



City of Fall River Massachusetts  
Office of the City Clerk

ALISON M. BOUCHARD  
CITY CLERK

**MAY 4, 2012**  
**MEETINGS SCHEDULED FOR NEXT WEEK**

INÊS LEITE  
ASSISTANT CITY CLERK

**MONDAY, MAY 7, 2012**

**5:15 P.M. COMMITTEE ON ORDINANCES AND LEGISLATION**  
**7:00 P.M. COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION**

**TUESDAY, MAY 8, 2012**

**5:15 P.M. COMMITTEE ON REAL ESTATE**

**6:00 P.M. COMMITTEE ON FINANCE**

1. Financial Team and Quarterly budget update

**AGENDA**

**7:00 P.M. REGULAR MEETING OF THE CITY COUNCIL**

**PRIORITY MATTERS**

1. \*Mayor req. consideration of waiving residency requirement for appointment of certified arborist to the Tree Commission
2. \*Mayor and loan order re Phase 12 – Water System Improvements
3. \*Mayor and proposed ordinance prohibiting consumption of marihuana in public places

**PRIORITY COMMUNICATIONS**

4. Traffic Commission recommending amendments to the traffic ordinances

**COMMITTEE REPORTS** - None

**ORDINANCES**

**Second Reading & Enrollment:**

5. \*Traffic, misc.

**Second Reading & Enrollment, as amended:**

6. \*Social Host

**RESOLUTIONS**

7. \*Amend citizen input time
8. \*Com. on Public Works & Transportation hold discussion re recycling bin pick up
9. \*Administration consider appointing a "Public Safety Task Force"
10. \*Com. on Public Safety convene mtg. to discuss programs to assist with the high costs of home heating

**CITATIONS**

11. Dr. Irving Fradkin – the foreword featured in Katie Couric's Book
12. Morton Middle School Students – Operation Clean Sweep
13. Girl Scout Troops 1014, 1046 & 1076 – Operation Clean Sweep

**ORDERS – HEARINGS FOR TONIGHT**

**Curb removal**

14. Leo P. Boutin, Jr., 176 Bayview Street – 28 feet at 352 Peckham Street (cut on Whipple Street)

**ORDERS – HEARINGS TO BE SCHEDULED** - None

**ORDERS – NO HEARING REQUIRED** – None

**ORDERS – MISCELLANEOUS**

15. Police Chief's report on licenses
16. Auto Repair Shop license renewal
17. Auto Body Shop license renewals

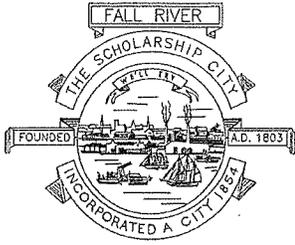
**COMMUNICATIONS – INVITATIONS – PETITIONS**

18. \*Claims

**BULLETINS – NEWSLETTERS – NOTICES**

19. \*Mass DOT re Bicycle Path along Quequechan River from Brayton Avenue to Plymouth Avenue

*Alison M. Bouchard*  
City Clerk



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

RECEIVED

2012 MAY -1 A 10:45

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

**WILLIAM A. FLANAGAN**  
*Mayor*  
April 27, 2012

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

Madam President and Honorable Members of the City Council:

I wish to appoint Dennis Brodeur, Certified Arborist, to the Tree Commission. I respectfully request the Council's consideration in waiving the residency requirement for this appointment. Mr. Brodeur is a MCA and ISA certified arborist. He was born and raised in Fall River and owned a business in the City for many years. Mr. Brodeur currently works for Tree Tech and resides in Tiverton, Rhode Island. He will bring expertise in tree care to the Commissioner and he is a Massachusetts certified arborist.

