

- Water Retained Earnings \$ 216,564
- Sewer Retained Earnings \$ 766,065
- EMS Retained Earnings \$ 500,617
- Sanitation Retained Earnings \$ 212,422

As of July 1, 2014, the Stabilization Fund balance was \$252,096 (prior to the use of the Fund to finance the FY 2015 deficit on June 26, 2014, the balance had been \$3,455,596).

As of February 18, 2015, the reserves in the General Fund amount to only \$499,598 – the balance remaining in the Stabilization Fund. This dangerously low level represents only 0.2% of the General Fund. The ideal scenario is for a city to have a reserve balance that is equivalent to one to two months’ of expenditures, to guarantee funds for contingencies, emergencies, and unforeseen eventualities, as well as to assist in maintaining an adequate cash flow cushion. This would yield an AA bond rating, rather than the A2 the city currently possesses. Two months of General Fund expenditures would be \$24 to \$48 million. Admittedly, for Fall River, this is a target to be attained over a 10-year period, but it does provide a goal for final fiscal stability. Had certified Free Cash been used to build up reserves over the past 4 years, rather than finance deficit spending, the City would have been 1/3 of its way toward that goal.

Where did all the reserves go?

- \$3,203,500 in Stabilization was used for FY 2015 original budget deficit financing,
- \$170,000 in Stabilization was used in FY 2015 for Fire Salaries and Elections (for the recall),
- \$305,1550 was drawn from Free Cash for Debt Service in FY 2015,
- \$3,386,579 from Free Cash/Stabilization was used to meet FY 2014 minimum net school spending requirements.

The Treasurer has made very clear that the Stabilization Fund balance was too low and needed to be increased over time. He maintained that it was an important consideration for the bond-rating agencies in establishing the City’s credit worthiness.

By way of comparison, the following were the reserve positions of similarly situated cities at the start of FY 2015, as verified by the Department of Revenue:

<u>City</u>	<u>Available Resources</u>	<u>Bond Rating</u>
Lowell	\$25,455,413	A1
New Bedford	\$25,080,570	A1
Lynn	\$14,170,553	A1
Lawrence	\$10,978,965	Baa1
Taunton	\$14,555,286	A1
Chicopee	\$23,119,772	Aa3
Revere	\$ 9,015,292	A1
Before Fall River drew down its reserve position to \$499,598, its status was		
Fall River	\$ 7,611,259	A2

On the Enterprise Funds side of the equation, retained earnings represent some 4.3% of the budget, which means that a 17% reserve target could be accomplished in four years, if retained earnings were not used to finance deficit imbalances.

The bottom line is that

- (a) the City's reserves stand at dangerously low levels;
- (b) the reserve positions need to be augmented; and
- (c) the current financial policy to exhaust reserves (Free Cash, Retained Earnings, or Stabilization Funds) and one-time funds to finance the operating deficit is both financially unsustainable and fiscally irresponsible.

Recommendations Still Outstanding from DoR's Financial Management Review, March 2009.

Based on the deficiencies found in the Department of Revenue's (DoR) Financial Management Review almost six years ago (in March 2009), we questioned the Auditor and Treasurer on the reconciliation of cash balances and completion of external audits on a timely basis. They confirmed that the City's cash balance position was being reconciled on a monthly basis, that the audits are being done timely (indeed, this year, ahead of schedule), and that consequently free cash is being certified earlier than in the past.

We sent out emails to the Treasurer, Auditor, Collector, and Assessor, providing copies of the 25 specific recommendations relating to financial services and requesting the management action plan which closes the recommendations, and/or the status of closing the recommendations. We understand that there was no formal management response to the March 2009 recommendation; as a result, we contacted the Financial Team to explore how/whether the DoR recommendations have effectively been closed in the intervening six years, whether action is being taken to close them, or whether the recommendations were no longer relevant, having been overtaken by events.

Treasurer/Director of Financial Services. For the Director of Financial Services, there were 10 recommendations altogether. He maintains that all but three has been taken care of. The following three recommendations are still open:

- Recommendation 19: Activate Remote Access MUNIS Features for Departments,
- Recommendation 23: Transfer Purchasing Back to Financial Services Department, and
- Recommendation 26: Instruct Cemetery Division to Handle Perpetual Care Receipts.

More details on the recommendations and his hand-written responses, are provided at ATTACHMENT X, "Outstanding Recommendations, DoR Financial Management Review" (March 2009).

Collector. For the Collector, there were five DoR recommendations under her specific responsibility. She indicated that only two under her purview were still open and actionable: those dealing with (a) departments committing bills to the collector to receive funds and (b) abating older uncollectible amounts. The recommendation dealing with departmental commitments to the Collector will require new modules in the MUNIS system and training on those modules to be implemented. The outstanding recommendation on abating older unpaid bills is by far the most important and consequential for purposes of this Transition Team Report; it is quoted below in its entirety:

RECOMMENDATION 30: ABATE OLDER UNCOLLECTIBLE AMOUNTS

We recommend the collector contact the assessing office about abating personal property and motor vehicle excise determined to be uncollectible. The deputy collector should be able to assist in this task by providing statements when outstanding amounts cannot be collected due to death, absence, poverty, insolvency, bankruptcy or other inability of the person assessed to pay. If the collector is satisfied with the documentation presented, then she would notify the assessors in writing and under oath, stating why the taxes and excise cannot be collected. Abating the older amounts will help clean up and reduce the city's receivables on its balance sheet. Having previously committed all outstanding amounts to the deputy collector, any amount that eventually may be collected and turned over to the city may be easily recommitted by the assessors on a special warrant so the collector may accept the payment.

This is a significant recommendation that still has not been closed six years after issuance. It has relevance to the overlay account and the designation of overlay surpluses used for balancing the budget, or deficit financing. It appears that there have been no aggressive steps taken and there is no plan in place to pursue uncollected personal property bills – in some cases going back to 1999 – to either collect them or determine them to be uncollectible. The Collector responded:

“The issue of uncollectible has been discussed throughout my tenure as Tax Collector and has been left unresolved. Although we are well aware of the process I believe the question is the hit to the Assessor’s accounts. At the request of the Treasurer, I have identified excise tax to the Assessor to be abated. The deputy collector does have a file of uncollectable that he periodically sends monies for.”

What is important to note is that the Collector's request to refer these personal property accounts to a Deputy Collector, in consonance with the DoR recommendation, has been rejected by the Director of Financial Services. There appears to be a continued lack of urgency in dealing with the matter.

The problem here is that personal property is the only tax for which there is no easy enforcement action: there are no liens possible, nor any auto registration renewal that would trigger payment. As it would impact the overlay negatively, year after year, the City does not identify older personal property bills that should long ago been abated due to insolvency, death, business closure/absence, poverty, bankruptcy, or other inability to pay. In essence, the City maintains that bills going back to 1999 are still collectible, because it has not taken any good faith effort or action to determine what portion of the uncollected bills are truly uncollectible. No provision is

currently made for uncollected personal property taxes in the determination of overlay surplus in any given fiscal year, going back to FY 1999. This has led to a questionable release of the FY 2002 overlay surplus, without any consideration of uncollected or uncollectible personal property – which would be abated and lower the overlay accordingly.

Though we requested specific action plans to close these 6-year-old recommendations, none has been received from the Director of Financial Services.

Auditor. The Auditor also had five recommendations relating to his division; all have been closed except for one that requires resolution through the collective bargaining process. Under M.G.L. c. 41, §56, services must actually be rendered to, or for, the City before payment can be made. As such, payments to employees in advance of receiving services, is out of compliance with state law. According to DoR's review, employee timesheets are completed, submitted, and processed before the pay period ends. Effectively, people are being paid before they work. To correct this timing issue, DoR suggested that the issuance of checks be delayed one business day over five quarters, such that at the end of that time, the entire payroll process would have advanced by a week and the city will be in full compliance with state law. (The gradual change would minimize the impact on employees.) Because this is a collective bargaining issue, it would be subject to labor negotiations.

Assessor. Finally, five recommendations were sent to the Assessing Administrator. Of these it appears that all except one recommendation has been closed. The only one that is partial outstanding deals with conducting assessing inspections at the time of property transfer or issuance of occupancy permits. The Assessing Administrator, who has since left City employment, did not provide any action plan to resolve this.

Follow-up to Independent Audit Report.

The FY 2014 Financial Audit and Single Audit (for Federal grant purposes) was undertaken by Clifton Larsen Allen during the last quarter of calendar 2014 and the Transition Team received a copy on December 31, 2014. The City is to be complemented that it was audit ready in a timely manner and that the audit report was available before the close of the calendar year. While the audit speaks for itself – and we do not wish to summarize it – we are concerned by the management letter and the City's currently unclear plan for addressing and closing their recommendations.

The management letter identified the following internal control issues and vulnerabilities:

- development and implementation of a risk assessment program, which would be formally documented and made part of the city's financial policy and procedures manual, as well as development and implementation of a monitoring program to evaluate periodically the operational effectiveness of internal controls;
- implementation of procedures to record expenditures and encumbrances in the proper accounting period;
- development and implementation of a strategic information technology plan that documents and prioritizes objectives to be taken in the next 18 to 36 months;

- development and implementation of city-wide consistent information technology policy, procedures, and procurement practices to ensure that decentralized IT departments communicate and report through a central department allowing for shared resources;
- implementation of procedures to record parking tickets issued and EMS billings as accounts receivable, as well as providing for subsequent transactions (in summary), such that the general ledger acts as a control account for parking tickets and EMS accounts receivable;
- implementation of procedures to record debt refunding transactions to the general ledger;
- obtaining the documentation supporting all permanent funds and implementation of procedures to monitor compliance with the permanent funds' terms and conditions;
- development and implementation of a formal financial policies and procedures manual; and
- familiarization with and preparing for the implementation of a new accounting standard relating to accounting for pension benefits as a long-term obligation and liability on future financial statements.

Our concerns relate to the City's abbreviated responses in the management letter and lack of written follow-up implementation plans. Management did not appear to respond to the second part of the first recommendation on monitoring the effectiveness of internal controls, nor did it address the last comment on the new accounting standard. A full management response – in either the management letter or in a subsequent City report – should have indicated specifically how and when a recommendation would be closed, intermediate steps to be taken, and who would be responsible for action. It would provide timelines and specificity, assign closure responsibility, and clearly set out how, when, and by whom the deficiencies noted would be corrected.

Each recommendation deserves a specific and detailed action plan, highlighting the elements to be addressed, with specific benchmarks on when final and intermediate “milestone” actions along the way are to be completed. Periodically, senior management should be getting status reports to ensure that closure is on track and that all recommendations will be closed – or substantial progress made – by the time of the external auditor's next visit in August 2015. As the report covers financial and procurement practices across all departments and makes specific recommendations impacting a number of departments or enterprise funds, each department head should receive copies of the management letter and be consulted in the initial or follow-on response.

We believe that each recommendation requires a specific and thorough action plan. It is important for the City to learn from its past mistakes and begin to put positive, effective procedures in place.

