

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
SUPREME COURT OF RHODE ISLAND**

PETER F. KILMARTIN, in his :  
capacity as ATTORNEY GENERAL :  
for the STATE OF RHODE ISLAND :  
Petitioner :

v. :

No. 2018-0104-M.P.

EAST PROVIDENCE CITY COUNCIL, :  
and its members Robert Britto, Anna M. :  
Sousa, Joseph A. Botelho, Jr., Brian J. :  
Faria, and James A. Briden, in their :  
individual and official capacities; and the :  
EAST PROVIDENCE SCHOOL :  
COMMITTEE and its members, Charles :  
Tsonos, Jessica Beauchaine, Nathan Cahoon, :  
Anthony Ferreira, and Joel Monteiro, in :  
their individual and official capacities :  
Respondents :

**PETITIONER, ATTORNEY GENERAL’S, RESPONSE TO SHOW CAUSE ORDER**

Here comes the Attorney General and responds to this Honorable Court’s Order to Show Cause why this matter should not be dismissed. The Attorney General appreciates this Court’s expedited attention to this important matter.

**I. The Petition is Timely, Ripe, and Seeks to Oust Three Council Members Seeking to Extend Their Terms**

The subject-matter of this Petition has been the topic of public discourse for several weeks; as well as the subject of complaints filed with the Office of Attorney General and the Board of Election, both of which were filed on April 9, 2018. Although recognized as a significant legal issue – whether the East Providence City Council members would serve for 2 years and be subject to election on November 8, 2018, or would serve for 4 years and not be subject to election on

November 8, 2018 – no action had been taken to resolve this legal issue by any entity until the Attorney General announced this Petition would be filed.

Legal counsel for the East Providence Canvassing Authority (“Authority”) candidly acknowledges that the Authority “presently has one member and is without a quorum.” Authority Motion to Intervene, p. 1. The Authority represents that the East Providence City Council is scheduled to appoint the balance of the Authority on May 1, 2018, and thereafter, the Authority is “expected to meet [] quickly,” and is “expected to have on its agenda the question whether there shall be an election of city council and school committee members in 2018,” and that the Authority’s decision will be “issued expeditiously.” *Id.* For its part, despite the Board of Elections receiving a complaint concerning the subject-matter of this Petition on April 9, 2018 – and notwithstanding having meetings on April 11, 2018, April 18, 2018, and April 24, 2018 – the Board of Elections did not schedule a meeting concerning the subject-matter presented in this Petition until the afternoon of April 24, 2018, after the Attorney General announced its intention to file the instant Petition.<sup>1</sup> The Board of Elections has now also announced it will move expeditiously on this issue.

The Attorney General relates the following history to place the filing of this Petition in its proper perspective and this timeframe takes on greater significance when considering that the deadline for interested persons to declare their candidacy is June 25, 26, and 27, 2018, and that cities and towns must certify to the Secretary of State their primary ballots by July 20, 2018. This time urgency is further exacerbated by the reality that all interested persons – whether present City Council members or possible challengers to the City Council – require ample time to organize and

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<sup>1</sup> On the morning of April 24, 2018, legal counsel for the Attorney General’s Office, the East Providence Canvassing Authority, and the Board of Elections were all in contact and discussing the Attorney General’s imminent filing of the Petition.

actively campaign for office. “Since this case involves no issue of disputed fact and presents purely a question of law,” Whitehouse v. Moran, 808 A.2d 626, 629 (R.I. 2002), and because no entity had taken steps to affirmatively resolve this time sensitive issue, the Attorney General presented this Petition to this Honorable Court.

As of the filing of this Petition, the City Council and the Office of the East Providence City Solicitor had opined that the 2012 Charter Amendment was lawfully passed and that as of the November 2014 election, City Council members were elected to four (4) year terms, as adopted by the voters at the November 2012 election. *See Exhibit 1, pp. 13-17.* Consistent with this conclusion, the subject-matter of this Petition has been discussed at City Council meetings since at least February 20, 2018, *see Exhibit 2, p. 3*, and three of the five members of the City Council have taken the position that in November 2016 – when the ballot indicated City Council members were subject to two year terms – they were in fact elected to four year terms. As such, the legality of the assertion (by three City Council members) that their City Council terms extend into and beyond 2019 is squarely at issue.

To be sure, as of the filing of this Petition, no member of the City Council is presently holding office illegally and the Attorney General does not seek the immediate ouster of any City Council member. The Attorney General does, however, seek to oust certain members who have already publicly declared their intention to hold a four year term and the Attorney General does seek to oust these certain members from the last two years of their self-declared extended term. *See e.g., Fagnoli v. Cianci*, 121 R.I. 162 (1979)(“relief it affords is limited to the ouster of the incumbent from office”); *McKenna v. Williams*, 874 A.2d 217, 227 (R.I. 2005)(“usurpation of public office is an offense against the sovereignty of the people and that the proceeding for ousting the offender must be brought by the Attorney General on behalf of the State”). While in the

ordinary course, the determination to hold an election for a particular local office vel non may be made by the local canvassing board, in this case, the East Providence Canvassing Authority is without a quorum and can make no determinations. And, while the Attorney General has no doubt as to the good-faith representations by the Authority's legal counsel concerning anticipate future events, the political process is inherently riddled with doubt. Respectfully, neither this Court nor the Attorney General should wait until the Authority is able to resolve this issue, as time continues to expire. Whether the Board of Elections has the authority to resolve this issue is also the subject of some dispute. See Authority's Motion to Intervene, p. 1, n.2.

Leaving this matter in dispute – or until after certain Respondents have actually begun an illegal third year – is reminiscent of the Justices' warning in In re Advisory Opinion to the Governor (Casino I), 856 A.2d 320 (R.I. 2004). In Casino I, the Justices examined the propriety of an advisory opinion concerning a referendum asking "Shall there be a casino in the Town of West Warwick operated by an Affiliate of Harrah's Entertainment in association with the Narragansett Indian Tribe?" Id. at 323. Because "executive implementation of the substantive provisions of the Casino Act hinges on voter approval of the casino question," the Justices explained that "[u]nless and until such approval is obtained, the governor has no present obligation to implement the Casino Act and we are not constitutionally required to issue an advisory opinion." Id. at 324. Despite the impropriety of the request, the Justices reached the merits, noting the "overriding policy favoring pre-election resolution of issues." Id. at 327 (referencing State ex. rel. Webb v. Cianci, 591 A.2d 1193 (R.I. 1991)). As the Justices warned, "[i]f, as we believe, the question and legislation are void as unconstitutional, then members of the public will waste much money, time, effort, and energy to familiarize themselves with the controversial issues that the proposed casino has raised." Id. at 325. The Justices continued that "to delay the issuance of our

opinion would only postpone the inevitable” and that “[i]f we were to sit idly by while an unconstitutional question was submitted to the voters, only to later issue a binding decision declaring the Casino Act and the referendum question void, chaos might well ensue.” Id.

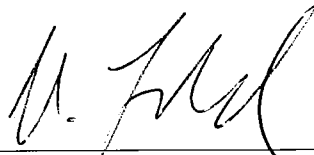
The Attorney General respectfully submits that maintaining the status quo as election deadlines continue to draw near will cause increased uncertainty and invite “chaos.” Id. The issue presented by this Petition is a narrow legal issue concerning whether the Town Charter providing for four year terms should prevail over the notice and plain language presented to voters in November 2016 that they were electing Council members for two year terms. Because the Attorney General seeks to oust the three Council members (Councilors Faria, Sousa, and Botelho) who seek to serve for longer than the two year terms upon which they were elected by voters in 2016, quo warranto is appropriate and this Court need not wait until the Council members actually begin to sit for a third year. The Attorney General has no information that other members of the City Council – besides Councilors Faria, Sousa, and Botelho – seek to serve a third year, nor does the Attorney General have any information that any member of the School Committee seeks to serve a third year. Accordingly, the Attorney General has no objection and moves to dismiss, without prejudice, all Respondents, except for Councilors Faria, Sousa, and Botelho.

## **II. Conclusion**

For all these reasons, the Attorney General prays that cause has been shown with respect to its Petition involving Councilors Faria, Sousa, and Botelho.

Respectfully submitted,

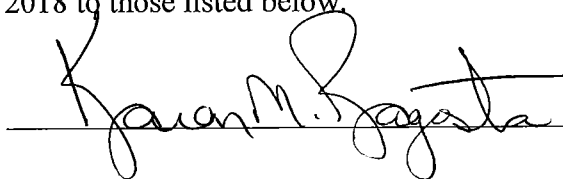
Petitioner,  
PETER F. KILMARTIN  
ATTORNEY GENERAL,



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### CERTIFICATION

I hereby certify that a copy of the within Writ, Information in the Nature of Quo Warranto, and Petition in Equity in the Nature of Quo Warranto was mailed by regular, first class, prepaid postage and e-mail on the 30th day of April, 2018 to those listed below.



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Robert Craven, Esquire  
Assistant City Solicitor  
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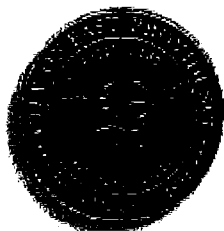
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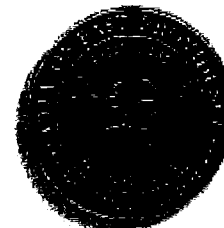
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# EXHIBIT 1



**CITY OF EAST PROVIDENCE  
RHODE ISLAND  
JOURNAL OF REGULAR COUNCIL  
MEETING**



**November 20, 2012  
Council Chambers, City Hall, 145  
Taunton Avenue, East Providence, RI  
02914**

**7:00 P.M. Executive Session Room 101**

**7:30 P.M. Open Session**

**I. EXECUTIVE SESSION**

*The City Council of the City of East Providence will meet in Executive Session pursuant to RI General Laws § 42-46-5 (a) (2) and RI General Laws § 42-46-5(a)(1)*

**A. New Claims**

Philip & Patricia Abbatomarco

Commerce Insurance Company (Insured: Paul & Katherine Mello)

Martina L. Duarte

Leslie Hey

Esperanza Rocha

Travelers Insurance Company (Insured: Fatima DaSilva)

*RI General Laws § 42-46-5 (a) (2)*

**B. Annual City Manager Job Performance Review per Hiring Resolution**

*RI General Laws § 42-46-5(a)(1)*

**II. CALL TO ORDER**

**III. SALUTE TO THE FLAG**

**IV. TO APPROVE THE CONSENT CALENDAR**

All items under "CONSENT CALENDAR" are considered to be of a routine and noncontroversial nature by the City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member so requests, in which event, the item will be removed from the "CONSENT CALENDAR" and will be considered in its normal sequence on the docket.

**A. Letters**

1. Public Notice of Long Range Transportation Plan Draft from the State Wide Planning Council, November 14, 9:00Am Department of Administration and November 15, 6:30PM Department of Administration.
2. Notice of Change of Property Number TLC Properties, Inc, 360 Warren Avenue

- (02914), Map 206, Block 24, Parcel 005.00, Zoning C3.
- 3. Coastal Resources Management Council October 2012 Calendar.
- 4. Rhode Island Ethics Commission Public Notice of Proposed Rule-Making Regulation 36-14-17009 out-of-state travel.
- 5. Town of Charlestown Resolution in support of Low and Moderate Income Housing Act: Program Analysis.
- 6. Coastal Resources Management Council November 2012 Calendar.
- 7. Coastal Resources Management Council extension deadline for emergency permitting.

**B. Alcoholic Beverage Class F-1**

- 1. St. Francis Xavier Church, 81 N. Carpenter Street (02914), St Francis Xavier Band Christmas Party, December 8, 2012.

**C. Cancellations/Abatements**

<u>YEAR</u>	<u>AMOUNT</u>
2012	\$19,492.20
2011	\$155.45
2010	\$6.31
<b>TOTAL</b>	<b>\$19,653.96</b>

**D. Council Journals**

- 1. Regular Meeting October 16, 2012

*A motion to approve the consent calendar is made by Councilwoman Kleyla, seconded by Assistant Mayor Rose and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**V. PROCLAMATIONS AND PRESENTATIONS**

**A. Beautification Committee Annual Awards - Joe Gibson, Chair**

**B. Pancreatic Cancer Proclamation (by Mayor Rogers)**

**C. Proclamations to Alba Curti, Director of Parks and Recreation and Deborah Rochford, Adult Services Coordinator (by Mayor Rogers)**

**VI. PUBLIC COMMENT**

- 1. Anthony Ferreira - Stipends

**VII. APPOINTMENTS**

**A. Traffic Control (by Mayor Rogers)**  
Guy Penha, 86 Mountain Avenue (02914).

*A motion to approve the appointment is made by Councilman Conley, seconded by Councilwoman Kleyla and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**B. Traffic Control** (by Mayor Rogers)

Jonathan Cabral, 55 Colwell Street (02914)

*A motion to approve the appointment is made by Councilman Conley, seconded by Councilwoman Kleyla and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**C. Traffic Control** (by Mayor Rogers)

Melanie Izquierdo, 53 Cobb Street (02914)

*A motion to approve the appointment is made by Councilman Conley, seconded by Councilwoman Kleyla and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**D. Zoning Board of Review - Reappointment** (by Councilman Conley)

Tony Cunha, 10 Don Avenue (02916)

*A motion to approve the appointment is made by Councilman Conley, seconded by Assistant Mayor Rose and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**E. Carousel Park Commission - Reappointment** (by Councilwoman Kleyla)

Stephen Costa, 86 Woodward Avenue (02914)

*A motion to approve the appointment is made by Councilwoman Kleyla, seconded by Councilman Conley and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**VIII. LICENSES NOT REQUIRING PUBLIC HEARING**

**A. Laundry/Drycleaner**

SLS, LLC DBA The Clothes Pin, 64 Newport Avenue (02916)

Christopher M. Saunders, 25 Sunset Avenue, West Warwick (02893)

*A motion to approve the license is made by Councilman Conley, seconded by Assistant Mayor Rose and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**IX. PUBLIC HEARING - SHOW CAUSE HEARING**

***Council Sitting as Licensing Commissioners***

**A. PWRPJ Inc. DBA Rockin' Times, Philip W. Rigi, 61 Whitford Street, Warwick (02889)**

The Police Chief is called to the podium and states there have been several complaints regarding

damage to surrounding properties. There have been some calls for service regarding loud parties and disturbances and assaults. The police department is investigating these complaints. He adds they will increase the police on the outside of the establishment as a preventative, while putting them on notice and before further action is taken and until the investigation is complete.

