



**CITY OF PITTSFIELD  
REGULAR MEETING  
PITTSFIELD CITY COUNCIL  
CITY COUNCIL CHAMBERS**

**May 24, 2022, at 6:00 p.m.**

2022 MAY 19 PM 3:02

**AGENDA**

1. Open microphone
2. Approval of the May 10, 2022 minutes

**APPOINTMENTS**

3. A communication from Mayor Tyer appointing Matthew H. Talis to the Airport Commission

**COMMUNICATIONS FROM HER HONOR THE MAYOR**

4. A communication from Mayor Tyer appointing Christopher Bradley as a Permanent Fire Lieutenant with the Pittsfield Fire Department
5. A communication from Mayor Tyer submitting an Order to accept additional grant of funds in the amount of \$50,000.00 from the Massachusetts Executive Office of Health and Human Services
6. A communication from Mayor Tyer submitting an Order to accept Massachusetts General Law, Chapter 44, Section 55C Municipal Affordable Housing Trust Fund and an Ordinance amending the City Code, Chapter 2, Administration to add Article LIII, Affordable Housing Trust Fund

**COMMUNICATIONS AND REPORTS FROM CITY OFFICERS AND BOARDS**

7. A communication from the Community Development Board on a petition regarding concerns related to short term rentals
8. A communication from the Community Development Board on a petition requesting an act establishing mandatory regulations as to housing by real estate agencies
9. A communication from the Police Chief on a petition requesting a report on the status of the implementation of the Edward Byrne Memorial Justice Assistance Grant

**UNFINISHED BUSINESS**

10. A communication from Attorney Pagnotta on a petition requesting a legal opinion as to all the steps necessary to create a new position (*tabled February 8, 2022*)
11. A communication from the Pittsfield Board of Health concerning the investigation of health concerns reported by the residents that live near the cell tower at 877 South Street (*tabled April 26, 2022*) **Executive Session for purposes of litigation**

## **REPORTS OF COMMITTEES**

### **A report from the Community and Economic Development Committee**

12. A report from the Community and Economic Development Committee on an Order requesting authorization to submit the Community Development Block Grant Annual Action Plan for the 2022-2023 Program Year

## **NEW BUSINESS**

13. A petition from President Marchetti, Councilor White, Councilor Sherman, and Tonya Frazier requesting the state and federal delegation assist with finding additional funding and resources to improve the Mental Health services in Pittsfield.
14. A petition from Councilor Warren requesting the City Council adopt an ordinance that would allow the flushing of water mains on private and/or unaccepted streets
15. A petition from Councilor Warren requesting \$1,200,000.00 be appropriated for the purpose of the provision and installation of water meters in residential homes
16. A petition from Councilor Warren requesting \$50,000.00 be appropriated for the purpose and the provision of legal advice and representation to the City Council
17. A petition from Councilor Warren requesting \$75,000.00 be appropriated for the purpose of evaluating the creation of an Alternative for Community Emergency Services
18. A petition from Councilor Warren request to approve the request of the local Berkshire County branch of the NAACP for a resolution to support the enactment of H2519 an Act to create Alternatives for Community Emergency Services

## **MATTERS TENTATIVELY REFERRED BY THE PRESIDENT UNDER RULE 27**

### **Referred to the Traffic Commission**

19. A petition from Councilor Kronick requesting a no parking zone to extend from the corner of Second Street and Lincoln Street to 214 Second Street

### **Referred to the Ordinances and Rules Committee**

20. A petition from Councilor Lampiasi requesting to develop an Ordinance establishing a process for commemorative and honorary street designations

### **Referred to the Mayor**

21. A petition from Councilor Warren requesting the Mayor contact the Berkshire County District Attorney to obtain a waiver and/or assurances that the Pittsfield Police Department will not be prosecuted for any violation of the "wiretap statute"
22. A petition from Councilor Warren requesting the City of Pittsfield have an official presence on Twitter
23. A petition from Councilor Warren requesting to postpone Order 26 approved on March 28, 2022 establishing sewer rates
24. A petition from Councilor Warren requesting to postpone Order 25 approved on March 28, 2022 establishing water rates

### **Referred to the Commissioner**

25. A petition from Councilor Lampiasi requesting a status update on a previous petition on the pedestrian and driver safety improvements at the crosswalk in the vicinity of West Street and Center Street



**PITTSFIELD CITY COUNCIL  
REGULAR MEETING  
CITY COUNCIL CHAMBERS  
May 10, 2022, at 6:00 p.m.**

President Marchetti called the meeting to Order in regular session at 6:00 p.m.

**Present:** Councilors Conant, Kalinowsky, Kavey, Kronick, Lampiasi, Marchetti, Persip, Sherman, Warren and White

**Absent:** Councilor Maffuccio

**AGENDA**

The microphone was opened to the public:

Daniel Miraglia, 68 Ontario Street, he would like to see the petition for a traffic study for 874 North Street to be amended and referred back to the Traffic Committee instead of the Parks Commission.

Elizabeth Klulas, 37 Abbott Street, is here to discuss Springside Park and the acreage taken for Reid Middle School, the Nursing home and two sports. All of this is a change of use and taken away from public use. She asks that the construction of the pump park is not accepted by the council.

Tonya Frasier, 14 Dewey Avenue, is here to ask the council to move forward the petitions for police body cameras. She asked for the council to show compassion.

Renaldo DelGallo, 79 Nancy Avenue, here to support the petition on body cameras and hopes it will pass here tonight. He hopes truth will be preserved. He also hopes Councilor Warren's petition is passed.

Amelia Gilardi, Alma Avenue, hopes she can go home soon and asked for the councils help. She asked the council to stand with the board of health.

Ann Kerry, 17 Oliver Avenue asked the council and mayor to support the Board of Health's cease and desist order tonight.

Gareth Coco, 980 East Street, Lenox and he owns a home at 17 Alma Street. He is here to ask the council for help with an environmental toxin and to find the funding to support the cease and desist order

Charlie Herzick, 140 Plumb Street. He stated that we are destroying an eco-system. He hopes the council will support the funding for the cell tower.

Amy Jude, Curtis Hotel, Lenox. She is here in support of the funding for the cell tower and to protect the residents.

Diane Sheldon, 32 Old Stockbridge Road, Lenox. She is speaking on behalf of Eileen Ireland who used to live in shack town and no longer can stay there. She asked the council to support the funding for the cell tower. If the tower stays they will be forced to move.

Courtney Gilardi, 17 Alma Street. Thanked the Council for their support along with the Board of Health. She asked for support with the funding for the cell tower.

Jacquelyn Sykes, 43 Taylor Street, is here in support of police body cameras and dash cams. She hopes this will pass tonight.

LeMarr Talley, 79 Lincoln Street is here to support item 48 housing and establishing mandatory regulations in the city.

COVID update by Director Cambi stated there had been an increase in cases over the past two weeks. Averaging above 50 with an increase in testing. BMC data shows and increase with one death last week. There has been an increase in sewage data. Councilor Lampiasi asked for vaccination data. He will provide at the next update. *Councilor Kronick made a motion to accept the communication carried by a unanimous vote of all ten members present.*

Approval of the April 12, 2022 minutes. *Councilor Kronick made a motion to approve the minutes carried by a unanimous vote of all ten members present.*

Approval of the April 26, 2022 minutes. *Councilor Kronick made a motion to approve the minutes carried by a unanimous vote of all ten members present.*

### **APPOINTMENTS**

A communication from Mayor Tyer reappointing Alexandra Tasak Groff to the Community Preservation Committee. *Councilor Kronick made a motion to approve the appointment carried by a unanimous vote of all ten members present.*

### **COMMUNICATIONS FROM HER HONOR THE MAYOR**

A communication from Mayor Tyer on a presentation from the administration with a quarterly update on the American Rescue Plan Act. Gina Armstrong ARPA special projects manager, presented the quarterly update. Expenditures for six projects were submitted. Public Health contract tracing services through the Health Department for \$85,624.00. COVID – 19 Test Kits \$76,600. Ventilation system upgrade at Crosby School \$7,350.00. Marketing Campaign for travel tourism and hospitality in the city \$9,900.00. Infrastructure at the Ashley Water Treatment Facility to improve our drinking water \$532,438.00. Administration costs \$61,793.00. Total funds spent in the first quarter were \$773,704.00 and year to date \$847,037.00. All reports can be found on the city website. Councilor Warren asked the Mayor about the administration budget of \$150,000.00 and what it will go up to. There is a newly hired administrator working out of the Community Development Office. They are employees of the city who pay taxes and pay into the pension plan. What was presented tonight was actual expenditures. The community awards have not been used at this time. There was over 7.5 million awards requested and we appropriated 6 million. Councilor Warren asked for the Council can receive the MUNIS update for the ARPA funds. Councilor Warren is not in agreement with the way the committee is structured and thinks it should be in an open forum. He believes there may be some unintentional conflicts of interest and is worried that we may have to pay funds back. The Mayor stated that they believe the \$150,000.00 will pay the personal cost to administer the grant for the period of time that is needed. There is a shared co-project manager and one admin assistant. They are employees of the City

of Pittsfield. Councilor Warren asked about the public relations program. The Mayor stated they would like to take place in a public relations/marketing campaign using a company to help market our city around the region budgeted at \$510,000.00. The Mayor stated that what has been presented this evening is actual expenditures not budgeted and the money must be used for Pittsfield residents. . There have been no expenditures with the Community Awards at this time. They received over 7 million in requests and awarded 6 million. Councilor Warren believes the City Council should have more oversight with the ARPA funding. He stated that there may be several unintentional conflicts of interest and is concerned that we may have to pay the funding back. He would like to see funds directed to co-responders. *Councilor Kronick made a motion to accept the report and place on file carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting an Order to accept a grant of funds in the amount of \$500,000.00 from the Massachusetts Executive Office of Health and Human Services. *Councilor Kronick made a motion to approve for the purpose of discussion.* Councilor Sherman asked Chief Wynn where the funds will be directed. Chief Wynn stated the Police Department is the pass through for these funds. They will be forwarded to 18-Degrees for their administration and programs. *The motion to approve carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting an Order to accept a grant of funds in the amount of \$18,000.00 from the Commonwealth of Massachusetts, Department of Conservation and Recreation. *Councilor Kronick made a motion to approve carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting an Order to accept a gift of funds in the amount of \$850.00 from the Lake Onota Preservation Association. Councilor Kronick made a motion to approve for the purpose of discussion. Councilor Kronick asked Mr. McGrath what this money is designated for. Mr. McGrath said it is a test for three years to treat invasive plants on the shoreline. The chemical is approved by the EPA and applied by a professional. Councilor Kalinowsky asked about children and animals. Mr. McGrath stated that there should be no residual risk and it is low risk and will be posted. *The motion to approve carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting three Orders related to the Community Preservation Fund Order 1: Amending Order 45 of the 2021 Series, appropriating \$974,480.93 for the FY22 Community Preservation Fund Budget; Order 2: Appropriating \$670,317.00 from the FY22 Community Preservation Fund Budget Order 3: Appropriating \$818,435.44 for the FY23 Community Preservation Fund Budget. *Councilor Kronick made a motion to refer to the Committee of the Whole carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting an Order to transfer and appropriate \$100,000.00 from the Unclassified Budget to Workers' Compensation. *Councilor Kronick made a motion to wave rule 27 carried by a unanimous vote of all ten members present.* *Councilor Kronick made a motion to approve for purpose of discussion.* Councilor Persip asked Director Kerwood for an overview. Mr. Kerwood stated that these are statutorily required payments and many times we do not know what is coming. We recently had a lump sum medical settlement which brought us above the \$650,000.00 appropriation. He is requesting to move \$100,000.00 to workers comp from the unclassified budget. This may or may not be used before the end of the year at which time it will become free cash. Councilor Kronick asked if we are experience a higher increase in injuries on the job. Director Kerwood stated there have not been more injuries but some have

been more severe requiring more surgeries and it is difficult to budget for. Councilor Kalinowsky asked Director Kerwood about the \$106,000 currently in the account. Mr. Kerwood said the bill he has in hand are more than what is in the account and in May there will be an increase. *The motion to approve carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting an Order authorizing the City Treasurer with the approval of the Mayor to borrow under provisions of MGL Chapter 44, and aggregate sum not exceeding \$3,250,000 for street improvements. *Councilor Kronick made a motion to waive rule 27 carried by a unanimous vote of all ten members present. Councilor Kronick made a motion to approve for the purpose of discussion.* Councilor Sherman asked the Mayor what will these additional be used for. Mayor Tyler stated that this will be for the roads that will be contracted out. In house work will be funded from the municipal budget. The contracted road work bids were opened on April 20<sup>th</sup>. We would like to get it under contract and under construction as soon as possible. This funding will pay for the approved list released this spring. Councilor Warren asked if this was budgeted last year. Mayor Tyler said the Chapter 90 money is 1.3 million and we are borrowing the 3.25 million to make us whole in the contract that we want to enter into. Councilor Kronick asked why this is not budgeted six months prior. Mayor Tyler said we do an annual borrowing and previously we include this in the municipal operating budget as part of the borrowing authorization for capital improvements. Because we are all anxious to get this work under way we would like it approved this evening so we can accelerate the work. We can get a head start rather than waiting for the budget to be approved in six weeks. Councilor Kronick asked if it could be doubled up with other work such as water mains and is this the best way to go. Mayor Tyler said they believe it is and that is why they proposed it. This work is only for street improvements not water main work. Councilor Warren said he will support tonight because financially it makes sense. Councilor White appreciates this coming forward early as the roads are in need of repair now. Councilor Persip asked if this work will start earlier and be completed earlier. The Mayor agreed and we may be able to start construction at the end of May instead of July or August. Councilor Persip asked how many years we will borrow for this. Director Kerwood said we normally borrow for twenty years but we could shorten it to fifteen years but will pay more in debt service. It is how we manage debt. Councilor Persip asked for a break down from 20 to 15 years. Director Kerwood will provide this data. Councilor Persip will support tonight as it is important rather than starting in July. Councilor Kavey will support. The bid came in higher and we could have cut roads or approve the funds tonight and get the roads done now. Councilor Kalinowsky asked Director Kerwood if we can use the 6 million from Eversource. Director Kerwood said we cannot as it goes into the general fund and the interest goes into an interest account. Indirectly we use general fund money to pay this debt. Councilor Kalinowsky asked the Mayor if we can change things next year and put this into the operating budget. The Mayor stated this is a borrowing authorization. We do not put it into the operating budget it is an annual borrowing authorization. She would prefer to do it this way instead of the way we were doing it to accelerate road construction. This is a new model and thinks we should continue doing it earlier rather than waiting. Councilor Kalinowsky agreed that we should do it this way and start earlier. Councilor Kronick asked if this can be applied to unaccepted streets and drainage. The Mayor said it cannot, we use in house paving for the unaccepted streets. Councilor Kronick asked what the interest rate is. Director Kerwood said it is probably at 2.5%-3%. Councilor Kronick asked what are the expectations with the money from Eversource. Mr. Kerwood said in theory could become free cash. Councilor Kronick asked why we do not borrow from free cash for this project. Councilor Kronick stated that this budget is 40% higher than fiscal year 2022 and we should look for places to cut. Mr. Kerwood said he borrows twice a year and this borrowing will take place in January, as we do not borrow up front. We cannot sign a contract without a funding source. Councilor Kronick asked the Mayor about his ward as many streets have been on the list for years and he is

still stinging from 3% of Chapter 90 funds. He needs assurance that some of his roads will be repaired and why would he vote yes. The Mayor said this is the roadwork that affects the entire city and you should support this on behalf of your colleagues. Ward 2 is getting Tyler Street repaired which is a commercial corridor and you should support. President Marchetti stated we are voting on an order to fund or not fund. *The motion to approve was carried by a 9/1 vote with Councilor Kronick in opposition.*

A communication from Mayor Tyler submitting an Order raising and appropriating \$188,589,144.00 to fund the City's operating budget for Fiscal Year 2023 beginning July 1, 2022. *Councilor Kronick made a motion to refer to the Committee of the Whole for the purpose of discussion. Councilor Kronick asked the Mayor if the budget is 40% higher than last year. President Marchetti stated that the budget was \$179,000,000.00. Councilor Kronick said he stands totally corrected. The motion to refer to the Committee of the Whole carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting an Order authorizing the City Treasurer with the approval of the Mayor to borrow under provisions of MGL Chapter 44, and aggregate sum not exceeding \$9,327,000.00 for General Fund Capital Expenditures for Fiscal Year 2023. *Councilor Kronick made a motion to refer to the Committee of the Whole carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting an Order authorizing the City Treasurer with the approval of the Mayor to borrow under provisions of MGL Chapter 44, and aggregate sum not exceeding \$4,255,000.00 for Enterprise Fund Capital Expenditures for Fiscal Year 2023. *Councilor Kronick made a motion to refer to the Committee of the Whole carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting an Order transferring and appropriating \$412,000.00 from the Public Works Stabilization Fund to the Department of Public Services. *Councilor Kronick made a motion to refer to the Committee of the Whole carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting an Order authorizing the use and expenditure of the City's current revolving funds pursuant to MGL Chapter 44, Section 53E ½ for the Fiscal Year 2023. *Councilor Kronick made a motion to refer to the Committee of the Whole carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting an Order appropriating \$202,000.00 for parking related expenditures pursuant to MGL Chapter 40, Sections 21A-22C for the Fiscal Year 2023 beginning July 1, 2022. *Councilor Kronick made a motion to refer to the Committee of the Whole carried by a unanimous vote of all ten members present.*

A communication from Mayor Tyler submitting an Order appropriating \$750,000 from certified free cash to reduce the Fiscal Year 2023 Tax Rate. *Councilor Kronick made a motion to refer to the Committee of the Whole carried by a unanimous vote of all ten members present.*

#### **COMMUNICATIONS AND REPORTS FROM CITY OFFICERS AND BOARDS**

A communication from Superintendent Curtis on a petition requesting to allow parking spaces for students attending the Adult Learning Center. *Councilor Kalinowsky made a motion to accept and place on file carried by a unanimous vote of all ten members present.*



A communication from the Community Development Board on a petition regarding new changes to the abutter notification process. *Councilor Conant made a motion to file without prejudice carried by a unanimous vote of all ten members present.*

A communication from the Community Development Board on a petition to replace the term "Planning Board" with "Community Development Board". *Councilor Warren made a motion to refer to the Community Development Board for a Public hearing carried by a unanimous vote of all ten members present.*

### **UNFINISHED BUSINESS**

A communication from Attorney Pagnotta on a petition requesting a legal opinion as to all the steps necessary to create a new position *(tabled February 8, 2022) Remained tabled.*

A communication from the Pittsfield Board of Health concerning the investigation of health concerns reported by the residents that live near the cell tower at 877 South Street *(tabled April 26, 2022)* **Executive Session for purposes of litigation.** At 7:48, *Councilor Kronick made a motion to go into executive session. A unanimous roll call vote was taken of all ten members present. A unanimous roll call vote was taken at 9:30 p.m. to return to regular session.* President Marchetti stated while in executive session we learned that Verizon has filed a case against the City of Pittsfield in Federal Court. *Councilor Kronick made a motion to table carried by a unanimous vote of all ten members present.*

### **REPORTS OF COMMITTEES**

#### **A report from the Ordinances and Rules Committee**

A report from the Ordinances and Rules Committee on a petition from Councilor Warren requesting to accept MGL Chapter 59, Section 5 Clause 22H, recommending to approve 4/0. *Councilor Warren made a motion to approve. Councilor Kronick asked how many residents would qualify. Councilor Warren stated that he believes only one. The motion to approve was carried by a 9/1 vote with Councilor Kronick in opposition.*

A report from the Ordinances and Rules Committee on an Order to rescind Order No. 9 of the 1974 Series establishing the Cable Television Commission. *Councilor Kronick made a motion to approve carried by a unanimous vote of all ten members present.*

A report from the Ordinances and Rules Committee on an Ordinance amending Chapter 2, Administration by creating Article LIII, Cable Advisory Committee, recommending to approve 4/0. *Councilor Kronick made a motion to Ordain carried by a unanimous roll call vote of all ten members present.*

A report from the Ordinances and Rules Committee on a petition from Rinaldo DelGallo requesting to equip Pittsfield Police Officers with body cameras, recommending to amend to state

the City Council endorses the Pittsfield Police Dept. to obtain and implement body and dash cameras and approve 4/0. *Councilor Kronick made a motion to file.* Councilor White stated that he will not support filing the petition. O&R voted 4/0 to support and move forward and to endorse. Councilor Kalinowsky asked Chief Wynn if we vote yes, on this how long it would take to implement. Chief Wynn stated it would have to go through a bid process and award a contract so it would not be before mid-summer if the funding were in place. The downstream issue is personnel to review and redacting. It will not be a quick fit but not years. Councilor Kronick asked Chief Wynn about privacy issues. Chief Wynn stated that policy and the law should address those concerns. President Marchetti stated this will not set in stone, we will be endorsing the policy and refer to the Mayor and Chief to follow through on. Councilor Warren will vote to approve he does not want to see this delayed. Councilor Persip said this is one of the easier votes he will make this year as everyone is in agreement. *The motion to file failed 0/10.* Councilor Kronick asked Attorney Pagnotta if it is possible to write a policy to dictate when a body camera does not have to be on or does it always have to be on? President Marchetti stated that is something the policy would dictate when it is created and implemented. Attorney Pagnotta stated the policy will dictate when they have to be on when going to a call. They do not have to be on 24 hours a day. *Councilor Kronick made a motion to endorse the petition and refer to the Mayor, the Police Chief, State Delegation, Senator Hinds, Representative Farley-Bouvier, Representative Mark, Governor, and Attorney General carried by a unanimous vote of all ten members present.*

A report from the Ordinances and Rules Committee on a petition from LeMarr Talley requesting an act establishing body cameras for all law enforcement within Berkshire County, recommending to approve, 4/0. *The motion to file failed 0/10. Councilor Kronick made a motion to endorse the petition and refer to the Mayor, the Police Chief, State Delegation, Senator Hinds, Representative Farley-Bouvier, Representative Mark, Governor, and Attorney General carried by a unanimous vote of all ten members present.*

Item 40 taken out of order.

*A report from the Community and Economic Development Committee and Finance Committee*

A report from the Community and Economic Development Committee and Finance Committee on two Orders to assist SolaBlock, Inc., and Silver Street Realty, Inc.: Order 1: Requesting a Five-Year Tax Increment Financing Agreement, recommending to approve 5/0. *Councilor Kronick made a motion to approve carried by a unanimous vote of all ten members present.* Order 2: Authorizing to use \$125,000.00 from the Pittsfield Economic Development Fund, recommending to approve 3/0. *Councilor Kronick made a motion to approve carried by a unanimous vote of all ten members present.*

Item 41 taken out of order.

*A report from the Finance Committee*

A report from the Finance Committee on an Order to transfer \$179,000.00 from Water Enterprise retained earnings to the FY22 Water Operating Budget, recommending to approve 3/2. *Councilor Kronick made a motion to approve for the purpose of discussion.* Councilor Kronick asked Director Kerwood why we are not using the ten million dollar standard allowance for these expenses. We are spending ARPA as we go along but it could be used for lost revenue as the Treasury has amended the order. Director Kerwood said you can use those in the calculation of lost revenue but it does not mean you can charge expenses to the lost revenue. Councilor Kronick said we need to be flexible. Mr. Kerwood said they have opted to take the standard ten million dollars so there is no need to calculate. Councilor Kronick asked the Council if we can save the



taxpayers money and use ARPA funds. *The motion to approve was carried by an 8/2 vote with Councilors Kronick and Kalinowsky in opposition.*

Item 42 taken out of order.

A report from the Finance Committee on an Order to transfer \$400,000.00 from Sewer Enterprise retained earnings to the FY22 Wastewater Operating Budget, recommending to approve 3/2. *Councilor Kronick made a motion to approve for the purpose of discussion.* Councilor Kalinowsky asked Director Kerwood if sewer projects come out of the Sewer Enterprise funds. Mr. Kerwood said it depends. Generally when doing water and sewer projects by issuing debt then paid back by the enterprise fund. Dan Fox was different and came from multiple funds. Councilor Kalinowsky questioned the \$292,000 remaining for chemicals. Mr. Kerwood said the remaining balance is actually \$202,889. Councilor Kalinowsky does not think we would go over. Mr. Kerwood did not have the answer but suggested that possibly towards summer there may be a different chemical in the system. Councilor Kalinowsky asked if she can make a motion to table this item until the Commissioner can answer some of her questions. She questioned why some of the funds for Dan Fox Drive came out of the Wastewater budget. Mr. Kerwood stated it was a multiple funded project and it did not come out of their budget, it came out of debt and capital operation. Councilor Kalinowsky made a motion to table that failed by a roll call vote of 6/4 with Councilors Kronick, Warren, Kalinowsky and Sherman in favor. *The motion to approve was carried by a 7/3 vote with Councilors Kronick, Kalinowsky and Sherman in opposition.*

President Marchetti stated for the first time we will enact rule 1E; All City Council meetings will adjourn by 10:00 p.m. A non-debatable motion can be made to continue for an additional hour after the current item has concluded that must pass by a 2/3 roll call vote. *Councilor Kronick made a motion to continue. The motion passed by a 7/3 roll call vote with Councilors Persip, Conant and Lampiasi in opposition.*

#### A report from the Traffic Commission

A report from the Traffic Commission on a Traffic Order to establish one-way traffic at the following locations, School Street and Allen Street, recommending to approve 5/0. *Councilor Kronick made a motion to approve carried by a unanimous vote of all ten members present.*

A report from the Traffic Commission on a Traffic Order to establish parking regulations on portions of Elm Street, recommending to approve 5/0. *Councilor Kronick made a motion to approve carried by a unanimous vote of all ten members present.*

A report from the Traffic Commission on a Traffic Order to establish parking regulations on portions of Union Street, recommending to approve 5/0. *Councilor Kronick made a motion to approve carried by a unanimous vote of all ten members present.*

A report from the Traffic Commission on a Traffic Order to establish parking regulations on portions of Allen Street, recommending to amend "a parking zone designated for police vehicles, except for the first three spaces designated for the public with a 15-minute time limit" replacing a No Parking Zone 5/0. *Councilor Kronick made a motion to approve carried by a unanimous vote of all ten members present.*

A report from the Traffic Commission on a Traffic Order to establish official stop signs on School Street and Allen Street, recommending to refer to the Commissioner of Public Utilities and the Pittsfield Police Department 5/0. *Councilor Kronick made a motion to refer to the Commissioner*

*of Public Works and the Pittsfield Police Department carried by a unanimous vote of all ten members present.*

A report from the Traffic Commission on a Traffic Order for the implementation of bust stops throughout the city, recommending to approve 5/0. *Councilor Kronick made a motion to approve carried by a unanimous vote of all ten members present.*

A report from the Traffic Commission on a Traffic Order to establish parking regulations on a portion of Bay State Road, recommending to approve 5/0. *Councilor Kronick made a motion to approve carried by a unanimous vote of all ten members present.*

A report from the Traffic Commission on a Traffic Order to establish parking regulations on a portion of Pomeroy Avenue, recommending to amend by deleting "one-hour parking zone" and adding "un-restricted parking zone" 5/0. *Councilor Kronick made a motion to approve carried by a unanimous vote of all ten members present.*

A report from the Traffic Commission on a petition from Councilor Kalinowsky to investigate safety issues with the new bike lanes and changes in traffic pattern on North Street, recommending to refer to the Commissioner of Public Services and the Pittsfield Police Department for a report 5/0. *Councilor Kronick made a motion to refer to the Commissioner of Public Works and the Pittsfield Police Department carried by a unanimous vote of all ten members present.*

A report from the Traffic Commission on a petition from Dan Miraglia and Gene Nadeau requesting a traffic study at 874 North Street, recommending to refer to the Parks Commission 5/0. *Councilor Kronick made a motion to refer to the Parks Commission carried by a unanimous vote of all ten members present.*

#### **MATTERS TENTATIVELY REFERRED BY THE PRESIDENT UNDER RULE 27**

##### *Referred to the Police Chief*

A petition from Councilor Warren and Kalinowsky requesting a report on the status of the implementation of the Edward Byrne Memorial Justice Assistance Grant

##### *Referred to the Ordinances and Rules Committee*

A petition from Councilor Warren on the ACLU Model for Community Control Surveillance Technology

A petition from Councilor Warren on the ACLU Model for body worn camera policy for Massachusetts Police Departments

A petition from Councilor Conant requesting to amend the property tax exemption eligibility age from age 68 to 65 for exemption clause 41

A petition from Councilor Kronick requesting to amend Chapter 8, Section 12 entitled "Depositing Waste Materials in Public Ways" and Chapter 8, Section 15 to extend the definition of business to apartments of 3 or more units

##### *Referred to Department of Community Development and Director Cambi*

An additional petition from LeMarr Talley requesting and act establishing mandatory regulations as to housing by real estate agencies

*Referred to the Finance Committee*

A petition from Councilor Warren requesting to elect a standard allowance for revenue loss in the amount of ten million dollars

*Referred to the City Solicitor*

A petition from Councilor Warren requesting to determine the status, membership, and current compliance of the city Committee on Finance

10:16 p.m. Councilor Kronick made a motion to adjourn the City Council meeting carried by a unanimous vote of the ten members present.

**A true record, attest:  
Michele M. Benjamin, City Clerk**



# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201  
(413) 499-9321 • ltyer@cityofpittsfield.org

**Linda M. Tyer**  
**Mayor**

May 17, 2022

To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors,

It is my sincere privilege to submit herewith for your consideration the appointment of Matthew H. Talis, of 112 Plunkett Street, Pittsfield, MA to the Airport Commission for a term expiring May 24, 2025.

