

PLEASE NOTE :

**THE MUNICIPAL COUNCIL &
COMMITTEE MEETINGS
SCHEDULED FOR:**

**TUESDAY, NOVEMBER 26, 2013
WILL BE HELD ON
MONDAY, NOVEMBER 25, 2013**

*** AT 7:30 IN THE MORNING ***

~

**MEETINGS WILL BE
HELD AT TEMPORARY
CITY HALL
141 OAK STREET**



**MUNICIPAL COUNCIL AGENDA
CHESTER R. MARTIN MUNICIPAL COUNCIL CHAMBERS
141 OAK STREET, TAUNTON, MA 02780**

~
NOVEMBER 25, 2013 – 7:30 AM

**INVOCATION
ROLL CALL
RECORDS**

HEARING: NONE

COMMUNICATIONS FROM THE MAYOR

APPOINTMENTS

COMMUNICATIONS FROM CITY OFFICERS

- Pg. 1 Com. from Executive Director of Retirement – Notifying of Board Members
- Pg. 2-10 Com. from Executive Director of Retirement – Enforcement of Post-Retirement Limits on Retirees of Public Retirement System who Take Employment with any Public Entity in Massachusetts
- Pg. 11-14 Com. from Executive Director of Retirement – Notifying of vote
- Pg. 15-16 Com. from Water Supervisor – Requesting a transfer of funds
- Pg. 17-19 Com. from City Solicitor – Taunton Fire Department et al v. Michael O'Donnell et al.
- Pg. 20-30 Com. from City Solicitor – Attorney General v. Michael O'Donnell, Attorney General V. 15-17 Winthrop Trust et al.
- Pg. 31 Com. from City Solicitor – Potential Land Acquisition at Corner of Taunton Green and Weir St.
- Pg. 32-33 Com. from Conservation Agent – 582 Myricks St. Automotive Recovery Services, Inc.
- Pg. 34 Com. from City Solicitor – Tentative Memorandum of Understanding with COTMA (SEE ATTACHED)

CITY CLERK

TAUNTON, MA

2013 NOV 20 1 P 3:07

RECEIVED
CITY CLERK'S OFFICE

PETITIONS

Hours of Operation (Black Friday)

1. American Eagle Outfitters located at 2 Galleria Mall Drive, East Taunton
2. Deb's Shops LLC -dba- Deb's located at 2 Galleria Mall Drive, East Taunton

Hours of Operation

1. Work Out World Taunton, LLC located at 50 O'Connell Way, East Taunton
2. Taunton Sunoco Rapid Refill located at 231 Broadway, Taunton

COMMITTEE REPORTS

UNFINISHED BUSINESS

Tabled from Municipal Council Meeting of November 19, 2013

Motion was made that the Members of the Municipal Council review the minutes of the Committee on Fires and Wires' Executive Session

ORDERS, ORDINANCES AND RESOLUTIONS

Order for a first reading to be passed to a second reading

Ordered That,

\$9,000,000 be appropriated in addition to the \$6,000,000 previously appropriated for the purpose of financing the construction, reconstruction, replacement, repair, and rehabilitation of sewers, and stormwater conveyance facilities, including without limitation sewer infiltration and inflow abatement improvements and pumping station upgrades, including the Phases 10, 11, and 12 SSES, for the purpose of eliminating unauthorized sewer connections to the City's drainage system, to eliminate combined sewer overflows and sanitary sewer overflows, to reduce infiltration and inflow within the City's sewer system, and to mitigate flooding resulting in potential surface water contamination; that included are all costs without limitation as defined in Section 1 of Chapter 29C of the Massachusetts General Laws; that to meet this appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow \$9,000,000 and issue bonds or notes therefor under Chapter 44 of the General Laws and/or Chapter 29C of the General Laws; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the Mayor determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a financing agreement with the Trust and otherwise to contract with the Trust and the Massachusetts Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Mayor is authorized to enter into a project regulatory agreement with the Department of Environmental Protection,

to expend all funds available for the project and to take any other action necessary to carry out the project.

NEW BUSINESS

Respectfully submitted,

A handwritten signature in cursive script that reads "RM Blackwell".

**Rose Marie Blackwell
City Clerk**



CITY OF TAUNTON
Contributory Retirement System
Address: 40 Dean St., Unit 3
Taunton, Massachusetts 02780
Tel (508) 821-1052 Fax (508) 821-1063
www.tauntonretirement.com

**BOARD OF
RETIREMENT**

Chairperson:
Ann Marie Hebert, City Auditor

Elected member: Richard T. Avila
Elected member: Peter H. Corr
Mayoral appointee: Gill E. Enos
Board appointee: A. Joan Ventura

STAFF

**Executive
Director:**
Paul J. Slivinski

**Assistant
Director:**
Kathy A. Maki

November 15, 2013

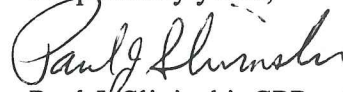
Public Employee Retirement Administration Commission
Mr. Joseph Connarton, Executive Director
5 Middlesex Ave., Suite 304
Somerville, MA. 02145

Dear Mr. Connarton:

Please be advised that the Taunton Retirement Board recently held an election on October 24, 2013 to fill one of the "elected" member terms on the board. Incumbent board member Peter H. Corr was re-elected to the board for a term of January 1, 2014 to December 31, 2016. At a meeting of the retirement board on November 15, 2013, the board voted to certify Mr. Corr's re-election. The following is a summary of the board members and terms:

Ex-officio member: Ann Marie Hebert, Chair
City Auditor
Elected member: Richard T. Avila, term expires: 11/30/2014
Retired firefighter
Elected member: Peter H. Corr, term expires: 12/31/2016
Retired police officer
Mayoral appointee: Gill E. Enos, term is at mayor's discretion
Budget director
Board appointee: A. Joan Ventura, term expires: 02/24/2015
Retired Norfolk County retirement executive director

Respectfully yours,


Paul J. Slivinski, CPP
Executive Director

Encl.

cc: City of Taunton-City clerk, Mayor & Municipal Council ✓



2.

CITY OF TAUNTON
Contributory Retirement System
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Tel (508) 821-1052 Fax (508) 821-1063
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Paul J. Slivinski

**Assistant
Director:**
Kathy A. Maki

November 19, 2013

Hon. Thomas C. Hoye, Jr., Mayor
John M. McCaul, Council President and
Members of the Taunton Municipal Council
141 Oak St., Temporary City Hall
Taunton, MA 02780

Dear Mayor Hoye & Councilors:

At a meeting of the Taunton Retirement Board held on November 15, 2013, the Board reviewed the attached memorandum from the Commonwealth of Mass. Public Employee Retirement Administration Commission (PERAC memo #30/2013) regarding the Enforcement of Post-Retirement Earnings Limits for Retirees of a Massachusetts Public Retirement System who takes Employment with any Public Entity in Massachusetts.

After review, the Board voted to refer the attached memorandum for your attention with a request to distribute to all city departments and personnel & payroll officers to ensure proper enforcement.

Respectfully yours,

Paul J. Slivinski, CPP
Executive Director

Encl.

cc: Taunton Municipal Light Plant
Taunton Housing Authority
G.A.T.R.A.

MEMORANDUM

TO: All Retirement Boards

FROM: *Joseph E. Connarton*
Joseph E. Connarton, Executive DirectorRE: Enforcement of Post-Retirement Limits on Retirees of a Public Retirement System who Take Employment with any Public Entity in Massachusetts. (*Earned Income Worksheet and Q & A Attached*)

DATE: November 1, 2013

Post-Retirement limitations are governed by G.L. c. 32 § 91(b), which states that public retirees who return to public employment with any governmental entity in Massachusetts cannot exceed service in excess of 960 hours in a calendar year, nor can any compensation in a calendar year from a city, town, the Commonwealth, or any of its subdivisions, when added to his/her retirement allowance exceed the salary currently being paid for the position from which he/she retired. If a retiree has been retired for more than 12 months such retiree may earn an additional \$15,000 in each calendar year following such 12 month period.

Accordingly, for the upcoming 2014 calendar year, any retiree retired *on or before* January 1, 2013 will be able to add the additional \$15,000. However, more recent retirees who retired *after* January 1, 2013 do not get this additional \$15,000 as earnings in 2014 but will each calendar year thereafter. In either case, NO such retiree is allowed to work for a public employer for more than 960 hours during any one calendar year. **Please be advised that under Massachusetts public retirement pension law, G.L. c. 32 § 91(c), the enforcement of such post retirement limits are placed upon the employer and respective treasurer authorized to pay local employees;**

(c) Each person referred to in paragraph (b) shall certify to his employer and the treasurer or other person responsible for the payment of the compensation for the position in which he is to be employed, the number of days or hours which he has been employed in any such calendar year and the amount of earnings therefrom, and if the number of hours exceeds nine hundred and sixty, in the aggregate, he shall not be employed, or if the earnings therefrom exceed the amount allowable under paragraph (b), he shall return to the appropriate treasurer or other person responsible for the payment of compensation all such earnings as are in excess of said allowable amount. The amount of any excess not so returned may be recovered in an action of contract by the

RECEIVED
2013 NOV - 4 A 10: 54
OFFICE OF TOWNSHIP
RETIREMENT BOARD

MEMORANDUM

TO: All Retirement Boards
FROM: Joseph E. Connarton, Executive Director
RE: Enforcement of Post-Retirement Limits on Retirees of a Public Retirement System who Take Employment with any Public Entity in Massachusetts. (*Earned Income Worksheet and Q & A Attached*)
DATE: November 1, 2013

appropriate treasurer or other person responsible for the payment of the compensation of any such person.