Financial Implications of Collective Bargaining Agreements Not Analyzed or Costed Out.

The City's nine collective bargaining agreements (CBA) have either expired or will expire by June 30, 2015. Our layman's review of these CBAs confirms that they appear to be very favorable to employees from the perspective of pay, benefits, and overly restrictive workplace rules, which, in part, create overtime requirements. In short, management's rights appear to have become very limited; flexibility in the schedule of vacations and other time off has resulted in excessive overtime requirements to maintain service levels. The pay increases over the past three years, varying between 6 and 7.5 percent, depending on the contract (indeed, one contract had a 15% increase for some employees nearing retirement), have been unsustainable seeing that each year the City has registered operating deficits. Another concern was the practice of rolling various stipends and incentives into pensionable pay, creating individualized pay schedules and adding to the unfunded pension liability.

In our interviews with the Treasurer and Auditor, we learned that they were not included in the collective bargaining process nor consulted to cost out various City or union proposals. They were only involved with estimating the impact on the fiscal year's budget when the particular budget was being prepared. This minor involvement was primarily to review personnel costs presented in departmental budget submissions. Without close involvement by both the Treasurer and Auditor, it is impossible to fully understand the financial implications of a CBA on future budget or on-going workloads and workforce allocation.

We were surprised to learn that no outside experts or legal counsel was sought prior to the negotiation of the CBAs, to determine what job rule relief was required or what items would be included within the legitimate and permissible items for negotiation. It also appeared that department heads were not consulted on the management flexibility they required, or the financial implications on overtime, or the effects of vacation, personal, and sick days on scheduling of workload. Indeed, it appears that standard "management rights" language common throughout the Commonwealth does not appear in the agreements.

We are particularly concerned about the MOU signed by the former Mayor, which impacts the future staffing levels of the Fire Department. Legal counsel needs to be consulted to determine its validity, as:

- it cedes a key management right – minimum departmental manning levels – which is not a permissible subject of collective bargaining,
- it includes in the current CBA a MOU which binds the parties to include staffing levels in future CBAs, yet to be negotiated,
- it creates a fiscal obligation on the City which already is experiencing operating deficits,
- it binds a newly-elected Mayor – and his potential successor – to the agreement of a prior Administration,
- it calls for actions to be undertaken outside of the legal 3-year limit of the next following CBA, and
- it was not submitted in a timely fashion to the City Council to approve the cost elements, or to return the MOU to the parties for further bargaining.

City Council Not Consulted on CBAs.

In Massachusetts, the chief executive officer (i.e., the Mayor) negotiates collective bargaining agreements. However, the employer:

shall submit to the appropriate legislative body within thirty days after the date on which the agreement is executed by the parties, a request for an appropriation necessary to fund the cost items contained therein.... If the appropriate legislative body duly rejects the request for an appropriation necessary to finance the cost items, such cost items shall be returned to the parties of further bargaining.

Transparency requires that the legislative body be included in the process, but not in a negotiating role. We believe that the City Council should, within 30 days of CBA execution, vote to approve the cost items, or return it to the parties for further bargaining on cost items.

Authorized Position Control – Staffing Pattern.

Upon meeting with the City’s Financial Team, we requested the List of Authorized Positions, by department, over the past four years. This would allow us to see the trend of changes in personnel over time and what positions were filled and vacant as of July 1 of each FY. In certain larger departments, we also wished to see the changes in number on specific positions to evaluate “grade creep” and the numbers of intermediate supervisor personnel. Finally, we wanted to know the number of grant-funded positions that are susceptible to external reductions from year to year, but which contribute to an overall level of service expectations. Position control is a major factor in any public sector entity, as some 70-80% of the budget is personnel related (in salaries, retirement, other benefits, workers’ or unemployment compensation, etc.). Normally, federal, state, and local budgets have FTE (full-time equivalent) counts and controls as part of the budget process and documentation.

We initially received summary information by department. It was not until mid-March (some 60 days later) that we received more detailed information, especially for Fire and Police. It appears that positions in the Enterprise Funds have been relatively static, since FY 2012, with the exception of Sanitation, which has lost 13 employees, or about 30% of its personnel. In the General Fund, on the other hand, authorized ceilings have increased by 76 positions from FY 2012 to FY 2015 (from 585.5 to 661.5 FTEs, a 13% increase), as follows:

- Executive, Legislative, and Administrative Services 0.0
- Financial Services + 3.0
- Community Maintenance (in part to absorb the Sanitation cut) +18.0
- Community Services (due to Inspectional Services & Library growth) + 5.0
- Other Departments (due to City Clerk and Veterans increases) + 2.5
- Public Safety [Police, +26; Fire, +21.5 (to compensate for 79 SAFER RIFs)] +47.5

As regards grant-funded positions, Police has lost 11 slots and Fire is down 79; only Health and Human Services registered an increase of 38, due in large part to a CDA Child Development grant. In summation, total City (non-school) employment – funded by grants, the General Fund,

or enterprise funds – has increased from 847.5 FTEs in FY 2012 to 860.5 in FY 2015. The growth in positions funded by the General and Enterprise Funds increased by 65.0 (from 720.5 to 785.5), while grant positions declined by 52.0 (from 127.0 to 75.0).

Details of positions by department and by grant can be found at ATTACHMENT Y, “Authorized Position Control Report, Trend FY 2012 to FY 2015.” For the larger departments, for example, Fire and Police, the authorized positions are further specified by rank or type of personnel.

The summary of Authorized Positions, in full-time equivalents (FTEs), is provided below and in ATTACHMENT E, “Authorized Position Summary.”

AUTHORIZED POSITIONS SUMMARY (in FTEs)

<u>Department</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>Change Since FY 2012</u>
Enterprise Funds	135.0	136.0	139.0	124.0	-11.0
EMS	38.0	38.0	38.0	38.0	0.0
Sanitation	45.0	44.0	47.0	32.0	-13.0
Sewer	7.5	8.0	10.0	10.0	2.5
Water	44.5	46.0	44.0	44.0	-0.5
General Fund	585.5	607.5	622.5	661.5	76.0
<u>Executive/Legislative</u>	<u>4.5</u>	<u>4.5</u>	<u>3.0</u>	<u>3.0</u>	<u>-1.5</u>
Mayor	3.5	3.5	2.0	2.0	-1.5
Council	1.0	1.0	1.0	1.0	0.0
<u>Administrative Services</u>	<u>19.5</u>	<u>18.5</u>	<u>22.0</u>	<u>21.0</u>	<u>1.5</u>
City Administration	0.0	0.0	2.5	2.5	2.5
Law	6.5	5.5	5.5	5.5	-1.0
Human Resources	4.0	4.0	4.0	4.0	0.0
Purchasing	3.0	3.0	3.0	3.0	0.0
Mgmt. Info. System	6.0	6.0	7.0	6.0	0.0
<u>Financial Services</u>	<u>25.0</u>	<u>29.5</u>	<u>28.0</u>	<u>28.0</u>	<u>3.0</u>
Assessors	7.0	7.0	7.0	7.0	0.0
Auditor	5.0	6.5	6.0	6.0	1.0

Collector	7.0	8.0	8.0	8.0	1.0
Treasurer	6.0	8.0	7.0	7.0	1.0
<u>Community Maintenance</u>	<u>86.0</u>	<u>87.0</u>	<u>90.0</u>	<u>104.0</u>	<u>18.0</u>
Streets & Highways	34.0	34.0	35.0	51.0	17.0
Municipal Buildings	15.0	15.0	16.0	14.0	-1.0
Traffic & Parking	10.0	10.0	10.0	10.0	0.0
Parks & Recreation	16.0	16.0	15.0	15.0	-1.0
Cemeteries	6.0	6.0	8.0	8.0	2.0
Engineering	4.0	4.0	4.0	4.0	0.0
Trees	1.0	2.0	2.0	2.0	1.0
<u>Community Services</u>	<u>50.5</u>	<u>55.0</u>	<u>55.0</u>	<u>55.5</u>	<u>5.0</u>
City Planning	6.0	5.0	5.0	5.0	-1.0
Inspectional Services	15.0	18.0	18.0	20.0	5.0
Health & Human Services	10.0	8.5	7.5	7.5	-2.5
Library	16.0	19.0	20.0	18.5	2.5
Council on Aging	3.5	4.5	4.5	4.5	1.0
<u>Other Departments</u>	<u>13.0</u>	<u>14.5</u>	<u>15.0</u>	<u>15.5</u>	<u>2.5</u>
City Clerk	5.0	6.0	6.0	6.0	1.0
Elections	2.0	2.0	2.5	2.5	0.5
Veterans	6.0	6.5	6.5	7.0	1.0
<u>Public Safety</u>	<u>387.0</u>	<u>398.0</u>	<u>409.5</u>	<u>434.5</u>	<u>47.5</u>
Police	219.0	229.0	255.0	245.0	26.0
Environmental Police	5.0	5.0	5.0	5.0	0.0
Animal Control	3.0	3.0	3.0	3.0	0.0
Harbor Master	1.0	1.0	1.0	1.0	0.0
Fire	158.0	159.0	144.5	179.5	21.5
Emergency Management	1.0	1.0	1.0	1.0	0.0
Grant Funded	127.0	133.5	136.5	75.0	-52.0
<u>Police</u>	<u>47.0</u>	<u>53.0</u>	<u>20.0</u>	<u>36.0</u>	<u>-11.0</u>
COPS	19.0	19.0	0.0	5.0	-14.0
FRHA	9.0	9.0	7.0	6.0	-3.0
911	8.0	6.0	0.0	7.0	-1.0
MASS Staffing	0.0	0.0	0.0	5.0	5.0
CDA Walking Beat	7.0	7.0	7.0	7.0	0.0

Schools	4.0	10.0	4.0	4.0	0.0
Disability Commission	0.0	2.0	2.0	2.0	2.0
<u>Fire</u>	<u>79.0</u>	<u>79.0</u>	<u>79.0</u>	<u>0.0</u>	<u>-79.0</u>
SAFER	79.0	79.0	79.0	0.0	-79.0
<u>Health & Human Services</u>	<u>1.0</u>	<u>1.5</u>	<u>37.5</u>	<u>39.0</u>	<u>38.0</u>
Elder Affairs	0.0	0.0	0.0	2.5	2.5
Tobacco	1.0	1.5	1.5	1.5	0.5
CDA Child Development	0.0	0.0	36.0	35.0	35.0
TOTAL STAFFING	847.5	876.5	898.0	860.5	13.0
General & Enterprise	720.5	743.0	761.5	785.5	65.0
Grant	127.0	133.5	136.5	75.0	-52.0

Overlays and Related Surpluses.