Respectfully submitted,

*Linda M. Tyer*  
Linda M. Tyer  
Mayor

## **SUMMARY**

- CPIM Certified, Materials Manager with expertise in purchasing, receiving, shipping, logistics, production planning and inventory control.
- Willingness and ability to learn quickly and adapt to new challenges.
- Demonstrated leadership ability to motivate employees to meet deadlines while achieving quality results.
- Conscientious individual who shows initiative and fulfills commitments.
- Proficient in: Microsoft Excel, Word, Outlook, Woods Gordon system (AS-400), BAAN (v.3.1b & v.4.0), Automated Distribution System (ADS), Business Works Gold (Best Software), IQMS ERP software, IFS ERP Software

## **WORK HISTORY**

### **ERP SME & Support Lead, GENERAL DYNAMICS MS, Pittsfield, MA**

**Present – March 2014**

- ERP System Administrator for all Manufacturing sites
  - Design all new user requested reports and test once complete before approving to moving into the production environment. In 2013 the new reports developed resulted in close to \$500,000 savings.
  - Review and approve all new user permissions.
  - Data Analysis to determine system functionality is operating as designed.
  - MMAS POC for system integrity and process adhesion.
  - Review of all technical specs for modifications also testing of modifications for approval into production.
  - Troubleshoot system issues for Pittsfield and other sites.
  - Manage all financial transactions in the ERP system to maintain MMAS compliance and billing integrity.
- Vertical Storage Solution
  - Researched and sourced a high capacity vertical storage unit for the main stockroom
  - Coordinated onsite install of the unit
  - Developed the design specs for the software/IFS interface and performed extensive testing resulting in all orders feeding from IFS into the VSU.

### **Supervisor III – Planning/Material Control, GENERAL DYNAMICS AIS, Pittsfield March 2014 - July 2010**

- ERP System Administrator for Pittsfield Manufacturing
- Work Load Forecast
  - Interface with Program Office for Scope, Budgets and Schedule
  - Program Engineering Interface for quarterly inputs, changes, and resolution of discrepancies.
  - Functional Management Interface for Capacity Planning, monitoring and communicating DAL spend plan.
  - Interface with Engineering to review Schedules, Budgets, Scope and design approach.
- Point of Contact for all Material related audits
  - Gather documentation for all audit requests both internal and for the US Government
  - Successfully completed all audit requests with zero findings since taking over the audit requests in 2010
- Manage Shipping/Receiving union personnel's day to day activities, schedule overtime as required and developed a cross training process for coverage during vacations and absenteeism.
- Manage all stockroom and inventory areas
  - Provide day to day priorities to union personnel.
  - Manage the cycle count program
  - Manage warehouse efficiency and space constraints
  - Developed a system generated shortage notification to eliminate manual emails saving \$117,000 annually.

### **Principal Specialist Planning/Material Control, General Dynamics-AIS, Pittsfield July 2010 – July 2008**

- Control Account Manager responsible for cost and schedule of entire mod 6/7 program total cost approx. \$50 million.
  - Interface to Program Office for Manufacturing for budgets, schedule impacts and forecasted labor concerns.
  - Functional Management Interface to communicate Budget Performance & Schedule Performance.
- Earned Value Management System (EVMS), responsible for applying EVM techniques for managing \$26 million of the Mod 6/7 program, includes monthly reporting and variance analysis.
  - Program Management Interface for Baseline Change Requests, Scope changes, Budgets.
  - ICAS Interface for IMS updates, Estimates to Complete, Variance Analysis, Baseline Change Requests, Contract Performance Report reviews and Approval of Control Account Plans.
  - Represent Manufacturing for Surveillance audits and Progress assistance audits regarding EVMS and MFG.
- Proposal support and generation for Manufacturing including Labor and Material.
- ERP Core team member gathering system requirements and determining system changes required to meet these requirements.
- Work Load Forecast
  - Interface with Program Office for Scope, Budgets and Schedule

- Program Engineering Interface for quarterly inputs, changes, and resolution of discrepancies.
- Functional Management Interface for Capacity Planning, monitoring and communicating DAL spend plan.
- Interface with Engineering to review Schedules, Budgets, Scope and design approach.

***Materials/Production Planning Manager, Apex Resource Technologies, Pittsfield July 2008 - January 2005***

- Review all new orders and schedule machine time based on run time of order and operator/material availability.
- Schedule and manage twenty two full time employees including performance reviews and career development also managed workflow for three shifts and nineteen machines and also schedule secondary assembly area and pad printing operations.
- Implemented Bill of Material controls to improve inventory accuracy and achieve consistency from run to run improving scrap rates, also managed all aspects of Inventory control and Shipping/Receiving & MRP.
- Source and Purchase all materials and supplies and machinery, 2007 sourced new materials for certain projects saving the company \$ 44,000.
- Quote piece part prices for all existing jobs and all new orders.
- Work closely with the sales team to forecast customer current needs and future requirements, this is to plan production runs and min/max levels in inventory.
- Successfully implemented new ERP software system, main responsibilities include creating all BOM's, and all MRP items, uploading all inventory items and associated data, creating and uploading work centers and relative information. Entering all priors and training key users. No missed shipments during implementation.

***Store Manager, Tire Warehouse and Auto Parts, Pittsfield, MA December 2004 – March 2004***

- Regained a \$50,000 deficit in sales by improving and enforcing customer service policies and small business relations.
- Managed four full time and three part time employees including performance reviews and career development.
- Improved inventory accuracy by cycle counting and organizing current inventory.
- Acquired new business by implementing simple new services such as local delivery of tires and parts.

***Receiving Supervisor, K•B Toys Berkshire DC, Pittsfield, MA March 2004 – May 2002***

- Scheduled and coordinated freight movements for off loading freight that consisted of 5 to 20 trucks totaling 5,000 to 25,000 cartons each day.
- Organized and maintained daily tasks for 10 – 30 direct associates, including performance reviews and career development.
- Negotiated new pricing and maintenance schedules for all power equipment, also negotiated pricing for building updates and coordinated installations.

***Project Coordinator, Husky Injection Mold, Milton, VT April 2002 - Dec. 2001***

- Introduced Lean Manufacturing through out the Controls business
- Logistically coordinated a point of use inventory system that reduced travel time by 4hrs per project reduced the stockroom square footage by ½ and increased inventory accuracy to 97%.
- Responsible for driving all anticipated and unanticipated BaaN issues to the conclusion required to support Lean Manufacturing initiatives and efforts.
- Liable for interpreting Engineering Action Notices, executing bill of materials updates, coordinating parts orders and maintaining inventory accuracy.

***Warehouse Team Leader, Husky Injection Mold, Milton, VT Dec. 2001 – Nov 1999***

- Developed an aggressive cross training program for the team that resulted in a self-sufficient department within one year.
- Developed procedures and wrote all work instructions for the entire warehouse for ISO 9000 certification.
- Instrumental in a two bin reorder system for floor stock materials. This concept resulted into a VMI program that in turn saved time for the receiving department and saved money for the business.

***Material Handler Group Leader, Husky Injection Mold, Pittsfield, MA Nov. 1999 - Sept 1997***

***Outbound Dispatch Supervisor, Valerie Transportation, Lee, MA Sept 1997 – July 1996***

***Material Handler, Beloit Corp, Pittsfield, MA July 1996 – Jan 1995***

***Delivery Coordinator, Samel's Deli, Pittsfield, MA Jan 1995 – June 1994***

**EDUCATION**

2008 APICS CPIM Certification

2001/2002 VMEC (Vermont Manufacturing Extension Center)

Lean manufacturing workshops – Manufacturing Principles of Lean Manufacturing 101

- Cellular/Flow - Flowing the Value Stream - Pull/Kanban Material Systems

2000 Zenger Miller Leadership course Williston, VT

1994 Taconic High School Pittsfield, MA



# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201  
(413) 499-9321 • ltyer@cityofpittsfield.org

**Linda M. Tyer**  
**Mayor**

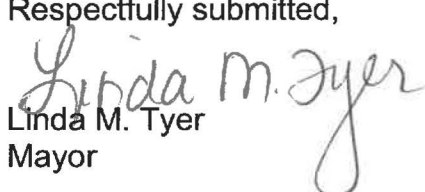
May 17, 2022

To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors:

I am submitting this communication to notify you that I am appointing Christopher Bradley as a Permanent Fire Lieutenant with the Pittsfield Fire Department in accordance with Civil Service regulations.

Respectfully submitted,

  
Linda M. Tyer  
Mayor

LMT/CVB





**City of Pittsfield Fire Department**

74 COLUMBUS AVENUE, PITTSFIELD, MA 01201 (413) 448-9764 FAX (413) 448-9766

May 17, 2022

Mayor Linda Tyer  
Pittsfield City Hall  
70 Allen Street  
Pittsfield, MA 01201

Mayor Tyer;

Submitted for your consideration is a request to appoint Firefighter Christopher Bradley to the position of Permanent Fire Lieutenant in the Pittsfield Fire Department.

Respectfully submitted,

Thomas Sammons  
Fire Chief



# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201  
(413) 499-9321 • ltyer@cityofpittsfield.org

**Linda M. Tyer**  
**Mayor**


May 17, 2022

To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration is an Order to accept additional grant of funds in the amount of \$50,000.00 from the Massachusetts Executive Office of Health and Human Services for the FY22 Safe and Successful Youth Initiative (SSYI) Grant.

Respectfully submitted,

  
Linda M. Tyer, Mayor

LMT/CVB  
Enclosure



**CITY OF PITTSFIELD  
POLICE DEPARTMENT**

POLICE HEADQUARTERS, 39 ALLEN STREET, PITTSFIELD, MASSACHUSETTS 01201 (413) 448-9700, FAX (413) 448-9733

OFFICE OF THE CHIEF OF POLICE

(413) 448-9717

PROFESSIONALISM • ETHICS • INTEGRITY • SENSITIVITY • ACCOUNTABILITY

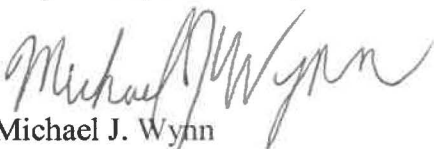
April 27, 2022

Honorable Linda Tyer  
Mayor-City of Pittsfield  
70 Allen St  
Pittsfield, MA 01201

Dear Mayor Tyer,

Submitted for your consideration is an authorization requesting that the City of Pittsfield accept additional funds for the FY22 Safe and Successful Youth Initiative (SSYI) Grant in the amount of \$50,000.00 from the Executive Office of Health & Human Services to the Pittsfield Police Department.

Respectfully submitted,

  
Michael J. Wynn  
Chief of Police

c: Matthew Kerwood, Director of Finance  
Allison Crespo, City Accountant

**"DEDICATED TO EXCELLENCE"**

# City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

**AUTHORIZING THE CITY OF PITTSFIELD TO ACCEPT  
ADDITIONAL FUNDS FOR THE SAFE AND SUCCESSFUL  
YOUTH INITIATIVE (SSYI) GRANT IN THE AMOUNT OF \$50,000.00  
FROM THE EXECUTIVE OFFICE OF HEALTH & HUMAN SERVICES**

No. \_\_\_\_\_

**Ordered:**

That the City of Pittsfield, acting through its Mayor and City Council, and pursuant to M.G.L. Chapter 44, Section 53A, is hereby authorized to accept additional grant funds for the FY22 Safe and Successful Youth Initiative (SSYI) Grant in the amount of \$50,000.00 from the Executive Office of Health & Human Services to the Pittsfield Police Department.

# COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the Office of the Comptroller (CTR), the Executive Office for Administration and Finance (ANF), and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. The Commonwealth deems void any changes made on or by attachment (in the form of addendum, engagement letters, contract forms or invoice terms) to the terms in this published form or to the Standard Contract Form Instructions and Contractor Certifications, the Commonwealth Terms and Conditions for Human and Social Services or the Commonwealth IT Terms and Conditions which are incorporated by reference herein. Additional non-conflicting terms may be added by Attachment. Contractors are required to access published forms at CTR Forms: <https://www.mass.gov/lists/ctr-forms>. Forms are also posted at OSD Forms: <https://www.mass.gov/lists/osd-forms>.

<b>CONTRACTOR LEGAL NAME:</b> City of Pittsfield (and d/b/a):		<b>COMMONWEALTH DEPARTMENT NAME:</b> Exec. Office of Health and Human Services <b>MMARS Department Code:</b> EHS	
<b>Legal Address: (W-9, W-4):</b> 70 Allen St., Pittsfield, MA 01201-6250		<b>Business Mailing Address:</b> One Ashburton Place, 11th Fl., Boston, MA 02108	
<b>Contract Manager:</b> Margaret Gregory-Bilotta	<b>Phone:</b> 413-970-0717	<b>Billing Address (if different):</b> 600 Washington St., 7th Fl., Boston, MA 02116	
<b>E-Mail:</b> mgregory@cityofpittsfield.org	<b>Fax:</b> 413-448-9818	<b>Contract Manager:</b> Glenn Daly	<b>Phone:</b> 617-573-1706
<b>Contractor Vendor Code:</b> VC6000192128		<b>E-Mail:</b> glenn.daly@mass.gov	<b>Fax:</b> 617-573-1890
<b>Vendor Code Address ID (e.g., "AD001"):</b> AD001. (Note: The Address ID must be set up for EFT payments.)		<b>MMARS Doc ID(s):</b> CT EHS 16EHS570SSYPITTSFCB	
<b>RFR/Procurement or Other ID Number:</b> BD-16-1039-EHS01-EHS01-0000004859			
<input type="checkbox"/> <b>NEW CONTRACT</b>  <b>PROCUREMENT OR EXCEPTION TYPE: (Check one option only)</b> <input type="checkbox"/> <b>Statewide Contract</b> (OSD or an OSD-designated Department) <input type="checkbox"/> <b>Collective Purchase</b> (Attach OSD approval, scope, budget) <input type="checkbox"/> <b>Department Procurement</b> (includes all Grants - 815 CMR 2.00) (Solicitation Notice or RFR, and Response or other procurement supporting documentation) <input type="checkbox"/> <b>Emergency Contract</b> (Attach justification for emergency, scope, budget) <input type="checkbox"/> <b>Contract Employee</b> (Attach Employment Status Form, scope, budget) <input type="checkbox"/> <b>Other Procurement Exception</b> (Attach authorizing language, legislation with specific exemption or earmark, and exception justification, scope and budget)		<input checked="" type="checkbox"/> <b>CONTRACT AMENDMENT</b>  Enter Current Contract End Date <u>Prior</u> to Amendment: <u>June 30, 2022</u> . Enter Amendment Amount: \$ <u>50,000.00</u> . (or "no change") <b>AMENDMENT TYPE: (Check one option only. Attach details of amendment changes.)</b> <input checked="" type="checkbox"/> <b>Amendment to Date, Scope or Budget</b> (Attach updated scope and budget) <input type="checkbox"/> <b>Interim Contract</b> (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> <b>Contract Employee</b> (Attach any updates to scope or budget) <input type="checkbox"/> <b>Other Procurement Exception</b> (Attach authorizing language/justification and updated scope and budget)	
<b>The Standard Contract Form Instructions and Contractor Certifications and the following Commonwealth Terms and Conditions document are incorporated by reference into this Contract and are legally binding: (Check ONE option):</b> <input checked="" type="checkbox"/> <u>Commonwealth Terms and Conditions</u> <input type="checkbox"/> <u>Commonwealth Terms and Conditions For Human and Social Services</u> <input type="checkbox"/> <u>Commonwealth IT Terms and Conditions</u>			
<b>COMPENSATION: (Check ONE option):</b> The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00. <input type="checkbox"/> <b>Rate Contract.</b> (No Maximum Obligation) Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input checked="" type="checkbox"/> <b>Maximum Obligation Contract.</b> Enter total maximum obligation for total duration of this contract (or <u>new</u> total if Contract is being amended): \$ <u>3,080,000.00</u> .			
<b>PROMPT PAYMENT DISCOUNTS (PPD):</b> Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days ____ % PPD; Payment issued within 15 days ____ % PPD; Payment issued within 20 days ____ % PPD; Payment issued within 30 days ____ % PPD. If PPD percentages are left blank, identify reason: <input checked="" type="checkbox"/> agree to standard 45 day cycle <input type="checkbox"/> statutory/legal or Ready Payments (M.G.L. c. 29, § 23A); <input type="checkbox"/> only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy.)			
<b>BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT:</b> (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) Amendment 2 to this Second Amended and Restated Grant Agreement makes certain programmatic updates, reallocates unexpended FY21 funds for FY22, and increases the maximum obligation to the term of the agreement through June 30, 2022.			
<b>ANTICIPATED START DATE:</b> (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <input checked="" type="checkbox"/> 1. may be incurred as of the Effective Date (latest signature date below) and <u>no</u> obligations have been incurred <u>prior</u> to the Effective Date. <input type="checkbox"/> 2. may be incurred as of <u>    </u> , 20 <u>    </u> , a date <u>LATER</u> than the Effective Date below and <u>no</u> obligations have been incurred <u>prior</u> to the Effective Date. <input type="checkbox"/> 3. were incurred as of <u>    </u> , 20 <u>    </u> , a date <u>PRIOR</u> to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.			
<b>CONTRACT END DATE:</b> Contract performance shall terminate as of <u>June 30, 2022</u> , with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.			
<b>CERTIFICATIONS:</b> Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor certifies that they have accessed and reviewed all documents incorporated by reference as electronically published and the Contractor makes all certifications required under the Standard Contract Form Instructions and Contractor Certifications under the pains and penalties of perjury, and further agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions, this Standard Contract Form, the Standard Contract Form Instructions and Contractor Certifications, the Request for Response (RFR) or other solicitation, the Contractor's Response (excluding any language stricken by a Department as unacceptable, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07, incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.			
<b>AUTHORIZING SIGNATURE FOR THE CONTRACTOR:</b>  X: <u>Michael Wynne</u> Date: <u>5/11/22</u> (Signature and Date Must Be Captured At Time of Signature)  Print Name: <u>Chief Michael Wynne</u> Print Title: <u>City Police Chief</u>		<b>AUTHORIZING SIGNATURE FOR THE COMMONWEALTH:</b>  X: _____ Date: _____ (Signature and Date Must Be Captured At Time of Signature)  Print Name: <u>Katherine Harvell Haney</u> Print Title: <u>Chief Financial Officer</u>	

# SSYI Budget with Amendments

Site: Pittsfield

*This Sheet Is Populated from Data Entered in Blue Cells in Other Sheets*

Line Items	Initial Budget	Amendment 1	Amendment 2	Amendment 3	Amendment 4	Budget Total
Program Staff Salaries	303,137	-	-	-	-	303,137
Program Staff Taxes and Fringe Benefits	67,448	-	-	-	-	67,448
<i>Tax and Fringe Rate</i>						22.25%
# of Program Staff FTEs	6.34	-	-	-	-	6.34
<b>Total Staff Payroll</b>	<b>370,586</b>	-	-	-	-	<b>370,586</b>
Participant Payroll (Subsidized Employment)	-	-	-	-	-	-
Participant Taxes and Fringe Benefits	-	-	-	-	-	-
<i>Tax and Fringe Rate</i>						
Participant Stipends, Incentives, and Other Assistance	23,500	125,180	-	-	-	148,680
<b>Total Payments to Participants</b>	<b>23,500</b>	<b>125,180</b>	-	-	-	<b>148,680</b>
Consultants	-	-	-	-	-	-
Training	-	-	-	-	-	-
Travel	-	-	-	-	-	-
Meals	500	-	-	-	-	500
Facilities	38,408	-	-	-	-	38,408
Equipment	-	-	-	-	-	-
Supplies	3,448	-	-	-	-	3,448
Other	18,104	-	-	-	-	18,104
<b>Total Direct Expenses</b>	<b>454,545</b>	<b>125,180</b>	-	-	-	<b>579,725</b>
Overall Indirect Expenses	57,973	-	-	-	-	57,973
<i>Overall Indirect Rate</i>						10.00%
<b>TOTAL BUDGET</b>	<b>512,518</b>	<b>125,180</b>	-	-	-	<b>637,698</b>

## SSYI Current Budget

SSYI Site:		Pittsfield	Fiscal Year:		2022	Grant Amount:	500,000
Line Items	Total	Police	Lead Agency	Licensed Mental Health Agency	Partner 1	Partner 2	
			18 Degrees, Inc				
Program Staff Salaries	303,137	-	303,137	-	-	-	
Program Staff Taxes and Fringe Benefits	67,448	-	67,448	-	-	-	
Tax and Fringe Rate	22.3%	-	22.3%	-	-	-	
# of Program Staff FTEs	6.34	-	6.34	-	-	-	
Total Staff Payroll	370,586	-	370,586	-	-	-	
Participant Payroll (Subsidized Employment)	-	-	-	-	-	-	
Participant Taxes and Fringe Benefits	-	-	-	-	-	-	
Tax and Fringe Rate	-	-	-	-	-	-	
Participant Stipends, Incentives, and Other Assistance	148,680	-	148,680	-	-	-	
Total Payments to Participants	148,680	-	148,680	-	-	-	
Consultants	-	-	-	-	-	-	
Training	-	-	-	-	-	-	
Travel	-	-	-	-	-	-	
Meals	500	-	500	-	-	-	
Facilities	38,408	-	38,408	-	-	-	
Equipment	-	-	-	-	-	-	
Supplies	3,448	-	3,448	-	-	-	
Other	18,104	-	18,104	-	-	-	
Total Direct Expenses	579,725	-	579,725	-	-	-	
Indirect Expenses	57,973	-	57,973	-	-	-	
Indirect Rate	10.0%	-	10.0%	-	-	-	
TOTAL BUDGET	637,698	-	637,698	-	-	-	

Ensure that the total budget equals the total grant award.



## SSYI Current Budget

Budget Version:		Initial Budget		Completed by: Jennifer Coscia			
Line Items	Partner 3	Partner 4	Partner 5	Partner 6	Partner 7	Partner 8	Partner 9
Program Staff Salaries	-	-	-	-	-	-	-
Program Staff Taxes and Fringe Benefits	-	-	-	-	-	-	-
<i>Tax and Fringe Rate</i>	-	-	-	-	-	-	-
# of Program Staff FTEs	-	-	-	-	-	-	-
<b>Total Staff Payroll</b>	-	-	-	-	-	-	-
Participant Payroll (Subsidized Employment)	-	-	-	-	-	-	-
Participant Taxes and Fringe Benefits	-	-	-	-	-	-	-
<i>Tax and Fringe Rate</i>	-	-	-	-	-	-	-
Participant Stipends, Incentives, and Other Assistance	-	-	-	-	-	-	-
<b>Total Payments to Participants</b>	-	-	-	-	-	-	-
Consultants	-	-	-	-	-	-	-
Training	-	-	-	-	-	-	-
Travel	-	-	-	-	-	-	-
Meals	-	-	-	-	-	-	-
Facilities	-	-	-	-	-	-	-
Equipment	-	-	-	-	-	-	-
Supplies	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-
<b>Total Direct Expenses</b>	-	-	-	-	-	-	-
Indirect Expenses	-	-	-	-	-	-	-
<i>Indirect Rate</i>	-	-	-	-	-	-	-
<b>TOTAL BUDGET</b>	-	-	-	-	-	-	-

**AMENDMENT 2 TO THE  
SECOND AMENDED AND RESTATED GRANT AGREEMENT  
BY AND BETWEEN  
THE EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES  
AND  
THE CITY OF PITTSFIELD  
FOR  
THE SAFE AND SUCCESSFUL YOUTH INITIATIVE**

This Amendment 2 to the Second Amended and Restated Grant Agreement (Grant Agreement) is by and between the Massachusetts Executive Office of Health and Human Services (EOHHS) and The City of Pittsfield (Grantee), with principal offices located at: 70 Allen Street, Pittsfield, MA 01201.

**WHEREAS**, EOHHS issued a Grant Application for the Safe and Successful Youth Initiative (Grant Application) and EOHHS selected the Grantee based on the Grantee's response to the Grant Application submitted on or before the required response date; and

**WHEREAS**, the Grantee appears qualified and is willing to perform its duties as set forth herein subject to the terms and conditions hereof; and

**WHEREAS**, EOHHS and the Grantee entered into the Grant Agreement effective December 29, 2015, and as subsequently amended and restated on July 5, 2017 (First Amended and Restated Grant Agreement) and amended on May 8, 2018 (Amendment 1), February 2, 2019 (Amendment 2), and June 25, 2019 (Amendment 3), and amended and restated on February 7, 2020 (Second Amended and Restated Grant Agreement), and amended on June 28, 2021 (Amendment 1 to the Second Amended and Restated Grant Agreement) for the Safe and Successful Youth Initiative (SSYI); and

**WHEREAS**, the Grantee had unexpended allocated funds of \$75,180 for FY 2021 and identified anticipated additional funding needs of \$50,000 for FY 2022;

**WHEREAS**, EOHHS wishes to support the Grantee's work through the reallocation of the unexpended FY 2021 funding and allocation of additional funding for FY 2022;

**WHEREAS**, in accordance with **Section 5.14** of the Grant Agreement, EOHHS and the Grantee desire to amend the Grant Agreement to increase the maximum obligation accordingly;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, EOHHS and the Grantee agree as follows:

**Section 4.1.5** shall be deleted in its entirety and replaced with the following:

“5. By May 15<sup>th</sup> of each year, the Grantee shall submit to EOHHS, and EOHHS shall review and approve, an annual budget for the state fiscal year beginning on July 1 of that year, in the form and format specified by EOHHS. The Grantee shall submit an updated budget for EOHHS approval upon any change in the maximum grant amount or as

otherwise requested by EOHHS. EOHHS will review, request modifications, and approve the Grantee's budget as it determines appropriate."

All provisions of the Second Amended and Restated Grant Agreement, as amended, shall remain in full force and effect. The Second Amended and Restated Grant Agreement, as further amended hereby, is hereby ratified and confirmed in its entirety by the Parties. By signing the attached Standard Contract Form, the Parties agree to this Amendment 2.



# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201  
(413) 499-9321 • ltyer@cityofpittsfield.org

**Linda M. Tyer**  
**Mayor**

May 17, 2022

To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration is the following:

- An Order to accept Massachusetts General Law, Chapter 44, Section 55C, Municipal Affordable Housing Trust Fund.
- An Ordinance amending the City Code, Chapter 2, Administration to add Article LIII, Affordable Housing Trust Fund.

Respectfully submitted,

A handwritten signature in black ink that reads "Linda M. Tyer". The signature is written in a cursive, flowing style.

Linda M. Tyer, Mayor

LMT/CVB  
Enclosure



## CITY OF PITTSFIELD

DEPARTMENT OF COMMUNITY DEVELOPMENT, CITY HALL, 70 ALLEN STREET, RM 205, PITTSFIELD, MA 01201

May 17, 2022

Mayor Linda M. Tyer  
70 Allen Street, City Hall  
Pittsfield, MA 01201

Dear Mayor Tyer:

Enclosed is an ordinance requesting the City Council amend the City Code to establish an Affordable Housing Trust. An Affordable Housing Trust is a valuable tool, utilized by over a 120 other cities and towns in Massachusetts to address housing needs in their community, particularly the supply and diversity of housing.

According to the City's Five Year Plan, the key housing problem for Pittsfield residents is cost burden, meaning more than 30% of a households income is used to pay for housing. This burden is experienced disproportionately, specifically by those with lower incomes and households in the Morningside and Westside neighborhoods. Rising rents, an aging housing stock, and a low inventory of available housing have all contributed to the current housing crisis facing the City. A Trust would give the City the opportunity to actively address these housing needs. It allows for the creation, retention and preservation of affordable housing units. A Trust can also provide other types of housing assistance, including rental assistance programs, first time homebuyer and work force housing programs for the benefit of low- to moderate-income Pittsfield residents. The City would have the ability to designate funding to the Trust. Funds for the Trust may come from a variety of sources, such as Community Preservation Act funds, inclusionary zoning payments, developer fees, municipal general funds, tax title sales, and private donations.

After approval by the City Council, the Community Development Office will work with the Mayor's Office to appoint the Board of Trustees for the Affordable Housing Trust. The Board will create an Action Plan and Mission Statement for the Trust, including setting goals for the future.

Sincerely,

A handwritten signature in cursive script that reads "Justine Dodds".

Justine Dodds  
Director

# City of Pittsfield

M A S S A C H U S E T T S

No. \_\_\_\_\_

IN CITY COUNCIL

**AN ORDER**

**AUTHORIZING THE CITY OF PITTSFIELD TO ACCEPT MASSACHUSETTS  
GENERAL LAW, CHAPTER 44, SECTION 55C, MUNICIPAL AFFORDABLE  
HOUSING TRUST FUND**

**Ordered:**

That the City of Pittsfield, acting by and through its Mayor and City Council, hereby authorizes the City to accept Massachusetts General Law, Chapter 44, Section 55C, Municipal Affordable Housing Trust Fund. A copy of the statute is attached hereto.

**Part I** ADMINISTRATION OF THE GOVERNMENT

**Title VII** CITIES, TOWNS AND DISTRICTS

**Chapter 44** MUNICIPAL FINANCE

**Section 55C** MUNICIPAL AFFORDABLE HOUSING TRUST FUND

Section 55C. (a) Notwithstanding section 53 or any other general or special law to the contrary, a city or town that accepts this section may establish a trust to be known as the Municipal Affordable Housing Trust Fund, in this section called the trust. The purpose of the trust is to provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate income households and for the funding of community housing, as defined in and in accordance with the provisions of chapter 44B. Acceptance shall be by majority vote of the municipal legislative body under section 4 of chapter 4.

(b) There shall be a board of trustees, in this section called the board, which shall include no less than 5 trustees, including the chief executive officer, as defined by section 7 of chapter 4, of the city or town, but where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board. Trustees shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the board of selectmen, shall serve for a term not to exceed 2 years, and are designated as public agents for purposes of the constitution of the commonwealth. Nothing in this subsection shall prevent a board of selectmen from appointing the town manager or town administrator as a member or chair of the board, with or without the power to vote.

(c) The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, but a city or town may, by ordinance or by-law, omit or modify any of these powers and may grant to the board additional powers consistent with this section:—



(1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the trust, and such funds shall be accounted for separately by the trust; and provided further, that at the end of each fiscal year, the trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the community preservation committee of the city or town for inclusion in the community preservation initiatives report, form CP-3, to the department of revenue;

(2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

(3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;

(4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;

(5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;

(6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;

(7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

(8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase

or sale of property, by or between any corporation and any other corporation or person;

(9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;

(10) to carry property for accounting purposes other than acquisition date values;

(11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;

(12) to make distributions or divisions of principal in kind;

(13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;

(14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

(15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and

(16) to extend the time for payment of any obligation to the trust.

(d) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or by-law, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.

(e) The trust is a public employer and the members of the board are public employees for purposes of chapter 258.