In addition to the statutory directive to the employer, collection of repayment for such overearnings is also governed by case law, Flanagan v. Contributory Retirement Appeal Bd., 51 Mass.App.Ct. 862, 750 N.E.2d 489 (2001). This decision authorizes the respective retirement board to act in its fiduciary capacity and collect if the employer does not collect.

In addition to providing you with this post-retirement information, PERAC would like to make you aware that this information is also being distributed to all Chief Executive Officers and Treasurers across the Commonwealth (See Enclosed Memo). It is necessary that you work with them to help identify any current employees or new hires that are currently receiving a pension allowance and provide them with the pension information, such as, current pension allowance amount, date of retirement and other salary information necessary to accurately calculate the post-retirement earnings limitations.

In an effort to assist you in the oversight of post-retirement earnings for employees who are retired from a public retirement system in the Commonwealth, attached please find a "Post-Retirement Earnings Worksheet" and "Commonly Asked Post Retirement Earnings Q & A" document. (Both attachments accompany this Memo and are posted on PERAC's website.)

The updated worksheet has been adjusted in order for individuals who retired **on or before January 1, 2013**, to receive the additional \$15,000 in earning capacity for public employment in calendar year 2014. This adjustment will also allow individuals retiring at any time to utilize the worksheet to calculate their earnings capacity for calendar year 2014. You may access this worksheet on our website, www.mass.gov/perac or download the worksheet and instructions accompanying this memo.

Thank you very much for your cooperation.

Attachments

PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman*

JOSEPH E. CONNARTON, *Executive Director*

Auditor SUZANNE M. BUMP | PHILIP Y. BROWN, ESQ. | JOHN B. LANGAN | JAMES M. MACHADO | DONALD R. MARQUIS | ROBERT B. MCCARTHY

MEMORANDUM

TO: City and Town Executive Officers and Treasurers

FROM: *Joseph E. Connarton*
Joseph E. Connarton, Executive Director

RE: Post-Retirement Earnings for Public Employees

DATE: November 1, 2013

As you know Massachusetts G.L. c. 32, §91(b) establishes limits on a retiree's earnings and work hours. Attached for your consideration is a copy of the most recently issued memorandum from the Commission on the subject of post retirement earnings as well as a worksheet to assist in the overall calculation of a retiree's earning capacity.

Recent news media reports remind us all of the importance of the quick and strict enforcement of the relevant statutes in this regard. I am taking the opportunity to address this memorandum to you to emphasize the importance of this issue to your respective city or town.

Any retired public employee so retired under C. 32, §91(b) may work for one or more public employers for a maximum of 960 hours during any one calendar year. The earnings for such employment shall not exceed the difference between the retiree's pension allowance and the salary from the position from which the person retired, plus \$15,000 if the retiree has been retired for more than 12 months.

I appreciate you taking the time to review the attachments and hope that you will find them helpful. Please familiarize yourself with this memo and please make certain the appropriate individual(s) within your community are aware of this memo and the post retirement limits as outlined within. You may access the "Post-Retirement Earnings" memo and attachments on our website, www.mass.gov/perac.

Thank you in advance for your cooperation and should you have questions, please feel free to contact us at the phone number listed below.

Attachments

/keb
p:\admin\kim\perac # 30-13 att empl.docx



Calculation Worksheet for Post-Retirement Earnings in the Public Sector

6

Employer Unit / Department Name	2013
--	-------------

*[Enter requested information in the shaded areas only for individuals who are receiving a Massachusetts (Chapter 32) pension payment]
[A copy of this completed worksheet should be submitted to the employees respective Retirement Board]*

Name of Retiree being Rehired:
Date(s) of Reemployment of Retiree:

MA Public Pension Information:

MA Government Entity from which Retired	
MA Public Retirement System from which Retired	
Title of Position from which Retired	
Date Retired (mm/dd/yyyy)	
Current Annual Salary of the Position from which the Individual Retired	
Total Retirement Allowance anticipated in the calendar year	
Projected Annual Earnings from <i>other</i> MA Government Entities	
Projected Number of Hours from <i>other</i> MA Government Entities	
Projected Non-hourly Annual Earnings from this Employer Unit	
Source of information provided above	

Maximum Allowable Earnings for Calendar Year:

a. Current Annual Salary of Position Retired From	\$0.00
b. Additional Earnings Allowance (c 32 § 91 (b) amended by c 176 § 50 of the Acts of 2011)	\$15,000.00
c. Projected Annual Earnings from other MA Government Entities	\$0.00
d. Projected Non-hourly Annual Earnings from this Employer Unit	\$0.00
e. Current Annual Retirement Allowance	\$0.00

A. Equals the maximum allowable amount for Public Retirees [A = ((a+b)-(c+d+e))]: **\$15,000.00**

f. Maximum Number of allowable Hours for Public Retirees	960
g. Projected Number of Hours from other MA Government Entities	0
h. Projected Number of Hours Expected to Work from this Employer Unit	
i. Hourly Rate from this Employer Unit	
j. Maximum Number of Hours allowable at the Hourly Rate from this Employer Unit	

*B. Proposed Estimated Hourly Earnings from this Employer Unit [B = (h*i)]:* **\$0.00**

C. Proposed Estimated Excess Earnings over 960 hours: **\$0.00**

D. Proposed Estimated Excess Earnings over maximum allowable amount: **\$0.00**

E. Estimated Amount Deemed Excess: **\$0.00**

**If the amount in B exceeds the amount in A and / or the amount in C is greater than zero, the retiree is deemed an Excess Earner.
The amount in C is the excess earnings attributable to exceeding the 960 hours limit.
The amount in D is the earnings that exceed the maximum allowable amount in A.
The amount in E is the larger of or equal to C or D. If paid to the retiree, it must be recouped by the employer.**

Retiree Signature _____ *Date*

Department Head / Treasurer Signature _____ *Date*

INSTRUCTIONS FOR POST-RETIREMENT EARNINGS WORKSHEET

Limits on Public Employment in Massachusetts for Retirees of a Public Retirement System

Massachusetts public retirees, who return to public employment with any governmental entity in Massachusetts, are subject to significant earnings and hourly service limitations under state retirement laws. These limitations apply to all persons retired from the public sector in Massachusetts who are receiving a **superannuation allowance**. The attached Excel worksheet has been designed to accurately calculate the Massachusetts post-retirement earnings limitations to which employees or new hires are subject. It does incorporate the additional \$15,000 allowable for retirees who have been retired for 12 months before the calendar year. Please note the worksheet will calculate such excess earnings for the calendar year shown at the top of the worksheet. Such date will automatically reflect the calendar year during which you are filling out such worksheet.

Worksheet Instructions

Although it seems to be a cumbersome worksheet that may entail retrieving information from other governmental entities, it is essential that updated data is inserted into the top grid entitled "MA Public Pension Information". This information should include total projected earnings and hours worked in other governmental entities. In accordance with the statutory earnings limitation provisions, the data should be based on a **calendar year** and should include all hours of work and all earnings received by the retiree from any Massachusetts governmental entity. If the employee is only being compensated by the respective employer on a non-hourly basis and such is stated within this top grid, as "Projected Non-hourly Annual Earnings from this Employer Unit", *do not include such amount prorated in either lines "h" or "i" of the lower grid.*

The form is designed for you to include relevant data in each of the appropriate **yellow cells**, including the top line entitled "Employer Unit/Department Name and **Calendar Year**".

After inputting all the correct information into this top grid, the retiree's maximum allowable earnings for the calendar year will be automatically detailed in the second grid and totaled below it in the line entitled: "**A. Equals the maximum allowable amount for Public Retirees**" - Please note that on the second to last line of this top grid, requesting "Projected Non-hourly Annual Earnings..." is only intended for any fixed salary compensation from the employer. Do not include any earnings paid on an hourly basis from the employer on this line.

Once this amount is calculated, all you need to do is insert the estimated number of hours the retiree would be working during the calendar year and the corresponding hourly rate in lines "g" and "h" (yellow cells) in the next grid below.

Since retiree's earnings limits are based on **both** total earnings and hours worked, the worksheet estimates excess earnings for each limitation. However, if a member is deemed in excess of both limits, only the larger applies. Such excess amount will be displayed in line: "**E. Estimated Amount Deemed Excess**" - Under statutory post-retirement earnings limits, this excess amount is to be repaid by the retiree to the respective treasurer or paying entity. If this amount is not repaid by the retiree, the Retirement Board may recover it.