Not all tax bills (or portions of them) are valid or collectible; there are various veteran and senior exemptions, abatements of assessed value, or judgments against the City for excessive valuation. This is especially the case in revaluation years (such as FY 2016). In other cases, tax bills (especially personal property) are issued in error, or over time, if not collected in the first few years become uncollectible due to death, bankruptcy, closure/absence, or other inability to pay. In March 2009, the Massachusetts Department of Revenue (DoR) advised that the City should clean up its backlog of personal property and/or declare uncollected bills to be uncollectable. When the tax rate is set, an amount is set aside for the totality of such exemptions/abatements, as the “overlay.” To the extent that the overlay amount is not actually expended in abatements/exemptions, it becomes an overlay surplus and can be appropriated. If the overlay amount is not enough and an overlay deficit occurs, it must be recouped in other FY surpluses or following year’s tax levy. In any case, these are one-time funds that should only be spent on one-time expenses or to appropriate to the Stabilization Fund as a reserve – and not to balance the recurrent costs in the budget.

We requested the overlay amounts for each FY (starting with FY 1999) and what is the balance of each after granting exemptions, abatements, and appellate tax judgments. We wished to see whether the overlay was sufficient (as they have been decreasing and are lower, in percentage terms, than similar cities) and what the accumulated position was. The information presented showed that the overlay, as a percentage of taxes levied, is at an all-time low, for FY 2015, at 1.16%. This compares very unfavorably with other cities, whose overlays are in the 1.24% to 2.27% range. We note that only one other comparable city – New Bedford – had a lower overlay

as a percent of levy, at 1.15% (vs. 1.16% for Fall River). The state-wide average for all cities and towns with approved tax rates for FY 2015 was 1.35%.

When we asked the methodology of how the overlay was calculated (which may change from one year to another based on whether it is a revaluation year), we were told it was a plug figure to get the Tax Recap in balance. It is important to understand it that a higher, more appropriate overlay amount would mean a lower net tax levy, which – in the current situation – would either increase the operating deficit or force commensurate reduced expenditures. Based on the overlay surplus of other fiscal years and the actual abatements/exemptions processed from FY 2007 to FY 2012 (the last year for which no non-personal property abatements are pending), the overlay reserve was underestimated by \$375,000 to \$403,000, and risks being in an overlay deficit situation in three years. The overlay should have been between 1.6% and 1.63% of the tax levy, rather than 1.16%

The following provides our calculations of an adequate overlay for an \$86.4 million tax levy, based on prior year overlays and actual abatements/exemptions as a percentage of the tax levy.

UNDERESTIMATED OVERLAY

<u>Fiscal Year</u>	<u>Tax Levy</u>	<u>Original Overlay Amount</u>	<u>% Overlay</u>	<u>Abatements/ Exemptions</u>	<u>Actual % Abatements/ Exemptions</u>
FY 2007	\$58,658,089.00	\$966,480.00	1.65%	(\$958,975.62)	-1.63%
FY 2008	\$62,593,847.00	\$1,074,477.00	1.72%	(\$1,074,477.00)	-1.72%
FY 2009	\$64,257,885.00	\$1,299,879.00	2.02%	(\$1,286,946.83)	-2.00%
FY 2010	\$68,120,613.00	\$1,039,934.00	1.53%	(\$1,039,934.00)	-1.53%
FY 2011	\$71,548,582.00	\$1,021,457.00	1.43%	(\$974,820.11)	-1.36%
FY 2012	\$75,105,622.00	\$1,121,267.00	1.49%	(\$1,059,187.12)	-1.41%
Total	\$400,284,638.00	\$6,523,494.00	1.63%	(\$6,394,340.68)	1.60%
Actual					
FY 2015	\$86,422,352.00	\$1,004,682.00	1.16%		
Average					
For FY 2015	\$86,422,352.00	\$1,408,437.00	1.63%	\$1,380,552.51	1.60%
	Underestimate	-\$403,755.00		-\$375,870.51	
		Based on		Based on Act.	
		Prior Overlays		Abat./Exempt.	

ATTACHMENT F, “Overlay Report – FY 1999 to FY 2015” presents the overlay by year, as well as the detail of our calculation of the underestimated overlay. ATTACHMENT G, “Overlay Reserves for Comparable Cities,” shows the overlay as a percentage of tax levies for other cities, and a state-wide average.

Potential Overlay Deficits, Due to Uncollectible Personal Property.

We also requested the amount of personal property billing that was still uncollected by issuance year. From FY 1999 to FY 2014, there was \$1,024,816.15 in unpaid bills. Our concern is that the older the delinquent personal property bill, the more unlikely it will be to collect. As DoR advised in March 2009, action was to have been taken to ascertain what amount was actually uncollectible, due to the death, insolvency, absence, or other inability to pay. Despite our repeated requests for a strategy and action plan to recover personal property unpaid bills, we have not received it in writing, and collections – especially for those before 2009 – have not increased meaningfully in the past two months. (Of the \$578,416.19 in pre-2009 unpaid bills, as of July 1, 2014, only \$3,555.00 has been collected this fiscal year, and only \$3.95 in the past 2 months, since we highlighted the problem.)

Evidence provided shows that, in the calculation of an overlay surplus, the City is taking Appellate Tax Board cases into consideration, but is not reserving for uncollectible personal property. For older unpaid personal property bills, it is fiscally prudent to undertake an effective collection effort, to identify uncollectible accounts, to reserve any reasonable percentage of uncollected funds as potentially uncollectible, and to abate uncollectible bills, per DoR recommendations. The greatest concerns are those unpaid bills from FY 1999 to FY 2008, as these amounts are arguable beyond the six-year statute of limitations to collect and may not enforceable in small claims or district court. Of the \$1,024,816.15 in uncollected personal property tax bills, \$575,723.18 lies beyond the statute of limitations. Given the age of these bills, between seven and sixteen years old, it is realistic to assume that between 50% and 90% may eventually be abated as uncollectible and reserves should be established for them. As a result, when abatements are processed, there is a probability of an overlay deficit of \$20,925.25 for these ten years.

There are two years of special concern: FY 2002 and FY 2010, as there is no overlay reserve for those years. The entire \$109,943.05 of the FY 2002 was used to finance the FY 2015 operating deficit. No amount was reserved for uncollectible personal property tax. As a result, for these two fiscal year bills, any unpaid bill that is deemed uncollectible and is thus abated will immediately yield an overlay deficit that must be covered by other fiscal year surpluses or must be raised on the Tax Recap. The impact of this inclusion on the Tax Recap is to reduce tax revenues available for the operating budget. We believe that before the FY 2002 overlay surplus was used to balance the FY 2015 budget, appropriate action should have been taken to reserve for uncollectible personal property bills. (A recent discussion with DoR staff confirms the need to take uncollected personal property into consideration before releasing an overlay surplus.) The use of the FY 2002 overlay was questionable and perhaps inappropriate. We estimate that of the \$100,823.61 unpaid bills for FY 2002 (now 13 years old), potentially 80% or \$80,658.89 would have to be abated, resulting in an overlay deficit of that amount. For FY 2008, there is \$55,220.92 uncollected and it would be reasonable to assume that 50% would be abated as uncollectible, resulting in an overlay deficit of the same amount.

We reiterate the recommendation of DoR in March 2009 to clean up the uncollectible personal property through the abatement process, especially for FY 1999, 2000, 2001, 2002, 2003, 2007, and 2008, to ascertain the magnitude of the overlay deficit problem. This would mean

researching the status of some 400 taxpayers (approximately 1,200 unpaid bills), aggressively pursuing valid bills, and abating the truly uncollectible accounts.

ATTACHMENT H, “Report on Uncollected Personal Property FY 1999 to FY 2014 and Impact on Overlay,” provides detail, by fiscal year issued, on the number of bills unpaid, the aggregate amount, the percentage assumed uncollectible, the current overlay reserve, the amount of personal property that should be offset against that reserve, and the projected impact on the overlay surplus.

Trends in Assessed Value and Tax Levy.

We have evaluated Property Tax Report data available on the DoR website. The results are somewhat expected, but are nonetheless problematic. From FY 2010 to FY 2015:

- the total assessed value of **taxable property declined by 15.2%, to \$5,189,075,954 (in 2015)**;
- the greatest assessed value decline, at 18%, was recorded for residential property;
- the only class to increase, at 14.2%, was personal property (at \$190,868,458 in 2015).

According to state data, from FY 2011 to FY 2015, the total assessed value declined by 9.7%; the comparison with other cities revealed that only one other city (New Bedford) was in a more negative position:

- Fall River	- 9.7% in assessed valuation
- New Bedford	- 12.8%
- Brockton	- 3.0%
- Lowell	+ 3.0%
- Lawrence	+ 9.2%
- Lynn	+ 11.0%

Interestingly, while assessments were down, the total tax levy was up 24.9% over the 5-year period. In FY 2010, the total tax levy was \$69.16 million; by FY 2015, it had increased \$17.23 million to \$86.39 million. Residential property tax levy was up 18.7% to \$51.79 million. Once again, personal property was the largest percentage gainer at 62.3%, but was taxed only \$5.37 million. What is significant is that personal property:

- has the greatest number of past due and non-collected taxes, as it is the only classification that is effectively not “lienable”; and
- is the only class of property that showed a major decrease in the number of accounts/parcels taxed.

From FY 2010 to FY 2015, the number of parcels or accounts for the various classes of property has declined – in one case precipitously:

- for residential property, from 19,462 to 19,398, a loss of 64 parcels;
- for commercial property, from 1,095 to 1,063, a loss of 32;
- for industrial property, from 309 to 296, a loss of 13; and
- most concerning, for personal property, from 2,027 to 825, a loss of 1,202 accounts (or 59.3%).

We understand that in 2013, City exempted the first \$10,000 from personal property valuation, as both an economic development tool to induce small business growth and as an accommodation to the Financial Team to eliminate accounts that cost more time and effort to collect than they were worth. Our concern is that at a time when Fall River is deficit financing, it is not raising all it could through the personal property tax. Even if the exemption were revoked, the personal property taxpayer, with the shifting of the commercial/industrial factor from 1.75 to 1.69, would still be provided relief. The tax savings, with the maximum \$10,000 exemption, would be \$23.00 per month – a *de minimis* amount that is a questionable incentive to small business. In the final analysis, the depth of the fiscal situation that we are confronting will require shared sacrifice across-the-board; foregoing less than a dollar a day is a reasonable contribution by a small business to their community.

Over the 5-year period, the residential tax rate increased 44.7%, from \$9.04 to \$13.08. The rates on other classes of property increased 42.2% from \$19.79 to \$28.14.

Effectively, while property values have declined, tax bills have increased. Over the 5-year period, the average single family tax bill went up 26.5% (to \$2,705), while the assessed valuation decreased 12.6% (\$206,812, down from \$236,579). Compare this with an inflation increase of some 10% over the same period.

Yet, even with this increase, for FY 2014, the DoR data bank shows that the Fall River average single-family residential tax bill, compared to other similar communities, is the lowest:

- Fall River	\$2,601
- Lawrence	\$2,626 (\$25 more than Fall River)
- New Bedford	\$2,779 (\$178 more)
- Brockton	\$3,264 (\$663 more)
- Lowell	\$3,273 (\$672 more)
- Lynn	\$3,733 (1,132 more)

Fall River's average single-family residential tax bill is among the most affordable in the Commonwealth.