Name: Dennis Brodeur

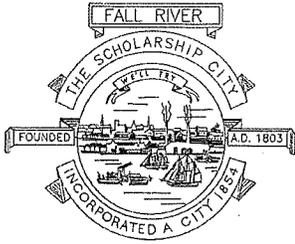
Address: 301 Bulgarmarsh Road  
Tiverton, RI 0278

To: Tree Commission

Term to Expire: April 27, 2014

Sincerely,

William A. Flanagan  
Mayor



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

RECEIVED

2012 MAY -1 A 10:45

**WILLIAM A. FLANAGAN**  
*Mayor*

CITY CLERK \_\_\_\_\_  
April 27, 2012 FALL RIVER, MA

Alison Bouchard  
City Clerk  
City of Fall River  
One Government Center  
Fall River, MA 02722

Dear Madam Clerk:

I hereby make the following appointment:

Name: Dennis Brodeur

Address: 301 Bulgarmarsh Road  
Tiverton, Rhode Island 02878

Position: Tree Commission

Effective Date: April 27, 2012

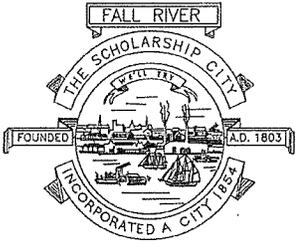
Term Expires: April 27, 2014

Very truly yours,

William A. Flanagan  
Mayor

WAF/amos

Cc: Personnel  
Auditor  
Ken Pacheco



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

**WILLIAM A. FLANAGAN**  
*Mayor*

**RECEIVED**  
2012 MAY - 3 P 4: 28  
CITY CLERK  
FALL RIVER, MA

May 3, 2012

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

Dear Honorable Councilors:

Please find enclosed the proposed Loan Order for Phase 12 of the Water System Improvements. A summary of the proposed work is also attached for your information. Said Loan Order has been approved by the Water board. Your approval is respectfully requested.

Sincerely,

William A. Flanagan  
Mayor

**CITY OF FALL RIVER  
LOAN ORDER  
(Water System Improvements)**

CITY OF FALL RIVER, In City Council

**ORDERED**, that \$4,953,200 is appropriated for the purpose of financing construction and design of Phase 12 of the City's Water Project including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; and to meet this appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow \$4,953,200 and to issue bonds or notes therefore under Chapter 44 of the General Laws and/or Chapter 29C of the General Laws or any other enabling authority; that such bonds or notes shall be general obligations of the City unless the Treasurer, with the approval of the Mayor, determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer, with the approval of the Mayor, is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust ("Trust") established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection ("Department") with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Mayor is authorized to enter into a project regulatory agreement with the Department, to expend all funds available for the project and to take any other action necessary to carry out the project.

**ORDERED**, that the Treasurer is authorized to file an application with the appropriate officials of The Commonwealth of Massachusetts (the "Commonwealth") to qualify under Chapter 44A of the General Laws any and all bonds of the City to be issued pursuant to this Order, and to provide such information and execute such documents as such officials of the Commonwealth may require.

Phase 12 Water Projects Planned construction schedule is for 2013	3.21.12
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<b>PROJECT 12</b>			
<b>Design</b>			
Water main replacement and LSR	Open	2012-2013	\$70,000
Water main improvements at Watuppa Pond	Open	2012-2013	\$120,000
Airport Road tank/high service area	Open	2012-2013	\$225,000
Water System Master Plan Update	SRF	2012-2013	\$125,000
<b>Construction Management</b>			
Water main replacement and LSR	SRF	2013	\$155,000
Water main improvements at Watuppa Pond	SRF	2013	\$109,000
<b>Construction</b>			
Water Main and Lead Service Replacement	SRF	2013	\$972,000
Water main improvements at Watuppa Pond	SRF	2013	\$1,300,000
Police Details	SRF	2013	\$150,000
Paving	Open	2013	\$1,000,000
1873 pump station/tower stabilization	Open	2013	\$500,000
Contingency	SRF	2013	\$227,200
<b>Total</b>			<b>\$4,953,200</b>

