City of Fall River Massachusetts
Office of the City Clerk

ALISON M. BOUCHARD
CITY CLERK

INÊS LEITE
ASSISTANT CITY CLERK

DECEMBER 9, 2011
MEETINGS SCHEDULED FOR NEXT WEEK

MONDAY, DECEMBER 12, 2011
5:15 P.M. COMMITTEE ON ORDINANCES & LEGISLATION

TUESDAY, DECEMBER 13, 2011
6:30 P.M. COMMITTEE ON FINANCE
1. Transfers and appropriations (see #1 below)

AGENDA
7:00 P.M. REGULAR MEETING OF THE CITY COUNCIL
PRIORITY MATTERS
1. *Transfers and appropriations (see #1 Finance)

PRIORITY COMMUNICATIONS
2. *Corporation Counsel regarding Stowe Street & 176 Langley Street

COMMITTEE REPORTS – None
ORDINANCES
Proposed:
3. *Police protection for traffic flow

RESOLUTIONS
4. *Petition General Court of the Commonwealth of MA to return Fire Chief position to Civil Service

CITATIONS – None
ORDERS – HEARINGS FOR TONIGHT
Curb removal:
5. Francisco M. Reis III – 150 Jones Street – 24 feet
Auto repair shop:
6. Kyle Costa d/b/a C & F Auto Repair, Wash & Detail – 65 Manchester Street

ORDERS – HEARINGS TO BE SCHEDULED
Underground conduit:
7. Third Street

ORDERS – NO HEARING REQUIRED – None
ORDERS – MISCELLANEOUS
8. Police Chief's report on licenses
9. Auto Repair Shop license renewals
10. Auto Body Shop license renewal

COMMUNICATIONS – INVITATIONS – PETITIONS
11. *Claims
12. Zoning Board of Appeals minutes for October 20, 2011
13. Planning Board minutes for July 20, 2011
14. Planning Board minutes for August 23, 2011

BULLETINS – NEWSLETTERS – NOTICES
15. *PERAC re: Fiscal Year 2013 appropriation

Inês Leite
Assistant City Clerk

THURSDAY, DECEMBER 15, 2011
5:30 P.M. PUBLIC HEARING – TAX CLASSIFICATION – FISCAL YEAR 2012
6:00 P.M. SPECIAL MEETING OF THE CITY COUNCIL

One Government Center • Fall River, MA 02722
TEL 508-324-2220 • FAX 508-324-2211 • EMAIL city_clerks@fallriverma.org

WILLIAM A. FLANAGAN
Mayor

City of Fall River
Massachusetts
Office of the Mayor

RECEIVED
2011 DEC -8 P 3: 34
CITY CLERK
FALL RIVER, MA

December 8, 2011

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

Dear Honorable Council Members:

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

As part of capturing the additional revenues that will appear on the City's Fiscal Year 2012 Tax Recapitulation, the following appropriations are necessary. The additional revenues are due to the Department of Revenue's certification of the City's New Growth, the remaining revenue from the Governor's Supplemental Budget, and minor local receipt adjustments made to the recap.

1.	$509,743	That the sum of $509,743 be, and the same is, hereby appropriated for INSURANCE EXPENSES from the tax levy.
2.	$200,000	That the sum of $200,000 be, and the same is, hereby appropriated for the RESERVE FUND from the tax levy.

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

Sincerely,

William A. Flanagan
Mayor

One Government Center • Fall River, MA 02722
TEL (508) 324-2600 • FAX (508) 324-2626 • EMAIL mayor@fallriverma.org

WILLIAM A. FLANAGAN
Mayor

City of Fall River
Massachusetts
Office of the Mayor

RECEIVED
2011 DEC -8 P 3: 35
CITY CLERK
FALL RIVER, MA

SHAWN E. CADIME
City Administrator

MEMO

TO: William A. Flanagan, Mayor

FROM: Shawn E. Cadime, City Administrator

RE: Financial Transfers

DATE: December 8, 2011

FINANCIAL APPROPRIATION

The Following appropriations are needed to capture the additional revenues that will appear on the City's Fiscal Year 2012 Tax Recapitulation. These additional revenues are due in large part to the Department of Revenue's certification of the City's New Growth and the remaining revenue from the Governor's Supplemental Budget, which has not yet been appropriated. I recommend the following appropriations.

1. An appropriation of $509,743 to INSURANCE EXPENSE. Currently built into the FY'12 budget is a cost savings of $1 million that would be realized through plan design. The $509,743 will be used to help reduce the City's exposure of this savings and/or the exposure of higher healthcare claims.