For FY 2015, revenue from new growth was an anemic 1.9% – in actual figures, growth was \$1,682,440 of the total \$86,391,491 tax levy. The lowest revenue growth was registered in residential property (0.39%), while the highest new growth revenue was in personal property (15.62%). Over the last five years, new growth revenue was 44.5% of the total increase in the tax levy. Over the past five years, the taxes assessed have been as close to the levy limit as possible (allowing for cents rounding on the tax rate); the last time Fall River raised less than the limit was in FY 2009, when the city could have raised \$1.6 million more in taxes.

Despite this 25% increase in the tax levy over the past five years, the City is still deficit financing – resorting to using one-time, non-recurring monies to close the deficit. The persistence of the operating deficit and the Proposition 2 ½ constraints on raising taxes more than 2.5% a year (plus new growth) means that the perennial structural fiscal imbalance Fall River

faces cannot be resolved only with revenue-side measures; it will require expenditure-side reductions.

We are documenting the changes in property valuation, taxes, and Proposition 2 ½ levy capacity in ATTACHMENT I, “Property Tax Report – Trend FY 2009 to FY 2015.”

Unfunded Overtime and Lack of Management Oversight to Realign Workload.

During our meetings on December 29, the Auditor expressed concern that the overtime budgets were likely to be exceeded by a number of departments. He indicated that he had sent out monitoring memos in November and December, warning department heads that (a) if they continue the current rate of overtime use, they would overspend their budget, and (b) Massachusetts law requires that they live within their budgets. The departments/divisions in question were Fire, EMS, Inspection Services, Community Maintenance (Sanitation, Streets & Highways, and Building), Library, Traffic & Parking, and Police. He requested that they contact the City Administrator to resolve the issue. Our concern is that senior management did not seem to share the Auditor’s concern or support his actions.

Since that time, our independent analysis confirms that unfunded overtime has continued in these departments. We have compared first half fiscal year data for 2013, 2014, and 2015; it clearly shows that overtime spending this fiscal year is significantly less controlled than previous years. Our analysis of the overtime for each department over the past three years (for the first half) is presented in ATTACHMENT J, “Overtime Control Report – Trend FY 2013 to FY 2015, Mid-Year.”

We can verify that the following department/divisions have registered overtime that exceeds pro-rata budgeted levels, with an indication of the percentage magnitude. If controls are not implemented immediately, there is every expectation that the following departments will be unable to stay within their overtime budgets:

**OVERTIME EXCEEDING
BUDGET ALLOCATIONS**

<u>Department/Division</u>	FY 2014	FY 2015	<u>Amount Exceeded</u>	<u>% Exceeded</u>
	<u>Actual OT Budget YTD</u>	<u>Actual OT Budget YTD</u>		
EMS	\$62,380	\$156,987	\$94,607	151.66%
Sanitation	\$258,685	\$283,604	\$24,919	9.63%
Police	\$840,721	\$998,485	\$157,764	18.77%
Fire & Emergency Mgmt.	\$127,333	\$486,182	\$358,849	281.82%
Traffic & Parking	\$15,962	\$16,383	\$420	2.63%

Cemeteries	\$1,252	\$1,588	\$336	26.84%
City Planning/License Bd.	\$1,511	\$1,790	\$279	18.45%
Inspectional Services	\$8,584	\$18,262	\$9,678	112.76%
Library	\$5,875	\$7,195	\$1,320	22.46%
School Department	\$240,844	\$315,535	\$74,691	31.01%
Elections	\$3,120	\$6,109	\$2,989	95.79%

In most cases, funds can be reallocated within the salaries account to balance for the overtime excesses, year-to-date. However, this merely papers over and validates after the fact the lack of management controls. It does not hold the department head responsible for living within the budget – or accountable, if he/she does not. More worrisome, however, are the EMS, Police, Fire, and Inspectional Services excesses, which may not be susceptible to easy reallocation of salaries, but may require extraordinary measures, such as City Council transfers or use of funds off-budget (grant funds). Once the Mayor proposes – and the Council approves – an overtime level, it is incumbent on the department head to make it work and live within the budgeted amount, and it is senior management’s responsibility to see to it that the departments heads do so.

Issues Relating Specifically to the Fire Department – Overtime, Lack of Financial Controls, Internal Management, and Senior City Management Oversight

As part of our review of overtime, we became aware of a number of financial control and internal management questions in the Fire Department. For FY 2015, the original Fire budget contained \$215,000 for overtime, based on the fact that, during the past three years, overtime had not exceeded \$211,810.10. Unfortunately, there was no clear planning or cooperative effort between senior City management and the Fire Department on the implications of the termination of the SAFER Grant (which had added 79 positions to the Fire Departments complement of 144.5, for a total of 223.5 FTEs). The post-SAFER departmental ceiling – all funded from the General Fund – was 179, an effective loss of 44.5 positions. The expectation by senior city management was that the standard operating policy (SOP) of not filling every slot for vacations and personal days would be maintained.

Within a few pay periods, this proved not to be the case. The initial \$210,000 *annual* overtime appropriation was overspent by September 5. By the time the City Council voted a \$250,000 supplemental transfer on November 18, that amount had already been spent. Internal departmental reallocation brought the overtime account to a total of \$486,629, which likewise was exceeded by December 12, 2014 – less than half way through the fiscal year. See ATTACHMENT K, “FY 2015 Fire Overtime, by Category, by Pay Period.”

By the end of December 2014, the Fire Department had received word of the award of a \$485,000 state grant for overtime; senior city management directed that only half should be used in FY 2015, with the residual \$242,500 to be retained for expenditure in FY 2016 (before October 2015). The department started drawing down on the grant on January 23, 2015, at approximately \$30,000 per pay period; at this rate, the grant funds will be exhausted by May 1,

2015 – 8 weeks before the end of FY 2015. More concerning, the entire annual Fire (General Fund) overtime has already been exceeded by \$92,395.83, as of February 20, 2015. Between grants and General Fund OT, the Fire Department has already spent \$651,670 and is well on its way to spending \$1 million in overtime, from its starting point of \$210,000 at the beginning of FY 2015.

However, the current fiscal year is anomalous because at no time since FY 2003 have the actual Fire overtime expenses exceeded \$495,615. Even in FY 2010, after the lay-off of 45 firefighters, and at a staffing level of 153 (rather than 175 today), the actual overtime was only \$431,003 – \$600,000 less than the FY 2015 experience. See ATTACHMENT L, “Fire Department Overtime Comparison, FY 2003 – FY 2015.”

In addition to overtime problems, the Fire Department also is reporting deficits in its retirement buyout and vacation buyback line-items by \$374,000. Normally, retirement buy-outs are supposed to save money (unemployment compensation) and be reallocated from within the basic salary line-item. By mid-January, 2015, three line-items were overspent by \$396,000, but no internal transfers were made from within the overall Fire salary appropriation.

The SAFER Case Study – Supplanting vs. Supplementing Resources

In FY 2008, the City’s SAFER grant was terminated and the city had to pay back approximately \$175,121 (for 6 SAFER positions) due to reductions in fire staff. After that experience, the City received 2 SAFER grants in the recent past, for 2 years each, to fund 79 firefighters, at a total funding of \$25.3 million. In FY 2014, the last year of the SAFER Grant, the personnel breakdown was:

- 3 captains,
- 10 lieutenants, and
- 66 firefighters.

At that time, Fall River’s second 2-year SAFER Grant (for \$14.5 million) was the largest award ever made to any community in the history of program. In 2014, the City applied for another 2-year SAFER grant for 16 positions, for \$3.2 million. That grant was not awarded to the City.

As a result, the Fire Department’s complement changed, from 223 (of which 79 were SAFER-funded) in FY 2014 to 179 in FY 2015, a reduction of 44. Interestingly enough, 2 captains and 9 lieutenants were added to the General Fund budget, while only 10 firefighters were added. (1 captain, 1 lieutenant, and 56 firefighter former SAFER positions could not be absorbed.) This addition of 11 officers and only 10 firefighters resulted in a department that was heavier than it needed to be in mid-management positions. Retirements in officer and firefighter ranks meant that 26 were terminated, of which 12 are still drawing unemployment compensation benefits (in January 2015). One terminated SAFER employee is still on the payroll in “injured on duty” status.

Although everyone understood that the SAFER grant would come to an end, or have a precipitous decrease in manpower, no long-term sustainability had been built into the grant for follow-on.

A SAFER Grant is fiscally irresponsible without:

- a sustainability plan,
- an exit strategy (understanding and planning for termination costs), and
- flexibility in reducing staff, if required, during the grant period (FY 2016 and FY 2017), given the City precarious fiscal situation. (The financial requirements to maintain staffing levels [at 179 plus 10, or 189] in FY 2016 and FY 2017 cannot be supported.)

The reasonable SAFER grant, however, does provide bridge funding for 10 positions; it pays for salaries and benefits, but not for overtime associated with shift strength related to vacations, personal days, and sick time. It also will increase the City's unfunded pension liability, follow-on unemployment compensation, and, if the last SAFER grant is any guide, could lead to long-term "injured on duty" liabilities. The smaller the grant, the more manageable the follow-on costs.

There are strings attached to the grant.

- The City must commit to maintain staffing levels for 2 years at 189.
- "Financial hardship" may not be cited for lay-offs under any circumstances. Any reduction in staff due to operational personnel lay-offs is a *de facto* default, will result in immediate grant termination, and makes the City liable to repay grant funds already disbursed. (This did happen in 2008.)
- However, if there is "financial hardship," the City *may* apply for a waiver, but only if those reductions come from attrition (retirements and resignations) and also are applicable across-the-board to all public safety departments (i.e. Police and EMS); there is no certainty that a waiver will be granted. This is an inherent risk that the City needs to take into consideration.
- The City, as a condition of the grant, also commits itself to "working toward" the NFPA 1710 standard, which requires 4 person minimum manning on an apparatus. This, once again, is a staffing level that is not supportable even at the 189 level.

If the City were to apply for and be awarded a contract, then realistic plans need to be made for long-term sustainability, a determination made that termination costs are affordable, and the City must understand the risk that a reduction in staffing waiver for financial hardship is not automatic.

Issues Relating Specifically to the Police Department – Overtime, Lack of Financial Controls, and Reliance on Grants

In our analysis of the Police Department, we identified many of the same issues that are facing the Fire Department, including an apparent lack of real-time financial controls over line-items within the Salaries account and a reliance on grants to supplant, rather than to complement, General Fund resources. The analysis of select salary items generally follows our Fire Department format and is provided in ATTACHMENT M, “FY 2015 Police Select Salary Line-Items.”

We found four salient points in the Police budget:

- individual line-items were not controlled on a real-time basis (exceeded budget levels were not adjusted by reallocation from other line-items),
- 36 position (or about 13% of Police authorized ceiling) are maintained with grant funding from multiple sources and the status of absorption into the General Fund upon grant termination is unknown,
- organized plans to curtail overtime and maintain it within budgetary constraints were not evident, and
- the use of state grants for overtime meant resulted in the delaying of dealing with the overtime problem and had the potential impact of moving MASS Staffing-funded officers to the General Fund, without sustainability planning.

