the trust. See Ausness, supra, 369 – 370; Davison v. Deslauriers, 109 R.I. 541 (1972); Prince

v. Lynch, 2008 WL 4761484 (R.I. Super.), citing The Restatement (Third) Trusts § 66, cmt. b (2003); Buchanan v. Bank of America, N.A., 2011 WL 3705352 (R.I. Super.), citing The Restatement (Third) of Trust, § 66 cmts. a-b; Riedel, supra at 483. Deviation is used to ensure the accomplishment of the trust purposes as intended by the settlor. Riedel, supra at 489.

26. It is clear from the trust instrument that the Settlor's intention in creating the Trust was to maintain the Mausoleum in perpetuity, however the income generated by the Trust is insufficient to properly maintain it.

27. In 1931, the Settlor clearly did not foresee, nor could have foreseen, that income from the original trust funding of \$25,000 would be insufficient for the perpetual care and maintenance of the Mausoleum.

28. Therefore, the Trustee seeks approval from the Court to invade trust principal in order to pay for power washing, tree removal, maintenance, and insurance expenses until termination of the Trust, as well as the costs associated with this Petition incurred by the Trust, including attorneys' fees, filing fees, and related costs.

**COUNT II - Confirmation and Approval of the Plan of Distribution
and Early Termination of the Trust**

29. Petitioner incorporates the averments contained in paragraphs 1-28 as if fully set forth herein.

30. Continuing the Trust on its existing terms is not practical, causes waste to the Trust and otherwise impairs the Trust's purpose. After making the necessary repairs and expenditures discussed above, Petitioner seeks to terminate the Trust, liquidate the remaining assets of the Trust and distribute such assets to the City of Fall River to be added to its existing perpetual care account for the general uses and purposes of Oak Grove Cemetery.

31. Rhode Island law provides for the termination of certain charitable trusts with the consent of the attorney general where the total assets are less than \$200,000. R.I. Gen. Laws § 18-9-16. Here, current approximate balance of the Trust is \$89,465.

32. Additionally, Rhode Island law provides that corporate trustee may, in its sole and absolute discretion, terminate any inter vivos or testamentary trust where the current market value of the trust principal is less than \$200,000. R.I. Gen. Laws § 18-4-24. In such case, the trustee shall distribute the trust principal and income, less fees and expenses, to one or more beneficiaries and remaindermen in the proportions and amounts that the trustee in its discretion determines to be appropriate under the circumstances; the recipient shall release the trustee from liability upon distribution of the amounts held. Id.

33. The City of Fall River operates a perpetual care account totaling approximately \$1.7 Million for the maintenance and upkeep of Oak Grove Cemetery. An online newspaper article referencing the perpetual care account attached hereto as Exhibit G: Allard, D., Counselor Pereira seeks to move cemetery responsibilities away from parks board, Fall River Herald News (March 5, 2017), available at: <http://mansfield.wickedlocal.com/news/20170305/councilor-pereira-seeks-to-move-cemetery-responsibilities-away-from-parks-board> [Accessed May 30, 2018].

34. The Trustee requests an order instructing it to deliver the net assets of the Trust – after payment of the aforementioned insurance expenses and costs of upkeep and repair, legal fees and costs associated with this Petition and usual and customary termination fees to the Trustee – to the City of Fall River, and upon receipt of such distribution and release of the Trustee, the City of Fall River shall add such sum to its existing perpetual care account for the general uses and purposes of Oak Grove Cemetery.

WHEREFORE, Petitioner, Bank of America, N.A., as Trustee of the trust created by Josephine M. Turner under agreement dated October 14, 1931, respectfully requests that this Honorable Court enter an Order as follows:

- A. Petitioner is the proper party to bring this action;
- B. Peter F. Kilmartin, as Attorney General of the State of Rhode Island, having an interest in this matter pursuant to R.I. Gen. Laws §§ 18-9-5 and 18-9-16, has received appropriate notice of this proceeding;
- C. The Trustee's invasion of trust principal for the expenditures described in this Petition, including costs and expenses of this proceeding, is approved;
- D. The Trustee's plan of distribution and early termination of the Trust pursuant to R.I. Gen. Laws §§ 18-9-16 and 18-4-24 is approved; and
- E. Any other relief as this Honorable Court deems just.

BANK OF AMERICA N.A., SUCCESSOR
IN INTEREST TO RHODE ISLAND
HOSPITAL TRUST COMPANY UNDER
AGREEMENT WITH JOSEPHINE M.
TURNER DATED OCTOBER 14, 1931,
AS TRUSTEE

By Its Attorneys,

ORSON AND BRUSINI, LTD.

/s/ Kristin N. Matsko
Kristin N. Matsko (#7761)
144 Wayland Avenue
Providence, RI 02906
(401) 223-2100
(401) 861-3103 FAX
kmatsko@orsonandbrusini.com

DATED: June 28, 2019

VERIFICATION

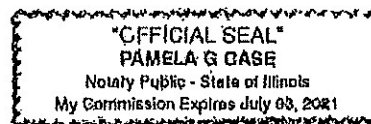
I, Debra L. Grand, in my capacity as Representative for Bank of America, N.A., hereby state under the penalty of perjury that I have read the foregoing Verified Petition and know the contents thereof, and the same are true to my knowledge based upon my review of the books and records of the Trust kept in the ordinary course of business, except as to those matters stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

Debra L. Grand
Debra L. Grand, Representative for
Bank of America, N.A., Petitioner

STATE OF ILLINOIS
COUNTY OF Cook

On this 7th day of June, 2018, before me, the undersigned notary public, personally appeared Debra L. Grand, as Representative for Bank of America, N.A., personally known to the notary to be the person whose name is signed on the preceding or attached document, and acknowledged to the notary that such person signed it voluntarily in said capacity.

Pamela G. Case
Notary Public
My Commission Expires: 7-3-21



APQS ADLER POLLOCK & SHEEHAN P.C.

