

Parties and Jurisdiction

1. Mary Burke Patterson is an adult individual who owns and resides in the property located at Eight Parkman Road, Narragansett, Rhode Island, which lies within the territory covered by BSFD.

2. Robert Patterson is an adult individual who owns and resides in the property located at Eight Parkman Road, Narragansett, Rhode Island, which lies within the territory covered by BSFD.

3. Melissa Jenkins is a resident of Four Bayberry Road, Narragansett Rhode Island, which lies within the territory covered by BSFD. Melissa is not listed on the deed to the property located at Four Bayberry Road.

4. Valerie Ann Henry is an adult individual who owns and resides in the property located at 101 Camden Road, Narragansett, Rhode Island, which lies within the territory covered by BSFD.

5. Paula Childs is an adult individual who owns and resides in the property located at 55 Lake Road, Narragansett, Rhode Island, which lies within the territory covered by BSFD.

6. David H. Stenmark is an adult individual who resides in the property located at 51 Pawnee Trail, Narragansett, Rhode Island, which lies within the territory covered by BSFD. That property is owned by the Stenmark Family Revocable Trust, of which David is a Trustee.

7. Carol M. Stenmark is an adult individual who resides in the property located at 51 Pawnee Trail, Narragansett, Rhode Island, which lies within the territory covered by BSFD. That property is owned by the Stenmark Family Revocable Trust, of which Carol is a Trustee.

8. BSFD is a fire district incorporated by act of the General Assembly. Its original charter was enacted by the General Assembly on April 17, 1930. It encompasses certain territory in the northern part of the Town of Narragansett, specifically:

All that part of the town of Narragansett, county of Washington, in the State of Rhode Island, lying between the easterly line of Boston Neck Road and Narragansett Bay, comprising approximately 400 acres in area and being more particularly described as follows:

- (1) That land described in that warranty deed from Howard Johnson, et al., to Bonnet Shores, Inc., dated April 27, 1928, and recorded in book 9, pages 352 and 353 in the records of land evidence of said town of Narragansett.
- (2) That land described in that warranty deed from Robert L. Walker to Bonnet Shores, Inc., dated April 28, 1928 and recorded in book 9, pages 354, 355 and 356 in the records of land evidence of said town of Narragansett.
- (3) That land described in the warranty deed from Henry C. Weeks to Bonnet Shores, Inc., dated September 29, 1928, and recorded in book 9, pages 508, 509, 510 and 511 of the records of land evidence of said town of Narragansett.
- (4) Lots numbered 9, 10, 11, 20, 21, 22, 23, 24, 25 and 36 together with the southerly twenty-five feet of lot 19 on that plot entitled "Bonnet Point Land Co. lots at Bonnet point in the town of Narragansett, RI Scale 1 in. -100ft. October 22, 1914, T.G. Hazard Jr., surveyor" and recorded in the records of land evidence in said town of Narragansett in book 6 between pages 314 and 315,

See BSFD Charter, Section 1, at p. 1-2 (attached hereto as *Exhibit A*).¹

9. This Court has jurisdiction over this action pursuant to the provisions of R.I. Gen. Laws §§ 8-2-14 and 9-30-1.

FACTS **Background**

10. BSFD was first incorporated by an act of the General Assembly in 1930, and its charter has been amended by act of the General Assembly. As alleged above, the General Assembly last amended the BSFD Charter in 2000.

¹The General Assembly last restated the BSFD Charter in 1932 and has amended it no less than nine times since. As there is no Act of the General Assembly or similar source of law which succinctly restates the text of the Charter, this Complaint relies on *Exhibit A*, a copy of the BSFD Charter and bylaws compiled by BSFD. However, the text presented in *Exhibit A* does not include certain amendments to the BSFD Charter passed in 2000. These amendments do not materially affect the claims presented herein. All page numbers provided in citations for *Exhibit A* refer to the page numbers on the pages of *Exhibit A*.

11. BSFD's charter grants to BSFD

all rights and powers generally had and enjoyed by business corporations and fire districts in the state, including (but without limiting the generalities of the foregoing) the right to acquire, hold and dispose of real and personal property necessary for its corporate purposes; the right to have and use a common seal; the right to sue or be sued; and the right to borrow money from time to time and to issue its notes, bonds or other evidences of indebtedness theretofore.

Exh. A, BSFD Charter Section 2, at p. 2.

12. In addition to these powers, BSFD is empowered to perform certain quasi-municipal governmental functions, and to exercise general governmental powers when doing so.

13. For example BSFD is empowered to adopt "rules, regulations, ordinances and by-laws," and may punish the violation of its adopted rules with "a fine not exceeding fifty dollars, one-half of the fine imposed to be for the use of the district, or imprisonment for a term of not exceeding thirty days." *Exh. A*, BSFD Charter, Section 5, at p. 5-6.

14. BSFD has passed several ordinances, including ordinances regulating parking on public streets within BSFD, regulating dog ownership within BSFD, regulating the rental of residential properties within BSFD, regulating trash and recycling collection within BSFD, and regulating its harbor. *See generally* BSFD Ordinances (attached hereto as *Exhibit B*).

15. BSFD is also empowered to "raise money by taxation of real estate, and buildings or improvements upon leased real estate within the district" and is authorized to charge no more than "seven (7) mills on each dollar of valuation as herein defined." *Exh. A*, BSFD Charter, Section 7, at p. 7. The General Assembly also provided that taxes assessed by BSFD "shall constitute a lien upon the property assessed and if not paid when due shall carry an interest penalty at the rate imposed from time to time by the town of Narragansett." *Id.*, Section 8, at p. 9.

16. BSFD is empowered to raise taxes "for any and all of the following purposes:"

The maintenance, upkeep and improvement of existing private streets, walks and ways; the establishment and maintenance of additional private streets, walks and ways; the regulation and policing of the same in such manner as to assure the lawful use thereof and to maintain order and preserve peace within the district;

The establishment and/or maintenance, within the district, of a water supply system for domestic use and fire prevention; a fire, police or lifesaving department; a lighting system; a garbage removal system, or any similar system deemed necessary for the protection of lives and property within the district or for the general improvement; upbuilding and beautifying of district property;

The purchase and/or lease of land for the establishment and maintenance within said district of a private beach and/or bathing facilities;

The purchase and/or construction or erection of any building for recreational purposes for the fire district; and for recreational programs and activities for the benefit of the taxpayers of the Bonnet Shores Fire District;

The purchase and/or lease of land, waters and water rights, buildings and building materials, implements, equipment, apparatus and property of any other kind deemed necessary or desirable for corporate purposes.

Exh. A, BSFD Charter, Section 7, at p. 7-8.

17. Several of these powers are general governmental powers. For example, maintenance, upkeep, and improvement of streets, regulation and policing of the streets, the power to establish and maintain police and fire departments, the power to maintain garbage removal and sanitation services, and the power to pass ordinances which may result in fines or imprisonment are all general governmental powers.

18. In addition, the power to impose and collect property taxes on an *ad valorem* basis is a general governmental power.

19. BSFD is also tasked by the Coastal Resources Management Council (the “CRMC”) with control and management of its harbors under its own Harbor Management Plan. BSFD employs its own harbormaster, and, as alleged above, has issued ordinances regulating its harbor. *Exh. B*, BSFD Ordinances at p. 9-14.

20. Moreover, BSFD has applied for and received a grant from the Rhode Island Department of Environmental Management (“DEM”) for dredging the Wesquage Pond, representing itself as a quasi-municipal corporation. A true and accurate copy of the agreement between DEM and BSFD is attached hereto as *Exhibit C*.

21. BSFD is also insured by the Interlocal Risk Management Trust, Inc., which was created pursuant to R.I. Gen. Laws § 45-5-20.1.

22. R.I. Gen. Laws § 45-5-20.1(b) limits the availability of insurance through the Interlocal Risk Management Trust to “eligible entities,” which are defined as “any city, town, school committee, water or fire district, or other public or quasi-municipal authority, agency or entity, or organization that is an instrumentality of such cities or towns.”

Elections Within BSFD

23. Under the BSFD Charter, BSFD voters “may elect a clerk, three assessors of taxes, a collector of taxes, a district council or not less than three and no more than seven qualified voters, one or more fire wardens, one or more police officers and such other officers and committees as said. district may require for its corporate purposes.” *Exh. A*, BSFD Charter, Section 6, at p. 6.

24. Upon information and belief, BSFD voters actually elect a seven-member District Council, a clerk, a treasurer, a tax collector, three tax assessors, two fire wardens, a moderator, and five members of a district nominating committee, with all officers serving one-year terms, and the District Council serving three-year, staggered terms. *See* BSFD Bylaws, Art. II, § 2, Art. III, §§ 1-8 (attached hereto as *Exhibit D*).²

25. Voting within BSFD is governed by the BSFD Charter as follows:

² Like the Charter, the Bylaws attached hereto are from a document provided by BSFD on its website. Upon information and belief, they are up to date.

Every firm, corporation, unincorporated association and every person, irrespective of sex, of the age of eighteen years, who is possessed in his or her own right of real estate in said district of the value of one Four Hundred (\$400) Dollars over and above all encumbrances, being an estate in fee simple, fee tail, for the life of any person, or an estate in reversion or remainder, the conveyance of which estate shall if by deed, have been recorded at least ninety (90) days, shall thereafter have a right to vote at all meetings of the corporation.

Exh. A, BSFD Charter, Section 2, at p. 3.

26. Additionally, the BSFD Charter permits “a person in common ownership to real estate [to] vote as the proxy of [another] person who has been verified as being in common ownership in said real estate, provided that such proxy shall be in writing and filed with the Clerk at the meeting at which such proxy shall be used.” *Exh. A*, BSFD Charter, Section 2, at p. 4.

27. This means that owners of real property located within BSFD, who have at least \$400 of equity in said property, are entitled to vote in BSFD elections regardless of whether they reside within BSFD. *Id.*

28. Indeed, under the terms of the BSFD Charter, there is no requirement that the real estate interest be in residential real estate, or even in real estate capable of becoming residential real estate. *Id.* Therefore, owners of commercial and other forms of non-residential properties who do not otherwise reside in BSFD are also permitted to vote in BSFD elections.

29. This also means that adults who reside in BSFD but who are not possessed of any interest in real estate located within BSFD, including lessees, are not permitted to vote in BSFD elections, and have no say in BSFD’s governance. *Id.*

30. This distribution of voting rights in BSFD is an official policy of BSFD, and both the restrictions on voting rights and the award of voting rights are administered by BSFD through official policy.

The Disenfranchisement and Dilution of Votes

31. Plaintiff Melissa Jenkins is a qualified voter and resident of BSFD. She is also a registered voter, registered at Four Bayberry Road, and voted in the 2018 general election.

32. Despite the above, Plaintiff Melissa Jenkins has not been permitted to vote at BSFD elections at any time since she has resided in BSFD.

33. This is because, as stated above, the BSFD Charter restricts the BSFD franchise to individuals who are qualified voters *and hold a deeded property interest within BSFD*.

34. Melissa Jenkins has an interest in the operations and the governance of BSFD. She is a resident subject to its ordinances and laws, she is a beneficiary of its services including road maintenance, garbage collection, and sewage works.

35. Though Melissa Jenkins is not personally liable for taxes to support BSFD, her household is.

36. Additionally, the remaining six Plaintiffs are all able to vote, and have voted in, BSFD elections.

37. However, BSFD elections allow many non-residents to vote, including owners of non-residential property located in BSFD. These non-residents number in the thousands, including over 4,000 owners of beach club bathhouses or cabanas at the neighboring Bonnet Shores Beach Club, a Rhode Island Condominium Association located within BSFD.

38. The inclusion of so many non-residents of BSFD in the BSFD elections has resulted in the votes of residents, including the six resident Plaintiffs, being wrongfully debased and diluted by non-resident voters.

The Residents' Efforts to Resolve the Problem

39. Several of the Plaintiffs have engaged in efforts to resolve the problems identified above prior to entering the instant litigation, including by appealing for help from the Attorney General, the Secretary of State, and the Board of Elections.

40. On August 22, 2019, the Secretary of State sent a letter to BSFD's Chair, Michael Vendetti, suggesting that the current distribution of voting rights under the BSFD Charter is unconstitutional, and citing the case of *Flynn v. King*, 433 A.2d 172 (R.I. 1981). A true and accurate copy of the Secretary of State's Letter is attached hereto as *Exhibit E*.

41. On October 16, 2019, the BSFD District Council held a meeting at which District Council Member Anita Langer moved to amend the BSFD Charter to comply with *Flynn v. King*, in accord with the Secretary of State's Letter. However, her motion did not receive a second. A true and accurate copy of the minutes of the October 16, 2019 meeting is attached hereto as *Exhibit F*.

COUNT I
Declaratory Judgment – Disenfranchisement

42. Plaintiffs hereby repeat and reallege the allegations in Paragraphs 1 through 41 as if fully set forth herein.

43. BSFD is a quasi-municipal corporation chartered by the State of Rhode Island which exercises general governmental authority, including sanitation services, the power to pass ordinances, and the power to tax properties on an *ad valorem* basis.

44. The BSFD Charter, an Act of the General Assembly, imposes a property-ownership restriction on voting in BSFD elections, over and above the age and residency qualifications for voting imposed by the Rhode Island Constitution. *Exh. A*, BSFD Charter, Section 2, at p. 3.

45. Plaintiff Melissa Jenkins is a qualified voter over the age of 18 and a resident of BSFD but is not on listed on the deed of the home she resides in; therefore, she is disenfranchised by this restriction on the right to vote in BSFD elections.