By February 20, the Police Department had exceeded their annual budget in seven salary line-items, as follows:

<u>Line-item</u>	<u>Amount Allocated</u>	<u>Amount Expended</u>	<u>Date Budget Exceeded</u>
Retirement Buy-out	\$ 154	\$ 165,454	11/14/14
Overtime Salaries	\$ 30,000	\$ 34,323	02/20/15
OT Replacement Staff	\$ 207,000	\$ 300,409	11/28/14
OT Invest./Emerg.	\$ 75,000	\$ 78,573	01/23/15
OT Comp. Time	\$ 75,000	\$ 159,819	10/17/14
OT Beyond Duty of Duty	\$ 140,000	\$ 148,175	01/23/15
OT Reimburs.	\$ 7,000	\$ 25,340	10/31/14
Overall OT Accounts:	\$1,002,000	\$1,110,294	01/23/15

The Police Department converted a MASS Staffing grant from funding 5 patrolmen to financing overtime, in the amount of \$465,000. On February 6, 2015, it started drawing down on the grant, spending \$38,544.71. The department expects that the grant will be fully spent by the end of June 2015.

What is significant from the financial controls viewpoint, however, is that the department was allowed to over-spend line-items, without internal allocations among salary line-items to ensure that funds are readily apparent for the remainder of the fiscal year.

We are surprised to find the extent to which the department relies on grants to fund positions and elevate the service level higher than the General Fund monies would otherwise afford. It is not clear what the succession and long-term financial sustainability planning is upon the termination of grants or other off-budget funding. The Department's authorized ceiling (excluding Environmental Police and Animal Control) is 245 from the General Fund, plus 36 from other funding sources, for a total of 281. At 13% of complement, the question of sustainability is uppermost in our concerns. There will not be adequate funding for the following positions if grant money is lost or reduced:

- 5 patrolmen, funded by the U.S. Department of Justice COPS Program,
- 6 patrolmen, dependent on Fall River Housing Authority monies,
- 7 dispatchers, reliant on a 911 grant,
- 5 patrolmen, funded by a MASS Staffing grant (which we understand has been reprogrammed to overtime)
- 7 walking beat patrolmen, funded through a Community Development Agency grant,
- 1 sergeant and 3 school resource officers that depend on School Department or Diman funding, and
- 2 patrolmen, whose jobs rely on Disability Commission revenue

Fortunately, some sources (like the CDA grant) are of a long-term nature, while others can be renewed on the continuing basis. Only a few grants rely on competitive grant processes which may not be available from year-to-year. The diversification of funding sources helps to mitigate the risk of moving positions to the General Fund.

Unfunded Liabilities: Retirement and OPEB

The External Annual Audit has identified 2 major areas of unfunded liability: pensions and other post-employment benefits.

Retirement System. As of the last valuation in January 2013, the unfunded liability of the City's retirement program is \$312,334,138, while the actuarial value of its assets is only \$209,774,679. This means that the City has an unfunded liability of 59.82%, fourth worst among the 106 public retirement systems in the Commonwealth. The unfunded liabilities of the 3 worse situation plans include: Lawrence (60.6%), Everett (61.6%), and Springfield (71.0%), all of which is based on a January 2012 valuation. Among the plans with a January 2013 valuation, Fall River has the greatest unfunded liability.

A particular area of concern is that the demographics of the pension system participation are working against the City. The profile of pension plan members reveals that less than half are active members paying into the system. As of December 31, 2013, of the 2,460 Group 1 members, only 1,200 (or 48.8%) were active; for Group 2 & 4 (Fire, Police, and hazardous duty personnel) the figures are more problematic: of the 1,025 members, only 47.3%, or 485 are active members contributing to the system. Together this means that the City must shoulder much more of the burden of funding the retirement system than other cities (with higher numbers of younger active contributors). It also means that any annual benefits provided to retired

employees – i.e., increasing the \$12,000 base on which a COLA is applicable – will magnify the unfunded liability.

There are two types of fixed cost payments that rank highest in the City’s listing of obligations: (a) debt service, and (b) retirement payments. Both require scheduled payment; for debt service, the payment deadline is very stringent. However, the City does not comply with its annual payment schedule for retirement contributions. On November 25, 2013, the Massachusetts Public Employee Administration Commission (PERAC) and the Fall River Retirement Board agreed to a revised payment schedule, that

assumes payments are made, on average, on October 1 of each fiscal year.... The October 1 average assumed payment date is an inherent part of the schedule. For the past several years, the System’s average payment date has been later in the fiscal year. Therefore, we prepared the initial schedules provide to the Board to reflect a later assumed payment date (April 1). By adopting this schedule, the Board is committing to payments in accordance with the October 1 date.

The schedule itself re-emphasizes: “Appropriation payments assumed to be made on average on October 1 of each fiscal year.”

The City received a PERAC letter dated December 2, 2013 which provided the required annual appropriation for the City of Fall River at \$21,964,576. The appropriation table clearly reiterated:

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.

Our data shows that only one payment of \$6,964,576 was made on a timely basis (before October 1, 2014). While we understand that the Retirement Board does not intend to charge the City a late payment penalty, we estimate that such a penalty – or the opportunity costs of not investing the funds – would be approximately \$116,700. In essence, this is the amount of interest and net present value forgone by the retirement system, which increases the unfunded liability many times over in the long term.

Potential Impact of Late Pension Payments

Date Paid	Date Due	Days	Amount	Annual Interest	Daily Interest Rate	Interest % to be Paid	Potential Penalty
10/1/2014	10/1/2014		\$324,902				Made by Grants directly
9/23/2014	10/1/2014		\$6,964,576				
11/12/2014	10/1/2014	42	\$6,000,000	3.50000%	0.00958904%	0.4027%	\$24,164.38
1/5/2015	10/1/2014	96	\$5,000,000	3.50000%	0.00958904%	0.9205%	\$46,027.40
2/10/2015	10/1/2014	132	\$3,675,098	3.50000%	0.00958904%	1.2658%	\$46,517.68

Total Pension Contribution: \$21,964,576

Total Potential Penalty: \$116,709.46

There are three major concerns in this matter that the City must confront:

- The unfunded liability has worsened dramatically in the ten years since January 1, 2005, when the unfunded liability was only 19% (compared to today's 60%).
- The City retirement contributions must increase annually, as follows: FY 2016, \$1.3 million; FY 2017, \$1.4 million, FY 2018, \$1.5 million, FY 2019, \$1.6 million, FY 2020, \$1.7 million; and similar annual increases (year-over-year) need to be made through FY 2035. To put this in perspective, in FY 2012, the city contributed \$19.7 million; in 2015, \$21.6 million is budgeted; in FY 2016, \$23.3 million will be required. By FY 2020, the City Contribution will be \$29.6 million. A table showing increased retirement contribution payments, the increases over the FY 2015 baseline, and the increasing percentage of property taxes (from 25.6% in FY 2015 to 28.6% in FY 2021) paid for pensions is provided below.
- The City is in violation of the state-mandated (and city-accepted) annual funding schedule, as the City does not make a timely retirement contribution, which is to be paid in full by October 1. This effectively increases the unfunded liability.

Fall River Increasing Retirement Contributions

<u>Fiscal Year</u>	<u>Total City Contribution</u>	<u>Increase Over Prior Year</u>	<u>Increase Over FY 2015</u>	<u>%</u>	<u>Total Property Taxes</u>	<u>Pension %</u>
FY 2014	\$21,142,195				\$82,626,391	25.6%
FY 2015	\$21,964,576	\$822,381			\$86,391,491	25.4%
FY 2016	\$23,288,423	\$1,323,847	\$1,323,847	6.03%	\$89,847,151	25.9%
FY 2017	\$24,691,278	\$1,402,855	\$2,726,702	12.41%	\$93,441,037	26.4%
FY 2018	\$26,178,653	\$1,487,375	\$4,214,077	19.19%	\$97,178,678	26.9%
FY 2019	\$27,755,142	\$1,576,489	\$5,790,566	26.36%	\$101,065,825	27.5%
FY 2020	\$29,515,485	\$1,760,343	\$7,550,909	34.38%	\$105,108,458	28.1%
FY 2021	\$31,293,678	\$1,778,193	\$9,329,102	42.47%	\$109,312,797	28.6%

Other Post-Employment Benefits. The City's inability to address the unfunded liability for other post-employment benefits (OPEB) is perhaps an even greater problem than pension costs themselves. According to the external auditor's FY 2014 report, the City's net OPEB obligation increased from \$143.4 million in 2012 to \$212.3 million in 2014. As of the July 1, 2013 valuation, the unfunded liability was \$609 million – almost twice the unfunded liability of the

pension system. In FY 2014, the City's actuarial-determined annual required contribution (to pay the normal costs of group insurance and amortize the unfunded liability over 30 years) was \$53 million (net of interest and adjustments); the City actually paid \$18.18 million.

What is even more troubling is that the external auditor found that the Employee Group Insurance Fund (EGIP) "did not issue a standalone financial report since there are no assets segregated for the sole purpose of paying benefits under the plan." We did determine that the City has not met a 25/75% match with its employees/retirees, due to the self-insuring nature of the program. In March of each year, the city and employees agree on the costs of the next fiscal year's health program, based on the actuarial calculation of the health care administrator, as confirmed by our consultant; this become the "premium" of the program that is self-insured in nature. While the employee/retiree contributes 25% of this premium through payroll deductions, the City only budgets 95% of the 75%, based on prior experience. It contributes 75% of the actual health care costs (not the estimated premium costs). As a result, the employer's trust fund is not three time larger than the employee health trust; indeed, it is about 1/4 of the amount in the employee trust. This means that the city is not budgeting for accruals of incurred, but unpaid claims (for services performed but not yet billed within the past two years). This effectively precludes the city from moving to state-wide Government Insurance Commission plans or to another health insurance administrator/carrier, perhaps at a significant cost savings, because it has no reserves to ensure residual claims of the current Employee Group Insurance Program.

Items Included on the Tax Recap, Without Contemporaneous Council Action.

When the tax rate is set, a recapitulation of revenue estimates (including City Council-approved budget and budget amendments) and expenditures is presented. Generally, the items are straightforward, including cherry sheet receipts and Council action. There is, however, one section of the recap that shows expenditures *without* Council approval/action.

The following concerns were raised:

- For FY 2013, there were final court judgments (\$500,000), snow & ice deficits (\$116,047), and "other" (unspecified) expenses of \$14,353 that were not put before the Council for a vote. Our interest here is (a) to keep the Council in the loop on final court judgments, (b) to budget adequately and in a timely fashion for snow removal (or seek additional funds when additional funds are need, via Council action) rather than after the fact, on the Tax Recap, and (c) explain what the "other" is and why the Council was not consulted.
- For FY 2014, there were entries for snow & ice deficit (\$799,998) and "other" (unspecified) expenses of \$599,353 that were not put before the Council for a vote. Our interests here were similar, but were heightened as snow removal was obviously not being estimated based on an experience factor, which allowed more funds for other expenses and salaries. The bulk of "other" was explained as Community Preservation

Act offsets that did not require Council approval. What concerns us is the perception of a lack of transparency with the Council.