Page 5

EXHIBIT C

Court Order

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PROVIDENCE, SC. SUPERIOR COURT

IN RE: BANK OF AMERICA N.A.,
SUCCESSOR IN INTEREST TO RHODE
ISLAND HOSPITAL TRUST COMPANY,
UNDER AGREEMENT WITH JOSEPHINE M.
TURNER DATED OCTOBER 14, 1931

C.A. No. PM-2019-7112

ORDER

This matter came before the Court, the Honorable Melissa A. Long presiding, on August 1, 2019, on the Verified Petition for Trust Deviation, Termination and Distribution of Trust Property of Bank of America, N.A., successor in interest to Rhode Island Hospital Trust Company ("Petitioner"), in its capacity as Trustee under agreement with Josephine M. Turner dated October 14, 1931 (the "Trust"). After hearing thereon and consideration thereof, it is hereby:

ORDERED, ADJUDGED AND DECREED:

1. That Bank of America, N.A. is the proper party to bring this action;
2. That notice of this matter has been properly effectuated.
3. That the Trustee's invasion of trust principal for expenses described in the Petition, including power washing, tree removal, maintenance, insurance expenses, costs and expenses of this proceeding, and the Trustee's usual and customary termination fees, is approved.
4. That, after payment of the aforementioned expenses and receipt of the release of the Trustee, the Trustee shall terminate the Trust pursuant to R.I. Gen. Laws §§ 18-9-16 and 18-4-24 and deliver the net assets of the Trust to the City of Fall River to be added to its existing perpetual care account for the general uses and purposes of Oak Grove Cemetery.

ENTER:

PER ORDER:

Melissa Long
Associate Justice

Y. J. Symon
Clerk

Dep 1

DATED: Aug. 1, 2019

Presented by:

/s/ Kristin N. Matsko
Kristin N. Matsko (#7761)
ORSON AND BRUSINI, LTD.
144 Wayland Avenue
Providence, RI 02906
(401) 223-2100
(401) 861-3103 FAX
kmatsko@orsonandbrusini.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that, on the _____ day of _____, 2019, a copy of the foregoing ORDER was sent by prepaid first class mail addressed to the following:

City of Fall River
Attn: Corporations Counsel
One Government Center
Fall River, MA 02722

State of Rhode Island
Office of the Attorney General
150 South Main Street
Providence, RI 02903

/s/ Kristin N. Matsko



**CITY OF FALL RIVER
MASSACHUSETTS**

Traffic & Parking Division

Paul E. Coogan
Mayor

Stephanie MacArthur
*Director of Traffic and
Parking*

November 19, 2024

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

CITY OF FALL RIVER, MA

2024 NOV 20 A 11:02

RECEIVED

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Monday November 18, 2024 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

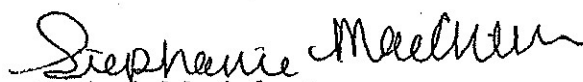
That Chapter 70 of Revised Ordinances be amended in the following Section:

Article: 70
Section: 241 **Stop Sign**

By inserting in proper alphabetical order the following.

<u>Name of Street</u>	<u>Direction of Travel</u>	<u>At Intersection of</u>
Emerson Street	West Bound	Emerson Street at North Underwood Street.

Very truly yours,


Stephanie MacArthur
Director of Traffic and Parking



**CITY OF FALL RIVER
MASSACHUSETTS**

Traffic & Parking Division

Paul E. Coogan
Mayor

Stephanie MacArthur
Director of Traffic & Parking

November 19, 2024

The Honorable City Council
City of Fall River
One Government Center
Fall River, MA 02720

RECEIVED
2024 NOV 19 A 10:46
CITY CLERK
FALL RIVER, MA

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Monday, November 18, 2024 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

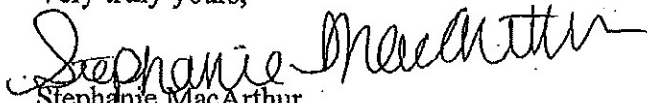
Article: 70
Section: 281 One Way Street

By inserting in proper alphabetical order the following:

INSERT

Name of Street	Direction of Travel	Location
Eddy Street	South	From Sevigny Street to Bedford Street

Very truly yours,


Stephanie MacArthur
Director of Traffic & Parking



**CITY OF FALL RIVER
MASSACHUSETTS**

Traffic & Parking Division

Paul E. Coogan
Mayor

RECEIVED

2024 NOV 20 A 10:56

Stephanie MacArthur
Director of Traffic

November 20, 2024

CITY CLERK
FALL RIVER, MA

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

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Monday, November 18, 2024 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

Article: 70
Section: 374

Thirty (30) Minute Parking Only

**7:00 a.m. to 8:30 p.m.
Monday through Sunday**

By inserting in proper alphabetical order the following.

INSERT

Name of Street	Side	Location	Hours/Days
Pleasant Street	North	Starting at a point 22 feet East of Barlow Street for A distance of 20 feet East.	7:00 a.m. – 8:30 p.m. Monday through Sunday

Very truly yours,

Stephanie MacArthur
Director of Traffic



**CITY OF FALL RIVER
MASSACHUSETTS**

Traffic & Parking Division

Paul E. Coogan
Mayor

RECEIVED

NOV 20 A 10:56

Stephanie MacArthur
Director of Traffic

November 20, 2024

CITY CLERK
FALL RIVER, MA

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

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Monday, November 18, 2024 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

Article: 70
Section: 374

Thirty (30) Minute Parking Only

**7:00 a.m. to 8:30 p.m.
Monday through Sunday**

By inserting in proper alphabetical order the following.

INSERT

Name of Street	Side	Location	Hours/Days
Pleasant Street	North	Starting at a point 22 feet East of Barlow Street for A distance of 20 feet East.	7:00 a.m. – 8:30 p.m. Monday through Sunday

Very truly yours,

Stephanie MacArthur
Director of Traffic

CITY OF FALL RIVER
MASSACHUSETTS



Traffic & Parking Division

RECEIVED

2024 NOV 20 A 10:56

Paul E. Coogan
Mayor

CITY CLERK _____
FALL RIVER, MA

Stephanie MacArthur
Director of Traffic & Parking

November 20, 2024

The Honorable City Council
City of Fall River
One Government Center
Fall River, MA 02720

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Monday, November 18, 2024 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

Article: 70

Section: 387

Handicapped Parking

By inserting in proper alphabetical order the following:

INSERT

Name of Street
Brow Street

Side
North

Location
Starting at a point 143 feet East of Fifth St
For a distance of 20 feet East.