Councilman Conley stated these are all valid concerns however the letter doesn't provide for due process. The hearing is the proper time to present the evidence, if not presenting the evidence today then we should defer until such time as the administration is in a position to present evidence. Furthermore, information should be provided to the license holder in order to defend themselves. The hearing requires evidence and notice.

Assistant Solicitor Craven agrees that it is correct to defer and as an interim measure to discuss with the owner and to check on the past incidents.

The Chief requests to return to Council in 60 days adding it is not to say nothing has occurred but we need to take further investigative measures.

Mayor Rogers asks the Clerk to obtain the file on the establishment that they have a stipulation that all music must cease at 11:30. Attorney Bob Brady, for the license holder, states they did not know this. Assistant Solicitor Craven states the police would need to enforce the stipulation.

*A motion to defer the item at the discretion of the Administration and in accordance with due process is made by Councilman Conley, seconded by Councilwoman Kleyla and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**B. D L Enterprises, Inc. DBA East Bay Tavern, Denise Laidlaw, 150 Bloodgood Street, Pawtucket (02861)**

Assistant Solicitor Craven states that the defendant's attorney has stated they have not received notice of the specifics of the charges against the establishment. Adding that he has spoken to the Chief who states it is an on-going police investigation and it is not completed.

The Chief states an arrest has been made and they will have on a nightly basis, police inspecting the bar. There has been a lack or reluctance of reporting problems to the police. During the stabbing there was a hesitation to notify police. The police will caution the owner that they will be visiting the establishment and will be keeping a close check on the situation.

Mayor Rogers asked the City Manager what happens when these complaints are reported?

The City Manager stated that they are brought to the Council if it is regarding the safety of the area and if it merits a Show Cause Hearing. In this case, there is a wealth of information which we did request and it's still being gathered because it's an active investigation. It is up to the Council how far they want to take it, as the licensing board, the concern is for safety.

Mayor Rogers stated that due notice is the responsibility of the Administration because every day it's a safety factor.

*A motion to defer the item at the discretion of the Administration and in accordance with due process is made by Councilman Conley, seconded by Councilwoman Kleyla and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**X. PUBLIC HEARING - ORDINANCES FINAL PASSAGE**

**A. *An ordinance regarding a stop sign on Burnside Avenue at Harris Street.***

**AN ORDINANCE IN AMENDMENT OF CHAPTER 18 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND, 1998, AS AMENDED, ENTITLED "VEHICLES AND TRAFFIC"**

**SECTION I.** Section 18-269 entitled "Stop and yield intersections designated; when stops required" of Article IX entitled "Stop Intersections" of Chapter 18 entitled "Vehicles and Traffic" is amended by adding thereto the following:

Burnside Avenue (westbound traffic) at Harris Street

**SECTION II.** This ordinance shall take effect upon second passage and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Requested By: Assistant Mayor Rose

*A motion to approve the ordinance is made by Assistant Mayor Rose, seconded by Councilwoman Kleyla and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**XI. NEW BUSINESS**

**A. City Managers Report (by City Manager Peter Graczykowski)**

1. Departmental Activity Update
2. Hurricane Sandy Response Report

The website updates continued thru the storm. The EMA center was at the Rumford Fire Station. The wind damaged trees, there were power outages and flooding but not as severe as it could have been. It was a good exercise and everyone performed very well. Communication could be better, including updates to Council and better outreach to the public. The City is working on a Reverse 911 system currently they were utilizing the Connect Ed but that does not reach everybody. All these components that we have learned will be in place for the future.

Councilwoman Kleyla commented to please let Wayne Barnes know that they thank him and that he has been such a professional through all of our weather situations and kept us updated. It was nice to know Wayne was in our corner.

3. RFP Award for Refuse and Recycling Collection

This is an update, still working with Pawtucket and Central Falls for the collection of refuse and recycling regional contract. In the meantime, the City had an opportunity to renew the East Providence contract at a much lower rate and this was approved by the Budget Commission. We are keeping the weekly collection of trash but are able to renegotiate a better bid when the other

communities are ready to come on board. This contract with MTG disposal has significant savings in 1 year of 200,000 and in 5 years of a million dollars

***A motion to take no action on the item as it was already approved by the Budget Commission is made by Councilman Conley, seconded by Councilwoman Kleyla and on a roll call vote it is unanimous with Councilman DiGioia absent.***

#### 4. Homestead Exemption Audit

The mailing done by the vendor which was done in error is being re-mailed at no additional cost to the City. Residents will have extra time to respond if they don't make it by November 30th. They will now have until December 15th. This audit was never done for all the years prior and once it is done we will know for sure that all the exemptions are certified.

Mayor Rogers asked will these people ever have to do it again? The City Manager stated this is a one-time deal. We have to make sure all are eligible and in the future only limited audits will be necessary.

Councilman Conley wanted to know why the City is requesting private information such as federal income tax returns?

The City Manager stated that they based the program on what other cities have done. It is only one of the documents which can be used for certification. There is no confidential information on the letters which went out.

Councilman Conley asked where is it in the statute resolution or ordinances to give us their income tax return?

Director of Finance Moore stated that the tax returns are one of many option of proof accepted. Most people are supplying a license and registration. We just need proof and for some that is all they have. We made it very broad to assist people.

Councilman Conley stated if they are elderly and don't have car and are not required to file taxes then what do they do lose their exemption?

The City Manager read the letter which residents are receiving citing the options for proof including "or by such other means".

Councilman Conley stated it is unreasonable.

Mayor Rogers stated that he agrees with Councilman Conley. Adding he has told residents not to give their federal tax return. It is not secure to do so. And to play devil's advocate what would the City accept next?

Director Moore stated a bill in their name would show that they live at that residence.

Councilman Conley called for a moratorium on this process and instructed the City to do more notice and give more information to the public to them know it is happening. If the communication was better and the notice was clearer this would not be an issue. Revisit this and then bring it back to the Council for approval. He requests this in the form of a motion. Councilman Conley added the letter needs to explain that other forms of ID are acceptable and that they are not at risk of losing their exemption because they fail to apply.

Assistant Mayor Rose said the problem he has with the whole process was the first time they were sent thousands came back. He is not sure where the City went to send these out. If we are going to verify these were sent properly why not send them with the water and tax bills?

Councilwoman Kleyla stated that the letter states you need to supply two out of five. The license, registration, voter registration, tax return, and she understands that these are hypothetical situations where they are asking what are the other choices. However, a person doesn't give the whole tax return

just the front page, with your name and address only not the part with the personal information on it. Councilman Conley stated that is not what the form says. Not being denied is not what the form says either.

The City Manager stated that this letter was provided in the Council's packet before the program started and the Council had no comments at that time.

Councilman Conley stated we do now.

*A motion is made by Councilman Conley to place the exemption audit into a moratorium and to redo the letter to residents and bring this letter back to Council for approval, seconded by Assistant Mayor Rose and on a roll call vote the motion passes 3-1 with Councilwoman Kleyla voting Nay and Councilman DiGioia absent.*

#### 5. City Phone System Upgrade

The IT Director could not be here today as she is away this week but the new system has been deployed. This is the most current technology it is an upgrade the City will do once every 20 years. The technology is upgradable.

#### 6. State Income Tax Refund Offset Program Update

It is the second year we are utilizing the program. There is a 30 day notification letter going out to resident. Whether it is real estate, personal property, motor vehicle etc... We will be more successful this year as we have started the process early. We are the only City in RI participating in this program.

#### 7. Riverside Development Project Update

Director Boyle made a report on the update. Utilizing CDBG and Environmental Protection Agency Grants and money in escrow by the previous property owner, working with DEM to identify the extent of the contamination we utilized the State's master pricing list for the demolition and clean up of site. It is moving forward and right now we are removing the utilities and starting the demolition of the buildings in the next few weeks. Approvals of design including parking will be brought back before Council for their approval.

#### 8. Public Safety Pension Funding Improvement Plan

The City was mandated to deal with the police and fire pensions. We have to be funded more than 60 percent in 20 years or the State will start taking the state aid money and start paying the pension for us. The Budget Commission voted for the first and second options to bring the pensions to the 60% level in 20 years. Paying 100% of the ARC which is what the City should be doing and hasn't done, the goal is to just barely get to the 60%. Negotiations of the benefit part, what employees get when they retire will take place, different age, COLAs, life expectancy, Google money are all being reassessed.

### **B. Reports of Other City Officials**

#### **1. Claim Committee Report (by Assistant Solicitor Craven)**

**In addition to the Claims the Assistant Solicitor reported that the Council conducted its Annual Review of the City Manager and they completed**



**individual rating charts which will be submitted to the Budget  
Commission to compile.**

Pursuant to R.I.G.L. § 42-46-5(a)(2), a motion is made by Councilwoman Kleyla and second Councilman Rose to convene in closed session for the purposes of discussing claims & litigation. Upon call vote: Mayor Rogers – Aye, Councilman Conley - Aye, Councilman DiGioia – Absent, Councilw Kleyla – Aye, Councilman Rose – Aye, the motion is approved 4-0.

**EAST PROVIDENCE CLAIMS COMMITTEE**

**CLAIMS & LITIGATION REPORT**

**TUESDAY, NOVEMBER 20, 2012; 7:00 P.M.; ROOM 101**

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**NEW CLAIMS**

PHILIP & PATRICIA ABBATOMARCO \$1315.75

RM No. 12-055, Claim No. 12-039

Claim for reimbursement of expenses incurred as a result of a sewer block caused by roots from a City See recommendation of the Director of Public Works.

Motion by: Councilwoman KleylaSeconded by: Councilman Rose

Motion: Approve the claim in the amount of \$453.94.

COMMERCE INSURANCE COMPANY \$3609.16

(INSURED: PAUL & KATHERINE MELLO)

RM No. 12-057, Claim No. 12-041

Claim for property damage sustained when a branch from a City tree fell on insured’s vehicle. Recor referral to insurance carrier.

Motion by: Councilman RoseSeconded by: Councilwoman Kleyla

Motion: Refer the claim to the insurance carrier.

MARTINA L. DUARTE \$952.00

RM No. 12-056, Claim No. 12-040

Claim for reimbursement of expenses incurred as a result of a sewer backup. See recommendation Director of Public Works.

Motion by: Councilwoman KleylaSeconded by: Councilman Rose

Motion: Approve the claim in the amount of \$952.00.

LESLIE HEY \$179.87

RM No. 12-058, Claim No. 12-042

Claim for reimbursement of medical expenses incurred when the claimant's son fell off a tractor at the 1 Street landfill. See recommendation of the Director of Public Works.

Motion by: Councilwoman Kleyla Seconded by: Councilman Rose

Motion: Approve the claim in the amount of \$179.87.

ESPERANZA ROCHA \$290.50

RM No. 12-060, Claim No. 12-044

Claim for property damage sustained when a police vehicle struck claimant's parked vehicle.

Motion by: Councilwoman Kleyla Seconded by: Councilman Rose

Motion: Approve the claim in the amount of \$290.50.

TRAVELERS INSURANCE COMPANY \$5142.92

(INSURED: FATIMA DaSILVA)

RM No. 12-043, Claim No. 12-043

Claim for property damage sustained when a City chipper truck struck insured's parked vehicle. Recon referral to insurance carrier.

Motion by: Councilman Rose Seconded by: Councilwoman Kleyla

Motion: Refer the claim to the insurance carrier.

*A motion to approve the Claims Committee Report is made by Councilwoman Kleyla, seconded by Assistant Mayor Rose and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**2. School Committee Update** (by Council Liaison School Committee Member Chrissy Rossi)

Ms. Rossi stated they had their last meeting last Tuesday.

They introduced the new committee members and wished them well. They have been left a huge task but we are confident they will do well. The budget is \$2 million less.

**C. Council Members**

**1. Bi-Weekly Update** (by Mayor Rogers)

- Update on Bath Salts

The Mayor reported that a State Law was passed on this issue and the City can now regulate and enforce this issue. He asked the Chief if there was anything else the City needed to do in the form of ordinance or anything and the Police Chief said there was not and that vice would handle these issues as they arose.