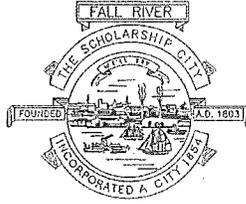
<b>Water Main and Lead Service Replacement Proposed Streets-phase 12</b>				
Street	From	To	Length Feet	Age
America	Stafford	Clay	1650	1934
Utah	Cambridge	Warren	450	1958
Foote	Globe	Dwelly	1350	1883
Queen	Bay	Globe	450	1932
Florence	Ray	Robeson	3000	1923
Talbot	Chesworth	Eastern	700	1895
Chesworth	Albion	Eastern	600	1912
<b>Total</b>			<b>8200</b>	

3

**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

May 3, 2012

Eric Poulin, Chairman  
Committee on Ordinances  
Fall River City Council  
One Government Center  
Fall River, MA 02722

RECEIVED  
MAY - 3 P 2:20  
CITY CLERK  
FALL RIVER, MA

Re: **Proposed ordinance prohibiting consumption of marihuana in public places**

Dear Councilor Poulin:

This is a response to your request for a proposed ordinance prohibiting marihuana use in public places. This request stems from concerns from law enforcement that since the decriminalization of possession of an ounce or less of marihuana public use of marihuana has been prevalent in the community. As of January 2, 2009 marihuana was decriminalized (but not legalized) for possession of one ounce or less of marihuana or tetrahydrocannabinol (THC). THC is a major active ingredient both of marihuana (a Class D substance) and hashish (a Class C substance). M.G.L. c. 94C, §§ 31L-32N together provide for a \$100 civil penalty for possession of one ounce or less of marihuana or THC, using the existing citation procedures found in M.G.L. c. 40 § 21D. Police may issue a civil citation to the violator, who within 21 days must then either pay the \$100 civil penalty to the city or send a request to the clerk magistrate for a civil hearing before a magistrate or judge. The law also authorizes for forfeiture of the contraband marihuana. There are additional penalties for violators under 18 such as the requirement of attending a drug awareness program.

After careful review municipalities may adopt ordinances and by-laws prohibiting public use. The new law specifically allows cities and towns the option of adopting: "ordinances or bylaws regulating or prohibiting the consumption of marihuana . . . in public places and providing for additional penalties for the public use of marihuana . . ." M.G.L c. 94C § 32L. Communities such as Salisbury, Arlington, Wrentham, Yarmouth, Hopkinton, Lenox, Littleton, Medway, Mendon, Marlborough and Nantucket have passed similar legislation. The Attorney Generals office has developed a model by-law for municipalities that wish to enact such regulation.<sup>1</sup>

<sup>1</sup> Public Consumption of Marihuana or Tetrahydrocannabinol

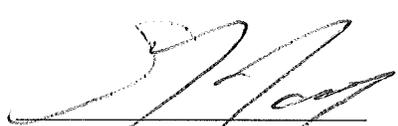
No person shall smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannabinol (as defined in G.L. c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway,

I have attached a proposed ordinance regulating the public consumption of marihuana or tetrahydrocannabinol. I have modeled the proposed ordinance after the model by-law developed by the Attorney Generals office and by-laws that have been adopted by other communities.

All research is available upon request. Should you have further questions in this regard, please feel free to contact me.

Very truly yours,

*Elizabeth Sousa*  
Elizabeth Sousa  
First Assistant Corporation Counsel

  
Steven A. Torres  
Corporation Counsel

cc. City Clerk

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stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public. This by-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c. 40, § 21, or by noncriminal disposition pursuant to G.L. c. 40, § 21D,\* by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L.

BE IT ORDAINED by the City Council of the City of Fall River, as follows:

By inserting Chapter , a new Article , Public Consumption of Marihuana or Tetrahydrocannabinol and inserting under said article, the following new sections to read as follows:

**Section Use of marihuana in public.**

No person shall smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannabinol (as defined in M.G.L. c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the City of Fall River; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

**Section Name, address and date of birth to be provided.**

Upon request by any duly sworn police officer, any person charged with violating this chapter shall provide his or her true name, address and date of birth.

**Section Violations and Penalties.**

This Article may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to M.G.L. c. 40, § 21, or by noncriminal disposition pursuant to M.G.L. c. 40, § 21D. The fine for violation of this Article shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this Article shall be in addition to any civil penalty imposed under M.G.L. c. 94C, § 32L.