Please refer to PERAC MEMO #30/2013 for more details on retiree earnings limits at www.mass.gov/perac



Frequently Asked Questions

Post Retirement Earnings

for MA retirees working for a governmental unit

-
- 1. I retired from the Commonwealth of MA; can I take employment with any city, town or other MA governmental employer?**
- Yes, but there are two strict limitations on further public employment in the Commonwealth following your retirement from a public service position. You will be limited to 960 hours in a calendar year and also your earnings will be limited during the calendar year. It applies to any public employment, regardless of whether or not it occurs in the same governmental unit from which the employee retired.
-
- 2. I retired this past June, what can I earn in a calendar year from a public employer after retirement?**
- Your public employment earnings for the period of post-retirement employment in any calendar year, when added to your retirement allowance, cannot be greater than the salary currently being paid for the position from which you retired plus \$15,000. However, the additional \$15,000 is not applied in the calculation for the first full calendar year following the retirement date but each calendar year thereafter.
-
- 3. What happens if I reach 960 hours during a calendar year but I have not reached my earnings limit?**
- Your public employment must cease when either limitation is reached for the remainder of the calendar year.
-
- 4. Is this based on calendar year, fiscal year, or school year?**
- The earnings and hourly limits on post-retirement public employment, MGL c.32, §91(b), are based on a calendar year period, January – December.
-
- 5. Who will keep track of the hours and earnings amount?**
- The responsibility of monitoring both the hours and the earnings amount lays with you the member and your employer.
-
- 6. How do I find out the current salary, and what should be included in that amount?**
- You must contact your former employer; from where you retired from to find out what your salary would be had you remained in service. Any compensation that was considered pensionable at retirement, such as longevity and education incentives, should be included in the current salary amount.

7. **I work for more than one public employer, can I work 960 hours for each?**
No. All hours and earnings must be added together from all MA governmental units worked. Cumulatively they cannot exceed the 960 hours or earnings limits.

8. **Does my "retirement allowance" used in calculating my earnings limit include my annuity as well as my pension portion of my annual benefit?**
Yes, the "retirement allowance" used in calculating your earnings limit does include both your annuity amount as well as your pension portion of the annual benefit.

9. **I pay child support and my ex-spouse receives a portion of my retirement allowance, does that get included in the calculation of what I can earn?**
Yes, the gross retirement allowance is the figure used.

10. **What if the position that I retired from no longer exists?**
General normal increases will be added to the last paid salary that you received at the date of retirement.

11. **I retired and my employer privatized my position and I am now serving in such capacity as a private consultant or independent contractor; am I subject to these limitations?**
Yes, you are subject to public employment earnings limits. It is irrelevant whether an employee-retiree chooses to classify him or herself as a "consultant" or "independent contractor" — the earnings limitations still apply if in fact the nature of the relationship is as an employee.
This issue is case specific, please contact PERAC directly for more guidance.

12. **I am a surviving beneficiary of a public retiree, am I subject to public employment earning limits?**
No, public employer earning limitations apply only to retirees, not survivors or beneficiaries.

13. **I am a disabled retiree; can I add the additional \$15,000 to my earnings limit for public employment?**
No, you may only add an additional \$5,000 to your total annual earnings from either public or private employment because of a separate legal limitation applied to all disabled retirees.

14. **I retired on December 3, 2010 from state government and since then have started my own engineering company and act as a consultant and independent contractor for the state and some municipalities. Am I subject to the public sector earning limits?**
Yes, for persons who retire after July 1, 2009, earnings as a consultant or an independent contractor are limited. A retiree may not avoid the limitations by forming a company if the primary reason for the formation is to avoid the limitations.

15. Is there any public sector re-employment that is not affected by these limitations?

Yes, you may:

- be paid for jury duty;
- be paid for services as an election officer;
- hold certain paid appointive positions; and,
- certain emergency employment may be authorized.

In addition, you may be elected to office by a direct vote of the people following your retirement, and be paid for the same without limitation; provided the position from which you retired was not the same elective office. If the position from which you retired was the same elective office, then the earnings limitations will apply to you unless at least one year has passed from the last day you held said public office and the commencement of your post-retirement elective office.

16. I am a retired police officer and do "private details" for the town, the compensation for these details are from fees collected from private companies. Am I subject to these limitations?

Earnings for "details" which are paid by city or town payroll are included in these limitations, regardless of whether the city or town ultimately bills a private entity for the work.

17. I was a member of a retirement system for 25 years when my public employer outsourced my job to a private company and I continued to work full-time for the new company performing the same duties and responsibilities. After serving 8 years with this company I may want to take my public retirement. Would I be subject to the earnings and hours limit if I decided to take my retirement benefit?

Yes, persons who retire after July 1, 2009, and whose earnings are derived from duties that require service to a public entity during regular business hours, are subject to the earnings and the 960 hourly limit.



CITY OF TAUNTON
Contributory Retirement System
40 Dean Street, Unit #3
Taunton, Massachusetts 02780
Tel (508) 821-1052 Fax (508) 821-1063
www.tauntonretirement.com

11

**BOARD OF
RETIREMENT**

Chairperson:
Ann Marie Hebert, City Auditor

Elected member: Richard T. Avila
Elected member: Peter H. Corr
Mayoral appointee: Gill E. Enos
Board appointee: A. Joan Ventura

STAFF

**Executive
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Paul J. Slivinski

**Assistant
Director:**
Kathy A. Maki

November 19, 2013

Hon. Thomas C. Hoye, Jr., Mayor
Taunton Municipal Council
141 Oak St., Temporary City Hall
Taunton, MA. 02780

Dear Mayor Hoye and Councilors:

Under the provisions of Massachusetts General Laws Chapter 32, Section 22(7)c(iii), the Taunton Retirement Board voted on 11/15/2013 to certify the amount of \$14,753,156.00 for the FY2015 Pension Fund Appropriation and to notify the Mayor and Municipal Council and member units of the same.

If you have any questions, please feel free to contact our office.

Respectfully yours,

Paul J. Slivinski, CPP
Executive Director

cc: Taunton Housing Authority
Greater Attleboro-Taunton Regional Transit Authority

Encl.

PERAC

12

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman*

JOSEPH E. CONNARTON, *Executive Director*

Auditor SUZANNE M. BUMP | JAMES M. MACHADO | DONALD R. MARQUIS | ROBERT B. McCARTHY

RECEIVED
2013 OCT 31 P 2:43
CITY OF TAUNTON

MEMORANDUM

TO: Taunton Retirement Board
FROM: *Joseph E. Connarton*
Joseph E. Connarton, Executive Director
RE: Appropriation for Fiscal Year 2015
DATE: October 28, 2013

Required Fiscal Year 2015 Appropriation: **\$14,753,156**

This Commission is hereby furnishing you with the amount to be appropriated for your retirement system for Fiscal Year 2015 which commences July 1, 2014.

Attached please find summary information based on the present funding schedule for your system and the portion of the Fiscal Year 2015 appropriation to be paid by each of the governmental units within your system. The allocation by governmental unit was developed by Buck as part of the January 1, 2012 actuarial valuation.

If your System has a valuation currently in progress, you may submit a revised funding schedule to PERAC upon its completion. The current schedule is/was due to be updated by Fiscal Year 2016.

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

JEC/jrl
Attachments

cc: Office of the Mayor
City Council
c/o City Clerk

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Taunton Retirement Board

Projected Appropriations

Fiscal Year 2015 - July 1, 2014 to June 30, 2015

Aggregate amount of appropriation: **\$14,753,156**

Fiscal Year	Estimated Cost of Benefits	Funding Schedule (Excluding ERI)	ERI	Total Appropriation	Pension Fund Allocation	Pension Reserve Fund Allocation	Transfer From PRF to PF
FY 2015	\$16,789,710	\$14,422,705	\$330,451	\$14,753,156	\$14,753,156	\$0	\$2,036,554
FY 2016	\$17,414,752	\$14,868,524	\$345,321	\$15,213,845	\$15,213,845	\$0	\$2,200,907
FY 2017	\$18,062,150	\$15,447,735	\$360,861	\$15,808,596	\$15,808,596	\$0	\$2,253,554
FY 2018	\$18,732,703	\$16,049,822	\$377,100	\$16,426,922	\$16,426,922	\$0	\$2,305,781
FY 2019	\$19,427,239	\$16,675,701	\$394,069	\$17,069,770	\$17,069,770	\$0	\$2,357,469