- For FY 2015, there were entries for “Tax Title Purposes” (\$40,000), which is generally included in the budget and approved by the Council, snow & ice deficit again (\$1,885,971), and “other” unspecified (\$627,779). We understand that the unspecified amount included (a) \$14,713 for SRPEDD (the regional planning office), (b) \$93,066 to cover a McKinney-Vinto Homeless Student Transportation Account shortfall, and (c) \$520,000 for unappropriated Community Preservation Act (CPA) funds.

We continue to be concerned that:

- a. six-figure dollar amounts have been labeled as “other” without further explanation;
- b. the City Council was not consulted on court judgments, requirements to use City funds in cases of grant or account reimbursement shortfalls, and miscellaneous “other” unspecified expenses of such large dollar amounts;
- c. the Council should approve appropriations to SRPEDD and tax title purposes (as part of the budgetary process) and be notified of the residual unappropriated CPA funds; and
- d. snow removal costs are under-budgeted every year for the purpose of balancing the budget and allowing funds for salaries – placing the burden to the next fiscal year’s tax rate and mortgage the first dollars of the new taxes to be collected. The underestimate of snow removal costs is the subject of the next section in this report.

In any case, transparency and appreciation for the Council’s legitimate exercise of appropriation and oversight functions should be paramount. While you, as Mayor, may not be required to seek Council approval on many issues, we urge you, as a matter of creating partnership in government, to take that extra step of inclusion with the Council.

Snow Removal: Chronic Underestimate in Budget Leads to Mortgage in Following Fiscal Year.

While reviewing the Tax Recap Sheet from FY 2010 to FY 2015, we came across a case of repeated underestimating that had significant impacts on the Tax Levy available for General Fund budgeting purposes. As the costs for Snow Removal may vary greatly from year to year, the state allows communities to maintain a level of budgeting, year in and year out, and any deficit may be raised in the following year’s tax levy. In essence, the bills are paid in one year, but raised in taxes the following year; this mortgages the first dollars of the next year’s tax levy, reducing the amount available for the General Fund budget. The City should have sufficient reserves to cover such emergencies and contingencies instead of resorting to deficit financing.

The City has appropriated \$526,243 each fiscal year for snow removal from FY 2010 to FY 2015. That number was established some ten years ago, based on the average actuals for a

number of prior years. The number has not been changed to reflect the current costs of snow removal. The following presents the budgeted amount, the actual expenditures, and the deficit paid in the following fiscal year:

SNOW REMOVAL BUDGET AND DEFICIT FINANCING

<u>FY</u>	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Actual Expenditures</u>	<u>Deficit (Raised in Following FY)</u>
2010	\$526,243	\$ 526,243	\$1,189,852	- \$ 663,609
2011	\$526,243	\$ 526,243	\$2,285,043	- \$1,758,800
2012	\$526,243	\$ 526,243	\$ 642,290	- \$ 116,046
2013	\$526,243	\$1,631,498	\$2,431,496	- \$ 799,998
2014	\$526,243	\$ 526,243	\$2,412,105	- \$1,885,861

Over the five years in question, the average expense for snow removal was \$1,792,157 and the average deficit carried over was \$1,044,885.

Not only did the original budgeted amount remain the same, but in only one year (FY 2013) was the budget upwardly revised to reduce the deficit carried over to FY 2014, to make it more manageable.

A more realistic assessment of snow removal costs will be needed to create stability in the budget going forward. ATTACHMENT N, “Snow Removal Account Trend – FY 2010 to FY 2015,” provides the pertinent data that underlies our analysis to increase the budgeted baseline to \$1.1 million, yielding a more manageable carry-over of \$0.5 million for the average fiscal year.

Retirement Buy-outs in FY 2015: Costs and Impacts.

As a corollary to the number of retirements and vacancies, we also requested information on the retirement buy-out program, its terms and conditions, and how successful it was to reduce head count and/or reduce the numbers of personnel that were actually terminated due to lack of funds. To the extent that buy-out programs also occurred in previous years, we also requested information on their effectiveness.

We learned that “buy-outs” in the sense of incentivizing employees to retire only occurred in the Fire Department, but that it was not targeted to reduce costs of reductions-in-force (i.e., minimizing unemployment compensation) but was actually done to lower the age of the remaining Fire workforce. What surprised us is that the buy-outs had no positive impact on the salary account: there was no commensurate decline in overtime, for example. In other departments, the term “retirement buy-out” is really the employees severance benefits (vacation days, a portion of sick days, personal days, etc.) when a person leaves City service, whether through retirement, resignation, termination, or other separation from the City. Thus, the costs of retirement buy-outs had no overall impact on reducing authorized staffing levels, did not

affect the management of both the workforce and workload in light of the reduced staffing, and did not have commensurate reductions in other personnel costs (overtime, unemployment compensation, workers' compensation, disability retirement, and overall employee group insurance costs).

Schools: Net School Spending Deficit and New School Debt.

Net School Spending. Chapter 70 (School Funds and State Aid for Public Schools), Section 6 is very clear as to the requirement to meet minimum net school spending. In the pertinent part, the law states:

In addition to amounts appropriated for long-term debt service, school lunches, adult education, student transportation, and tuition revenue, each municipality in the commonwealth shall annually appropriate for the support of public schools in the municipality and in any regional school district to which the municipality belongs an amount equal to not less than the sum of the minimum required local contribution, federal impact aid, and all state school aid and grants for education but not including equity aid, for the fiscal year.

The Commonwealth's school finance statute, Chapter 70 of the General Laws, establishes an annual minimum "net school spending" requirement for each Massachusetts school district. Failure to comply with this requirement may result in non-approval of a municipality's tax rate, enforcement action by the Attorney General, or loss of state aid. The law goes on to indicate that the Commission of Education shall inform municipalities of the exact amount needed in March of each year, so as to include in the budget. Since FY 1993, Fall River has provided such minimum in all but three fiscal years:

- in FY 2009 and FY 2010, the city appropriated sufficient levels, but with reconciliation after the end of the fiscal year, was \$49,266 and \$401,868 under the requirement, due generally to actual employee health insurance claims (and it was made up the following year),
- in FY 2014, the city was under the requirement by \$3,530,682 (due to actual employee health insurance claims and payment of unforeseen transportation costs, which are not an eligible expense for net school spending purposes), and such deficit was made up in February 2015.

Indeed, in the four fiscal years before the 2009 recession, Fall River exceeded minimum net school spending levels by 4.6% to 9.1% (\$4.5 million to \$9.6 million). It is important to note that the city's contribution from its own tax levy, over the past 8 fiscal years, has been between 16.1% and 19.1% of the actual net school spending amount, with Chapter 70 state aid the largest component of meeting the requirement. See ATTACHMENT S, "Trends in Actual Net School Spending, FY 1993 to FY 2015."

The City did not adequately finance minimum net school spending in FY 2014. All entities – Mayor, School Committee, and City Council – recognized that net school spending was not provided, but there was lack of agreement of the specific amount to be appropriated. Rather than

appropriate the funds in the second half of FY 2014, when the problem first emerged, there was a determination made to deal with it in FY 2015, when the state could certify the exact amount. The plan was that when the State calculated the deficit in net school spending, that amount would be made available from Free Cash. After the State set the deficit at \$3.1 million, the Mayor unilaterally requested a deferral of a portion of that, citing the City's inability to pay. The State indicated that a little less than \$500,000 could be deferred, but still needed to be available to the School Department at a future date.

In February 2015, the Mayor submitted a Council Order to appropriate \$3,386,579 from the Stabilization Fund to the School Appropriation, to ensure the efficient use of these funds during the remainder of FY 2015 by the School Department on items eligible to meet the net school spending requirements. In his letter of November 6, 2014, the Commissioner of Elementary and Secondary Education reported that the school spending was \$3,530,682 under the required net school spending for FY 2014 that the City did not make available to the School Department, per Chapter 70 of the Massachusetts General Laws. Subsequent timing and allocation issues reduced that amount to \$3,386,579. These funds were transferred to the Schools on February 17, 2015. Our understanding is that the \$3.39 million will not impact net school spending going forward. That is, the \$3.39 million will not be added to the School Department's recurring base.

We are also aware that a similar problem on underfunding net school spending is probable in FY 2015. The School Department's internal projections show that that some \$1.2 million in employee group insurance – which was included in the net school spending calculation – may now be surplus and need to be reprogrammed to another area eligible for net school spending. While the exact amount of the deficit in meeting net school spending will not be known until the end of the fiscal year, the magnitude of the “non-spending” potential problem needs to be explored and a least a minimum amount ascertained. In this fashion, the issue of net school spending can be addressed – at least partially – *this year*, rather than wait for the state to certify a deficiency. As the funds already exist in the Employee Group Insurance Account, the City should act proactively and transfer funds from that account to the School Appropriation. Alternately, the City and School Department could agree on capital outlays for Schools that would be undertaken by the Department of Community Maintenance and transferred to capital accounts this fiscal year.

Although healthcare expense has incurred a downward trend over the last few years, the City's Financial Team has budgeted healthcare expenses higher than advised by the School Financial Team. This practice leads to less being spent on healthcare than what is budgeted and a gap in net school spending as the city is budgeting to just meet net school spending. We have to discontinue the practice of making this a number that makes the budget balance, but causes gaps in net school spending when the expenses are incurred.

In accordance with State guidance, the City and School Department should memorialize in a memorandum of understanding what indirect costs incurred by the city are eligible net school spending items. It should also directly appropriate to the School budget the cost of the School's estimated portion of municipal centrally-administered costs for pensions, employee group insurance, workers' compensation, unemployment compensation, and non-employee insurances direct costs allocated to the School Department. In this way, net school spending funds for such

large amounts will be under the Schools jurisdiction and can be charged to School accounts by the centrally-administered accounts. This will allow the School Committee to reallocate from these funds, if they are not expended – or to reallocate funds to those line-items, if there are not sufficient funds to cover actual costs.

School Debt. Education-related debt represents the bulk of General Fund debt service. We also are concerned that the debt burden of the City is already very high, relative to comparable cities, and that every effort should be made to avoid adding to that debt burden in the near future. We also understand that the construction of a new B.M.C. Durfee High School is potentially eligible for state assistance to fund 80% of the debt service costs (of eligible items). That requires the City to finance 20%, *plus* 100% of anything that the State does not consider essential. It is not inconceivable that the City would have to add in excess of \$150 million to its debt burden (of which only \$110 - \$120 million would be reimbursed by the State, depending on non-reimbursable items). The first step in this process is a design and feasibility study. Among other elements, the study will define the overall costs and eligible costs for reimbursement, as well as debt service scheduling, taking into consideration current and expiring debt and consolidation of debt. Once the study is completed, the City will need to put together a plan that does not burden the taxpayers too heavily in the future without inadequately funding the construction of the building. It will require a very careful balancing of priorities, and every option should be carefully considered in order to produce the best possible building while incurring as little debt as possible.