2. An appropriation of $200,000 to the RESERVE FUND. This appropriation will reestablish funding into this account, after it was zeroed out to provide additional funding for the School Department. This fund is essential for the mitigation of appropriation deficits and is used to fund transfers to various departments as unexpected costs throughout departments occur.

One Government Center • Fall River, MA 02722
TEL (508) 324-2600 • FAX (508) 324-2626 • EMAIL scadime@fallriverma.org

City of Fall River, In City Council **December 13, 2011**

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2011 DEC -8 P 3:31
CITY CLERK
FALL RIVER, MA

#1

ORDERED:

That the sum of $509,743 be, and the same is, hereby appropriated for INSURANCE EXPENSE from the tax levy.

City of Fall River, In City Council **December 13, 2011**

RECEIVED

2011 DEC -8 P 3: 34

CITY CLERK
FALL RIVER, MA

#2

ORDERED:

That the sum of $200,000 be, and the same is, hereby appropriated for the RESERVE FUND from the tax levy.

Appropriation/Transfer Analysis

Line	Original/Revised Appropriation	Amount Transferred	New Appropriation
			$ -
Insurance Expense	$ 39,179,044	$ 509,743	$ 39,688,787
Reserves		$ 200,000	$ 200,000

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

Krishan Gupta, City Auditor
12/7/2011

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2011 DEC -8 P 3: 31
CITY CLERK
FALL RIVER, MA

2

City of Fall River

Office of the Corporation Counsel

WILLIAM A. FLANAGAN
Mayor

STEVEN A. TORRES
Corporation Counsel

ELIZABETH S. PEREIRA
First Assistant Corporation Counsel

GARY P. HOWAYECK
Assistant Corporation Counsel

November 30, 2011

Michael Lund, President and
Members, Fall River City Council
One Government Center
Fall River, MA 02722

RECEIVED
2011 NOV 30 P 3: 35
CITY CLERK
FALL RIVER, MA

RE: Stowe St. & 176 Langley St.

Dear City Council:

Attached please find the November 29, 2011 letter of Attorney Allison R. Lane regarding Stowe St. and 176 Langley St. Additionally, attached please find Attorney Lane's draft lawsuit on behalf of the property owner at 176 Langley St. Finally, attached please find my letter to you of July 19, 2011.

In accordance with my earlier letter and in light of the present action, I am directing the DPW to remove any obstructions to access at the driveway that are in the public right of way in accordance with my earlier legal opinion. I will not permit the City to be subjected to liability that this suit can bring. According to officials, thousands of driveways exist where no curb cut was required in the City. Were we to block any or all of these upon petitions from abutters the results would be disastrous from a practical and legal standpoint. The law would caution against such a move. We will be happy to work with the Council to put in place an ordinance for driveways that don't involve curb cuts but to apply a law "Post Facto" is not constitutionally permissible in this case. Further, questions on this matter should be directed to the law department.

Very Truly Yours,

Steven A. Torres, Esq.
Corporation Counsel

cc: Ken Pacheco, Community Maintenance Division
Attorney Allison R. Lane

SAT/mds

FletcherTilton PC

Attorneys at law

The Guaranty Building
370 Main Street, 12th Floor
Worcester, MA 01608-1779
TEL 508.459.8000
FAX 508.459.8300

The Meadows
161 Worcester Road, Suite 501
Framingham, MA 01701-5315
TEL 508.532.3500
FAX 508.532.3100

Cape Cod
171 Main Street
Hyannis, MA 02601
TEL 508.815.2500
FAX 508.459.8300

FletcherTilton.com

November 29, 2011

BY MAIL, BY FACSIMILE TO 508-324-2626 and BY EMAIL TO Mayor@fallriverma.org

Mayor William A. Flanagan
City of Fall River
One Government Center, Room 619
Fall River, MA 02722

BY MAIL, BY FACSIMILE TO 508-324-2655 and Email to lawoffice@fallriver.ma.org

Attn: Steven A. Torres, Esquire
Corporation Counsel
City of Fall River
One Government Center, Room 627
Fall River, MA 02722

RE: Stowe Street and 176 Langley Street, Fall River, Massachusetts

Dear Gentlemen:

I represent Beatrice Camara and Jody Camara Athanasiou, the owners of the property located at 176 Langley Street, Fall River. Over the last few weeks, I have been communicating with representatives of the City of Fall river to address the fact that my client can no longer access their property at 176 Langley Street, by way of Stowe Street as someone has installed several bushes, plants, a park bench and a basketball hoop on Stowe Street that block the driveway entrance. To date, this matter has not been resolved and as such, my client is preparing to file suit. This letter, along with the enclosed draft complaint shall serve as notice to the City of Fall River pursuant to the Massachusetts Tort Claims Act that my clients intend to bring suit in thirty (30) days from the date of this letter unless this matter is resolved before that date.