- Vacant Buildings/Tax Rate

The Mayor asked that a vacant building tax which is currently lower than on occupied building tax creates eyesores because the owners tend to hold onto the property instead of selling it. New Bedford has an ordinance that is the opposite. He would like to see if this would be good for East Providence.

***A motion is made to through the City Manager to have the Assessor review the legislation in New Bedford to see if it would work for East Providence by Councilwoman Kleyla, seconded by Assistant Mayor Rose and on a roll call vote it is unanimous with Councilman DiGioia absent.***

- Removal of no parking Bentley Street, Mauran to Juniper

The Mayor states he has heard from the people of that area that they are opposed to the no parking signs.

***A motion is made by Assistant Mayor Rose, seconded by Councilwoman Kleyla to send this to the Law Department to remove the no parking signs and on a roll call vote it is unanimous with Councilman DiGioia absent.***

- Grosvenor, Grove and John Streets Traffic Report

The Mayor reported he held a community meeting per the resident's request. The Police Chief was present and it was a very productive meeting. There were issues with truck traffic, speeding vehicles and other issues. There has since been daily enforcement for oversized trucks and moving violations along with new signage which was poor. Some of the trucks indicated that their GPS is sending them thru residential areas.

Director Coutu stated that he installed and relocated signs which were hidden by poles and he is looking into possibly placing some on Taunton Avenue.

- EMS Report

The Mayor reported that the City has sent mutual aid to Providence 562 times and has received aid back only 54 times.

The City Manager reported there are two types of aid, fire suppression the EMS mutual aid. There has been nothing in writing between the towns on the latter and those located around Providence have a disproportionate number. Due to the change in billing vendors the City is having trouble getting the numbers. Overall, from the preliminary numbers it is against the best interest of the City to staff these calls. The total amount outweighs the numbers of reimbursed calls. Overall, we make money but the question is what to do with those we don't get reimbursed for. We should work out a billing plan to those communities to make sure we collect under a written agreement rather than a handshake but at the same time don't risk the aid to us by just stopping.

Mayor Rogers asked what is taking us so long to get those numbers?

The Fire Chief responded that he is not sure how they got those figures. It was basically an estimate. When a bill is sent out to the insurance company some pay it right away and some do not until after it is settled. Trying to find out the specific information and track it is very time consuming.

- Volunteer Staffing of City Hall Lobby

The Mayor reported residents look at the signs but are not directed properly. The City had staff there but it cost money. However, it is a good policy to have someone in the lobby. There are senior citizens who volunteer their time and could do so by staffing the lobby. The City Manager stated we

did speak about this and it should be referred to Human Resources for evaluation as it is a two step process including back ground checks and a confidentiality agreement. We also will have look at the contracts and confirm we are not taking a union job. However, he added he is supporting it as a good idea.

***A motion is made through the City Manager to review volunteer staffing in the City Hall Lobby by Assistant Mayor Rose, seconded by Councilwoman Kleyla and on a roll call vote it is unanimous with Councilman DiGioia absent.***

- Update on Projo Mandatory Thursday Delivery

Assistant Solicitor Craven reported the issue is regarding unsolicited drop off of the Journal. There was a suggestion to file in Municipal Court a littering charge. He stated that he has spoke with the Journal's attorney regarding first amendment issues and will contact him again next week.

- Update on Sponsorship of Traffic Islands

The Mayor stated since the City can't continue to maintain the islands the way we used to due to financial constraints, we have the information on what it would cost a local business or individuals to pay for the upkeep and have a sign on the island stating such. He added that he spoke to Beautification Committee and they are more than willing to take up this program.

***A motion is made to refer this item to the Beautification Committee to implement and work with the Law Department and the City Manager by Councilman Conley, seconded by Councilwoman Kleyla and on a roll call vote it is unanimous with Councilman DiGioia absent.***

- Champlin Foundation Grant for Tranquility Place

There was a DEM grant awarded and a \$150,000 Champlain match. So the City is in receipt of \$300,000 for Jones Pond renovations.

Director Boyle stated there was stiff competition for the Champlain monies with over 400 applications for the funding. The City made a very good pitch and it's a unique project. We are able to do a \$300,000 stand alone project so if we can't fund the whole project we have a viable and meaningful renovation.

- Enforcement Issues

Taunton Avenue around the Dunkin Donuts and 6 corners has 2 hour parking which is not always being enforced.

The Police Chief said they have done it periodically and sometimes people try to find a loop hole in the law but they are looking into all these complaints some may be zoning issues relative to signage and are treating people fairly with no exceptions.

- Point of Personal Privilege

Mayor reads from a prepared speech. He thanked the City and residents and acknowledged his honor in serving on the Budget Commission which at the end of their time here will have presented a balanced budget and a five year plan.

- Other Issues

**2. Update on the Labor Day Parade Committee Meeting** *(by Assistant Mayor Rose)*

**Assistant Mayor Rose asked this item be deferred.**

**3. Outside Vendors** *(by Assistant Mayor Rose)*

Assistant Mayor Rose states that outside vendors for the snow plow truck drivers which are being hired are at a higher cost make sure not making more

**4. Proper Tools for Employees** *(by Assistant Mayor Rose)*

**Assistant Mayor Rose asked this item be deferred.**

**5. Acknowledgment and expression of gratitude** *(by Councilman Conley)*

Councilman Conley reads from a prepared speech. He thanked all the City officials for their hard work and for everyone's patience through the process and looked forward to serving as their State Senator.

**D. Resolutions**

**1. A RESOLUTION IN SUPPORT OF THE REQUEST OF THE CITY OF EAST PROVIDENCE TO PARTICIPATE IN THE \$115.5 MILLION SURPLUS THE STATE OF RHODE ISLAND PRESENTLY HAS.**

**WHEREAS**, the State of Rhode Island was running a deficit for the year 2012; and

**WHEREAS**, state aide was cut dramatically from cities and towns resulting in several cities ending their fiscal years with deficits; and

**WHEREAS**, the State of Rhode Island has ended fiscal year 2012 with a \$115.5 million surplus; and

**WHEREAS**, the City of East Providence requests that the State of Rhode Island give the City of East Providence a fixed share of those surplus funds to be used for deficit reduction.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of East Providence hereby requests that the City Clerk send a copy of this resolution to the Governor of the State of Rhode Island, the Lieutenant Governor of the State of Rhode Island, the President of the Rhode Island Senate, the Speaker of the Rhode Island House of Representative, and the Senators and Representatives of the City of East Providence.

This resolution shall take effect upon its passage.

Requested By: Mayor Rogers

Councilman Conley states he is against this resolution. This is a surplus which is essentially a State surplus that sends a signal that the economic development fiscal initiatives on the State level have new fiscal soundness which will be reinvested in economic development of our state. He does not think that a portion of that surplus should be designated to a single community's deficit reduction.

*A motion to approve the resolution is made by Assistant Mayor Rose, seconded by*

*Councilwoman Kleyla and on a roll call vote the motion passes 3-1 with Councilman Conley voting Nay and Councilman DiGioia absent.*

**2. RESOLUTION REQUESTING LEGISLATIVE RATIFICATION OF THE CHARTER OF THE CITY OF EAST PROVIDENCE AS AMENDED**

**WHEREAS**, on November 6, 2012 the voters of the City of East Providence overwhelmingly approved an amendment to the Home Rule Charter of the City of East Providence which provided that:

**Sec. 5-1. Fiscal year; "budget year" defined.**

The fiscal year of the city government shall begin on the first day of November and shall end on the last day of October of each calendar year unless a uniform fiscal year for all cities and towns shall be established by state law. Such fiscal year may be changed by ordinance so long as any such change remains in compliance with state law. Such fiscal year shall also constitute the budget and accounting year. As used in this Charter, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

**Sec. 5-15**

- (a) No budget act shall cause the aggregate expenditures enacted in any given fiscal year to exceed ninety nine percent (99%) of the anticipated revenues for such fiscal year as defined in Article V. Sec. 5-5 of this Charter.
- (b) There is hereby established a budget reserve fund. Revenues in this budget reserve fund may be included in the budget, whenever:
  - (1) the city forecasts or experiences a loss in total non-property tax revenues and the loss is certified by the director of finance;
  - (2) The city experiences or anticipates an emergency situation, which shall be deemed to exist when the city experiences or anticipates health insurance costs, retirement contributions or utility expenditures which exceed the prior fiscal year's health insurance costs, retirement contributions or utility expenditures by a percentage greater than ten and one-half percent (10.5%);
  - (3) The city forecasts or experiences debt services expenditures net of any state aid reimbursement which exceed the prior year's debt service expenditures by an amount greater than three and one-half percent (3.5%) and which are the result of bonded debt issued in a manner consistent with general law or a special act.
  - (4) The city experiences substantial growth in its tax base as the result of major new construction which necessitates either significant infrastructure or school housing expenditures by the city or a significant increase in the need for essential municipal services and such increase in expenditures or demand for services is certified by the director of finance.

Whenever funds are used, they must be replenished in equal parts over the three (3) succeeding fiscal years to the amount that would have been in the fund had the expenditures not been made from the fund.

- (c) The amount between the applicable percentage in (a) and one hundred percent (100%) of the anticipated revenue for any fiscal year defined in Article V, Sec. 5-5 of this Charter shall be transferred in any given fiscal year into the budget reserve fund; provided, however, that no such payment will be made which would increase the total of the budget reserve fund to more than ten percent (10%) of only the anticipated revenues as set by subsection (a) of this section.
- (d) In the event that the payment to be made into the budget reserve fund would increase the total of the budget reserve fund to more than ten percent (10%) of the anticipated revenues as defined in Article V, Sec. 5-5 of this Charter. In the event that the payment to be made into the budget reserve fund would increase the amount in said account to more than ten percent (10%) of estimated state general revenues that said amount shall be transferred to a capital fund to be used solely for funding capital projects.
- (e) Capital projects shall not include debt reduction, principal or interest payments on debt, or for any other type of financing arrangement, but shall only be used for payment of direct actual expenses incurred for capital projects.

**Section 4-1. Finance department created; head of department designated; organization.**

- (1) There shall be a department of finance, the duties of which shall include the supervision and direction of all matters pertaining to financial operations, and the head of which shall be the director of finance, who shall be, or be appointed by, the City Manager. The further organization of the department into divisions or offices shall be made by the council, on recommendation of the city manager.
- (2) The department shall be organized into the following divisions or offices: Control and accounts; treasury, assessment; purchasing. The heads of these divisions shall be respectively designated controller, treasurer, assessor and purchasing agent. They shall be appointed by the director of the department, with the approval of the city manager; Those powers, duties and responsibilities of any division enumerated in this Article IV, shall be assigned to the director of finance to be delegated in accordance with Sec. 3-5 of this Charter; and

**Sec. 13-18. Office to be vacant if officer ceases to be city resident.** shall be removed from the charter.

**Sec. 2-14. Probate court.**

- (1) The powers and duties of a probate court for the city shall be exercised and performed

by a judge of probate.

- (2) The judge of probate shall be an attorney-at-law in good standing who has been admitted to the practice of law in this state. ~~He shall be a qualified elector of the city.~~ A preference in hiring shall be given to those residents of the city who apply for this position.
- (3) The council by resolution shall appoint a judge of probate to serve for a term of office concurrent with that of the council and until his successor is appointed and qualified.
- (4) In the absence, disability or disqualification of the judge of probate so that he is unable to perform his duties, the city solicitor shall serve as acting judge of probate and when so serving shall have and exercise all the powers and duties of the judge of probate.

#### **Sec. 2-16. City clerk.**

- (1) The council shall elect an officer who ~~shall be an elector of the city~~ and shall have the title of city clerk, and who shall give notice of its meetings, shall keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept for that purpose all ordinances and resolutions. A preference in hiring shall be given to those residents of the city who apply for this position.
- (2) He shall be responsible for the keeping and maintaining, for public inspection, all records of the city including, but not limited to:
  - (A) All land evidence records of every kind whatsoever;
  - (B) All records of personal property mortgages, attachments, assignments, lis pendens notices, conditional sales, and liens of every kind whatsoever that are now or shall hereafter be required or permitted to be recorded in a public place in charge of or under the control, custody, or supervision of any officer of the city;
  - (C) All records of the probate court;
  - (D) All records of licenses issued by the city or by any officer or employee thereof;
  - (E) All records of births, marriages and deaths;
  - (F) All records of removals;
  - (G) All records of trade names;
  - (H) Such other records as shall by ordinance or laws of the state be required to be kept by the city clerk.
- (3) He shall issue all marriage licenses, burial permits, and such other licenses or permits as by ordinance or laws of the state shall be required to be issued by the city clerk, and shall perform such other duties as may be required by ordinance or laws of the state.

#### **Sec. 2-17. City solicitor.**



The council shall elect an officer of the city who shall have the title of city solicitor. The solicitor shall be an attorney-at-law in good standing who has been admitted to practice in the state. ~~He shall be a qualified elector of the city.~~ The city solicitor shall be attorney for the city and legal advisor of the council and of all officers, departments, and agencies and shall perform such other duties as may be prescribed by the council. A preference in hiring shall be given to those residents of the city who apply for this position.