Very truly yours,


Stephanie MacArthur
Director of Traffic & Parking

CITY OF FALL RIVER
MASSACHUSETTS

Traffic & Parking Division



Paul E. Coogan
Mayor

November 20, 2024

RECEIVED

2024 NOV 20 AM 10:56

CITY CLERK
FALL RIVER, MA

Stephanie MacArthur
Director of Traffic & Parking

The Honorable City Council
City of Fall River
One Government Center
Fall River, MA 02720

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Monday, November 18, 2024 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

Article: 70
Section: 387

HANDICAP PARKING

By inserting in proper alphabetical order the following:

INSERT

Name of Street	Side	Location
Irving Street	West	Starting at a point 71 feet North of Pleasant St For a distance of 20 feet North.

Very truly yours,


Stephanie MacArthur
Director of Traffic & Parking

CITY OF FALL RIVER
MASSACHUSETTS

Traffic & Parking Division



RECEIVED

24 NOV 20 A 10 56

Paul E. Coogan
Mayor

Stephanie MacArthur
Director of Traffic & Parking
CITY CLERK
FALL RIVER, MA

November 20, 2024

The Honorable City Council
City of Fall River
One Government Center
Fall River, MA 02720

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Monday, November 18, 2024 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

Article: 70
Section: 387 Handicapped Parking

By inserting in proper alphabetical order the following:

INSERT

Name of Street	Side	Location
Lester Street	West	Starting at a point 177 feet South of Hicks St For a distance of 20 feet South.

Very truly yours,

Stephanie MacArthur
Director of Traffic & Parking

CITY OF FALL RIVER
MASSACHUSETTS

Traffic & Parking Division



RECEIVED

NOV 20 A 10 56

Paul E. Coogan
Mayor

CITY CLERK
FALL RIVER, MA

Stephanie MacArthur
Director of Traffic & Parking

November 20, 2024

The Honorable City Council
City of Fall River
One Government Center
Fall River, MA 02720

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Monday, November 18, 2024 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

Article: 70
Section: 387 Handicapped Parking

By inserting in proper alphabetical order the following:

INSERT

Name of Street	Side	Location
Montgomery Street	North	Starting at a point 158 feet East of Crescent St For a distance of 20 feet East.

Very truly yours,


Stephanie MacArthur
Director of Traffic & Parking

CITY OF FALL RIVER
MASSACHUSETTS

Traffic & Parking Division



RECEIVED

NOV 20 AM 10:56

Paul E. Coogan
Mayor

CITY CLERK
FALL RIVER, MA

Stephanie MacArthur
Director of Traffic & Parking

November 20, 2024

The Honorable City Council
City of Fall River
One Government Center
Fall River, MA 02720

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Monday, November 18, 2024 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

Article: 70

Section: 387

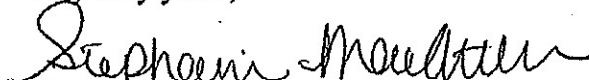
Handicapped Parking

By inserting in proper alphabetical order the following:

INSERT

Name of Street	Side	Location
N. Underwood Street	West	Starting at a point 206 feet North of Weetamoe St For a distance of 20 feet North.

Very truly yours,


Stephanie MacArthur
Director of Traffic & Parking

4

**CITY OF FALL RIVER
MASSACHUSETTS**

Traffic & Parking Division



RECEIVED

NOV 20 A 10:56

Paul E. Coogan
Mayor

CITY CLERK _____
FALL RIVER, MA

Stephanie MacArthur
Director of Traffic & Parking

November 20, 2024

The Honorable City Council
City of Fall River
One Government Center
Fall River, MA 02720

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Monday, November 18, 2024 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

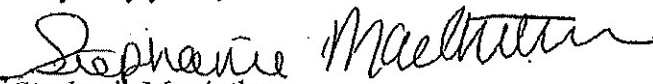
Article: 70
Section: 387 Handicapped Parking

By inserting in proper alphabetical order the following:

INSERT

Name of Street	Side	Location
Oliver Street	North	Starting at a point 151 feet East of Broadway St For a distance of 20 feet East.

Very truly yours,


Stephanie MacArthur
Director of Traffic & Parking

4

CITY OF FALL RIVER
MASSACHUSETTS

Traffic & Parking Division



Paul E. Coogan
Mayor

RECEIVED

NOV 20 A 10:55

Stephanie MacArthur
Director of Traffic & Parking

CITY CLERK
FALL RIVER, MA

November 20, 2024

The Honorable City Council
City of Fall River
One Government Center
Fall River, MA 02720

Honorable Council Members:

At a meeting of the Traffic Board Commission held on Monday, November 18, 2024 the following request met all the guidelines, requirements and was approved by the Traffic Commission Board.

That Chapter 70 of Revised Ordinances be amended in the following Section:

Article: 70
Section: 387

HANDICAP PARKING

By inserting in proper alphabetical order the following:

INSERT

Name of Street	Side	Location
Weybossett Street	South	Starting at a point 33 feet West of Pleasant St For a distance of 20 feet West.

Very truly yours,

Stephanie MacArthur
Director of Traffic & Parking

JS

RESOLUTION
SUPPORTING A REQUEST TO APPROVE A
310 CMR 9.21 VARIANCE TO
THE MOUNT HOPE DESIGNATED PORT AREA
FOR THE ESTABLISHMENT OF
THE PIER 52 MARINA AND BOATYARD
52 FERRY STREET, FALL RIVER, MASSACHUSETTS

WHEREAS, the Massachusetts Department of Environmental Protection has the legal authority to grant a variance waving the requirements of its waterway regulations, including any policies that favor industrial uses in a Designated Port Area, and

WHEREAS, 310 CMR 9.21 the Massachusetts Department of Environmental Protection may grant such a variance based upon written findings, following a hearing, when a proposed project could not otherwise proceed, it includes mitigation measures and the variance is required to accommodate an overriding municipal, regional, state or federal interest, and

WHEREAS, securing of a 310 CMR 9.21 Variance from the Massachusetts Department of Environmental Protection will enable 52 Ferry, LLC to continue to operate its 12 month boat storage, repair and refurbishing facility, restaurant, brewery, office and distribution use and increase additional private sector investment, job creation and public access to the waterfront through the construction a 90+ slip marina, a public fishing pier, increased transient dockage opportunities along the Taunton River, boat rental opportunities to the general public and enhanced water taxi transportation, and

WHEREAS, the existing and proposed activities will reflect water dependent industrial use, water dependent non-industrial uses and other ancillary uses which will increase jobs, tourism, water based recreation, public access to the waterfront and significantly contribute to the tax base of the City, and

WHEREAS, the City of Fall River, after extensive public input, had previously rezoned this section of the waterfront for Waterfront and Transit Oriented Development so as to allow the development for recreational marinas, restaurants, breweries, artist lofts, residences and hotels as a matter of right, now therefore

BE IT HEREBY RESOLVED that the City Council of Fall River urges approval of the 310 CMR 9.21 Variance request sought by 52 Ferry, LLC from the Massachusetts Department of Environmental Protection and endorses the utilization of 52 Ferry Street for water dependent industrial related uses, non-water dependent marine related uses, other ancillary uses and makes a determination that the proposed variance satisfies environmental, recreation and economic interests that are in the best interest of the City of Fall River.