As the enclosed draft complaint shows, the driveway was installed on or about 1999 and all information indicates that the driveway was legally installed. The City Council Committee on Public Works & Transportation held a hearing on July 19, 2011 to which my clients never received notice. Subsequently, the City Council voted to install a jersey barrier at the end of Stowe Street to block my client's driveway and authorized the neighbors to beatify the area if they wished, despite a memorandum from Corporate Counsel advising them that they cannot take such action. Again, my client was never notified of this hearing or the City's intent. The blockage is preventing my clients from accessing their driveway and property, diminishing the value of the property and the City's lack of action to remove the blockade is jeopardizing the sale of the property.

We reserve the right to make further revisions to the enclosed complaint. It is with reluctance that we are moving towards litigation; it was our hope that the City would recognize that it has acted improperly and would immediately rectify the situation to avoid litigation. It is our hope that the City will take action, provide us

FletcherTilton PC
Attorneys at law

with written documentation as to the action taken to remove the blockade, and confirm that the City will not repeat its actions in the future without proper notice and discussions with the owner of 176 Langley Street, Fall River.

Your prompt attention to this matter is appreciated.

Very truly yours,

Allison R. Lane

ARL/mmp
Enclosure
cc: Clients (with enclosures)

Direct Line: (508) 459-8050
Direct Fax: (508) 459-8350
E-Mail: alane@fletchertilton.com

Please direct all correspondence to our Worcester office.

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CIVIL DOCKET NO.

BEATRICE CAMARA AND JODY ATHANASIOU,
Plaintiffs

VS.

CITY COUNCIL OF FALL RIVER,
Defendants

VERIFIED COMPLAINT

PARTIES

1. Plaintiff, Beatrice Camara, (hereinafter "Camara"), is an individual with a principal residence of Notre Dame Notre Dame du Lac, 555 Plantation Street, Worcester, MA 01605.

2. Plaintiff, Jody Athanasiou ("Athanasiou") is an individual with a principal residence of 4 Old Brook Dr. Worcester, MA 01609.

3. Defendant, the City Council of Fall River, is a municipal corporation having an address of One Government Center, Fall River, Massachusetts 02722.

FACTS

4. Camara is the holder of a life estate in the property located at and known as 176 Langley Street, Fall River, Bristol County Massachusetts more fully described in a Deed recorded at the Bristol County Registry of Deeds in Book 3710 Page 326 (hereinafter the "Property") and Athanasiou is the owner of the remainder interest in the Property.

5. Access to the Property and the driveway located thereon is by way of Stowe Street, Fall River, Massachusetts which ends at the rear of the Property.

6. Stowe Street, Fall River is a public road.

7. The prior owners of the Property were Camara's late husband, Joseph and his parents, John and Maria Miguela who purchased the property in the 1930's.

8. On or about 1999, Joseph Camara ("Joseph") constructed a driveway from Stowe Street on the Property for the purposes of vehicle access.

9. In 1999, there was no curb located between the end of Stowe Street and the Property.

10. On information and belief, no driveway permit or curb cut permit was required at the time of installation by the City of Fall River's Ordinances and the Ordinances do not currently require a driveway permit for installation of a driveway and a curb cut permit is only required where there is a curb that needs to be removed for installation of a driveway.

11. The driveway at the Property was used on a regular basis between 1999 and 2008 when Ms. Camara became ill, was hospitalized and moved to Notre Dame du Lac in Worcester.

12. In 2010, Jody sought to access the driveway by way of Stowe Street and was informed by neighbors that she had no right to access her driveway by way of Stowe Street.

13. In an effort to confirm that the Property had a legal right to access by way of Stowe Street, Jody contacted the City of Fall River.

14. The City of Fall River's City Engineer, Byron Holmes, after visual inspection, issued a memorandum dated September 27, 2010, a copy of which is attached as Exhibit A, which states that the driveway is a rightful driveway.