Collections Performance, as Regards Real Property.

The City Collector indicated that, upon her appointment in August 2010, she learned that both the subsequent and original takings for FY 2010 had not been initiated and that even the demand notices for Real Estate and Personal Property tax bills were not issued on outstanding balances. The FY 2010 subsequent taking of \$1.7 million was taken seven months after the FY 2009 original taking and four months after that the FY 2010 original taking was processed. This resulted in an inordinate delay in advising taxpayers of delinquencies and skewing of a normal tax receipts schedule. Consequently, she established a schedule more in line with best practices, which has been consistently maintained since 2011. The following is a synopsis of the real estate tax bill scheduling process:

REAL ESTATE TAX BILL SCHEDULE

1ST QUARTER TAX DUE	AUGUST 1ST	}	ISSUED IN
2ND QUARTER TAX DUE	NOVEMBER 1ST		JUNE
3RD QUARTER TAX DUE	FEBRUARY 1ST	}	ISSUED IN
4TH QUARTER TAX DUE	MAY 1ST		DECEMBER

NOVEMBER IF A BALANCE REMAINS AFTER THE 2ND QUARTER PAYMENT IS DUE,

A "FRIENDLY REMINDER" LETTER IS ISSUED.

BY MAY 15TH	DEMAND NOTICES ARE ISSUED - "PINK NOTICES" - \$10.00 FEE.
1ST WEEK OF JUNE	SUBSEQUENT TAX TITLE TAKINGS ARE PROCESSED TO THE TREASURER FOR COLLECTION.
1ST WEEK OF JUNE	NOTICE OF ADVERTISEMENT IS MAILED TO DELINQUENT ACCOUNTS.
JUNE/JULY	SMALL BALANCE LETTERS ARE MAILED TO TAXPAYERS WHO OWE BETWEEN \$15.00 AND \$200.00.
3RD WEEK OF JULY	THE DELINQUENT ACCOUNTS ARE ADVERTIZED IN THE HERALD NEWS; POSTED AT THE FR PUBLIC LIBRARY AND THE CITY CLERKS' BULLETIN.
END OF AUGUST	ORIGINAL TAX TITLE TAKINGS ARE PROCESSED TO THE TREASURER'S OFFICE. INSTRUMENTS OF TAKING ARE RECORDED AT THE BRISTOL COUNTY RIGSTRY OF DEEDS.

Over the past two years, the aggressive focus on current real estate tax bills has been paying dividends. From FY 2010 to FY 2014, the original taxes and penalties decreased from \$2.66 million to \$2.27 million. Back-taxes on original takings, declined from \$0.93 million to \$0.79 million; however, the revenues gained from subsequent takings were higher, but showed similar declines: \$1.85 million to \$1.4 million.

The following table suggests that the more disciplined schedule that moved up dates of takings by three months has been effective, over the past four years, at intervening with taxpayer before a tax liability compounds year-after-year and becomes individually unmanageable.

Principal/Liens/Interest to Date of Taking/Fees

Date of Taking	Year	Original Takings	Subsequent Takings	Total
10/20/09	2009		\$ 1,001,902.55	\$ 2,012,254.66
02/16/10	2009	\$ 1,010,352.11		
09/22/10	2010		\$ 1,709,517.26	\$ 2,663,088.17
01/28/11	2010	\$ 953,570.91		
06/07/11	2011		\$ 1,987,010.97	\$ 2,826,603.79
08/22/11	2011	\$ 839,592.82		
06/06/12	2012		\$ 1,850,198.59	\$ 2,591,582.31
08/24/12	2012	\$ 741,383.72		
06/05/13	2013		\$ 1,638,149.34	\$ 2,455,391.21
08/23/13	2013	\$ 817,241.87		

06/04/14	2014	\$ 1,480,687.76	\$ 2,273,022.14
08/29/14	2014	\$ 792,334.38	

It is important to note that, over the past four fiscal years, the amount of unpaid property tax bills (the original take plus subsequent taking) at the end of the tax year has dropped significantly due to increasing collection efforts directed at taxpayers during the year of bill issuance. Arraying the information in the table above against the real property tax levy from those years shows a delinquency rate decrease from 4.09% in FY 2011 to 2.90% in FY 2014; this represents a 29% decrease in unpaid tax bills immediately at the close of the tax year.

<u>Fiscal Year</u>	<u>Real Property Tax Levied</u>	<u>Tax Takings (Delinquency)</u>	<u>%</u>
FY 2011	\$69,082,900	\$2,826,604	4.09%
FY 2012	\$71,452,364	\$2,591,582	3.63%
FY 2013	\$75,428,631	\$2,455,391	3.26%
FY 2014	\$78,479,270	\$2,273,022	2.90%

It is also encouraging to see that the interest and penalties aid on real estate bills (in the year issued) has declined significantly, from \$380,780 in FY 2011 to \$194,462, almost 50%. This effectively means that payments are being made on a timelier basis.

Once the original tax titles are processed to the Treasurer’s Office, he is responsible for collecting the back tax due. It is in the range of the earlier (pre-2012) real property delinquencies that we have noted a problem. The total real estate tax bills outstanding have increased from \$6.77 million in FY 2011 to \$7.67 million in FY 2014; this is due mostly from tax foreclosures, as tax titles outstanding have shown a decline from \$5.4 million in FY 2011 to \$4.7 million in FY 2014. The summary of the outstanding real property is provided below:

TOTAL REAL ESTATE
BILLS OUTSTANDING

<u>Category</u>	<u>FY 2011 Year End</u>	<u>FY 2012 Year End</u>	<u>FY 2013 Year End</u>	<u>FY 2014 Year End</u>	<u>% Increase/Decrease</u>
Total	\$6,776,479	\$6,966,505	\$7,300,057	\$7,672,959	13.2%
Real Estate Before Lien	\$869,890	\$994,366	\$985,665	\$922,560	6.1%
Tax Title	\$5,415,169	\$5,480,718	\$5,487,301	\$4,739,425	-12.5%
Tax Foreclosures	\$491,420	\$491,420	\$827,091	\$2,010,974	309.2%

ATTACHMENT R, “Changes in Outstanding Tax Balances, FY 2011 to FY 2015” provides the detail by tax and fiscal years.

As regards payments for taxes past due, since FY 2011, tax lien redemptions have fluctuated between \$1.43 and \$1.99 million annually, with the most collected in FY 2012. Interest and penalties on these redemptions have yielded between \$244,000 and \$530,000 annually, with the highest year being FY 2012. It appears that collections from redemptions and interest/penalties in FY 2015 will exceed FY 2014. As collections become more effective on the long-term delinquencies, we need to expect a drop-off in receipts. The only items that shows a surprising downward trend is tax liens foreclosed, which decreased from \$331,685 in FY 2011 to \$71,924 in FY 2014 (with no receipts yet for FY 2015).

Revenue from Delinquent Real Property Taxes

	FY 2011 <u>Revenue</u>	FY 2012 <u>Revenue</u>	FY 2013 <u>Revenue</u>	FY 2014 <u>Revenue</u>	FY 2015 YTD <u>(2/28) Revenue</u>
Tax Liens Redeemed	\$1,433,772	\$1,988,317	\$1,546,835	\$1,493,345	\$1,429,411
Tax Liens Foreclosed	\$331,685	\$0	(\$424,137)	\$71,924	\$0
Interest and Penalty on Tax Liens	\$244,000	\$530,010	\$417,737	\$490,367	\$475,282
Total, Back Property Tax Revenue	\$2,009,457	\$2,518,327	\$1,540,435	\$2,055,636	\$1,904,694

ATTACHMENT U, “Revenue Summary, FY 2011 to FY 2015” provides the detail of revenue collections by line-items.

The data seems to suggest that the problem in real estate collections relates to the older bills, with chronic delinquencies adding up year after year. We believe that increased attention needs to be focused on the older real estate tax title backlog. We requested and received a listing of all real estate tax delinquencies by parcel, name, address, and year of assessment – in some cases for taxes originally assessed in 1993. We arrayed them by taxpayer in order to ascertain:

- who owed the most in back taxes,
- the number of parcels and years owed by each individual,
- the aging of bills.

We were able to compose a number of priority lists (in cohorts of 25), based on different criteria which would require a differentiated strategy for each to collect. The fact is that with age, the case becomes more complex (with bankruptcies, deaths, changes in ownership, and restructurings) becomes much more difficult to collect, and requires a greater level of effort.

The following table presents the summary of taxpayers, taxes due, and number of parcels involved by 11 discrete priority categories. The total number of individual taxpayer delinquents is 318, representing some 512 parcels, many of which owe taxes for multiple years. The total amount owed as of mid-January (with interest accruing daily) is \$7.57 million. A more complete summary is provided in ATTACHMENT O, “Universe of Delinquent Real Estate Taxes.” For the 193 that owe more than \$10,000, we have provided the names and locations of one of the

properties for which taxes are owed. The listing also provides the number of parcels in tax title and the amount owed on all properties. The top 100 real estate tax delinquents owe \$4.97 million and the next 93 owe collectively \$1.76 million. We have not included the names of the 215 persons who owe less than \$10,000 each, but \$0.83 million in the aggregate.

<u>PRIORITY CATEGORY</u>	<u>TITLE DUE</u>	<u>PARCELS</u>
TOP 25 DELINQUENT RE TAXPAYERS, BY TOTAL TITLE DUE	\$2,850,885.04	74
NEXT 25 DELINQUENT RE TAXPAYERS, BY OLDEST (FIRST), THEN BY TOTAL TITLE DUE	\$750,527.48	37
NEXT 25 DELINQUENT RE TAXPAYERS, BY TOTAL TITLE DUE	\$1,022,401.10	38
NEXT 25 DELINQUENT RE TAXPAYERS, BY NUMBER OF PARCELS, THEN BY TOTAL TITLE DUE	\$346,017.09	55
NEXT 25 DELINQUENT RE TAXPAYERS, BY TOTAL TITLE DUE	\$697,641.73	25
NEXT 25 DELINQUENT RE TAXPAYERS, BY TOTAL TITLE DUE	\$520,152.71	25
NEXT 25 DELINQUENT RE TAXPAYERS, BY TOTAL TITLE DUE	\$351,635.73	25
NEXT 18 DELINQUENT RE TAXPAYERS, BY TOTAL TITLE DUE (\$10,000 +)	\$193,484.92	18
2013 & 2014 TAX TITLES – 126 PERSONS (UNDER \$10,000)	\$374,737.24	126
2011 & 2012 TAX TITLES – 39 PERSONS (UNDER \$10,000)	\$198,789.17	39
2010 & EARLIER TAX TITLES – 50 PERSONS (UNDER \$10,000)	<u>\$261,282.30</u>	<u>50</u>
TOTAL	\$7,567,554.51	512

We believe that a differentiated strategy and action plan is needed for each of these grouping. We understand that there is only one attorney that is charged with pursuing this tax title cases in Land Court and in other fora, as appropriate, that that he has pursued collections, including working out payment plans with some delinquencies. In FY 2014, the one attorney who handles tax title cases for the City in Land Court and other courts collected \$2.09 million in tax titles and \$0.6 million in interest and fees; as of January 31, 2015, on a year-to-date comparison basis with the prior year, he has collected 17% more, while his collection of interest and fees is running 34% higher. For January 2015 only, 49% of his collections were related to 2014 bills, with progressively smaller amounts stretching back to 2008. While this report is useful and provides context and the amount of collections, we believe that the status of each of the priority groups identified, especially the first 2 (50 delinquents) would be a better gauge of performance against targets set.