46. Under the Fourteenth Amendment to the United States Constitution, restrictions on the right to vote in elections for the leadership of entities and governmental subdivisions other than residence and age are suspect classifications and thus are not entitled to the presumption of constitutionality which other statutes usually enjoy. They may only be upheld if they are necessary to promote a compelling state interest.

47. Under Article I, § 2 of the Rhode Island Constitution, restrictions on the fundamental right to vote guaranteed under Article II, § 1 of the Rhode Island Constitution likewise may only be upheld if they are necessary to promote a compelling state interest.

48. The requirement imposed by the BSFD Charter that voters in BSFD elections be “possessed in his or her own right of real estate in said district of the value of one Four Hundred (\$400) Dollars over and above all encumbrances, . . . the conveyance of which estate shall if by deed, have been recorded at least ninety (90) days,” is an unconstitutional restriction on the right to vote in BSFD under both the United States Constitution and the Constitution of the State of Rhode Island, because it is not necessary to achieve any compelling interest of the State of Rhode Island.

49. This requirement is also unconstitutional under both the United States Constitution and the Constitution of the State of Rhode Island because the interest it is promoting is not a compelling state interest.

50. Finally, this requirement is unconstitutional per the Rhode Island Supreme Court’s decision in *Flynn v. King*.

COUNT II
Unconstitutional Disenfranchisement – 42 U.S.C. § 1983

51. Plaintiffs hereby repeat and reallege the allegations in Paragraphs 1 through 50 as if fully set forth herein.

52. BSFD is a quasi-municipal corporation chartered by the State of Rhode Island, which exercises general governmental authority.

53. Plaintiff Melissa Jenkins is a qualified voter over the age of 18 and a resident of BSFD.

54. Under the Fourteenth Amendment to the United States Constitution, restrictions on the right to vote in elections for the leadership of entities and governmental subdivisions other than residence and age are suspect classifications subject to strict scrutiny.

55. The requirement imposed by the BSFD Charter that voters in BSFD elections be “possessed in his or her own right of real estate in said district of the value of one Four Hundred (\$400) Dollars over and above all encumbrances, . . . the conveyance of which estate shall if by deed, have been recorded at least ninety (90) days,” is an official policy of the BSFD, and is administered through official policy.

56. Plaintiff Melissa Jenkins has been denied the right to vote in BSFD elections because she is not listed on the deed to her home. *Exh. A*, BSFD Charter, Section 2, at p. 3.

57. This denial had been made under color of state law, and pursuant to an official policy of BSFD.

58. On August 22, 2019 the Secretary of State notified BSFD that this restriction was unconstitutional, but nevertheless BSFD has continued to restrict the right to vote in BSFD elections to those possessed of real estate. *Exh. E*, Secretary of State’s Letter; *Exh. F*, Oct. 16, 2019 Meeting Minutes.

COUNT III
Declaratory Judgment – Dilution of Votes

59. Plaintiffs hereby repeat and reallege the allegations in Paragraphs 1 through 58 as if fully set forth herein.

60. The BSFD Charter provides that all individuals or corporations which own real estate within BSFD and have over \$400 in equity in said real estate, are permitted to vote in BSFD elections. *Exh. A*, BSFD Charter, Section 2, at p. 3.

61. The BSFD Charter thus places no residency requirement on voters for BSFD—anyone who resides anywhere in Rhode Island, or in the world, can vote in BSFD elections if they meet the property requirement.

62. Plaintiffs Mary Burke Patterson, Robert Patterson, Valerie Ann Henry, Paula Childs, David H. Stenmark, and Carol M. Stenmark are qualified voters who reside in BSFD and who have voted in past BSFD elections.

63. Under the Fourteenth Amendment to the United States Constitution, voters have a right not to have their votes debased or diluted by malapportionment of voting rights in units of local government having general governmental powers over their geographic area.

64. Under Article II, § 1 of the Rhode Island Constitution, voters must have “resided thirty days in the town or city from which such citizen desires to vote.”

65. Moreover, under Article I, § 2 of the Rhode Island Constitution, wrongful dilution or debasement of the vote is similarly prohibited.

66. The distribution of voting rights in BSFD unconstitutionally debases and dilutes the votes of Plaintiffs Mary Burke Patterson, Robert Patterson, Valerie Ann Henry, Paula Childs, David H. Stenmark, and Carol M. Stenmark, as their votes and those of other residents of BSFD are diluted by the votes of numerous nonresident landowners.

67. There is no compelling state interest for which this distribution of voting rights is necessary.

COUNT IV
Unconstitutional Dilution of Votes – 42 U.S.C. § 1983

68. Plaintiffs hereby repeat and reallege the allegations in Paragraphs 1 through 67 as if fully set forth herein.

69. The BSFD Charter places no residency requirement on voters for BSFD, only a requirement that the voters be property owners. Therefore, anyone who resides anywhere in Rhode Island, or in the world, can vote in BSFD elections if they meet the property requirement.

70. BSFD permits numerous non-residents to vote in its elections, pursuant to its Charter.

71. This grant of voting rights is an official policy of BSFD, which is administered through official BSFD policy.

72. Plaintiffs Mary Burke Patterson, Robert Patterson, Valerie Ann Henry, Paula Childs, David H. Stenmark, and Carol M. Stenmark have a constitutional right, under the Fourteenth Amendment to the United States Constitution, to not have their votes be diluted or debased by malapportionment of voting rights in units of local government having general governmental powers over their geographic area.

73. BSFD has unconstitutionally debased and diluted the votes of Plaintiffs Mary Burke Patterson, Robert Patterson, Valerie Ann Henry, Paula Childs, David H. Stenmark, and Carol M. Stenmark, as their votes and those of other residents of BSFD are diluted by the votes of numerous nonresident landowners.

74. This dilution was made under color of state law, and pursuant to an official policy of BSFD.

75. On August 22, 2019 the Secretary of State notified BSFD that dilution of voting rights was unconstitutional, but nevertheless BSFD has continued to recognize a right to vote in BSFD elections for individuals who are not residents of BSFD. *Exh. E*, Secretary of State's Letter; *Exh. F*, Oct. 16, 2019 Meeting Minutes.

WHEREFORE, Plaintiffs seek judgment against Defendant Bonnet Shores Fire District as follows:

- A. A finding and declaration that BSFD is a quasi-municipal entity which exercises general governmental authority over its geographic area;
- B. A finding and declaration that the limitation of voting rights to property holders holding over \$400 in equity found in the BSFD Charter is unconstitutional under the Fourteenth Amendment of the United States Constitution;
- C. A finding and declaration that the limitation of voting rights to property holders holding over \$400 in equity found in the BSFD Charter is unconstitutional under Article I, § 2 of the Rhode Island Constitution;
- D. A finding and declaration that the distribution of voting rights to nonresidents of BSFD is unconstitutional under the Fourteenth Amendment of the United States Constitution;
- E. A finding and declaration that the distribution of voting rights to nonresidents of BSFD is unconstitutional under Article I, § 2 and Article II, § 1 of the Rhode Island Constitution;
- F. A finding and declaration that subsequent elections for BSFD offices must be open only to all residents of BSFD who are over eighteen years of age, consistent with Article II, § 1 of the Rhode Island Constitution;
- G. A finding and declaration that currently-elected BSFD officers must exercise their offices as trustees of BSFD, for the benefit of the residents of BSFD, until such time as the General Assembly amends the BSFD Charter in conformance with this Court's decision or new elections consistent with this Court's decision may be held;
- H. Judgment against BSFD for depriving Plaintiff Melissa Jenkins of her right to vote in BSFD elections pursuant to official policy;
- I. Judgment against BSFD for depriving Plaintiffs Mary Burke Patterson, Robert Patterson, Valerie Ann Henry, Paula Childs, David H. Stenmark, and Carol M. Stenmark of their constitutional right not to have their votes debased and diluted;

- J. An award of costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and
- K. Such other and further relief as this Court deems just and proper under the circumstances.

Plaintiffs,
Mary Burke Patterson, Robert E. Patterson, Melissa
Jenkins, Valerie Ann Henry, Paula Childs, David H.
Stenmark, and Carol M. Stenmark,
By their Attorneys,

/s/ Matthew T. Oliverio
Matthew T. Oliverio, Esquire (#3372)
Santiago H. Posas, Esquire (#9519)
OLIVERIO & MARCACCIO LLP
55 Dorrance Street, Suite 400
Providence, RI 02903
(401) 861-2900
(401) 861-2922 Fax
mto@om-rilaw.com
shp@om-rilaw.com

Dated: March 13, 2020

PLAINTIFFS HEREBY DEMAND TRIAL BY JURY ON ALL COUNTS SO TRIABLE.

NOTICE OF SERVICE TO ATTORNEY GENERAL

I hereby certify that, pursuant to R.I. Gen. Laws § 9-30-11, a copy of this Complaint and attached exhibits has been served on the Attorney General of the State of Rhode Island.

/s/ Matthew T. Oliverio
Matthew T. Oliverio, Esquire

EXHIBIT A

Bonnet Shores Fire District
130 Bonnet Shores Road
Narragansett, Rhode Island 02822
Est. 1932

BONNET SHORES FIRE DISTRICT
CHARTER & RELATED LEGISLATION

- An Act to Incorporate the Bonnet Shores Fire District (1932)
- Other Legislation Affecting the Bonnet Shores Fire District
- Bonnet Shores Land Trust Charter

BY-LAWS
with amendments as of June, 2012



June, 2012

I hereby certify that the Enclosed Bonnet Shores Fire District Charter & Related Legislation, as well as the Enclosed By-Laws of the Bonnet Shores Fire District, were compiled by the Bonnet Shores Fire District By-Laws Committee in 2012 and represent the most recently updated and accurate compilations of the Bonnet Shores Fire District's Charter, Related Legislation and By-Laws.

Matthew M. Mannix
BSFD By-Laws Committee Chair
June 1, 2012

Bonnet Shores Fire District CHARTER
and Related Legislation

(Amendments Included As of 2012)

State of Rhode Island and Providence Plantations

January Session, A.D. 1932

**AN ACT TO INCORPORATE THE
BONNET SHORES FIRE DISTRICT**

It is enacted by the General Assembly as follows:

SECTION 1. All that part of the town of Narragansett, county of Washington, in the State of Rhode Island, lying between the easterly line of Boston Neck Road and Narragansett Bay, comprising approximately 400 acres in area and being more particularly described as follows:

- (1) That land described in that warranty deed from Howard Johnson, et al., to Bonnet Shores, Inc., dated April 27, 1928, and recorded in book 9, pages 352 and 353 in the records of land evidence of said town of Narragansett.
- (2) That land described in that warranty deed from Robert L. Walker to Bonnet Shores, Inc., dated April 28, 1928 and recorded in book 9, pages 354, 355 and 356 in the records of land evidence of said town of Narragansett.

- (3) That land described in the warranty deed from Henry C. Weeks to Bonnet Shores, Inc., dated September 29, 1928, and recorded in book 9, pages 508, 509, 510 and 511 of the records of land evidence of said town of Narragansett.
- (4) Lots numbered 9, 10, 11, 20, 21, 22, 23, 24, 25 and 36 together with the southerly twenty-five feet of lot 19 on that plot entitled "Bonnet Point Land Co. lots at Bonnet point in the town of Narragansett, RI Scale 1 in. -100 ft. October 22, 1914, T. G. Hazard Jr., surveyor" and recorded in the records of land evidence in said town of Narragansett in book 6 between pages 314 and 315, is hereby incorporated into a district to be known as "Bonnet Shores Fire District." Said district may have and enjoy all rights and powers generally had and enjoyed by business corporations and fire districts in the state, including (but without limiting the generalities of the foregoing) the right to acquire, hold and dispose of real and personal property necessary for its corporate purposes; the right to have and use a common seal; the right to sue or be sued; and the right to borrow money from time to time and to issue its notes, bonds or other evidences of indebtedness theretofore. Provided, however, that the debts of said district shall at no time exceed in the aggregate per centum of the valuation of the real estate within said district as hereinafter defined.

SECTION 2. Every firm, corporation, unincorporated association and¹ every person, irrespective of sex, of the age of eighteen² years,³ who is possessed in his or her own right of real estate in said district of the value of one Four Hundred (\$400) Dollars⁴ over and above all encumbrances, being an estate in fee simple, fee tail, for the life of any person, or an estate in reversion or remainder, the conveyance of which estate shall if by deed, have been recorded at least ninety (90) days, shall thereafter have a right to vote at all meetings of the corporation. Any such firm, corporation or unincorporated association having title to real estate as aforesaid, shall be entitled to cast one (1) vote through its duly authorized representative for such purposes. The duly authorized representative shall present to the Clerk before casting its vote and obtaining a ballot, an authorization by the firm, corporation or unincorporated association, which authorization shall be notarized and clearly identify the person authorized to vote on behalf of said firm, corporation or unincorporated association holding title to real estate.⁵

¹ The R.I. General Assembly expanded the pool of qualified voters of the Fire District to include firms, corporations and unincorporated associations when it amended the BSFD Charter in 1985.

² The R.I. General Assembly lowered the minimum voting age for qualified voters of the Fire District from twenty-one (21) to eighteen (18) when it amended the BSFD Charter in 1985.

³ The R.I. General Assembly removed the requirement that a qualified voter be "a citizen of Rhode Island" when it amended the BSFD Charter in 1982.