RECEIVED

2024 NOV 15 A 10:07

City of Fall River
Notice of Claim

CITY CLERK 24-89
FALL RIVER, MA

1. Claimant's name: Phillip Paz
2. Claimant's complete address: 433 Oak Grove Ave F.R.
3. Telephone number: Home: 774.301.2521 Work: _____
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):
auto accident
5. Date and time of accident: 11/4/24 Amount of damages claimed: \$ _____
6. Exact location of the incident: (include as much detail as possible):
433 Oak Grove Ave F.R.
7. Circumstances of the incident: (attach additional pages if necessary):
(Police Report) A city truck hit my
parked car and broke the mirror
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company: ☐ Yes ☒ No

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

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

Date: 11/8/24

Claimant's signature: Phillip Paz

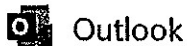
WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

Return this from to : City Clerk, 2nd Fl., One Government Center, Fall River, MA 02722

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

For official use only:

Copies forwarded to: ☒ City Clerk ☒ Law ☒ City Council ☐ City Administrator ☒ DCM Date: 11/15/24



Outlook

[EXTERNAL] Emergency easement

From Dennis Borges <dennisborges1980@gmail.com>

Date Fri 11/22/2024 6:28 AM

To City Council <City_Council@fallriverma.gov>

Cc Majid Dudha <majid_dudha@yahoo.com>

RECEIVED

2024 NOV 22 A 8 00

CITY CLERK
FALL RIVER, MA

CAUTION: This email originated from a sender outside of the City of Fall River mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe. If you are unsure of the validity of the email, please contact IT.

Dear Committee Members,

Good evening, I hope this email finds you well. I am writing on behalf of the Islamic Society of South Coast, Massachusetts (ICSCM) located at 239 Bedford St. For the past four years, our organization has been dedicated to serving the Full River community, and we look forward to continuing our efforts for many more years to come.

Recently, we have encountered a challenging situation with a neighboring property that has fenced off our second emergency egress. Our building is positioned directly adjacent to the neighbor's parking lot, where the second emergency exit is situated. Due to the fencing obstructing our access, we are in need of an easement to utilize the neighbor's parking lot for emergency purposes only.

We kindly request permission for the removal of the existing fence at our expense, in order to replace it with a proper fence that will allow us to access the emergency exit safely. We would be grateful if this matter could be discussed at the next committee meeting, so that we can work towards a resolution together.

Thank you for all the hard work that you do, and I am eager for the opportunity to address the committee in person. Your consideration of our request is greatly appreciated.

Thank you for your attention to this matter.

Warm regards,

Dennis

ICSCM Property Manager Sent from my iPhone

COMMITTEE ON FINANCE

MEETING: November 19, 2024, at 6:00 p.m.
Council Chamber, One Government Center

PRESENT: President Joseph D. Camara, presiding;
Councilors 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 Schachne, City Treasurer/Collector
Kevin Sbardella, Executive Director, Fall River Housing Authority
Attorney Michael Sousa, Counsel, Fall River Housing Authority
Michael Dion, Executive Director/Chief Financial Officer of the
Community Development Agency

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

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

On a motion made by Councilor Dionne and seconded by Councilor Sampson, it was unanimously voted to waive the rules to allow the first six residents who signed up for Citizen Input to come to the table together, and to also allow a total of fifteen minutes for the group of six individuals to speak.

1. Citizen Input
 - Alan Oliver, 904 Middle Street – Watuppa Heights
 - Joe Carvalho, 302 Milliken Boulevard, Apt. 405 – Watuppa Heights
 - Chelsie Caisse, No address listed – Housing/Watuppa Heights
 - Nuno Sousa, No address listed – Housing/Watuppa Heights
 - Reverend James Hornsby, 260 Lake Avenue – Watuppa Heights
 - Janice Heppe, 76 Buffinton Avenue – Watuppa Heights
 - Ken Rego, 2000 Bay Street – Civil Rights/Housing
 - Richard Branco, No address listed – Article 3
 - John Sylvia, 51 Ada Street – Roads/Watuppa Heights

2. Resolution – Committee on Finance convene with the Administration, the Director of Financial Services, and the City Treasurer/Collector to discuss the online real estate tax payment program, resources for taxpayers who use this program and future plans to streamline online payments

Ian Schachne, Treasurer/Collector, provided a detailed summary of the InvoiceCloud software, including the different forms of payment that taxpayers can use, including online checks, credit cards, PayPal, Vennio, and Apple Pay. Bridget Almon, Director of Financial Services, clarified that any fees charged for payment processing are paid to the software company, not the City of Fall River. Mr. Schachne stated that the City pays about \$100.00 per month for this software and, since its implementation, the software has collected over \$300 million in tax payments. Mr. Schachne explained that many neighboring communities utilize InvoiceCloud software, including New Bedford and Somerset. The Treasurer/Collector also explained that all staff members in the Collectors' Division are trained to help taxpayers navigate the software over the phone and have created videos with step-by-step instructions for online services, which are posted on the City's website. Mr. Schachne emphasized that payments can still be accepted in person at Government Center and at BayCoast Bank locations.

Councillor Raposo and the Treasurer/Collector discussed the default auto-pay payment date and that it will automatically set to a day of the month that is congruent with the City's financial software, MUNIS. Mr. Schachne clarified that the payment date, the payment amount and the payment type can be personalized by the taxpayer. The Director of Financial Services explained that the online portal will not always show the payment as being completed on the day the taxpayer submits the payment, due to the processing timeline, but the taxpayer will receive a digital receipt and the City's software will reflect the remittance immediately, so individuals may always call the Collector's Office to confirm the invoice was paid.