(f) The trust shall be deemed a municipal agency and the trustees special municipal employees, for purposes of chapter 268A.

(g) The trust is exempt from chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

(h) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.

(i) The trust is a governmental body for purposes of sections 23A, 23B and 23C of chapter 39.

(j) The trust is a board of the city or town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city or town shall be exempt from said chapter 30B.



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 2, "ADMINISTRATION"

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

#### **SECTION I**

That the Code of the City of Pittsfield Chapter 2, shall be amended through the addition of Article LIII, "Affordable Housing Trust Fund":

#### **Section 2-303: Establishment**

The City of Pittsfield "Affordable Housing Trust Fund" is hereby established.

#### **Section 2-304: Purpose**

The Trustees of the Affordable Housing Trust Fund shall administer an Affordable Housing Trust Fund to provide for the creation and preservation of affordable housing within the City of Pittsfield for the benefit of low- to moderate-income households and for the funding of community housing, as defined in and in accordance with the provisions of Massachusetts General Laws Chapter 44B.

#### **Section 2-305: Board of Trustees**

- a. Composition: The City of Pittsfield Affordable Housing Trust Fund shall have a Board of Trustees composed of seven (7) Trustees, composed of the following:
  - i. The Mayor or their designee;
  - ii. One member of the Community Preservation Committee appointed by the Mayor subject to City Council approval, in accordance with the City Charter.;
  - iii. One member of the Community Development Board appointed by the Mayor subject to City Council approval, in accordance with the City Charter.;
  - iv. Four at-large members with a preference for persons with experience relevant to the trust, including, but not limited to: real estate, housing, banking, fundraising, or and/or lived experience. At-large members shall be appointed by the Mayor subject to City Council approval, in accordance with the City Charter.
- b. Term length. Trustees shall serve for a term not to exceed two years, with the initial terms of the Board of Trustees staggered. Terms shall be so arranged that as to equal a number as possible shall expire each year.
- c. Removal; vacancies. A member may resign at any time during the course of his/her term, and the Mayor shall fill the vacancy as soon as practicable. Any member appointed in order to fill such vacancy shall serve for the remainder of the departing member's term. The Mayor may remove a member subject to City Council approval; in which event, the Mayor shall fill said vacancy as soon as practicable. Any member



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

appointed in order to fill such a vacancy shall serve for the remainder of the departing member's term.

### Section 2-306: Powers of the Trustees

- a. **Powers.** The powers of the Board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, subject to the limitations set forth in § 2-306B:
- i. To solicit and accept grants, gifts, devices, and bequests, or otherwise acquire real or personal property;
  - ii. To invest any of the Trust property in such manner as they may deem advisable without being limited as to the kind or amount of any investment;
  - iii. To sell and exchange any real personal property or any interest therein for such consideration and upon such terms and conditions as they deem advisable;
  - iv. To join with others in the acquisition of real property or any interest therein;
  - v. To borrow money and mortgage or pledge any part of the Trust estate assets and issue notes or other indebtedness;
  - vi. To join with others in borrowings, mortgages and pledges, and to guarantee and become surety on obligations of others in transactions in which the Trust has an interest;
  - vii. To execute, as lessor or lessee, leases, including for terms expiring after the possible expiration of the Trust;
  - viii. To restore, construct, repair and maintain buildings and to make other improvements and establish such reserves as they deem necessary therefor;
  - ix. To pay, compromise or adjust all obligations incurred and rights acquired in the administration of the Trust;
  - x. To obtain advice of counsel and to rely thereon;
  - xi. To employ such other persons, agents, staff, brokers, managers, accountants or advisors as they may deem advisable and to pay reasonable compensation and expenses, apportioning same between income and principal as the Board deems advisable; and
  - xii. To execute, acknowledge, and deliver all such contracts, deeds, mortgages, leases, discharges, and partial releases of mortgages or other instruments as they may deem advisable in the course of the administration of the Trust.
- b. **Limitations.** These powers shall be subject to the following limitations:
- i. Any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property must be approved by a supermajority vote (66.6%) of the eligible voting members.
  - ii. The Trustees may incur debt, borrow money, grant mortgages and pledge Trust assets only in an amount not to exceed 80% of the total value of the Trust's assets.
  - iii. Any debt incurred by the Board shall not constitute a pledge of the full faith and credit of the City of Pittsfield, and all documents related to any debt shall contain a statement that the holder of any such debt shall have no recourse against the City of Pittsfield with an acknowledgement of said statement by the holder.



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

- c. Full powers of MGL Chapter 44, Section 55C. The Trustees shall have these and all powers set forth in MGL Chapter 44, Section 55C, and shall refrain from exercising any powers in such manner as to violate the provisions of said statute.
- d. Single appropriation. In accordance with MGL Chapter 44 Section 55C(16)(d), all monies paid to the Trust shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property, and to be expended, these funds need not be further appropriated. All monies remaining in the Trust at the end of any fiscal year, whether or not expended by the Trustees within one year of the date that they were appropriated into the Trust, remain Trust property.

### **Section 2-307: Meetings.**

The Trust shall meet at least quarterly at such time and such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, MGL Chapter 30A, Sections 18 through 25. A quorum at any meeting shall be a majority of the voting members.

### **Section 2-308: Acts of Trustees.**

A majority may exercise any and all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all of the Trustees, subject to the limitations set forth in § 2-306(b)(i). No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust property.

### **Section 2-309: Liability.**

The Trust is a public employer, and the members of the board are public employees for purposes of MGL Chapter 268A. The Trust shall be deemed a municipal agency and the Trustees special municipal employees, for purposes of Chapter 268A.

### **Section 2-310: Taxes.**

The Trust is exempt from MGL Chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

### **Section 2-311 Custodian of Funds.**

The City Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities. Upon receipt of a copy by the Board, a copy shall be provided forthwith to the City Council.

### **Section 2-312 Public body.**

The Trust is a public body for purposes of MGL Chapter 30A Sections 18 through 25.

### **Section 2-313 Board of the City.**

The Trust is a board of the City for purposes of MGL Chapter 30B and MGL Chapter 40, Section 15A, but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the City shall be exempt from said MGL Chapter 30B.



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

**Section 2-314 Rules and Regulations.** The Board may adopt such rules and regulations as required to conduct its affairs, and in keeping with the provisions and intent of MGL Chapter 44, Section 55C.

**Section 2-315 Compensation of Trustees.**

Trustees shall not receive a salary, stipend, bonus, or other means of compensation for their service as a Trustee, nor shall they be eligible for any benefits from the City of Pittsfield. Trustees may be compensated for reasonable out-of-pocket expenses for travel and other Trust-related expenses. All such out-of-pocket expenses shall be fully documented with receipts for expenses prior to payment by the Trust.

**Section 2-316 Conflicts of interest.**

The Trust shall be considered a public employer, and the Trustees shall be subject to the conflict of interest provisions of MGL Chapter 268A.

**Section 2-317 Amendment.**

This Trust may be amended from time to time by approval by at least a supermajority of eligible voting members (66.6%) of the voting members of the Trustees and approval by the City Council; provided, however, that no such amendment shall violate the purposes of this Trust, nor of MGL, Chapter 44, Section 55C.

**Section 2-318 Declaration of Trust.**

The Trustees are hereby authorized to execute a Declaration of Trust and Certificate of Trust for the Pittsfield Affordable Housing Trust to be recorded with the Berkshire Middle Registry of Deeds and filed with the Berkshire Middle Registry District of the Land Court.

**Section 2-319 Duration of Trust.**

The Trust shall be of indefinite duration, until terminated by a vote of the City Council. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the City and held for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the City Council, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

### **SECTION II**

This ordinance shall become effective upon enactment.



# Affordable Housing Trusts in Berkshire County-(Working Draft)

Last Updated: November 12, 2021

## **Introduction**

Affordable Housing Trusts provide a very useful tool to help address the shortage of affordable housing options in Berkshire County. With a lack of housing inventory, increasing rents and a lack of diverse, quality housing stock, many Berkshire County residents are cost-burdened by housing. A municipal Affordable Housing Trust can help create and preserve affordable housing. Over 120 cities and towns have established an Affordable Housing Trust in Massachusetts. This report has been prepared to explain the role of an Affordable Housing Trust, how they could benefit Berkshire County and how they are established.

The Massachusetts Housing Partnership guidebook, Municipal Affordable Housing Trusts, is a very helpful document with more detailed information on starting a Trust.

## **Housing Issues in Berkshire County**

Access to affordable, safe and habitable housing remains a high need throughout Berkshire County for a variety of demographics. Seniors are unable to find housing options that let them remain in their community, even as the number of seniors increases county-wide. Low wage earners remain in a cycle of poverty as their income is largely directed to housing, leaving little for feeding their family or heating their home. Without access to money for a security deposit, relocating to higher quality housing or a better paying job may not be possible. While there are over 16,000 rental units in the county, there is very low turnover each year. 47% of renters in the county were cost burdened. Beyond those directly impacted by the high cost of housing, employers throughout the county recognize that a lack of suitable housing greatly impedes economic growth.

Housing issues are not limited to seniors and low-wage workers. Young people, without families, that wish to remain in the county cannot find quality, affordable housing that meets their smaller requirements. For them, the housing stock is too expensive and too large. Most homes in Berkshire County have 2 or 3 bedrooms, with 41% as 3-bedroom homes. As a result, many young people relocate out of the county for more diverse housing opportunities.

For first time homebuyers, there is little inventory, with less than 1% of the housing in the county on the market. Aside from upper-income, large new construction, there has been very little new housing development undertaken in the county. 67% of residential units in Berkshire County were built before 1979 and 39% were built before 1940. The current housing stock is older with much of it and in need of rehabilitation.

## **What is an Affordable Housing Trust?**

Affordable Housing Trusts are one method of increasing the supply and variety of affordable housing options in a community. An Affordable Housing Trust is part of municipal government and is established through town meeting or city council vote. Once established, an Affordable Housing Trust can assemble funds and those funds can then be used to create and preserve affordable housing through rental assistance, housing rehabilitation or new construction, among other options. With an affordable housing trust, a municipality dedicates funds for affordable housing outside of the general municipal budget. A major benefit of an Affordable Housing Trust is the ability to move quickly and efficiently when real estate opportunities come up.

## **Sources of Funds for the Affordable Housing Trust Fund**

The Community Preservation Act is the most common source of funds for the Affordable Housing Trust. However, an Affordable Housing Trust Fund can be backed by other sources. These include inclusionary zoning payments, developer fees, municipal general funds, tax title sales, cell tower lease payments and private donations.

Inclusionary Zoning Bylaws and Ordinances require new residential developments to include affordable dwelling units within market rate development. However, in some cases, an inclusionary zoning bylaw or ordinance may provide an alternative whereby instead of providing affordable units within the development, a cash payment to the municipality is provided. This payment is dedicated towards the production of affordable housing. For those communities with an Affordable Housing Trust, the funds can go directly to the Affordable Housing Trust fund. Georgetown, Stow and Beverly are set up to receive funds through inclusionary zoning payments.

In order to get the Affordable Housing Trust Fund operating quickly, cities and towns have provided funding to the AHT directly by a vote of town meeting or city council. The initial funding for the town of Orleans Affordable Housing Trust Fund came from a \$275,000 override passed at town meeting. The Williamstown Affordable Housing Trust was initially funded by two town meeting votes that together provided 400,000 for affordable housing projects.

## **How an Affordable Housing Trust can benefit communities in Berkshire County**

What an Affordable Housing Trust accomplishes will depend on the needs and goals of the community as the trust can be adapted to meet a variety of housing needs.

## **Examples of Affordable Housing Trust Projects**

### **Advocacy for Affordable Housing**

The Affordable Housing Trust can take an active role in outreach to the community, explaining current housing issues, who is impacted, and how new regulations, policies and funding could provide better housing options. Zoning changes, such as accessory dwelling units, new multi-family housing districts and inclusionary zoning are several options that can provide additional housing in the community and these could be part of the advocacy role of the Trust.

### **Small Repair Programs**

These programs are meant to address small, yet serious health and safety issues, on the housing for income qualified residents. Work might include such things as minor plumbing, electrical, carpentry, window repair, porch repair, smoke detector replacement or installing bathroom grab bars. The Bedford Affordable Housing Trust Small Grant Program offers up to \$4000 for home repairs. The Weston program is limited to properties that already have an affordable housing deed restriction. A small repair program can also be found in the town of Sudbury.

### **Rental Assistance**

During the pandemic, some Affordable Housing Trusts offered rental assistance to income qualified families. These programs can be found in Eastham, Great Barrington, Lenox and Williamstown. The program in Great Barrington provided financial assistance for renters as well as landlords facing major financial challenges as a result of covid-19. Other rental assistance programs have been set up in Georgetown Newburyport and North Andover as well as other communities.

### **Buy Down Programs**

In this program, the Affordable Housing Trust purchases existing homes in the community and then sells the home to an income qualified household. In some cases, necessary rehabilitation work is funded by the AHT while under AHT ownership. The selection process for an income qualified household is then often done through a lottery. At the time of sale, an affordability restriction is included within the deed. These programs can be found in communities such as Leverett, Sudbury, Norfolk, Tewksbury and Yarmouth.

### **Preserve Properties with Expiring Affordability Restrictions**

Affordable housing projects are sometimes established with a long-term affordability restriction included in the deed. The affordability restriction may expire after a set number of years, in which case the units can then be rented at market rate. Affordable Housing Trusts can assist with purchasing units so that the affordability restriction can be continued, well after the expiration. The city of Cambridge Affordable Housing Trust allocated \$4.6 million to a rental complex to maintain the affordability restrictions. Tewksbury AHT used their funds to retain 77 units of affordable housing, by making sure the affordability restrictions did not expire.

### **First Time Homebuyer Programs**

An Affordable Housing Trust can provide first time homebuyers with down payment assistance or closing costs. These may be provided as grants or loans. First time

homebuyer programs can be helpful for low to moderate income homebuyers that are approved for a monthly mortgage but do not have available cash to pay for the down payment. The Lenox Affordable Housing Trust provides \$10,000 to first time homebuyers or 5% of the cost of the home. First time homebuyer programs can be found in Great Barrington, Ipswich, Plymouth, North Andover, Newburyport and Williamstown as well as other communities.

### **Redevelopment of Municipal Land for Housing**

An Affordable Housing Trust can initiate the redevelopment of surplus municipal property to affordable units. Norwell redeveloped a police station into rental housing. Westport added 50 units of rental housing on vacant municipal land.

### **Subsidizing Affordable Units within Housing Developments**

An Affordable Housing Trust can provide a subsidy to private or non-profit developers to financially support the inclusion of affordable units within a market rate development. In Yarmouth, the Affordable Housing Trust provided \$30,000 per unit to create 69 units of rental housing.

## **Examples of AHT Experiences from Around the State**

### **Beverly**

The Beverly Affordable Housing Trust has received all of its funding, so far, through the inclusionary zoning ordinance. Future funding will be explored through the Community Preservation Act. Funding from the Affordable Housing Trust has successfully leveraged, either constructed or underway, 236 units of affordable housing.

### **Concord**

In Concord, an Affordable Housing Trust Study Committee was formed prior to establishing the Trust. The Committee undertook an initial investigation of the benefits of establishing a trust and what would be most effective in Concord.

### **Brookline**

Funding for the Affordable Housing Trust in Brookline has come from cash payments as part of the Inclusionary Zoning Bylaw. Additional funding has come from a free cash policy that 15% of remaining free cash is appropriated to the AHTF if the unreserved fund balance in the AHTF is less than \$5 million. With recent passage of the Community Preservation Act, additional funding is likely to come from this source as well. \$10,000,000 of AHT funds have been allocated to affordable housing projects.

### **Georgetown**

With no municipal planning staff in town hall, Georgetown has a part-time AHT administrator, funded through the Community Preservation Act. Funding for AHT projects comes from the inclusionary zoning bylaw.

**Ipswich**

With the Community Preservation Act not adopted in Ipswich, funding comes largely from the inclusionary housing bylaw.

**Lancaster**

With the Community Preservation Act recently adopted, Lancaster anticipates funding their AHT with CPA and inclusionary zoning payments from developers choosing the cash payment option.

**Lincoln**

Funding for the AHT fund in Lincoln comes from the Community Preservation Act and the Inclusionary Zoning Bylaw. Developers have contributed \$250,000 per unit in lieu of including affordable units within their development.

**Sudbury**

Sudbury recently passed an Inclusionary Zoning Bylaw that will allow cash payments to the Affordable Housing Trust in lieu of including affordable units within a development. The Trust successfully created about 20 units of affordable housing.

**Tewksbury**

Most of the funding in Tewksbury comes from the Inclusionary Zoning Bylaw. Successful projects include 30 units of senior housing, 21 units of veterans housing and buydown programs on existing units.

**Current Affordable Housing Trusts in Berkshire County****Great Barrington**

The Great Barrington Affordable Housing Trust offers emergency rental assistance and down payment assistance programs for first time homebuyers. The funding for the Trust comes largely through the Community Preservation Act. Funding has also been used for land acquisition and predevelopment of an affordable housing site

**Lenox**

The Lenox Affordable Housing Trust offers emergency rental assistance and first-time homebuyer assistance. The rental assistance program assisted fifteen households during the pandemic. Funding has come from the Community Preservation Act and general fund appropriations at town meeting. With an Inclusionary Zoning Bylaw, the AHT works with developers to create additional affordable units. Through a buy-down program, two homes were purchased and will be sold as deed-restricted affordable homes to first time homebuyers.

**Tyringham**

The Tyringham Affordable Housing Trust is not currently active.



## **Williamstown**

The Williamstown Affordable Housing Trust was created one year after Hurricane Irene. Two hundred Williamstown residents were displaced due to storm damage from the Hurricane. Town meeting provided \$400,000 to assist with the creation of new affordable housing. With this funding, Highland Woods rental housing was developed by the Berkshire Housing Development Corporation. Forty families were able to obtain housing. Following the completion of a detailed report on housing needs in the town, the Trust has moved forward with creating additional housing, in cooperation with Habitat for Humanity as the developer. In addition to the creation of new housing, the Williamstown AHT has also provided homebuyer assistance, consisting of grants up to \$15,000, for down payment and/or closing costs. Additionally, during the pandemic, grants of up to \$10,000 were available for rental assistance. While initial funding for the AHT came from town meeting, funding is now provided through the community preservation act.

## **How do you start an affordable housing trust?**

A recommended process for forming an Affordable Housing Trust is shown below. While these steps are not all required under the state law, past practice has shown that following this step-by-step outline will have a higher likelihood of a successful and a productive outcome.

### **Creation of a Municipal Task Force**

A useful first step is the appointment of a task force to investigate whether a housing trust is a good fit for the community. The task force can review housing needs, housing related reports and plans as well as potential funding sources. Through public listening sessions, the task force can hear from the community and put forward recommendations that have the support of the community.

### **Community Outreach**

Outreach to the community is an essential step in the creation of an Affordable Housing Trust. Outreach includes attending meetings, delivering presentations, distributing materials and listening to the needs of the various stakeholders.

Materials that are developed should explain the critical need for increasing the supply of affordable housing, how a diverse housing stock benefits everyone, how a housing trust could help, where the funds would come from, success stories from around the region or the state, and how they can follow up with questions later on.

Stakeholders include those organizations with a direct interest in affordable housing such housing authorities, councils on aging and housing partnerships. Outreach should also include a broad range of organizations such human service, business owners, education and philanthropic organizations. Within city or town hall, local elected officials, administrators, managers, the planning board, zoning board of appeals and community preservation committee will all have a role in affordable housing.

### **Preparation of a Bylaw or Ordinance**

The preparation of a bylaw or ordinance to be passed by town meeting or city council should be based on the goals of the community, recommendations of the task force and the findings from the community meetings. It will include specific membership requirements for who can serve on the board of the trust.

### **Passage of a Bylaw or Ordinance**

The Affordable Housing Trust is established by affirmative vote of city council or town meeting. Additional community outreach will likely be needed leading up to the legislative vote.

### **Appointing the Members to the Trust**

The chief executive officer of the municipality appoints the members of the Trust, based on the membership language of the bylaw or ordinance that was just passed. With prompt appointments, the Trust can begin their work quickly.

### **Filing of a Declaration of Trust**

As soon as the Trust members meet, an important first step is to execute a Declaration of Trust. The declaration clarifies the authority of the Trust to hold and convey title to real estate. It is recorded at the Registry of Deeds.

### **Mission statement**

The creation of a simple mission statement can help the members of the trust stay focused and clarify the distinct role of the trust amongst other stakeholders.

### **Preparing an Action Plan**

Completing an Action Plan will serve the Trust very well in prioritizing tasks, keeping goals realistic, and making sure the Trust remains focused on achieving their goals. An Action Plan is also very helpful in explaining to the public what the Trust plans to accomplish and as a result, can assist the Trust in obtaining funds. In the future, an Action Plan has the added benefit of providing a sense of accomplishment to the Trust members when identified goals are completed.

### **Implementation of the Trust Activities**

As the Trust moves forward with implementing the recommendations in the Action Plan, the Trust should remain focused on community outreach. The affordable housing trust should have its own webpage, under boards and commissions, on the municipal website. The Trust webpage should include the mission statement, action plan, rules of procedure, FAQs, members, ongoing projects, fact sheet, brochures and reports to your elected officials.

## **The Board of Trustees of the Affordable Housing Trust**

The Board of Trustees that will administer and distribute funds can have a minimum of 5 members. Most are between 5 and 9 members. The Chief executive officer, such as the mayor or a member of the select board, must serve as a member of the trust. The other members of the Trust should possess skills that will best serve the needs of the



community and the goals identified in the planning and development of the trust. This might include trust members that have a background in affordable housing development, real estate development, banking, finance and/or real estate law. It may include local housing organizations, housing advocates and a local resident with personal experience in seeking housing. A board member from a public board such as the planning board or community preservation committee can also be very helpful. Overall, the board of trustees will likely be most productive if it includes a mix of public officials and private individuals. The maximum term for trustees is two years. It is best to stagger the terms of the appointees for board consistency.

### **Sample Ordinance or Bylaw**

The bylaw or ordinance can be very brief such as the following:

#### **Article X: Municipal Affordable Housing Trust**

To see if the Town will vote to authorize the Board of Selectmen to accept the provisions of Massachusetts General Laws Chapter 44, Section SSC, and to establish a trust to be known as the [Community Name] Affordable Housing Trust Fund, whose purpose shall be to provide for the creation and preservation of affordable housing in the [Community Name] for the benefit of low-and moderate-income households, substantially in a form which is on file with the Town Clerk and available for inspection.

Another option is to include far more detailed language within the bylaw or ordinance that will clarify the authority of the Trust, the appointment process, the composition of the board and the process of acceptance and distribution of funds.

### **The State Law -**

#### **Section 55C: Municipal Affordable Housing Trust Fund**

Section 55C. (a) Notwithstanding section 53 or any other general or special law to the contrary, a city or town that accepts this section may establish a trust to be known as the Municipal Affordable Housing Trust Fund, in this section called the trust. The purpose of the trust is to provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate income households and for the funding of community housing, as defined in and in accordance with the provisions of chapter 44B. Acceptance shall be by majority vote of the municipal legislative body under section 4 of chapter 4.

(b) There shall be a board of trustees, in this section called the board, which shall include no less than 5 trustees, including the chief executive officer, as defined by section 7 of chapter 4, of the city or town, but where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board. Trustees shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the board of selectmen, shall serve for a term not to exceed 2 years, and are designated as public agents for purposes of the constitution of the commonwealth. Nothing in this subsection shall prevent a board of selectmen from appointing the town manager or town administrator as a member or chair of the board, with or without the power to vote.

(c) The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, but a city or town may, by ordinance or by-law, omit or modify any of these powers and may grant to the board additional powers consistent with this section:—

- (1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the trust, and such funds shall be accounted for separately by the trust; and provided further, that at the end of each fiscal year, the trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the community preservation committee of the city or town for inclusion in the community preservation initiatives report, form CP-3, to the department of revenue;
- (2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- (3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;
- (4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;
- (5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;
- (6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;
- (7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- (8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- (9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;
- (10) to carry property for accounting purposes other than acquisition date values;

- (11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;
  - (12) to make distributions or divisions of principal in kind;
  - (13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;
  - (14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;
  - (15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and
  - (16) to extend the time for payment of any obligation to the trust.
- (d) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or by-law, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.
- (e) The trust is a public employer and the members of the board are public employees for purposes of chapter 258.
- (f) The trust shall be deemed a municipal agency and the trustees special municipal employees, for purposes of chapter 268A.
- (g) The trust is exempt from chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.
- (h) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.
- (i) The trust is a governmental body for purposes of sections 23A, 23B and 23C of chapter 39.
- (j) The trust is a board of the city or town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city or town shall be exempt from said chapter 30B.



## CITY OF PITTSFIELD

DEPARTMENT OF COMMUNITY DEVELOPMENT, CITY HALL, 70 ALLEN STREET, RM 205, PITTSFIELD, MA 01201

May 18, 2022

To the Honorable Members  
Of the City Council  
Of the City of Pittsfield

Re: Petition regarding short term rentals

Dear Councilors:


The Community Development Board met on April 19, 2022 and May 17, 2022 to review the petition you referred regarding concerns related to short term rentals. The Board reviewed updates on how communities regionally and nationally are addressing short term rentals and the struggles many municipalities have in attempting to regulate short term rentals.

The Board agreed that in the short term, it wishes to gather and review data to understand the number of short term rentals and ownership status before recommending any specific changes to City ordinances. Based on discussions with staff, potential adverse impacts resulting from short term rentals do not appear to be a regular occurrence in the City. In the few instances where complaints have been received, creating additional regulations will not necessarily halt negative activities, and generally steps taken related to enforcement from public safety and inspectional services can mitigate nuisances. In the near term, corrective actions can address general nuisances created by short term rentals.

The Board will be pleased to share its findings and recommendations once it completes this process.

Sincerely,

COMMUNITY DEVELOPMENT BOARD

  
Sheila B. Irvin  
Chair

SI/ch



# City of Pittsfield

March 7, 2022

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To the City Council of the City of Pittsfield: —

The Committee on

Ordinances and Rules

to whom was referred the

a communication from Building Commissioner Clemons on a petition from Councilor Maffuccio requesting to investigate claims concerning Airbnb's in the neighborhood of Ridge Avenue

having considered the same, report and recommend that

the communication be referred to the Community Development Board, requesting a response by the June meeting

5-0

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter White", is written over a horizontal line.

Peter White

Chairman



**CITY OF PITTSFIELD**  
**OFFICE OF THE BUILDING COMMISSIONER**

---

February 11, 2022

Pittsfield City Council

In response to your request for an investigation of several identified properties and other less clearly identified properties in the neighborhood of Ridge Avenue, I submit the following responses in bold type;

5 Peter's Path- owners rent out and stay there from time to time as well - **This allegation is not a violation of 780 CMR, the Massachusetts Building Code or the City of Pittsfield zoning ordinance.**

126 Ridge Avenue (formerly Crea's House –**I am not aware of any violation at this location. What is the nature of the specific alleged zoning or building code violation of the complaint?**

104 Ridge Avenue (down the street from us, undergoing huge reno (can't even see the water anymore and supposedly told community development they live there in this soon to be 12 bed house which is not true it has been a vrbo property for years). **The work underway has been issued a permit and several inspections have been conducted by this office. I have made no observations consistent with the complaint of "VRBO" use of this property.**

More details:

Airbnb's. There are currently 3 houses rented as Airbnb's in our neighborhood. . **I am unable to investigate these claims of "AirBnB" use of these properties without specific addresses.**

1. One in between Wren. and Lark, on Ridge -- is undergoing renovation and not sure how they were able to build such an atrocity! There is no room to park for this 12 bed rental and - **Please provide an address for this complaint and the alleged zoning or building code violation of the complaint.**
2. Crea's old house on Ridge **Please provide an address for this complaint and the alleged zoning or building code violation of the complaint.**
3. Peter's Path- Francouer's former house-least troublesome, although they allow them to use water toys and they have no idea of the waterway rules

They leave garbage piled high- anywhere from 4-8 cars, sometimes more.  
**Please provide an address for this complaint and the alleged zoning or building code violation of the complaint**

2nd Situation. Proprietor's Lodge went through some reno and there doesn't seem to be a building permit so there they go again. Respectfully Submitted  
Councilor Anthony V Maffuccio - **Permits have been issued for work at this location and inspections have been conducted.**

Additionally, I would advise the following;

Per SECTION 12.102 FILING OF WRITTEN COMPLAINTS Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the case and basis thereof, shall be filed with the Building Inspector. He shall record such complaints immediately investigate and take action, and shall notify in writing the party requesting such enforcement of any action or refusal to act and the reasons thereof, within fourteen (14) days of receipt of such request.

It is the policy of this office that zoning or building code violation complaints be filed in writing stating fully the case and basis thereof of the alleged violation. Complaints for each property where an alleged violation has occurred shall be filed separately and be responded to separately so as to not cause confusion.

It is preferable, though not required, that an aggrieved person, submit zoning complaints in the case that an appeal is pursued.

Respectfully Submitted

A handwritten signature in dark ink, appearing to read 'Jeffrey A. Clemons', with a stylized, flowing script.

Jeffrey A Clemons  
Building Commissioner  
City of Pittsfield





# City of Pittsfield

2022 FEB -1 AM 9:37

February 1 20 22

To the City Council of the City of Pittsfield:--

The undersigned respectfully

Honorable members of the City Council and Colleagues submitted is a petition asking the Building Inspector investigate the following claims that reported to me by constituent's in these neighborhoods, which the locations are listed below and respond back to the Council at its next regular meeting see below of the claims and locations listed below.

5 Peter's Path- owners rent out and stay there from time to time as well  
 126 Ridge Avenue (formerly Crea's House)--  
 104 Ridge Avenue (down the street from us, undergoing huge reno (can't even see the water anymore and supposedly told community development they live there in this soon to be 12 bed house which is not true it has been a vrbo property for years).

More details:

Airbnb's. There are currently 3 houses rented as Airbnb's in our neighborhood.