15. On or about October 16, 2011, Jody and her real estate broker discovered that large plantings, a park bench and a basketball hoop had been placed at the end of Stowe Street, blocking access to the driveway on the Property.

16. On October 17, 2011 Counsel for Jody and Beatrice contacted the head of the Department of Streets and Highways and the City Engineer about the items located in and on Stowe Street, blocking access to the driveway. A copy is attached as Exhibit B.

17. Subsequently, Jody and Counsel learned that the City of Fall River had been contacted by neighbors in June of 2011 and the City Council referred the matter to Corporate Counsel and that the matter be referred to the Committee on Public Works and Transportation.

18. On July 14, 2011, the City of Fall River issued a notice of a meeting of the City Council Committee on Public Works & Transportation regarding Stowe Street, parking issues and barriers that was to occur on July 19, 2011. Copies of the notice of meeting and minutes of the meeting are attached as Exhibit C.

19. Neither Jody nor Beatrice ever received notice of any hearing before the Committee on Public Works & Transportation regarding Stowe Street, Parking issues and barriers although it directly impacted their Property.

21. At the meeting, it was noted by members of the City of Fall River administration that a survey needed to be done and it needed to be determined if the City could block off a driveway.

22. City Councilor Pelletier states that the driveway should be blocked off and let the owners sue the City. City Councilor Casey claimed that the driveway was not a legal driveway and that no survey was needed, and there was no problem closing the driveway. Councilor Camara noted that the City will barricade the driveway and manipulate it the right way.

23. Corporation Counsel for the City issued an opinion dated July 19, 2011 which provides that 1. No permits are required for installation of driveways where no curb cut is needed; 2. No permit is required for the driveway to the Property and 3. That any future action by the City Council to require permits would not impact the existing driveway at the Property. A copy of the Letter is attached hereto as Exhibit D.

24. A hearing was held by the City of Fall River City Council on August 16, 2011.

25. Again, neither Jody nor Beatrice received notice of any hearing regarding Stowe Street and blocking access to their driveway.

26. At the meeting, the City Council ordered the Department of Public Works to place jersey barriers on the south side of Stowe Street and that the residents are allowed to beautify the area. A copy of the City Council's vote is attached hereto as Exhibit E.

27. On November 3, 2011, City Clerk responded to Jody and Beatrice's Counsel with the above exhibits in a letter dated August 19, 2011, a copy of the correspondence is attached hereto as Exhibit F.

28. Since October, Jody and Beatrice, through their attorney have been contacting the City of Fall River by and through its City Engineer, head of the Department of Streets and Highways, City Council and Corporation Counsel to have the obstacles removed from Stowe Street and obtain assurances that the City will not, itself or through the actions of third parties, block access to the Property from Stowe Street.

29. Jody and Beatrice have been attempting to sell the Property and a potential buyer has expressed interest in the Property.

30. The potential Buyer will not enter into an offer agreement unless and until the issue of access to the Property from Stowe Street is resolved with the City of Fall River.

31. Jody and Beatrice are at risk of losing this potential buyer due to the actions of the City Council and the City of Fall River.

32. To date, Jody and third parties are unable to enter onto the Property by way of Stowe Street or park in their driveway.

33. The actions of the City of Fall River including authorizing the installation of a jersey barrier on and in Stowe Street in front of the Property's driveway entrance, allowing and

authorizing third parties to place obstacles on or in Stowe Street and failing to remove obstacles in Stowe Street which block the driveway to the Property.

Count I: Declaratory Judgment

34. The Plaintiffs repeat and incorporate herein the allegations set forth in paragraphs 1 through 33 above.

35. Pursuant to G. L. c. 231A, §§1 et seq. there exists a controversy between the Plaintiffs and the City of Fall River regarding the legality of the driveway located on the Property and whether the City of Fall River can block access from Stowe Street to the Plaintiffs' driveway on the Property. The Plaintiffs respectfully request this Court exercise its authority pursuant to M.G.L. c. 231A to:

a) issue an Order that the driveway was and is a legal driveway and that no permits are required from the City of Fall River;

b) issue an order that the City of Fall River has no legal right to block access to the driveway and the Property by way of Stowe Street; and

c) issue an Order that the City of Fall River not block Stowe Street at the driveway to the Property and it may not permit third parties to do so.

Count II: Interference with Advantageous Business Relations against all Defendants

36. The Plaintiff repeats and incorporates herein the allegations set forth in paragraphs 1 through 35 above.

37. As described in detail above, the Defendants conduct has interfered with the Plaintiffs' ability to sell the Property without right or justifiable cause.