3. Resolution – Committee on Finance convene with representatives from the Fall River Housing Authority and a representative from the Administration to discuss options regarding potential use of the vacant Watuppa Heights property, and to discuss the legal challenges that the property presents

Kevin Sbardella, Executive Director, Fall River Housing Authority (FRHA), stated that a summary of events related to the Watuppa Heights project was distributed to all City Councillors, a copy of which is attached hereto and made a part of these minutes. Attorney Michael Sousa, Counsel for FRHA, explained that all legal documents related to the ongoing lawsuit are public and available online, and that the summary provided details regarding the matter that can be shared while litigation is ongoing.

Councillor Ponte requested additional information regarding the timeline of this matter over the past two decades. Attorney Sousa explained that, following the home rule petition that was passed in 2002, there was a Memorandum of Agreement (MOA), presented by the Lambert Administration in 2007, to resolve litigation matters between a group of tenants and the City. Attorney Sousa also stated that, while the land is listed as being owned by the FRHA, they cannot develop it without a home rule petition, which must be approved by the Mayor and City Council. Attorney Sousa emphasized that there is a detailed legal process that is ongoing, a lack of sufficient funding to redevelop this land and a strict timeline of deadlines for additional funding that have affected the property since 2002. Mr. Sbardella confirmed that there are many factors that have impacted the progress of any construction projects on the property.

Councilor Ponte emphasized that an increase of units in Fall River's housing stock would positively affect the community and requested a general timeline for the future development of the previous Watuppa Heights housing project. Attorney Sousa stated that, as the lawsuit is currently in the discovery phase, the FRHA cannot comment on the timeline. Councilor Ponte expressed concern regarding the lack of information regarding the future of this parcel, as Fall River works hard to help those who struggle to find housing. Councilor Ponte also stated that there is a resolution, regarding the creation of an Affordable Housing Trust, that remains tabled in the Committee on Ordinances and Legislation, which he hopes will be readdressed as soon as possible to assist with the challenges that residents face when looking to reside in Fall River.

Attorney Sousa emphasized that the FRHA is not trying to obstruct the public from important matters, however they are legally limited to the information that can be shared with the public due to the ongoing litigation. Mr. Sbardella agreed with Councilor Ponte that there are many organizations and individuals who are working to assist with the ongoing housing crisis, and that the FRHA currently has 99.8% of their properties occupied.

Councilor Cadime requested clarification regarding the Housing Improvement Plan (HIP) that was presented after the MOA was agreed upon in 2007, as well as the then-anticipated Request for Proposals (RFP), which did not occur after demolition of the housing project due to an economic downturn and costs of construction. Michael Dion, Executive Director/Chief Financial Officer of the Community Development Agency (CDA), stated that an RFP did occur after the demolition of the complex and President Camara stated that there were no proposals received when the RFP was issued. Mr. Dion also stated that the CDA replicated 230 housing units after the demolition of Watuppa Heights, which had required a replication of 75 housing units. Councilor Cadime and Attorney Sousa held a brief discussion regarding funding commitments and restrictions on funding, implemented by the United States Department of Housing and Urban Development (HUD). Councilor Cadime stated if a developer could submit a proposal in 2024, they would make significant revenue from developing this land and the project would benefit the community. Attorney Sousa clarified that the Home Rule petition from the early days of the project specifies that the developer needs to be a non-profit organization and will be required to construct 26 single-family homes and must provide various types of units based on income eligibility. President Camara explained that these challenges have affected six different Mayors and Administration since the project began.

Mr. Dion explained that the CDA has submitted two applications for Community Preservation Act funding for developments on Pleasant Street and is constantly working to develop additional housing. Councilor Cadime emphasized that the City Council is open to any development proposals for additional housing and stated that other sources of funding, such as American Rescue Plan Act funds, should have been allocated to address this matter. Vice President Pereira asked when the ongoing lawsuit will be addressed in court again and Attorney Sousa stated that the next court date is estimated to be in January 2025.

President Camara stated that Fall River works diligently to provide additional, affordable housing and provides a much higher percentage of these units than the surrounding municipalities. Councilor Kilby stated that he understands the frustration with this matter as housing has become a much larger challenge since the original plan for this property was proposed in 2001.

Councilor Ponte and Mr. Sbardella discussed the creation of a future RFP for this property, and Mr. Sbardella stated that without an agreement on the number of required units, or the requirements of said units, an RFP cannot be posted as that information would be necessary for developers to submit accurate proposals. Mr. Sbardella also explained that the FRHA would need the approval of the Executive Office of Housing and Livable Communities to pursue any RFP process. Councilor Ponte stated that this resolution should be tabled for future discussion, given the dire need for additional housing.

On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted to table the resolution.

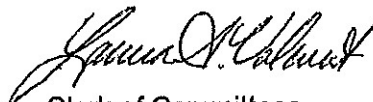
On a motion made by Councilor Raposo and seconded by Vice President Pereira, it was unanimously voted to adjourn at 7:24 p.m.

List of documents and other exhibits used during the meeting:

Agenda packet (attached)

Massachusetts Law Reform Institute's Review of the Fall River's housing policies, provided by Janice Heppe, 76 Buffinton Avenue, during Citizen Input

Watuppa Heights Site Plan History/Updated, provided by Attorney Michael Sousa, Counsel, Fall River Housing Authority


Clerk of Committees

FALL RIVER CITY COUNCIL

RECEIVED

WATUPPA HEIGHTS SITE PLAN HISTORY / UPDATE

2024 NOV 19 A 8 06

- In 2000-2001, a home rule bill was introduced in the legislature and was eventually passed as Chapter 235 of the Acts of 2002. Briefly, that legislation looked to renovate the property by allowing the demolition of the then existing buildings, the relocation of those tenants living at the development, and the rebuilding of the site with 26 single family homes on site and an additional 74 units of replication housing elsewhere in the City.
- In 2007 a group of tenants and others filed a federal court civil rights action challenging the plan of redevelopment. After lengthy negotiations, the parties entered into a *Memorandum of Agreement* to resolve the litigation. In general terms, under the MOA, the FRHA would relocate the tenants and develop a Housing Improvement Plan (HIP).
- The MOA noted that given economic changes since 2002, the original vision for renovation was unlikely to be financially viable. The parties looked to create a Housing Improvement Plan (HIP) that provided for an increase in the number of units on site, as well as the type of units on site.
- The HIP was prepared with the assistance of the DHCD, and state funds were released to fund the demolition of the buildings on site once the relocation efforts were completed.
- Demolition of the Watuppa Heights Development occurred in 2014.
- The next step in the process was for the FRHA to develop a request for proposals (RFP) to implement the HIP. However, at that time the City asserted that it was financially unable to provide the funding noted in the MOA (for a variety of reasons).
- The FRHA had prepared the RFP; however, that request to move forward on the RFP was tabled by the FRHA Board of Commissioners considering the lack of funding to actually go forward with the project.
- The matter then sat silent until the current lawsuit was filed in 2020;
- The pending suit alleges that the City and the FRHA have breached their contractual duties under the MOA by not providing the funding required and by not going forward with the RFP process and the rebuilding of the site.