1. One in between Wren and Lark, on Ridge -- is undergoing renovation and not sure how they were able to build such an atrocity! There is no room to park for this 12 bed rental and

2. Crea's old house on Ridge

<https://www.vrbo.com/2154688?noDates=true&unitId=2719224>

3. Peter's Path- Francouer's former house- least troublesome, although they allow them to use water toys and they have no idea of the waterway rules

They leave garbage piled high- anywhere from 4-8 cars, sometimes more.

2nd Situation. Proprietor's Lodge went through some reno and there doesn't seem to be a building permit so there they go again.

Respectfully Submitted

Councilor Anthony V Maffuccio



## CITY OF PITTSFIELD

DEPARTMENT OF COMMUNITY DEVELOPMENT, CITY HALL, 70 ALLEN STREET, RM 205, PITTSFIELD, MA 01201

**TO:** City Council Ordinance and Rules Subcommittee  
**FROM:** C.J. Hoss, City Planner  
**DATE:** March 3, 2022  
**SUBJECT:** Short Term Rentals  
**CC:** Justine Dodds, Director

The March 7, 2022 Ordinance and Rules agenda contains a petition regarding short term rentals. While the petition is related to desired code enforcement action in relation to a specific alleged short term rental, we felt it was worthwhile providing an overview of existing policy related to such uses.

Short term rentals of entire homes/residences are currently unregulated in the City and are not specifically identified in the Zoning Ordinance. Without a regulation that specifically allows (or prohibits) short term rentals, code enforcement actions are extremely difficult.

Over the past several years, staff has monitored attempts by local municipalities to create a regulatory framework to address short term rentals (e.g., Registration Program, Zoning, or other mechanisms). More recently, North Adams, Great Barrington, and Lenox are each attempting to develop such requirements. Additionally, City staff is participating in discussions with Berkshire Regional Planning Commission, who is currently attempting to review/analyze these attempts and others in Massachusetts, and ideally develop a framework communities can use to develop their own ordinances/bylaws.

If/when the City decides to address short term rentals from a regulatory perspective, staff recommends a dual approach of bringing together relevant City staff (e.g., Building Department, Health Department, Fire Department, etc.) to identify concerns, develop potential paths forward, and create the necessary ordinance changes, and having this matter guided by the Community Development Board. Per Section 2-73 of the City Code, (1)(b), Studies and reports:

“The department of community development (which in reality should read Community Development Board) shall make investigations and prepare studies on issues on which it feels require such consideration. These studies could consider any of the elements of the master plan, taken in greater detail as individual study, or could consist of the detailed study of a portion of the community. Other areas for possible study could include population growth, housing, either public or private, or the economic base of the community.”

In this scenario, the Community Development Board would work with staff to develop a preferred option which it could then potentially petition the City Council to adopt.



## CITY OF PITTSFIELD

DEPARTMENT OF COMMUNITY DEVELOPMENT, CITY HALL, 70 ALLEN STREET, RM 205, PITTSFIELD, MA 01201

May 16, 2022

Honorable City Council of  
The City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

- Re: A petition from LeMarr Talley requesting and act establishing mandatory regulations as to housing by real estate agencies

Honorable Council Members;

Rental Units in the City of Pittsfield are currently regulated by two City Departments, the Health Department and the Building Department.

Building Department: The Massachusetts Building Code requires multi-family buildings (defined as 3 or more dwelling units) to be inspected and issued a Certificate of Inspection at least once every 5 years. In the City of Pittsfield, these inspections are performed by the Building Inspectors Office. It is the responsibility of the property owner to pursue and obtain the Certificate of Inspection. Assessors data indicates that there are almost 900 multi-family properties in the City of Pittsfield. Current staffing levels mean that the Building Inspectors Office focuses inspections on larger housing complexes with high occupant load and inspections upon sale or transfer of the property. The Building Department is requesting funding in the FY2023 City Budget to hire an additional building inspector who would focus on multifamily inspections. If this funding is approved, it would greatly increase the City's capacity to issue Certificates of Inspections for these properties, ensuring rental units are compliant with the life safety requirements of the building code.

Health Department: The Health Department enforces the State Sanitary Code, also known as 105 CMR 410. These set regulations are the minimum standards of fitness for human habitation. The Health Department also offers a pre-tenancy inspection to all landlords within the city. This free program is available upon request. The Health Department already conducts on average over 800 Housing inspection per year therefore the Health Department does not support there to be additional mandatory regulations specific to housing by real estate agencies, as the Building Code and Sanitary Code covers all safety and health concerns within a dwelling. The Health Department does fully support the building department's request for an additional building inspector to conduct inspections of multifamily properties. In conclusion Pittsfield residents (tenant/landlord) who have questions about possible violations in their home should continue to contact the Health Department to set up an inspection of the property.

In addition to the services provided by the City's Building and Health Departments, the Community Development Office provides a number of supports for tenants. The Office provides a Fair Housing hotline and referral services for programs available in Pittsfield that can assist tenants with emergency rental assistance, mediation for evictions and other housing issues. The public is invited to call with questions at 499-9367. Service is available between the hours of 8:30 a.m. to 4 p.m. Monday through Friday. The Community Development office can also assist tenants in filing a fair housing complaint in instances where they believe that they have been discriminated against because they belong to one of the protected classes. In Massachusetts the protected classes are: Race, Color, National Origin, Religion, Sex (including gender identity and sexual orientation), Familial Status, and Disability. Tenants can contact the Community Development Office at the same number, 499-9367, for assistance with filing a fair housing claim.

The Community Development Office is also working on planning efforts to assist with the quality of the City housing stock. Currently underway is a proposed ordinance that would implement a comprehensive and routine rental inspection program to ensure that all rental units in the City of Pittsfield are routinely inspected and receive a Certificate of Habitability every 36 months, regardless of change in tenancy. It is anticipated that this ordinance will be before the City Council in the next few months. By implementing a regularly scheduled rental inspection program city-wide, city residents will be protected from rental units that do not meet the minimum requirements for human habitation. This ordinance will create a clear and transparent rental inspection program that will maximize city resources, benefitting both tenants and property owners.

Sincerely

*Justine Dodds*

Justine A. Dodds  
Community Development Director

*Andy Cambi*

Andy Cambi  
Director of Public Health

cc:

Mayor Linda M. Tyer



# City of Pittsfield

2022 MAY -2 PM 1:50

May 2 20 22

To the City Council of the City of Pittsfield:-

*Jeff Fally*  
The undersigned respectfully

- An Act Establishing Act of Mandatory Regulations of Compliance as to Housing in Pittsfield City limits, by, namely Cavalier Holdings Inc, Cavalier Management LLC, & Puta Real Estate.

- Cavalier Holding, Cavalier Management have not had comply with Commonwealth or Municipal standards as to tenants rights, habitable conditions, health & safety.
- City Inspection records included will provide proof as no regulatory inspections in any area as to listed properties → 110-112 Lincoln st - Cavalier management <sup>\*15 yrs</sup>  
→ 77-79 Lincoln st - Puta Real Estate/Cavalier <sup>\*19 yrs</sup>  
→ 68-80 Union st - Cavalier management <sup>\*12 yrs</sup>
- Abuse Real Estate Agencies have had loans, government frauds for tenants, etc. to only gain finances but not place property equity into properties to be in compliance with statutory laws.



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2022 APR 19 AM 11:17

April 19 20 22

To the City Council of the City of Pittsfield:-

*[Signature]*  
The undersigned respectfully

An Act Establishing Mandatory Regulations  
as to Housing by Real Estate Agencies.

- Cavalier Management / Cavalier Holdings has violated various tenants rights and failed fiduciary obligations as to inspections, and tenant rights.
- Cavalier Management / Cavalier Holdings have illegally obtained loans on intentional inflated appraisal price on dilapidated properties.
- Dura Real Estate has violated foreclosure proceeding in which Notice of Publication was never issued, violated open meetings laws, and blanketing to secure property.
- Dura Real Estate does not have any intention of providing habitable conditions as to tenants or businesses in the city of Pittsfield.
- Evidence of Court Proceedings and records as to verify for Garry Jackson & LeMorr Tallen



**CITY OF PITTSFIELD  
POLICE DEPARTMENT**

POLICE HEADQUARTERS, 39 ALLEN STREET, PITTSFIELD, MASSACHUSETTS 01201 (413) 448-9700, FAX (413) 448-9733

OFFICE OF THE CHIEF OF POLICE

(413) 448-9717

PROFESSIONALISM • ETHICS • INTEGRITY • SENSITIVITY • ACCOUNTABILITY

Members of the City Council:

Grant Status

The FY21 Edward J. Byrne JAG funds in the amount of \$39,959.25 was awarded to the Pittsfield Police Department by the Executive Office of Public Safety and Security Office of Grants and Research. The approved grant funds were used to purchase 15 Bola Wraps-\$13,874.25, 35 Tasers- \$10,710.00, 500 Bola Wrap Cartridges- \$14,975.00, Shipping & Handling- \$400.00. All equipment was purchased and received by the department before the grant closed.

This grant opened on December 22, 2020 and closed on June 30, 2021.

Program Implementation

BolaWrap training was completed during the last training cycle of 2021. Training was completed on June 16, 2021. BolaWraps were immediately put into service. There is a Bola assigned to each frontline patrol car and one assigned to the DB. All sworn personnel have been trained on this. We have not had any live deployments since they have been deployed.

We completed our initial Taser X26 training in 2010. In January of 2017 we received our first 11 X26P's. In May of 2018 we received 40 X26P's. The transition training from the X26 to the X26P occurred in our last training session in the Spring of 2018. The last training class was completed on June 20, 2018. All sworn personnel completed the transition training. At this time 51 patrol officers were individually issued an X26P. Supervisors and sworn personnel not in patrol were still using the X26 at this time. All sworn personnel had an individually issued TASER as of this date. In February of 2021 we received an additional 35 X26P's. That completed the department's full transition to the improved TASER.

Respectfully,

Michael J. Wynn  
Chief of Police





# City of Pittsfield

2022 APR 28 PM 3:37

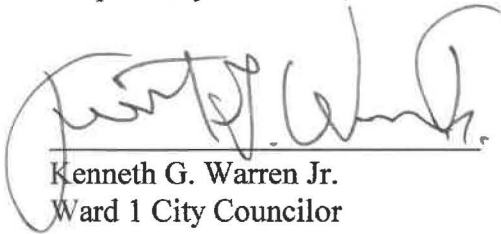
April 26 20 22

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Request that Police Chief Michael Wynn report on the status of the implementation of the Edward Byrne Memorial Justice Assistance Grant (JAG) fund awarded and accepted on December 8, 2020 for the expansion of nonlethal response options for the City of Pittsfield to include 35 taser units and 15 bolawrap launchers and supplies.

Respectfully submitted,

  
Kenneth G. Warren Jr.  
Ward 1 City Councilor

  
Karen Kalinowsky  
At Large City Councilor



**CITY OF PITTSFIELD**  
OFFICE OF THE CITY SOLICITOR, CITY HALL, 70 ALLEN STREET, SUITE 200,  
PITTSFIELD, MASSACHUSETTS 01201

Tel. (413) 499-9352  
[solicitor@cityofpittsfield.org](mailto:solicitor@cityofpittsfield.org)

January 31, 2022

To the Honorable Members  
of the City Council  
of the City of Pittsfield

Dear Councilors:

On December 15<sup>th</sup>, 2021 the following matter was referred to this office:

"That the recent creation of new positions, including but not limited to the Special Projects Manager, appear to be in violation of the City Code. It seems the City did not create any positions by the amending of the "compensation tables" salary schedule. That would only indicate the potential salary range once the position is created. It would seem more specific steps are necessary.

Therefore, I request that this matter be referred to the City Solicitor for a legal opinion as to all the steps necessary to create a new position."

Under the City's Charter, the Administration hires and fires all employees.

The City Council's role is:

- To approve or reject the budget which contains the appropriation funding the position(s);
- To approve or reject the appointment of an individual as a department head (Section 2-10);
- To approve or reject administrative orders submitted by the mayor to create or reorganize city agencies;
- To accept or reject grants which may specifically include funding for personnel to manage the grant or which permit grant funding to be used to hire and pay for personnel to manage the grant.

If the City Council votes to accept a grant which includes funding for personnel or which permits the funds to be used for personnel and expenses to oversee the grant, the management of the grant is within the purview of the administration. Any personnel position created to manage the grant do not require the City Council to raise and appropriate funds.

These are temporary grant funded positions which will end when the grant funds are exhausted.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Stephen N. Pagnotta", is written over a horizontal line.

Stephen N. Pagnotta  
City Solicitor



# City of Pittsfield

RECEIVED CITY CLERK  
CITY OF PITTSFIELD, MA  
2021 DEC -8 PM 12:31

December 06 20 21

To the City Council of the City of Pittsfield:-

The undersigned respectfully

That the recent creation of new positions, including but not limited to the Special Projects Manager, appear to be in violation of the City Code. It seems the City did not create any positions by the amending of the "compensation tables" salary schedule. That would only indicate the potential salary range once the position is created. It would seem more specific steps are necessary.

Therefore, I request that this matter be referred to the City Solicitor for a legal opinion as to all the steps necessary to create a new position.

This is very important to clarify because there is a basic principle of municipal law that if all the technical requirements are not complied with by the municipality, money due from and/or paid by the city are subject to being deemed unenforceable or requiring reimbursement to the city even if the recipient has validly provided goods or services.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Kenneth G. Warren Jr.", is written over a horizontal line. The signature is stylized and cursive.

Kenneth G. Warren Jr.  
Ward 1 City Councilor Elect



## **PITTSFIELD BOARD OF HEALTH**

***Roberta Orsi, MS, RN, CCP, Chairperson***

***Kimberly Loring, PMHNP-BC ~ Steve Smith, MA ~ Brad Gordon, JD ~ Jeffrey A. Leppo, MD***

April 20, 2022

To The Honorable Members  
Of the City Council  
Of the City of Pittsfield

Re: A Response from the Pittsfield Board of Health to the petition submitted January 20, 2021, requesting the Health Department investigate the health concerns that have been reported by residents that live near the cell tower at 877 South Street.

Dear Councilors:

At the Council's request, the Pittsfield Board of Health has investigated the health concerns of the residents in the vicinity of the 877 South Street Cell Tower. To date the Board of Health has reviewed evidence of studies, reports, and has engaged with medical experts in regard to dangers to human health and the environment caused by exposure to wireless radiation. The Board of Health has been presented with credible, independent, and peer-reviewed scientific and medical studies and reports that provide convincing evidence that pulsed and modulated RFR is bio active and affects all living things over the long term. The Board of Health has received resident testimonies and medical documentation from medical experts confirming illness to residents caused by the proximity of the wireless telecommunication facility to their homes.

In September 2021, A Board of Health member along with the Health Department met with representatives of Verizon Wireless. The Board of Health requested that Verizon enter into a meaningful discussion around finding solutions to the resident's health concerns. The Board of Health offered solutions such as relocating the tower or deactivation of the tower until an investigation can be completed. However, Verizon Wireless representatives did not agree to relocate or deactivate the wireless telecommunication facility.

The Board of Health is responsible for disease prevention and control, for protecting human health and the environment, and for promoting a healthy community. Based upon this responsibility, and the evidence presented of the harm to public health being done by the 877 South Street Cell Tower, the Board of Health voted 4-0 on April 6, 2022 to unanimously issue a cease-and-desist order to Verizon Wireless requiring suspension of the operation of the cell tower.

Thus, as a formal response to the original petition, the Board of Health reports that there is harm being done to the residents in the vicinity of the 877 South Street Cell Tower, that the Board has taken action to protect those residents, and that the Board anticipates it may require legal assistance to defend that action. Specifically, the Board of Health requests the petitioner (City Council) to allocate funds in the event that there is litigation by Verizon, and also place the

City's liability insurer on notice of a possible claim. The Board of Health has done preliminary work in seeking expert legal representation. The Board of Health has identified two attorneys who have extensive experience in environmental law, and who are prepared to enter into a contract to represent the Board of Health with the approval of the City Council.

Enclosed please find proposals for representation by the two attorneys, a tentative budget for representation by the two attorneys (working together), a draft contract, and a copy of the cease-and-desist order issued by the Board on April 11, 2022.

Respectfully submitted

A handwritten signature in cursive script that reads "Roberta Orsi MS RN".

Roberta Orsi  
Chair

# Brody, Hardoon, Perkins & Kesten, LLP

## Attorneys at Law

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OF COUNSEL  
Hon. Paul A. Chernoff (Ret.)  
Deidre Brennan Regan  
Andrew A. Rainer  
Naomi R. Stonberg

April 14, 2022

### Proposal for Representation

We are pleased to submit a proposal to serve as counsel for the Pittsfield Board of Health in connection with its issuance of a recent cease and desist order to Verizon, and appreciate the opportunity to familiarize you with the nature of our practice and expertise.

Brody, Hardoon, Perkins & Kesten, LLP is a 16-attorney firm based on Boston that has become one of the leading municipal litigation firms in the state. We pride ourselves on both sound guidance and aggressive representation, and our reputation in trial work helps us resolve issues quickly and effectively. We work diligently to create individual solutions that truly address our clients' legal concerns.

Led by founding partner Leonard Kesten, we have represented dozens of municipalities in the Commonwealth in hundreds of cases involving civil rights claims, land use issues, and personal injury cases. We have also represented numerous municipalities in employment law disputes before the Massachusetts Commission Against Discrimination (MCAD) and the state and federal courts. Since the firm's founding in 1995, our attorneys have regularly represented municipalities in litigation, and have obtained numerous appellate decisions in the area of municipal law. We defend police officers, town administrators and elected and appointed officials, school personnel, and other municipal employees in state and federal court as well as before administrative agencies.

We also have decades of experience representing school systems in public sector management-labor relations, employment law, municipal law and school law. Among other matters, we represent school systems in negotiations and collective bargaining, hiring, disciplining, and discharging employees, discrimination and harassment matters, and we represent management in teacher and student disciplinary hearings.

We also have deep experience in environmental and land use law, including negotiating and drafting zoning changes, advising and representing conservation commissions, and extensive litigation at trial of environmental issues. All of these representations also require expertise in the open meeting law, the public records law, and state ethics requirements, and we stand ready to deploy this experience and expertise on behalf of the Pittsfield Board of Health. We anticipate our work for the City will be carried out by Attorney Andrew Rainer, whose professional CV is attached.

## ANDREW A. RAINER



Over the course of his career, Andrew Rainer has served as an Assistant Attorney General, as an Assistant District Attorney, as Counsel to the United States Senate Judiciary Committee, and as an active trial lawyer. He is an AV-rated lawyer who has served as lead counsel in dozens of jury trials, and has helped craft numerous multimillion-dollar settlements. Mr. Rainer brought the first whistleblower suit against a government contractor for fraud on Boston's Big Dig, helping the federal and state governments recover almost \$50 million. He also has over 30 years of experience representing companies, government entities, and individuals in environmental and land use matters.

Mr. Rainer has represented businesses, state and local governments, and individuals in a wide variety of environmental and land use matters, involving --

- oil spills
- hazardous materials and hazardous waste
- groundwater contamination
- air pollution
- landfills
- environmental permitting
- PCBs
- asbestos removal
- lead paint
- infectious diseases
- public and private nuisance



From February 2008 to June 2014, Mr. Rainer served as Chief of the Massachusetts Environmental Strike Force, a cooperative effort of the Massachusetts Attorney General's Office, the Massachusetts Department of Environmental Protection, and Executive Office of Energy and Environmental Affairs, designed to investigate and prosecute the most serious environmental violations. At the Strike Force, Mr. Rainer worked closely with most of the state and federal officials in Massachusetts who enforce the environmental laws, and is therefore well positioned to help a client respond to and resolve environmental enforcement matters.

Mr. Rainer also has a long history of representing property owners, whose properties have suffered a loss in use and property de-valuation as a result of environmental contamination, including:

- Dozens of property owners in Pittsfield, Massachusetts whose properties were contaminated with PCBs
- Hundreds of property owners in Hamden, Connecticut whose properties were contaminated with lead, arsenic and other by-products of gun manufacturing
- A neighborhood in Cape Cod whose drinking water was being polluted by toxic groundwater plumes emanating from the Massachusetts Military Reservation
- The neighbors of a plastics manufacturer in Wilmington, Massachusetts who were evacuated from their homes as a result of toxic fumes from the plant

#### Education

Mr. Rainer graduated from Princeton University, with honors, in 1979, and obtained his J.D. from New York University Law School in 1982. During law school, Mr. Rainer served as a senior editor of the NYU Law Review, and after graduation served as a law clerk to the Honorable Charles R. Richey of the United States District Court for the District of Columbia.

#### Prior Experience

Mr. Rainer began his practice in 1983 as an associate with the law firm of Goodwin Procter & Hoar in Boston, where he worked in various aspects of the firm's corporate, bankruptcy and litigation practice. Between 1986 and 1989, Mr. Rainer served as Minority Counsel and then as Counsel to the United States Senate Judiciary Committee in Washington, DC. For the Committee, he worked on legislation involving moneylaundering, forfeiture, and financial privacy, and also assisted in the investigation of nominees to the Supreme Court and the lower federal courts.

In 1989, Mr. Rainer joined the Boston firm of Shapiro Haber & Urmy, LLP, where he developed a substantial practice representing clients in business, consumer, environmental and civil rights cases. Mr. Rainer obtained a series of multi-million dollar settlements in complex commercial fraud cases, in which he represented parties that had been defrauded. He also represented homeowners whose properties had been contaminated in cases involving the Department of Defense, General Electric Company, and several other major corporations.

In 2000, Mr. Rainer became an Assistant District Attorney in the office of Middlesex District Attorney Martha Coakley, where he was given responsibility for developing and prosecuting white collar criminal cases, including credit card fraud, insurance fraud, forgery, embezzlement, and perjury. He served as trial counsel in over twenty jury trials, as well as handling indictments, arraignments, and evidentiary motions in the trial courts of Middlesex County. In 2002, he was honored as Prosecutor of the Year by the International Association of Financial Crime Investigators.

In 2004, Mr. Rainer joined with Mark Roberts and Randy McRoberts to form the firm of McRoberts, Roberts & Rainer, LLP. His practice at the firm ran a broad range of environmental and litigation matters, including large scale corporate and commercial fraud cases, breach of fiduciary duty suits, Superfund cases, and toxic tort litigation. Working together with lawyers in five other states, Mr. Rainer helped negotiate a settlement with 12 soft drink manufacturers to reformulate their products to avoid the formation of benzene, a known carcinogen. In 2007, he was named a Massachusetts Superlawyer, in part for bringing the first whistleblower suit against a contractor for fraud of Boston's Big Dig, and helping the state and federal governments to recover almost \$50 million.

At the beginning of 2008, Mr. Rainer was appointed by Attorney General Coakley to serve as Chief of the Massachusetts Environmental Strike Force, a cooperative prosecution effort of the Attorney General's Office, the Massachusetts Department of Environmental Protection, and the Secretary of Energy and Environmental Affairs, designed to crack down on criminal polluters. He held that position from 2008 through 2014, during which time he led the state's prosecution in the case of Commonwealth v. Springfield Terminal Railways, which resulted in the largest criminal fine after trial in an environmental prosecution in Massachusetts, and was also chief counsel for the Commonwealth in crafting a \$7.5 million settlement in the case of Commonwealth v. Wheelabrator Technologies, Inc.

Since 2014, Mr. Rainer has been Of Counsel to Brody, Hardoon, Perkins & Kesten, LLP and has also served as Litigation Director of the Public Health Advocacy Institute, a non-profit organization that pursues cutting health public health litigation, including successful litigation against the major tobacco companies and soft drink manufacturers.

Mr. Rainer is a member of the bar of:

- Massachusetts
- District of Columbia
- Florida
- United States District Court for the District of Massachusetts
- United States Court of Appeals for the First Circuit
- United States Supreme Court

## Professional Affiliations

### Boston Bar Association

- Elected Member of the BBA Council, 2003-2006
- Co-Chair, Administration of Justice Section, 2003-2004
- Steering Committee Member, Admin. of Justice Section, 2006-2012
- Steering Committee Member, Environmental Law Section, 2008-2014
- Co-Chair, Massachusetts Practice and Procedure Committee, 2001-2003
- Steering Committee Member, Individual Rights and Responsibilities Section, 2001-2003
- Member of the Task Force on Civility and Professionalism, 2001-02

### Massachusetts Bar Foundation

- Trustee, 2012- 2015
- Fellow, 2002-present

### Frank J. Murray Inn of Court

- President, 1997-1999
- Secretary, 1992-1994
- Board Member, 1996-present

## Honors

In addition to being named Prosecutor of the Year by the International Association of Financial Crime Investigators, Mr. Rainer has been named Lawyer of the Year by the Frank J. Murray Inn of Court. He has been listed as a Massachusetts "Super Lawyer," and is rated AV Pre-eminent by Martindale-Hubbell, a certification indicating that his peers rank him at the highest levels of professional excellence for both skills and ethics.

## Lecturing and Publications

Mr. Rainer has been a regular lecturer on civil litigation and environmental issues, including at programs of the Boston Bar Association, Massachusetts Continuing Legal Education, the American Bar Association, the Social Law Library, the National Association of Attorneys General, the Attorney General's Institute, the Northeast Environmental Enforcement Project, the Western States Enforcement Project, the California District Attorneys Association, and the Federal Law Enforcement Training Center.

He is a co-author with Judge Peter Lauriat, Elaine McChesney and William Gordon of Discovery, Volume 49 of the Massachusetts Practice series.

***Law Office of Robert J. Berg  
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robertbergesq@aol.com***

March 4, 2022

**BY E-MAIL**

Ms. Roberta Orsi  
Chair, City of Pittsfield Board of Health  
70 Allen Street  
Pittsfield, Massachusetts 01201

Dear Ms. Orsi:

I am honored that you are considering having the City of Pittsfield Board of Health retain me as co-counsel to represent it in connection with the legal issues arising out of the operation of the Verizon macro cell tower, located on the property at 877 South Street, Pittsfield, owned by Farley White South Street LLC ("Farley White").

**Background of the Proceedings to Date**

The Verizon cell tower was constructed during 2020, and began transmitting wireless radiation in August 2020. The cell tower has been transmitting wireless radiation continuously ever since. Very soon after the Verizon cell tower began transmitting, a significant number of residents of the adjacent "Shacktown" neighborhood developed, for the first time, serious medical problems, including nausea, dizziness, tinnitus, sleep disruption, irritability, headaches, extreme fatigue, brain "fog," difficulty concentrating, heart palpitations, skin rashes, and memory problems, among other symptoms. These symptoms are consistent with a diagnosis in the scientific and medical literature known as Electro-Hypersensitivity ("EHS") or microwave sickness, and arise from pulsed and modulated radio frequency ("RF") radiation. EHS is a spectrum condition, and for some patients, the symptoms become debilitating and severely affect their ability to carry out their daily functions. Others may suffer mild symptoms or none at all.

The neighbors began talking among themselves, and discovered they shared common medical problems which began right after the Verizon cell tower commenced transmitting. Many of the affected residents loosely organized themselves under the leadership of resident Courtney Gilardi, and contacted representatives of the City for help in understanding what was happening and why, and to ask for the City's assistance in remedying what had fast become a serious public health issue. Some of the Shacktown residents' symptoms become so severe that

they have had to move out of their houses and live elsewhere to ameliorate the symptoms. Some sufferers have had to sell their properties and move out of town to protect their health. The Shacktown residents simply want to be able to live in their homes without being bombarded by the wireless radiation from Verizon's adjacent cell tower, and have the environmental conditions restored to what they were before that tower began transmitting in August 2020. They want the tower turned off and removed.

Ms. Gilardi has appeared before the City Council at nearly every meeting since the tower was activated, pleading for relief. The City of Pittsfield Board of Health involved itself early on. For the past 1 ½ years, the Board of Health has thoroughly investigated the matter, researched the medical and scientific literature concerning the effects of wireless radiation on human health, spoken with medical and scientific experts, attended several presentations by leading medical and scientific experts, met with Verizon and its technical and scientific experts, hired its own radio frequency consultant to measure the wireless radiation emissions from the Verizon tower, and discussed the findings of Verizon's radio frequency consultant's study. The Board of Health has received complaints from at least 17 residents who live adjacent to the Verizon cell tower and who report serious health problems the residents attribute directly to the wireless radiation emissions from the tower. All their health issues started only after the tower began transmitting in the Summer 2021.

The Board of Health has also received detailed medical records from three residents of the same household on Alma Street who have suffered severe health issues which began shortly after the Verizon tower began transmitting. The three residents have been examined and treated by Dr. Sharon Goldberg, a physician who is a leading medical expert in the study of electromagnetic hypersensitivity -- the condition she has diagnosed the three residents are suffering from as a proximate result of their wireless radiation exposure from the Verizon cell tower. Very significantly, Dr. Goldberg has prepared expert reports for each of the three residents in which she concludes: "[b]ased on a reasonable degree of medical certainty, it is my opinion that [the patient] suffers from EHS microwave syndrome triggered by the activation of the 877 South Street cell tower."

The Board of Health has conducted a rigorous investigation and analysis of the effects of the operation of Verizon's 877 South Street cell tower on the health of certain residents of the adjacent Shacktown neighborhood. The Board of Health has conducted several public hearings on the matter, accepting public comment and hearing from Verizon, its experts and consultants, and affected residents. Following its extensive review of the substantive evidentiary record, and a fulsome "on the record" discussion in open public session, on February 2, 2022, the Board of Health voted to issue a conditional Cease and Desist Order, finding that Verizon's cell tower is a public nuisance, a cause of sickness, and a trade which may result in a nuisance or be dangerous to public health. The Order would provide Verizon and the landowner, Farley White, with seven days from the date of the Order to request a hearing to show cause why the Board of Health should not issue an order requiring cessation of operation of the cell tower pursuant to the Board's statutory and historical police power to protect its citizens from injury and harm. In the event that Verizon and/or Farley White fail to timely request the hearing, the Order requiring

Verizon and Farley White to abate and eliminate the public nuisance would be effective within seven days of the expiration of the deadline to request the hearing.

On February 23, 2022, the Board of Health held another public meeting to discuss the Cease and Desist Order. After accepting additional public comment from affected residents who recounted their personal medical suffering from the tower's wireless radiation transmissions, the Board once again discussed publicly the issuance of the Cease and Desist Order. The Board members explained that since the February 2, 2022 Board meeting, Verizon communicated with the Board that it will not shut down or move its cell tower at 877 South Street. Accordingly, the Board voted again to issue the Cease and Desist Order forthwith, and then moved into Executive Session to continue discussions with legal counsel.

