

# City of Fall River Massachusetts

## Office of the City Clerk

ALISON M. BOUCHARD  
CITY CLERK

INÊS LEITE  
ASSISTANT CITY CLERK

**AUGUST 30, 2013**  
**MEETINGS SCHEDULED FOR NEXT WEEK**  
**TUESDAY, SEPTEMBER 3, 2013**

**5:15 P.M. COMMITTEE ON ORDINANCES AND LEGISLATION**  
**6:45 P.M. COMMITTEE ON FINANCE \*\*PLEASE NOTE LATER TIME\*\***

### AGENDA

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

PRIORITY MATTERS – None

#### PRIORITY COMMUNICATIONS

1. \*Comm. from Asst. Corp. Counsel re: fee for Sunday entertainment license
2. \*Comm. from Asst. Corp. Counsel and home rule petition for pole locations
3. Traffic Commission recommending amendments to the traffic ordinances

#### COMMITTEE REPORTS

Committee on Real Estate recommending:

##### Adoption:

4. \*Order–Offer from Sherwood Building Co. for former Connell School, 650 Plymouth Avenue – \$5,000
5. \*Order–Offer from Flint Neighborhood Assoc. for former Davol School, 112 Flint Street – \$5,121

Committee on Regulations recommending:

##### Adoption:

6. Order–Auto repair shop license renewal for Pedro Albergaria d/b/a Pete's Auto Repair at 1058 Slade Street

##### Denial:

7. Order–Second hand article store license for Keith Schwartz d/b/a Trade N Play at 103 Morgan Street

ORDINANCES – None

#### RESOLUTIONS

8. \*City Council to vote on anticipated increases included in budget proposal prior to budget submission
9. \*Administration form committee to explore possibility of bottling and selling purified Fall River water
10. \*Corporation Counsel render legal opinion on legality of base meter fee
11. \*Legal opinions to be rendered by the Corporation Counsel without the need for a resolution
12. \*Children's Museum be invited to Comm. on Finance meeting for a presentation re: current museum events
13. \*Traffic Comm. meet with businesses and residents to discuss the opening of Brightman St. to Lindsey St.
14. \*Comm. on Ordinances and Legislation discuss adoption of M.G.L. Chapter 41, Section 108I
15. \*Comm. on Public Safety discuss ways to improve public safety with special attention to gun crimes
16. \*Director of Community Maintenance and City Engineer attend future Com. on Public Works & Transportation meeting to discuss various maintenance issues
17. \*School Committee notify City Council when Spirit Wear at B.M.C. Durfee High School is placed on the School Committee agenda

#### CITATIONS

18. George Rego – Celebration of 90<sup>th</sup> birthday on September 14, 2013

#### ORDERS – HEARINGS FOR TONIGHT

Auto repair shop license:

19. Souhad Saliba, d/b/a JZ Express, Inc. located at 969 South Main Street

Pole location:

20. Massachusetts Electric Company – One (1) pole location and two (2) pole re-locations – Brayton Avenue

Curb removal:

21. Fernando Raposo – 14 feet at 435 Aetna Street

ORDERS – HEARINGS TO BE SCHEDULED – None

ORDERS – NO HEARING REQUIRED – None

**ORDERS – MISCELLANEOUS**

- 22. Police chief's report on licenses
- 23. Auto body shop renewals
- 24. Auto repair shop renewals
- 25. Transfer auto body shop license no. 132 from Eleventh St. Association, Inc., d/b/a Saber Auto Body to Daniel Aguiar d/b/a Advance Collision Center located at 39 Eleventh Street

**COMMUNICATIONS – INVITATIONS – PETITIONS**

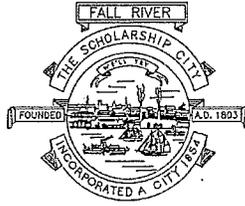
- 26. \*Claims
- 27. Zoning Board of Appeals minutes – June 20 and July 18, 2013
- 28. Planning Board minutes – May 30, June 24, July 15 and August 8, 2013
- 29. Drainlayer Bonds
- 30. \*Street opening request for pavement less than 5 years old – 26 Kilburn Street

**BULLETINS – NEWSLETTERS – NOTICES**

- 31. DPU public hearing – September 17, 2013 (comments due September 10)

  
City Clerk

**City of Fall River**  
*Office of the Corporation Counsel*



**WILLIAM A. FLANAGAN**  
Mayor

**ELIZABETH SOUSA**  
Corporation Counsel

**GARY P. HOWAYECK**  
Assistant Corporation Counsel

**CHRISTY M. DIORIO**  
Assistant Corporation Counsel

August 20, 2013

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

Re: Sunday Entertainment License

Dear Madame Clerk:

It has recently come to the attention of the undersigned that the City's Sunday entertainment license fees are in contravention of Massachusetts General Laws. Mass. Gen. Laws. ch. 136, § 4.