- The FRHA has been in communication with the City, with DHCD, and with the Plaintiffs to attempt to understand what the Plaintiffs are seeking for a financially viable redevelopment of the site which would also meet the needs and goals of the state, the City and the Authority, as well as discovering what assets might be available to undertake this redevelopment.
- The City and State are supportive generally of undertaking some sort of redevelopment of the Watuppa Heights site but have not committed to any level of funding or to any specific plan.
- At this time, the parties are continuing to have initial discussions on the possible resolution of the lawsuit. It is currently unclear what the resolution might look like and from where the funds for such resolution will be found.
- The FRHA does not have the funds to finance the proposed project as defined in the Home Rule Petition passed by the Massachusetts State Legislature in 2002;
- The FRHA is currently compiling discovery at the request of the Plaintiff;

REGULAR MEETING OF THE CITY COUNCIL

MEETING: November 19, 2024, at 7:00 p.m.
Council Chamber, One Government Center

PRESENT: President Joseph D. Camara, presiding;
Councilors 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: None

President Camara called the meeting to order at 7:24 p.m. with a moment of silence followed by a salute to the flag and announced that the meeting may be recorded with audio or video and transmitted through any medium.

PRIORITY MATTERS

1. Mayor and request for confirmation of the appointment of Fellisha Desmarais to the position of Library Administrator
On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted to confirm the appointment.

2. Mayor and request for confirmation of the appointment of William A. Flanagan, Esq., to the Greater Fall River Vocational School District Committee
On a motion made by Vice President Pereira and seconded by Councilor Raposo, it was unanimously voted to confirm the appointment.

PRIORITY COMMUNICATIONS

3. Traffic Commission recommending amendments to the traffic ordinances
On a motion made by Councilor Raposo and seconded by Vice President Pereira, it was unanimously voted to refer the recommendations to the Committee on Ordinances and Legislation.

COMMITTEE REPORTS – None

ORDINANCES – None

RESOLUTIONS – None

CITATIONS

4. Nasiff Fruit Company – 100th anniversary of serving the community
On a motion made by Councilor Raposo and seconded by Councilor Sampson, it was unanimously voted to adopt the citation.

ORDERS – HEARINGS – None**ORDERS – MISCELLANEOUS**

5. Police Chief's report on licenses:

2024

Taxicab Drivers

Malinda Costa Robert Collins Jr.

Private Livery Vehicles

Otalieras LLC – One (1) Vehicle

2025

Taxicab Drivers

Ashrae Kamal Antar	Douglas J. Carvalho	Kenneth G. Chase Jr.
Luis Costa	Richard Hutchei	Louis Levesque
Jeff C. Middleton		

Private Livery Drivers

Otis Alliemeke

Private Livery Vehicles

Otalieras LLC – One (1) Vehicle

On a motion made by Councilor Raposo and seconded by President Camara, it was unanimously voted to adopt the order.

6. Auto Body Shop License Renewal:

Shaun Silva, Globe Auto Inc. d/b/a Globe Auto, 165 Tucker Street

On a motion made by Councilor Raposo and seconded by Councilor Sampson, it was unanimously voted to adopt the order.

Approved, November 20, 2024

Paul E. Coogan, Mayor

7. Auto Repair Shop License Renewals:

Igor Zinovyev d/b/a Boston Auto Fair, LLC, 2147 Pleasant Street

Shaun Silva, Globe Auto Inc. d/b/a Globe Auto, 165 Tucker Street

George Moreira d/b/a George's Auto Tech, LLC, 581 Pleasant Street

Joseph Bilan d/b/a BP Auto Service Repair Inc., 1091 South Main Street

On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted to adopt the order.

Approved, November 20, 2024

Paul E. Coogan, Mayor

COMMUNICATIONS – INVITATIONS – PETITIONS

8. Claims

On a motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted to refer the claims to Corporation Counsel.

On a further motion made by Councilor Raposo and seconded by Councilor Ponte, it was unanimously voted to take items 9 through 11 together.

City Council Minutes

9. Public Hearings – November 5, 2024

10. Committee on Finance – November 5, 2024

11. Regular Meeting of the City Council – November 5, 2024

On a motion made by Councilor Dionne and seconded by Councilor Sampson, it was unanimously voted to approve the minutes.

BULLETINS – NEWSLETTERS – NOTICES

12. Notices of filing and public hearings received from the Mass. Department of Public Utilities for approval of Three-Year Energy Efficiency Plan Petitions for 2025 through 2027 filed by:

- a. Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty
- b. Boston Gas Company d/b/a National Grid
- c. Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid

On a motion made by Councilor Raposo and seconded by President Camara, it was unanimously voted that the notices be accepted and placed on file.

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

- Fourth Street, West, 41 feet north of Wade Street
- Bay Street, East, 133 feet north of Pokross Street
- Hamlet Street, North, 159 feet east of East Main Street
- Mason Street, East, 328 feet south of Pleasant Street
- Sprague Street, North, 257 feet east of Bay Street
- Swindells Street, East, 34 feet north of Pleasant Street
- Winter Street, West, 108 feet north of Franklin Street
- Woodman Street, North, 69 feet west of Bay Street

On a motion made by Councilor Raposo and seconded by Councilor Hart, it was voted 9 yeas to adopt the emergency preamble. On a further motion made by Councilor Raposo and seconded by Councilor Hart, it was unanimously voted that the proposed ordinance be passed through first reading, passed through second reading, passed to be enrolled and passed to be ordained. Approved, November 20, 2024

Paul E. Coogan, Mayor

On a motion made by Councilor Raposo and seconded by Councilor Sampson, it was unanimously voted to adjourn at 7:30 p.m.