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

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

Breakouts

	Non-Light Subtotal	Total	City	GATRA	Landfill	Sewer	Water	Nursing Home	Light	Housing
(1) Participants										
(a) Actives	945	1,098	766	17	1	0	32	96	153	33
(b) Inactives	264	267	172	0	0	0	1	84	3	7
(c) Retirees and Beneficiaries	516	644	451	4	0	11	21	15	128	14
(e) Disabled Retirees	78	98	62	0	0	3	3	9	20	1
(f) Total	1,803	2,107	1,451	21	1	14	57	204	304	55
(2) Payroll of Active Participants	42,000,859	55,614,435	34,707,011	708,175	63,010	0	1,533,216	3,164,688	13,613,576	1,824,759
Percent of Total Payroll	75.52%	100.00%	62.41%	1.27%	0.11%	0.00%	2.76%	5.69%	24.48%	3.28%
(3) Normal Cost										
(a) Total Normal Cost	5,702,904	7,591,467	4,858,695	90,133	5,405	0	141,554	418,661	1,888,563	188,457
(b) Expected Employee Contributions	3,575,984	4,773,276	2,953,451	60,816	5,963	0	121,378	271,739	1,197,292	162,637
(c) Administrative Expenses	299,898	410,000	266,330	2,261	153	2,589	11,487	9,619	110,102	7,458
(d) Net Employer Normal Cost (a) - (b) + (c)	2,426,818	3,228,191	2,171,574	31,578	-405	2,589	31,663	156,541	801,373	33,278
(4) Actuarial Accrued Liability	247,969,736	339,006,864	220,214,294	1,869,504	126,569	2,140,695	9,498,247	7,953,788	91,037,128	6,166,638
(5) Assets*	153,466,064	209,808,060	136,288,491	1,157,018	78,332	1,324,855	5,878,373	4,922,522	56,341,996	3,816,472
(6) Unfunded Actuarial Accrued Liability (4) - (5)	94,503,672	129,198,804	83,925,803	712,486	48,237	815,840	3,619,874	3,031,266	34,695,132	2,350,166
(7) Amortizations										
(a) Unfunded Actuarial Accrued Liability	6,193,324	8,467,079	5,500,101	46,693	3,161	53,466	237,229	198,655	2,273,755	154,019
(b) Early Retirement Incentive	163,009	185,451	79,322	0	0	16,678	31,726	6,854	22,442	28,428
(c) Holiday	90,221	121,039	82,806	0	48	805	3,572	2,991	30,818	0
(8) Total Required Employer Contributions (3d) + (7)	8,873,372	12,001,760	7,833,803	78,271	2,804	73,538	304,190	365,041	3,128,388	215,725
(9) Fiscal 2013 Cost	9,489,296	12,834,834	8,377,567	83,704	2,998	78,642	325,305	390,380	3,345,538	230,699
Percentage of total	73.93%	100.00%	65.27%	0.65%	0.02%	0.61%	2.53%	3.04%	26.07%	1.80%
(10) Fiscal 2014 Cost	10,492,249	14,202,211	9,265,761	91,464	3,471	87,639	363,629	424,349	3,709,962	255,935
Percentage of total	73.88%	100.00%	65.24%	0.64%	0.02%	0.62%	2.56%	2.99%	26.12%	1.80%
(11) Fiscal 2015 Cost	10,896,962	14,753,156	9,626,236	94,741	3,640	91,540	379,251	439,270	3,856,195	262,283
(12) Fiscal 2016 Cost	11,232,961	15,213,845	10,000,927	98,135	3,817	75,263	356,832	454,712	3,980,884	243,274
(13) Fiscal 2017 Cost	11,670,784	15,808,596	10,390,401	101,652	4,002	78,604	372,097	470,695	4,137,812	253,333
(14) Fiscal 2018 Cost	12,125,907	16,426,922	10,795,250	105,294	4,197	82,094	388,020	487,237	4,301,015	263,814

* Allocation is based on the ratio of the Actuarial Accrued Liability

14



13

City of Taunton, Massachusetts
DEPARTMENT OF PUBLIC WORKS

Fred J. Cornaglia
Commissioner
Anthony Abreau
Assistant Commissioner

Cathal O'Brien
Water Superintendent
Angela C. Santos
Fiscal Agent

November 18, 2013

Honorable Mayor Thomas Hoye, and
Members of the Municipal Council
141 Oak Street-Temporary City Hall
Taunton, Ma 02780

RE: Request to transfer funds from 202 line item to 203 capital line item

Dear Mayor Hoye and Councilors:

This office respectfully requests permission to transfer funds in the amount of \$37,841.00. Please see the following line items to be adjusted and explanation for transfer. Also see the attached Transfer Request Sheet for specific line item numbers and amount to be transferred.

From:	To:	Amount:	Explanation:
60-450-202-5545	60-450-203-5870	\$37,841.00	Need to transfer funds from the 202 line item to the 203 capital line item.

If you should have any questions regarding this explanation please feel free to contact me.

Respectfully,

Cathal O'Brien
Water Supervisor, DPW

COB/mmh

Craig C. Sherman Operations Center

90 Ingell Street
Taunton, Massachusetts 02780
Telephone: (508) 821-1434
Fax: (508) 821-1437

COUNCIL ORDER TRANSFER REQUEST

16

Date: November 18, 2013

Department Requesting: DPW-Water

Amount Requesting: \$37,841.00

Reason For Request: Line Item Adjustment (from 202 to 203)

Please List below the account number/name for the requested transfer.
If requesting monies from AVAILABLE FUNDS check here: _____

TRANSFER FROM: 60 450 202 5545
 NAME: Plant Operations/ Maint
 BEGINNING BALANCE: \$ 200,000.00
 AMOUNT: 37,841.00
 BALANCE REMAINING: 162,159.00

TRANSFER TO: 60 450 203 5870
 NAME: Capital Equipment
 BEGINNING BALANCE: \$ 0.00
 AMOUNT: 37,841.00
 BALANCE REMAINING: 37,841.00

TRANSFER FROM: _____
 NAME: _____
 BEGINNING BALANCE: \$ 0.00
 AMOUNT: 0.00
 BALANCE REMAINING: 0.00

TRANSFER TO: _____
 NAME: _____
 BEGINNING BALANCE: \$ 0.00
 AMOUNT: 0.00
 BALANCE REMAINING: 0.00

DEPARTMENT HEAD SIGNATURE: *Cal J* 11/18/13
 TITLE: Division Supervisor Supervisor

TO BE COMPLETED BY CLERK OF COUNCIL COMMITTEE:
 DATE REFERRED TO COMMITTEE ON FINANCE & SALARIES: _____
 THE ABOVE REQUEST IS HEREBY: _____ APPROVED _____ DENIED
 AVAILABLE FUNDS TO BE USED (IF REQUESTED): _____
 IF DENIED, REASON FOR DENIAL: _____
 COUNCIL ORDER NUMBER ASSIGNED: _____

FOR COUNCIL ORDER TRANSFERS PLEASE FILL OUT THIS FORM WITH A FORMAL COVER LETTER REQUESTING THE TRANSFER AND SEND A COPY OF BOTH THE LETTER AND THIS FORM TO THE FOLLOWING:

- City Clerk - ORIGINAL
- Mayor's Office
- Clerk of Council Committee
- City Auditor



City of Taunton
LAW DEPARTMENT

141 Oak Street
Taunton, Massachusetts 02780
Phone (508) 821-1036 Facsimile (508) 821-1397



Thomas C. Hoye, Jr.
MAYOR

Jason D. Buffington
CITY SOLICITOR

Daniel F. de Abreu
ASST. CITY SOLICITOR

November 19, 2013

Honorable Mayor Thomas C. Hoye, Jr.
Members of the Taunton Municipal Council
141 Oak Street
Taunton MA 02780

**RE: Taunton Fire Department et al. v. Michael O'Donnell et al.
Southeast Housing Court, Docket No. 10-CV-00127**

Dear Mayor Hoye and Members of the Municipal Council:

On November 12, 2013, a hearing was held on the latest complaint for contempt filed by the City. This complaint, filed on October 25, 2013, alleged that the Defendants failed to pay \$3,963.33 in attorney's fees and costs to the City on or before October 24, 2013, as had been ordered by the Court on September 24, 2013.

Mr. O'Donnell eventually appeared in court on November 12, 2013 and tendered a check payable to the City in the amount of \$3,963.33. Having made the ordered payment (albeit later than ordered), the Court did not find the Defendants to be in further contempt, but did allow my request for further attorneys' fees and costs in the amount of \$2,313.95, which has been ordered to be paid by November 29, 2013. Please see attached check and Court Order, both dated November 12, 2013.

Please feel free to contact me with any questions. As always, thank you for allowing me to be of service to you and the citizens of Taunton.

Very truly yours,

Jason D. Buffington, Esq.
City Solicitor

M 658730

THIS DOCUMENT HAS A VOID PANTOGRAPH, HIGH RESOLUTION BORDER, CHEMICALLY REACTIVE PAPER, FLUORESCENT FIBERS AND A WATERMARK. ABSENCE OF THESE FEATURES WILL INDICATE A COPY.

**ROCKLAND
TRUST**

TREASURER'S CHECK

1671987

53-447
113

DATE November 12, 2013

TO THE ORDER OF ***City of Taunton***

\$3,963.33

PAY THREE THOUSAND NINE HUNDRED SIXTY-THREE AND 33/100

IF THIS CHECK IS LOST OR STOLEN, AN INDEMNITY BOND WILL BE REQUIRED FOR REPLACEMENT.

PURCHASER ***M. ODonnell***

AUTHORIZED SIGNATURE

Alison Hayward

PRINTED NAME

⑈01671987⑈ ⑆011304478⑆ ⑈11111111⑈

19

Commonwealth of Massachusetts
The Trial Court

HOUSING COURT DEPARTMENT
SOUTHEASTERN DIVISION
A TRUE COPY
ATTEST *Maed R. Jeffers* CLERK
DATE 11/12/13

TAUNTON FIRE DEPT.-
CAPT. ROBERT J. BASTIS, Jr.
PLAINTIFF

Housing Court Department
Southeastern Division

Docket #: 10-CV- 00127TA

-v.-

Mr. Michael O'Donnell Trustee of Boston Financial Trust, EtAL
DEFENDANT

A hearing has been held by the Court this day; as a result of said hearing:

- () You have been found in contempt of Court, but you may purge said contempt as follows:
- (X) No contempt found.