⁴ The R.I. General Assembly increased the minimum property value a property owner must own in the Fire District to qualify as a voter at Fire District meetings from \$134.00 to \$400.00 when it amended the BSFD Charter in 1982.

⁵ The R.I. General Assembly added this language governing the voting rights of firms, corporations and unincorporated associations when it amended the BSFD Charter in 1985.

Every person or firm qualified to vote as aforesaid shall vote in person, except that a person in common ownership to real estate may vote as the proxy of the other person who has been verified as being in common ownership in said real estate, provided that such proxy shall be in writing and filed with the Clerk at the meeting at which such proxy shall be used.⁶ The proxy shall be in a form to be furnished by the Clerk or otherwise approved by the Clerk.⁷ All voting shall be by ballot, unless waived by unanimous consent of those present at the meeting and qualified to vote, and the action of a majority at any meeting at which a quorum is present shall bind the District.⁸

SECTION 3. The first meeting of the district shall be held at some convenient place within the district on the second Wednesday in May, 1932, at 7 o'clock P.M., eastern standard time (or 8 o'clock P.M. daylight saving time). The annual meeting of the district (if established) to be held in 1933 shall be held on the second Wednesday in May in that year, and thereafter the annual and special meetings of the district shall be held in said Town of Narragansett at such time as shall be specified in the by-laws of the district. Notice of the first meeting shall be given by two or more of the persons qualified to vote within the district and said notice shall state the time and place of meeting and shall be published in some newspaper

⁶ The R.I. General Assembly changed the pool of eligible proxy voters at Fire District meetings from spouses (husbands or wives) to owners of common property when it amended the BSFD Charter in 1985.

⁷ The R.I. General Assembly added the requirement that the BSFD Clerk must approve all proxy votes when it amended the BSFD Charter in 1985.

⁸ The R.I. General Assembly added the requirements that voting at Fire District meetings be conducted by secret ballot and that action taken by a majority of voters at a Fire District meeting shall bind the Fire District when it amended the BSFD Charter in 1985.

published in the city of Providence, once a week for two successive weeks, the last publication to be at least five days next before the date of said first meeting. Notice of subsequent annual meetings of the district shall be given in a manner as prescribed in the by-laws of the district. A quorum at the first meeting of the district and at any subsequent meeting, whether annual or special, shall consist of at least fifty⁹ voters qualified as aforesaid, present in person, or by proxy (as to those cases where voting by proxy is permitted in accordance with the provisions of Sec. 2 hereof). All voting shall be by ballot unless waived by unanimous consent of those present at the meeting, and qualified to vote, and the action of a majority at any meeting at which a quorum is present shall bind the district.

This act shall take effect upon its passage and all acts or parts of acts inconsistent herewith are hereby repealed.

SECTION 4. At the first meeting of the district the following proposition shall be submitted: "Shall Bonnet Shores Fire District be established according to the act of incorporation passed by the general assembly of the state?" If, (a quorum being present), the majority of ballots cast be in the affirmative said district shall be established according to the provisions of this act, otherwise this act shall become null and void.

SECTION 5. The district may adopt such rules, regulations, ordinances and by-laws as may be reasonably necessary to enable it to fulfill its corporate purposes and may provide a penalty for the breach of such rules, regulations, ordinances or

⁹ The R.I. General Assembly increased the quorum requirement for Annual and Special Meetings from twenty-five (25) qualified voters to fifty (50) qualified voters when it amended the BSFD Charter in 1982.

by-laws which for each offence shall be a fine not exceeding fifty¹⁰ dollars, one-half of the fine imposed to be for the use of the district, or imprisonment for a term of not exceeding thirty days, which penalties may be imposed, upon complaint of the district or any of its officers, by the Fourth Division District Court at Washington County.¹¹ Rules, regulations, ordinances or by-laws may also prescribe the powers and duties of officers and committees of the district; the conduct and control of the district inhabitants and the guarding, destruction¹² or removal of property in times of conflagration or other casualty; the regulation, protection or maintenance of water pipes, hydrants, safety valves, electric wires, poles and similar apparatus and equipment, and the maintenance or use of drains or sewers; the suppression of nuisances; and the protection of life and property.

SECTION 6. The district may elect a clerk, three assessors of taxes, a collector of taxes, a district council or not less than three and no more than seven qualified voters, one or more fire wardens, one or more police officers and such other officers and committees as said district may require for its corporate purposes. Such officers and committees may be elected at the first meeting of the district to hold office until the first annual meeting thereafter; and at such annual meeting and at each subsequent annual meeting of the district officers and

¹⁰ The R.I. General Assembly increased the maximum fine the Fire District could impose on violators from twenty dollars (\$20.00) to fifty dollars (\$50.00) when it amended the BSFD Charter in 1982.

¹¹ The R.I. General Assembly changed the court specified in Section 5 from the "district court of the second judicial district" to the "Fourth Division District Court at Washington County" when it amended the BSFD Charter in 1982.

¹² The R.I. General Assembly added the language "of the district inhabitants and the guarding, destruction" when it amended the BSFD Charter in 1982.

committees may be elected in such manner and for such terms of office as may be prescribed in the by-laws. If the by-laws shall so provide, the members of the district council may be divided into groups, one group to be elected annually to hold office for not more than three years. Vacancies in any office may be filled at any annual meeting of the district, or at any special meeting called for that purpose. The district council shall have general supervision and management of the business and affairs of the district and, together with other officers and committees, shall have such further powers and duties as may be created or imposed in the by-laws of the district. The fire wardens shall have such powers and duties as are generally exercised in fire districts within the state, with such additional powers and duties as may be created or imposed in the by-laws of the district.

SECTION 7. The district may raise money by taxation of real estate, and buildings or improvements upon leased real estate within the district, provided, that the tax assessed and payable in any one (1)¹³ year under the provisions of this act shall not exceed seven (7)¹⁴ mills on each dollar of valuation as hereinafter defined. Taxation may be for any or all of the following purposes:

The maintenance, upkeep and improvement of existing private streets, walks and ways; the establishment and maintenance of additional private streets, walks and ways; the regulation and policing of the same in such manner as to assure

¹³ The R.I. General Assembly added the parenthetical "(1)" when it amended the BSFD Charter in 1982.

¹⁴ The R.I. General Assembly added the parenthetical "(7)" when it amended the BSFD Charter in 1982.

the lawful use thereof and to maintain order and preserve peace within the district;

The establishment and/or maintenance, within the district, of a water supply system for domestic use and fire prevention; a fire, police or life saving department; a lighting system; a garbage removal system, or any similar system deemed necessary for the protection of lives and property within the district or for the general improvement; upbuilding and beautifying of district property;

The purchase and/or lease of land for the establishment and maintenance within said district of a private beach and/or bathing facilities;¹⁵

The purchase and/or construction or erection of any building for recreational purposes for the fire district; and for recreational programs and activities for the benefit of the taxpayers of the Bonnet Shores Fire District;¹⁶

The purchase and/or lease of land, waters and water rights, buildings and building materials, implements, equipment, apparatus and property of any other kind deemed necessary or desirable for corporate purposes.

SECTION 8. The valuation of taxable property within the district for debt limit purposes and for purposes of district assessment and taxation, shall be that made by the assessors of

¹⁵ The R.I. General Assembly deleted a period (“.”) and replaced it with a semicolon (“;”) when it amended the BSFD Charter in 1982.

¹⁶ The R.I. General Assembly added this subsection, which specifically empowers the Fire District to construct buildings for the recreational benefit of its taxpayers, when it amended the BSFD Charter in 1982.

the town of Narragansett as of December 31st¹⁷ in each year. The district assessors shall assess taxes on all taxable inhabitants and taxable property within the district as of December 31st¹⁸ in each year and the same shall be payable on the first business day of the succeeding October 15th¹⁹ in each year. District taxes shall constitute a lien upon the property assessed and if not paid when due shall carry an interest penalty at the rate imposed from time to time by the town of Narragansett. The owner of assessable land, where on a lessee shall have erected a movable building or improvement shall be liable for the district tax assessed against such building or improvement. If any person against whom a district tax has been assessed shall establish, in manner as provided by law, that the valuation placed upon his assessable property within the district by the town tax assessors is excessive and that in consequence the town must refund or rebate a portion of its tax thereon, such person shall be entitled to receive and shall receive from the district a refund or rebate of his district tax in like proportion. In the assessment and collection of district taxes its officers shall follow generally the practice and procedure adopted by corresponding officers in the town of Narragansett. Provided, however, that the district may adopt such reasonable by-laws with respect to the assessment, collection and payment of taxes as it deems proper.

SECTION 9. This act shall take effect from and after its acceptance by ballot as aforesaid and when there shall have

¹⁷ The R.I. General Assembly changed the tax assessment date from June 15th to December 31st when it amended the BSFD Charter in 1982.

¹⁸ The R.I. General Assembly changed the tax assessment date from June 15th to December 31st when it amended the BSFD Charter in 1982.

¹⁹ The R.I. General Assembly changed the due date for BSFD taxes from August 1st to October 15th when it amended the BSFD Charter in 1982.

been filed with the secretary of state a certificate of the clerk of the district which shall disclose such acceptance.

In the event that said district shall be established as provided in section 4 hereof, no amendment of this act shall be effective as to said district unless and until the same shall be accepted by the affirmative vote of a majority of the voters of said district present (or represented by proxy as provided in section 2 hereof) at a special or annual meeting of said district duly held within two years after the passage of such amendment, at which meeting a quorum shall be present, and in the notice of which meeting there shall be contained the statement that the acceptance or rejection of such amendment is to be voted upon, and until there shall have been filed with the secretary of state a certificate of the clerk of the district that such amendment has been accepted as aforesaid.

SECTION 10. The Bonnet Shores Fire District Council is hereby authorized and empowered to appoint a harbormaster and to ordain and establish such by-laws, rules, regulations, fees and compensation as such council may deem necessary and expedient for carrying out the provisions hereof. The jurisdiction, powers and duties of such harbormaster shall include but not be limited to the regulations of speed, management, and control of all vessels and the size, type, location and use of all anchorages and moorings within the waters immediately adjacent and contiguous to the Bonnet Shores Fire District including, without limiting the generality of the foregoing, the authority and power to regulate and control water skiing in such confines. Such harbormaster shall have such other and additional powers and jurisdiction as may be granted from time to time by the town of Narragansett. The jurisdiction boundaries of the harbormaster's authority shall be

from the most easterly point of land of the Bonnet Shores Fire District, a boundary line shall be drawn northerly and southerly, taking the northern most point of said District, taking a line due easterly from that point and further taking a point from the furthest southern extension of the said district drawing a line due easterly and due westerly where said lines shall intersect all areas bounded therein.²⁰

Other Legislation Affecting the Bonnet Shores Fire District

State of Rhode Island

In General Assembly

January Session, A.D. 1982

AN ACT

IN AMENDMENT OF CHAPTER 68 OF
THE PUBLIC LAWS OF 1964

It is enacted by the General Assembly as follows:

SECTION 1 and 2 of chapter 68 of the public laws of 1964, entitled "An act authorizing the town of Narragansett to appropriate money for the use and benefit of the Bonnet Shores Fire District" as amended by chapter 1908 of the public laws of 1947 is hereby amended to read as follows:

²⁰ The R.I. General Assembly added Section 10 to the BSFD Charter in 1974.

SECTION 1. The town of Narragansett is hereby authorized and empowered to appropriate commencing in the year 1981 and annually thereafter a grant as it shall deem necessary to be expended for the use and benefit of the Bonnet Shores Fire District.

SECTION 2. The grant appropriated under the foregoing provisions shall be expended in said fire district for public purposes, such as water, lighting, fire protection, road maintenance, and police as the district council of said fire district shall order, provided, however, that all said expenditures as ordered by said district council shall be actually made by and under the direction of such person or persons who shall be approved by the town council.

SECTION 3. This act shall take effect upon passage.

State of Rhode Island

In General Assembly

January Session, A.D. 1982

AN ACT

TO EMPOWER THE TOWN COUNCIL OF
NARRAGANSETT TO EXEMPT FROM ASSESSMENT
AND TAXATION SEWER INSTALLATIONS IN AND TO
AND ADJACENT TO REAL PROPERTY OF THE BONNET
SHORES FIRE DISTRICT WITHIN THE TOWN OF
NARRAGANSETT

It is enacted by the General Assembly as follows:

SECTION 1. The town council of the town of Narragansett shall exempt the Bonnet Shores Fire District from payment of sewer assessment taxes on real property owned by it within the town of Narragansett; provided, however, that such sewer assessments shall constitute a lien on such property, which lien shall become due and payable in the event of the conveyance of the property of the Bonnet Shores Fire District.

SECTION 2. This act shall take effect upon passage.

Bonnet Shores LAND TRUST Charter

State of Rhode Island

In General Assembly

January Session, A.D. 1991²¹

It is enacted by the General Assembly as follows:

SECTION 1. The Bonnet Shores Fire District Council is hereby authorized to establish the Bonnet Shores Land Trust (hereinafter called the trust), a body politic and corporate and a public instrumentality. The trust shall have the authority to

²¹ As required by the Fire District Charter, this legislation creating the Bonnet Shores Land Trust was approved, 47-4, by Bonnet Shores Fire District voters at a Special Meeting of the Fire District held on November 21, 1991.

acquire, hold, and manage real property and interests therein including development rights situated within the Bonnet Shores Fire District consisting of open, agricultural, recreational, historical or littoral property, including existing and future wellfields and aquifer recharge areas, fresh water marshes and adjoining uplands, wildlife, habitats, land or buildings providing access to or views of water bodies, or for bicycling and hiking paths, or for future public recreational use, and land for agricultural use, or air space thereof. With the exception of property acquired for public historical preservation or recreational purposes, the trust shall hold all property or development rights solely as open space for agricultural uses or for water purposes or for public access or to prevent the accelerated residential or commercial development thereof, as the trustees may determine.