38. The Plaintiffs have sustained damage as a direct and proximate result of the Defendants' interference with the Plaintiffs' advantageous business relations.

Count III: Injunctive Relief against all Defendants

39. The Plaintiffs repeat and incorporate herein the allegations set forth in paragraphs 1 through 38 above.

40. The Plaintiffs seek injunctive relief requiring the Defendants to remove any and all items on Stowe Street that block entrance to the Property and its driveway and prohibiting the Defendants, its agents and employees, from placing, installing, maintaining or allowing any other person from placing, installing or maintaining any items on Stowe Street that prohibit or prevent access from Stowe Street to the Property until further order of this Court.

Count IV: Vote of City Council Constitutes an Unlawful Taking

41. The Plaintiffs repeat and incorporate herein the allegations set forth in paragraphs 1 through 40 above.

42. The plaintiffs assert that the vote of the City Council to install a barrier and permit others to beautify the barrier to the Plaintiff's Property constitutes a regulatory taking by the City of Fall River.

43. The actions by the City of Fall River by and through its City Council has had the effect of rendering the driveway to the Property and the parking spaces thereon unusable for their normal and customary use.

44. The blocking of the driveway and the on-Property parking spaces has diminished the value of the Property and renders the title unmarketable.

45. Jody and Beatrice are the only individuals affected by the City's action as the vote of the City Council does not impact any other abutters to Stowe Street or any other property owners in the City of Fall River who have similar driveways.

46. At the hearings on July 19, 2011 and August 16, 2011 it was stated that the purpose of blocking the Plaintiff's driveway was to permit abutting neighbors to park on Stowe Street in front of their house, which could not be done if Stowe Street has to remain clear for access to the Plaintiff's driveway.

47. The action by the City of Fall River does not advance a legitimate public purpose or interest but solely benefits one abutting neighbor.

Count V: Interference with Real Property

48. The Plaintiffs repeat and incorporate herein the allegations set forth in paragraphs 1 through 47 above.

49. The Plaintiffs, as owners of the Property have a right appurtenant to the land to access a public way abutting the Property for any reasonable use to which the property is or may be put.

50. The City's authorizing the blocking of the Property from Stowe Street interferes with the Plaintiff's property rights.

WHEREFORE, the Plaintiff respectfully requests the Court:

1. enter judgment in the Plaintiff's favor on all equitable and legal counts;

2. award the Plaintiff monetary damages on the legal counts in an amount to be determined at trial;

3. enjoin the Defendants, and their agents, servants and representatives, and all those acting in concert with them, from placing, installing, maintaining or allowing the City, its employees and agents and any other person from placing, installing or maintaining any items on Stowe Street that prohibit or prevent access from Stowe Street to the Property until further order of this Court; and

4. grant such other and further relief as this Court deems just and equitable.

THE PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

Verification

I, Jody Athanasiou, being duly sworn, hereby certify that I am a Plaintiff in this action and that I have read the foregoing Complaint and know the contents thereof and that the same is true to my knowledge, and/or believed by me to be true.

_____
Jody Athanasiou

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this _____ day of November, 2011, before me, the undersigned notary public, personally appeared Jody Athanasiou, proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

_____
Notary Public

BEATRICE CAMARA AND
JODY ATHANASIOU by their attorney:

_____
Allison R. Lane, Esquire BBO #638203
Fletcher Tilton PC
370 Main Street
Worcester, MA 01608
508-459-8050 (telephone)
508-459-8350 (fax)
alane@fletchertilton.com (email)

Dated: November , 2011

{Client Files/27842/0004/00899055.DOCX }

EXHIBIT D

City of Fall River

Office of the Corporation Counsel

WILLIAM A. FLANAGAN
Mayor

STEVEN A. TORRES
Corporation Counsel

ELIZABETH S. PEREIRA
First Assistant Corporation Counsel

GARY P. HOWAYECK
Assistant Corporation Counsel

July 19, 2011

Michael Lund, President
Members, Fall River City Council
1 Government Center
Fall River, Massachusetts

RECEIVED
2011 JUL 19 P 4:
CITY OF FALL RIVER, MA

RE: Stowe Street Driveway Access to abutting property with Langley Street Address

The above matter was referred to this office by the City Council. The legality of the owner of 176 Langley Street's installation of a driveway onto a public way, apparently without a permit, has been questioned. This opinion is in response to whether the existing driveway was lawfully installed.