**Section Seizure of controlled substances.**

All controlled substances being used in violation of this Article may be seized and held until final adjudication in court whereupon they will be destroyed by the Police Department.

# City of Fall River, In City Council

BE IT ORDAINED by the City Council of the City of Fall River, as follows:

That Chapter 70 of the Revised Ordinances of the City of Fall River, Massachusetts, 1999, which chapter relates to traffic be amended as follows:

Section 1.

By inserting in Section 70-371, which section relates to parking prohibited at all times in proper alphabetical order the following:

Boomer Street, west side, starting at a point 130 feet north of President Avenue,  
for a distance of 41 feet northerly

Section 2.

By inserting in Section 70-374 (23), which section relates to thirty minute parking during certain hours, 11:00 a.m. to 6:00 p.m. Tuesday – Saturday, in proper alphabetical order the following:

Bedford Street, north side, starting at a point 86 feet east of High Street,  
for a distance of 20 feet easterly

Section 3.

By inserting in Section 70-375 (22), which section relates to one-hour parking during certain hours, 9:00 a.m. to 7:00 p.m. Monday – Friday and 8:00 a.m. to 6:00 p.m. Saturday, in proper alphabetical order the following:

Second Street, west side, starting at a point 20 feet south of Manton Street,  
for a distance of 20 feet southerly

Section 4.

By striking out in Section 70-387, which section relates to handicapped parking the following:

Dwelly Street, north side, starting at a point 108 feet east of South Main Street,  
for a distance of 20 feet easterly

Eastern Avenue, west side, starting at a point 70 feet north of Talbot Street,  
for a distance of 20 feet northerly

Irving Street, west side, starting at a point 70 feet north of Eaton Street,  
for a distance of 20 feet northerly

Manchester Street, east side, starting at a point 85 feet north of Buffinton Street,  
for a distance of 20 feet northerly

Robeson Street, west side, starting at a point 142 feet north of Pine Street,  
for a distance of 20 feet northerly

**CITY OF FALL RIVER  
IN CITY COUNCIL**

**APR 24 2012**

*Passed through first reading*

# City of Fall River, *In City Council*

6

BE IT ORDAINED by the City Council of the City of Fall River, as follows:

That Chapter 46 of the Revised Ordinances of the City of Fall River, Massachusetts, 1999, which chapter relates to offenses be amended as follows:

By inserting Chapter 46, a new Section, 46-17, SOCIAL HOST and, inserting under said section, the following new subsections to read as follows:

(a) Intent:

It is the purpose of this section to protect the public interest, welfare, health and safety within the City of Fall River by prohibiting the service to and consumption of alcoholic beverages and drugs by minors at private premises located within the city. The City Council finds that the occurrence of social gatherings at private premises where alcoholic beverages or drugs are served to or consumed by minors is harmful to themselves and a threat to public welfare, health and safety. Minors often obtain alcoholic beverages or drugs at social gatherings. Persons who rent, own, or control the premises where service or consumption of alcoholic beverages or drugs occurs are in the best position to ensure that alcoholic beverages and drugs are neither served to nor consumed by minors.

(b) Definitions:

For purposes of this section, the following terms are defined as follows:

“Alcoholic beverage,” as defined by M. G. L. c. 138 § 1, means any liquid intended for human consumption as a beverage and containing one half of one per cent or more of alcohol by volume at sixty degrees Fahrenheit.

“Control” means the authority and ability to regulate, direct, or dominate.

“Drug,” as defined by M. G. L. c. 94C § 1, means the following:

1) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

2) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

3) Substances, other than food, intended to affect the structure, or any function of the body of man and animals; or

4) Substances intended for use as a component of any article specified in M. G. L. c. 94C § 1 clauses (a), (b) or (c), exclusive of devices or their components, parts or accessories.

“Minor” means any person under the age of twenty-one (21).

“Open House Party” means a social gathering at premises with one or more minors present.