### **Sec. 3-1. Qualifications.**

The city manager shall be chosen by the council solely on the basis of executive and administrative qualifications, with special reference to prior experience in, or knowledge of, accepted practice with respect to duties of the office as hereinafter set forth. In addition, the city manager shall be a graduate of an accredited four-year college or university, with a master's degree in public administration, business administration, or a related field. The city manager shall have at least three (3) years of actual experience in a management level position in either the public or private sector. Such experience must include positions with responsibility in any of the following areas: Finance, planning, personnel, public works, public safety, economic development or their equivalent. At the time of appointment, the city manager need not be a resident of the city or state, but during the tenure of office, the city manager shall reside ~~in the city~~ within a fifteen (15) mile radius of the city.

### **Sec. 2-1. Number, selection and term.**

The council shall have five [5] members, one to be elected from any by the electors of each of the four [4] wards of the city, and one to be elected at large, for a term of ~~two [2]~~ four (4) years or until a majority of the newly elected council have qualified and have taken office.

### **Sec. 10-1. School committee.**

- (1) There shall be a school committee consisting of five (5) members. One (1) member shall be elected from the city at large, and one (1) member shall be elected from each of the four (4) wards of the city at the regular city elections to serve for terms of ~~two (2)~~ four (4) years.
- (2) Any vacancy in the membership of the school committee shall be filled by the city council until the next regular city election.

**WHEREAS**, by that vote, said amendment to the Charter has been duly adopted

pursuant to Article 13, Section 8 of the Rhode Island Constitution and is now valid and in effect as Article 10, Section 4 of the Home Rule Charter of the City of East Providence; and

**WHEREAS**, the Home Rule Charter for the City of East Providence was originally adopted by the Town of East Providence in September 1954; and

**WHEREAS**, since that date, there have been several amendments to the Home Rule Charter, changes in various state laws affecting municipalities, and an amendment to the Constitution for the State of Rhode Island; and

**WHEREAS**, the City Council for the City of East Providence at this time wishes to seek legislative ratification of the entire Home Rule Charter of the City of East Providence as amended to reaffirm the commitment of the City of East Providence to its Home Rule Charter in all respects;

**NOW, THEREFORE**, the City Council for the City of East Providence requests that the Rhode Island General Assembly ratify the Home Rule Charter of the City of East Providence as amended and by said ratification give effect to, confirm, and validate the Home Rule Charter of the City of East Providence as amended in its entirety.

**BE IT FURTHER RESOLVED**, that the City Clerk send a copy of this Resolution to the Senators and Representatives of the City of East Providence legislative delegation, the House of Representatives, the Rhode Island Senate, the President of the Rhode Island Senate, the Speaker of the House of Representatives, and the Governor of the State of Rhode Island  
Adopted by the City Council

Requested by: City Manager

Councilman Conley stated he was voting nay for the following reasons:

- there was no analysis or fiscal impact for how the City would change the fiscal year, a fiscal analysis should be done so that when these amendments go to the State they will know we have a plan, will this mean an extra tax quarter or will the tax payers get hammered
- some of these charter amendments it was stated that the Budget Commission was in favor of drafting these amendments and that was misinformation
- we have a charter amend that the City Manager of the City doesn't have to live here, what is wrong with the City, it's good enough for the elected body, we live here
- 4 year terms for council is wrong, we need accountability, no branch of government impacts your life more every day than this and no branch should have more accountability than this, there is no recall, no term limit, in good conscience he cannot vote for a decrease in accountability

*A motion to approve the resolution is made by Councilwoman Kleyla, seconded by Assistant Mayor Rose and on a roll call vote the motion passes 3-1 with Councilman Conley voting Nay and Councilman DiGioia absent.*

#### **E. Introduction of Ordinances**

##### ***1. An ordinance regarding tree root liabilities.***

**AN ORDINANCE IN AMENDMENT OF CHAPTER 17 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND, 1998, AS AMENDED, ENTITLED "UTILITIES."**

**SECTION I.** The definition of *building sewer lateral* as contained in Section 17-76 entitled "Definitions" of Article III entitled "Sanitary Sewer System" of Chapter 17 entitled "Utilities" is amended to read as follows:

*Building sewer lateral* means a pipe laid incidental to the original construction of a sewer from that sewer to some point at the side of the street, highway or similar location, and there capped, having been provided and intended for extension and for use at some time thereafter as a part of a building sewer. When a building sewer lateral has been connected with and extended for the purpose of installing a building sewer, the lateral shall become and thereafter be a part of such building sewer, to be maintained as provided for building sewer. Sewers constructed prior to 1951, where building sewer laterals were installed at the owners expense, shall continue to be installed at the expense of the owner. The city will assume responsibility for repair of a broken or cracked sewer lateral between the curb line and the sewer main ~~or for any blockage caused by a city tree~~. This provision shall not prevent the city from holding any third parties liable for damages to a sewer lateral.

**SECTION II.** This ordinance shall take effect upon its second passage and all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Requested By: City Solicitor

*A motion is made to defer the first passage of the ordinance to the incoming Council by Assistant Mayor Rose, seconded by Councilwoman Kleyla and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**2. An ordinance regarding a one way street westbound on Alice Street.**

**AN ORDINANCE IN AMENDMENT OF CHAPTER 18 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND, 1998, AS AMENDED, ENTITLED "VEHICLES AND TRAFFIC"**

**SECTION I.** Section 18-247 entitled "Designation of one-way streets" of Article VIII entitled "One-Way Streets" of Chapter 18 entitled "Vehicles and Traffic" is amended by deleting therefrom the following:

Alice Street (westbound) from Taunton Avenue to James Street

**SECTION II.** This ordinance shall take effect upon second passage and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Requested By: Director of Public Works

*A motion is made to defer the first passage of the ordinance to the incoming Council by Councilman Conley, seconded by Councilwoman Kleyla and on a roll call vote it is unanimous with Councilman DiGioia absent.*

**F. Communications**

1. Tony Fereirra, 44 Brightridge Avenue (02914) requesting to address the Council regarding the re-pavement of Waterman Avenue and the status of the "birdhouses on the Broadway overpass.

Director Coutu stated he has notified the State regarding the bird "houses" under the bridge and they have noted that it is on their list to address.

2. Freddie Rybka, 9 Cozzens Avenue (02915) requesting to address the Council regarding Sutton Avenue and pot holes in the Riverside area.

Mr. Rybka noted at the bottom of Pawtucket Avenue to Bullocks Point Avenue where it was dug up for utility work it still needs to be repaired.

Director Coutu stated there is a significant amount of utility work and it is a state road and temporary patch work goes down now, and there will be a second level of work done on the area in the spring when the gas company will come back to complete the job.

3. Izilda Teves, 345 Sutton Avenue (02914) requesting to address the Council regarding Crossing Guards.

Mr. Rybka spoke on behalf of Ms. Teves that Orlo Avenue School has been having problems with crossing guards not showing up and the police told Ms. Teves they travel from the high school to Orlo Avenue and the person doesn't drive. On rainy days there is no crossing guard. The Chief its a joint effort start at the beginning of the school yt and at the end of the school yt w school dept to address not a good situation first aware of it and we will address it

**XII. ADJOURNMENT**

*A motion to adjourn is made by Councilman Conley, seconded by Assistant Mayor Rose and on a roll call vote is it unanimous with Councilman DiGioia absent.*

Approved By Council: December 4, 2012

Attest: \_\_\_\_\_

City Clerk

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# EXHIBIT 2

**CITY OF EAST PROVIDENCE  
RHODE ISLAND  
JOURNAL OF REGULAR COUNCIL MEETING  
February 20, 2018  
6:45 P.M.**

**Council Chambers, City Hall, 145 Taunton Avenue, East Providence, RI 02914  
6:45 P.M. Council May Call An Executive Session, Room 101  
7:30 P.M. Open Session**

**I. EXECUTIVE SESSION**

*The City Council of the City of East Providence may meet in Executive Session pursuant to RI General Laws § 42-46-5 (a)(1)(2).*

**A. Claims**

1. Michelle Botelho
2. CEI Group, Inc. (Ins: Kyle Baker)
3. Joseph Estrella
4. Bryan Machado
5. Ana Moura
6. Lisa Ruolo

**B. Sewer Charge Abatements**

1. Jan French
2. Claudia Medeiros
3. Yvonne Peal
4. AnnMarie Ranieri

**C. Litigation**

1. Oscar Elmasian vs. R.I. Interlocal Risk Management Trust, Inc., C.A. No. PC-2017-0866

**II. OPEN SESSION**

**III. CALL TO ORDER**

**IV. SALUTE TO THE FLAG**

Mayor Briden moves the item under the City Mangers Report regarding East Providence Fire Fighter recognitions to this location on the docket.

1.Firefighter Recognition East Providence Fire Department;  
 Group C- Battalion 1, Group C- Engine Company #1 Group  
 C- Engine Company #2, Group C- Ladder Company #1  
 Actions taken while operating at a fire in the Town of  
 Barrington on Wednesday, December 6, 2017.

The City Manager calls Fire Chief Oscar Elmasian to the podium. Chief Elmasian provides a presentation regarding the great job done by the East Providence Fire Fighters during a fire in Barrington on December 6, 2017.

**V. TO APPROVE THE CONSENT CALENDAR**

**A. Letters**

1. CRMC February 2018 Calendar.
2. CRMC Semi Monthly Meeting, Notice, Tuesday, February 13, 2018, 6:00PM, Administration Building, Conference Room A, One Capitol Hill, Providence (02908)
3. Notice of new property number, 0 Hospital Road, Map 711, Block 03, Parcel 015.40, Zoning Residential 1.
4. Notice of new property number, 0 Hospital Road, Map 711, Block 03, Parcel 015.50, Zoning Residential 1.

**B. Cancellation/Abatements**

<b>Year</b>	<b>Amount</b>
2016	\$757.21
2017	\$76.39
<b>Total</b>	<b>\$833.60</b>

**C. Tax Board of Review Abatements**

<u><b>Year</b></u>	<u><b>Amount</b></u>
2017	\$23,984.44
<b>Total</b>	<b>\$23,984.44</b>

**D. Council Journals**

1. Council Journal Regular Meeting February 6, 2018

*A motion to approve the Consent Calendar is made by Councilman Faria, seconded by Councilwoman Sousa and on a roll call vote it is unanimous.*

**VI. COMMUNICATIONS**

A. Chrissy Rossi, 87 Shore Road (02915) requesting to address the Council regarding terms and elections.

Ms. Rossi states the city is into its 3<sup>rd</sup> election not filling the voter's choice of four year terms for City Council and School Committee. She notes the law department does not agree with her assessment however the four year terms were voted on and do not require General Assembly approval. Ms. Rossi has documents which she hands out to council. She would like to know what the council's choice of action will be.

Councilman Faria states it is very dangerous to avert the will of the people and they voted and the city has a home rule charter so therefore their vote is the final step.

Councilman Botelho states he has researched the matter. He shows a report which he created detailing his research and which he also submitted to the law department. He adds the Solicitor knows how he feels which is that the charter amendment does not require general assembly ratification. Election items which require general assembly approval are only time and place. Terms are a local issue.

Solicitor Dias states he had provided to Councilman Botelho a legal opinion from Bond Counsel Attorney Karen Grande to then City Manager Peter Graczykowski stating that certain areas of law do require general assembly approval. He adds the council at the time did seek general assembly approval and although it passed both houses for some reason it was never transmitted to the Governor.

Councilman Botelho states what he is reading does not state that it is mandatory it states that it should be. He adds that unless they get to the bottom of it this issue it will continue to come up as it has for some time. He feels the council should go to a court of law as soon as possible and get a ruling. However, by his research, the RI Constitution regarding home rule charters is clear this should have been codified and it was the City Clerk's duty to do so.

Ms. Rossi states the city clerk was stopped by the law department.

Solicitor Dias suggests at this point someone from the city council should place the decision to seek a declaratory judgement by a court of law on the docket for a vote.

Councilman Faria states it is troubling that the voters voted for this and the next council never addressed it.



Councilwoman Sousa states it is concerning the school committee which is state law has not been handled appropriately.

Ms. Rossi adds it is compounded as the new charter commission and the charter amendments passed re-do the same mistake over again.

Councilman Faria states the city clerk reached out to the other cities and towns and for example Cranston has a home rule charter and they made changes and never had it ratified and had no issues.

Councilman Botelho states at the next meeting he will put it on for a vote to send the issue for a judgement through the courts.

Councilman Faria states he will reach out to Assistant Solicitor Craven as he has expertise in election law and he will also request that he attend the next council meeting.

- B. Jason Desrosiers, 80 Village Green North (02915) requesting to address the Council regarding Council Rules of Procedure.

Mr. Desrosiers speaks about the council rules of procedure. He states it is the presiding officer's duty to keep decorum. He also refers to the section on public comment. He notes it does not state anywhere that council members cannot respond. He questions the Mayor's statements to Councilman Faria that he could not respond to a public comment at a previous meeting.

Mayor Briden states he re-watched that particular meeting and his statement was made within that person's 3 minute allotted time frame so that the council member didn't interrupt the speaker's allotted 3 minutes but that he never said he could not respond after those 3 minutes were completed. He adds the use of the terms "through the chair" can resolve a lot of these issues.

Mr. Desrosiers also states regarding the 4 year terms it does not require general assembly ratification as it is a length of term which is not an election matter but rather a governance matter.

## **VII. PUBLIC COMMENT**

- A. Jason Desrosiers, 80 Village Green North (02915) – Four Year Terms
- B. Adam Minor, 120 Hazard Avenue (02914) – Social Media
- C. Wayne and Gus Borges, 41 Reardon Avenue (02915) - Council Rules of Procedure
- D. Samantha Burnett, 304 Wilson Avenue (02916) – Open Meetings Act

Following public comment the council moves the Public Hearing items A and B to this location on the docket.