### **How I can Help the Pittsfield Board of Health as Co-Counsel**

In our telephone conversation Thursday afternoon, you advised me that Stephen Pagnotta, Pittsfield's City Solicitor, has told you that he does not have sufficient experience in telecommunications law to represent the Board of Health in connection with any legal matters in connection with the Cease and Desist Order against Verizon regarding the 877 South Street cell tower. You asked me if I have interest in providing legal counsel to the Board of Health in this matter, and I stated that I would be especially pleased to do so as a co-counsel working with a qualified Massachusetts-licensed attorney. As I stated the other night, I am a member of the New York and New Jersey bars, as well as numerous federal district court and appellate bars, but I am not admitted in Massachusetts. I have, however, been admitted to practice in numerous federal court cases in the District of Massachusetts *pro hac vice* over my four decades of practice. I see no problem working alongside a Massachusetts-barred attorney, and expect to be admitted in any relevant court in federal or State court in Massachusetts *pro hac vice* without issue.

Before turning to my telecommunications law experience, I will first set forth my background. I am no stranger to Western Massachusetts, since I spent four years attending Amherst College, from which I graduated *cum laude* in 1979 with a B.A. degree in economics and psychology. I then attended the University of Chicago Law School and the University of Chicago Graduate School of Business, where I received my J.D. degree and my M.B.A. degree in June 1983. I have been practicing law for 39 years now.

I first worked as an Associate in the New York offices of Skadden Arps, where I specialized in antitrust law and litigation. I then moved to the New York office of another major international law firm, LeBoeuf, Lamb, Leiby & MacRae, later known as Dewey & LeBoeuf, where I was a litigator, mainly representing large corporations. I represented a Canadian asbestos mining company for several years as national coordinating counsel in over 100 complex property damage cases nationwide, gaining significant experience in toxic tort/environmental litigation.



After defending large corporations for 7 years, I jumped to the plaintiffs' side, and for more than 30 years, I have represented consumers and shareholders in complex class actions all across the nation. I have worked at several plaintiffs' firms in New York and New Jersey over this period, and I continue my consumer class action practice as a partner of the White Plains, New York law firm of Denlea & Carton LLP. See [www.denleacarton.com](http://www.denleacarton.com).

### **My Experience in Wireless Telecommunications Law**

Over the past several years, I have developed a wireless telecommunications law practice which I conduct through the Law Office of Robert J. Berg PLLC. My wireless telecom practice arose entirely because of the work of my daughter, Zoe Berg, as the Project Manager at Americans for Responsible Technology ("ART"), a public advocacy organization that she helped form after graduating from Barnard College in 2018. ART supports the safe deployment of wireless technology and the preservation of local government control regarding the placement of cell towers and wireless facilities. Zoe built up ART's Facebook presence from zero to 250,000 followers, and ART has become a leading nationwide clearinghouse for and coalition of safe wireless advocacy groups. Through my daughter's prodigious advocacy efforts, many individuals and advocacy groups have contacted me for legal advice when wireless telecommunications facilities are constructed or proposed in their municipalities, especially in close proximity to their residences. I have also been asked on numerous occasions to review and improve municipalities' wireless telecommunications' ordinances to maximize local control over their placement consistent with State and federal law. Below are some of the matters I am currently handling or have recently concluded:

I currently serve as co-lead counsel in proceedings before the Tahoe Regional Planning Agency (TRPA), a Congressionally-created agency that regulates development in the Lake Tahoe Basin of California and Nevada pursuant to a federal mandate to preserve the pristine environment of this national treasure. Verizon is planning on constructing a 120 foot tall monopine cell tower in the middle of a densely populated residential neighborhood on a ridge near the base of the Heavenly Valley ski resort. Verizon has received a permit from the City of South Lake Tahoe, over the objections of many residents, and has received a permit from TRPA staff which the TRPA Hearing Officer has approved. We have appealed to the TRPA Board of Governors, and the hearing on the appeal will take place later this month. Our appeal is based on the failure of TRPA to conduct any environmental impact analysis of the human health impacts and the environmental impacts of the construction and operation of Verizon's monopine cell tower in this sensitive mountain environment. At the same time, we have presently pending a federal lawsuit against Verizon, the landowner of the site on which the tower is proposed, and TRPA in the United States District Court for the Eastern District of California, *Eisenstecken, et al. v. TRPA, et al.*, challenging Verizon's proposed tower based on multiple federal and state law counts. This is a landmark lawsuit raising many first impression questions of law and fact regarding the unfettered deployment of wireless facilities in pristine protected environments. One of the clients I am representing in the lawsuit and in the TRPA administrative appeal is the Environmental Health Trust whose Director, Theodora Scarato, has presented several times to the Pittsfield Board of Health.



I also serve as counsel for Environmental Health Trust in the remand of the *Environmental Health Trust v. FCC* action in which the D.C. Circuit Court of Appeals last August, in a decisive victory for EHT, held that the FCC acted arbitrarily and capriciously in ruling that its 1996 emissions guidelines did not require updating. The Court of Appeals ordered the case remanded to the FCC for further proceedings consistent with its opinion, and I am EHT's attorney of record in those proceedings.

Last year, I assisted a number of residents of the City of Sylvania, Ohio who objected to Verizon's proposed placement of a 125 foot tall macro cell tower on the Northview High School campus. The public school district had entered into a lease agreement with Verizon and Tarpon Towers for this tower, but a City permit was required. The City Planning Department authorized the permit. I provided extensive written public comment and testimony at the public hearing before the Zoning and Annexation Committee of the City Council opposing the tower and at the subsequent City Council public hearing. I helped the residents organize and present their opposition to the tower. The members of the City Council voted unanimously to deny the permit. Verizon and Tarpon Towers have since sued the City in federal court, challenging the denial of the permit under the Telecommunications Act.

In December 2022, I represented a property owner in Truckee, California who discovered that AT&T was seeking to install wireless antennas on top of a water tower on a property owned by the municipal utility directly adjacent to my client's vacation house in a private homeowners' association. After analyzing the homeowners' association by-laws, the zoning map, the land ownership records, and the local zoning code, I determined that the municipal utility was precluded by the zoning code and the homeowners' association by-laws from locating commercial wireless telecommunications facilities on its water tank at that site. After writing the utility's General Counsel an explanatory letter, the General Counsel agreed that the utility was not entitled to place AT&T's proposed antennas on the water tank, and so advised AT&T.

I am currently representing a property owner in the Town of Saugerties, New York who opposes Verizon's proposed 145 foot tall cell tower which would be situated in a neighboring lot a few hundred feet from the dog training facility she is constructing in the town's light office/industrial zone ("OLI"). The town Zoning Board of Appeals ("ZBA") had suggested that Verizon seek a site in the OLI after the ZBA indicated that it would likely not approve a zoning variance at Verizon's first choice site at a firehouse in a residential zone. I was retained last April when the ZBA began analyzing Verizon's application for area variances at the site in the OLI district. I vigorously challenged the veracity of Verizon's consulting reports, visual studies, alternative site analyses, environmental analysis, and legal analysis at several hearings and in numerous evidentiary and legal submissions to the ZBA and the Planning Board. In early January 2022, after several public hearings and extensive review, the ZBA issued a lengthy written decision rejecting Verizon's application for the area variance at the site in the OLI. The ZBA reopened the public hearing on Verizon's application for area and use variances at the initial firehouse site, and scheduled a follow-on public hearing for next week. But on February 2, 2022, Verizon and its partner, Tarpon Towers, prematurely sued the Town and the ZBA in

federal court, contending that they have been denied the area variance in violation of the Telecommunications Act. I expect the federal district court to uphold the ZBA's well-substantiated written decision.

I provide guidance to municipalities which are overhauling and updating their local wireless ordinances. Scarsdale, New York, the Village in which I reside, spent the last six months of 2021 revising its wireless ordinance. I provided many comments, suggestions, and revisions to the proposed ordinance, many of which were adopted by the Village Board and have been incorporated into the final code which became effective earlier this year.

I am presently challenging the City of New Orleans' practice of rubber-stamping approvals of telecom replacements of wooden utility poles in the public right of way in residential neighborhoods with taller wooden utility poles laden with wireless telecommunications facilities at the top. The City of New Orleans municipal code fails to require that any notice be provided to abutting or neighboring properties, and the City staff are instructed to approve the permit requests without requiring documentation from the telecoms that the particular wireless facility is needed to close a significant gap in coverage and is the least intrusive alternative, despite Code requirements of clear and convincing evidence supporting such findings.

I am working with a California public advocacy group to challenge two proposed Los Angeles County ordinances which would fast track the deployment of 5G wireless facilities in the public rights of way and along public highways without notice and by ministerial review by the County Planning Department and the Highway Department.

#### **My Involvement in the Verizon 877 South Street Cell Tower Matter**

As I stated publicly the other night, I do not represent any party in connection with Verizon's cell tower located at 877 South Street. However, shortly after the Verizon cell tower became operational and Shacktown residents began suffering health problems, my daughter and Courtney Gilardi made contact, and my daughter provided information to Ms. Gilardi. Sometime thereafter, my daughter introduced me to Ms. Gilardi by telephone, and I learned about the situation taking place in Pittsfield regarding the Verizon tower. I periodically have spoken with Ms. Gilardi about developments in the abutter litigation, the Board of Health investigation, and the medical and scientific literature about the health effects of human exposure to wireless radiation. As you know, Ms. Gilardi has asked me on several occasions to participate on informational panels, along with physicians, scientists, and public advocates to explain the non-industry side of the story – i.e., the public and personal health dangers of wireless radiation exposure and the legal avenues available to address such dangers. I have participated on these panels, and have offered my assistance to the Pittsfield Board of Health.

Finally, you advised me that you have reached out to attorney Andrew Rainer of the Boston law firm of Brody Hardoon Perkins & Kesten LLP as your Massachusetts attorney of choice to represent the Board of Health in this matter. You told me that you worked with Mr.

Rainer a number of years ago in connection with the General Electric PCB dumping in Pittsfield. I researched Mr. Rainer and his background on the web. He seems to be a terrific choice, with an outstanding background and qualifications. While I don't know Mr. Rainer personally, many years ago, I worked extensively with one of the partners of one of the firms with which Mr. Rainer was associated. Mr. Rainer and I appear to be contemporaries. I would be delighted to speak with him this weekend or early next week about the possibility of working together.

I am always available to respond to your questions or concerns. Thanks so much for considering me for this representation.

All my best,

/s/ Robert J. Berg  
Robert J. Berg

Anticipated Budget for Legal Services  
for Pittsfield Board of Health  
by Robert Berg and Brody, Hardoon, Perkins & Kesten, LLP

Representation of and advice to Board of Health at at further hearing, if hearing is requested by Verizon (30 hours)	\$12,000
Representation of Board of Health in negotiations to resolved matter, if Verizon agrees to same (30 hours)	\$12,000
Representation of Board of Health in litigation challenging issuance of cease & desist order, if matter not negotiated (150 hours, if matter not negotiated)	\$60,000
Not to exceed total:	<hr/> \$84,000

Mr. Berg's normal billing rate is currently \$650/hour. However, given the great public importance of this matter and the fact that the Board of Health, a municipal government department, will be the client, Mr. Berg will be pleased to lower his billing rate for this matter to a special discounted rate of \$400/hour. Mr. Rainer's normal billing rate is currently \$750/hour. Like Mr. Berg, Mr. Rainer will be pleased to lower his billing rate for this matter to a special discounted rate of \$400/hour. Mr. Rainer may, from time to time, as appropriate, utilize other attorneys or professional staff employed by his firm to perform necessary work, and they will charge special hourly rates discounted from their normal billing rates at the same discounted percentage as used by Mr. Berg and Mr. Rainer.

The attorneys anticipate that, if Verizon is unwilling to reach a negotiated resolution, it could bring litigation in a number of different forums. The \$60,000 estimate set forth above is based on a challenge to the Board' cease-and-desist order brought in the Massachusetts trial court. If Verizon were to bring suit in federal court, or in another forum, the Board may need to present a revised budget, and will, in any event, return to the Council before incurring any other or different expenses from those set forth above.

## PERSONAL SERVICES AGREEMENT

This Agreement is entered into this \_\_\_ day of April, 2022 by and between Attorney Robert Berg, of Scarsdale, New York, and Brody Hardoon Perkins & Kesten LLP, of Boston, Massachusetts (hereinafter, "Contractors") and the City of Pittsfield, through its Health Department (hereinafter, the "City").

*WHEREAS*, the City desires the personal services of the Contractors to perform legal services in connection with a Cease & Desist Order issued by the Board of Health to Verizon.

*WHEREAS*, the Contractors desire to provide said services to the City as hereinafter set forth;

*WHEREAS*, the City has complied with the public bidding procedures, as set forth in M.G.L. chapter 30B;

*NOW, THEREFORE*, the parties do mutually agree as follows:

1. Scope of Services. The Contractors shall do, perform, and carry out in a satisfactory and proper manner the following:

Provide legal advice and services to the Board of Health at any hearing that may be requested by Verizon or in defense of any suit that may be filed by Verizon arising out of the Cease & Desist Order.

2. Time of Performance. The services under this Agreement are to be performed during the period of **April 1, 2022 through June 30, 2022**, or such extended period as the City may request.
3. Compensation and Method of Payment. The compensation for services rendered under this Agreement is FOUR HUNDRED DOLLARS AND NO CENTS (\$400.00) PER HOUR. The Contractors are required to provide invoices for services rendered promptly every 4<sup>th</sup> Friday of each month to OFFICE MANAGER. The invoice should consist of a description of the work performed by the Contractors for the City and the hours and dates worked. The City's obligation under this Agreement is limited to funds appropriated by the City Council and/or by HEALTH DEPARTMENT. This Agreement may terminate upon notice to the Contractors at such time as the funding is either no longer available or limited or the City determines that the services are no longer necessary.
4. Termination of Agreement for Cause. If, through any cause, the Contractors shall fail to fulfill in a timely and proper manner their obligations under this Agreement, or shall violate any of the covenants or stipulations of this Agreement, the City shall thereupon have the right to immediately terminate this Agreement by giving written notice to the Contractors of such termination and specifying the effective date thereof.

5. Termination of Agreement for Convenience. The City may terminate this Agreement for convenience at any time by giving notice in writing from the City to the Contractors. If the Agreement is terminated by the City as provided under this paragraph, the Contractors will be paid for those services actually performed prior to his or her receipt of the City's termination notice.
6. Independent Contractor.
  - a. The Contractors are not employees or agents of the City, but independent contractors. No rights or benefits of an employee shall accrue or be vested in the Contractors under any personnel policies or benefit plans maintained by the City for the benefit of its employees. The Contractors shall not be entitled to any payment from the City in the nature of benefits under the Workers' Compensation Act for any accident, illness, or event occurring in or relating to or arising out of the performance of the services by the Contractors in accordance with this Agreement.
  - b. Neither federal, nor state income tax, nor payroll tax of any kind will be withheld or paid by the City on behalf of the Contractors.
7. Reports, Data, Etc.
  - a. Materials produced in whole or in part under this Agreement shall not be subject to copyright, except by the City, in the United States or in any other country. The City or its duly authorized representatives have unrestricted authority to, without payment of any royalty, commission, or additional fee or any type or nature, publicly disclose, reproduce, distribute and otherwise use, and authorize others to use, in whole or in part, any reports, data or other materials prepared under this Agreement.
  - a. All data, reports, programs, software, equipment, plans, drawings, and any other documentation or product paid for under this Agreement shall vest in the City at the termination of this Agreement. The Contractors shall at all times obtain the prior written approval of the City before he or she, either during or after termination of the Agreement, makes any statement bearing on the work performed or data collected under this Agreement to the press or issues any material for publication through any medium of communication.
8. Audit, Inspection, Etc.
  - a. At any time during normal business hours, and as often as the City may deem it necessary, there shall be made available by the Contractors for the purpose of audit, examination, and/or to make excerpts or transcripts, all records, contracts, invoices,

materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, subject to such restrictions on inspection as may be necessary in order to protect the attorney-client privilege and the work product privilege, or any other privilege or protection.

- b. For a period of three (3) years after final payment pursuant to this Agreement, the Contractor shall make his or her work papers, records and other evidence of audit available to the City or its duly authorized representatives, again subject to the such restrictions as may be needed in order to protect privileges. The City shall be entitled to reproduce any or all such documents at its own expense, for which provision shall be made at the time the need for reproduction arises.
9. Non-Discrimination/Equal Employment. The Contractors shall carry out the obligations of this Agreement in compliance with all of the requirements imposed by or pursuant to Federal, State, and local ordinances, statutes, rules, and regulations prohibiting discrimination in employment, including, but not limited to, Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973, and M.G.L. c. 151B, Massachusetts Executive Order 74, as amended by Executive Orders 116, 143, and 227, and any other executive orders, rules, regulations, and requirements relating thereto enacted by the Commonwealth of Massachusetts as they may from time to time be amended. The Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap, or sexual orientation.
10. Conflict of Interest. Both the City and the Contractors stipulate to the applicability of the State Conflict of Interest Law (General Laws Chapter 268A), and this Agreement expressly prohibits any activity, which shall constitute a violation of that law. The Contractors shall be deemed to have investigated its applicability to the performance of this Agreement; and by executing the Agreement, the Contractors certify to the City, under the pains and penalties of perjury, that neither he or she nor his or her agents, employees, or subcontractors are thereby in violation of General Laws Chapter 268A.
11. Other Certifications. The Contractor certifies, under the pains and penalties of perjury, that:
  - a. pursuant to M.G.L. c. 62C, §49A, he or she has filed all state tax returns, paid all taxes and complied with all laws of the Commonwealth relating to taxes;
  - b. pursuant to M.G.L. c. 151A, §19A, he or she has complied with all the laws of the Commonwealth relating to contributions and payments in lieu of contributions to the Employment Security System;



- c. he or she is not presently debarred or suspended from providing goods and/or services to the City under the provisions of M.G.L. c. 29, §29F, or an other applicable debarment or suspension provision of any other chapter of the General Laws or federal law, or any rule or regulation promulgated thereunder;
  - d. pursuant to the provisions of M.G.L. c. 7A, §6, the following persons have a financial interest in this Agreement: Robert Berg and Andrew Rainer; and
  - e. he or she has paid all real estate, personal property or excise tax, water charges, fines or any other municipal lien charges due to the City.
12. No Privity of Contract between City and other Parties. Nothing contained in this Agreement shall create, or be interpreted to create, privity or any other contractual agreement between the City and any person or entity other than the Contractors absent a written agreement signed by all parties, including the Mayor of the City.
13. Governing Law; Effect. This Agreement shall be governed by and construed in accordance with the substantive law of the Commonwealth of Massachusetts, and shall have the effect of a sealed instrument.
14. Liability of Public Officials. To the full extent permitted by law, no official, employee, agent, or representative of the City shall be individually or personally liable on any obligation of the City under this Agreement.
15. Contractors' Breach and City's Remedies. Failure of the Contractors to comply with any of the terms or conditions of this Agreement shall be deemed a material breach of this Agreement, and the City shall have all of the rights and remedies provided in the Agreement documents, the right to cancel, terminate or suspend the Agreement in whole or in part, the right to maintain any and all actions in law or equity or other proceedings with respect to a breach of this Agreement, including damages and specific performance, and the right to select among the remedies available to it by all of the above.
17. Assignability. The Contractors shall not assign or transfer any interest in this Agreement whether by assignment or novation.
18. Compliance with Laws. The Contractors shall fully comply with all existing and future federal, state, and municipal laws and regulations.
19. Severability. If any court or body of competent jurisdiction holds any provision of this Agreement invalid, the remainder of this Agreement shall remain in full force and effect.

20. Headings. The section headings in this Agreement are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.
21. Amendments. This Agreement may be amended or modified only by written instrument duly executed by the parties.
22. Complete Agreement. This Agreement constitutes the entire agreement between the parties with no agreements other than those incorporated herein.

IN WITNESS WHEREOF, the City and the Contractors have executed this Agreement as of the date first above written.

**INDEPENDENT CONTRACTOR**

**CITY OF PITTSFIELD**

By: \_\_\_\_\_  
Signature of Contractor

By: \_\_\_\_\_  
, Mayor

Attorney Robert Berg  
Name of Contractor

By: \_\_\_\_\_  
, Health Department Head

Scarsdale, NY  
Address of Contractor

By: \_\_\_\_\_  
, Purchasing Agent

\_\_\_\_\_  
Contractor SS#

Certified as to Form and Legality:

Brody Hardoon Perkins & Kesten, LLP  
Name of Contractor

By: \_\_\_\_\_  
, City Attorney

Boston, Massachusetts  
Address of Contractor

\_\_\_\_\_  
Contractor SS#

**CITY OF PITTSFIELD**  
**ATTESTATION OF FUNDS**

**CONTRACTUAL SERVICES:** to perform legal services for the Board of Health

**CONTRACT AMOUNT:** FOUR HUNDRED AND NO CENTS (\$400.00) PER HOUR NOT TO EXCEED EIGHTY-FOUR THOUSAND DOLLARS (\$84,000.00)

**APPROPRIATION NUMBER:**

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, City Accountant

The contract amount will be the **TOTAL AMOUNT** paid by the CITY for the completion of the above named project. Any other amounts for this contract over and above the contract amount and/or the amount appropriated as above attested must be approved by the CITY and its authorized agents in advance, and amounts over and above the original appropriation as above attested are also subject to further appropriation by the Mayor and the CITY Council of the CITY of Pittsfield.

In any estimated amounts of materials to be supplied by the CONTRACTOR in the performance of the terms of this Contract, the CITY makes the best good faith estimate of the quantities. The cost of any materials to be supplied to the CITY in fulfillment of the terms of this Contract in excess of the CONTRACT AMOUNT and/or the appropriated amount attested above must be approved by the CITY and its authorized agents in advance, and amounts over and above the original appropriation as above attested are also subject to further appropriation by the Mayor and the CITY Council of the CITY of Pittsfield.

**THE PROVISIONS OF THIS ATTESTATION APPLY ESPECIALLY TO  
CONTRACTS, WHICH HAVE PERFORMANCE COMPLETION BEYOND THE  
CURRENT FISCAL YEAR OF THE CITY OF PITTSFIELD.**

The CITY of Pittsfield shall not be held liable for failure of the Mayor or the CITY Council to appropriate funds in excess of the original amount appropriated as above attested, nor shall the CITY be held liable for a failure of the CITY and its authorized agents to approve an amendment of the contract amount.



## PITTSFIELD BOARD OF HEALTH

*Roberta Orsi, MS, RN, CCP, Chairperson*

*Kimberly Loring, PMHNP-BC ~ Steve Smith, MA ~ Brad Gordon, JD ~ Jeffrey A. Leppo, MD*

April 11, 2022

Pittsfield Cellular Telephone Company  
d/b/a Verizon Wireless  
99 East River Drive  
East Hartford, CT 06108  
Att: Attorney Ellen W. Freyman

Pittsfield Cellular Telephone Company  
d/b/a Verizon Wireless  
Mark J. Esposito, Esq.  
Shatz, Schwartz & Fentin, P.C.  
1441 Main Street, Suite 1100  
Springfield, MA 01103

Farley White South Street, LLC  
Att: Roger W. Altreuter, Manager  
155 Federal Street, 18<sup>th</sup> Floor  
Boston, MA 02110

### EMERGENCY ORDER

**REQUIRING THAT PITTSFIELD CELLULAR TELEPHONE COMPANY, D/B/A VERIZON WIRELESS, AND FARLEY WHITE SOUTH STREET, LLC, SHOW CAUSE WHY THE PITTSFIELD BOARD OF HEALTH SHOULD NOT ISSUE A CEASE AND DESIST ORDER ABATING A NUISANCE AT 877 SOUTH STREET ARISING FROM THE OPERATION OF A VERIZON WIRELESS CELL TOWER THEREON AND CONSTITUTING IMMEDIATE ORDER OF DISCONTINUANCE AND ABATEMENT IF NO HEARING IS REQUESTED**

Pursuant to, *inter alia*, MGL 111 ss 122-125, 127-127I, 130, 143-144, 146-150, and State Sanitary Code 410.750, 410.831-832, 410.850-.960, the Board of Health deems the following actions necessary to protect the public health in the City of Pittsfield, State of Massachusetts.

**Whereas**, Verizon Wireless has constructed and operates a wireless telecommunications facility, a cell tower (the "facility"), located at 877 South Street, Pittsfield, Massachusetts, on property Verizon Wireless leases from owner Farley White South Street LLC. The Verizon Wireless facility was activated in August, 2020, and has been operating continuously since that date.

**Whereas**, soon after the facility was activated and began transmitting, the City started to receive reports of illness and negative health symptoms from residents living nearby the facility, and in particular, from residents living in the so-called "Shacktown" neighborhood. The negative health symptoms the affected residents have reported include complaints of headaches, sleep problems, heart palpitations, tinnitus (ringing in the ears), dizziness, nausea, skin rashes, and memory and cognitive problems, among other medical complaints.

**Whereas**, as further documented below, the neurological and dermatological symptoms experienced by the residents are consistent with those described in the peer-reviewed scientific and medical literature as being associated with exposure to pulsed and modulated Radio Frequency ("RF") radiation, including RF from cell towers.

**Whereas**, those symptoms are sometimes referenced in the scientific and medical literature as electromagnetic sensitivity, also known as Electro-Hypersensitivity ("EHS"), Microwave Sickness, or Radiation Sickness. All these names describe a syndrome where the afflicted develop one or more

recognized symptoms as a result of pulsed and modulated RF radiation ("RFR"). EHS is a spectrum condition. For some, the symptoms can become debilitating, and severely affect their ability to function.

**Whereas**, the federal government has officially recognized this syndrome in various ways. For example, in 2002, the "Access Board," an independent federal agency responsible for publishing Accessibility Guidelines used by the U.S. Department of Justice to enforce the Americans with Disabilities Act ("ADA"), recognized that "electromagnetic sensitivities may be considered disabilities under the ADA."<sup>1</sup> The Access Board contracted for the publication of the National Institute of Building Sciences 2005 report, which concludes that radiofrequency/electromagnetic frequency (RF/EMF) radiation is an "access barrier," and can render buildings "inaccessible" to those with electromagnetic sensitivity. The report recommends accessibility guidelines.<sup>2</sup> For ADA Title I purposes, the U.S. Department of Labor's Office of Disability Employment Policy has issued guidelines for accommodations; these guidelines emphasize exposure avoidance and list as a resource, the EMF Medical Conference 2021 which trains medical doctors on the issue of electromagnetic radiation and health.<sup>3 4</sup>

**Whereas**, The Centers for Disease Control's 2022 Classification of Diseases Codes Clinical Modification and Procedural Classification System implements the International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM). The "diagnosis code" for Radiation Sickness" is "T66."<sup>5</sup> The "injury" code for "Exposure to Other Nonionizing Radiation" is "W90."<sup>6</sup> These codes cover electro-sensitivity along with other RF exposure-related injuries and maladies.

**Whereas**, the Health Board does not administer disability laws, but the foregoing authority strongly confirms that RF/EMF – even if emitted at levels within the FCC emissions guidelines – can be injurious to health or cause common injury to that significant portion of the public who are electromagnetic sensitive. Stated differently, pulsed and modulated RF can constitute a "public nuisance" or a "cause of sickness," and can constitute a trade which may result in a nuisance or be dangerous to the public health for purposes of G.L. ch. 111 ss 122-125, 127B, 127C, 143-150, and 152.

**Whereas**, the federal government's recognition that pulsed RF can directly cause harm to at least certain individuals or create an access barrier means that for the purposes of Massachusetts law, RF/EMF may effectively render certain dwellings Unfit for Human Habitation or constitute a Condition Which May Endanger or Materially Impair the Health or Safety and Well-Being of an Occupant as defined in State Sanitary Code 410.020 and 410.750(P).

**Whereas**, Verizon Wireless 877 South Street wireless facility is not itself a dwelling unit, but the Sanitary Code and other Massachusetts law allow the Health Board to act as necessary to ensure that

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<sup>1</sup> U.S. Access Board. (n.d.). *Indoor Environmental Quality*. U.S. Access Board - Introduction. Retrieved March 31, 2022, from <https://www.access-board.gov/research/building/indoor-environmental-quality/>.

<sup>2</sup> *IEQ Indoor Environmental Quality Project (IEQ)*. (n.d.). National Institute of Building Sciences (NIBS), The Architectural and Transportation Barriers Compliance Board (Access Board). <https://www.access-board.gov/files/research/IEQ-Report.pdf>.

<sup>3</sup> U.S. Department of Labor Office of Disability Employment Policy *Accommodations Webpage*; Job Accommodation Network: *Accommodation and Compliance: Electrical Sensitivity and Accommodation and Compliance Series: Employees with Electrical Sensitivity Publication Downloads*.

<sup>4</sup> EMF – Medical Conference 2021 Continuing Medical Education for physicians and health professionals. Several experts who presented to the Board and provided information also presented at the EMF Medical conference including Sharon Goldberg MD, Magda Havas PhD, Paul Héroux, PhD, Cindy Russell MD, Sheena Symington, B.Sc., M.A., Cecelia Doucette, and Theodora Scarato, MSW.

<sup>5</sup> *2022 ICD-10-CM Diagnosis Code T66: Radiation sickness, unspecified*. (n.d.). Retrieved March 31, 2022, from <https://www.icd10data.com/ICD10CM/Codes/S00-T88/T66-T78/T66-T66>.

<sup>6</sup> *W90—ICD-10 Code for Exposure to other nonionizing radiation—Non-billable*. (n.d.). ICD-10 Data and Code Lookup. Retrieved March 31, 2022, from <https://icd10coded.com/cm/W90/>.

activity or operations in a non-dwelling building, structure, or facility do not contribute to conditions that impact occupants of a dwelling to the point they render a dwelling unfit for habitation for purposes of Sanitary Code 410.831.

Whereas, the Health Board has been presented with credible, independent, and peer-reviewed scientific and medical studies and reports that provide convincing evidence that pulsed and modulated RFR is bio-active and affects all living things over the long term. RFR can and does also cause more immediate harm and injury to human beings. The Health Board has also received strong evidence that the Verizon Wireless 877 South Street wireless facility is presently causing such harm and injury to numerous residents in the adjacent neighborhood.