List of documents and other exhibits used during the meeting:

Agenda packet (attached)

A true copy. Attest:

Alison M Bouchard

City Clerk



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Helple
Commissioner

November 18, 2024

Win Waste Innovations of Northern New England
Attn: Mr. Matt Hughes
90 Arboretum Drive
Suite 300
Portsmouth, NH 03801

RE: FALL RIVER - BWSC
Release Tracking Number: 4-0051056
IVO 14 Rodman Street
Diesel Fuel Release
NOTICE OF RESPONSIBILITY

Email To: Matt Hughes mhughes@win-waste.com

**THIS IS AN IMPORTANT NOTICE.
FAILURE TO TAKE APPROPRIATE ACTION IN RESPONSE
TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL CONSEQUENCES.**

RECEIVED
 NOV 18 11:45
 FALL RIVER, MA

Dear Mr. Hughes:

The Massachusetts Department of Environmental Protection, Bureau of Waste Site Cleanup (MassDEP or the Department) is tasked with ensuring the cleanup of oil and hazardous material (OHM) releases pursuant to the Massachusetts Oil and Hazardous Material Release Prevention and Response Act (M.G.L. c. 21E or Chapter 21E). The law is implemented through regulations known as the Massachusetts Contingency Plan (310 CMR 40.0000 et seq. – the MCP). Both Chapter 21E and the MCP require the performance of response actions to provide for the protection of harm to health, safety, public welfare and the environment which may result from releases and/or threats of releases of OHM.

REASON FOR THIS NOTICE

On November 11, 2024 at 6:59 AM MassDEP received a notification from Frank Corp Environmental Services of a release of oil at the above referenced location. A Win Waste Innovations of Northern New England truck struck a post on the edge of a paved roadway, rupturing the trucks diesel fuel tank. This release impacted pavement and soil along the edge of the roadway. Pursuant to 310 CMR 40.0311(3), this release requires notification to MassDEP within two (2) hours of obtaining knowledge, and pursuant to 310 CMR 40.0412(1) this release requires that an Immediate Response Action (IRA) be conducted.

This information is available in alternate format. Please contact MassDEP at 617-292-5500.
TTY# MassRelay Service 1-800-439-2370
MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

Chapter 21E and the MCP require the performance of response actions to prevent harm to health, safety, public welfare and the environment which may result from this release and govern the conduct of such actions. The purpose of this notice is to inform you of your legal responsibilities under State law for assessing and/or remediating the release at this property. For purposes of this Notice of Responsibility (NOR) the terms and phrases used herein shall have the meaning ascribed to such terms and phrases by the Chapter 21E and the MCP unless clearly indicated otherwise.

STATUTORY LIABILITY

MassDEP has reason to believe that you (as used in this Notice, "you" and "your" refers to Win Waste Innovations of Northern New England), as the current owner / operator of the equipment from which the release of oil occurred, are a Potentially Responsible Party (PRP) with liability under M.G.L. c. 21E §5, for response action costs. Section 5 makes the following parties liable to the Commonwealth of Massachusetts: current owners or operators of a site from or at which there is or has been a release/threat of release of oil or hazardous material; any person who owned or operated a site at the time hazardous material was stored or disposed of; any person who arranged for the transport, disposal, storage or treatment of hazardous material to or at a site; any person who transported hazardous material to a transport, disposal, storage or treatment site from which there is or has been a release/threat of release of such material; and any person who otherwise caused or is legally responsible for a release/threat of release of oil or hazardous material at a site.

This liability is "strict", meaning that it is not based on fault, but solely on your status as owner, operator, generator, transporter, disposer or other person specified in M.G.L. c. 21E §5. This liability is also "joint and several", meaning that you may be liable for all response action costs incurred at a disposal site regardless of the existence of any other liable parties. Pursuant to M.G.L. c. 21E and the MCP the term disposal site means anywhere OHM has come to be located.

MassDEP encourages parties with liability under M.G.L. c. 21E to take prompt and appropriate actions in response to releases and threats of release of oil and/or hazardous materials. By taking prompt action, you may significantly lower your assessment and cleanup costs and/or avoid liability for costs incurred by MassDEP in taking such actions.

You may be liable for up to three (3) times all Response Action Costs incurred by MassDEP. Response Action Costs include, without limitation, the cost of direct hours spent by MassDEP employees arranging for response actions or overseeing work performed by persons other than MassDEP or its contractors, expenses incurred by MassDEP in support of those direct hours, and payments to MassDEP's contractors. (For more detail on cost liability, see 310 CMR 40.1200.)

MassDEP may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually. To secure payment of this debt, the Commonwealth may place liens on your property in the Commonwealth. To recover the debt, the Commonwealth may foreclose on these liens or the Attorney General may bring legal action against you.

In addition to your liability for up to three (3) times all Response Action Costs incurred by MassDEP, you may also be liable to the Commonwealth for damages to natural resources caused by the release. Civil and criminal liability may also be imposed under M.G.L. c. 21E, § 11, and civil administrative penalties may be

Imposed under M.G.L. c. 21A, § 16 for each violation of M.G.L. c. 21E, the MCP, or any order, permit or approval issued thereunder.

By taking prompt actions you may also avoid the imposition of, the amount of or reduce certain annual compliance assurance fees payable under 310 CMR 4.00.

You should be aware that you may have claims against third parties for damages, including claims for contribution or reimbursement for the costs of cleanup. Such claims do not exist indefinitely but are governed by laws which establish the time allowed for bringing litigation. MassDEP encourages you to take any action necessary to protect any such claims you may have against third parties.

If you are a responsible party and you have reason to believe that your performance of the necessary response actions is beyond your technical, financial or legal ability, you should promptly notify the Department in writing of your inability in accordance with MGL c. 21E, subsection 5(e), and 310 CMR 40.0172. If you assert or demonstrate in compliance therewith that performing or paying for such response action is beyond your ability, subsection 5(e) provides you with a limited defense to an action by the Commonwealth for recovery of two to three times the Department's response action costs and 310 CMR 40.0172 provides you with a limited defense to the Department's assessment of civil administrative penalties.

Please refer to M.G.L. c. 21E for a complete description of potential liability.

ORALLY APPROVED IMMEDIATE RESPONSE ACTION

As outlined above, and pursuant to 310 CMR 40.0412(1), this release requires that an IRA be conducted. At the time of oral notification to MassDEP, the following response actions were approved as an IRA:

- Continued assessment.
- Deployment of absorbent/containment materials.
- Installation of temporary covers/caps.
- Excavation and disposal of up to 50 cubic yards of contaminated soil.
- Removal of other contaminated media.