“Person” means a human being, corporation or unincorporated entity.

“Premises” means any dwelling unit, including a hotel or motel room, yard, hall or meeting room, whether owned, leased, rented, or used regardless of compensation for use.

“Social host” means any person who owns, rents, or otherwise controls the premises at which an open house party occurs.

(c) Prohibition:

A social host shall be responsible for unlawfully serving any alcoholic beverage or drug to a minor at an open house party.

(d) Exceptions:

The provisions of this section shall not apply to:

- 1) The possession or consumption of a drug for which the individual has a current, valid prescription or as otherwise permitted by applicable law;
- 2) The practice of legally recognized religious observances;
- 3) Any parent charged with serving any alcoholic beverage to the parent’s child;
- 4) Any grandparent charged with serving any alcoholic beverage to the grandparent’s grandchild; and
- 5) Any legal guardian charged with serving any alcoholic beverage to the minor lawfully entrusted to the guardian’s care.

(e) Warning and Fines:

- 1) A first violation of this ordinance shall result in a warning which shall be issued by the Chief of Police or designee.
- 2) A second violation of this ordinance at the same premises or by the same person within a twelve (12) month period shall be fined \$150.00. Any violation occurring after the twelve (12) month period shall constitute a first violation.
- 3) A third or subsequent violation of this ordinance at the same premises or by the same person within a twelve (12) month period shall be fined \$300.00. Any violation occurring after the twelve (12) month period shall constitute a first violation.

A warning issued pursuant to this ordinance shall remain in effect for a twelve (12) month period.

(f) Appeal:

Any person who receives a warning or fine pursuant to Section 46-17 may appeal in a non-criminal proceeding by making a written request within twenty-one (21) calendar days to the Law Department of the City of Fall River. Failure to timely appeal the administrative citation is deemed a waiver of the right to appeal.

**CITY OF FALL RIVER  
IN CITY COUNCIL  
APR 24 2012**

*Passed through  
~~first reading~~  
as amended*

City of Fall River, *In City Council*

7

(Councilor Eric Poulin)  
(Councilor Raymond A. Mitchell)  
(Councilor Michael L. Miozza)  
(Councilor Daniel M. Rego)  
(Councilor David J. Dennis, Esq.)  
(Attorney Bradford L. Kilby)

WHEREAS, citizens of the City of Fall River often have to wait long periods of time before they are able to offer public input, now therefore,

BE IT RESOLVED, that the original resolution establishing public input at City Council meetings be amended so that public input time begins prior to the Committee on Finance meeting.

*City of Fall River, In City Council*

8

(Councilor Eric Poulin)

WHEREAS, residents throughout the City of Fall River have lodged complaints about their recycling bins being picked up late on a consistent basis, and

WHEREAS, this situation often leads to bottles, cans, papers and other recyclable material either being soaked by rain or blown by wind throughout city streets, now therefore

BE IT RESOLVED, that a representative from the Administration as well as the Director of Community Maintenance appear before the City Council Committee on Public Works and Transportation to discuss ways that the City Council can assist the Administration and DCM with addressing this issue either through the budget to be voted on by the City Council in June or beforehand through other means and mechanisms.

*City of Fall River, In City Council*

9

(Councilor Raymond A. Mitchell)  
(Councilor Michael L. Miozza)

WHEREAS, a meeting of the City Council Committee on Public Safety was held on Tuesday, May 1, 2012, and

WHEREAS, a discussion was held regarding drugs, crime and Police Department staffing, and

WHEREAS, there was a high level of concern regarding these very important public safety matters, now therefore

BE IT RESOLVED, that the Administration consider appointing a Public Safety Task Force to work towards improving public safety in the City of Fall River.

City of Fall River, *In City Council*

10

(Councilor Raymond A. Mitchell)

WHEREAS, the cost of fuel has been on a steady rise for many years, and

WHEREAS, this causes many indigent and elderly people to live in homes that are so cold it can have severe effects on the health of these people, and

WHEREAS, there are many programs to assist with the high costs of heating, maintenance of heaters and boilers and also programs for home insulation, now therefore

BE IT RESOLVED, that the Committee on Public Safety convene a meeting to discuss and make public the many programs that are available to the citizens of Fall River.