Presently, Appendix A delineates a \$40.00 application fee, a \$500.00 annual license fee, and no cost specified for single event licenses. Conversely, state law specifies that single event license fees may not exceed \$20.00, while an annual license fee is capped at \$400.00. *Id.* The statute is silent with regard to the imposition of an application fee; therefore, it is this office's recommendation that the current application fee be stricken. Any fees established by the Council should not exceed the respective \$20.00 and \$400.00 statutory limits.

In addition to the local license fees, please be advised that the Commonwealth's commissioner of public safety also imposes the following charges under the statutory scheme:

- 1) \$2.00 for a single event license provided the entertainment commences at or after 1:00 p.m.;
- 2) \$5.00 for a single event license provided the entertainment commences prior to 1:00 p.m.; and
- 3) \$100.00 annually.

*Id.*

I respectfully request that this issue be brought before the Council for consideration. Thank you for your anticipated attention to this matter.

Very truly yours,

*Christy M. DiOrio*  
Christy M. DiOrio

cc: The Hon. William A. Flanagan  
Shawn E. Cadime  
John L. Nunes  
Sandra Pessoa

CITY CLERK  
FALL RIVER, MA

2013 AUG 21 A 10:17

RECEIVED

2

**City of Fall River**  
*Office of the Corporation Counsel*



**WILLIAM A. FLANAGAN**  
Mayor

**ELIZABETH SOUSA**  
Corporation Counsel

**GARY P. HOWAYECK**  
Assistant Corporation Counsel

**CHRISTY M. DIORIO**  
Assistant Corporation Counsel

August 23, 2013

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

Re: Home Rule Petition - Pole Locations

Dear Madame Clerk:

RECEIVED  
2013 AUG 26 P 3:25  
CITY CLERK  
FALL RIVER, MA

Enclosed please find a proposed home rule petition allowing the City Engineer to grant orders and act upon petitions for construction or erection of wires, poles, piers, abutments, or conduits without notice of a hearing. Presently, the City Council hears such matters pursuant to the statutory scheme. Mass. Gen. Laws ch. 166, § 22.

Said home rule petition was submitted to Senate Counsel for review following a resolution proposed by Councilor Poulin and adopted on January 22, 2013. Leave to withdraw from the Ordinance Committee was subsequently granted due to the lack of having a date certain in which the matter could be resolved.

As such, the undersigned respectfully requests that the Council refer this matter to the Ordinance Committee for discussion and reconsideration.

Very truly yours,

Christy M. DiOrio

Enclosure

cc: Byron Holmes (w/ encl.)

CITY OF FALL RIVER, IN CITY COUNCIL

ORDERED, that the City of Fall River hereby petition the General Court for the passage of a special law substantially in the following form:

AN ACT AUTHORIZING THE POWER AND DUTIES GRANTED  
UNDER SECTION 22 OF CHAPTER 166 TO BE VESTED  
IN THE ENGINEER OF THE CITY OF FALL RIVER

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding section 22 of chapter 166 of the General Laws or any other general or special law to the contrary, the city engineer of the City of Fall River shall have the powers and duties under said section 22 to grant orders and act upon petitions therein without notice of a hearing. All other provisions of said chapter 166 shall govern such orders and petitions.

SECTION 2. This act shall take effect upon its passage.

City of Fall River, *In City Council*

4

ORDERED, that the City Council of the City of Fall River hereby accepts the recommendation of the Real Estate Committee and orders that the former Connell School, 650 Plymouth Avenue (Assessors Map I-14-0003), be conveyed to Sherwood Building Company for the sum of \$5,000 as set forth in Sherwood Building Company's Response to said RFP, subject to the terms and conditions as set forth in said RFP, and further subject to the negotiation and execution of a Purchase & Sales Agreement in a form determined and acceptable by the Corporation Counsel and the execution of a Quitclaim Deed in a form also acceptable to the Corporation Counsel.