In order to track performance and to ensure that all delinquencies are being addressed (by perhaps the addition of other attorneys for smaller amounts), approaches should be worked out with outside counsel(s) and specific cases should be assigned to each. Of specific interest would be:

- the status of collection activities/litigation on the top 25 and the next 50, which represent the oldest and largest taxpayer delinquencies;
- an explanation of the differentiated strategies employed for each priority group – and the resources being brought to bear – on the magnitude of the delinquencies;

- designation of the manageable segments or the priority in tackling the listings provided, to reduce and eventually eliminate the backlog – with specific assignment to a variety of attorneys and/or collection professionals, as needed;
- realistically, a target date by which (a) the "top 193" delinquent taxpayers and (b) the other 215 delinquent accounts owing less than \$10,000 would be paid up, or other liquidation action taken to close their cases; and
- cross-referencing real estate and personal property delinquencies, such that enforcement or collection action can be coordinated in tandem.

We understand that all those who owe past due real estate taxes have been notified in writing and have been published in the newspaper. ATTACHMENT O, "Universe of Delinquent Real Estate Taxes" lists all real estate tax titles, who owe more than \$10,000 or who owe taxes on more than one parcel. Please note that the listing provides the owner at the time the original lien was filed for failure to pay taxes due, and does not include subsequent owners nor the current owner of the property, who may have contributed to the unpaid taxes due. As their names are in the public domain, we are providing the priority listing of the top 25 delinquent real estate taxpayers, the amounts outstanding, and the number of parcels impacted:

<u>OWNER</u>	<u>LOCATION</u>	<u>TAX TITLE DUE TOTAL</u>	<u>NO. OF PARCELS</u>
TOP 25 DELINQUENT RE TAXPAYERS, BY TOTAL TITLE DUE		\$2,850,885.04	74
RAPOZA MOSES	PLEASANT ST 12	\$529,745.71	9
ROSA JAMES V	27 LOWELL ST	\$194,538.91	2
MEDAS LISA (+ TRUSTEE)	308 SO MAIN ST	\$188,754.33	6
VIEIRA RONALD	147 FOURTH ST	\$186,552.39	2
DEFARIA IDALETRO C &	372 CHICAGO ST	\$127,334.02	2
PAULINE MANAGEMENT I	43 LOWELL ST	\$121,025.30	1
VALTON TIMOTHY R. TRUSTEE	69 R ALDEN ST	\$106,475.46	2
PLEASANT PLACE CONDO	212 PLEASANT ST	\$106,310.16	1
ANDERSON BERTHA & AN	WILSON RD	\$105,655.41	2
CATHAY BANK	75 WEAVER ST	\$90,385.02	1
HORVITZ STEPHEN	863 CAMBRIDGE ST	\$87,977.09	1
NEW ENGLAND GROUP MA	508 GLOBE ST	\$87,903.28	3
GRANITE REALTY CORP	951 BROADWAY	\$86,695.60	1
MELLO GERALD	417 E MAIN ST	\$83,484.67	1
LOPES ELIZABETH D	775 DAVOL ST	\$82,054.10	2
BOTELHO SANDRA	45 WILLIAM ST	\$79,971.43	1
MONIZ ABEL	1569 PLEASANT ST	\$74,575.48	3
SANTOS JOHN JR	766 NEW BOSTON RD	\$74,465.29	1
CRUZ MANUEL JR & ADE	HARGRAVES ST	\$71,980.92	1
GABBOUR ANNA H	23 BRYAN ST	\$68,035.88	2
GAGE HILL CORP	3865 NO MAIN ST	\$65,296.05	1
LIEBGOTT MARY	1165 DWELLY ST	\$58,683.36	1
CAMPOS MANUEL L	1365 PLEASANT ST	\$58,139.65	3
BRAYTON AVE DEVELOPE	3865 NO MAIN ST 20	\$57,787.60	20
NASSER REAL ESTATE C	RAILROAD	\$57,057.93	5

Finally, we noted that a number of delinquencies may be collected but only with great difficulty, as the owner was unknown or was a governmental entity; specifically,

- 13 parcels, with owner listed as “Owners Unknown,” on Meridian St, Blossom Rd., Bell Rock Rd., Yellow Hill Rd., Indian Town Rd., and Copicut Rd., all going back to 2008, for a total of \$74,485.40;
- 3 parcels owned by the “Commonwealth of Massachusetts,” at 186 South Main St. (assessed in 2005), Eastern Ave. (2014), and Davol St. (2009), totaling \$10,143.48; and
- 2 parcels owned by the “Secretary of Housing,” at 700 Second St. (a 2012 bill) and 19 North Court St. (a 2014 bill), totaling \$5,473.50.

As regards the 13 parcels with no owners, the Assessor clarified that he is obligated to assess the value of all parcels, regardless of ownership (i.e., non-profit, government owned, owner’s unknown, etc.). DoR authorized the assessment to “Owners Unknown.” Three parcels have

values below \$21,500 which allows the City to conduct an administrative foreclosure through the DoR. The other 10 require foreclosure through the Land Court (which would take approximately a year from the date of submission). According to the Assessor,

“... the parcels are of great interest to the Water Department. Unfortunately, in order for such a purchase by the Water Department, it would require a payment equal to the assessed value and not the amount foreclosed. This requirement increases the cost exponentially. It is my understanding that the department lacks the funds necessary to effectuate such a purchase. Consequently, the parcels have not been a priority, due to the aforementioned lack of funds.”

As regards parcels listed with Commonwealth ownership, we understand that:

- the Eastern Ave. property is the Veteran’s Memorial Pool and represents a 2014 water and sewer lien; recently, the Assessor had contacted the responsible State Commissioner and was assured that the payment would be forthcoming;
- the Davol St. property is Battleship Cove and is also a water and sewer lien going back to 2009; the state has also agreed to pay this amount; and
- 186 No. Main Street is land under a portion of the Courthouse; the assessor believed that an effort is being made through the legislative delegation to secure payment. We have no independent knowledge of such effort.

We understand that the property owned by the Secretary of Housing are now parcels at are privately owned, having been sold as a result of a foreclosure. Outside counsel is contacting the current owners to assure collection.

We note these parcels in this report, so that these collections may be made as soon as possible and the tax title accounts cleaned up.

Collections Performance, as Regards Personal Property.

Collections of unpaid personal property bills have significantly lagged over the past five years. At the end of FY 2011, \$968,460.40 in bills were unpaid (going back to 1999), as of February 28, 2015, \$776,874.47 remained uncollected. Less than 20% had been collected, and the vast majority of those represented the most recent bills (from 2009-2011). So far in FY 2015, only \$4,628.00 has been collected from bills due from 1999 to 2011. The lack of collections performance during the last eight months is surprising:

- of the \$6,777.12 in unpaid 1999 bills, as of July 1, 2014, \$0 has been collected,
- of the \$7,657.06 in unpaid 2000 bills, \$0 has been collected,
- of the \$5,006.15 in unpaid 2001 bills, \$0 has been collected,
- of the \$100,823.61 in unpaid 2002 bills, \$0 has been collected,
- of the \$121,461.75 in unpaid 2003 bills, \$0 has been collected,
- of the \$71,375.98 in unpaid 2004 bills, \$979.79 (1.37%) has been collected,
- of the \$75,644.09 in unpaid 2005 bills, \$1,195.32 (1.58%) has been collected,
- of the \$85,123.36 in unpaid 2006 bills, \$730.00 (0.86%) has been collected,
- of the \$49,476.35 in unpaid 2007 bills, \$649.44 (1.31%) has been collected,

- of the \$55,070.72 in unpaid 2008 bills, \$0.0 has been collected, and
- of the \$44,704.76 in unpaid 2009 bills, \$404.30 (0.90%) has been collected.

Clearly, a new approach to addressing personal property collections is needed. At this point, much of this backlog is so dated that it is uncollectable. See ATTACHMENT R, “Changes in Outstanding Tax Balances, FY 2011 to FY 2015.”

Since FY 2011, more delinquencies have accumulated, such that the total amount of personal property outstanding in FY 2011, \$968,460.40, had grown to \$1,048,944.64 at the end of FY 2014. Even with collection efforts in the eight months of FY 2015, the balance of personal property uncollected as of February 28, 2015 was \$996,168.14, a number larger than 3 ½ years earlier.

The Transition Team received from the City Collector a Personal Property Delinquent Report, FY 2009-FY 2013, with prior and subsequent unpaid bills in an excel format. (This represents the vast bulk of the delinquencies, but is not the entire number of unpaid personal property bills.) We analyzed the listing and divided it into various target groups. We provided these groups (including the range of taxes owed by year, number of delinquents, names of specific delinquents, addresses, and amounts due) to the Director of Financial Services, on February 2. The listing also indicated the consequences of declaring these uncollectible – abating them and the attendant negative impact on the overlay account.

In summary, we identified 675 personal property tax delinquents and detailed \$919,047 in taxes owed:

- 5 names that each owed \$20,000 or more, for a total of \$140,089
- 8, each owing \$10,000-20,000, totaling \$113,404
- 22, each owing \$5,000 – \$10,000, totaling \$151,635
- 40, each owing \$2,500 – \$5,000, totaling \$136,056
- 116, each owing \$1,000 - 2,500, totaling \$182,692
- 59 chronic delinquents, each owing under \$1,000 for 5 years or more, totaling \$36,434
- 11 attorneys, each owing under \$1,000, totaling \$3,047
- 27 health care professionals, each owing under \$1,000, totaling 10,290
- 47 others, each owing between \$700 and \$1,000, totaling \$107,739
- 340 others owing less than \$700, totaling \$107,739.

If they were all abated as uncollectible, it would represent a \$578,486.15 reduction in the overlay surplus account. Reasonable efforts need to be taken to identify, contact, and collect funds that are validly owed the City. After taking these efforts, much of the personal property – going back to 1999 or earlier – may be deemed impossible to collect and that the abatement mechanism exists precisely to account for situations like this.

It is advisable to develop a strategy to deal with and track the status of collection each group cited, especially the 75 that each owed more than \$2,500. Most of these unpaid bills go back to 2002 and should have been contacted personally (over the years), should have explanations for why there have been no collections, and should have action plans to address with each delinquency. The others that owe between \$1,000 and \$2,500 (116), as well as the chronic