SECTION 2. The trust shall be administered by five (5) trustees to be elected at the Annual Meeting of the Bonnet Shores Fire District.²² The trustees who are first appointed shall be designated to serve for terms of one (1) for one (1) year, two (2) for two (2) years and two (2) for three years²³ respectively. Thereafter, trustees shall be elected²⁴ as aforesaid for a term of office of three (3)²⁵ years, and at the expiration of

²² The phrase, "appointed by the Bonnet Shores Fire District Council" was replaced with "elected at the Annual Meeting of the Bonnet Shores Fire District" via legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722).

²³ The initial terms for trustees were changed via legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722).

²⁴ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed the requirement that trustees be "appointed" to require that trustees be "elected."

²⁵ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed trustees' terms from five to three years.

such term they shall be ineligible for re-election within one (1) year, except that all vacancies occurring during a term shall be filled by a person appointed by the Bonnet Shores Fire District Council. The appointed trustee shall serve until the following annual meeting at which time a trustee will be elected to serve the remainder of the unexpired term.²⁶

SECTION 3. The trustees shall annually elect a chairman, vice-chairman from their members and shall appoint a secretary who may either be a member or a non-member. The trustees shall not be paid for their services.²⁷ Copies of all meeting minutes shall be submitted to the Fire District Council secretary.²⁸

SECTION 4. The trustees shall adopt reasonable rules and regulations governing the conduct of trust affairs, including the acquisition and management of its holdings, not inconsistent with the provisions of this act. All rules and regulations of the trust are subject to the approval of the Bonnet Shores Fire District Council.²⁹ Decisions of the trustees shall be by majority of those present and voting, excepting in decisions of the acquisition of land, easements, rights of way and other uses referred to in section one of this

²⁶ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) imposed these term limits on trustees.

²⁷ This ban on compensation for trustees was added via legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722).

²⁸ The Fire District does not have a secretary; it is assumed that this reference refers to the Fire District Clerk.

²⁹ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed the oversight of the trust's rules and regulations from the Narragansett Town Council to the Bonnet Shores Fire District Council.

trust, which must be by majority vote of all trustees. The trustees shall prepare an operating budget that must be sent to the Fire District Council for review and approval and then be presented to the annual meeting of the Bonnet Shores Fire District for final approval.

The funds authorized in this budget will be paid by the Fire District treasurer in accordance with the accepted accounting procedures that are in place for the Fire District at that time.

All funds that are released for land acquisition or other purposes referred to in section one of this trust can only be released after approval by a majority of the trustees and by a majority vote of the Bonnet Shores Fire District Council.³⁰

SECTION 5. The trust shall have the power to:

- (a) [P]urchase, receive by gift, or otherwise acquire fee simple or lesser interests in real property, including development rights as defined in section 42-82-2 of the general laws, or any interest in real property consistent with purposes of this act, including other development rights of any kind whatsoever, but only with the prior approval of the Bonnet Shores Fire District Council.³¹

³⁰ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) added this requirement for dual approval for the release of funds by both the Land Trust *and* the Fire District Council.

³¹ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) added this requirement for dual approval for the acquisition of property by both the Land Trust *and* the Fire District Council.

- (b) Accept gifts, grants or loans of funds or resources or services from any source, public or private, and comply, subject to the provisions of this act, with any terms and conditions thereof;
- (c) Accept from state and/or federal agencies,³² grants or resources for use in carrying out the trust's purposes and enter into agreements with such agencies respecting any such loans or grants;³³
- (d) Administer and manage land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural and scenic resources thereof, including conveyance of any such land or interests in land to, and contracts with, nonprofit organizations, provided such land shall continue to be used in a manner consistent with the purpose of this act and with the terms of any grant or devise by which such land was acquired by the trust;
- (e) Incur debt, only after authorization in each instance by vote of the Bonnet Shores Fire District Council and a vote at the annual or special meeting of the Bonnet Shores Fire

Incur
Debt

³² Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) removed the reference to federal "loans" in this subsection.

³³ The 1991 legislation included a section (former section d) that empowered the Land Trust to "[e]mploy counsel, auditors, engineers, private consultants, advisors, secretaries or other personnel needed to perform its duties." This section was removed via legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722). This change also led to a re-lettering of the subsections of Section 5 from 5e-5h to 5d-5g.

District³⁴ in accordance with section six of this act. The trust shall be obligated to pay debt service on all such debt to the extent funds are available and to reimburse the Fire District for any funds the Fire District expended to pay such debt service. Whenever the Fire District shall have been required to pay over any sums of money to the trust, the trust shall be precluded from acquiring any additional property until the trust shall have repaid the Fire District in full and for all sums paid to the trust hereunder and to reimburse the Fire District for any Fire District funds expended to pay such debt service;

- (f) Dispose of all and any portion of its real property or interests therein held by it, whenever in the opinion of the trustees said lands or properties have become unsuitable or have ceased to be used for the purpose set forth in this act. Such disposition shall be made only by a vote of the trustees in which at least four (4) members vote in favor of such disposition as well as five (5) members of the Bonnet Shores Fire District Council vote in favor of such disposition³⁵ and further only after having been approved by a two-thirds (2/3) vote at the annual meeting of the Bonnet Shores Fire District. Nothing in this

³⁴ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) added the requirement that the Land Trust needed the approval of Fire District voters at an annual/special meeting before incurring debt.

³⁵ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) added the requirement that a supermajority of council members, as well as supermajorities of land trustees and Fire District voters, approve the disposition of property held by the Land Trust.

subsection shall be construed to authorize the sale, lease or conveyance of lands or improvements held by the trust as part of a charitable trust or acquired by gift or devise for the public use, whether or not such gift or devise is subject to a condition subsequent or reverter;

(g) Otherwise do all things necessary for the performance of its duties, the fulfillment of its obligation and the conduct of its business.

SECTION 6. All funds collected for the purpose of financing the activities of the trust under this act, subsections (b) and (c) of Section 5³⁶, shall be deposited in a fund to be set up as a revolving or sinking account by the treasurer of the Bonnet Shores Fire District. Additional moneys or other liquid assets received as voluntary contributions, grants or funds³⁷ appropriated to the trust by vote of the annual or special meeting of the Fire District,³⁸ or proceeds from disposal of real property or interests shall be deposited in³⁹ said account. All operating expenses lawfully incurred by the trust in carrying out the provisions of this act shall be evidenced by proper vouchers and shall be paid by the treasurer of the Fire District

³⁶ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) clarified that subsections (b) and (c) were from Section 5.

³⁷ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed the phrase, "grants or loans funds," to "grants or funds."

³⁸ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed the phrase, "annual municipal or special appropriation process used by the town," to "annual or special meeting of the Fire District."

³⁹ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed the word, "into," to "in."

with approval of the Bonnet Shores Fire District Council⁴⁰ only upon submission of warrants duly approved by the trust of the Fire District Council. The treasurer of the Fire District shall prudently invest available assets of the funds, and all income thereon shall accrue to the fund.

Upon termination or dissolution of the trust, the title of all funds and other properties owned by the trust which remain after payment or making provision for payment of all bonds, notes and other obligations of the trust shall rest in the Bonnet Shores Fire District.

SECTION 7. The trust and all its revenues, income, and real and personal property used by the trust for furtherance of its public purposes, shall be exempt from taxation and from betterment and special assessments, and the trust shall not be required to pay any tax, excise or assessment to the state or any of its political subdivisions.

SECTION 8. Severability. – The provisions of this act and any ordinance thereunder are severable, and if any provision hereof shall be held invalid in any circumstances such invalidity shall not affect any other provisions or circumstances. This act and any ordinance thereunder shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act and any ordinance thereunder, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

SECTION 9. This act shall take effect upon passage.

⁴⁰ Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) added the requirement that the Fire District Council approve the Land Trust's activities described in this section.

Bonnet Shores Fire District By-Laws

(As of 2012; includes the 1984 "bluebook" as well as all known amendments made to the By-Laws since 1984)

ARTICLE I

Meetings

Section 1. Annual Meeting. The annual meeting of the district shall be held on the last Thursday of June¹ in each year at such hour and place within the town of Narragansett as shall be decided by the district council. In the event of the failure to hold said meeting at any time or for any cause any and all business which might have been transacted at such meeting may be transacted at the next succeeding meeting, whether special or annual.

Section 2. Special Meetings. Special meetings of the district may be held at any time and at any place within the town of Narragansett whenever and wherever called by the chairman or any three members of the district council, and shall be called by the chairman whenever requested in writing by fifty (50) qualified voters of the district. The general nature of the business to be transacted at any special meeting shall be stated in the notice for such meeting.

¹ Article I, Section 1 was **amended** to change the date of the Annual Meeting of the Fire District from the "last Thursday in June" to the "third Thursday in July" by an 80-8 vote at the 1999 Annual Meeting of the Fire District. Article I, Section 1 was **amended** to change the date of the Annual Meeting of the Fire District back to the "last Thursday of June" by a 72-10 vote at the 2011 Annual Meeting of the Fire District.

Section 3. Notice of Meetings. Notice of Annual or Special Meetings of the district shall be given by the Clerk of the district or in case of his absence, inability or failure to act, by the Chairman of the District Council. Notice shall state the time and place of the meeting and be posted in accordance with the Rhode Island Open Meetings Law in existence at the time of the meeting. Notice shall appear in "The Providence Journal" of Providence, Rhode Island and a Major weekly newspaper published in Washington County, Rhode Island. Said notice shall appear 2 times; the last of which shall appear not less than 5 days prior to the meeting date.

(a) Additional Notice of Meetings. In addition to the notice provisions of Article I, Section 3, Written Notice of an Annual Meeting or any special meeting of the district shall be sent to the taxpayers at the address supplied to the Clerk by the Tax Collector.² Bonnet Shores Fire District taxpayers shall be so noticed through 1st Class Mail at least 9 days prior to the Annual or Special Meeting as to time and place of said meeting.

(b) The Annual Meeting notice shall include:

- (1) Agenda
- (2) Budget
- (3) Report of Nominating Committee
- (4) Report of Tax Collector

² The first sentence of Article I, Section 3 (a) was **approved** at a July 29, 1993 Special Meeting of the Fire District. The remainder of Article I, Section 3 was **amended** by an 88-0 vote at the 1999 Annual Meeting of the Fire District (see footnote 3).

- (5) Report of Treasurer
- (6) Dates of regularly scheduled BSFD Council Meetings.

(c) Notice of all other meetings of the district shall be given by the Clerk of the district or in case of his absence, inability or failure to act, by the Chairman of the District Council. Notice of all meetings shall state the time and place of the meeting and be in accordance with the Rhode Island Open Meetings Laws in existence at the time of the meeting.³

Section 4. Quorum. At all meetings of the district a quorum shall consist of at least fifty (50) voters, qualified as hereinafter provided, present in person, or by proxy (as to those cases where voting by proxy is permitted as hereinafter provided).

Section 5. Voting at Meetings. Every person irrespective of sex, of the age of eighteen (18) years, who is possessed in his or her own right of real estate in said district of the value of four hundred dollars (\$400.00) over and above all encumbrances, being an estate in fee simple, fee tail, for the life of any person, or an estate in reversion or remainder, the conveyance of which estate shall, if by deed, have been recorded at least ninety (90) days, shall thereafter have a right to vote at all meetings of the corporation. Every person qualified to vote as aforesaid shall vote in person, except that a

³ Article I, Section 3 was **amended** (to require that notice of Annual and Special Meetings appear in any Washington County newspaper, rather than specifying The Narragansett Times, and to require that notice of Annual and Special Meetings be mailed directly to all Fire District taxpayers) by an 88-0 vote at the 1999 Annual Meeting of the Fire District.

person in common ownership to real estate may vote as the proxy of the other person who has been verified as being in common ownership in said real estate, provided that such proxy shall be in writing and filed with the Clerk at the meeting at which such proxy shall be used. The proxy shall be in a form to be furnished by the Clerk or otherwise approved by the Clerk. All voting shall be by ballot unless waived by unanimous consent of those present at the meeting and qualified to vote and the action of a majority at any meeting at which a quorum is present shall bind the district.⁴

Section 6. Voting List. The Tax Collector of the district shall prepare or cause to be prepared for the annual meeting and have present at said meeting and at all subsequent meetings until the next annual meeting and open throughout said meetings to the inspection of all persons present thereat a list of all qualified voters examined, approved and certified by a majority of the assessors of taxes of the district.

ARTICLE II

District Council

Section 1. Number and Qualification. The business and affairs of the district shall be managed by a district council of seven (7) qualified voters.

⁴ Article I, Section 5 was **amended** by virtue of the Rhode Island General Assembly's passage of legislation in 1985, which decreased the minimum voting age from twenty-one to eighteen, increased the minimum property value a property owner must own to vote in Fire District elections from \$134.00 to \$400.00 and altered the Fire District's rules for voting by proxy at Fire District meetings. Additional language covering these voting rules can be found in the 1985 legislation, which is included in the Fire District Charter.

Section 2. Election and Term of Office. A Nominating Committee consisting of five (5) qualified voters of the district, and two (2) members of the Council to be named by the Council, shall be elected at each annual meeting to present at the next subsequent annual meeting a slate of officers. The members of the district council shall be elected at the annual meetings. Successors to the members of the council whose term shall expire in the year fixed for the annual shall be elected to hold office for a term of three (3) years.