*City of Fall River, In City Council*

5

ORDERED, that the City Council of the City of Fall River hereby accepts the recommendation of the Real Estate Committee and orders that the former Davol School, 112 Flint Street (Assessors Map K-14-0011), be conveyed to Flint Neighborhood Association, Inc. for the sum of \$5,121 as set forth in Flint Neighborhood Association, Inc.'s Response to said RFP, subject to the terms and conditions as set forth in said RFP, and further subject to the negotiation and execution of a Purchase & Sales Agreement in a form determined and acceptable by the Corporation Counsel and the execution of a Quitclaim Deed in a form also acceptable to the Corporation Counsel.

*City of Fall River, In City Council*

8

(Council President Pereira)  
(Councilor Raymond Mitchell)  
(Councilor Michael L. Miozza)

WHEREAS, municipal budgets are prepared and submitted to the City Council based on financial projections, now therefore

BE IT RESOLVED, that any anticipated increase within the budget proposal must be voted upon by the City Council prior to the actual submission of the annual budget, and

BE IT FURTHER RESOLVED, that the Committee on Ordinances and Legislation convene a meeting to explore the possibility of enacting an ordinance to avoid potential issues.

*City of Fall River, In City Council*

(City Council President Linda M. Pereira)

WHEREAS, Fall River has a great natural source of drinking water, and

WHEREAS, bottled water has become the drink of choice for many people, and

WHEREAS, we need to increase revenue sources to allow our city to move forward, now therefore

BE IT RESOLVED, that the Administration form an exploratory committee to investigate the possibility of bottling purified Fall River Water to sell as a means of generating revenue for the City of Fall River.

City of Fall River, *In City Council*

10

(Councilor Raymond A. Mitchell)

WHEREAS, the proposed ordinance relating to modification of the base meter fee has created a great deal of debate, and

WHEREAS, questions have arisen with regard to the legality of the fee, now therefore

BE IT RESOLVED, that Corporation Counsel render an opinion on the legality of this fee as soon as possible.

**Inês Leite**

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**From:** Elizabeth Sousa [esousa@fallriverma.org]  
**Sent:** Friday, August 30, 2013 2:56 PM  
**To:** Ines  
**Cc:** lindamp55@gmail.com; lindacitycouncil1@verizon.net; Alison Bouchard  
**Subject:** RE: Base meter fee legal opinion

Linda,

I was requested to review the legality of the base meter fee ordinance. I have done legal research and thus far it appears that the ordinance would withstand legal challenges. I intend on submitting a legal opinion to the Ordinance Committee.

If you have any questions please do not hesitate to contact me.

Thank You,

Elizabeth Sousa  
Corporation Counsel  
One Government Center  
Fall River, MA 02720  
Office: 508-324-2540  
Fax: 508-324-2655

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**From:** Inês Leite [mailto:ileite@fallriverma.org]  
**Sent:** Friday, August 30, 2013 2:45 PM  
**To:** Elizabeth Sousa  
**Cc:** lindamp55@gmail.com; lindacitycouncil1@verizon.net; Alison Bouchard  
**Subject:** Base meter fee legal opinion

Dear Liz,

At the request of Council President Pereira, I am writing to request that you please confirm via e-mail the legality of the base meter fee.

The Council President has requested that, in the interest of time, that such legality be confirmed now, but that the written legal opinion, with backup documentation, be forwarded to the Council by Tuesday, September 3, 2013.

Thank you,  
Inês

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*Inês da Silva Paulino Leite*  
Assistant City Clerk  
**Office of the City Clerk**  
One Government Center  
Fall River, MA 02722  
T 508-324-2220  
F 508-324-2211  
E [ileite@fallriverma.org](mailto:ileite@fallriverma.org)

*Office Hours: Monday through Friday 9:00 a.m. to 5:00 p.m.*

*City of Fall River, In City Council*

11

(Councilor Raymond A. Mitchell)

WHEREAS, a request for a legal opinion from Corporation Counsel may be a time sensitive matter, now therefore

BE IT RESOLVED, that opinions be rendered as requested without the need for a resolution.