## **VIII. PUBLIC HEARING**

**Zoning Map Amendment:** Map 811, Block 1, Parcel 3 (0 Wampanoag Trail) from Open Space/Commercial-1 to Residential -2

**Petition for Zoning Map Amendment:** from Open Space and Office/Services to Low Density Residential

**Petitioners:** US Development II, LLC

**Attorney:** Moses Alfonso Ryan, Ltd

**Advertised East Providence Post** – 2/1/18, 2/8/18, 2/15/18

**Notices served on Abutters** – 2/2/18

### **A. AN ORDINANCE IN AMENDMENT OF CHAPTER 19 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND 1998, AS AMENDED ENTITLED “ZONING”**

**SECTION I.** Section 19-95 entitled “Districts Designated” of Article III entitled “District Regulations” is hereby amended as follows:

Parcel 3 on Assessor’s Map 811, Block 1 presently located in the O-1, Open Space and C-1, Commercial/Office Business Districts is hereby changed to be included in a Residential – 2, One Family District.

The Zoning Map of the City of East Providence shall be amended accordingly.

**SECTION II.** This ordinance shall take effect upon passage and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Requested by: U.S. Development II, LLC

The developers provide a power point presentation, handouts and large photo boards. They take the council through the planning process to date, show drawings of the housing development, the landscaping and the engineering schematics.

Mr. Kelly Coates provides details and answers questions.

Councilman Botelho ask questions regarding drainage as 30 years ago when they built homes at nearby Forbes Street there was an issue with severe flooding of basements adding that many of those homes had to be placed on slabs.

Mr. Coates response is that the basements will be two feet above ground water level and will be mostly walk out basements. There will be an impenetrable barrier around the suggested pond shown in the diagram. This will drive the water downward.

Councilman Botelho states he likes the R2 Zone which requires a minimum lot size of 10,000 square feet and he notices most lots are over that size. He adds that in East Providence there may only be 2 or 3 other R2 Zones and so he is glad to see it is not high density.

Mr. Coates states they have a deed restriction for a minimum size home and he shows color sketches by the architect.

Councilman Faria asks about traffic.

Mr. Coates states they have done all their preliminary work on this and it is accepted by RI DOT City Engineering.

Councilman Faria asks for the fiscal impact statement.

Mr. Coates states they did have to provide this to the Planning Board and it was accepted as part of the package and he hands out copies.

Assistant Mayor Britto asks about the terrain and if they will be bringing in outside soil and if so if that soil will be tested first.

Mr. Coates states they will be bringing in outside soil and they do not want to jeopardize the project in any way or have any liability issues and it will all be engineer certified.

Councilman Faria states a number of the residents have expressed concerns to him and he would like to make sure they are comfortable and have all their questions answered and would like Mr. Coates to provide for a community meeting on the development.

Mr. Coates agrees.

Councilman Faria assures all the residents that they will hold a community meeting and he will get to work on this right away and make sure all their concerns are addressed.

Councilwoman Sousa notes there were many more residents present but they have left now due to the late hour.

Under Public Hearing:

1. Chrissy Rossi – concerns regarding the amount of children and vehicles they are estimating for the development noting that people who purchase 3 bedroom homes have families.
2. Jessica Beauchaine – concerns regarding the amount of children in the development and wants the council to understand that each child is roughly \$16,000 per year and that is without special needs and these developments bring in extra tax dollars but they still are not funding the schools 50% in the budget.

3. Mike Reardon is concerned that the city only alerted those living in a 200 foot radius which only reaches about 20 people and that many of the neighbors had no idea this was taking place. The City Manager states that Mr. Coates is always very good about reaching out to neighbors with concerns.

Councilman Faria states that they will have a community meeting and reach out to make sure the entire neighborhood is aware.

Mr. Reardon adds that flooding is in issue as storms and rain storms are only getting worse.

4. PJ Dopney states he is in support of the development plan and he lives the closest. He states that it is a large piece of land and there were concerns something commercial would be going there. He likes the development of an R2 Zone.

*A motion to approve is made by Assistant Mayor Britto, seconded by Councilman Botelho and on a roll call vote it is unanimous.*

## **B. AN ORDINANCE IN AMENDMENT OF THE CITY OF EAST PROVIDENCE 2010-2015 COMPREHENSIVE PLAN UPDATE**

**SECTION I.** Map 4 of the City of East Providence 2010-2015 Comprehensive Update entitled "Southern East Providence Generalized Land Use", is hereby amended to identify the property designated as Assessor's Map 811, Block 1, Parcel 3 as Low-Density Residential.

The Southern East Providence Generalized Land Use Map (Map 4) of the City of East Providence 2010-2015 Comprehensive Plan shall be amended accordingly.

**SECTION II.** This ordinance shall take effect upon passage and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Requested by: U.S. Development II, LLC

*A motion to approve is made by Councilman Botelho, seconded by Councilwoman Sousa and on a roll call vote it is unanimous.*

## **IX. APPOINTMENTS**

### **A. Canvassing Authority Re-Appointment (by Mayor Briden) Elizabeth Peg, 74 Sweet Briar Avenue (02915)**

Councilman Faria raises a concern that the item may not have posted for 10 days on the city website. Kelly Ahrens is called to the podium but she is not currently present.

Mayor Briden states he has no issue deferring the appointment to the March 6, 2018 meeting even though it is not clear if the new ordinance applies to this commission as it is governed by state law and the appointments are furnished by the chair of each party but he is fine deferring the item as it is not urgent.

Councilwoman Sousa states she has spoken with the City Clerk and the City Clerk's Office is working with the IT Department to have Clerkbase host a program which will make the posting and storing of this information easy and councilmembers will be alerted when people apply for appointments and they are working on getting this up and running.

Mayor Briden asks the Solicitor to look at the ordinance and interpret when it is applicable and he defers the appointment to the March 6<sup>th</sup> Council Meeting.

**B. Traffic Control** (by Councilman Botelho)  
Mary Ellen Jessop, 217 Martin Street (02914)

***A motion to approve the Appointment is made by Councilman Botelho, seconded by Councilwoman Sousa and on a roll call vote it is unanimous.***

## **X. COUNCIL MEMBERS**

**A. Update Social Media Policy, City Facebook and City Website Policy** (by Assistant Mayor Britto)

Assistant Mayor Britto states he placed this item on the docket regarding the discussion from the previous meeting and the fact that residents speaking regarding items done on the web in the wee hours of the morning and on the weekend. There seems to be a loss of control on what is going on with the website and Facebook. He would like to have a discussion on this and perhaps going forward have a policy on this which the department head comes up with. Perhaps a moratorium is needed at this point. If this is back in the IT Director's hands no one but the director has control over these pages. This is not to prohibit people it's just for the fact of the overabundance of what is going on with the social media policy at this time.

Councilman Faria states he was not elected for this and there are important issues going on. This Facebook stuff is getting out of hand. Nothing was posted in the middle of the night. Positive posts were put up on a Friday. There was one misspelling out of 26 posts. The IT Director stated she had the best of intentions. They were making fun of her because of a typo. What was done was moderating due to the behavior on the site. Since that time, Robin Robinson has come back so there is no reason to have a big discussion.

Assistant Britto states a moratorium should take place and it should be handed back over to IT so that any postings they would handle.

Councilwoman Sousa states so much time and thought is put into something that is supposed to be uplifting and there are those that are not friendly to politics but that doesn't diminish the good work being done. If there is an event taking place the public has the right to know. Timeframes doesn't mean limited to business hours because things do come in for example parking bans. Social media is how people are communicating and these days a lot of news comes in this way. The bullying which is going on social media to those who are attempting to do good just because they don't like them doesn't give them that right.

Councilman Faria states it is every council person's right to post items and if a council person doesn't want to that is their right not to but don't punish the rest.

Assistant Mayor Britto explains he is concerned that the city site should be for city business and that everything else is what personal sites are for. He adds he is proposing a moratorium that only IT has access to the password and to be the ones to post. No one should be blocked.

Councilman Faria states if someone is making fun of city workers they should be blocked.

Councilman Botelho states that it is really a broader issue. It is communication and communication is really very poor. Social media is the way people interact. There is an issue now with censorship. For example the water quality report was dreadful and should have been reviewed. It's a communication issue that the city has that should be reviewed from top to bottom. The water notification never said if the water was safe to drink. The IT Director is a technical person. Is there a communications officer in the city? Let's sit down and talk about it and revamp it. Maybe under our profiles council members could have a link to their pages. All communications that go out to city residents should be reviewed by someone who understands communication. There is a tool where people can't post obscenities. If it's not being used it should be.

Mayor Briden states that for clarity sake in the past what he was observing was a Facebook page where the administration covered events and if a council member happened to be at an event it was incidental. That is a more conservative approach. Not sharing on an elected official's personal page. A moratorium would be wise allowing for a policy to be created. We can notify the administration of an event.

City Manager Chapman states it is not fair to Robin or Kelly who get told by council members what to post. Then there is the law of not having any photos and videos from politicians so many days out from an election.

Councilman Botelho states that if someone is directing a city employee to do something then that is against the charter there is no need for the policy to say that the charter already says it.

Mayor Briden states here is where it becomes difficult if the Mayor asks can administrative staff realistically say no. If the Mayor asks them to share they are just going to do it. So the better policy is the council should exercise restraint so that it doesn't appear that it is being used by us. Alerting them vs telling them is very different.

Councilman Botelho states if someone is violating that then they should be expelled.

City Manager Chapman states he suggests referring the item to the law department for a policy.

Councilman Botelho states there is no need it is already in the charter. If someone is doing that it should be enforced.

Mayor Briden restates that restraint is the better approach and if a council person attends an event and ends up in a picture that is different.

Councilwoman Sousa requests the City Manager to move forward to look at all communications.

Mayor Briden asks the Solicitor if a vote is needed.

The Solicitor states there is a vote listed on the docket.

Assistant Mayor Britto states he is fine with it all being reviewed.

B. Ward One Neighborhood Watch Informational Meeting,  
Wednesday, February 28<sup>th</sup> 6:30PM, Conference Room A,  
City Hall *(by Mayor Britto)*

Assistant Mayor Britto discusses his past meeting regarding suspicious behavior and the motor lodge meeting and at that time they discussed a Neighborhood Watch. The holidays approached and it was temporarily on hold. Unfortunately, there were additional issues in Rumford and he is looking to bring this idea to fruition. He invites all to the meeting and notes the Chief of Police and police personnel will be present.

C. National Grid/MISA – LED Lighting *(by Councilman Faria)*

Councilman Faria states it is something both he and the city are passionate on and it is most important it gets to the finish line. The act was created in 2013 to have municipalities participate to receive substantial savings. East Providence would receive over \$600,000 in these savings. The city is filing a petition to the PUC. He held a news conference on this regarding why East Providence is being charged more than other communities such as Cranston and North Providence. He adds regarding the red cap program all lights would be able to be turned back on due to the substantial savings.

D. Title Search Fees *(by Councilman Faria)*

Councilman Faria directs this to the law department regarding title search fees for back water bills. He would like them to take a look at it and research it.

City Manager Chapman notes there is a Rhode Island state law they are following but he would defer the rest to the Solicitor.

Solicitor Dias states that is correct for any property going to tax sale. The law states it must be done and all notified.

Councilman Faria asks where in the law does it say they have to send it to an attorney.

Solicitor Dias states the law department could never research all of these.

Councilman Faria asks to defer this until the next meeting so he can meet with the Solicitor.

E. Appointment to Vacant Boards/Commission Seats (*by Councilwoman Sousa*)

Councilwoman Sousa notes she touched on this when they were discussing the Canvassing appointment. She calls Director Ahrens to the podium to update on where they are with the Clerkbases program to manage these appointments as it does on most of the other council items.

Director Ahrens is not present at this time.

Mayor Briden suggests they will move on with the other items on the docket for now.

Councilwoman Sousa agrees.

**XI. PUBLIC HEARING - ORDINANCES FINAL PASSAGE**

**A. AN ORDINANCE IN AMENDMENT OF CHAPTER 5 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND, 1998, AS AMENDED, ENTITLED "FIRE PREVENTION"**

*A motion to dispense with the reading of the Ordinance is made by Councilman Faria, seconded by Assistant Mayor Britto and on a roll call vote it is unanimous.*

**SECTION I.** ~~Sec. 5-1~~ entitled "~~Fire code adopted~~" of Article I entitled "In General" of Chapter 5 of the Revised Ordinances of the City of East Providence, Rhode Island, 1998, as amended, entitled "Fire Prevention" is amended to read as follows:

The city hereby adopts the Rhode Island Fire Safety Code (RIFSC) as provided for in R.I.G.L. § ~~23-28.1-2~~ Chapters 28.1 – 28.39 which includes NFPA 1, Fire Code.