Section 3. Powers. In addition to the powers and authorities by these by-laws expressly conferred upon them, the district council shall have general supervision and management of the business and affairs of the district and may exercise all such powers of the district and do all such lawful acts and things as are not by law, by the charter or by these by-laws directed or required to be exercised or done by the qualified voters of said district. Without prejudice to the general powers conferred by the last preceding clause and the other powers conferred by law, by the charter and by these by-laws, it is hereby expressly declared that the district council shall have the following powers, that is to say:

- (a) from time to time to adopt such rules, regulations and ordinances to enable it to fulfill its corporate purposes as are permitted by its charter and to provide such penalties for the breach of said rules, regulations and ordinances as are fixed by said charter;
- (b) from time to time to provide such penalties as are fixed by the charter for the breach of any provision of these by-laws;

- (c) to employ, appoint and remove with our without cause all employees and agents of the district, and except as herein provided, to fix their compensation; to make and execute or authorize to be made and executed all ordinary contracts, purchases and sales for the account of the district; provided, however, that the total expenditure to be made under this provision shall not exceed in any one fiscal year the amount of money available from taxes for said year; to authorize and supervise the expenditure and investment of all its funds; and to authorize the execution and delivery on its behalf of all contracts, deeds, mortgages, leases, transfers, conveyances and other corporate instruments, whether of a like or different nature;
- (d) to determine from time to time the rate at which taxes shall be assessed by the assessors of taxes of said district, provided, however, that the tax assessed and payable in any one year shall not exceed seven (7) mills on each dollar of valuation of property in the district as defined in the charter.

Section 4. Meetings and Notice Thereof. A meeting of the district council shall be held as soon as convenient after each annual meeting of the district or if such annual meeting be for any cause omitted, then after any special meeting held in lieu of such omitted annual meeting. At said meeting said council shall organize and elect a chairman and vice chairman from its membership. Regular meetings of the district council may be held at such place either within or without the district and at such time the district council may by vote from time to time determine. Special meetings of the

district council may be held at any time and at any place within or without the district, whenever and wherever called by the council, the Chairman, or any three (3) members of the council requesting such a meeting in writing to the clerk. In the absence of a clerk, or his inability or failure to act, notice of such meetings of the district council shall be given by the chairman. Notice of all meetings of the district council shall be given to each member in person, or by mail, telephone, or telegram, addressed to his or her place of residence or business, as listed with the clerk, at least two (2) days prior to the date of such meeting.

Section 5. Quorum. A majority of the whole number of the members of the district council holding office for the time being shall constitute a quorum for the transaction of all business but less than a quorum may adjourn a meeting from time to time.

Section 6.⁵ Compensation. Members of the district council shall serve without compensation.

⁵ To comply with the Rhode Island Open Meetings Act, the pre-1999 version of Article II, Section 6, which read, "Any vote, resolution or other form of action which shall be in writing and signed by all of the members of the district council, and filed with the clerk, shall constitute action of the district council without any meeting of the district council," was **deleted** and the pre-1999 version of Article II, Section 7, (regarding compensation) was **renumbered** to Article II, Section 6 by an 83-4 vote at the 1999 Annual Meeting of the Fire District.

ARTICLE III

Officers and Committees

Section 1. Enumeration of. In addition to the members of the district council, the officers of the district shall be a moderator, clerk, treasurer, three assessors of taxes, collector of taxes and one or more fire wardens, which officers shall be elected annually. All officers shall be qualified voters of the district.

Section 2. Election and Term of Office. At the annual meeting and at each subsequent annual meeting of the district, officers to be elected shall be elected by a majority vote of the qualified voters of the district present at such meeting. Each officer shall be elected to serve until his successor is elected and shall qualify. Committees, the respective chairmen of which shall be members of the district council, may be appointed by the district council from time to time.

Section 2 (a). Ties. Ties. In the event that an election held for district council, district land trust, district nominating committee or for any other district office enumerated in Article III results in a tie vote, whereby two or more candidates each receive the same number of total votes at an Annual or Special Meeting of the district, the candidates with the same number of votes will partake in a game of chance to resolve the tie. The Clerk of the district shall oversee the game of chance. The winner of the game of chance shall win the election for that office and be seated in that office. The Clerk of the district shall provide the result of the game of

chance in an addendum to the minutes of the Annual or Special Meeting.

In the event the election for the Clerk of the district results in a tie vote, the Moderator of the District shall oversee the game of chance to determine which candidate shall serve in the office of Clerk.⁶

Section 2 (b). Recounts. Any candidate for district council, district land trust, district nominating committee or for any of the district offices enumerated in Article III may request a recount of the votes cast for the office at an Annual or Special Meeting of the district. The candidate requesting the recount must make the recount request before the Annual or Special Meeting is adjourned. In response to the recount request, the Moderator of the district must conduct and oversee the recount before the Annual or Special Meeting is adjourned. The recount process shall take place in the following manner:

- (i) All candidates for the office being recounted may identify up to two (2) qualified voters of the district to participate in the recount
- (ii) These designated recount participants shall recount the ballots during the Annual or Special Meeting
- (iii) The Moderator shall not count or recount any ballots, but shall resolve any disputes
- (iv) The Moderator shall tally the results provided by the recount participants.

⁶ Article III, Section 2(a) was **approved** by a vote of 103-33 at the 2010 Annual Meeting of the Fire District.

The Moderator's tally of the recounted ballots shall provide the official and final result for that office. The clerk shall include both the results of the original count and the results of any recount in the minutes of the Annual or Special Meeting.

If the election of the Moderator is being recounted or the Moderator is unable to perform the recount, the clerk of the district shall conduct and oversee the recount.⁷

Section 3. Moderator. It shall be the duty of the moderator to preside at all meetings of the district. He shall also perform such other duties as may from time to time be assigned to him by the district council. In the event of his absence, inability or failure to serve, the council shall appoint a moderator for that meeting.

Section 4. Clerk. It shall be the duty of the clerk to attend all meetings of the district and of the district council and to keep the records of all meetings of the district and the district council; to give or cause to be given notice of all meetings of the district council of which notice is required. He shall also perform such other duties as may from time to time be assigned to him by the district council. In the absence of the clerk at any meeting of the district or the district council, the records of the proceedings shall be kept and authenticated by such other person as may be appointed for that purpose at the meeting.

Section 5. Treasurer. It shall be the duty of the treasurer to receive and account for all moneys arising from the collection of taxes, sale of bonds and otherwise, and to deposit

⁷ Article III, Section 2 (b) was **approved** by a 106-29 vote at the 2010 Annual Meeting of the Fire District.

or invest the same in accordance with the direction of the district council. He shall have custody of the corporate seal and books of account of the district. He shall keep or cause to be kept accurate books of account and shall present at each annual meeting of the district a statement showing the financial condition of the district and shall upon request produce from time to time to the district council a full account and such books of account and other papers and documents in his possession as they may from time to time require. He shall give a bond for the faithful performance of his duties in such amount and with such surety or sureties as may be approved by the district council. The premium for said bond shall be paid by the district. He shall also perform such other duties as may from time to time be assigned to him by the district council.

Section 6. Assessors of Taxes. The assessors of taxes shall assess taxes on all taxable inhabitants and taxable property within the district as of December 31 in each year at such rate as may from time to time be determined by the district council and such assessment shall be committed by them to the collector of taxes of said district. In the assessment of the taxes the assessors of taxes shall follow generally the practice and procedure adopted by the corresponding officers of the town of Narragansett, Rhode Island. The assessors of taxes shall prior to each annual meeting of the district examine, approve and certify the list provided for in Sec. 6 of Article I hereof. They shall also perform such other duties as may from time to time be assigned to them by the district council.

Section 7. Collector of Taxes. The collector of taxes shall collect and pay over to the treasurer of the district all taxes. In the collection of taxes he shall follow generally the practice and procedure adopted by the corresponding

officer in said town of Narragansett. He shall give bond for the faithful performance of his duties in such amount and with such surety or sureties as may be approved by the district council. The premium for said bond shall be paid by the district. He shall receive such compensation as shall be voted at the meeting of the district at which he is elected and before entering upon his duties he shall file with the clerk a written acceptance of the compensation fixed by the terms of said vote. He shall endeavor to keep a current mailing list of all taxpayers. He shall also perform such other duties as may from time to time be assigned to him by the district council.

Section 8. Fire Wardens. The fire wardens shall have such powers and duties as are generally exercised in fire districts within the state of Rhode Island, and shall also have such powers and shall perform such other duties as shall from time to time be delegated or assigned to them by the district council.

Section 9. Compensation. Except as herein otherwise provided, and except as from time to time otherwise provided by vote of the qualified voters of the district, no officer or member of any committee of the district shall receive any compensation for his services in such capacity.

Section 10. Absences. Any elected official of the District with 6 absences within a 12 month period may be removed from office and his position may be filled at any regular meeting of the council. Said appointee shall serve until the next subsequent annual meeting of the district, or until a special meeting of the district is called to fill the vacancy.⁸

⁸ Article III, Section 10 was **approved** by a 78-10 vote at the 1999 Annual Meeting of the Fire District.

ARTICLE IV

Vacancies

Section 1. Filling of. Any vacancy in any office of the district due to death, resignation, or inability to serve due to illness or other cause, may be filled by the Council at any regular meeting of the council. Said appointee shall serve until the next subsequent annual meeting of the district, or until a special meeting of the district called to fill the vacancy.

ARTICLE V

Signing of Corporate Instruments

Section 1. Signing of Checks, etc. All checks, drafts, orders and obligations of the district for the payment of money, notes, deeds, contracts, mortgages, leases, bonds and other corporate instruments must be signed and delivered by such officer or officers, or other person and/or persons as the district council may from time to time designate.

ARTICLE VI

Fiscal Year

Section 1. End of. The fiscal year of the district shall end on the thirtieth day of April in each year.⁹

⁹ Article VI, Section 1 was **amended** to change the end of the district's fiscal year from the "thirtieth day of June" to the "thirtieth day of April" by a 134-3 vote at the 2010 Annual Meeting of the Fire District.

ARTICLE VI

Roads

Section 1. Miscellaneous. By vote of the district council moneys of the district may be expended for the purpose of repairing and maintaining roads within the district, all of the roads within said district being private roads, but the district shall not be liable to any person or persons whatsoever, whether or not residents of the district, for any damages resulting from or caused by the condition of any of said roads or any defect therein or any other cause whatsoever.

ARTICLE VII

Seal

The seal of the district shall be in the form of a circle and shall bear the full name of the district and the words "Rhode Island 1932."

ARTICLE VII

Amendment of By-Laws

Section 1. Method of Amendment. The by-laws may be altered, amended or repealed at any annual or special meeting of the district by the affirmative vote of two-thirds (2/3) of the qualified voters of the district present at such meeting; provided that notice of said meeting shall state the substance of the proposed amendment; and provided further that no amendment shall be made which shall conflict with the charter except upon the previous amendment of the charter in that respect according to law.

EXHIBIT B

ORDINANCES

BY-LAWS

ACT OF INCORPORATION

THE BONNET SHORES FIRE DISTRICT
in the
TOWN OF NARRAGANSETT, RHODE ISLAND

1984

O R D I N A N C E S

THE BONNET SHORES FIRE DISTRICT
NARRAGANSETT, RHODE ISLAND

(As of September, 1984)

INQUIRIES BY RESIDENTS, OR OTHERS,
REGARDING THE OPERATION OF THE
BONNET SHORES FIRE DISTRICT SHOULD
BE MADE IN WRITING AND MAILED TO:

Council
Bonnet Shores Fire District
P. O. Box 697
Narragansett, Rhode Island 02882

I. ORDINANCE RELATING TO THE INSTALLATION, EXCAVATION, OR FOR ANY CONSTRUCTION UPON ANY ROAD OR WAY OF THE BONNET SHORES FIRE DISTRICT, TOWN OF NARRAGANSETT, (Repeal of Ord. 4/4/71 and 5/7/72)

Be it enacted this 7th day of August, 1979, by authority of the Bonnet Shores Fire District Council acting within the scope of its powers as enumerated by the Act of Incorporation of said District 1932, that any person, partnership, corporation, or unincorporated association hereinafter referred to as an applicant, desiring to make excavation, construction or install any road within the Bonnet Shores Fire District shall comply with the following regulations.

1. Applicant shall first make application to the Bonnet Shores Fire District Council in such form and manner as shall be prescribed by the District Council, stating the nature, location, abutting landowners of the proposed excavation, installation or construction. The District may require applicant to furnish a plan or sketch drawn to scale showing the particular location of the proposed excavation, installation or construction. Such application and plan shall be filed not less than 40 days, nor more than 60 days, before the planned excavation, installation or construction. Upon application for installation of a road or major construction, such plan shall be prepared and endorsed by a licensed engineer.

2. When required by the District Council, applicant for any excavation, installation or construction shall provide the Bonnet Shores Fire District, 20 days before commencement of work, with suitable indemnity and insurance protecting said District against all claims of any nature whatsoever.

3. Upon installation of a road or major construction, applicant shall furnish the District Council with a Performance and Payment Bond with corporate surety acceptable to the Bonnet Shores Fire District Council. The Bond shall be furnished not less than 20 days before commencement of work. Corporate surety bond or cash deposit shall be not less than 50% of the estimated cost of installation, excavation or construction. The Fire District Council may in its discretion require special conditions and bond limits in excess of said 50% of the cost, and Bond may be waived by the District Council where utility companies undertake work or in cases of emergency, or minor construction, where estimated costs thereof are less than \$300.00.