Whereas, City of Pittsfield residents have submitted to the Health Board over 11,000 pages of evidence of studies, reports, and scientific and medical experts' opinion about the dangers to human health and the environment caused by exposure to wireless radiation.<sup>7</sup> The Health Board also has heard testimony from medical professionals who directly treat patients injured by RF/EMF as well as testimony from scientific experts. The Board has been presented with personal testimony from many of the City of Pittsfield residents who have been personally harmed by pulsed and modulated RF radiation transmitted from the Verizon Wireless 877 South Street wireless facility's operations. *Specifically, but without limitation, the Health Board bases its conclusions, findings, and actions on all the scientific, medical, and personal evidence that has been submitted, but provides this general summary:*

1. The evidence presented to the Board includes well over one thousand peer-reviewed scientific and medical studies which consistently find that pulsed and modulated RFR has bio-effects and can lead to short- and long-term adverse health effects in humans, either directly or by aggravating other existing medical conditions. Credible, independent peer-reviewed scientific and medical studies show profoundly deleterious effects on human health, including but not limited to: neurological and dermatological effects; increased risk of cancer and brain tumors; DNA damage; oxidative stress; immune dysfunction; cognitive processing effects; altered brain development, sleep and memory disturbances, ADHD, abnormal behavior, sperm dysfunction, and damage to the blood-brain barrier.<sup>8</sup>
2. Peer-reviewed studies have demonstrated that pulsed and modulated RFR can cause the symptoms suffered by and personally attested to by City of Pittsfield's residents, including studies showing that these symptoms can develop as a result of exposure to cell towers specifically.
3. The symptoms described by City of Pittsfield's residents are often referred to in the scientific and medical literature as "electrosensitivity." The record evidence shows that exposure to pulsed and modulated RFR within the emission limits authorized by the FCC can cause the

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<sup>7</sup> Environmental Health Trust et al. v. FCC Key Documents [Volume 1, Volume 3, Volume 4, Volume 5, Volume 6, Volume 7, Volume 8, Volume 9, Volume 10, Volume 11, Volume 12, Volume 13, Volume 14, Volume 15, Volume 16, Volume 17, Volume 18, Volume 19, Volume 20, Volume 21, Volume 22, Volume 23, Volume 24, Volume 25, Volume 26, Volume 27](https://ehtrust.org/environmental-health-trust-et-al-v-fcc-key-documents/) <https://ehtrust.org/environmental-health-trust-et-al-v-fcc-key-documents/>.

<sup>8</sup> The California Medical Association Wireless Resolution. (2015, March 9). *Environmental Health Trust*. <https://ehtrust.org/the-california-medical-association-wireless-resolution/>; bioadmin. (n.d.). Conclusions—BIOINITIATIVE 2012—CONCLUSIONS Table 1-1. *The BioInitiative Report*. Retrieved March 19, 2022, from <https://bioinitiative.org/conclusions/>; bioadmin. (n.d.). Table of Contents. *The BioInitiative Report*. Retrieved March 19, 2022, from <https://bioinitiative.org/table-of-contents/>; EMFscientist.org—International EMF Scientist Appeal. (n.d.). Retrieved March 19, 2022, from <https://www.emfscientist.org/index.php/emf-scientist-appeal>.



symptoms, injuries, and mechanisms of harm associated with electrosensitivity and exhibited by the residents near the facility.<sup>9</sup>

4. Electrosensitivity describes a constellation of mainly neurological symptoms that occur as a result of exposure to pulsed and modulated RFR. The symptoms described in the scientific and medical literature include headaches, sleep problems, heart palpitations, ringing in the ears, dizziness, nausea, skin rashes, memory, and cognitive problems, among others. According to the evidence, exposure avoidance is the only effective management.

5. There are diagnosis guidelines. The European Academy of Environmental Medicine (EUROPAEM) published the “*EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses*.”<sup>10</sup> These peer-reviewed guidelines cite 235 scientific references for symptoms, physiological damage, and mechanisms of harm. These guidelines have been used by doctors in the U.S. and throughout the world. Dr. Sharon Goldberg, MD, who diagnosed three City of Pittsfield residents with electro-sensitivity following their continuous exposure to the Verizon Wireless 877 South Street wireless facility, uses these guidelines. Dr. Goldberg has provided this Board with documentation and supporting information on the injuries suffered by these three Shactown residents which Dr. Goldberg has opined to a reasonable degree of medical certainty have been caused by their exposure to the wireless radiation being emitted by this facility.

6. The recent U.S. government reports regarding the “mystery illness” of U.S. diplomats in Cuba, China, Austria, and elsewhere provide further support that pulsed RF can cause injury similar to that suffered by Shactown residents. In December 2020, the National Academy of Sciences, Engineering, and Medicine (NAS) concluded<sup>11</sup> that the diplomats’ “mystery illness” is likely caused by pulsed RF. Prof. Beatrice Golomb, MD, PhD, 2018, wrote the first paper analyzing the science and showed that pulsed RFR is the likely cause of the symptoms suffered by some US diplomats in Cuba and China.<sup>12</sup> Her analysis relies on government studies as well as studies on commercial wireless devices and technology, and demonstrates how the diplomats’ symptoms can result from pulsed RFR exposure. Dr. Golomb concluded that the diplomats likely suffer from electrosensitivity (which she refers to as “Microwave Illness”). Most recently, on February 1, 2022, the federal government published a report adopting the conclusion of the NAS, finding that pulsed RFR is likely the cause of the diplomats’ sickness.<sup>13</sup>

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<sup>9</sup> Belyaev, I., Dean, A., Eger, H., Hubmann, G., Jandrisovits, R., Kern, M., Kundi, M., Moshhammer, H., Lercher, P., Müller, K., Oberfeld, G., Ohnsorge, P., Pelzmann, P., Scheingraber, C., & Thill, R. (2016). *EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses*. *Reviews on Environmental Health*, 31(3), 363–397. <https://doi.org/10.1515/reveh-2016-0011> ; Bray, R. (n.d.). *Electromagnetic Hypersensitivity*. 81. <https://maisonsaine.ca/uploads/2016/09/ehs-bray-13-08-2016.pdf>.

<sup>10</sup> Belyaev, I., Dean, A., Eger, H., Hubmann, G., Jandrisovits, R., Kern, M., Kundi, M., Moshhammer, H., Lercher, P., Müller, K., Oberfeld, G., Ohnsorge, P., Pelzmann, P., Scheingraber, C., & Thill, R. (2016). *EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses*. *Reviews on Environmental Health*, 31(3), 363–397. <https://doi.org/10.1515/reveh-2016-0011>.

<sup>11</sup> National Academies of Sciences, E., and Medicine. (2020). *An Assessment of Illness in U.S. Government Employees and Their Families at Overseas Embassies*. The National Academies Press. <https://doi.org/10.17226/25889>.

<sup>12</sup> Golomb, B. A. (2018). Diplomats’ Mystery Illness and Pulsed Radiofrequency/Microwave Radiation. *Neural Computation*, 30(11), 2882–2985. [https://doi.org/10.1162/neco\\_a\\_01133](https://doi.org/10.1162/neco_a_01133).

<sup>13</sup> *Executive Summary DECLASSIFIED by DNI Haines on 1 February 2022*. (2022). [https://www.dni.gov/files/ODNI/documents/assessments/2022\\_02\\_01\\_AHI\\_Executive\\_Summary\\_FINAL\\_Redacted.pdf](https://www.dni.gov/files/ODNI/documents/assessments/2022_02_01_AHI_Executive_Summary_FINAL_Redacted.pdf).

7. As the record shows, there is evidence of clusters of sickness around cell towers. Evidence filed in the *Environmental Health Trust, et al. v. FCC case*<sup>14</sup> and provided to the Board of Health shows that California firefighters developed electrosensitivity symptoms after a cell tower was installed on their stationhouse, including headaches, memory problems, sleeping problems, depression, and other neurological problems. SPECT brain scans found brain abnormalities. Additionally, TOVA testing found delayed reaction time, lack of impulse control, and difficulty in maintaining mental focus. Following these incidents, the International Association of Fire Fighters Division of Occupational Health Safety and Medicine investigated evidence of pulsed and modulated RF harm, and published a resolution opposing the use of fire stations as base stations for towers and/or antennas for the conduction of cell phone transmissions.<sup>15</sup>

8. In November 2020, New Hampshire's Commission to Study the Environmental and Health Effects of Evolving 5G Technology (the Commission was established by the State Legislature to learn about the health effects of 5G wireless radiation), published a report which concludes that RF emissions at levels below the FCC emissions guidelines can be harmful. The Committee's final report followed a thorough study of the evidence. The Committee's final report recommends adoption of cell tower antenna setbacks and acknowledges electrosensitivity and its association with RFR exposure.<sup>16</sup> Dr. Kent Chamberlin, former Chair, Department of Computer and Electrical Engineering, University of New Hampshire, and Dr. Paul Heroux, PhD, Professor of Toxicology and Health Effects of Electromagnetism, McGill University Faculty of Medicine, two of the expert members of the New Hampshire Committee, have provided testimony to the Pittsfield City Council about the health effects of RFR exposure, and this testimony has been included in the record considered by this Board.

9. Other highly-credentialed, independent academic research experts have also offered testimony, at no cost, in support of residents' contentions that the Verizon Wireless 877 South Street wireless facility is the cause of their electrosensitivity symptoms. Experts include Dr. Martha Herbert, MD PhD, pediatric neurologist and former Assistant Professor at Harvard Medical School, and Dr. Magda Havas PhD., Professor Emeritus, Trent School of the Environment, Trent University.

10. Professor David Carpenter, MD, former Dean, School of Public Health at University of Albany, New York, wrote a letter to the City of Pittsfield in which he discussed studies showing that cell towers increase cancer risk, and cause changes in hormones as well as electrosensitivity symptoms, including headaches, fatigue, "brain fog," and ringing in the ears. Dr. Carpenter has published numerous studies on the negative health effects of electromagnetic radiation which have been submitted to this Board and are part of the record herein.<sup>17</sup> Dr. Carpenter is the co-

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<sup>14</sup> *Env'tl. Health Tr., et al. v. FCC*, 9 F.4th 893 (D.C. Cir. 2021).

<sup>15</sup> *Cell Tower Radiation Health Effects*. (2004). *IAFF*. Retrieved March 19, 2022, from <https://www.iaff.org/cell-tower-radiation/>; Susan Foster Ambrose, M.S.W., Medical Writer. (2004). *INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF) VOTES TO STUDY HEALTH EFFECTS OF CELL TOWERS ON FIRE STATIONS Call for Moratorium on New Cell Towers on Fire Stations Until Health Effects Can Be Studied*. Advancing Sound Public Policy on the Use of Electromagnetic Radiation (EMR). [https://ehtrust.org/wp-content/uploads/pr\\_iaff\\_vote-1.pdf](https://ehtrust.org/wp-content/uploads/pr_iaff_vote-1.pdf).

<sup>16</sup> *Final Report of the Commission to Study The Environmental and Health Effects of Evolving 5G Technology* (HB 522, Chapter 260, Laws of 2019, RSA 12-K:12-14). (2020). State of New Hampshire. <http://www.gencourt.state.nh.us/statstudcomm/committees/1474/reports/5G%20final%20report.pdf>.

<sup>17</sup> Bandara, P., & Carpenter, D. O. (2018). Planetary electromagnetic pollution: It is time to assess its impact. *The Lancet. Planetary Health*, 2(12), e512–e514. [https://doi.org/10.1016/S2542-5196\(18\)30221-3](https://doi.org/10.1016/S2542-5196(18)30221-3).

editor of the BioInitiative Report,<sup>18</sup> a scientific review of the science on RF/EMF by independent expert scientists. The report reviewed approximately 2,000 published studies on RFR health effects. After it was first released, the content of the BioInitiative Report underwent peer review and was published in condensed form as a special two-volume issue of the Journal Pathophysiology. Additional chapters have been published in various journals.<sup>19</sup> The Report concludes that bio-effects from wireless technology and infrastructure, including from cell towers, occur at radiation levels significantly below the FCC's emissions guidelines as documented in published research. The Report finds that the overwhelming majority of published neurological studies show bio-effects.<sup>20</sup> Over 90 percent of the studies that examine the oxidative stress mechanism (a mechanism of harm associated also with electro-sensitivity) show bio-effects.<sup>21</sup> The Report contains cell tower exposure studies that show harmful effects of radiation emitted by cell towers, and demonstrate that exposure to pulsed RF causes hormonal and cell stress effects at radiation levels far, far lower than the FCC emissions guidelines.<sup>22</sup> According to the 2012 Report's conclusion, public safety standards are 10,000 or more times higher than levels now commonly reported in mobile phone base station studies that reveal bio-effects. Because of the actual evidence of harm to humans from exposure to wireless radiation transmissions from cell towers, the Report uses mobile phone base station-RFR levels studies and other studies with very, very low RF exposures to determine the "lowest observed effect level" for RFR exposure as the basis for its recommendations for biologically-based exposure guidelines.<sup>23</sup>

11. Dr. Cindy Russell, a medical doctor and the executive director of "*Physicians for Safe Technology*,"<sup>24</sup> provided a synopsis of 28 studies showing cell tower harm in her letter to this Board, dated July 6, 2021, which explains how it is "well established" that wireless radiation at non-thermal levels causes oxidative stress, and "oxidative stress plays a major part in the development of chronic, degenerative, and inflammatory illnesses such as cancer, autoimmune

<sup>18</sup> bioadmin. (n.d.). Table of Contents. *The BioInitiative Report*. Retrieved March 19, 2022, from <https://bioinitiative.org/table-of-contents/>.

<sup>19</sup> Martin Blank (Ed.). (2009). *Electromagnetic Fields (EMF) Special Issue. Pathophysiology*, 16(2-3), CO2. [https://doi.org/10.1016/S0928-4680\(09\)00066-2](https://doi.org/10.1016/S0928-4680(09)00066-2); Hardell, L., & Sage, C. (2008). Biological effects from electromagnetic field exposure and public exposure standards. *Biomedicine & Pharmacotherapy*, 62(2), 104-109. <https://doi.org/10.1016/j.biopha.2007.12.004>; Herbert, M. R., & Sage, C. (2013). Autism and EMF? Plausibility of a pathophysiological link – Part I. *Pathophysiology*, 20(3), 191-209. <https://doi.org/10.1016/j.pathophys.2013.08.001>; Herbert, M. R., & Sage, C. (2013). Autism and EMF? Plausibility of a pathophysiological link part II. *Pathophysiology*, 20(3), 211-234. <https://doi.org/10.1016/j.pathophys.2013.08.002>.

<sup>20</sup> Neurological Effects Studies Percent Comparison, BioInitiative. (2022). <https://bioinitiative.org/wp-content/uploads/2020/10/13-Neurological-Effects-Studies-Percent-Comparison-2020.pdf>.

<sup>21</sup> Henry Lai. (n.d.). Research Summaries. *The BioInitiative Report*. Retrieved March 19, 2022, from <https://bioinitiative.org/research-summaries/>; Neurological Effects Studies Percent Comparison, BioInitiative. (2022). <https://bioinitiative.org/wp-content/uploads/2020/10/13-Neurological-Effects-Studies-Percent-Comparison-2020.pdf>.

<sup>22</sup> BUCHNER K, EGER H (2011) A Long-term Study Under Real-life Conditions / *Umwelt-Medizin-Gesellschaft* 24(1): 44-57. <https://www.avaate.org/IMG/pdf/Rimbach-Study-20112.pdf>.

<sup>23</sup> Henry Lai. (n.d.). Research Summaries. *The BioInitiative Report*. Retrieved March 19, 2022, from <https://bioinitiative.org/research-summaries/>; Neurological Effects Studies Percent Comparison, BioInitiative. (2022). <https://bioinitiative.org/wp-content/uploads/2020/10/13-Neurological-Effects-Studies-Percent-Comparison-2020.pdf>.

<sup>24</sup> Physicians for Safe Technology | Cell Tower Radiation Health Effects. (2017, September 11). *Physicians for Safe Technology*. <https://mdsafetech.org/cell-tower-health-effects/>.

disorders, aging, cataracts, rheumatoid arthritis, cardiovascular and neurodegenerative diseases, as well as some acute pathologies (trauma, stroke). Effects of oxidative stress are cumulative.”<sup>25</sup>

12. Devra Davis PhD, MPH, the founder of the Environmental Health Trust, sent a scientific letter and briefing materials to this Board, documenting the published science indicating how FCC limits do not ensure safety to human health, and how legal levels of wireless radiation can damage the health of children, pregnant women, and the medically vulnerable. Studies of wireless radiation exposure from cell towers document neuropsychiatric problems, elevated diabetes, headaches, sleep problems, and genetic damage.<sup>26</sup> Attached to the letter were several published articles, including an article published in the journal *Lancet Planetary Health*, which presented an evaluation by the Oceania Radiofrequency Scientific Advisory Association of 2266 studies (including in-vitro and in-vivo studies in human, animal, and plant experimental systems and population studies). The evaluation found that most studies have demonstrated significant biological or health effects associated with exposure to anthropogenic electromagnetic fields.<sup>27</sup> Furthermore, a scientifically referenced Environmental Health Trust White Paper addressed common misconceptions around the health effects of wireless radiation.<sup>28</sup>

13. These and other studies and reports in the record before this Board show that wireless radiation transmitted from cell towers can have adverse effects even when the pulsed and modulated RF emissions are significantly lower than the FCC’s emission guidelines. Compliance with FCC emission limits does not ensure safety nor protection from all harm. Published studies provided to the Board show negative health effects on human beings at legally allowed levels including: neurological effects and adverse effects on well-being, clear, measurable, physiological effects, hormonal changes, oxidative stress damage, negative effects on sperm, increased cancer risk, and DNA damage.<sup>29</sup>

14. Epidemiological studies demonstrate that exposure to wireless radiation emissions from cell towers causes symptoms similar to those suffered by Shaktown residents as a result of the operation of the Verizon Wireless 877 South Street wireless facility. The record includes a 2010 review of wireless radiation exposure from cell towers and numerous other studies which are relevant to chronic long-term exposure similar to that from cell towers. Effects documented in these studies include various neurological symptoms such as fatigue, sleep problems, headaches and other effects on “wellbeing” proportionate to the distance from the cell tower.<sup>30 31 32</sup> A

<sup>25</sup> Russell, C., (2021, July 6). Cindy Russell MD to Pittsfield Board of Health, RE: Pittsfield testing of RFR emissions. [Letter].

<sup>26</sup> Scarato, T., (2021, May 27). Theodora Scarato to Gina Armstrong, City of Pittsfield Board of Health; Davis, D., et al., (2021, April 21). Dr. Devra Davis et al. to the Honorable Joseph R. Biden, President/Science/Briefing. [Letters].

<sup>27</sup> Priyanka Bandara, David O Carpenter, Planetary electromagnetic pollution: it is time to assess its impact, *The Lancet Planetary Health*, Volume 2, Issue 12, 2018, Pages e512-e514, ISSN 2542-5196, [https://doi.org/10.1016/S2542-5196\(18\)30221-3](https://doi.org/10.1016/S2542-5196(18)30221-3).

<sup>28</sup> Myth Fact Scientific Response EHT 2022.

<sup>29</sup> See Appendices I and II.

<sup>30</sup> Abdel-Rassoul, G., El-Fateh, O. A., Salem, M. A., Michael, A., Farahat, F., El-Batanouny, M., & Salem, E. (2007). Neurobehavioral effects among inhabitants around mobile phone base stations. *Neurotoxicology*, 28(2), 434–440. <https://doi.org/10.1016/j.neuro.2006.07.012>; Khurana, V., Hardell, L., Everaert, J., Bortkiewicz, A., Carlberg, M., & Ahonen, M. (2010). Epidemiological Evidence for a Health Risk from Mobile Phone Base Stations. *International Journal of Occupational and Environmental Health*, 16, 263–267. <https://doi.org/10.1179/107735210799160192>.

<sup>31</sup> Levitt, B. B., & Lai, H. (2010). Biological effects from exposure to electromagnetic radiation emitted by cell tower base stations and other antenna arrays. *Environmental Reviews*, 18(NA), 369–395. <https://doi.org/10.1139/A10-018>.

<sup>32</sup> 78 Studies Showing Health Effects from Cell Tower Radio Frequency; Oberfeld, G., & Gustavs, K. (2007). *Environmental Medicine Evaluation* (30). 48.

telecom company study found exposure to cell towers causes a variety of neurological symptoms and a dose response. The study also found a causal relationship with sleep disturbance. When, unknown to the subjects, the company secretly turned off the antennas for three days, the sleep quality improved in all subject groups that were studied.<sup>33</sup>

15. Evidence of electrosensitivity and its association to pulsed and modulated RF exposure, as well as evidence of harm to human health and the environment from exposure to wireless radiation from cell towers was filed in the case of *Environmental Health Trust, et al., v. Federal Communications Commission (FCC)* in the U.S. Court of Appeals for the District of Columbia Circuit. The petitioners challenged the FCC's decision in 2019 not to review and update its 1996 guidelines for wireless radiation emissions, following a multi-year proceeding to examine the developing science on the health and environmental effects of exposure to wireless radiation. The FCC determined in 2019 that its 1996 guidelines did not need to be updated.<sup>34</sup> On appeal, the DC Circuit court reversed the FCC, ruling in August 2021 that the FCC's determination that there is no evidence of non-cancerous and environmental harm from RF emissions below the FCC 1996 emissions guidelines was arbitrary, capricious, and not evidence-based. The DC Circuit court ruled that the FCC failed to explain why, despite the substantial evidence of harm filed in the FCC record, the agency decided to not further review its 1996 guidelines for possible updating. The DC Circuit remanded the case back to the FCC, and ordered the FCC to "*address the impacts of RF radiation on children, the health implications of long-term exposure to RF radiation*" as well as *environmental effects, new technological developments and adequacy of RF test procedures*. However, as of today's date, the FCC has not provided any response to the court order. Thus, while the 1996 FCC wireless emissions guidelines remain in effect, they have not been updated in 26 years, and they have not been substantiated by an up-to-date scientific review by any federal regulatory agency. Evidence provided to this Board confirms that when it comes to cell tower network RF emissions, there is no federal regulatory agency with health expertise monitoring the published science, nor providing surveillance for health effects, nor measuring RF levels in the environment.<sup>35</sup> As is also documented in a letter from the Environmental Protection Agency (the "EPA") to Theodora Scarato of Environmental Health Trust, the EPA has not reviewed the research on biological effects of exposure to wireless radiation since 1984.<sup>36</sup> The FDA has not reviewed the safety of environmental RF levels. The FDA stated in a letter<sup>37</sup> to a family requesting information on the safety of base station antennas that: "The Food and Drug Administration (FDA) does not regulate cell towers or cell tower radiation. Therefore, the FDA has no studies or information on cell towers to provide in response to your questions." The lack of oversight for the health effects of cell tower network radiofrequency exposure is a serious gap in

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<sup>33</sup> Cherry, N.J. (2002). Evidence of neurological effects of electromagnetic radiation: implications for degenerative disease and brain tumour from residential, occupational, cell site and cell phone exposures (9).

<sup>34</sup> *Environmental Health Trust, et al v. FCC*, 9 F.4th 893 (D.C. Cir. 2021).  
[https://www.cadc.uscourts.gov/internet/opinions.nsf/FB976465BF00F8BD85258730004EFD7/\\$file/20-1025-1910111.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/FB976465BF00F8BD85258730004EFD7/$file/20-1025-1910111.pdf).

<sup>35</sup> Myth Fact Scientific Response by Environmental Health Trust 2022. Theodora Scarato to Gina Armstrong, City of

<sup>36</sup> Pittsfield Board of Health; Davis, D., et al., (2021,

April 21). EPA letter is page 24 of Dr. Devra Davis, et al., to the Honorable Joseph R. Biden, President/Science/Briefing. [Letters].

<sup>37</sup> Theodora Scarato presentation of the FDA letter in a video presentation submitted to Pittsfield Board of Health, Pittsfield MA Expert Forum on Cell Tower Cease-and-Desist Order, at minute 54:24, and also in Myth Fact Scientific Response EHT 2022, under section "Myth: The Food And Drug Administration (FDA) has reviewed the science on 5G and cell towers and determined the radiation is safe and FCC limits protect public health."



federal accountability, especially when research documenting harmful effects continues to be published in respected journals.

16. In November 2021, scientific and policy experts, including Dr. Linda Birnbaum, former Head of the National Institute of Environmental Health Sciences and National Toxicology Program, Dr. Ronald Melnick, National Institute of Health scientist (now retired), Dr. Anthony Miller, Dr. Jerome A. Paulson, Devra Davis, PhD, and several others, sent new requests to the FCC calling for a full examination of the latest scientific evidence in order for the U.S. to develop regulatory safety limits that protect the public and environment from wireless radiation exposure. Included in their filing are over 1,000 pages of reports and studies on demonstrating harm to humans from exposure to RF radiation, including electrohypersensitivity, and harm to humans from exposure to RF radiation from cell towers specifically. The Environmental Health Trust filing to the FCC docket also includes letters from the BioInitiative Report, Environmental Working Group, Consumers for Safe Cell Phones, Phonegate Alerts, and Dr. Kent Chamberlin.<sup>38</sup>

17. The questions raised by the DC Circuit Court and the compelling scientific evidence submitted to this Board allows only one conclusion: pulsed and modulated RFR can and does cause harm, and at least a certain segment of the population can be severely harmed when exposed to this wireless radiation, especially for continuous periods of time. Exposure to wireless radiation can lead to significant temporary and possibly permanent injury, and according to the evidence, it seems that the most effective method to reduce the symptoms and mitigate the harm is through exposure avoidance.

18. This Board also finds that the information and testimony provided by Verizon Wireless do not convince this Board otherwise. In particular, this Board invited Verizon Wireless to meet by Zoom in September 2021 with Board Member Brad Gordon, then-Director of Public Health Gina Armstrong, and then-Senior Sanitarian (now current Director of Public Health) Andy Cambi to discuss the concerns of the City of Pittsfield Health Department, this Board, and residents of the City of Pittsfield about the wireless radiation emissions from the Verizon Wireless 877 South Street wireless facility ever since that facility was activated in August 2020. These concerns arose from the complaints reported by numerous residents of the adjacent residential neighborhood of negative health symptoms these residents and their relatives had been and were continuing to suffer from what they believed to be exposure to the continuous wireless radiation being transmitted from that Verizon Wireless facility. On September 9, 2021, Verizon Wireless appeared at the Board of Health Zoom session, represented by Verizon General Counsel New England Market, attorney Joshua E. Swift, Verizon Wireless Network Engineer, Jay Latorre, Verizon Wireless State and Government Affairs Director, Ellen Cummings, and Dr. Eric S. Swanson, Professor, Department of Physics and Astronomy, University of Pittsburgh. Professor Swanson was the primary spokesperson for Verizon Wireless at this meeting.

19. Professor Swanson presented prepared remarks, accompanied by a Powerpoint slide presentation. The Board did not place any time limits on Professor Swanson's presentation, and Ms. Armstrong and Mr. Gordon asked Professor Swanson many questions following his remarks. Professor Swanson's main points included: (a) electromagnetic radiation is the best understood phenomenon in the universe; it is not nuclear radiation; (b) electromagnetic waves form the

<sup>38</sup> Reassessment of Federal Communications Commission Radiofrequency Exposure Limits and Policies, (2021). ET Docket No. 13-84, <https://ecfsapi.fcc.gov/file/11302824721650/Remand%20Filing%20-%20Nov%2030th.pdf>; Linda S. Birnbaum, PhD, et al. (2021, November 24). *FCC Record Refresh Letter from Scientists to The Honorable Jessica Rosenworcel, Commissioner, Acting Chairwoman, Federal Communications Commission*. <https://ehtrust.org/wp-content/uploads/FCC-Record-Refresh-Letter-from-ScientistsWireless-Radiation.pdf>; *Scientific and Policy Developments in Radiofrequency Radiation (2019 - 2021)*, <https://ehtrust.org/wp-content/uploads/New-Scientific-Developments-in-RFR-FCC-EHT-Remand-with-Studies-2.pdf>; Environmental Working Group, The Bioinitiative Report, Consumers for Safe Cell Phones, New Hampshire State Commission on 5G.

spectrum; (c) some radiation is ionizing which can sometimes cause cancer; (d) electromagnetic waves below the ionization threshold cannot cause cancer; (e) only wavelengths above visible light on the spectrum are ionizing; (f) wavelengths in the visible light portion of the spectrum are non-ionizing, and cannot cause cancer; (g) wavelengths below visible light on the spectrum, including thermal, microwave, 5G, 4G, and radio, are non-ionizing, and cannot cause cancer; (h) the only verified biological effect on tissue of non-ionizing radiation is heating; (i) the FCC regulates RFR to limit thermal effects, and FCC limits are very strict, set at 1/50 of the level of what is detectable in animal experiments; (j) the FCC limits are based on the evaluation of thousands of studies and the recommendations of expert organizations and agencies; (k) various international regulatory agencies and health organizations have concluded that there is no established evidence for health effects from radio waves used in mobile communications; (l) the FCC regularly updates its rules; (m) the consensus view of all scientists is that wireless radiation does not and cannot cause cancer; all studies to the contrary are from fringe scientists and those studies all show confirmation bias.

20. Following Professor Swanson's remarks, Ms. Armstrong acknowledged, without accepting, his contention that exposure to wireless radiation cannot cause cancer. But she pointed out that the immediate medical symptom residents of the Shacktown neighborhood adjacent to the Verizon Wireless 877 South Street wireless facility were complaining about were not cancer or thermal effects, but rather, headaches, tinnitus, and other conditions typical of electrohypersensitivity. Ms. Armstrong asked Professor Swanson to explain how to deal with those symptoms. Professor Swanson responded by insisting that the only verifiable biological effect of non-ionizing wireless radiation is heat, and the FCC so strictly regulates those emissions levels that heat cannot pose a problem from that Verizon Wireless cell tower. Professor Swanson acknowledged that certain people truly believe that they are hypersensitive to wireless radiation. But Professor Swanson suggested that those persons have psychological issues, and they should be dealt with sympathetically. Professor Swanson maintains that transmission of wireless radiation from Verizon's cell tower cannot actually cause those persons any injury because the immutable laws of physics make that impossible.