**SECTION II.** ~~Sec. 5-2~~ entitled "~~Amendments~~" of Article I entitled "In General" of Chapter 5 of the Revised Ordinances of the City of East Providence, Rhode Island, 1998, as amended, entitled "Fire Prevention" is amended to read as follows:

~~The BOCA Basic National Fire Prevention Code Rhode Island Fire Safety Code, as adopted by section 5-1, is hereby amended, deleted from and added to as follows:~~

~~(1) Section F-101.6. is added to read as follows:~~

~~Section F-101.6. Life and/or fire safety matters not set forth in this code. Under emergency situations, or under unanticipated contingencies or unforeseen circumstances where life and/or fire safety may be involved and in lieu of no specific provisions by this code, state statute or city ordinance to govern a particular situation, it shall be deemed the right of the chief of the fire~~



department and/or in his absence or inability, the officer in charge of the fire prevention bureau to rule on same pending the adoption of specific statutes, or ordinances or rules or regulations.

(2) ~~Section F-105.1 is amended to read as follows:~~

~~Section F-105.1. Enforcement officer. It shall be the duty and responsibility of the chief of the fire department or the officer in charge of the fire prevention bureau, to enforce the provisions of the fire prevention code as set forth in this chapter. The designated enforcement officer of this code shall be titled fire marshal and is herein referred to as the fire official.~~

(3) ~~Section F-110.1 is added as follows:~~

~~Section F-110.1. General.~~

~~11. If watch or attack dogs are used for the protection of unattended property, it shall be the responsibility of the owner and/or tenant of the property to notify the fire department of this practice and the premises shall be posted at all entrances with legible signs stating the presence of such dogs.~~

~~12. Parking of motor vehicles or otherwise obstructing fire lanes shall be prohibited at all times.~~

(4) ~~Section F-403.0 entitled "Open burning," is amended to read as follows:~~

~~Section F-403.1. Outdoor fires. No person shall kindle or maintain any fire or authorize any such fire to be kindled or maintained with the following exceptions:~~

~~1. Cooking of food on barbecues, fireplaces or grills.~~

~~2. Fires authorized by the fire department for the purpose of training firefighters and retarding the spread of fire.~~

~~3. Ceremonial burning. Burning that is an integral part of a religious or fraternal organization's ceremonies, by permit, issued by the city fire marshal.~~

~~4. Live fires for the purpose of training employees in the use and operation of fire extinguishers and fire equipment shall be authorized upon approval of the fire chief and the state department environmental management. Such live fire training shall be in accordance with all applicable National Fire Protection Agency standards. A certified fire extinguisher instructor shall be present at all times during the training for instruction in the use and operation of fire extinguishers and fire equipment.~~

(5) ~~Section F-312.2 is amended to read as follows:~~

~~Section F-312.2. Prohibited areas. Smoking shall be prohibited where conditions are such as to make smoking a hazard including areas of piers, wharves, warehouses, stores, industrial plants, institutions, schools, places of assembly, public buildings and in spaces where combustible materials are stored or handled. The fire official shall designate specific safe locations, if necessary, in any building, structure or place in which smoking may be permitted.~~

(6) ~~Section 18 entitled "Street obstructions" of appendix A of the BOCA Basic National Fire Prevention Code, 1993 Edition is hereby amended to read as follows:~~

~~Section 18. Street obstructions. A person or persons shall not erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction~~

~~in or on any street, within the boundaries of the municipality without approval of the fire official. The word street as used in this section, shall mean any roadway accessible to the public for vehicular traffic, including, but not limited to, private streets or access lanes, as well as all public streets and highways within the boundaries of the municipality.~~

~~(7) Section F-3201.0 entitled "General" is amended to read as follows:~~

~~Section F-3201.0 Aboveground tank storage.~~

~~F-3201.1 General: Aboveground storage tanks for the storage of combustible or flammable liquid shall be prohibited except as specifically provided for in this code.~~

~~F-3201.2 Existing tanks: Existing aboveground tank installations previously approved by the fire official may be continued, provided the installation does not constitute a hazard. The fire official shall periodically inspect the installation for safety, and if he determines the installation or operation is no longer conducted or maintained in a safe manner, he shall have authority to require unsafe tanks to be removed from service.~~

~~F-3201.3 Fuel oil for heating purposes: Fuel oil tanks for supplying oil burning heating equipment may be located above ground, inside or outside of the building, provided the capacity of such tanks does not exceed 660 gallons (2.50m<sup>3</sup>) for each building served and the location is approved by the fire official. Tanks located inside buildings shall be installed in accordance with NFPA 31 listed in chapter 44 entitled "Reference Standards."~~

~~(8) Section F-3203.5 entitled "Dispensing" is amended by adding the following:~~

~~Section F-3203.5.5 Bulk plants dispensing Class 1 flammable liquids shall have an automatic foam fire protection system on all loading racks that dispense these liquids. This system shall be approved by the fire official and will require an annual test of the system, witnessed and approved by the fire official.~~

~~(9) Section 3210.0 entitled "Tank vehicles" is amended by adding thereto the following:~~

~~F-3210.2.3 All city terminal facilities dispensing Class 1 flammable liquids shall not bottom load any tank vehicle unless it is equipped with a brake interlock system which renders the vehicle immobile when connected to the loading rack. Vehicles not equipped with air brakes shall have an ignition cut out system which renders them immobile when connected to a loading rack.~~

~~(10) Section F-404.0 entitled "Torches for removing paint" is hereby repealed.~~

~~(11) Section F-404.0 is added as follows:~~

~~Section F-404.0. Open flames for removing paint.~~

~~F-404.1. The use of any device providing an open flame, for removing paint from any combustible structure is prohibited.~~

~~F-404.2. Any person using a torch or other flame producing device for removing paint from a noncombustible structure shall provide one approved fire extinguisher or a water hose connected to the water supply on the premises where the burning is being done. In all cases, the person doing the burning shall remain on the premises one hour after each use of the torch or flame producing device.~~

~~F-404.3. Prior to use of a torch or flame-producing device to remove paint from a noncombustible structure, a permit shall be secured from the fire official.~~

**(NFPA 1) 10.11 Open Flame, Candles, Open Fires, and Incinerators.**

**(NFPA 1) 10.11.1 Permits. (Amd)**

Permits, where required, shall comply with Section 1.12 of NFPA 1 (2012 edition).

**(NFPA 1) 10.11.1.1 (Amd)**

Permits shall not be required for cooking and recreational fires. All other types of fire require a permit (see 10.11.4.2.1 (Add))

**(NFPA 1) 10.11.1.2**

Where burning is conducted on public property or the property of someone other than the permit applicant, the permit applicant shall demonstrate that permission has been obtained by the appropriate government agency, the owner, or the owner's authorized agent.

**(NFPA 1) 10.11.1.3**

When limits for atmospheric conditions or hours restrict burning, such limits shall be designated in the permit restrictions.

**(NFPA 1) 10.11.1.4**

Instructions or stipulations of permit shall be followed.

**(NFPA 1) 10.11.2**

The AHJ shall have the authority to prohibit any or all open flames, candles, and open, recreational, and cooking fires or other sources of ignition, or establish special regulations on the use of any form of fire or smoking material where circumstances make such conditions hazardous.

**(NFPA 1) 10.11.3 Outdoor Fires.**

**(NFPA 1) 10.11.3.1**

Outdoor fires shall not be built, ignited, or maintained in or upon hazardous fire areas, except by permit from the AHJ.

**(NFPA 1) 10.11.3.2**

Permanent barbecues, portable barbecues, outdoor fireplaces, or grills shall not be used for the disposal of rubbish, trash, or combustible waste material.

**(NFPA 1) 10.11.4 Open Fires.**

**(NFPA 1) 10.11.4.1**

Permitted open fires shall be located not less than 50 feet (15m) from any structure.

**(NFPA 1) 10.11.4.2 (Amd)**

Burning hours shall be daylight until 11:00 PM.

**(NFPA 1) 10.11.4.2.1 (Add)**

No person shall kindle or maintain (without permit) any fire or authorize any such fire to be kindled or maintained with the following exceptions:

1. Cooking of food on barbecues or charcoal grills. Cooking on these devices shall be in preparation of a meal.
2. Propane/natural gas fire places/pits officially designed and listed as an outdoor fire place/pit shall be permitted. Fire places/pits shall be operated according to manufactures instructions in a safe manner.
  - A. Fire places/pits shall not be left unattended.
  - B. Adult supervision is required at all times.
  - C. Propane tanks shall be listed, in good condition and have a current certification.
3. Fires authorized by the fire department for the purpose of training firefighters and retarding the spread of fire.
4. Ceremonial burning. Burning that is an integral part of a religious or fraternal organization's ceremonies, by permit, issued by the city fire marshal.
5. Live fires for the purpose of training employees in the use and operation of fire extinguishers and fire equipment shall be authorized upon approval of the fire chief and the state department environmental management. Such live fire training shall be in accordance with all applicable National Fire Protection Agency standards. A certified fire extinguisher instructor shall be present at all times during the training for instruction in the use and operation of fire extinguishers and fire equipment.

**(NFPA 1) 10.11.4.3**

Recreational fires shall not be located within 25 feet (7.6m) of a structure or combustible material unless contained in an approved manner.

**(NFPA 1) 10.11.4.4**

Conditions that could cause a fire to spread to within 25 feet (7.6m) of a structure shall be eliminated prior to ignition.

**(NFPA 1) 10.11.5 Fire Attendant.**

**(NFPA 1) 10.11.5.1**

Open, recreational, and cooking fires shall be constantly attended by a competent person until such fire is extinguished.

**(NFPA 1) 10.11.5.2**

This person shall have a garden hose connected to the water supply or other fire-extinguishing equipment readily available for use.

**(NFPA 1) 10.11.6 Cooking Equipment.**

**(NFPA 1) 10.11.6.1**

For other than one- and two-family dwellings, no hibachi, grill, or other similar devices used for

cooking, heating, or any other purpose shall be used or kindled on any balcony, under any overhanging portion, or within 10 feet (3m) of any structure.

**(NFPA 1) 10.11.6.2**

For other than one-and two-family dwellings, no hibachi, grill, or other similar devices used for cooking shall be stored on a balcony.

**(NFPA 1) 10.11.6.3**

Listed equipment permanently installed in accordance with its listing, applicable codes, and manufacturer's instructions shall be permitted.

**(NFPA 1) 10.11.7 Installation of Patio Heaters.**

**(NFPA 1) 10.11.7.1**

Patio heaters utilizing an integral LP-Gas container greater than 1.08 lb (0.49 kg) propane capacity shall comply with 10.11.7.2 and 10.11.7.3. [58:6.20.2.1]

**(NFPA 1) 10.11.7.2**

Patio heaters shall be listed and used in accordance with their listing and the manufacturer's instructions. [58:6.20.2.2]

**(NFPA 1) 10.11.7.3**

Patio heaters shall not be located within 5 feet (1.5m) of exits from an assembly occupancy. [58:6.20.2.3]

**(NFPA 1) 10.11.8 Incinerators and Fireplaces.**

**(NFPA 1) 10.11.8.1**

Incinerators, outdoor fireplaces, permanent barbecues, and grills shall not be built, installed, or maintained without prior approval of the AHJ.

**(NFPA 1) 10.11.8.2**

Incinerators, outdoor fireplaces, permanent barbecues, and grills shall be maintained in good repair and in a safe condition at all times.

**(NFPA 1) 10.11.8.3**

Openings in incinerators, outdoor fireplaces, permanent barbecues, and grills shall be provided with an approved spark arrester, screen, or door.

**(NFPA 1) 10.11.9 Open-Flame Devices.**

**(NFPA 1) 10.11.9.1**

Welding torches, tar pots, decorative torches, and other devices, machines, or processes liable to start or cause a fire shall not be operated or used in or upon any areas, except by permit from the AHJ.

**(NFPA 1) 10.11.9.2**

Flame-employing devices, such as lanterns or kerosene road flares, and fuses shall not be operated or used as a signal or marker in or upon any areas unless at the scene of emergencies or railroad operations. (See Chapter 16 and Chapter 65 for additional guidance.)

**(NFPA 1) 10.11.10 Discontinuance.**

The AHJ shall be authorized to require any fire to be immediately discontinued if the fire is determined to constitute a hazardous condition.

**SECTION III.** Sec. 5-4 entitled "Establishment and duties of division of fire prevention" of Article I entitled "In General" of Chapter 5 of the Revised Ordinances of the City of East Providence, Rhode Island, 1998, as amended, entitled "Fire Prevention" is amended to read as follows:

- (a) The fire prevention codes adopted by section 5-1 shall be enforced by the division of fire prevention in the fire department of the city which is hereby established and which shall be operated under the supervision of the chief of the fire department.
- (b) The chief of the fire department may detail such state qualified members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the city manager the employment of technical inspectors who when such authorization is made shall be selected through an examination to determine their fitness for the position and state certification.

**SECTION IV.** Sec. 5-5 entitled "Modifications of fire prevention code" of Article I entitled "In General" of Chapter 5 of the Revised Ordinances of the City of East Providence, Rhode Island, 1998, as amended, entitled "Fire Prevention" is deleted in its entirety.

~~The chief of the fire department shall have power to modify any of the provisions of the fire prevention codes adopted by section 5-1 upon application in writing by the owner or lessee or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the fire department thereon shall be entered upon the records of the department, and a signed copy shall be furnished the applicant.~~

**SECTION V.** Sec. 5-35 entitled "Issuance of immediate compliance order" of Article II entitled "Inspections, compliance and violations of fire safety code" of Chapter 5 of the Revised Ordinances of the City of East Providence, Rhode Island, 1998, as amended, entitled "Fire Prevention" is deleted in its entirety.