4. Road work shall be filled to grade within 10 days from the date of beginning of the excavation, installation or construction. In usual circumstances, the Fire District Council, or its duly authorized agent for such purposes, may vary the time when applicant shall be required to fill said road.

5. Applicant shall pay the cost of any road installation, improvement or construction, roads shall be installed to the nearest maintained road of the District and road construction specifications shall be as follows:

5.1. Excavate and remove existing surface and unsuitable material to a depth of 14 1/4 inches below finished grade, if necessary, and to a width of 20 feet.

5.2. Install necessary drainage.

5.3. Furnish, place and compact a 12 inch gravel base course.

5.4. Pave the road with 2 1/2 inches of bituminous concrete in 2 courses, a 1 1/2 inch binder course and a 1 inch wearing surface.

5.5. Grade shoulders.

All work shall be supervised by such person authorized by the Bonnet Shores Fire District Council and where excavation is done, the road shall be replaced as required by this section and brought to the level of the surrounding road surface. The aforesaid requirements and specifications may be varied from time to time by the District Council.

6. Should the ordinances, laws, rules and regulations of the Town of Narragansett apply to any excavation, installation or construction of a road within the Bonnet Shores Fire District, then such applicant shall comply with the ordinances and requirements of the Town of Narragansett. The provisions of this ordinance and other ordinances of the Fire District not inconsistent or superseded by the ordinances and applicable regulations of the Town of Narragansett, shall apply and remain in force and effect.

7. Upon the passage of this ordinance those certain ordinances of the Bonnet Shores Fire District relating to the excavation of any road adopted April 4, 1971 and an ordinance relating to the cost of installation or unimproved road adopted May 7, 1972 be and are hereby repealed.

8. This ordinance shall take effect upon its passage.

Adopted August 7, 1979

s/ Thomas L. Marcaccio, Jr., Clerk

II. AN ORDINANCE IN REGARD TO PARKING RESTRICTIONS ON THE STREETS AND ROADS OF THE BONNET SHORES FIRE DISTRICT

It is ordained by the Council of the Bonnet Shores Fire District, in the Town of Narragansett, Rhode Island, as follows:

SECTION 1. Parking of vehicles of any type is prohibited within the Bonnet Shores Fire District on either side of all streets or roads by their full width as laid out, whether paved, paved in part, or unpaved, except as herein set forth in Section 2.

SECTION 2. Parking shall be permitted on the easterly side of Colonel John Gardner Road not in excess of thirty (30) minutes between Bonnet Shores Road and Onondaga Road.

SECTION 3. Parking of vehicles of any type is prohibited upon the roads and ways and open lands of the Bonnet Shores Fire District unless otherwise permitted, and violators of this regulation shall be subject to such fine as is customarily set by the Town of Narragansett and enforced by the Narragansett Police Department. Vehicles parked in violation of this ordinance shall be subject to removal by the Fire District, which is hereby authorized to have said vehicles towed at owner's expense, and, such owners shall be liable for payment of reasonable towing and storage charges due the Fire District, the Town of Narragansett, or towing company removing such vehicles.

SECTION 4. If any provision of this ordinance shall be held invalid or unconstitutional, the invalidity of such section shall not affect the validity or constitutionality of any other section or provision of this ordinance.

SECTION 5. This ordinance shall take effect upon its passage and all prior ordinances inconsistent herewith are hereby repealed.

Adopted, June 3, 1977
Revised, September 1, 1984

III. AN ORDINANCE REGARDING THE SPEED OF VEHICLES ON THE
STREETS AND ROADS IN THE BONNET SHORES FIRE DISTRICT

It is ordained by the Council of the Bonnet Shores Fire District, in the Town of Narragansett, Rhode Island, as follows:

SECTION 1. No motor vehicle of any type shall be operated at a speed in excess of twenty-five (25) miles per hour on the streets or roads in the Bonnet Shores Fire District.

SECTION 2. Notice of the speed limit shall be posted on the main roads of the district. Violators of this regulation shall be subject to such fine as set by the Town of Narragansett, and enforced by the Narragansett Police Department, or the Rhode Island State Police.

SECTION 3. This act shall take effect upon its passage and all prior ordinances inconsistent herewith are hereby repealed.

Adopted, June 3, 1977
Revised, September 1, 1984

IV. AN ORDINANCE PROHIBITING LOITERING, USE OF ALCOHOLIC BEVERAGES, BOAT LAUNCHING, BALL PLAYING AND GAMES, AND SLEEPING ON BEACHES, IN PICNIC AREAS OR RECREATIONAL AREAS, OR IN ANY MOTOR VEHICLE, CAMPER TENT OF ANY TYPE, ON THE STREETS, ROADS, OR RECREATIONAL AREAS, OR DISTRICT PROPERTY WITHIN THE BONNET SHORES FIRE DISTRICT

It is ordained by the Council of the Bonnet Shores Fire District as follows:

SECTION 1. It shall be unlawful for any person to sleep between the hours of sunset and sunrise on any beach, picnic area, recreational area, or in any vehicle of any type parked on any street or road or other open land area within the Bonnet Shores Fire District.

SECTION 2. It shall be unlawful to loiter, create disturbance, consume alcoholic beverages, engage in athletic activities, including games and ball playing, upon the beaches, roads, recreational areas and open areas of the Bonnet Shores Fire District without first obtaining permission from such person duly authorized by the District Council to grant a permit for such activity. The launching and operation of boats and watercraft and the use of flotation devices upon the bathing beaches, waterways and ocean accesses of the Bonnet Shores Fire District are prohibited, unless permission for such use is first obtained from the Bonnet Shores Harbourmaster. No fire shall be allowed upon any beach, recreation area or open area of the Fire District unless a permit be first obtained from the Fire District Council and the Town of Narragansett, where required.

SECTION 3. It shall be unlawful to reside in, maintain living quarters, or use for overnight sleeping or guest quarters, any camper, motor home, tent, movable or temporary structure, upon any beach, road, recreation area, open area or private way or private lands within the Bonnet Shores Fire District.

SECTION 4. Whoever violates the provisions of this ordinance shall be subject to a fine in an amount not exceeding thirty-five

(\$35.00) dollars for each offense. Each day that such violation takes place shall be deemed an offense.

SECTION 5. This ordinance shall take effect upon its passage.

Adopted, June 3, 1977
Revised, September 1, 1984

V. AN ORDINANCE REGULATING THE DISPOSAL OF CONTAINERS ON THE HIGHWAYS, BEACHES, PICNIC AREAS, OR ANY OPEN LAND AREAS WITHIN THE BONNET SHORES FIRE DISTRICT

It is ordained by the Council of the Bonnet Shores Fire District, in the Town of Narragansett, Rhode Island, as follows:

SECTION 1. It shall be unlawful for any person to dispose of containers made of glass, rubber, plastic, metal, wood, clay, or paper, or any combination thereof, on any highway, beach or picnic area, or open land area within the Bonnet Shores Fire District.

SECTION 2. Whoever violates the provisions of this ordinance shall be subject to a fine in an amount not exceeding thirty-five (\$35.00) dollars for each offense.

SECTION 3. This ordinance shall take effect upon its passage.

Adopted, June 3, 1977
Revised, September 1, 1984

VI. AN ORDINANCE RELATING TO THE REMOVAL OF TRASH AND GARBAGE FROM THE PROPERTY OF RESIDENCE WITHIN THE DISTRICT

It is ordained by the Council of the Bonnet Shores Fire District as follows:

SECTION 1. All trash and garbage must be removed from the District on a regular and prompt basis for the protection of the health of all of the residents of the district, such removal to be done by the property owner directly or by an authorized public or private service engaged in trash and garbage removal.

SECTION 2. Disposal of any trash or garbage into Narragansett Bay, the salt ponds, or on any public or private land areas in

the District, including the streets and roads, is strictly prohibited in accordance with state and town regulations, and further by this ordinance.

SECTION 3. When trash and garbage removal is not provided by the Council of the District at the taxpayers' expense, the individual property owner must arrange for such removal at his own expense whether he is in residence or whether his property is occupied by other persons on a rental or non-rental basis, seasonal or year round.

SECTION 4. Every property owner shall provide an adequate number of covered trash receptacles for the storing of trash and garbage until it is picked up for removal from the District. Removal of trash and garbage shall be at least once each week of the year.

SECTION 5. Any property owner who is in violation of any provision of this ordinance shall be subject to a fine imposed by the District Council in an amount not to exceed fifty (\$50.00) dollars for each offense, and said property owner may be subject to additional action by officials of the Town of Narragansett and/or the State of Rhode Island for creating a health hazard within the District.

SECTION 6. This ordinance shall take effect upon its passage.

Adopted, June 3, 1977
Revised, September 1, 1984

VII. AN ORDINANCE REQUIRING DOGS TO BE KEPT IN LEASH WHEN OUTSIDE ENCLOSURE OF OWNER OR KEEPER, AND PROHIBITING DOGS FROM THE BEACHES WITHIN THE DISTRICT

It is ordained by the Council of the Bonnet Shores Fire District in the Town of Narragansett, as follows:

SECTION 1. Every owner or keeper of a dog of any age whatsoever within the Bonnet Shores Fire District shall not allow said dog to be at large outside the enclosure of such owner or keeper, but shall cause said dog when outside the enclosure of said owner or keeper to be kept on leash.

SECTION 2. Every dog found wandering at large on any street or road within the District, outside the enclosure of its owner or keeper, shall be impounded in charge of the Pound Keeper

of the Town of Narragansett, and said owner or keeper shall be subject to such fees resulting from such impounding as may be imposed by the Town of Narragansett.

SECTION 3. It shall be unlawful to allow or permit any animal to trespass on private or public property so as to damage or destroy any property or thing of value, and same is hereby declared to be a nuisance, and any such animal may be impounded by the Dog Officer of the Town of Narragansett. Whenever it shall be affirmed in writing and signed by a resident of this Town of Narragansett, or a person employed in the neighborhood of the Bonnet Shores Fire District, and such complaint has been verified by the Dog Officer of the Town of Narragansett, that any animal is a habitual nuisance by reason of trespassing, howling, barking or making other noise, causing damage to property, being vicious or by its actions potentially vicious, or in any manner causing undue annoyance, the Dog Officer, if he finds such nuisance to exist, shall serve notice upon the owner or keeper of such animal that such nuisance must be abated within a period of not to exceed three (3) days after service of such notice.

SECTION 4. Dogs and other animals are prohibited from the beaches within the District at all times, and violations of this provision of this ordinance shall subject the owner or keeper of such animal to a fine imposed by the Bonnet Shores Fire District not to exceed fifteen (\$15.00) dollars for each offense.

SECTION 5. This ordinance shall take effect upon its passage.

Adopted, June 3, 1977

VIII. AN ORDINANCE RELATING TO THE RENTAL OF RESIDENCES
WITHIN THE BONNET SHORES FIRE DISTRICT

In the interest of preserving the fine residential character of the Bonnet Shores Fire District in the Town of Narragansett, and for the better year round security against damage to property, and for the suppression of nuisances, it is ordained by the Council of the Bonnet Shores Fire District as follows:

SECTION 1. Property owners renting or leasing their residences in the Bonnet Shores Fire District, whether seasonal or year round, shall notify the Clerk of the Council, or such other official as shall be designated by the Council, of such action, and shall also furnish such officials with the name or names of

all persons who will occupy the residence, and shall also provide such other additional information as the said Council may request in order to carry out the objectives of this ordinance.

SECTION 2. Property owners renting or leasing their residence in the district shall notify the occupants that parking of vehicles on the streets and roads is prohibited, and property owners shall also provide adequate off-street parking into their property.

SECTION 3. Property owners renting or leasing their residence shall provide an adequate number of covered receptacles for the storing of trash and garbage by the occupants of said residence, and shall also arrange for the payment for the removal of trash and garbage for such periods of the year when the cost of such removal service is not provided directly by the District Council.

SECTION 4. Property owners shall notify occupants of their residence that animals are prohibited from the beaches of the district, and that animals must be on leash when outside the residence enclosure, in accordance with the ordinances of this District and the Town of Narragansett.

SECTION 5. Property owners who fail to comply with sections 1, 2, and 3 of this ordinance shall be subject to a fine by the District in an amount not to exceed fifteen (\$15.00) dollars for each violation, and non-owner occupants renting or leasing residences shall be subject to a District fine not to exceed fifteen (\$15.00) dollars for violation of Section 4 of this ordinance in relating to unleashed animals and allowing animals on the beaches.

SECTION 6. This ordinance shall take effect upon its passage.

Adopted, June 3, 1977

IX. AN ORDINANCE FOR THE IMPOUNDING, REMOVAL AND DISPOSAL OF ABANDONED VEHICLES AND PERSONAL OR OTHER PROPERTY WITHIN THE BONNET SHORES FIRE DISTRICT

SECTION 1. It shall be unlawful for any person, firm, or corporation or owner or custodian to abandon or leave boats, watercraft, unattended vehicles, personal or other property and objects upon any street, way, road, open land area, private property, beach area, shoreline, or any other location within the Bonnet Shores Fire District.