I have conducted records review, maps review and a site visit in the matter. In addition, I have conferred with the City Planner, the City Engineer, the Director of Community Maintenance and the City Clerk's office. Please be advised that upon review, a similar matter regarding applicability of the ordinance in question was previously resolved by a former Corporation Counsel. Upon review of the facts presented and the existing law, I see no reason to deviate from that opinion which codified a consistent practice among City permitting departments. That opinion is attached as Exhibit 1.

Upon information submitted to this office from the referral of the City Council, residents of Stowe Street seek to deny access to an existing driveway from Stowe Street onto an abutting property that has a Langley Street address and its minimum frontage on Langley Street. No driveway or curb cut to the property exists on Langley Street. Review of the site and photographic evidence reveals the following: The driveway was placed in sometime between 1986 and 2001. According to the information presented to this office, the 176 Langley Street lot owner received no permit for the construction of the Stowe Street driveway onto the property and no records have been produced to my satisfaction to establish that a curb cut application onto Stowe Street was applied for or issued. This is consistent, according to permitting officials, with other Stowe street addresses since no curbing is present. *See also Exhibit A* The 176 Langley Street lot owner installed the driveway connecting his property, which already had street access on the Langley Street side, to Stowe Street, a dead end street without disturbing or removing curbing as contemplated under Section 66-64 of the Fall River Revised Ordinances.

One Government Center • Fall River, MA 02722 • TEL (508) 324-2650
Workers' Compensation (508) 324-2540 • FAX (508) 324-2655 • EMAIL lawoffice@fallriverma.org

The applicable City Ordinance, Sec. 66-64 provides in relevant part: "Removal of curbing for installation of private driveway. No person shall remove or cause to be removed any curbing on any street without first obtaining permission as provided in this section. All applications for removal of curbing shall be filed with the city engineer, and shall be accompanied by a fee as provided in the fee schedule in Appendix A to this Revision." *Fall River Revised Ordinances Sec. 66-64. 2009 Edition.*

The ordinance is clear and speaks only to permits for removal of curbing for installation of a driveway. A review of the City Ordinances provides no parallel permit requirement for installation of driveways that do not require removal of curbing. Interviews with several long-serving city officials with responsibility or oversight for issuance of similar or related permits also revealed that no permit has been historically required for installation of driveways where curbing does not have to be removed. No explanation for the apparent and alleged denial of driveway access to the abutting property was found or evidence of the same. This is without consequence, however, because the law is clear and a precedent clearly established by what has been described to me as "several thousand" other driveways in the City. The circumstances of the abutting Langley Street lot's lack of access for an approved driveway to Stowe Street is neither binding nor persuasive in resolving the instant matter

Accordingly, in accordance with the prior opinion of Corporation Counsel, dated January 18, 2008, no permit is required for the existing driveway from Stowe Street to service 176 Langley Street. If in the future the City Council would prefer to have driveways permitted that do not involve removal or disturbance of existing curb, or require driveway access only through streets upon which frontage is satisfied for other zoning approvals, it may propose and enact an ordinance that provides such. Such an ordinance, however, would not impact any existing driveways nor lawfully could it impact existing driveways such as the one on Stowe Street servicing 176 Langley Street.

Thank you again for the opportunity to be of service to the Fall River Municipal Counsel. If I may be of further assistance, I remain in your service.

Regards,

Steven A. Torres
Corporation Counsel

cc: City Planner
City Engineer
DPW

City of Fall River

Office of the Corporation Counsel

3

WILLIAM A. FLANAGAN
Mayor

STEVEN A. TORRES
Corporation Counsel

ELIZABETH S. PEREIRA
First Assistant Corporation Counsel

GARY P. HOWAYECK
Assistant Corporation Counsel

December 6, 2011

Colleen A. Taylor
Clerk of Committees
1 Government Center
Fall River, 02722

RECEIVED
2011 DEC -6 A 10:58
CITY CLERK
FALL RIVER, MA

RE: POLICE PROTECTION FOR TRAFFIC FLOW

Dear Colleen:

As per the request of the City Council Committee on Public Safety please find enclosed a draft revised ordinance Section 66-412, which relates to Police Protection for Traffic Flow.

If you have any further question or the Committee has any further requests please do not hesitate to contact me.