21. This Board has reviewed Professor Swanson's presentation and discussion and finds Professor Swanson's conclusions, several of which are strident and absolute, to lack credibility. A major problem with Professor Swanson is that he speaks as a purported expert about matters of human health and disease and medical and scientific studies about the health effects of exposure to wireless radiation, but he lacks any academic or professional qualifications in those fields. Professor Swanson is a professor of theoretical physics.<sup>39</sup> Professor Swanson's research interests focus on esoteric topics in nuclear physics, cosmology, and hadronic physics, especially in learning how "quarks" and "gluons" build the universe. All 124 of Professor Swanson's published scientific studies are limited to these subject areas.<sup>40</sup> Professor Swanson is not a medical doctor. Professor Swanson has no professional training or qualifications in medicine, medical research, biology, environmental studies, public health, epidemiology, or toxicology, and his professional credentials show no such expertise. See fn. 39. Yet Professor Swanson rejects the more than 2,000 peer-reviewed scientific studies showing that wireless radiation may or does negatively impact human health as outliers by "fringe" scientists who may be "conspiracy theorists" with an axe to grind, and asserts that their studies all show "confirmation bias." Professor Swanson asserts unequivocally that "the scientific consensus" is that wireless radiation cannot cause human harm. This Board finds that Professor Swanson lacks the qualifications and

<sup>39</sup> <https://www.physicsandastronomy.pitt.edu/people/eric-s-swanson>.

<sup>40</sup> <https://inspirehep.net/literature?sort=mostrecent&size=100&page=2&q=fin%20a%20swanson%2C%20e%20s>.



the expertise to make such sweeping statements, and his credibility as a witness is severely undermined thereby.

22. Further undermining Professor Swanson's credibility is his appearance before this Board as a paid expert on behalf of Verizon Wireless, retained through his consulting business, Swanson Scientific Consulting.<sup>41</sup> On Professor Swanson's private consulting business website, he lists on the "Past Clients" tab, "Pittsfield, MA," one of his 20 listed "Scientific Presentations and Depositions to Cities." Professor Swanson also lists presentations to 5 State Senate Committees, the New York State Senators, the New Jersey Urban Mayors Association, and the Center for Growth and Opportunity. He names Verizon and Crown Castle Development (a major cell tower operator) as clients, as well as CTIA, the U.S. wireless industry's trade and lobbying association. See fn. 41. This Board, in assessing Professor Swanson's credibility, takes notice that he works as a paid industry consultant when making presentations such as the one he made to this Board regarding matters outside of his academic research and professional qualifications. In contrast, the experts who presented to this Board and spoke about the hazards to human health posed by wireless radiation from cell towers all had particular professional qualifications in the subject matter; none of these experts has received any compensation for their appearances before this Board, and all are independent academic researchers, with no affiliation to Verizon Wireless and the telecommunications industry. These facts enhance the credibility of these experts, especially vis-a-vis Professor Swanson.

23. Verizon Wireless also submitted to this Board documents which consist primarily of self-promotional brochures or industry-funded advocacy pieces rather than peer-reviewed scientific studies. These materials generally deny *any* prospect of harm, but do not meaningfully address the scientific evidence in the record or counteract the fact that the majority of independent (not industry-funded) studies, especially studies that use pulsed and/or modulated signals, do show harm.<sup>42</sup> Verizon Wireless did not present government regulatory agency reports or systematic scientific or medical reviews of cell tower wireless radiation exposure studies (or studies of comparable levels of chronic environmental exposures) which conclude that safety to human health is assured. Furthermore, Verizon Wireless cannot and does not adequately rebut the personal testimonies provided by the residents of the neighborhood ("Shacktown") in the City of Pittsfield adjacent to the Verizon Wireless 877 South Street wireless facility at the several public hearings before the Health Board of the actual harms they have suffered and are suffering from the operation of this wireless facility. Simply stated, the position of Verizon Wireless is that what is plainly happening in Pittsfield cannot occur. That position has been stated most clearly by Professor Swanson during his September 9, 2021 presentation to this Board. But this Board finds that, in fact, Shacktown residents have suffered, and are continuing to suffer, negative health effects from the continuous operation of the Verizon Wireless 877 South Street wireless facility since it was activated in August 2020.

24. The evidence shows that involuntary wireless radiation exposure directed upon Shacktown residents in their homes has effectively evicted several residents injured by pulsed and modulated RFR; they have no choice but to leave. Pulsed and modulated RFR from the Verizon Wireless 877 South Street wireless facility has rendered their homes uninhabitable – unfit for human habitation – because the continued exposure causes them severe pain, unable to function, and endangers and materially impairs their health and safety.

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<sup>41</sup> <https://swansonscientific.com/>.

<sup>42</sup> Panagopoulos, D. J., Johansson, O., & Carlo, G. L. (2015). Real versus Simulated Mobile Phone Exposures in Experimental Studies. *BioMed Research International*, 2015, 607053. <https://doi.org/10.1155/2015/607053>.

**Whereas**, this Board has received direct testimony and written submissions from specific individuals that reside, or previously resided, within the reach of the wireless facility in issue. These residents state that they and/or other family members (including their children) have developed symptoms shortly after the facility was activated.<sup>43</sup> Many of the residents have testified on multiple occasions, which indicates the symptoms are persisting. It appears, based on the evidence, that there is a cluster of illness around the Verizon Wireless 877 South Street wireless facility that is caused by the facility's operation. Since no comprehensive survey has been conducted of all neighborhood residents, there may be additional affected residents.

**Whereas**, the symptoms reported by affected neighborhood residents are mainly neurological; they include headaches, ringing in the ears, dizziness, heart palpitations, nausea, and skin rashes. As the evidence that was provided to this Board shows, these symptoms are consistent with the scientific literature regarding adverse health effects from exposure to pulsed and modulated RF, including evidence specific to cellular antennas.

**Whereas**, this Board has received evidence from at least seventeen residents who have suffered on-going medical symptoms that arose for the first time after the Verizon Wireless 877 South Street wireless facility was activated in August 2020 and who believe their symptoms are caused by their continuous exposure to the wireless radiation being transmitted from that wireless facility. This Board finds their letters and oral testimonies to be authentic, compelling, and credible. As a result of their now-impaired health, some of these residents have decided to leave their homes, while others split their time between their homes in Shacktown and other temporary locations. This indicates that some affected Shacktown residents have been constructively evicted from their homes because of the operation of the wireless facility, and have been effectively rendered homeless. According to the evidence in the record, these symptoms are consistent with a diagnosis of electromagnetic sensitivity.

**Whereas**, this Board has received and reviewed, *inter alia*, the following evidence from specific Shacktown residents who have been and are being injured by the continued operation of the Verizon Wireless 877 South Street wireless facility:

1. REDACTED a pre-school teacher, has testified that she and both of her daughters developed various symptoms immediately after the facility went into operation. Ms. REDACTED has provided a physician's medical diagnosis by Dr. Sharon Goldberg, MD, an internal and environmental medicine physician. This diagnosis has linked REDACTED symptoms directly to the RF/EMF emitted by the facility by way of causation. REDACTED diagnosis letter indicates her symptoms improve when she is away from home, but resume when she returns and is again exposed again to the facility's radiation.
2. REDACTED s minor daughter, testified that after the facility went into operation, she and her sister both started getting headaches. They feel dizzy and develop sleeping problems. Her sister also suffered itchiness and developed skin rashes, frequent nausea, and often has to sleep with a bucket next to her bed in case she needs to throw up. Both girls have missed school because of sickness caused by wireless radiation exposure from the cell tower. REDACTED explained that when she is away from home (and out of range of the facility) she feels better.
3. REDACTED reported that following the facility's activation they began to suffer nausea, headaches, and dizziness. They are especially concerned for their five year old son who has Sensory Processing Disorder, a neurological disease. Since he has limited verbal skills, they do not know whether he too suffers from exposure to the wireless radiation transmitted from the cell tower. They are concerned that the exposure to the cell tower's emissions will aggravate

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<sup>43</sup> See Appendix V: Public Comment Testimony to Board of Health.

his condition. The literature indicates that it is not unusual for individuals to have or develop sensitivity to multiple toxins, and this can become an escalating feedback loop.

4. REDACTED and their two children all developed headaches and insomnia after the facility became operational. They left their home because it is essentially uninhabitable and inaccessible to them.

5. REDACTED, an elderly resident, testified that both he and his wife have been unable to sleep since the tower was activated and that his wife has been especially affected.

6. REDACTED reported that they have been severely affected. He is nauseous and has headaches in the morning and again as soon as he returns from work.

7. REDACTED testified that she and her husband developed tinnitus and other serious health issues following the facility's activation. They are suffering from headaches and sleeplessness. They are deciding whether they must abandon their home because it is inaccessible and uninhabitable.

8. REDACTED testified that he developed ringing in the ears and that his wife Luci has developed horrible headaches and migraines. He stated that he sent his wife and their three year old daughter REDACTED away from the house because they believe it is unsafe and therefore uninhabitable. They are concerned for their daughter as she also has limited verbal skills and therefore they don't know if she suffers.

**Whereas**, this evidence clearly demonstrates to this Board that specific Shacktown residents in the vicinity of the facility have suffered and are suffering injuries and illnesses directly caused by the pulsed and modulated RFR emitted by the facility in issue, and for so long as the facility is in operation it will continue to be injurious to the public health and continue to drive residents from their homes.

**Whereas**, the FCC's emissions guidelines provide limits for general population purposes. These guidelines were designed to measure and address primarily only "thermal" or heating related effects. The guidelines for whole body exposure (such as for exposure from cell towers) are for 30 minutes exposure, and protect only from thermal injury. They were not developed to protect sensitive populations against all harms. They ignore the effects of pulsation and modulation and non-thermal effects from long-term chronic exposure, cumulative effects, and effects of exposure to numerous sources of RF exposure.

**Whereas**, the FCC emissions guidelines do not address the demonstrated scientific, medical, and even legally-established fact that these general population limits do not adequately recognize that pulsed and modulated RF radiation emissions are "bioactive" – living things biologically respond to pulsed and modulated RF radiation, and this response can lead to harmful effects. More importantly, these guidelines entirely fail to address or provide for the situation where, at least, certain individuals develop adverse reactions such as those who experience electromagnetic sensitivity.

**Whereas**, this Board concludes that the FCC emissions guidelines do not prevent this Board, operating under State authority, from taking action to protect the health and safety of those specific individuals who have demonstrated that a continuously operating cell tower built adjacent to a densely populated residential neighborhood is injuring their health on a continuing basis, as well as the health of other neighborhood residents. The FCC has ruled that state and local zoning authorities can condition a land use permit on compliance with generally applicable state or local health and safety codes.<sup>44</sup> Verizon

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<sup>44</sup> *Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting; 2012 Biennial Review of Telecommunications Regulations*, 29 FCC Rcd 12865, 122951, ¶202 (Oct. 17, 2014): ("We therefore conclude that States and localities may require a covered request to comply with generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, and that they may condition approval on such compliance.").

Wireless' permit for this facility does precisely that. Verizon Wireless' permit expressly requires compliance with the Massachusetts Sanitary Code and Pittsfield's health-related rules, regulations and requirements. By this Order, this Board finds the Verizon Wireless 877 South Street wireless facility to be in violation, and this Board requires Verizon Wireless and the property owner to bring their facility and the premises into compliance with Massachusetts' and Pittsfield's generally applicable health and safety codes, just as FCC precedent and the permit expressly allow.

**Now, therefore, the Pittsfield Board of Health hereby FINDS AND ORDERS as follows:**

1. The Verizon Wireless 877 South Street wireless facility operated by Verizon Wireless is a public nuisance, a cause of sickness, and a trade which may result in a nuisance or be dangerous to the public health for purposes of G.L. ch. 111 ss 122-125, 127B, 127C, 143-150 and 152.
2. The premises owner, Farley White South Street LLC, is also responsible for all activities on its premises and within its direction and control.
3. The Verizon Wireless 877 South Street wireless facility operated on the premises creates an access barrier that directly causes harm to certain individuals, and renders dwellings Unfit for Human Habitation or constitutes a Condition Which May Endanger or Materially Impair the Health or Safety and Well-Being of an Occupant as defined in State Sanitary Code 410.020 and 410.750(P).
4. The Verizon Wireless 877 South Street wireless facility operated on the premises creates conditions that impact occupants of a dwelling to the point that it renders a dwelling unfit for habitation for purposes of Sanitary Code 410.831.
5. Verizon Wireless and Farley White South Street LLC are jointly and severally responsible for these unsafe conditions.
6. This Order shall be served on Verizon Wireless, through its authorized agents, and on Farley White South Street LLC, through its authorized agents, the persons responsible for the violations as provided by *inter alia*, G.L. ch. 111 ss 124, 127B, 127D, 144, and State Sanitary Code for 410.833, 410.850, and 410.851.
7. Verizon Wireless and Farley White South Street LLC are hereby ORDERED to show cause why the Board of Health should not issue an order requiring cessation of operations at the facility pursuant to the Board of Health's statutory and historical police power to protect its citizens from injury and harm.
8. Verizon Wireless and Farley White South Street LLC shall have SEVEN (7) DAYS from the date of this order to request a hearing on this Order to Show Cause. The Board of Health will promptly schedule such hearing in accordance with the provisions of G.L. ch. 111 and the State Sanitary Code, and provide public notice thereof.
9. In the event Verizon Wireless and Farley White South Street LLC do not timely request a hearing, this Order shall become and constitute a notice of discontinuance requiring that Verizon Wireless and Farley White South Street LLC abate and eliminate all activities and operations leading to the present and ongoing nuisance and violations of the State Sanitary Code at their own expense within SEVEN (7) DAYS of the expiration of the deadline to request a hearing.
10. Verizon Wireless and Farley White South Street LLC shall have the right to inspect and obtain copies of all relevant inspection or investigation reports, orders, notices, and other documentary information in the possession of the Board of Health; the right to be represented at the hearing.
11. Any affected party has a right to appear at said hearing and present evidence and argument in favor of or against discontinuance.

12. This is an important legal document. It may affect your rights.

The Health Board reserves the right to take such other and further action as it deems necessary to ensure that all injurious activities and conditions end, including directly acting to remove the offending facilities at the expense of Verizon Wireless and Farley White South Street LLC and or appointment of a receiver responsible for accomplishing the same.

This Order shall take effect upon issuance.

#### **Appendix I: Letters and Testimony from Experts**

*All links provided by reference*

Russell, C., (2021, April 6). Cindy Russell MD to Council Members in the City of Pittsfield. Re: 3/21/21 Agenda Item #15 to encourage the Pittsfield, Massachusetts Health Department to investigate the health effects reported in the vicinity of the Verizon 877 South Street Cell tower. [Letter].

Russell, C., (2021, July 6). Cindy Russell MD to Pittsfield Board of Health. RE: Pittsfield testing of RFR emissions. [Letter].

Carpenter, D.O., (2020, October 8). Dr. David Carpenter to Mayor of the City of Pittsfield MA and Board of Health on Cell Tower Radiation [Letter].

Kulberg, A.G., (2021, August 31). Dr. Kulberg Chair of Pittsfield Board of Health to the Joint Committee on Consumer Protection RE: Senate Bill S.186 and in Support of MA Commission on Wireless Radiation. [Letter].

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#### **Appendix II Testimony and Research on Cell Towers and Radiofrequency**

*Note: This is not an exhaustive list, but rather a short list of studies included in evidence sent to the Board.*

### **Compilation Documents**

REDACTED testified repeatedly to the Board, communicated by email and submitted extensive scientific research, video lectures, documentation of health effects and reports.

Michael Maudin, (Numerous letters 2021 and 2022) The Alliance for Microwave Radiation Accountability, Inc. Sent the Board numerous resources, scientific papers, and documents demonstrating evidence of adverse effects, research dating back decades on electromagnetic radiation and more including links Primary Source Documents - Microwave Radiation Syndrome in April 2021, Michael Maudin's testimony of injury from base station antennas and primary source documents, Microwave-Radiation-Syndrome-Primary-Source-Documents-BoH-April-2021.pdf. Maudin also sent 35 peer-reviewed studies and charts on microwave sickness caused by the radiation from cell

towers to the Pittsfield Board of Health on January 5, 2021 and these are included in the reference list.

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### **Appendix III: Videos Resources Sent to Board of Health**

Pittsfield MA Expert Forum on Cell Tower Cease-and-Desist Order: With Senator Denise Ricciardi, NH; Dr. Paul Héroux; Dr. Magda Havas; Dr. Kent Chamberlin; Dr. Sharon Goldberg, Environmental Health Trust Director Theodora Scarato; Attorney Robert Berg; Attorney Scott McCollough.

Pittsfield MA Cell Tower Discussion 5 July 2021: Dr. Kent Chamberlin, EHTrust Policy Director Theodora Scarato & MA for Safe Technology Director Cecelia Doucette.

Town of Lenox Board of Health Remote Meeting, August 19, 2021, with presentation by Kent Chamberlin, Ph.D., on Cell Tower Research.

Sacramento City Council Meeting: Includes testimony of two young girls who became sick after Verizon cell installation was powered up.

Wireless Radiation- What Environmental Health Leaders Need to Know: Featuring Linda Birnbaum, former Director of the National Institute for Environmental Health Sciences and the National Toxicology Program • Michael Lerner, Co-Founder and President of Commonweal and Co-Founder of Collaborative on Health and the Environment • Joel M. Moskowitz, PhD, Director Center for Family and Community Health, School of Public Health, University of California- Berkeley and Founder of Electromagnetic Radiation Safety • Uloma Uche, PhD, Environmental Working Group, author of new study on hazards of wireless radiation on children. • Sharon Buccino, Legal Expert, NRDC • Cindy Russell, MD Founder of Physicians for Safe Technology • Larry Ortega, Founder of Community Union • Theodora Scarato, Executive Director of the Environmental Health Trust.

### **Appendix V: Public Testimony to the Board of Health**

*All links provided by reference.*

*In addition to public testimony referenced below, Pittsfield residents submitted numerous emails, documents and letters to the Board.*

#### **Board of Health Meetings**

**April 12, 2021**

Agenda; [https://cms2files.revize.com/pittsfieldma/calendar\\_app/docs/Boards\\_Commissions\\_Calendar/Board\\_of Health/BOH\\_04\\_12.pdf](https://cms2files.revize.com/pittsfieldma/calendar_app/docs/Boards_Commissions_Calendar/Board_of_Health/BOH_04_12.pdf)

Meeting link; <https://watch.pittsfieldtv.net/CablecastPublicSite/show/38962?channel=9>

**May 5, 2021**

Agenda; [https://cms2files.revize.com/pittsfieldma/calendar\\_app/docs/Boards\\_Commissions\\_Calendar/Board\\_of Health/BOH\\_05\\_05.pdf](https://cms2files.revize.com/pittsfieldma/calendar_app/docs/Boards_Commissions_Calendar/Board_of_Health/BOH_05_05.pdf)

Meeting link; <https://watch.pittsfieldtv.net/CablecastPublicSite/show/40347?channel=9>

**June 2, 2021**

**Pittsfield Board of Health Wireless Harm Expert Forum:**

Agenda;[https://cms2files.revize.com/pittsfieldma/calendar\\_app/docs/Boards\\_Commissions\\_Calendar/Board\\_of Health/BOHA\\_genda\\_06\\_02.pdf](https://cms2files.revize.com/pittsfieldma/calendar_app/docs/Boards_Commissions_Calendar/Board_of_Health/BOHA_genda_06_02.pdf).

Meeting Link; <https://watch.pittsfieldtv.net/CablecastPublicSite/show/40684?channel=9>.

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**July 7, 2021**

**VComm presents readings from the cell tower (first in person meeting)**

Agenda;[https://cms2files.revize.com/pittsfieldma/calendar\\_app/docs/Boards\\_Commissions\\_Calendar/Board of Health/BOH\\_07\\_07.pdf](https://cms2files.revize.com/pittsfieldma/calendar_app/docs/Boards_Commissions_Calendar/Board_of_Health/BOH_07_07.pdf).

Meeting link; <https://watch.pittsfieldtv.net/CablecastPublicSite/show/40992?channel=9>.

**September 1, 2021**

Agenda;[https://cms2files.revize.com/pittsfieldma/calendar\\_app/docs/Boards\\_Commissions\\_Calendar/Board of Health/BoardofHealth\\_09\\_01.pdf](https://cms2files.revize.com/pittsfieldma/calendar_app/docs/Boards_Commissions_Calendar/Board_of_Health/BoardofHealth_09_01.pdf).

Meeting link; <https://watch.pittsfieldtv.net/CablecastPublicSite/show/41536?channel=9>

**October 6, 2021**

Agenda;[https://cms2files.revize.com/pittsfieldma/calendar\\_app/docs/Boards\\_Commissions\\_Calendar/Board of Health/BoardofHealth\\_10\\_06.pdf](https://cms2files.revize.com/pittsfieldma/calendar_app/docs/Boards_Commissions_Calendar/Board_of_Health/BoardofHealth_10_06.pdf).

Meeting link; <https://watch.pittsfieldtv.net/CablecastPublicSite/show/41802?channel=9>.

**November 3, 2021**

Agenda;[https://cms2files.revize.com/pittsfieldma/calendar\\_app/docs/Boards\\_Commissions\\_Calendar/Board of Health/BoardofHealth\\_11\\_03.pdf](https://cms2files.revize.com/pittsfieldma/calendar_app/docs/Boards_Commissions_Calendar/Board_of_Health/BoardofHealth_11_03.pdf).

Meeting link; <https://watch.pittsfieldtv.net/CablecastPublicSite/show/43053?channel=9>.

**December 1, 2021**

Agenda;[https://cms2files.revize.com/pittsfieldma/calendar\\_app/docs/Boards\\_Commissions\\_Calendar/Board of Health/BoardofHealth\\_12\\_01.pdf](https://cms2files.revize.com/pittsfieldma/calendar_app/docs/Boards_Commissions_Calendar/Board_of_Health/BoardofHealth_12_01.pdf).

Meeting link; <https://watch.pittsfieldtv.net/CablecastPublicSite/show/43228?channel=9>.

**February 2, 2022- Cease and desist unanimously voted on**

Agenda;[https://cms2files.revize.com/pittsfieldma/calendar\\_app/docs/Boards\\_Commissions\\_Calendar/Board of Health/BoardofHealth\\_02\\_02.pdf](https://cms2files.revize.com/pittsfieldma/calendar_app/docs/Boards_Commissions_Calendar/Board_of_Health/BoardofHealth_02_02.pdf).

Meeting link; <https://watch.pittsfieldtv.net/CablecastPublicSite/show/43842?channel=9>.

**February 23, 2022-Executive session for cease and desist order- order upheld**

Agenda;[https://cms2files.revize.com/pittsfieldma/calendar\\_app/docs/Boards\\_Commissions\\_Calendar/Board of Health/BoardofHealth\\_02\\_02.pdf](https://cms2files.revize.com/pittsfieldma/calendar_app/docs/Boards_Commissions_Calendar/Board_of_Health/BoardofHealth_02_02.pdf).

Meeting link; <https://watch.pittsfieldtv.net/CablecastPublicSite/show/44040?channel=9>.

**March 16, 2022-Second executive session for the cease and desist order**

Agenda;[https://cms2files.revize.com/pittsfieldma/calendar\\_app/docs/Boards\\_Commissions\\_Calendar/Board of Health/BOH\\_03\\_16.pdf](https://cms2files.revize.com/pittsfieldma/calendar_app/docs/Boards_Commissions_Calendar/Board_of_Health/BOH_03_16.pdf)

Meeting link; <https://watch.pittsfieldtv.net/CablecastPublicSite/show/44241?channel=901:45>

**Additional Testimony at City Board Meetings**

*Pittsfield residents and scientific experts testified at numerous City Council meetings as well as other City Board Meetings providing testimony on harm.*

**November 5, 2020 Community Development Board Meeting**

Pittsfield Community Development Board - November 5, 2020

Topic: Cell towers setbacks

**Community Development Board December 1, 2020**

<https://watch.pittsfieldtv.net/CablecastPublicSite/show/37825?channel=9>

Certified and Regular Mail: 7021-0350-0000-4282-0554 (Pittsfield Cellular Telephone Company, Atty. Ellen W. Freyman)

Certified and Regular Mail: 7021-0350-0000-4282-0547 (Pittsfield Cellular Telephone Company, Mark J. Esposito, Esq.)

Certified and Regular Mail: 7021-0350-0000-4282-0530 (Farley White South Street, LLC, Roger W. Altreuter, Manager)





ORDERED by unanimous vote of the Pittsfield Board of Health on April 7, 2022

Roberta Orsi, MS, RN, CCP, Chairperson

*Roberta Orsi MS RN*

Kimberly Loring, PMHNP-BC

*K. Loring PMHNP-BC*

Steve Smith, MA

*Steve Smith*

Brad Gordon, JD

*Brad Gordon*

Jeffery A. Leppo, MD – Not Present-Did Not Participate



# City of Pittsfield

May 12, 2022

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To the City Council of the City of Pittsfield:—

The Committee on                      on Community and Economic Development

to whom was referred the                      A communication from Mayor Tyer submitting an Order  
requesting authorization to submit the Community Development  
Block Grant Annual Action Plan for the 2022-2023 Program Year

having considered the same, report and recommend that

Voted to approve.  
Voted 5-0

Respectfully submitted,

Earl G. Persip, III

Chairman.



# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201  
(413) 499-9321 • ltyer@cityofpittsfield.org

**Linda M. Tyer**  
**Mayor**

April 20, 2022

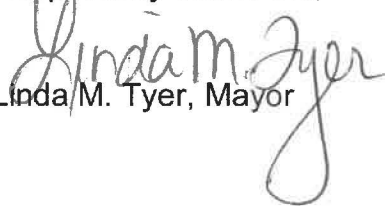
To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration is an Order requesting authorization to submit the Community Development Block Grant (CDBG) Annual Action Plan for the 2022-2023 program year to the U.S. Department of Housing and Urban Development (HUD). As has been the past practice, the Chairman of the Council's Committee on Community and Economic Development has agreed to host the required public hearing at a scheduled Committee meeting.

The Department of Community Development has provided each of you with the Executive Summary and Annual Plan/Projects sections of the draft Annual Action Plan which contain the detail regarding the proposed 2022-2023 budget for the CDBG program. Please contact the Department of Community Development if you would like a copy of the entire draft Annual Action Plan. The entire draft Annual Action Plan will also be available on the City's website.

Respectfully submitted,

  
Linda M. Tyer, Mayor

LMT/CVB  
Enclosure



## CITY OF PITTSFIELD

DEPARTMENT OF COMMUNITY DEVELOPMENT, CITY HALL, 70 ALLEN STREET, RM 205, PITTSFIELD, MA 01201

April 12, 2022

The Honorable Linda M. Tyer  
City Hall, 70 Allen Street  
Pittsfield, MA 01201

Dear Mayor Tyer:

Enclosed for transmittal to the City Council is an Order authorizing the Mayor to submit the Community Development Block Grant (CDBG) fiscal year 2023 HUD Year 2022 Annual Action Plan to the U.S. Department of Housing & Urban Development (HUD). The 2022 Annual Action Plan contains the proposed fiscal year 2023 CDBG budget and specifically describes the activities on which these funds will be spent during the year beginning July 1, 2022 through June 30, 2023. We have not yet received the amount of Pittsfield's CDBG allocation for Federal Fiscal Year (FFY) 2022-2023 and are basing calculations on level funding.

The CDBG FY2023 Budget will continue CDBG programs city residents have come to rely on, including:

- sidewalk repairs;
- vacant building demolitions;
- housing rehabilitation , including handicapped accessible ramps and water meters; and
- continued funding for parks including the Westside Riverway and funding for human service programs

The HUD regulatory process for reviewing and approving the draft plan includes a 30-day public comment period and a public hearing. Therefore, I request that the draft Annual Action Plan be submitted to the City Council for referral to its Community and Economic Development Committee for the required public hearing. The Annual Action Plan will then be referred back to the City Council for their final review prior to being submitted to HUD.

Sincerely,

A handwritten signature in dark ink, appearing to read "Justine A. Dodds".

Justine A. Dodds  
Director

Attachments

# City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

AN ORDER

No. \_\_\_\_\_

## **AUTHORIZING THE MAYOR TO SUBMIT THE COMMUNITY DEVELOPMENT BLOCK GRANT ANNUAL ACTION PLAN FOR THE 2022-2023 PROGRAM YEAR**

### **Ordered:**

1. That the Mayor is hereby authorized to submit the Community Development Block Grant FY 2023 Annual Action Plan for the 2022-2023 program year to the U.S. Department of Housing & Urban Development (HUD), and assurances contained therein; and
2. That the Mayor is directed and authorized to act in connection with the submission of the Annual Action Plan and to provide such additional information as may be required; and
3. That in accordance with the requirements of Massachusetts General Laws, Chapter 44, Section 53A, the Director of the Department of Community Development is hereby authorized to accept said grant including payments of Program Income, if any, and shall deposit any amounts received with the City Treasurer who shall hold said amounts in separate accounts; and
4. That said grant and payments of Program Income may be expended without further appropriation, as provided for in M.G.L. Ch. 44.53A.



# City of Pittsfield

2022 MAY 18 AM 10:50

May 18, 2022

To the City Council of the City of Pittsfield:-

The undersigned respectfully

request the state and federal delegation assist with finding additional funding and resources to improve the Mental Health services in Pittsfield.

Signed

Peter Marchetti - Council President  
Pete White - council Vice President  
Kevin Sherman - ward 3  
Tonya Frazier



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2022 MAY 17 PM 3:01

May 14 20 22

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Requests that the City Council adopt an ordinance that would allow the flushing water mains on private and/or unaccepted streets based on the following draft language:

## **FLUSHING OF WATER MAINS ON PRIVATE OR UNACCEPTED STREETS.**

The City Council may, upon a petition for the flushing of water mains within the way of a private or unaccepted street to which the public has the right of access, cause a review of said water main to be made by the Commissioner of Public Services. If in the opinion of the Commissioner said flushing of the water main would benefit the general public, the City Council may order the flushing said water main by the Department of Public Services of the City, provided that this may be done only with the consent of two thirds of all abutters having rights in said way, and without cost to such abutters; and provided, further, that such abutters give property waivers of damages, releasing the City and the Commission of Public Services and employees in such Department from any liability by reason of their acts hereunder.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Kenneth G. Warren Jr.", is written over a horizontal line. The signature is fluid and cursive.