SECTION 2. The duly authorized agents, personnel officers, or employees of the Bonnet Shores Fire District may enter upon any area of property where such abandoned or unattended property aforesaid is located and that shall have come to the attention of the District, to take such property into its custody. The Fire District shall notify the Narragansett Police of the taking of such property for the purpose of identification and verification of ownership and police interest in connection with such property. The Fire District shall hold in protective custody such property so taken for twenty-one (21) days, during which time the Fire District shall attempt to determine the identity of the owner or owners of such property. Within twenty (20) days after said twenty-one (21) days of custody, the District shall post a notice in the NARRAGANSETT TIMES, or similar newspaper, of its intention upon a day certain to sell at public sale, dispose, retain for its own use, donate, destroy or otherwise dispose of said property.

SECTION 3. The owner in title to such abandoned property shall be required to submit proof of ownership in order to reclaim said property prior to disposal by the Fire District as aforesaid. Such owner shall be subject to a fine of fifty (\$50.00) dollars and five (\$5.00) dollars per day storage, together with costs of notice, removal and preservation during the period the District retained custody of such property.

SECTION 4. This ordinance shall take effect upon its passage.

Adopted, August 2, 1984

X. THE BONNET SHORES FIRE DISTRICT COUNCIL HEREBY ORDAINS
HARBOR MASTER ORDINANCE

It is hereby ordained as follows:

SECTION 1. APPOINTMENT OF HARBOR MASTER. The Bonnet Shores Fire District shall appoint a Harbor Master to serve at the pleasure of the Fire District Council, as authorized by the General Assembly of the State of Rhode Island, May 8, 1974.

SECTION 2. COMPENSATION. The salary of the Harbor Master shall be an amount set by the Fire District Council.

SECTION 3. AUTHORITY. The Harbor Master shall have full power and authority within the jurisdiction fixed by law to

enforce regulations and give directions regarding anchorage, management, and control of all vessels within the waters of the Bonnet Shores Fire District.

SECTION 4. REMOVAL OF A VESSEL. The Harbor Master may remove for cause from time to time from any public wharf within the waters of the Fire District, any vessel not engaged in receiving or discharging cargo, or any vessel not anchored or moored in accordance with his directions in the waters under his jurisdiction.

SECTION 5. DESIGNATION OF MOORING AREAS. The Harbor Master shall, having due regard to the draft of each vessel and facility of navigation, designate upon a map of the waters subject to his jurisdiction the places where adequate permanent or temporary moorings or anchorage may be maintained.

SECTION 6. DESIGNATION OF MOORINGS. The Harbor Master shall assign all future moorings within the Bonnet Shores Fire District in accordance with the requirements of the boats; that is the length, draft, and facility of navigation. Such moorings shall conform to the specifications contained in Section 7 of this ordinance.

A. Any mooring now in position in the waters of the Fire District may be ordered moved by the Harbor Master, if in his judgment such removal be necessary, and all moorings now in position shall within two (2) years of the effective date of this ordinance comply with the specifications found in Section 7 of this ordinance.

B. The Harbor Master shall designate upon a map of the Boat Cove the locus of each mooring and to said map shall affix or append a list or key designating the name and address of the owner or agent of the owner of each vessel and the size and type thereof. The Harbor Master shall file said map with the Fire District Council and thereafter shall maintain it currently accurate. He shall also maintain two (2) currently correct copies thereof, one for himself and one in a place reasonably accessible to mariners for their convenience in consulting same during hours when the Harbor Master would not normally be available. He shall, on or before July 1 of each year, make a complete and accurate revision of both his Master Map and its copies.

C. The Harbor Master shall keep a detailed description of each mooring including its date of installation and subsequent inspections, its locus keyed to the map, the owner or agent's name, telephone number, home and business address, and the name, length and rig of the vessel.

D. The Harbor Master will, at his discretion, assign moorings to residents and/or taxpayers of the district who have heretofore maintained moorings in the Boat Cove insofar as this can be documented. Subsequent assignments will be at the discretion of the Harbor Master (except) that due regard shall be given to mooring needs of the residents within the Bonnet Shores Fire District.

E. A mooring is not transferable to a new owner when a boat is sold.

SECTION 7. MINIMUM MOORING SPECIFICATIONS.

<u>Boat Size</u>	<u>Chain Size</u>	<u>Rope Size</u>	<u>Mushroom Wt.</u>
12' - 14'	5/16"	1/2"	50#
14' - 17'	5/16"	1/2"	75#
17' - 20'	3/8"	1/2"	100#
20' - 23'	3/8"	5/8"	150#
23' - over	1/2"	5/8"	200#

Mooring line scope (distance from anchor to hull) must be 3 times the maximum depth of water at high tide. At least 1/3 of line must be chain. See table above for minimum rope and chain sizes.

SECTION 8. APPEAL. Anyone aggrieved by the action of the Harbor Master in assigning mooring locations or in specifying the nature of the mooring, may appeal the Harbor Master's decision to the Fire District Council, but not before fully informing the Council of his grievance in writing to the Clerk of the Council. If the Harbor Master denies a mooring and the applicant can show just cause, he may receive a hearing from the Fire District Council on his rights to have a mooring in the waters of the Fire District.

SECTION 9. OPERATION. No person shall operate any motorboat or any vessel in a reckless or negligent manner so as to endanger the life, safety or property of any person.

A. No vessel shall be operated in excess of 5 MPH within the Boat Cove.

C. The Harbor Master shall keep a detailed description of each mooring including its date of installation and subsequent inspections, its locus keyed to the map, the owner or agent's name, telephone number, home and business address, and the name, length and rig of the vessel.

D. The Harbor Master will, at his discretion, assign moorings to residents and/or taxpayers of the district who have heretofore maintained moorings in the Boat Cove insofar as this can be documented. Subsequent assignments will be at the discretion of the Harbor Master (except) that due regard shall be given to mooring needs of the residents within the Bonnet Shores Fire District.

E. A mooring is not transferable to a new owner when a boat is sold.

SECTION 7. MINIMUM MOORING SPECIFICATIONS.

<u>Boat Size</u>	<u>Chain Size</u>	<u>Rope Size</u>	<u>Mushroom Wt.</u>
12' - 14'	5/16"	1/2"	50#
14' - 17'	5/16"	1/2"	75#
17' - 20'	3/8"	1/2"	100#
20' - 23'	3/8"	5/8"	150#
23' - over	1/2"	5/8"	200#

Mooring line scope (distance from anchor to hull) must be 3 times the maximum depth of water at high tide. At least 1/3 of line must be chain. See table above for minimum rope and chain sizes.

SECTION 8. APPEAL. Anyone aggrieved by the action of the Harbor Master in assigning mooring locations or in specifying the nature of the mooring, may appeal the Harbor Master's decision to the Fire District Council, but not before fully informing the Council of his grievance in writing to the Clerk of the Council. If the Harbor Master denies a mooring and the applicant can show just cause, he may receive a hearing from the Fire District Council on his rights to have a mooring in the waters of the Fire District.

SECTION 9. OPERATION. No person shall operate any motorboat or any vessel in a reckless or negligent manner so as to endanger the life, safety or property of any person.

A. No vessel shall be operated in excess of 5 MPH within the Boat Cove.

- B. The Harbor Master shall cause a sign stating the above restrictions to be so placed that it is clearly visible to those operating vessels within the waters wherein the above speed restrictions apply. Such signs will be maintained in place from June 1 to October 1 of each year.

SECTION 10. WATER SKIING. No water skiing will be allowed in the Boat Cove or bathing areas. No water skier or his boat shall approach any stationary or moving object closer than one hundred (100) feet, except as may be incidental to starting or finishing a run.

SECTION 11. POSTING REGULATIONS. The Harbor Master will post and maintain on, or adjacent to, the ramp gate and jetty an adequate digest of those portions of this ordinance relating to the operation of vessels upon the waters under jurisdiction of said Harbor Master.

SECTION 12. NOISE. No operator or owner shall cause or allow excessive noise in the operation of a vessel or watercraft, nor shall said owner or operator allow excessive noise aboard such vessel or watercraft when anchored or moored. Unmuffled sound from engines, outboards or other machinery is not permitted except by permission of the Harbor Master.

SECTION 13. DERELICTS. No derelict boats, motors, or piers, wharves, or docks shall be allowed in or upon the Fire District's shores.

SECTION 14. OBSTRUCTING PASSAGE. No object other than boats and approved moorings shall be used within the mooring areas which will interfere with the movement of the boats.

- A. Stakes shall not be driven to be used for mooring any vessel or boat, or for tying up any fish, lobster or bait car unless, in the judgment of the Harbor Master, their use would not be an obstruction.
- B. Mushroom anchors shall not be left with stems standing vertical.
- C. Floating-type rope shall not be used for mooring lines.

SECTION 15. PENALTIES. Every owner, master, agent or person in charge of any vessel or watercraft, surfboard, or water skier who shall neglect or refuse to obey the directions of the Harbor Master, or any other enforcement agent of a local jurisdiction, in matters within their authority to direct, and every person who shall resist or oppose such Harbor Master or other authority in the execution of his duties, or shall violate any of the provisions of this ordinance or regulations pursuant thereto shall, upon conviction thereof, be fined not exceeding \$20.00 each offense and each day that such neglect or refusal to obey shall continue after notice thereof given by the Harbor Master or other authority.

- A. Any person who shall remove from a location assigned by the Harbor Master any mooring belonging to another without authority from, or under the direction of the Harbor Master shall, upon conviction thereof, be fined as stated above.
- B. Any individual violating any provision of this ordinance may be cause for the Harbor Master's refusal to allow said individual with his vessel or other watercraft in the waters under the jurisdiction of said Harbor Master for such period of time as may be determined by the Harbor Master or the Fire District Council together with the necessary court action in cases of violation of State or Federal Law.
- C. If any boat owner, his agent, or any other person shall place a mooring or maintain anchorage, leave his vessel docked at a public wharf elsewhere than designated, said Harbor Master may remove or cause to be removed the mooring or vessel, or both, at his discretion and may charge the expense thereof to the person so doing.

SECTION 16. COMPLAINTS. All complaints for violation of this ordinance shall be made to the Harbor Master in writing.

SECTION 17. SECTIONS SEVERABLE. The provisions of this ordinance shall be severable and if any of the provisions shall be held invalid, the decision of the court respecting such provision, or provisions, shall not affect the validity of any other provision which can be given effective without such invalid provision.

SECTION 18. ANNUAL REVIEW. The Harbor Master shall meet jointly with the Fire District Council in the month of March of each year to review the preceding year's operation.

SECTION 19. This ordinance shall take effect upon its passage.

Adopted by the Fire District
Council February 26, 1976

Ordinance II: Parking

II. AN ORDINANCE IN REGARD TO PARKING RESTRICTIONS ON THE STREETS AND ROADS OF THE BONNET SHORES FIRE DISTRICT

It is hereby ordained by the Council of the Bonnet Shores Fire District, in the Town of Narragansett, Rhode Island, as follows:

SECTION 1. Parking of vehicles of any type is prohibited within the Bonnet Shores Fire District on either side of all streets or roads, whether paved, paved in part, or unpaved, except as set forth in Section 2. Legal parking is defined as having all wheels off the street or road. The District Manager may grant special temporary parking permits to contractors or others demonstrating special needs.

SECTION 2. Parking shall be permitted on the easterly side of Colonel John Gardner Road not in excess of thirty (30) minutes between Bonnet Shores Road and King Philip Road.

SECTION 3. Parking of vehicles of any type is prohibited upon the roads and ways and open lands of the Bonnet Shores Fire District unless otherwise permitted, and violators of this regulation shall be subject to a fine of fifty dollars (\$50.00) for each violation. Vehicles parked in violation of this ordinance shall be subject to removal by the Fire District, which is hereby authorized to have said vehicles towed at owner's expense, and, such owners shall be liable for payment of reasonable towing and storage charges due the Fire District or the towing company removing such vehicles.

SECTION 4. If any provision of this ordinance shall be held invalid or unconstitutional, the invalidity of such section shall not affect the validity or constitutionality of any other section or provision of this ordinance.

SECTION 5. This ordinance shall take effect upon its passage and all prior ordinances inconsistent herewith are hereby repealed.

Adopted June 3, 1977

Revised September 1, 1984

Further Revised and Approved, 6-0, April 27, 2011

Ordinance VI: Trash

VI. AN ORDINANCE RELATING TO THE REMOVAL OF TRASH AND GARBAGE FROM THE PROPERTY WITHIN THE DISTRICT

It is ordained by the Council of the Bonnet Shores Fire District, in the Town of Narragansett, Rhode Island, as follows:

SECTION 1. All trash and recyclables must be removed from the District on a regular and prompt basis for the protection of the health of all of the residents of the District, such removal to be done by the property owner directly or by an authorized public or private organization engaged in trash and recyclables removal.

SECTION 2. Disposal of any trash or recyclables into Narragansett Bay, either of the salt ponds or on any land within the District's boundaries, including the streets and roads, is strictly prohibited.

SECTION 3. When trash and recyclables removal is not provided by the District at the taxpayers' expense, each individual property owner must arrange for such removal at his own expense whether he is in residence or whether his property is occupied by other persons on a rental or non-rental basis. When trash and recyclables removal is provided by the District at taxpayers' expense, the District may or may not include the Bonnet Shores Beach Club Condominium Association, Inc. as part of that arrangement.

SECTION 4. Removal of trash and recyclables shall be performed at least one time per week.

SECTION 5. Trash and recycling bins shall not be overloaded. Individual property owners who consistently overload trash and recycling bins shall be required to purchase an additional bin or bins.

SECTION 6. Empty trash and recyclables bins shall be removed from the edge of the street by the owner of the bins within twenty-four (24) hours of the time that the trash and recyclables have been picked up.