Sincerely,

Elizabeth S. Pereira
Assistant Corporation Counsel

Encl/ESP

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

BE IT ORDAINED, by the City Council of the City of Fall River, that the Revised Ordinances of the City of Fall River, Massachusetts, 1999, be amended as follows:

Section 1.
By striking out Section 66-412, which subsection relates to Police Protection for traffic flow; maintenance of passage, in its entirety, and insert in place thereof, the following:

Section 66-412. Police Protection for Traffic Flow; Maintenance of Passage.

A. Any person, receiving a permit to open, occupy, obstruct, use, dig into or break up any public way of the city or portion thereof, shall maintain at his or its expense such police officer of the city, but in no event shall there be less than one police officer at each street location designated in each permit required location, as the Chief of Police or his designee, may deem necessary, to avoid, so far as reasonably possible, danger to the safety of persons and interference with the free circulation of vehicular traffic.

B. Emergency Construction. In the event of an emergency which requires the opening, obstructing, using, digging into, or breaking up of any public way in the city by a person not able to obtain a permit because of the hour, such person shall immediately notify the Fall River Police Department in order to arrange for the necessary police officers but in no event shall there be less than one police officer at each separate street location or place of such opening, obstructing, using, digging into, or breaking up of such street. The police officer shall be assigned at the expense of such person.

C. Maintenance. At a site involving a street opening or excavation the maintenance of the excavated materials shall be laid compactly alongside of the trench and kept trimmed up so as to cause as little inconvenience as possible to public travel. In order to expedite the flow of traffic or to abate a dirt or dust nuisance, the city engineer may require the permittee to provide two boards or bins; and if the excavated area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the permittee as directed by the city engineer. If the street is not wide enough to hold the excavated material without part of the adjacent sidewalk, the permittee shall keep a passageway at least one-half the sidewalk width open along such sidewalk line.

D. Failure to Comply. Any person who violates section 66-412 shall be subject to a $300.00 fine. One third of such civil penalty shall be deposited into the municipal treasury and the remaining two thirds of such penalty shall be deposited into a designated account with the specific intent of maintaining the operations of the Fall River Police Department. A separate offense shall be deemed committed on each day or on which each violation occurs or continues to occur. Any violation shall also result in the closing down of the opening, obstructing, using, digging into or breaking up of any public way of the city by police officers of the city until compliance with section 66-412 is maintained.

City of Fall River, *In City Council*

4

(Councilor Raymond A. Mitchell)
(Councilor Eric Poulin)
(Attorney Bradford L. Kilby)

WHEREAS, the recent appointment of the Temporary Fire Chief has created much input from the Fire Department as well as the residents of the city, and

WHEREAS, Civil Service was instituted years ago to prevent such appointments, and

WHEREAS, the position of Fire Chief was removed from Civil Service and made an appointed position on July 18, 2008, now therefore

BE IT RESOLVED, that this Council petitions the General Court of the Commonwealth of Massachusetts to return this position to Civil Service.

11

TRAVELERS
of Massachusetts

Travelers of Massachusetts
PO Box 730
Westboro, MA 01581
(800)252-4684

RECEIVED

11/21/2011 2011 NOV 28 P 12: 12

CITY CLERK #11221
FALL RIVER, MA

Fall River City Hall
Alison M. Bouchard, City Clerk
One Government Center, Room 227
Fall River, MA 02722

Insured: John Perreira
Issuing Company: The Premier Insurance Company of Massachusetts
Claimant: John Perreira
Claim/File #: 452 AD HIT9431 N
Date of Loss: 10/07/2011
Location: Warren St and Coral St
Fall River MA

Dear Fall River City Hall

On the above date of loss, your employee, Edmond Desmarais was involved in an accident with our insured at the above location.

This claim is being brought in accordance with Massachusetts General Laws Chapter 258 as amended by Chapter 512 of the Acts of 1978.

Our supporting papers are attached.

Sincerely,

Carol P Cooper
Cl Rep
(508)616-6211
Fax: (877)384-9027
Email: CPCOOPER@travelers.com

orig + 2 copies - Law
1 Police Dept
1 city clerk
1 city Council

CC

RECEIVED

CLAIM FORM
City of Fall River, Massachusetts

2011 NOV 28 A 10: 32

CITY CLERK #11-220
FALL RIVER, MA

Name: Cynthia Aguiar

Address: 867 Broadway St.
Fall River, Ma. 02724

Phone #: 508-837-0882

Type of Claim: X M.G.L. Chapter 84 ___ M.G.L. Chapter 258 ___ Other

Date of Incident: 11-26-11
Time of Incident: 1:30 pm.
Location of Incident: Hargraves & Quequechan

Provide a detailed description of your claim (attach additional sheets if necessary):

Driving North, weather was good. There was traffic coming south so I couldn't avoid the huge creator in the street. It blew out my tire, the passenger actually hit her head on the window. I am including a estimant for $173.73 for tire replacement.