Kenneth G. Warren Jr.  
Ward 1 City Councilor





## City of Pittsfield

2022 MAY 18 PM 12:31

May 16 20 22

To the City Council of the City of Pittsfield:-

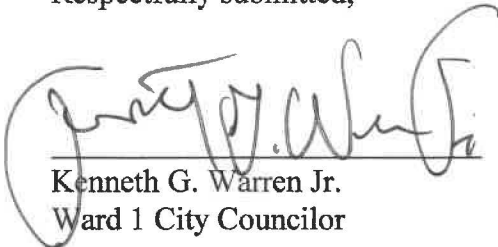
The undersigned respectfully

Request that the Order attached hereto entitled "**AN ORDER REQUESTING THAT THE AMOUNT OF \$1,200,000 BE APPROPRIATED FOR THE PURPOSE OF THE PROVISION AND INSTALLATION OF WATER METERS IN RESIDENTIAL HOMES**" be approved and referred to Mayor Linda Tyer for appropriation.

### DISCUSSION & CONCLUSION

Many people and for quite a long time have requested that the city implement a program to provide and install water meters in single-family residential homes at no or reduced cost to the homeowners. This is a necessary purpose which was not provided for in the budget. Therefore a request and appropriation is called for.

Respectfully submitted,



Kenneth G. Warren Jr.  
Ward 1 City Councilor



Karen Kalinowsky  
At Large City Councilor

# City of Pittsfield

M A S S A C H U S E T T S

IN CITY COUNCIL

**AN ORDER**

No. \_\_\_\_\_

**AN ORDER REQUESTING THAT THE AMOUNT OF \$1,200,000 BE APPROPRIATED  
FOR THE PURPOSE OF THE PROVISION AND INSTALLATION OF WATER  
METERS IN RESIDENTIAL HOMES**

**Ordered:**

SECTION 1: The amount of **ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000)** be appropriated for the installation of water meters in single-family residential homes.

This SECTION 2: That this order shall take effect upon adoption.



# City of Pittsfield

2022 MAY 18 PM 12:31

May 14 20 22

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Request and/or in the alternative Move that the Order attached hereto entitled "**AN ORDER REQUESTING THAT THE AMOUNT OF \$50,000 BE APPROPRIATED FOR THE PURPOSE OF THE PROVISION OF LEGAL ADVICE AND REPRESENTATION TO THE CITY COUNCIL**" be approved and referred to Mayor Linda Tyer for appropriation.

## DISCUSSION & CONCLUSION

Many times where the City Council would need independent legal advice and representation from that provided by the City Solicitor's Office. As students of government know the City Solicitor is often known as "Corporation Counsel" because they provide legal advice and guidance to their client which is the municipal corporation that is run by the Mayor as Chief Executive. Many times the City Council has separate and different interests and would be in need of independent advice and representation as the managing of the ARPA funds has starkly demonstrated.

Using the ARPA as a clear example, questions have been raised about the creation of positions and expenditure of funds without meaningful consultation with the City Council. Informal attempts have been made at accommodation and compromise yet there has been no response let alone a satisfactory response. The City Council may in its wisdom be required to enact ordinances to accomplish this.

This is a necessary purpose which was not provided for in the budget. Therefore a request and appropriation is called for.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kenneth G. Warren Jr.", is written over a horizontal line.

Kenneth G. Warren Jr.  
Ward 1 City Councilor

No. \_\_\_\_\_

**City of Pittsfield**  
M A S S A C H U S E T T S  
IN CITY COUNCIL  
AN ORDER

**Ordered:**

**AN ORDER REQUESTING THAT THE AMOUNT OF \$50,000 BE APPROPRIATED FOR THE PURPOSE OF THE PROVISION OF LEGAL ADVICE AND REPRESENTATION TO THE CITY COUNCIL.**

WHEREAS, as the legislative branch of the government for the City of Pittsfield; and

WHEREAS, there are times when the City Council has separate and different interests from the Mayor and would be in need of independent advice and representation

Therefore be it ORDERED: That, the amount of FIFTY THOUSAND DOLLARS (\$50,000) be, and hereby is appropriated for the use of the City Council:

Legal Expenses	\$50,000
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# City of Pittsfield

2022 MAY 18 PM 12:31

May 14 20 22

To the City Council of the City of Pittsfield:--

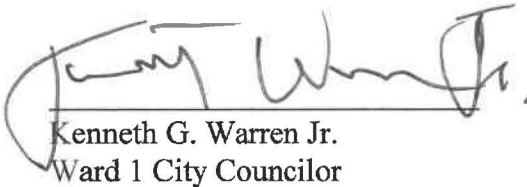
The undersigned respectfully

Request and/or in the alternative Move that the Order attached hereto entitled "**AN ORDER REQUESTING THAT THE AMOUNT OF \$75,000 BE APPROPRIATED FOR THE PURPOSE OF EVALUATING THE CREATION OF AN ALTERNATIVE FOR COMMUNITY EMERGENCY SERVICES (ACES)**" be approved and referred to Mayor Linda Tyer for appropriation.

## DISCUSSION & CONCLUSION

This is a necessary purpose which was not provided for in the budget. Therefore a request and appropriation is called for.

Respectfully submitted,

  
Kenneth G. Warren Jr.  
Ward 1 City Councilor

No. \_\_\_\_\_

**City of Pittsfield**  
M A S S A C H U S E T T S  
IN CITY COUNCIL  
AN ORDER

**Ordered:**

**AN ORDER REQUESTING THAT THE AMOUNT OF \$75,000 BE APPROPRIATED FOR THE PURPOSE OF EVALUATING THE CREATION OF AN ALTERNATIVE FOR COMMUNITY EMERGENCY SERVICES (ACES) .**

WHEREAS, there is a clear need for an improved method for dealing with non-law enforcement crises;

Therefore be it ORDERED: That, the amount of **SEVENTY FIVE THOUSAND DOLLARS (\$75,000)** be, and hereby is appropriated for the use of the evaluation of the creation of an alternative for community emergency services:

Evaluation Expenses	\$75,000
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## City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2022 MAY 16 PM 12:25

May 12 20 22

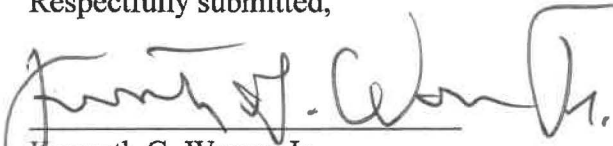
To the City Council of the City of Pittsfield:-

The undersigned respectfully

Requests that the City Council approve at the request of the local Berkshire County branch of the NAACP for a resolution to support the enactment of H 2519 entitled An Act to Create Alternatives for Community Emergency Services (ACES) which is presently still in committee awaiting final approval and notify our state representatives, Sen. Adam Hinds and Rep. Tricia Farley-Bouvier of our support.

A copy of the bill is attached.

Respectfully submitted,

  
Kenneth G. Warren Jr.  
Ward 1 City Councilor





## City of Pittsfield

May 18 20 22

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Honorable Members of the City Council,

Requesting a no parking zone to extend from the corner of Second Street & Lincoln to 214 Second Street to accommodate a school bus stop for a disabled child residing at 214 Second Street. The bus makes a unique stop at that house to accommodate the disability, but parked cars make it hard and intimidating for the child to negotiate. I propose to prohibit parking there during the school bus pick up and drop off times, between 7:00-9am and 2-4pm.

Charles Kronick

A handwritten signature in dark ink, appearing to read "Charles Kronick", written over a horizontal line.

Date

5/18/22



# City of Pittsfield

May 18, 2022

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Petition to develop an City of Pittsfield ordinance establishing a process for commemorative and honorary street designations. See attached recommendation.

Dina G. Lampiasi  
Ward 6 Councilor

# Honorary Street Designation Ordinance

## **Purpose**

It is hereby found and determined that the creation of an honorary street naming dedication program enables the City of Pittsfield to commemorate individuals who have made significant contributions to the community and humanity. These honorary street names are meant to commemorate the honoree and do not replace the official street name or require re-addressing of the street involved.

## **Criteria for Approval**

The City Council or Department of Community Development shall evaluate and approve all honorary street naming dedications pursuant to the following criteria:

(1)

The honoree must have made a demonstrable and significant positive impact on the community or contributed to the cultural, economic, educational, intellectual, political or scientific vitality of the community or have made an extraordinary contribution in the service of humanity.

(2)

The honoree must be a natural person, living or non-living to be the subject of a proposed dedication, except by unanimous consent of the City Council.

(3)

# **Honorary Street Designation Ordinance**

Proposals shall not be for names that could reasonably be considered derogatory, obscene or blasphemous.

## **(4)**

Honorary designations shall be confined to the right-of-way within the vicinity of the home, organization, or location associated with the honoree.

## **(5)**

The proposed name may not duplicate or be potentially confused with the name of an official City street name.

## **(6)**

Each Council member and the Mayor may propose up to two honorary dedications per calendar year except in the circumstance where the naming is upon the request of the Mayor, in which case it shall not be counted as a dedication by the Council member. Dedications by Council members shall be within their respective wards.

## **B.**

The City Council shall consider the honorary street naming dedication at a Council meeting, and the decision to adopt an honorary street name based on the criteria in this section shall be effectuated through the adoption of a resolution of the City Council.

# Honorary Street Designation Ordinance

## **Application Procedure**

Requests for honorary dedications shall be submitted in writing to the City Clerk for review by the Department of Community Development, with an application fee of \$50 (except when sponsored by a City Council member) in accordance with the following criteria:

**(1)**

The submission shall provide the name and contact information of the person or group requesting an honorary street dedication;

**(2)**

The submission shall state the name of the individual or group intended to be honored;

**(3)**

The submission shall be accompanied by a biography of and the reasons for honoring the individual or group, including the person or group's relevance to the location being proposed;

**(4)**

The applicant shall include a map of the location of the proposed honorary street dedication, including total length of the street to be affected and bounding streets or other boundaries as necessary.

**B.**

Upon receipt of a completed application, the Office of Community Development or City Council shall conduct a review



# **Honorary Street Designation Ordinance**

for compliance with the requirements set forth in this article, and shall have 60 days to make a determination on the application. This review shall include providing the Pittsfield Police Department Division of Traffic Engineering with a copy of the completed application, so the Department can evaluate and transmit an impact report to the Council, to ensure the proposed signage will not be confusing to the public. Upon expiration of the 60 days, absent action by the Council, the request is deemed denied.

## **C.**

If a resolution to effectuate the proposed honorary street dedication is adopted, then the party requesting the dedication shall deposit funds equal to the cost of the signage, not to exceed \$300, with the City Treasurer's Office, and upon receipt of such payment, the signage will be created and installed by the Division of Traffic Engineering in accordance with this article.

## **Signage Restrictions**

In order to provide for consistency in naming of streets and to promote safety of the community, all honorary street dedication signs must conform to the following criteria:

### **(1)**

Honorary street dedication signs must be mounted in a way that distinguishes them and does not detract from the primary street sign and therefore may be mounted above or below the primary

# **Honorary Street Designation Ordinance**

street sign, or in any other way that is clearly distinguishable from the primary street sign.

## **(2)**

Honorary street dedication signs shall have a distinct design, as determined by the Division of Traffic Engineering, and be in a contrasting color to distinguish them from primary street name signs.

## **B.**

Only a segment of street between one and four contiguous blocks may be proposed for honorary street designation, and in the case of walkways, trails, or bicycle paths, the designation may apply to the entire length of the way.

## **C.**

Honorary street dedication signs are valid only for a period of 10 years, at which point the signage may be removed by the City unless the period of placement is extended by the City Council.

## **D.**

Signs may be removed at any point as deemed necessary by motion of the City Council.

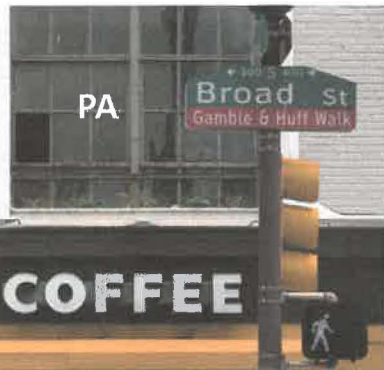
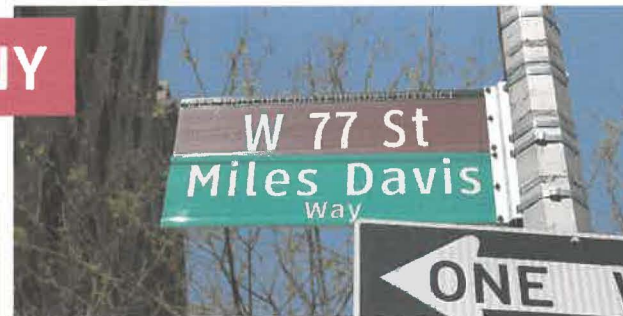


# Honorary Street Designation Signs from Around the USA

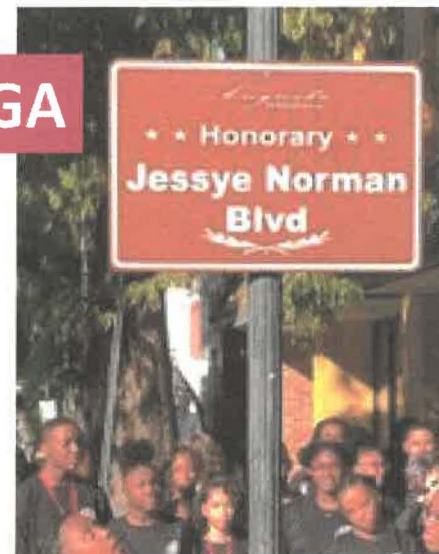
Locales use various sign designs



NY



GA



OH



MO





# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2022 MAY 16 PM 12:25

May 12 20 22

To the City Council of the City of Pittsfield:-

The undersigned respectfully

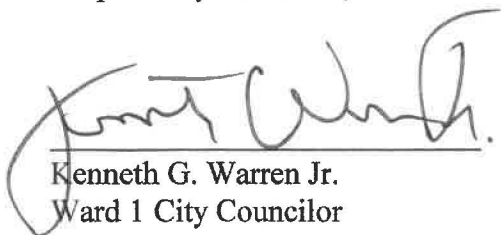
Request that Mayor Linda Tyer contact Berkshire County District Attorney Andrea Harrington to obtain a waiver and/or assurances that the Pittsfield Police Department will not be prosecuted for any violation of the "wiretap statute" resulting from good faith operation of body cameras in compliance with any current state law and local ordinance or policy.

## **DISCUSSION & CONCLUSION**

The District Attorney's Office has significant discretion in what matters it will prosecute or pursue. This office like many others have even gone on record to indicate which offenses it would no longer prosecute.

The Mayor and most city councilors endorsed the current District Attorney the last time the office was up for election. With that close working relationship as well as the necessary working relationship with the Pittsfield Police Department, it would make sense that this roadblock should be removed from delaying the implementation of a valuable tool that the city has indicated it overwhelmingly supports.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Ken Warren Jr.", is written over a horizontal line.

Kenneth G. Warren Jr.  
Ward 1 City Councilor

(Do Not Write on This Side)

# PETITION

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From \_\_\_\_\_

Received, Office of City Clerk \_\_\_\_\_

IN CITY COUNCIL

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READ AND REFERRED TO THE

Clerk

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IN CITY COUNCIL

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Clerk

**HOUSE . . . . . No. 2519****The Commonwealth of Massachusetts**

PRESENTED BY:

***Lindsay N. Sabadosa****To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to create alternatives for community emergency services (ACES).

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/19/2021</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/22/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/22/2021</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>2/22/2021</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>2/24/2021</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>2/24/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/26/2021</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/26/2021</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>2/26/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>2/26/2021</i>
<i>Maria Duaime Robinson</i>	<i>6th Middlesex</i>	<i>2/26/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/26/2021</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/26/2021</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>2/26/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/26/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/26/2021</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	<i>3/3/2021</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>3/8/2021</i>

<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>3/10/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>3/15/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>4/2/2021</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>4/14/2021</i>
<i>Carmin Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>4/14/2021</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>4/14/2021</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>4/14/2021</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>4/14/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>4/14/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>4/14/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>4/15/2021</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>4/26/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>7/1/2021</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>7/14/2021</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>7/16/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>7/22/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>7/29/2021</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>9/13/2021</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>10/7/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>1/28/2022</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>4/25/2022</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>5/6/2022</i>

# HOUSE . . . . . No. 2519

By Ms. Sabadosa of Northampton, a petition (accompanied by bill, House, No. 2519) of Lindsay N. Sabadosa and others for legislation to create alternatives for community emergency law enforcement services. Public Safety and Homeland Security.

## The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court  
(2021-2022)

An Act to create alternatives for community emergency services (ACES).

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

SECTION 1. Chapter 6A of the General Laws shall be amended by inserting the following new section:-

Section 16CC. The Executive Office of Health and Human Services shall establish and provide administrative oversight to the Alternatives for Community Emergency Services Grant Program (A.C.E.S.) to increase the availability of non-law-enforcement, unarmed community-based response options for calls to 911.

Said grant program shall --

(i) make competitive grants to eligible applicants to develop local systems for protecting the mental and physical well-being of residents, preventing violence, de-escalating volatile situations, ensuring access to human services, and reducing government use of force, in emergency and non-emergency situations that do not necessitate the presence of law enforcement



personnel, or, where appropriate, the person requesting help requests a response from an alternative to law enforcement and;

(ii) produce timely evaluation of grant performance to clarify and assess the outcomes and costs of funded programs, and any trends across service models provided through the grant program overall; provided further that outcomes assessed shall include, though need not be limited to, mental, physical, and behavioral health outcomes, impact on reduced demand for law enforcement response to 911 calls, and rate of successfully connecting residents with human services for which they present a need.

Grant making criteria and decisions shall be made by a board of community-based stakeholders, one of whom shall be the executive director of the Massachusetts Chapter of the National Association of Social Workers or a designee, one of whom shall be the secretary of the Department of Mental Health or a designee, one of whom shall be the director of Greater Boston Association of Black Social Workers or a designee, one of whom shall be the director of the Massachusetts Peer Support Network or a designee, one of whom shall be the director of the Western Massachusetts Learning Community or designee, one of whom shall be a consumer of services of the Louis D. Brown Peace Institute, one of whom shall be a consumer of services of the Massachusetts Office of Addiction and Recovery, and one of whom shall be the director of Jane Doe Inc. or a designee.

SECTION 2. To be eligible to receive a grant under this act, an entity shall be a partnership of—

1. (a) a unit of local government, or its contractor or tribal organization, acting through an entity that is independent of any law enforcement agency; and



(b) a covered community-based organization. The term Community-Based Organization shall mean — A nonprofit community-based organization, a consortium of nonprofit community-based organizations, or a national nonprofit organization acting as an intermediary for a community-based organization.

2. if applicable, a nonprofit or public institution of higher education, community mental health center, or behavioral health organization local to the community.

SECTION 3. To be eligible to receive a grant under this Act for a project, a partnership shall submit an application, to the Executive Office of Health and Human Services at such time, in such manner, and containing such information as the Executive Office of Health and Human Services may require, including—

(1) information that specifies in detail—

(A) the covered populations that the partnership will target for services under this Act;

(B) the experience of the members of the partnership in successfully working in the community to be served and partnering with the target populations.

(C) how the grant funds will be used;

(D) the expertise of the partnership, including its staff, in implementing the project to provide the proposed services;

(E) how the partnership will implement or develop evidence informed best practices in carrying out the project, including references to applicable research; and

(F) the partnership's plan for gathering regular feedback from service recipients about the quality of the services, including contacts and resources, provided through the project; and

(2) a memorandum of understanding that—

(A) identifies each partner, including each agency of the unit of local government or tribal organization, as applicable, involved, and is signed by a representative of each partner in the partnership carrying out the project; and

(B) outlines—

(i) the partnership's engagement with the community, including members of the covered population, and the role the engagement played in developing the project;

(ii) the financial and programmatic commitment of each partner, and the specific role of a law enforcement agency, if involved in a backup role;

(iii) the responsibilities of partners, emergency dispatch operators, and dispatchers in the national 911 system, in properly identifying calls in the community to be served necessitating a community-based emergency and non-emergency response and directing those calls to appropriate responders;

(iv) the responsibilities of information and referral systems for essential community services, accessed in most localities by dialing 211, and the National Suicide Prevention Hotline for participating in efficiently routing direct callers to services;

(v) the responsibilities of each partner with respect to data collection and evaluation;

(vi) as of the date of submission of the application, how each partner's existing vision, theory of change, theory of action, and activities align with those of the grant program set forth in this Act;

(viii) how the eligible partners' governing boards or advisory boards, and emergency responders, are representative of the community to be served;

(ix) how a structure through which residents of the community and grassroots organizations will have an active role in the eligible partnership's decision making;

(x) how the partnership anticipates that the project involved will decrease the presence of local law enforcement in situations not warranting an emergency response;

(xi) any State or local laws that may be an impediment to implementation of the project; and

(xii) any other information the Executive Office of Health and Human Services reasonably determines to be necessary.

SECTION 4. An eligible partnership that receives a grant under this Act for a project may use the grant funds for—

(1) project planning and community engagement;

(2) project implementation;

(3) staffing and recruitment;

(4) facilities;

(5) operational costs, including costs of startup or expansion activities, marketing, language translation and interpretation, and transportation;

(6) engagement with technical assistance providers;

(7) consulting services;

(8) training;

(9) program and project evaluation, including evaluation of program and project efficacy, staff performance, and service delivery;

(10) programming and service interventions that include—

(A) activities that prioritize human service interventions, by entities other than law enforcement; or

(B) activities that include triaging emergencies, through emergency dispatch operators, in a manner that results in referral to entities other than law enforcement; and

(11) activities that include follow up by human services organizations after contact by law enforcement, such as peer support or community mediation, social services, or behavioral health services;

(12) training for emergency dispatch operators; and

(13) training for community members, or family members of people requiring emergency or non-emergency response, to facilitate comprehensive and clear communication with emergency dispatch operators to ensure that necessary information is conveyed about when an intervention by a nonpolice human services organization is the most appropriate response.

SECTION 5. None of the grant funds shall be provided to State, tribal, or local law enforcement agencies.

SECTION 6. Not later than 4 fiscal quarters after the board begins dispensing grants in accordance with this subsection, the Commonwealth shall enter into a contract with an independent entity or organization – whose governing board or senior staff is comprised all or in part of community members who i) live in communities that experience a disproportionate police presence or that are disproportionately impacted by the criminal justice system or (ii) were formerly incarcerated to conduct an evaluation for the purposes of—

(a) determining the effect of the provision of such services on—

(I) emergency room visits;

(II) use of ambulatory services;

(III) hospitalizations;

(IV) the involvement of law enforcement in mental health or substance use disorder crisis events;

i). Including but not limited to:

a. Data to be made available by the Department of Public Health pertaining to law enforcement related injury or death

b. Data to be made available by the entity responsible for the identification and dispatching of 911 or emergency services relative to a covered population's needs

(VI) other relevant outcomes identified by the Executive Office of Health and Human Services

SECTION 7. Each recipient of a grant for a project under this section is required to submit an annual report to the Executive Office of Health and Human Services that details—

(1) the specific uses of the grant funds;

(2) the number of individuals contacted through the project;

(3) the number of individuals connected with ongoing services or resources through the project, disaggregated by race, ethnicity, gender, sexual orientation, gender identity, disability status, religious affiliations, and other characteristics;

(4) any evidence of positive outcomes following the contacts or connections;

(5) any evidence of negative outcomes that may have occurred following the contacts or connections;

(6) the percentage of total emergency calls diverted from law enforcement to the grant recipient;

(7) the percentage of emergency calls diverted to the grant recipient that have been addressed;

(8) the extent to which the grant recipient is hiring or training individuals from within the covered population, and the recruitment, hiring, training, and retention practices for such individuals;

(9) any related reduction in the number of calls to law enforcement over the period of the project;

(10) any changes in the types of calls made to the 911 system, to the extent that it is practicable to report information on such changes;

(11) any increases in the number of calls to the 211 (or equivalent) systems for essential non-emergency community services or calls to the 988 National Suicide Prevention Hotline over the period of the project;

(12) any State or local laws that were an impediment to implementation of the project; and

(13) any evidence of completed in-home, teletherapy, or in-community responses that included counseling, crisis response, family treatment, mediation, or other evidence-based interventions that addressed complex needs not able to be resolved by non-emergency calls alone.

SECTION 8. Not later than October 1, 2020, the Executive Office of Health and Human Services shall—

(1) complete an evaluation detailing the implementation of, outcomes of, and best practices from the grant program carried out under this Act, including program-wide information on the factors described in paragraphs (2) through (13) of section 6; and

(2) submit to the legislature a report containing the evaluation and recommended next steps for the program.







# City of Pittsfield

2022 MAY 17 PM 3:01

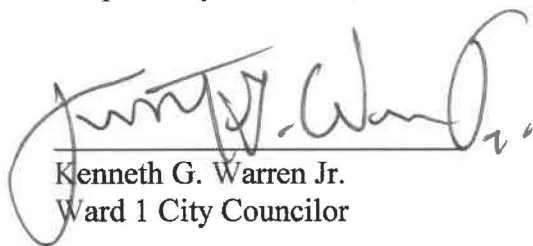
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To the City Council of the City of Pittsfield:-

The undersigned respectfully

Requests that the City of Pittsfield have an official presence on Twitter for the city government. This will assist in communicating with our local residents as well as promoting the city and surrounding area to a broader state and national audience. Petitioner requests that this petition be approved by the City Council and referred to Mayor Linda Tyer for implementation.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Kenneth G. Warren Jr.", is written over a horizontal line. The signature is fluid and cursive.

Kenneth G. Warren Jr.  
Ward 1 City Councilor



# City of Pittsfield

2022 MAY 18 PM 12:31

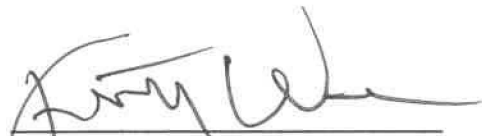
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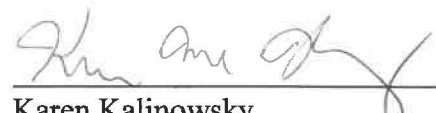
To the City Council of the City of Pittsfield:-

The undersigned respectfully

Request that the Order attached hereto entitled "**AN ORDER REQUESTING THAT THE ORDER # 26 (2022) WHICH WAS APPROVED ON MARCH 8, 2022 BE POSTPONED**" be approved and referred to Mayor Linda Tyler for implementation.

Respectfully submitted,

  
Kenneth G. Warren Jr.  
Ward 1 City Councilor

  
Karen Kalinowsky  
At Large City Councilor

No. \_\_\_\_\_

**City of Pittsfield**  
M A S S A C H U S E T T S  
IN CITY COUNCIL  
AN ORDER

**AN ORDER REQUESTING THAT THE ORDER # 26 (2022) WHICH WAS APPROVED  
ON MARCH 8, 2022 BE POSTPONED**

**Ordered:**

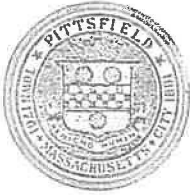
**ESTABLISHING SEWER RATES**

SECTION 1: Pursuant to the Code of the City of Pittsfield, Chapter 19, Sewers and Drains, Article VIII, Sewer Service Charges, Section 19-44. Establishment of Rates, rates for sewer service are hereby established by postponing the implementation of Order # 26 (2022) which was approved on March 8, 2022 until January 1, 2023.

SECTION 2: Order # 24 (2022) which was approved on March 8, 2022 will remain in effect until December 31, 2022.

SECTION 3: Order # 26 (2022) shall take effect for all billings made on or after January 1, 2023.

SECTION 4: That this order shall take effect upon adoption, for all billings made after July 1, 2022



City of Pittsfield

2022 MAY 18 PM 12:31

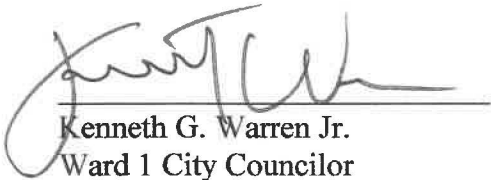
May 16 20 22

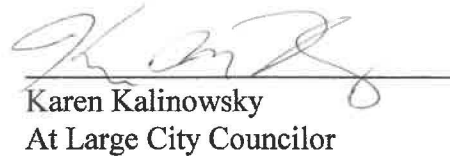
To the City Council of the City of Pittsfield:-

The undersigned respectfully

Request that the Order attached hereto entitled "**AN ORDER REQUESTING THAT THE ORDER # 25 (2022) WHICH WAS APPROVED ON MARCH 8, 2022 BE POSTPONED**" be approved and referred to Mayor Linda Tyer for implementation.

Respectfully submitted,

  
Kenneth G. Warren Jr.  
Ward 1 City Councilor

  
Karen Kalinowsky  
At Large City Councilor

No. \_\_\_\_\_

**City of Pittsfield**  
M A S S A C H U S E T T S  
IN CITY COUNCIL  
AN ORDER

**AN ORDER REQUESTING THAT THE ORDER # 25 (2022) WHICH WAS APPROVED  
ON MARCH 8, 2022 BE POSTPONED**

**Ordered:**

**ESTABLISHING WATER RATES**

SECTION 1: Pursuant to the Code of the City of Pittsfield, Chapter 22 Water, Article II, Rates, Section 22-26. Establishment of Rates, rates for water service are hereby established by postponing the implementation of Order # 25 (2022) which was approved on March 8, 2022 until January 1, 2023.

SECTION 2: Order # 23 (2022) which was approved on March 8, 2022 will remain in effect until December 31, 2022.

SECTION 3: Order # 25 (2022) shall take effect for all billings made on or after January 1, 2023.

SECTION 4: That this order shall take effect upon adoption, for all billings made after July 1, 2022



# City of Pittsfield

May 18, 2022

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Request a status update on the pedestrian and driver safety improvements previously requested at the crosswalk in the vicinity of West Street and Center Street.

Dina G. Lampiasi  
Ward 6 Councilor