Defendant shall pay Plaintiff further sum of \$2,313.95 in attorney's fees incurred between Oct. 24, 2013 and Nov. 12, 2013 with respect to Contempt complaint on or before Nov. 29, 2013.

You are further Ordered to re-appear before this Court on Tuesday 12 /10 / 13
Day Date

at 11:00AM. To determine compliance with this order.

Your failure to comply with this order and/or to re-appear before the Court as indicated may result in an initial or further contempt proceeding; with Court ordered sanctions, and/or a Capias for your Civil arrest may also issue.

11 12/13
Date

Anne Kennedy Chaplin

First Justice



City of Taunton

LAW DEPARTMENT

141 Oak Street
Taunton, Massachusetts 02780
Phone (508) 821-1036 Facsimile (508) 821-1397



20

Thomas C. Hoye, Jr.
MAYOR

Jason D. Buffington
CITY SOLICITOR

Daniel F. de Abreu
ASST. CITY SOLICITOR

November 20, 2013

Honorable Mayor Thomas C. Hoye, Jr.
Members of the Taunton Municipal Council
141 Oak Street
Taunton MA 02780

**RE: Attorney General v. Michael O'Donnell
Southeast Housing Court, Docket No. 13-CV-641 (117 Arlington St.)**

**Attorney General v. 15-17 Winthrop Trust et al.
Southeast Housing Court, Docket No. 13-CV-642 (15-17 Winthrop St.)**

Dear Mayor Hoye and Members of the Municipal Council:

Attached hereto please find copies of the applicable Housing Court Orders in the above-referenced cases. On November 12, 2013, following a contested hearing, Judge Chaplin appointed B&D Construction to be the receiver for 117 Arlington Street and 15 Winthrop LLC to be the receiver for 15-17 Winthrop Street.

This has the potential to be a lengthy court process to be sure, but it is likely to result in significant upgrades and repairs to these two deplorable properties, both of which are uninhabitable and unfit for human habitation. I wish to thank Attorney General Martha Coakley and her entire staff for their willingness to undertake and their diligence in prosecuting these matters. I also wish to thank B&D Construction, the Downtown Taunton Foundation, and Premier Construction for their efforts and participation as well. Taunton will be a better community as a result of these combined efforts.

Very truly yours,

Jason D. Buffington, Esq.
City Solicitor

HOUSING COURT DEPARTMENT
SOUTHEASTERN DIVISION
A TRUE COPY
ATTEST *Mark R. Griffin* CLERK
DATE

12 November 2013 MOR

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

HOUSING COURT DEPARTMENT
SOUTHEAST DIVISION

C.A. No.: 13-CV-641

ATTORNEY GENERAL for the)
COMMONWEALTH OF MASSACHUSETTS)
Petitioner,)

v.)

MICHAEL O'DONNELL, owner of the)
property located at 117 Arlington Street,)
Taunton, Massachusetts,)
Respondent.)

ORDER ON PETITION
TO ENFORCE THE STATE
SANITARY CODE
AND FOR APPOINTMENT OF A
RECEIVER

- 1. Introduction:** Pursuant to G.L. c. 111 §127I and the general equity powers of this Court, following a hearing on Nov. 12, 2013, ~~2012~~, with respect to the violations of sanitary code at the Property located at **117 Arlington Street, Taunton, Massachusetts** (the "Property"), the Court finds that unless a receiver is appointed these violations will not be promptly remedied and that such appointment is in the best of the property and the public.
- 2. Parties:** The Petitioner in this action, the Attorney General for the Commonwealth of Massachusetts is a public official under the constitution and laws of the Commonwealth of Massachusetts. The Respondent is: Michael O'Donnell, 73 Main St., Taunton, MA 02780 and 107-111 Main St., Taunton, MA 02780.
- 3. Procedural Posture:** The Property is an abandoned and unsecured, multi-family dwelling which fails to meet the minimum standards of decency for human habitation. By a letter dated August 15, 2013 sent to Respondent certified mail, return receipt requested and first class mail, the violations described below were brought to the attention of the Respondent. The Respondent was notified of the Petitioner's intention to seek enforcement of the State Sanitary Code ("Code") and that it may petition the Court for appointment of a receiver. To date, the Respondent has failed to undertake or is not capable of undertaking the repairs required to bring the Property into compliance with the Building and State Sanitary Codes.

On Sept. 20, 2013, the Petitioner provided notice of the hearing on the Petition to Respondent via Mass. R. Civ. P. 4(c) service. On Nov. 12, 2013, 2013, following a hearing on the merits, the Court Chaplin, FJ granted the Petition which included the Petitioner's request to appoint B & D Construction Co., Inc. ("B & D") as receiver of the Property.

4. **Description and Condition of the Premises:**

The Property is an unoccupied single family dwelling. The Property has been vacant and is in disrepair. There are broken windows throughout the dwelling and the interior floors, walls, and ceilings are in disrepair. There is also garbage, trash, and refuse improperly stored throughout the dwelling and surrounding land. The Property poses harm to the neighborhood by impacting the health and safety of the general public, and is unfit for human habitation.

The present abandoned state of the Property creates a high risk of vandalism, trespass, fire damage and personal injury to abutters and residents of the community. As the Property continues to deteriorate and create greater risks to the general public, there is also a significant risk that it will be destroyed beyond repair without the intervention of this court.

THEREFORE, following a hearing held on Nov. 12, 2013, the Court hereby orders as follows:

5. **Receiver:** B & D, 61R Stevens Street, Taunton, MA 02718 is hereby appointed Receiver of the Property (“Receiver”). This appointment is effective upon the signing of this Order, and will last one hundred eighty (180) days, subject to extensions granted by the Court upon a showing of good cause by the Receiver or other party with an interest in these proceedings.

6. **Authority and Duties of Receiver:** The authority and duties of the Receiver shall be as follows:

- a) Promptly repair the Property and maintain it in a safe condition.
- b) Employ companies, persons or agents to perform its duties hereunder.
- c) Deposit all amounts received on account of the Property into a separate account under the control of the Receiver.
- d) To disburse funds received by the Receiver on account of the Property as follows, in the following order of priority:
 - i. First, to reimburse the Receiver for its actual out-of-pocket expenses incurred in its capacity as Receiver, including without limitation its reasonable legal fees, its allocable overhead and labor costs, its cost of incorporation, its costs of negotiation of the terms of this receivership and costs of liability insurance (“Receiver Out-Of-Pocket Expenses”);
 - ii. Then, to make repairs, to conditions which violate the State Sanitary, fire safety, electrical and building codes or ordinances, but which do not rise to the level of “Emergency Repairs” as defined above;
 - iii. Next, to make payments, to the extent possible, towards any unpaid taxes, assessments, penalties or interest;
 - iv. Finally, to make payments, to the extent possible, to any payments due any mortgagee or lien holder of record

- e) The Receiver shall file with the Court and serve upon all parties within sixty (60) days of the effective date of this Receivership, a report setting forth all expenses and disbursements of the Receivership, with attached receipts, and an accounting of all funds received by the Receiver during the period covered by such report.
- f) After the filing of the initial report described in subsection (e), the Receiver shall file with the Court and serve upon all parties every eight weeks thereafter, an updated report setting forth all expenses and disbursements of the Receivership, with attached receipts, and an accounting of all such receipts. If the Property becomes occupied in the future, the report shall also include a list of all tenants residing at the Property, together with a list of current rental amounts and the status rental payments to date. The Receiver shall serve upon the Respondents, in a timely manner and to an address provided by the Respondents appearing in Court, copies of all reports, notices and other documents which are required of the Receiver under the terms of this Order. If the Respondents fails to appear or otherwise fails to provide an address for service, then the Receiver shall be obliged only to file that report with the Court.
- g) The Receiver may rent the vacant Property when it is in current compliance with the State Sanitary Code. Policies regarding the first month's rent, last month's rent and security deposit for new tenancies shall be left to the discretion of the Receiver.
- h) Should the Property become occupied, the Receiver may collect and receive all rental revenues due from tenants or occupants of the Property as an agent of the Court on or after the first rental period following the effective date of this Order. It shall be the responsibility of the Receiver under this paragraph to account for all receipts according to the standards set forth in subparagraph 6(e).

7. **Bond**: The Receiver shall not be required to furnish bond or surety, but shall provide proof of suitable liability insurance to be approved by the Court.

8. **Claims against Receiver**: Except as provided in Paragraph 9 of this Order, any residents or occupants of the Property, whether past or future, may not seek money damages from any funds administered by the Receiver. All residents or occupants of the Property retain any and all rights under statutes or common law to proceed against the Respondents, or any other appropriate party, other than the Receiver, and/or their agents or employees for money or other damages for claims arising out of the occupancy of the Property, including any damages that may be incurred or claims that may arise while the Property is under the receivership, to the extent provided by law.

9. **Liability and Agency**: As set forth in G.L. c. 111 §127I, liability of the Receiver shall be limited to the assets and income of the receivership, including proceeds of insurance purchased by the Receiver in capacity as receiver. The Receiver shall in no instance be personally liable for actions or inactions within the scope of the Receiver's capacity as receiver. No suit shall be brought against the Receiver except as approved by the Court.