*You should consult with your own attorney in preparing this Claim Form to understand your legal rights

15

PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* JOSEPH E. CONNARTON, *Executive Director*

Auditor SUZANNE M. BUMP | ALAN MACDONALD | JAMES M. MACHADO | DONALD R. MARQUIS | ROBERT B. McCARTHY | GREGORY R. MENNIS

RECEIVED
2011 DEC -5 A 10: 27
CITY CLERK
FALL RIVER, MA

MEMORANDUM

TO: Fall River Retirement Board

FROM: Joseph E. Connarton, Executive Director

RE: Appropriation for Fiscal Year 2013

DATE: November 29, 2011

Required Fiscal Year 2013 Appropriation: **$22,205,000**

This Commission is hereby furnishing you with the amount to be appropriated for your retirement system for Fiscal Year 2013 which commences July 1, 2012.

Attached please find summary information based on the present funding schedule for your system and the portion of the Fiscal Year 2013 appropriation to be paid by each of the governmental units within your system.

If your System has a valuation currently in progress, you may submit a revised funding schedule to PERAC upon its completion. The current schedule is/was due to be updated by Fiscal Year 2015.

If you have any questions, please contact PERAC's Actuary, Jim Lamenzo, at (617) 666-4446 Extension 921.

JEC/jrl
Attachments

cc: Office of the Mayor
City Council
City Administrator

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FIVE MIDDLESEX AVENUE, SUITE 304 | SOMERVILLE, MA 02145
PH 617 666 4446 | FAX 617 628 4002 | TTY 617 591 8917 | WWW.MASS.GOV/PERAC

Fall River Retirement Board

Projected Appropriations

Fiscal Year 2013 - July 1, 2012 to June 30, 2013

Aggregate amount of appropriation: **$22,205,000**

Fiscal Year	Estimated Cost of Benefits	Funding Schedule (Excluding ERI)	ERI	Total Appropriation	Pension Fund Allocation	Pension Reserve Fund Allocation	Transfer From PRF to PF
FY 2013	$28,386,975	$21,402,938	$802,062	$22,205,000	$22,205,000	$0	$6,181,975
FY 2014	$29,660,999	$22,272,938	$802,062	$23,075,000	$23,075,000	$0	$6,585,999
FY 2015	$30,992,689	$23,182,938	$802,062	$23,985,000	$23,985,000	$0	$7,007,689
FY 2016	$32,384,658	$24,599,008	$802,062	$25,401,070	$25,401,070	$0	$6,983,588
FY 2017	$33,839,632	$25,594,971	$802,062	$26,397,033	$26,397,033	$0	$7,442,599

The Total Appropriation column shown above is in accordance with your current funding schedule and the scheduled payment date(s) in that schedule. Whenever payments are made after the scheduled date(s), the total appropriation should be revised to reflect interest at the rate assumed in the most recent actuarial valuation. Payments should be made before the end of the fiscal year.

For illustration, we have shown the amount to be transferred from the Pension Reserve Fund to the Pension Fund to meet the estimated Cost of Benefits for each year. If there are sufficient assets in the Pension Fund to meet the Cost of Benefits, this transfer is optional.

Fall River Retirement Board
Appropriation by Governmental Unit

Fiscal Year 2013 - July 1, 2012 to June 30, 2013

Aggregate amount of appropriation: **$22,205,000**

UNIT	Percent of Aggregate Amount	Funding Schedule (excluding ERI)	ERI	Total Appropriation
City of Fall River	92.05%	$19,701,405	$639,955	$20,341,360
Fall River Redevelopment	0.04%	$8,561	$0	$8,561
Fall River Housing Authority	6.57%	$1,406,173	$162,107	$1,568,280
Diman Voc.	1.34%	$286,799	$0	$286,799
UNIT TOTAL	**100%**	**$21,402,938**	**$802,062**	**$22,205,000**

The Total Appropriation column shown above is in accordance with your current funding schedule and the scheduled payment date(s) in that schedule. Whenever payments are made after the scheduled date(s), the total appropriation should be revised to reflect interest at the rate assumed in the most recent actuarial valuation. Payments should be made before the end of the fiscal year.