All Remediation Waste generated must be properly stored/handled and disposed as soon as possible and, in all cases, within 120 days from the date of generation per 310 CMR 40.0030.

ADDITIONAL ACTIONS REQUIRED

Additional submittals are necessary relative to this notification including, but not limited to, a written IRA Plan, IRA Completion Statement and/or a Permanent or Temporary Solution Statement. The MCP requires that a fee of \$1,470.00 be submitted to MassDEP when a Permanent Solution Statement is filed greater than 120 days from the date of initial notification.

Specific approval is required from MassDEP for the implementation of most IRAs pursuant to 310 CMR 40.0420. Release Abatement Measures (RAMs) may not be conducted until a RAM Plan is submitted pursuant to 310 CMR 40.0443. Assessment activities, the construction of a fence and/or the posting of signs are actions that are exempt from this approval requirement.

In addition to oral notification, 310 CMR 40.0333 requires that a completed Release Notification Form (BWSC-103) be submitted to MassDEP within sixty (60) calendar days of **November 11, 2024**.

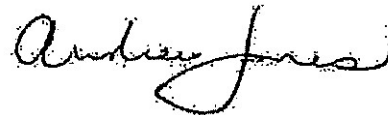
You must employ or engage a Licensed Site Professional (LSP) to manage, supervise or perform the necessary response actions to address this release/threat of release. You may obtain a list of the names and addresses of these licensed professionals from the Board of Registration of Hazardous Waste Site Cleanup Professionals by calling (617) 556-1091 or visiting <http://www.state.ma.us/lsp>. MassDEP records indicate that Mr. William Hoyerman of Civil & Environmental Consultants, Inc. is the LSP of Record.

Unless otherwise provided by MassDEP, potentially responsible parties (PRPs) have one year from the initial date of notification to MassDEP of a release, pursuant to 310 CMR 40.0300, or from the date MassDEP issues a Notice of Responsibility, whichever occurs earlier, to file with MassDEP one of the following submittals: (1) a completed Tier Classification Submittal; (2) a Permanent or Temporary Solution Statement or, if applicable, (3) a Downgradient Property Status. The deadline for either of the first two submittals for this release is **November 11, 2025**.

This release shall not be deemed to have had all the necessary and required response actions taken unless and until all substantial hazards presented by the release have been eliminated and a level of No Significant Risk exists or has been achieved in compliance with Chapter 21E and the MCP. The MCP requires persons undertaking response actions to address a release to submit to MassDEP a Permanent Solution Statement prepared by an LSP in accordance with 310 CMR 40.1000 upon determining that a level of No Significant Risk already exists or has been achieved relative to the release.

If you have any questions relative to this Notice, please contact Mr. Raymond Reimold at the letterhead address, at raymond.reimold@mass.gov or at (617) 455-1440. All future communications regarding this release must reference the following Release Tracking Number: **4-0051056**.

Sincerely,



Andrew L. Jones, Acting Chief
Emergency Response Section
Bureau of Waste Site Cleanup

J/RMR

cc: Board of Health
Board of Selectmen
Fire Department

DEP-SERO - Data Entry



RECEIVED

NOV 21 A 11:46

November 14, 2024
Project No. 2406719

CITY CLERK
FALL RIVER, MA

Mayor Paul E. Coogan
City of Fall River
One Government Center, Room #619
Fall River, MA 02722

Re: Release Abatement Measure Plan
Charles Street Former Manufactured Gas Plant Site
Fall River, Massachusetts
MassDEP RTN 4-19466

Dear Mayor Coogan:

On behalf of Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty, GEI Consultants, Inc. is hereby notifying your office of a Release Abatement Measure (RAM) Plan prepared for the above-referenced location. This notification is being made in fulfillment of the public notice requirements of the Massachusetts Contingency Plan (MCP; 310 CMR 40.0000).

The work includes soil management during installation of fencing on a portion of the property at 120 Charles Street in Fall River, Massachusetts. RAM activities are expected to begin in October 2024 and are expected to take two days to complete.

The RAM Plan is on file with the Massachusetts Department of Environmental Protection (MassDEP), Southeast Regional Office in Lakeville, Massachusetts and can also be reviewed online at <https://eeaonline.eea.state.ma.us/portal#/search/wastesite> by referencing Release Tracking Number 4-19466.

Please contact me at 781.721.4095 or kwolfe@geiconsultants.com, if you have any questions.

Sincerely,

GEI Consultants, Inc.

Krista A. Wolfe, P.E., LSP
Senior Project Manager

James R. Ash, P.E., LSP
Senior Vice President

JES/KAW:jam

B:\Working\LIBERTY UTILITIES\2406719 Charles Street Fall River Former MGP\01_ADMIN\RAM Plan\Appendix B - Public Notice Letter\PubNotLtrs.docx

3a



City of Fall River
Massachusetts
Office of the Mayor

PAUL E. COOGAN
Mayor

RECEIVED

2024 NOV 27 A 10:46

CITY CLERK
FALL RIVER, MA

November 27, 2024

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

Dear Council President and Members of the Honorable Council,

Attached please find correspondence from Library Administrator, Liane Verville, with a request to accept a gift in the amount of \$500.00 from Climate Democracy to be used by the library.

We respectfully ask for your every consideration with this request. Thank you.

Sincerely,

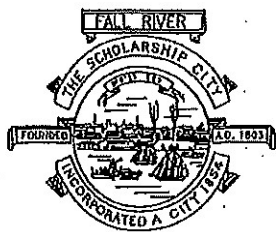
Paul E. Coogan
Mayor

PC/amos

City of Fall River, In City Council

ORDERED, that under the provisions of M.G.L. Chapter 44, Section 53A, the Fall River Public Library be, and the same is hereby, authorized to accept a gift donation from Climate Democracy in the amount of \$500 to be used by the Fall River Public Library.

3a



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

Fall River Public Library
fallriverlibrary.org

PAUL E. COOGAN
Mayor

LIANE VERVILLE
Library Administrator
lverville@sailsinc.org

November 27, 2024

The Honorable Paul E. Coogan
Mayor
City of Fall River
Fall River, MA 02722

Dear Mayor Coogan:

In accordance with the provisions of MGL c. 44 §53A I hereby ask that the City Council accept a donation in the amount of \$500 from the Climate Democracy Project. Said donation is to be used by the Library.

Sincerely,

Liane Verville
Library Administrator