~~Whenever the chief of the department or his designate of any stage of any proceedings instituted under the provisions of this article finds that there exists a violation of this article, which in his opinion requires immediate action to abate a direct hazard or immediate peril to the health, safety or welfare of the occupants of a nonresidential structure or dwelling place of four or more units, he may without prior notice of violation or hearing issue an immediate compliance order reciting the existence of such violation and requiring that such action be taken as he deems necessary to alleviate the violation, which may include an order to vacate as provided in section 5-48. Notwithstanding the other provisions of this article, the immediate compliance order shall be~~

~~effective immediately upon its service or in such time as the chief of the department or his designate shall under the circumstances deem reasonable, necessary and proper, and any person upon whom such in immediate compliance order is served shall comply therewith immediately or otherwise as such order may specify. Such person shall have the right to an appeal to the fire safety code board of appeal and review as provided in sections 5-36 through 5-39.~~

**SECTION VI.** ~~Sec. 5-47 entitled "Notice of violation and intent to condemn"~~ of Article II entitled "Inspections, compliance and violations of fire safety code" of Chapter 5 of the Revised Ordinances of the City of East Providence, Rhode Island, 1998, as amended, entitled "Fire Prevention" is deleted in its entirety.

~~Whenever the chief of the department or his designate determines that a nonresidential structure or dwelling place of four or more units is unfit for continued occupancy as provided in this article, he shall include within the notice of violation provided for in section 5-33 a statement of his intent to condemn and placard the nonresidential structure or dwelling place of four or more units as unfit for continued occupancy and to require it to be vacated if the provisions of the notice of violation shall be served on the owner, operator and the occupant in the manner provided in section 5-33.~~

**SECTION VII.** ~~Sec. 5-48 entitled "Order to vacate"~~ of Article II entitled "Inspections, compliance and violations of fire safety code" of Chapter 5 of the Revised Ordinances of the City of East Providence, Rhode Island, 1998, as amended, entitled "Fire Prevention" is deleted in its entirety.

~~Whenever a notice of violation as provided for section 5-47 has not been complied with, the chief of the department or his designate may include within the compliance order a finding to the effect that the nonresidential structure or dwelling place of four or more units is unfit for continued occupancy, and such finding shall be an order to vacate. Such compliance shall be in the manner provided for in section 5-34 and service shall be made at least ten days prior to the effective date of the order to vacate. An appeal from such compliance order may be taken to the fire safety code board of appeal and review.~~

**SECTION VIII.** ~~Sec. 5-50 entitled "Closure and/or removal of underground tanks"~~ of Article II entitled "Inspections, compliance and violations of fire safety code" of Chapter 5 of the Revised Ordinances of the City of East Providence, Rhode Island, 1998, as amended, entitled "Fire Prevention" is deleted in its entirety.

~~Cutting of all underground tanks and/or containers having contained flammable, combustible or explosive substances is hereby prohibited except upon approval of the fire chief. All underground tanks and/or containers having contained flammable, combustible or explosive substances shall be cut, closed and/or removed in accordance with the American Petroleum Institute Recommended Practices—1604, 2nd Edition as amended.~~

**SECTION IX.** This ordinance shall take effect upon its second passage and all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Requested by: Councilman Britto

Councilwoman Sousa calls Fire Chief Elmasian to the podium. She asks what the differences between the past and present ordinance are.

Chief Elmasian states that open fire burning would now be allowed if it is propane or gas cut no wood still. Usually complaints are from the smoke that is created in burning natural wood or combustibles.

Councilwoman Sousa asks if it will affect the outdoor cooking at feasts.

Chief Elmasian states it will not. Cooking it is still permissible. There will be no fee for the permit it will be to come to the Fire Marshall to get a permit so that they will know if a complaint comes that the person has a permit and there are guidelines that come with the permit. Even at home, if they are cooking with an outdoor fireplace it is ok when that is over it has to be extinguished.

Mayor Briden if the change mostly reflects the smoke. Fire Chief Elmasian states correct. He adds the bulk of the complaints is due to the smoke.

Councilman Faria states today is the anniversary of the station night club fire and he is wondering why it took so long for East Providence to incorporate it into legislation.

Chief Elmasian states they were trying to get the city ordinances in line with the State Fire Marshall and the state changes all the time and it was a big undertaking for the City's Fire Marshal's office.

*A motion to approve is made by Councilman Faria, seconded by Assistant Mayor Britto and on a roll call vote it is unanimous.*

## **XII. NEW BUSINESS**

### **A. City Managers Report (by City Manager Timothy Chapman)**

#### **2. Water Quality Presentation**

City manager Chapman states there is a presentation which will be quick and both Director Coutu and Jim Marvel are present.

Director Coutu also discusses the new tank will reduce water age and disinfectant requirements. Additionally to further reduce the need the new tank will have an air distribution system which will be installed by August 2018.

Councilman Botelho thanks them for the presentation and adds the violation was sent out to the people and it can be perceived as something very bad and it is not. He states he doesn't believe that federal law prohibits the city from sending out an attachment.



Mr. Marvel states he was cautioned not to amend it however it doesn't stop the city from sending out a second notice or putting out a PR notice.

Director Coutu states they added a frequently asked questions sheet on the website.

Councilman Botelho states he is going to post this presentation as he feels as though it was very helpful.

City Manager Chapman states they could do more on the website regarding the safe drinking water and there are things they could do regarding notice that they have all learned from regarding this.

### 3. CDBG Informational Briefing

The City Manager states David Bachrach has a very brief statement.

David Bachrach states they will be going out for the 2018 CDBG round. This is for grants and business loans and they will be hosting public hearings and more information will be forthcoming.

### 4. Safe Route to School Construction and Maintenance Agreement Approval

The City Manager reads the list of construction items which he is requesting approval for. There are two schools and they are Kent Heights the construction will take place mainly on Dover Avenue and Myron J. Francis the construction will take place mainly on Orchard and Wilson Avenues. They will start in early summer. These are federal and state funds.

*A motion to approve is made by Councilwoman Sousa, seconded by Councilman Faria and on a roll call vote it is unanimous.*

## **B. Reports of Other City Officials**

### **1. Claims Committee Report (by City Solicitor Gregory Dias)**

Pursuant to R.I.G.L. § 42-46-5(a)(2), a motion is made by Councilman Botelho and seconded by Councilman Britto to convene in closed session for the purposes of discussing claims & litigation. Upon a roll call vote: Councilman Botelho – Aye, Assistant Mayor Britto – Aye, Councilman Faria – Aye, Councilwoman Sousa – Aye, Mayor Briden – Aye, the motion is approved 5-0.

**EAST PROVIDENCE CLAIMS COMMITTEE  
CLAIMS & LITIGATION REPORT  
TUESDAY, FEBRUARY 20, 2018; 6:45 P.M.; ROOM 101**

**NEW CLAIMS**

MICHELLE BOTLEHO  
 RM No. 18-009, Claim No. 18-003

\$197.42

Claim for property damage to vehicle sustained as a result of striking a pothole on Freeborn Avenue.

Motion by: Councilman Britto

Seconded by: Councilwoman Souza

Motion: Approve the claim in the amount of \$197.42.

VOTE	COUNCILMAN BOTELHO	ASST. MAYOR BRITTO	COUNCILMAN FARIA	COUNCILWOMAN SOUSA	MAYOR BRIDEN
Aye		√	√	√	√
Nay					
Abstain	√				
Absent					

CEI GROUP, INC.  
 (INS: KYLE BAKER)  
 RM No. 17-106, Claim No. 18-013

\$6,209.24

Claim for property damage to vehicle involved in an accident with a police vehicle. Recommend referral to the insurance carrier.

Motion by: Councilman Botelho

Seconded by: Councilwoman Souza

Motion: Refer the claim to the insurance carrier.

VOTE	COUNCILMAN BOTELHO	ASST. MAYOR BRITTO	COUNCILMAN FARIA	COUNCILWOMAN SOUSA	MAYOR BRIDEN
Aye	√	√	√	√	√
Nay					
Abstain					
Absent					

JOSEPH ESTRELLA  
RM No. 18-012, Claim No. 18-007

\$134.33

Claim for property damage to vehicle sustained as a result of striking a pothole on South Broadway.

Motion by: Councilmen Botelho & Britto      Seconded by: Councilwoman Sousa

Motion: Approve the claim in the amount of \$134.33.

VOTE	COUNCILMAN BOTELHO	ASST. MAYOR BRITTO	COUNCILMAN FARIA	COUNCILWOMAN SOUSA	MAYOR BRIDEN
Aye	√	√	√	√	√
Nay					
Abstain					
Absent					

BRYAN MACHADO  
RM No. 18-010, Claim No. 18-005

\$63.00

Claim for property damage to vehicle sustained as a result of striking a pothole on Roger Williams Avenue.

Motion by: Councilman Britto      Seconded by: Councilwoman Sousa

Motion: Approve the claim in the amount of \$63.00.

VOTE	COUNCILMAN BOTELHO	ASST. MAYOR BRITTO	COUNCILMAN FARIA	COUNCILWOMAN SOUSA	MAYOR BRIDEN
Aye	√	√	√	√	√
Nay					
Abstain					
Absent					

ANA MOURA  
RM No. 17-094, Claim No. 17-052

\$344.47

Claim for property damage to vehicle sustained as a result of striking a pothole on Roger Williams Avenue.

Motion by: Councilman Britto      Seconded by: Councilman Botelho

Motion: Approve the claim in the amount of \$300.00.

VOTE	COUNCILMAN BOTELHO	ASST. MAYOR BRITTO	COUNCILMAN FARIA	COUNCILWOMAN SOUSA	MAYOR BRIDEN
Aye	√	√	√	√	√

Nay					
Abstain					
Absent					

LISA RUOLO

\$60.00

RM No. 18-011, Claim No. 18-006

Claim for property damage to vehicle sustained as a result of striking a pothole on Potter Street.

Motion by: Councilman Britto

Seconded by: Councilman Faria & Councilwoman Sousa

Motion: Approve the claim in the amount of \$60.00.

VOTE	COUNCILMAN BOTELHO	ASST. MAYOR BRITTO	COUNCILMAN FARIA	COUNCILWOMAN SOUSA	MAYOR BRIDEN
Aye	√	√	√	√	√
Nay					
Abstain					
Absent					

**SEWER CHARGE ABATEMENTS**

JAN FRENCH

\$479.75

Request for a sewer charge abatement for the property located at 294 Terrace Avenue in accordance with City Ordinance Sec. 17-183(g).

Motion by: Councilman Britto

Seconded by: Councilman Botelho

Motion: Approve the sewer charge abatement in the amount of \$479.75.

VOTE	COUNCILMAN BOTELHO	ASST. MAYOR BRITTO	COUNCILMAN FARIA	COUNCILWOMAN SOUSA	MAYOR BRIDEN
Aye	√	√	√	√	√
Nay					
Abstain					
Absent					

CLAUDIA MEDEIROS

\$119.70

Request for a sewer charge abatement for the property located at 104 Brook Avenue in accordance with City Ordinance Sec. 17-183(g).

Motion by: Councilman Faria

Seconded by: Councilman Botelho

Motion: Approve the sewer charge abatement in the amount of \$119.70.

COUNCILMAN	ASST. MAYOR	COUNCILMAN	COUNCILWOMAN	MAYOR
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VOTE	BOTELHO	BRITTO	FARIA	SOUSA	BRIDEN
Aye	√	√	√	√	√
Nay					
Abstain					
Absent					

YVONNE PEAL

\$297.07

Request for a sewer charge abatement for the property located at 152 Arnold Street in accordance with City Ordinance Sec. 17-183(g).

Motion by: Councilwoman Sousa

Seconded by: Councilman Britto

Motion: Approve the sewer charge abatement in the amount of \$297.07.

VOTE	COUNCILMAN BOTELHO	ASST. MAYOR BRITTO	COUNCILMAN FARIA	COUNCILWOMAN SOUSA	MAYOR BRIDEN
Aye	√	√	√	√	√
Nay					
Abstain					
Absent					

ANNMARIE RANIERI

\$172.59

Request for a sewer charge abatement for the property located at 34 Sachem Road in accordance with City Ordinance Sec. 17-183(g).

Motion by: Councilman Britto

Seconded by: Councilman Faria

Motion: Approve the sewer charge abatement in the amount of \$172.59.

VOTE	COUNCILMAN BOTELHO	ASST. MAYOR BRITTO	COUNCILMAN FARIA	COUNCILWOMAN SOUSA	MAYOR BRIDEN
Aye	√	√	√	√	√
Nay					
Abstain					
Absent					

A motion is made by Councilman Britto, seconded by Councilman Botelho to adjourn at 7:25 p.m. and reconvene in open session. Upon a roll call vote, the motion is approved 5-0.