Law Offices

Paul E. Kelleher

RECEIVED

2012 APR 23 A 11:30

CITY CLERK ~~12-30~~  
FALL RIVER, MA

105 Bedford Street  
Fall River, MA 02720  
Tel: 508-672-5800  
Fax: 508-672-1949  
New Bedford, MA  
508-991-5800

Wednesday  
April 18, 2012

City Clerk  
City of Fall River  
One Government Center  
Fall River, MA 02720

**Re: Notice of Injury to  
Peter Leite on  
February 20, 2012 at  
Approximately 9:21 P.M. on  
President Avenue, Fall River, MA**

Dear Sir/Madam:

This letter is to notify the City of Fall River of injuries to Peter Leite, caused when he was driving along President Avenue when he went into a pole hole and as a result lost control of his vehicle striking the concrete rail road tracks bridge in Fall River, Massachusetts on February 20, 2012 at approximately 9:21 p.m.

Mr. Leite alleges, through counsel, that on the above date, the City of Fall River, its agents, servants, or employees, were negligent and careless in its repair and/or maintenance of the roadway on President Avenue in Fall River, Massachusetts thereby causing Mr. Leite to strike a concrete wall while lawfully on said way. Mr. Leite suffered personal injuries which required and continues to require medical care and attention.

This notice is given pursuant to the provisions of Massachusetts General Laws, Chapter 84, Sections 18 and 19 regarding injuries and/or damages to person or property caused by defects in ways as provided by M.G.L.Ch.84,S.15.

This notice is also given pursuant to the provisions of M.G.L.Ch.258.

The giving of the above notice is solely to protect my client's rights under said General Laws and does not constitute and is not to be considered any election of remedies or waiver of other rights he may have against the City of Fall River.

Very truly yours,

LAW OFFICES  
PAUL E. KELLEHER

By:   
Paul E. Kelleher, Esquire

arg + 2 copies Law  
DPW  
CCC  
city clerk

PEK/sp  
Enclosure (Police Report)  
C: Mr. Leite



Deval L. Patrick, Governor  
 Timothy P. Murray, Lt. Governor  
 Richard A. Davey, Secretary & CEO  
 Frank DePaola, Administrator

RECEIVED



19

2012 APR 10 P 12: 22 April 6, 2012

CITY CLERK \_\_\_\_\_  
 FALL RIVER, MA

Mr. Byron R. Holmes  
 City Engineer  
 City of Fall River  
 One Government Center  
 Fall River, MA 02722

**Subject: MassDOT Project 606717: Construction of a Bicycle Path along the Quequechan River from Brayton Avenue to Plymouth Avenue**

Dear Mr. Holmes:

On behalf of the Massachusetts Department of Transportation's (MassDOT) Highway Division, I am writing to inform you that MassDOT's Project Review Committee has approved a project in the City of Fall River: Construction of a Bicycle Path along the Quequechan River from Brayton Avenue to Plymouth Avenue, which has been assigned a project number of 606717.

It is the understanding of the Project Review Committee that the estimated total cost of this project is **\$1,200,000**. Please note, the timeframe for advertisement of construction bids for this project shall be contingent upon the duration of the project development process and availability of funding for construction. It is anticipated that additional funds required to construct this project shall be required from other sources.

It should also be noted that Project Review Committee approval is not a commitment of state or federal funding to the project. MassDOT, in conjunction with the Southeastern Massachusetts Metropolitan Planning Organization (MPO) continually evaluates transportation needs and priorities; therefore, the estimated advertisement date may change significantly as the project development process progresses. The Southeastern Massachusetts MPO is the federally designated entity charged with developing transportation plans and programs for this region.