10. **Right to Resign**: The Receiver shall have the right to resign at any time by giving seven (7) days written notice to the Court and to the parties. The Receiver's notice of resignation shall include an accounting of all funds received and disbursed during its term

as Receiver and, if the Property is occupied, a copy of any rent roll and rental history the Receiver has compiled. Such resignation shall be effective on the date specified in such notice, provided that the Court may require the Receiver to take such actions after the date specified if the Court determines that such actions are required to protect the health or safety of any occupants and that the Receiver has the capacity to perform such functions consistent with the terms of this Order. Unless otherwise ordered, on the effective date of such resignation, the Receiver shall assign any and all amounts received pursuant to the receivership to the Court or to a successor receiver.

11. **Priority Liens and Mortgages:** As set forth in G.L. c. 111 §127I, the Receiver shall have a lien, effective when recorded in the registry for which the Property is located, with priority over all other liens or mortgages except municipal liens, to secure payment of any costs incurred and repayment of any loans for repairs, operation, maintenance or management of the Property. The Receiver's lien may be assigned to lenders for the purpose of securing loans for repair, operation, maintenance or management of the Property.

12. **Notice to Creditors:** The Petitioner shall send a copy of this Order to all mortgages and lien holders of record, if any, a list of which is to be provided to the Petitioner by the Respondents.

13. **Sale of the Property:** The Property shall not be sold, encumbered or placed under contract for sale without the prior leave of the Court.

14. **Duties of the Respondents:** Within 48 hours of the signing of this Order, the Respondents shall transfer to the Receiver the right to obtain all keys to the apartments and common areas of the premises and its rent roll for all apartments at the Property. The Respondents shall provide the Receiver with reasonable advance notice prior to entering any part of the Property. Within seven (7) days of the signing of this Order, the Respondents shall provide to the Receiver copies of all documents necessary to manage and maintain the property and shall provide the following information:

- a) **Mortgages and Liens:** the name and address of all mortgages and lien holders of record; the amount of the liens or mortgages.
- b) **Insurance:** the name, address, and telephone number of all insurance companies and their agents providing insurance coverage for the Property; the amount and type of coverage; the amount and due dates of premiums.
- c) **Utilities:** the amount of the most recent water, sewer, gas and electric bills; the amount of any outstanding balance; and the dates and amounts of the last payment.
- d) **Real Estate Tax:** the amount of the most recent real estate tax bill; the amount of any outstanding balance; the date and amount of the last payment.
- e) **Contracts:** copies of all warranties for prior work done, service contracts for ongoing maintenance (e.g., for extermination) and all contracts or bids for repairs.
- f) **Other:** all information relevant to any outstanding expenses relating to the Property.

15. **Further Court Order:** The Petitioner, the Respondents, the Receiver and other interested parties shall have the right to request from the Court, by motion and with

advance notice, further orders consistent with G.L. c. 111 §127I; common law, or the terms of this Order. In the event of emergencies, service of motions to parties on this action by facsimile transmission shall be acceptable.

- 16. **Review by Court:** The foregoing Order shall remain in effect for one hundred and eighty (180) days. The Receiver and all other affected parties shall report on the Receiver's progress to the Court on Dec 19, 2013 at 11 clock a.m. ~~p.m.~~
- 17. **Effective Date:** This Receivership shall take effect on Nov. 12, 2013.

So entered on this Nov. 12, 2013.

Alme K. Chaplin
First Justice

HOUSING COURT DEPARTMENT
SOUTHEASTERN DIVISION
A TRUE COPY
ATTEST *Maui R. Jaffrin* CLERK
DATE 12 November 2013 mpr

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

HOUSING COURT DEPARTMENT
SOUTHEAST DIVISION
C.A. No.: 13-cv-642

ATTORNEY GENERAL for the)
COMMONWEALTH OF MASSACHUSETTS)
Petitioner,)
)
v.)
)
15-17 WINTHROP TRUST, owner of the)
property located at 15 Winthrop Street,)
Taunton, Massachusetts; MICHAEL)
O'DONNELL, as Trustee of 15-17)
WINTHROP TRUST; WYFNOTT REALTY)
TRUST, mortgagee and interested party in the)
property located at 15 Winthrop Street,)
Taunton, Massachusetts; MICHAEL)
O'DONNELL, as trustee for WYFNOTT)
REALTY TRUST)
Respondents.)

ORDER ON PETITION
TO ENFORCE THE STATE
SANITARY CODE
AND FOR APPOINTMENT OF A
RECEIVER

1. **Introduction:** Pursuant to G.L. c. 111 §127I and the general equity powers of this Court, following a hearing on Nov. 12, 2013, ~~2012~~, with respect to the violations of sanitary code at the Property located at **315 Winthrop Street, Taunton, Massachusetts** (the "Property"), the Court finds that unless a receiver is appointed these violations will not be promptly remedied and that such appointment is in the best of the property and the public.

2. **Parties:** The Petitioner in this action, the Attorney General for the Commonwealth of Massachusetts is a public official under the constitution and laws of the Commonwealth of Massachusetts. The Respondents are:
 - a) 15-17 Winthrop Trust, the owner of the Property in question;
 - b) Michael O'Donnell, as Trustee of 15-17 Winthrop Trust;
 - c) Wyfnott Realty Trust as mortgagee of the property at issue, a mortgagee of the Property; and
 - d) Michael O'Donnell, as trustee for Wyfnott Realty Trust.

The addresses of all the parties are 73 Main St., Taunton, MA 02780 and 107-111 Main

St., Taunton, MA 02780

- 3. **Procedural Posture:** The Property is an abandoned and unsecured, mixed use dwelling which fails to meet the minimum standards of decency for human habitation. By a letter dated August 15, 2013 sent to the Respondents certified mail, return receipt requested and first class mail, the violations described below were brought to the attention of the Respondents. The Respondents were notified of the Petitioner's intention to seek enforcement of the State Sanitary Code ("Code") and that it may petition the Court for appointment of a receiver. To date, the Respondents have failed to undertake or are not capable of undertaking the repairs required to bring the Property into compliance with the Building and State Sanitary Codes.

On Sept. 10, 2013, the Petitioner provided notice of the hearing on the Petition to the Respondents via Mass. R. Civ. P. 4(c). On Nov. 12, 2013, following a hearing on the merits, the Court Chaplin FS granted the Petition which included the Petitioner's request to appoint 15 Winthrop LLC as receiver of the Property.

- 4. **Description and Condition of the Premises:**

The Property is an unoccupied multi-use dwelling. It has numerous long standing Code violations which pose a serious risk to the health, safety and well being of abutters and residents of the community. The Property has been vacant and is in disrepair. There are signs of rodent infestation throughout the dwelling; no heat or hot water; garbage, trash and refuse scattered throughout the dwelling; and signs of water infiltration which may be causing structural damage. Accumulations of rubbish and excessive storage are blocking means of egress and ingress, making it dangerous for firefighters and other emergency personnel. The City Fire Prevention Bureau also documented the improper storage of flammables such as paint cans, acetone, and several 20lb propane cylinders. The Property poses harm to the neighborhood by impacting the health and safety of the general public, and is unfit for human habitation..

The present abandoned state of the Property creates a high risk of vandalism, trespass, fire damage and personal injury to abutters and residents of the community. As the Property continues to deteriorate and create greater risks to the general public, there is also a significant risk that it will be destroyed beyond repair without the intervention of this court.

THEREFORE, following a hearing held on Nov. 12, 2013, 2012, the Court hereby orders as follows:

- 5. **Receiver:** 15 Winthrop LLC is hereby appointed Receiver of the Property ("Receiver"). This appointment is effective upon the signing of this Order, and will last one hundred eighty (180) days, subject to extensions granted by the Court upon a showing of good cause by the Receiver or other party with an interest in these proceedings.

6. Authority and Duties of Receiver: The authority and duties of the Receiver shall be as follows:

- a) Promptly repair the Property and maintain it in a safe condition.
- b) Employ companies, persons or agents to perform its duties hereunder.
- c) Deposit all amounts received on account of the Property into a separate account under the control of the Receiver.
- d) To disburse funds received by the Receiver on account of the Property as follows, in the following order of priority:
 - i. First, to reimburse the Receiver for its actual out-of-pocket expenses incurred in its capacity as Receiver, including without limitation its reasonable legal fees, its allocable overhead and labor costs, its cost of incorporation, its costs of negotiation of the terms of this receivership and costs of liability insurance (“Receiver Out-Of-Pocket Expenses”);
 - ii. Then, to make repairs, to conditions which violate the State Sanitary, fire safety, electrical and building codes or ordinances, but which do not rise to the level of “Emergency Repairs” as defined above;
 - iii. Next, to make payments, to the extent possible, towards any unpaid taxes, assessments, penalties or interest;
 - iv. Finally, to make payments, to the extent possible, to any payments due any mortgagee or lien holder of record
- e) The Receiver shall file with the Court and serve upon all parties within sixty (60) days of the effective date of this Receivership, a report setting forth all expenses and disbursements of the Receivership, with attached receipts, and an accounting of all funds received by the Receiver during the period covered by such report.
- f) After the filing of the initial report described in subsection (e), the Receiver shall file with the Court and serve upon all parties every eight weeks thereafter, an updated report setting forth all expenses and disbursements of the Receivership, with attached receipts, and an accounting of all such receipts. If the Property becomes occupied in the future, the report shall also include a list of all tenants residing at the Property, together with a list of current rental amounts and the status rental payments to date. The Receiver shall serve upon the Respondents, in a timely manner and to an address provided by the Respondents appearing in Court, copies of all reports, notices and other documents which are required of the Receiver under the terms of this Order. If the Respondents fails to appear or otherwise fails to provide an address for service, then the Receiver shall be obliged only to file that report with the Court.
- g) The Receiver may rent the vacant Property when it is in current compliance with the State Sanitary Code. Policies regarding the first month’s rent, last month’s rent and security deposit for new tenancies shall be left to the discretion of the Receiver.
- h) Should the Property become occupied, the Receiver may collect and receive all rental revenues due from tenants or occupants of the Property as an agent of the Court on or after the first rental period following the effective date of this Order. It shall be the responsibility of the Receiver under this paragraph to account for all receipts according to the standards set forth in subparagraph 6(e).