*A motion to approve the Claims Committee Report is made by Councilman Faria, seconded by Councilwoman Sousa and on a roll call vote it is unanimous.*

**C. Report of School Committee Liaison**

#### **D. Resolutions**

##### **1. A RESOLUTION IN OPPOSITION TO THE PROPOSED INCLUSION OF THE NORTH ATLANTIC REGION IN THE 2019-2024 NATIONAL OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM**

*A motion to dispense with the reading of the resolution is made by Councilman Faria, seconded by Councilwoman Sousa and on a roll call vote it is unanimous.*

**WHEREAS**, the Bureau of Ocean and Energy Management (BOEM) in the U.S. Department of Interior has released the 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program, a draft program proposal for offshore oil and gas leasing for the next five years; and

**WHEREAS**, the proposal would open the federal waters of the North Atlantic region to oil and gas exploration and drilling, an area that begins just three miles off the coasts of New Jersey through Maine, within which the State of Rhode Island is centrally situated; and

**WHEREAS**, Rhode Islanders have long relied upon New England's marine environment as a source of food, jobs, and recreation and, through strong laws and leadership at the state and local level, have conserved and protected our fisheries, habitats, and coastal resources; and

**WHEREAS**, Rhode Island's commitment to sound marine and coastal stewardship has reaped enormous cultural, environmental, and economic benefits for the citizens of the State, with healthy coastal communities, a vibrant Narragansett Bay, a thriving tourist industry, and productive fisheries all serving as hallmarks of the Ocean State; and

**WHEREAS**, Rhode Island has long been committed to sound ocean planning as a basis for accommodating new, sustainable ocean uses such as wind energy and is home to the nation's first off-shore wind farm; and

**WHEREAS**, Rhode Island recognizes and is acting upon the need to ensure that its coastal communities are resilient in the face of rising sea levels and other impacts associated with climate change; and

**WHEREAS**, oil and gas drilling has never been viewed as compatible with our state and regional interests and thus has been removed from consideration for decades; and

**WHEREAS**, prior experience has shown the devastating consequences of oil spills; and

**WHEREAS**, now, more than ever, Rhode Islanders, in every community, stand opposed to the use of our offshore waters to oil and gas drilling.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of East Providence does hereby unite in the determination to protect our cultural heritage, our marine ecosystem, and our economic

future, hereby call upon the Secretary of the Interior to remove the North Atlantic region from consideration for oil and gas exploration and drilling.

Requested by: Mayor Briden

Mayor Briden states the Governor's Office and the Congressional Delegation are in opposition. The Governor has requested support from the cities and towns.

*A motion to approve is made by Councilwoman Sousa, seconded by Councilman Botelho and on a roll call vote it is unanimous.*

## **2. RESOLUTION IN SUPPORT OF PROPOSED LEGISLATION ALLOWING *FOSTER FORWARD* PERMANENT EXEMPTION FROM TAXATION**

**WHEREAS**, *Foster Forward* (formerly the Rhode Island Foster Parents Association), a non-profit organization is committed to practices that promote permanency and well-being for all young people in foster care, and that provide foster parents with the support and resources they need to be successful; and

**WHEREAS**, for over 20 years, the Association has grown from a small network of foster parents to a leading social service organization of more than 20 highly trained professionals who advocate for foster children and families; and

**WHEREAS**, *Foster Forward* collaborates with other local and national agencies including the Department of Children, Youth and Families and the Children's Bureau to improve services to youth in the child welfare system; and

**WHEREAS**, *Foster Forward* was selected as one of the 173 Bright Idea programs by the Ash Center for Democratic Governance and Innovation at Harvard University's John F. Kennedy School of Government; and

**WHEREAS**, in 2012, *Foster Forward* was selected to adapt and implement the Making Proud Choices! curriculum for Rhode Island's foster youth as part of the Institute on Prevention of Pregnancy and Sexually Transmitted Infection Among Youth in Foster Care; and

**WHEREAS**, *Foster Forward* was awarded one of four highly competitive Administration for Children and Families grants to improve services to youth in the child welfare system; and

**WHEREAS**, *Foster Forward* is located in the City of East Providence and is presently being assessed taxes by the City.

**NOW, THEREFORE, BE IT RESOLVED** that the East Providence City Council hereby supports the following proposed legislation allowing *Foster Forward* permanent exemption from taxation:

To be enacted by the General Assembly as follows:

*Foster Forward*, a Rhode Island non-profit corporation shall be entitled to acquire, take, receive and hold by purchase, sale, gift, lease, devise, bequest or otherwise, real and personal estate of every kind and description without limitation on the total amount thereof, for religious, charitable or educational purposes, communication and communication technology and to use, manage, operate, improve, and apply same for the aforementioned purposes. The said corporation and all of their said real and personal estate shall be exempt from all taxes imposed by the state and by any political subdivision thereof, which said exemption shall apply to all taxes imposed by law upon real and personal estate.

SECTION 2. This act shall take effect upon passage.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the East Providence City Council hereby requests that the City Clerk send a copy of this Resolution to the Governor of the State of Rhode Island, the Lieutenant Governor of the State of Rhode Island, the President of the Rhode Island Senate, the Speaker of the Rhode Island House of Representatives, and the Senators and Representatives from the City of East Providence.

Requested by: Councilwoman Sousa

Councilwoman Sousa states they deal with children coming out of foster care and they provide a multitude of services. They recently purchased property in East Providence and have asked the city and the state to help support them with their exemption. It would only be real estate tax. There are no tangibles.

*A motion to approve is made by Councilwoman Sousa, seconded by Councilman Botelho and on a roll call vote it is unanimous.*

#### **E. Introduction to Ordinances**

**1. AN ORDINANCE IN AMENDMENT OF CHAPTER 18 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND, 1998, AS AMENDED, ENTITLED "VEHICLES AND TRAFFIC"**

*A motion to waive the reading of the ordinance is made by Councilman Faria, seconded by Councilwoman Sousa and on a roll call vote it is unanimous.*

**SECTION I.** Subsection (b) of Sec. 18-269 entitled "Stop and yield intersections designated; when stops required" is amended by adding thereto the following:

Mauran Avenue (eastbound and westbound traffic) at Sixth Street

**SECTION II.** This ordinance shall take effect upon second passage and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Requested by: Councilwoman Sousa



*A motion to approve is made by Councilwoman Sousa, seconded by Councilman Botelho and on a roll call vote it is unanimous.*

**2. AN ORDINANCE IN AMENDMENT OF CHAPTER 11 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND, 1998, AS AMENDED, ENTITLED "PERSONNEL, PENSIONS AND RETIREMENT"**

*A motion to dispense with the reading of the ordinance is made by Councilman Faria, seconded by Councilwoman Sousa and on a roll call vote it is unanimous.*

**SECTION I.** Section 11-236 entitled "Service retirement annuity" of Article V entitled "Firemen's and Policemen's Pension Fund" of Chapter 11 of the Revised Ordinances of the City of East Providence, 1998, as amended, entitled "Personnel," is amended to read as follows:

**Sec. 11-236. Service retirement annuity.**

- (a) ~~Effective November 1, 1975, members retiring from service under subsections 11-235(a)(1) or (2) shall receive an annuity equal to two percent of the final average salary for each completed year of service, subject to a maximum of 70 percent of final average salary.~~
- (b) ~~Effective November 1, 1975, members retiring from service under subsection 11-235(a)(3) shall receive an annuity equal to 2½ percent of final average salary for each of the first 20 completed years of service, and two percent of final average salary for each additional completed year of service, subject to a maximum of 70 percent of final average salary.~~
- (c) ~~A fractional period of service of less than a full year shall be considered in the calculation of the annuity.~~
- (d)(a) Effective May 1, 1991, those members who retired from service between 1962 and 1984 shall receive a one-time ad hoc cost of living adjustment in the amount of \$815.00 per year per member.
- (d)(b) Effective June 1, 2008 those members who retired from service between 1962 and 1984 shall receive a one-time ad hoc cost of living adjustment of \$900.00 per member except in the case of a widowed member whose increase shall be \$600.00 per year, and those members who are receiving an annual cost of living adjustment.
- (d)(c) All retired police officers and fire fighters currently receiving a service connected disability pension who otherwise do not presently qualify for the existing cost of living adjustment as provided for in the current collective bargaining agreement for police officers and fire fighters shall be entitled to an annual three percent cost of living adjustment in their pension effective January 1, 2000.
- (d) Effective February 12, 2018, members retiring from service shall receive an annuity as provided for in the current collective bargaining agreement for police officers and fire fighters.
- (e) All retired police officers and fire fighters currently receiving a service connected disability pension or receiving a service connected pension shall receive a cost of living adjustment as provided for in the current collective bargaining agreement for police officers and fire fighters.

**SECTION II.** This ordinance shall take effect upon its second passage and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Requested by: Councilman Faria

*A motion to approve is made by Councilman Faria, seconded by Councilman Botelho and on a roll call vote it is unanimous.*

**3. AN ORDINANCE IN AMENDMENT OF CHAPTER 11 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND, 1998, AS AMENDED, ENTITLED "PERSONNEL, PENSIONS AND RETIREMENT"**

*A motion to dispense with the reading of the ordinance is made by Councilman Faria, seconded by Councilwoman Sousa and on a roll call vote it is unanimous.*

**SECTION I.** Section 11-239 entitled "Administration of disability annuities" of Article V entitled "Firemen's and Policemen's Pension Fund" of Chapter 11 of the Revised Ordinances of the City of East Providence, 1998, as amended, entitled "Personnel," is amended to read as follows:

**Sec. 11-239. Administration of disability annuities.**

- (a) The determination of disability from any cause shall be made upon the basis of reports on examinations made by three physicians consisting of the city physician, a physician employed by the board and a third physician selected by the other two.
- (b) A member on disability shall at the board's discretion be required to submit to an examination at least once each year by a physician appointed by the board to establish that the member is incapacitated for service as a police officer or firefighter and is entitled to continue to receive an annuity. The board may cancel a disability annuity upon evidence that the member is no longer disabled for such service. If such cancellation occurs and the member does not reenter service, he shall be entitled to a refund of the excess, if any, of the contributions made by the member, including interest, over the amounts received by the member on the disability annuity.
- (c) If a medical examination or an investigation made by the board discloses that a member is engaged or is able to engage in any gainful occupation, payment of the disability annuity shall be discontinued or reduced to an amount which, when added to his income from such gainful occupation, shall not exceed the rate of his salary at date of retirement or the rate of salary currently being paid for a position similar to that held by the member at commencement of disability, whichever is higher.
- (d) Should any member receiving a disability annuity refuse to submit to a medical examination or supply the board with a statement of income as hereinbefore provided, annuity payments by the system shall be discontinued until compliance with the provisions of this section. Should such refusal continue for one year, all rights of the member to any disability annuity shall be revoked by the board. Upon a finding that a member receiving a disability annuity has deliberately falsified information contained in his statement of income, all rights of the member in any disability shall be revoked by the board.

- (e) Each member in receipt of a disability annuity shall be required to submit to the board at least once each year a statement of income from a gainful occupation for the preceding 12 months on a form supplied by the board. Any adjustment in annuity payments as aforesaid shall be based upon such statements of income. A disability annuity shall be suspended if such statement discloses income from a gainful occupation equal to or in excess of the aforesaid amount, but shall be resumed when such condition has changed.
- (f) Medical examinations of a member for consideration of a disability annuity (for a service-connected or nonservice-connected disability), as described in this section, shall be made upon application of a member acting on their own behalf, or upon application of the Chief of the department of which said member is employed if the Chief believes that the member is unable to perform his or her duties due to a disability, and that said disability is likely to be permanent.

**SECTION II.** This ordinance shall take effect upon its second passage and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Requested by: Councilman Faria

*A motion to approve is made by Councilwoman Sousa, seconded by Councilman Faria and on a roll call vote it is unanimous.*

**4. AN ORDINANCE IN AMENDMENT OF CHAPTER 11 OF THE REVISED ORDINANCES OF THE CITY OF EAST PROVIDENCE, RHODE ISLAND, 1998, AS AMENDED, ENTITLED "PERSONNEL, PENSIONS AND RETIREMENT"**

*A motion to dispense with the reading of the ordinance is made by Councilman Faria, seconded by Councilwoman Sousa and on a roll call vote it is unanimous.*

**SECTION I.** Article V entitled "Firemen's and Policemen's Pension Fund" of Chapter 11 of the Revised Ordinances of the City of East Providence, 1998, as amended, entitled "Personnel," is amended by adding thereto the following:

**Sec. 11-253. Death of a retired participant.**

Upon death of a retired member while in receipt of a service retirement annuity shall be entitled to a survivor benefit. The survivor benefit annuity is a fixed amount and shall be equal to 67.5% of the deceased members' annuity. Eligibility for a survivor benefit shall be subject to the following conditions:

- (1) The spouse shall have been married to the member at least one year prior to the date of retirement. The annuity shall terminate in any event upon remarriage, and any change in marital status thereafter shall create no rights for the widow to any annuity or any other payment from the system.
- (2) The participant was not married at the time of retirement but had unmarried child/children under the age 18 including in utero. The legal guardian of the child/children shall receive the survivor benefit and would terminate upon their attainment of age 18, death or marriage, whichever first occurs.

- (a) Minor children shall include children of the blood and adopted children, provided that the proceedings for adoption shall have been initiated at least one year prior to the date of the death of the member.

**SECTION II.** This ordinance shall take effect upon its second passage and all ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Requested by: Councilman Faria

*A motion to approve is made by Councilwoman Sousa, seconded by Councilman Faria and on a roll call vote it is unanimous.*

A moment of silence is requested by Councilman Faria for Bruce Wright a custodian for the city for many years who passed away recently.

### **XIII. ADJOURNMENT**

*A motion to Adjourn at 11:58PM is made by Councilman Faria, seconded by Councilwoman Sousa and on a roll call vote it is unanimous.*

Approved By Council: April 5, 2018

Attest: \_\_\_\_\_

City Clerk