The eventual implementation of this project also is contingent on successful completion of the project design and review process, securing all necessary right-of-way, and receipt of all appropriate permits. The traffic control measures developed for this project must be prepared consistent with 701 CMR 7.00 (Use of Road Flaggers and Police Details on Public Works Projects). The Highway Division will only advertise for construction projects that have been developed consistent with the Road Flagger and Police Detail Guidelines that are found on MassDOT's website: <http://www.massdot.state.ma.us/Highway/flaggers/main.aspx>.

It is the understanding of the Project Review Committee that the City shall be responsible for funding and administering the project design, with MassDOT Highway Division review and approval. The City shall also be responsible for providing documentation for any and all required municipal right-of-way actions. Please refer to the Right-of-Way Process attachment for guidance. Finally, the City shall prepare environmental permits, in coordination with the Highway Division's Environmental Section.

District 5, 1000 County Street, Taunton, MA 02780  
 Tel: 508-824-6633, Fax: 508-880-6102  
[www.mass.gov/massdot](http://www.mass.gov/massdot)

The following sections of this letter discuss programming and project development requirements in more detail:

Programming Requirements

1. In order to be advertised for bids, all federal aid projects must be listed in the annual element, or first year, of the regional MPO's approved Transportation Improvement Program which covers four federal fiscal years. Please work with the Southeastern Regional Planning and Economic Development District, which serves as staff to the Southeastern Massachusetts MPO, to discuss the appropriate programming approach for this project.
2. All projects, even though listed in the TIP, are subject to the availability of state and federal funding. Please understand that considerably more projects are eligible for federal aid in the MPO region than can be programmed in the TIP.
3. Since the TIP is financially constrained by the anticipated federal funding available each year, any request for amendments (such as a revision to the project year, total project cost, or project-funding category) should be coordinated through the MPO. It is expected, however, that the proponent will attempt to constrain project costs to available funding.
4. The MPO considers Transportation Evaluation Criteria in establishing priorities for programming TIP projects. You should consider both the Highway Division's and the MPO's evaluation in relation to other similar projects in your region to determine the level of commitment, and schedule, of your community's resources for this project. If this project has not already been evaluated by the MPO, or if you believe the evaluation needs to be updated, please contact this office and the MPO.
5. The municipality and its project designer should be aware that the total estimated construction cost, as listed in the TIP, should include an amount for contingencies, construction engineering, and traffic police (where appropriate under 701 CMR 7.00) , and that MassDOT will include an inflationary adjustment based upon the estimated year of advertising.

Project Development Requirements

1. The municipality is responsible for the completion of the project design in accordance with the 2006 Massachusetts Highway Department Project Development and Design Guide and other relevant Highway Division standards and criteria. The Highway Division requires formal approval of design exceptions when any of the 13 controlling criteria outlined in the Project Development and Design Guide (Chapter 2 Section 11) cannot be met.
2. Providing safe and convenient walking and bicycling accommodations in all transportation projects is a goal of MassDOT. The municipality is responsible for developing this project in accordance with relevant multimodal guidance in the MassDOT Project Development Design Guide, and its Policy and Engineering Directives.
3. If the municipality requires the services of a Design Consultant, it must hire a firm that is currently pre-qualified for the appropriate type of work by the Highway Division's Architects and

Engineers Review Board. Lists of pre-qualified firms are available on the Highway Division website.