- 7. **Bond**: The Receiver shall not be required to furnish bond or surety, but shall provide proof of suitable liability insurance to be approved by the Court.
- 8. **Claims against Receiver**: Except as provided in Paragraph 9 of this Order, any residents or occupants of the Property, whether past or future, may not seek money damages from any funds administered by the Receiver. All residents or occupants of the Property retain any and all rights under statutes or common law to proceed against the Respondents, or any other appropriate party, other than the Receiver, and/or their agents or employees for money or other damages for claims arising out of the occupancy of the Property, including any damages that may be incurred or claims that may arise while the Property is under the receivership, to the extent provided by law.
- 9. **Liability and Agency**: As set forth in G.L. c. 111 §127I, liability of the Receiver shall be limited to the assets and income of the receivership, including proceeds of insurance purchased by the Receiver in capacity as receiver. The Receiver shall in no instance be personally liable for actions or inactions within the scope of the Receiver's capacity as receiver. No suit shall be brought against the Receiver except as approved by the Court.
- 10. **Right to Resign**: The Receiver shall have the right to resign at any time by giving seven (7) days written notice to the Court and to the parties. The Receiver's notice of resignation shall include an accounting of all funds received and disbursed during its term as Receiver and, if the Property is occupied, a copy of any rent roll and rental history the Receiver has compiled. Such resignation shall be effective on the date specified in such notice, provided that the Court may require the Receiver to take such actions after the date specified if the Court determines that such actions are required to protect the health or safety of any occupants and that the Receiver has the capacity to perform such functions consistent with the terms of this Order. Unless otherwise ordered, on the effective date of such resignation, the Receiver shall assign any and all amounts received pursuant to the receivership to the Court or to a successor receiver.
- 11. **Priority Liens and Mortgages**: As set forth in G.L. c. 111 §127I, the Receiver shall have a lien, effective when recorded in the registry for which the Property is located, with priority over all other liens or mortgages except municipal liens, to secure payment of any costs incurred and repayment of any loans for repairs, operation, maintenance or management of the Property. The Receiver's lien may be assigned to lenders for the purpose of securing loans for repair, operation, maintenance or management of the Property.
- 12. **Notice to Creditors**: The Petitioner shall send a copy of this Order to all mortgages and lien holders of record, if any, a list of which is to be provided to the Petitioner by the Respondents.
- 13. **Sale of the Property**: The Property shall not be sold, encumbered or placed under contract for sale without the prior leave of the Court.

14. **Duties of the Respondents:** Within 48 hours of the signing of this Order, the Respondents shall transfer to the Receiver the right to obtain all keys to the apartments and common areas of the premises and its rent roll for all apartments at the Property. The Respondents shall provide the Receiver with reasonable advance notice prior to entering any part of the Property. Within seven (7) days of the signing of this Order, the Respondents shall provide to the Receiver copies of all documents necessary to manage and maintain the property and shall provide the following information:

- a) Mortgages and Liens: the name and address of all mortgages and lien holders of record; the amount of the liens or mortgages.
- b) Insurance: the name, address, and telephone number of all insurance companies and their agents providing insurance coverage for the Property; the amount and type of coverage; the amount and due dates of premiums.
- c) Utilities: the amount of the most recent water, sewer, gas and electric bills; the amount of any outstanding balance; and the dates and amounts of the last payment.
- d) Real Estate Tax: the amount of the most recent real estate tax bill; the amount of any outstanding balance; the date and amount of the last payment.
- e) Contracts: copies of all warranties for prior work done, service contracts for ongoing maintenance (e.g., for extermination) and all contracts or bids for repairs.
- f) Other: all information relevant to any outstanding expenses relating to the Property.

15. **Further Court Order:** The Petitioner, the Respondents, the Receiver and other interested parties shall have the right to request from the Court, by motion and with advance notice, further orders consistent with G.L. c. 111 §127I, common law, or the terms of this Order. In the event of emergencies, service of motions to parties on this action by facsimile transmission shall be acceptable.

16. **Review by Court:** The foregoing Order shall remain in effect for one hundred and eighty (180) days. The Receiver and all other affected parties shall report on the Receiver's progress to the Court on Dec 17, 2013 at 11 clock a.m./~~p.m.~~

17. **Effective Date:** This Receivership shall take effect on Nov. 12, 2013.

So entered on this Nov. 12, 2013.

Dianne K. Chaplin
First Justice



City of Taunton

LAW DEPARTMENT

141 Oak Street
Taunton, Massachusetts 02780
Phone (508) 821-1036 Facsimile (508) 821-1397



31

Thomas C. Hoye, Jr.
MAYOR

Jason D. Buffington
CITY SOLICITOR

Daniel F. de Abreu
ASST. CITY SOLICITOR

November 20, 2013

Honorable Mayor Thomas C. Hoye, Jr.
Members of the Taunton Municipal Council
141 Oak Street
Taunton MA 02780

RE: Potential Land Acquisition at Corner of Taunton Green and Weir Street

Dear Mayor Hoye and Members of the Municipal Council:

Upon recommendation of the DPW Committee, the Municipal Council authorized this office to investigate the possibility of acquiring land sufficient to effectuate the rounding of this high-traffic corner for vehicular purposes. Significant progress on this issue has been made since the time of the Municipal Council's vote.

Pursuant to G.L. c. 30A, § 21(a)(6), I respectfully request to meet in executive session with the Municipal Council, or the committee thereof that you deem appropriate, to discuss this matter. The purpose of the executive session would be to consider the purchase, exchange, lease or value of real property. It is my belief that an open meeting on this topic may have a detrimental effect on the City's negotiating position. As time is of the essence, I would request that this meeting take place on December 3, 2013.

Thank you for considering this request.

Very truly yours,

Jason D. Buffington, Esq.
City Solicitor



32

City of Taunton, Massachusetts
**DEPARTMENT OF
PLANNING AND CONSERVATION**

*15 Summer Street
Taunton, Massachusetts 02780*

*Kevin R Scanlon, Director/ Planner AICP
Michele Restino, Conservation Agent*

*Phone 508-821-1051
Phone 508-821-1095
Fax 508-821-1665*

November 20, 2013

Honorable Thomas Hoye, Mayor
Members of the Municipal Council
15 Summer Street
Taunton, MA 02780

RE: 582 Myricks Street, Automotive Recovery Services, Inc.

Dear Mayor Hoye and Members of the Municipal Council,

At the Municipal Council meeting on November 19, 2013, you requested that I go out and investigate the above-mentioned property after receiving complaints about early morning (6am) heavy equipment work on the rear part of the property, and to investigate work that the owners were doing to see if they were complying with buffer zone regulations.

Mark Slusarz, City Engineer, and I went out and inspected the property on Tuesday, November 19, after I had received complaints about the noise and work at the property. On Friday, November 15, I met with an abutter who showed me the area in which they were working. At that time I observed two construction vehicles grading the rear parking area.

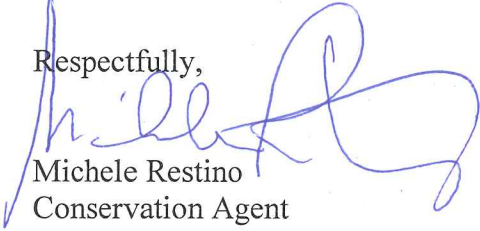
Mark and I walked the entire site and observed that no areas were paved, and that the work was within the confines of the chainlink fence around the perimeter of the site. The detention basin was untouched. The area was not expanded beyond the original footprint.

We met with the company's manager and told him about the complaints we received. He stated that the work has been completed and that they will not have any future work start until 8am. He also stated that there were no plans to pave the area or alter the detention basin.

The work is in compliance and does not require a filing with the Taunton Conservation Commission. No work was done within 100 feet of the bordering vegetated wetlands that are located on an adjacent property.

Thank you for bringing this issue to my attention. Feel free to call me if there are any other concerns.