*City of Fall River, In City Council*

12

(Councilor Eric Poulin)  
(Councilor Raymond A. Mitchell)  
(Council President Linda M. Pereira)

**WHEREAS, The Children's Museum of Greater Fall River, Inc. has a number of exciting developments, programs and news that it wishes to share with all members of the City Council, now therefore**

**BE IT RESOLVED, that representatives of the Children's Museum be invited to a future meeting of the City Council Committee on Finance to give a brief 10-15 minute presentation on the museum and the exciting things that are happening there.**

*City of Fall River, In City Council*

(Councilor Raymond A. Mitchell)

WHEREAS, traffic patterns in the area of Brightman Street have been difficult since the closing of the Brightman Street Bridge, and

WHEREAS, large vehicles including fire apparatus are unable to maneuver these narrow streets, now therefore

BE IT RESOLVED, that the Traffic Commission meet with businesses and residents of this area to discuss the possibility of opening Brightman Street to Lindsey Street.

City of Fall River, *In City Council*

14

(Councilor Michael L. Miozza)

WHEREAS, Massachusetts General Law, Chapter 41, Section 108I, allows for members of the police department, assigned to fingerprint identification, to receive additional compensation for fingerprinting, and

WHEREAS, the City of Fall River City has not yet accepted the provisions of Chapter 41, Section 108I, now therefore

BE IT RESOLVED, that the Committee on Ordinances and Legislation meet to discuss this matter further with all concerned parties.

City of Fall River, *In City Council*

(Councilor Michael L. Miozza)  
(Councilor Eric Poulin)

WHEREAS, there has been a rise in the number of reported shootings in the city, particularly around the Rodman Street area, and

WHEREAS, the Fall River City Council strongly supports public safety and crime prevention, now therefore

BE IT RESOLVED, that the Committee on Public Safety convene with the Administration, the Police Chief, and other interested parties to discuss ways to improve public safety throughout the city, with special attention to crimes committed by guns.

*City of Fall River, In City Council*

(Councilor Daniel M. Rego)

WHEREAS, many sidewalks surrounding parks and playgrounds are in need of repair, and

WHEREAS, these areas are prime locations for walking and the viewing of sporting events, and

WHEREAS, many of these sidewalks have been in disrepair for many years, and

WHEREAS, the reconstruction of Slade Street has been ongoing for an extended period of time, now therefore

BE IT RESOLVED, that the Director of Community Maintenance and the City Engineer be invited to a future meeting of the Committee on Public Works and Transportation to discuss these maintenance issues.

City of Fall River, *In City Council*

17

(Councilor Daniel M. Rego)

WHEREAS, Spirit Wear is worn by many students in Fall River, and

WHEREAS, this eliminates many problems associated with clothing choices and colors, and

WHEREAS, this allows students to be on equal ground and puts a strong focus on learning, now therefore

BE IT RESOLVED, that BMC Durfee High School consider instituting Spirit Wear, and

BE IT FURTHER RESOLVED, that the City Council be notified when this issue is placed on the School Committee agenda to allow for input from the members of the City Council and other interested parties.



City of Fall River  
Massachusetts

Department of Community Maintenance  
CEMETERIES • MUNICIPAL BUILDINGS • ENGINEERING • SANITATION •  
PARKS • STREETS & HIGHWAYS • TRAFFIC & PARKING • VEHICLES

Engineering Division

WILLIAM A. FLANAGAN  
Mayor

KENNETH C. PACHECO  
Director  
BYRON R. HOLMES, P.E.  
City Engineer

**MEMO**

**To:** Fall River City Council  
**From:** Byron Holmes, P.E.  
City Engineer  
**Date:** August 22, 2013  
**Subject:** Street Opening Request for Pavement less than 5 years old.

**Comments:**

Robert Fortier of Fortier's Auto has submitted a request to open a street less than five years old for the purpose of cutting off a water service now connected to a residential building that is being demolished. The existing home is 26 Kilburn Street and the assessor's reference is Map G-25, Lot 9. Once the home is demolished, an expansion of an existing business will take place.

Under Section Sec. 66-392 of City Ordinances, permission to open this street can only be granted by a majority vote of the city council.

If the Council grants this request, the following street repair criteria would apply:

1. Flowable fill shall be used to backfill the trench in the roadway.
2. Infrared patching will be required.
3. All work is to be inspected by the Engineering Department.

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2013 AUG 23 A 10:38  
CITY CLERK  
FALL RIVER, MA