- 4. When soliciting services from Design Consultants, the Highway Division recommends that the municipality use a qualifications-based selection process. In addition, the Highway Division encourages the municipality to refer to the *1999 Design Scope Guidebook for Municipal Projects Constructed by the Massachusetts Highway Department* during the project development and contract negotiation process. This document is available on the Highway Division website.
- 5. The Highway Division encourages municipalities to use the attached Standardized Scope of Work and Work Hour Estimate Form for Design Services as a template for municipal agreements with design consultants. This document is attached for your convenience, and the work hour estimate form is available in spreadsheet format on the Highway Division website at <http://www.mhd.ma.us/default.asp?pgid=content/publicationwkh&sid=about>. Please provide the draft design consultant work scope to the District Office for review.
- 6. Cost estimates should be reviewed at major design milestones, and at least annually.
- 7. To improve the quality of its design and construction projects, the Highway Division employs a Cost Recovery Procedure for construction extra work orders determined to be caused by designer errors and omissions. The municipality and/or its Design Consultant are responsible for addressing all Cost Recovery inquiries and for making Cost Recovery restitution payments to the Commonwealth, if determined to be warranted.
- 8. The municipality is responsible for securing the necessary right-of-way required to complete the project. Right-of-way guidelines and a checklist are enclosed for your reference. Please ensure that sufficient work-hours are provided in the design contract for the Design Consultant to prepare all necessary right-of-way plans and documents.
- 9. The municipality shall be named as the applicant on all required environmental permits. The Highway Division must have the opportunity to review draft permit applications prior to submission. The Highway Division reserves the right to assume the role of permit applicant on any project it will advertise.
- 10. This project is subject to Early Environmental Coordination as described in the Thresholds, Timelines, and Submission Requirements that appear in Appendixes 2-A-6 and 2-A-7 of the *Project Development and Design Guide*. These requirements must be met in order to expedite project design acceptance and regulatory clearances, and to ensure the inclusion of essential information at the 25% design stage. Submissions for this project should include documentation of any coordination that has been completed by the municipality. The Highway Division will not initiate the 25% design submission review until the Early Environmental Coordination checklist has been submitted to the Highway Division.
- 11. For all roadway projects, the project designer must submit the pavement design to the Highway Division Pavement Management Section for approval. If this was not done during the project initiation phase, then the project designer should submit a pavement design through the Highway Division Project Manager prior to the 25% design submission.

12. Prior to the beginning of preliminary survey work, the project designer should contact the District Survey Engineer to coordinate the establishment of horizontal and vertical control points near the beginning and end on the project. All survey work must be prepared in accordance with the MassDOT Survey Manual.
13. Prior to the beginning of preliminary survey work, the project designer should contact the District Survey Engineer to coordinate the establishment of horizontal and vertical control points near the beginning and end on the project.
14. All projects require some level of construction phase engineering services by the design engineer. The municipality is responsible for ensuring that any contracts with Design Consultants include appropriate consideration for these important services.
15. The municipality should coordinate the design of the project with all municipal departments and with any applicable public or private utilities such as gas, electric, cable, and telephone, to determine if there are any potential utility projects that would disturb the completed roadway work. Any proposed utility construction must be completed before the project can begin. Please be aware that Highway Division policy restricts highway surface openings for a period of at least five years after the new surface is placed, except for emergencies. Justification of surface opening requires the approval of the District Highway Director. In addition, the community is responsible for obtaining any required waivers.
16. Any water and sewer work in the area will be the responsibility of the municipality and should be completed prior to the start of project construction.
17. All Highway Division projects must be designed and constructed in compliance with the specifications set forth in Massachusetts Architectural Access Board (AAB) regulations. The municipality is responsible for ensuring that any right-of-way necessary for construction complies with AAB specifications.
18. The municipality will be required to enter into a Municipal Agreement with the Highway Division, similar to the enclosed sample, when the actual construction project bid has been determined. If the municipality will not be able to comply with the terms of the agreement, it should not advance this project for advertising by the Highway Division.

You may monitor this project's progress by utilizing the project information system available to the public through MassDOT's web site at [www.mhd.state.ma.us/projectinfo](http://www.mhd.state.ma.us/projectinfo). You may also contact this District office for more information.

Thank you for your support of transportation system improvements. If you have any questions regarding this project approval, or would like additional information, please contact Pamela Haznar, P.E., District Project Development Engineer at (508) 884-4239. We look forward to working with you.

Sincerely,



Mary-Joe Perry  
District Highway Director

Attachments: Standardized Scope of Work and Work Hour Estimate Form for Design Services  
Right-of-way Guidelines  
Sample Municipal Agreement

TJK/tjk

cc: MJP

MJD

PRH

City Council ✓

James Hadfield, SRPEDD

Ethan Britland, MassDOT OTP

Kurt Gaertner, EEA