Respectfully,



Michele Restino
Conservation Agent



City of Taunton

LAW DEPARTMENT

141 Oak Street
Taunton, Massachusetts 02780
Phone (508) 821-1036 Facsimile (508) 821-1397



34

Thomas C. Hoye, Jr.
MAYOR

Jason D. Buffington
CITY SOLICITOR

Daniel F. de Abreu
ASST. CITY SOLICITOR

November 20, 2013

Honorable Mayor Thomas C. Hoye, Jr.
Members of the Taunton Municipal Council
141 Oak Street
Taunton MA 02780

RE: Tentative Memorandum of Understanding with COTMA

Dear Mayor Hoye and Members of the Municipal Council:

Please be advised that the administration has reached a tentative agreement for a collective bargaining contract with the City of Taunton Management Association. This three-year agreement, for the period beginning July 1, 2012 and ending June 30, 2015, calls for a raises of 1%, 2%, and 3%, similar to the Police and Fire contracts that were previously approved. I am informed that the COTMA membership has already ratified the agreement.

Among other provisions, the agreement also paves the way for comprehensive annual employee performance evaluations to be conducted across all departments for the first time in the city's history. This will go a long way towards further enhancing the professionalism, accountability, and efficiency of our governmental operations.

The entire document, consisting of twenty-two pages, is being sent to you under separate cover. I respectfully request your prompt consideration and approval of this agreement.

Very truly yours,

Jason D. Buffington, Esq.
City Solicitor



City of Taunton

LAW DEPARTMENT

141 Oak Street

Taunton, Massachusetts 02780

Phone (508) 821-1036 Facsimile (508) 821-1397



Thomas C. Hoye, Jr.
MAYOR

Jason D. Buffington
CITY SOLICITOR

Daniel F. de Abreu
ASST. CITY SOLICITOR

November 20, 2013

Honorable Mayor Thomas C. Hoye, Jr.
Members of the Taunton Municipal Council
141 Oak Street
Taunton MA 02780

RE: Proposed Sale of Tax Possession Properties

Dear Mayor Hoye and Members of the Municipal Council:

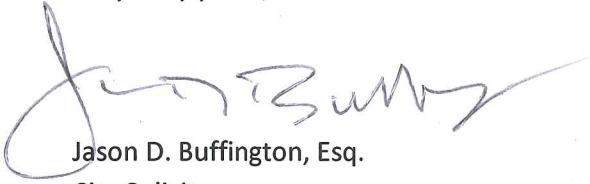
As you know, the City acquired through the tax title foreclosure process a single family home located at 40 Norton Avenue and a multifamily residence located at 3 Bow Street. With your concurrence, a sealed bid process was initiated to dispose of these properties and put them back on the tax rolls.

The invitation for bids was publicly advertised. A legal notice was published in the *Taunton Daily Gazette*. Another notice was published in the *Central Register*. Both properties were made available for inspection to prospective bidders. Bids were due on November 18, 2013. Bids were publicly opened at 2:07 p.m. on November 20, 2013. The bid registers are attached showing the amounts of all bids received.

Both properties are in need of significant repairs. As advertised, all sales will be "as is" without warranty or representation. The Law Department recommends selling the properties to the highest bidders. Our recommendation is to sell 40 Norton Avenue to Alfred Terra, Jr. for \$70,100.00 and 3 Bow Street to Amaro Cabral for \$50,000.00.

I respectfully request your vote of approval to sell these properties as recommended. This will place over \$120,000.00 in the city's treasury and generate additional tax receipts not currently being received. Thank you, as always, for allowing me to be of service to you and the citizens of Taunton.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jason D. Buffington". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Jason D. Buffington, Esq.
City Solicitor

207 PM

11/26/13

BID REGISTER

Lot 45-132, 40 Norton Avenue

<u>NAME</u>	<u>ADDRESS & PHONE NUMBER</u>	<u>BID AMOUNT</u>	<u>BID DEPOSIT</u>
CANA Properties	37 Weir St Taunton 508-837-7357	\$ 50,500 -	\$ 2,525.00
Jason Salim	287 S. Worcester St Norton 508-801-9413	\$ 32,100. -	\$ 1,605.00
John + Kara Ventura	221 Tremont St Taunton 508-823-7979	\$ 30,026. -	\$ 1,501.30
Alfred Tejera Jr	231 So. Walker St Taunton 508-822-7688	\$ 70,100. -	\$ 5,000. -

BID REGISTER

Lot 66-321, 3 Bow Street

2:07
11/20/13

NAME	ADDRESS & PHONE NUMBER	BID AMOUNT	BID DEPOSIT
CANA Properties	37 Weir St Taunton 508-837-7357	\$ 42,100 -	\$ 2,105 -
Amaro Cabral	365 Wren St E Taunton 508-454-6741	\$ 50,000	\$ 2,500 -



NOVEMBER 25, 2013

HONORABLE THOMAS C. HOYE, JR., MAYOR
COUNCIL PRESIDENT JOHN M. McCAUL
AND MEMBERS OF THE MUNICIPAL COUNCIL

RECEIVED
CITY CLERK'S OFFICE
2013 NOV 20 P 2:58
TAUNTON, MA
CITY CLERK

PLEASE NOTE: THE FOLLOWING COMMITTEE MEETINGS HAVE BEEN SCHEDULED FOR MONDAY, NOVEMBER 25, 2013 AT 7:30 A.M. AT THE TEMPORARY CITY HALL AT MAXHAM SCHOOL, 141 OAK STREET, TAUNTON, MA. 02780, IN THE CHESTER R. MARTIN MUNICIPAL COUNCIL CHAMBERS

7:30 A.M.

THE COMMITTEE ON FINANCE & SALARIES

1. MEET TO REVIEW THE WEEKLY VOUCHERS & PAYROLLS FOR CITY DEPARTMENTS
2. MEET TO REVIEW REQUESTS FOR FUNDING
3. MEET TO DISCUSS REQUEST FOR APPROPRIATION OF \$92,000 TO COVER THE COST OF PRE-DEMOLITION SURVEY FOR THE STAR THEATER BUILDING, 107-111 MAIN STREET.
4. MEET TO REVIEW MATTERS IN FILE

PLEASE NOTE: A "MEETING" OF THE ENTIRE MUNICIPAL COUNCIL, AS SAID TERM IS DEFINED IN MASS. GEN. L. C. 30A, §18 MAY OCCUR CONCURRENTLY WITH THIS COMMITTEE MEETING

THE COMMITTEE ON THE DEPARTMENT OF PUBLIC WORKS

1. CONTINUED SEWER EXTENSION HEARING

In accordance with Chapter 19-1 of the City of Taunton Ordinance and on the Petition of Antonio Bairos, A.L.E. Realty Trust, a hearing will be held on Tuesday, November 12, 2013 at 6:00 p.m. in the Chester R. Martin Municipal Council Chambers, Temporary City Hall, 141 Oak Street, Taunton, MA for a proposed sewer extension along Riverfield Road.

The proposal is to install a 2" forced main beginning at the vacant lot at Assessor's Map 125 Lot 34 and extending westerly to the existing 6" forced main in Somerset Avenue.

There will be no betterment assessments since no City funding is involved.

Plans and specifications for the project can be viewed in the Office of the Department of Public Works, 90 Ingell Street, Taunton, MA

2. MEET TO REVIEW MATTERS IN FILE

PLEASE NOTE:

A "MEETING" OF THE ENTIRE MUNICIPAL COUNCIL, AS SAID TERM IS DEFINED IN MASS. GEN. L. C. 30A, §18 MAY OCCUR CONCURRENTLY WITH THIS COMMITTEE MEETING

THE COMMITTEE ON POLICE AND LICENSE

1. MEET WITH THE POLICE CHIEF AND DETECTIVE SMITH ON THE FOLLOWING PETITIONS TO OPERATE BETWEEN THE HOURS OF 1 A.M. AND 4 A.M. AS PER CITY ORDINANCE SEC. 12-2:
 - A. AMERICAN EAGLE OUTFITTERS
 - B. BATH AND BODY WORKS
 - C. BURGER KING
 - D. CLAIRE'S
 - E. GARNISH YOUR DOG
 - F. DEB'S SHOPS LLC D/B/A DEB'S
 - G. HENNES & MAURITZ, INC. D/B/A H & M
 - H. J.C. PENNEY
 - I. MACY'S
 - J. MAGNIFIQUE PARFUMES & COSMETICS INC. D/B/A PERFUMANIA
 - K. NEW YORK & CO.
 - L. OLYMPIA SPORTS
 - M. SPENCER GIFTS
 - N. THINGS REMEMBERED
 - O. TORRID.
 - P. TOYS R US EXPRESS
 - Q. WET SEAL, INC

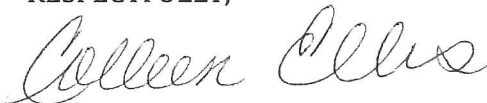
ALL LOCATED AT 2 GALLERIA MALL DRIVE

 - R. BOBBY'S PLACE, INC. 60 WEIR STREET
 - S. CVS, 284 WINTHROP STREET
 - T. JOE'S DINER, 51 BROADWAY
2. MEET TO REVIEW MATTERS IN FILE

PLEASE NOTE:

A "MEETING" OF THE ENTIRE MUNICIPAL COUNCIL, AS SAID TERM IS DEFINED IN MASS. GEN. L. C. 30A, §18 MAY OCCUR CONCURRENTLY WITH THIS COMMITTEE MEETING

RESPECTFULLY,



COLLEEN M. ELLIS
CLERK OF COUNCIL COMMITTEES