SECTION 7. Any property owner who is in violation of any provision of this ordinance shall be subject to a fine imposed by the District Council in an amount not to exceed fifty (\$50.00) dollars for each offense, and said property owner may be subject to additional action by officials of the Town of Narragansett and/or the State of Rhode Island for creating a health hazard within the District.

Original Ordinance Adopted June 3, 1977

Revised September 1, 1984

Further Revised and Approved, 6-0, May 20, 2015

Ordinance VII: Dogs

VII. AN ORDINANCE REQUIRING DOGS TO BE KEPT ON LEASH WHEN
OUTSIDE ENCLOSURE OF OWNER OR KEEPER AND PROHIBITING
DOGS FROM THE BEACHES WITHIN THE DISTRICT

It is ordained by the Council of the Bonnet Shores Fire District in the Town of
Narragansett, as follows:

SECTION 1. Every owner or keeper of a dog of any age whatsoever within the Bonnet Shores Fire District shall not allow said dog to be at large outside the enclosure of such owner or keeper, but shall cause said dog when outside the enclosure of said owner or keeper to be kept on leash.

SECTION 2. The owner or keeper of any dog found wandering at large on any street or road within the Bonnet Shores Fire District, outside the enclosure of its owner or keeper, shall be subject to a fine of fifty dollars (\$50.00) for each offense.

SECTION 3. Dogs and other domesticated animals are prohibited from the beaches within the Bonnet Shores Fire District from May 15 to September 15 of each year, twenty-four hours a day. The owner or keeper of a dog or other animal who brings his or her dog onto any beach within the Bonnet Shores Fire District shall be subject to a fine of fifty dollars (\$50.00) for each offense.

SECTION 4. This ordinance shall take effect upon passage.

*Original Ordinance Adopted June 3, 1977
Revised and Approved, 6-1, January 18, 2012*

Ordinance VIII: Rentals

VIII. AN ORDINANCE RELATING TO THE RENTAL OF RESIDENCES WITHIN THE BONNET SHORES FIRE DISTRICT

In the interest of preserving the fine residential character of the Bonnet Shores Fire District in the Town of Narragansett, and for the better year round security against damage to property, and for the suppression of nuisances, it is ordained by the Council of the Bonnet Shores Fire District as follows:

SECTION 1. As of October 1, 2011, property owners renting or leasing their residences in the Bonnet Shores Fire District, whether seasonal or year round, shall notify the District Manager, or such other official as shall be designated by the Council, of such action, and shall also furnish such official with the name or names of all persons who will occupy the residence, and shall also provide such other additional information as the said Council may request to carry out the objectives of this ordinance. A registration fee of five dollars (\$5.00) shall be paid annually to the Fire District for each rental property and shall be payable by October 1 of each year. The Bonnet Shores Fire District may request a copy of any property owner's lease agreement and the identities of tenants renting any property in the Fire District.

SECTION 2. Each property owner shall be provided with ordinances regarding parking, trash and animals (Ordinances II, VI and VII) and such property owners who rent their property shall post said ordinances within their property and shall be responsible, together with tenants for compliance therewith and subject to the provisions of Section 3.

SECTION 3. Property owners who fail to comply with sections 1 and 2 of this ordinance shall be subject to a fine by the District in an amount not to exceed fifty dollars (\$50.00) for each violation. Continued failure to comply with sections 1 and 2 of this ordinance shall result in an additional fine of fifty dollars (\$50.00) for every thirty (30) days of non-compliance. Such fine shall be assessed on the first day of each month.

SECTION 4. Any ordinances of the Town of Narragansett regarding rentals shall be incorporated into the Bonnet Shores Fire District ordinances as amended from time to time. Fines for each infraction shall be fifty dollars (\$50.00).

SECTION 5. This ordinance shall take effect upon passage.

*Adopted June 3, 1977
Revised August 24, 2011
Further Revised & Approved, 6-0, March 21, 2012*

EXHIBIT C

A G R E E M E N T

Between the

**State of Rhode Island and Providence Plantations
Department of Environmental Management**

and

Bonnet Shores Fire District

In the Amount of

\$200,000

For the Period of

March 1, 2018 to December 31, 2019

For the Purpose of

Wesquage Pond Flood Mitigation & Pond Restoration Project

2017- Water (BWRP/Flood)-x

DEPARTMENT under delegated contracting authority from the Rhode Island Department of Administration, and in accordance with its regulations, administers the Narragansett Bay Watershed Restoration Fund, and issued a Request for Proposals (RFP) on April 26, 2017; and

Whereas, in response to that RFP, the Bonnet Shores Fire District hereafter referred to as the GRANTEE, applied for and was later awarded a grant for the purposes of a project entitled: Wesquage Pond Flood Mitigation & Pond Restoration Project and

Whereas, the DEPARTMENT and the GRANTEE negotiated a mutually agreed upon Scope of Work pertaining to the execution of the project,

Therefore, the DEPARTMENT and the GRANTEE hereto mutually agree as follows:

Paragraph 1 - Grant Agreement Period & Performance: In exchange for grant funds, the GRANTEE, in accordance with this agreement and to the satisfaction of the DEPARTMENT, shall perform that work described in the Scope of Work, hereby incorporated into this agreement as Attachment A, and referred to as "the Project".

The GRANTEE may commence performance of this agreement on March 1, 2018, subject to the approval of the Department of Administration, and shall complete performance no later than December 31, 2019. Authorization for the GRANTEE to proceed with the agreement shall be in the form of release approved by the Department of Administration against the Master Purchase Order assigned to the Bonnet Shores Fire District. The GRANTEE assures the existence of adequate fiscal controls to segregate grant expenses.

The DEPARTMENT shall have the right at all times to inspect the work performed or being performed under this Agreement as well as the places where such work is performed.

Paragraph 2 - Grant Amount & Reimbursement to Grantees:

Maximum Grant Amount. The total amount available to be reimbursed to the GRANTEE by the DEPARTMENT for completion of the Project under this Agreement shall not exceed \$200,000.00. The GRANTEE agrees to provide a minimum of \$125,000.00 in matching contributions to the project.

All payments shall be on a reimbursement basis and made in accordance with procedures established by the State Controller. Requests for reimbursement shall be made in the form of original, signed invoices with valid supporting documentation that indicate the nature and time of the expenses, including payroll records and cancelled checks where applicable, in accordance with the schedule in Attachment B - Payments and Report Schedule. Grant funds authorized in this agreement shall be subject to the continued availability of funds to the DEPARTMENT for this contract.

Paragraph 3 - Competitive Procurement: With the exception of single source purchases, the GRANTEE, utilizing its established procedures, agrees to obtain the benefit of competitive pricing in procuring goods and services required for the Project. Consistent with RIGL 37-13, the Grantee shall ensure that prevailing wage rates are applied for any construction funded by this Agreement. Also, consistent with RIGL 37-14.1, the GRANTEE shall ensure that ten percent (10%) of the dollar value of the work performed against contracts for construction exceeding \$5,000 shall be performed by a Minority, Disadvantaged, or Woman Owned Business Enterprise certified by the Department of Administration (DOA); or that a waiver of this requirement is obtained from DOA. A copy of the certification or waiver must be submitted by the GRANTEE at the time of or prior to the submission of the first project payment request.

Paragraph 4 - Subcontracts: The GRANTEE shall not enter into any subcontracts to perform work to be reimbursed without the prior approval of the DEPARTMENT. Where feasible, anticipated subcontracts shall be listed in the Scope of Work.

Paragraph 5 - Modifications to this Agreement: Modifications to this agreement may be made if mutually agreeable to both parties and set forth in writing and signed by both parties. Modifications that increase the budget or extend the grant agreement period shall be executed as change orders subject to Department of Administration approval.

Paragraph 6 - Termination of the Agreement: Termination by State. The DEPARTMENT may terminate this

agreement at any time by giving written notice to the GRANTEE of such termination and specifying the effective date thereof, at least thirty (30) calendar days before the effective date of such termination.

Termination for cause. The DEPARTMENT may terminate this agreement without notice in the event of material breach of contract by GRANTEE. Upon termination for cause, the DEPARTMENT may require that any equipment, property and unfinished work product acquired via the project for which the GRANTEE was reimbursed be returned to the DEPARTMENT.

Termination by GRANTEE. The GRANTEE may terminate this agreement at any time by giving written notice to the DEPARTMENT Grant Liaison of such termination and specifying the effective date thereof, at least (30) thirty calendar days before the effective date of such termination. Written notice shall be in the form of a letter signed by the GRANTEE and shall be sent by certified mail to the DEPARTMENT, attention to the Grant Liaison.

Paragraph 7 - Publicity: GRANTEE will give due credit to the DEPARTMENT in the creation of products resulting from the Project. All media announcements, signage, reports and any other materials produced for public consumption, printed or electronic, pursuant to this agreement must recognize the Rhode Island Department of Environmental Management and the Narragansett Bay and Watershed Restoration Bond Fund as a source of funding.

Paragraph 8 - Accessibility and Retention of Records & Audit: The GRANTEE agrees to maintain all fiscal and activity records relating to this agreement, and to make such records accessible to the State of Rhode Island or its agents, upon request. This requirement is intended to include any auditing, monitoring, and evaluation procedures, including on-site visits, performed by the State of Rhode Island or its agents. The GRANTEE agrees to respond adequately to any inquiries by auditors acting on behalf of the State of Rhode Island. Records pertaining to activities performed will be retained for audit purposes for a period of seven years from the date of final payment for the project.

Paragraph 9 - Governing Law and General Terms and Conditions: This agreement is governed by applicable Rhode Island laws. In connection with the performance of the Scope of Work, the GRANTEE shall comply with all statutes, laws, regulations and orders of federal, state or municipal authorities that impose an obligation or duty upon the GRANTEE, including the acquisition of all necessary permits.

Paragraph 10 - Recycled Paper: Where written reports are required, the GRANTEE agrees to use nontoxic ink and recycled paper (minimum 20% post-consumer content) on all correspondence and printed materials produced pursuant to this agreement.

Paragraph 11 – Project Manager and DEM Project Liaison: The DEPARTMENT shall appoint a Project Liaison to serve as the contact person for all matters regarding implementation of this agreement. The Department shall notify the GRANTEE in writing promptly should the Project Liaison be changed.

The GRANTEE shall appoint a Project Manager to serve as the contact person for all matters regarding implementation of this agreement. The GRANTEE shall notify the DEPARTMENT in writing promptly should a change be necessary. The GRANTEE agrees to maintain close and continuing communication with the DEPARTMENT Project Liaison throughout the performance of agreement, including notifying the Project Liaison when work is started.

BSFD Project Manager	DEM Project Liaison
Name: Lisa DiBello	Name: Jay Manning, P.E.
Phone: (401) 789-4540	Phone: 401.222.3961 x7254
E-mail: bonnet.mgr@gmail.com	Email: jay.manning@dem.ri.gov
Mailing Address – Bonnet Shores Fire District	RIDEM – Office of Water Resources
130 Bonnet Shores Rd, Narragansett, RI 02882	235 Promenade Street, Providence RI 02908

ATTACHMENT A - SCOPE OF WORK

Title:

Wesquage Pond Flood Mitigation & Pond Restoration Project

Background/Problem & Need

The Bonnet Shores Fire District (BSFD) is a quasi-municipal entity located within the Town of Narragansett, RI serving approximately 950 residences within the District. The BSFD is a 501(c)3 non-profit organization governed by a 7-member elected council. Responsibilities of the district include day to day oversight of roadways, harbor, beach, ponds, community center and trash collection. Wesquage Pond, a tidal pond, is located within the BSFD. The Audubon Society of Rhode Island owns much of the land adjacent to the Pond including land required for accessing the channel. The pond is connected to Narragansett Bay via a drainage channel east of the Bonnet Shores Beach Club. There is an elevation control structure at the outlet from the channel that is intended in part to maintain the water level in the pond below that of the adjacent causeway (road). In recent years, the control structure and adjacent pond area have been filled in or buried by sediment primarily deposited by tidal movement through the channel.

Large amounts were deposited during Hurricane Sandy and other large coastal storms. As a result, during even moderate storm events, water levels in the pond rise high enough to overtop and submerge the causeway, resulting in road closures and an accelerated deterioration of the roadway structure.

When the flow of water through the channel is restricted it affects the pond water level. The pond receives drainage from the surrounding drainage area. When the pond level rises, residential properties around the perimeter of the pond also experience some flooding. The flooding is also a concern relative to the planned installation of a sewer line to service the area for the purposes of providing improved wastewater treatment and eliminate the reliance on antiquated septic systems including at the Bonnet Shores Beach Club. The roadway is also important to providing timely emergency vehicle access and an emergency evacuation route for the community.

The BSFD has obtained CRMC assents for maintenance dredging of portions of the existing channel connecting Wesquage Pond and the bay. A culvert exists under the causeway that allows flow through the channel. The BSFD arranges for periodic removal of sediment from parts of the channel both north and south of Bonnet Point Road.

In addition to flooding concerns, the BSFD and Audubon society of RI have concerns with excessive sediment build up in the pond and potential effects on water quality. URI Watershed Watch data showed elevated levels of nutrients and lower clarity in recent years. Improving the habitat condition in the pond is desirable to sustain various fish and wildlife populations, including migratory fish and birds.

Purpose

The BSFD will plan and implement a project to dredge sediment from the Wesquage Pond and its drainage channel to improve hydrologic functioning which in turn will reduce the incidence of flooding of the adjacent causeway and other neighboring properties.

Scope of Work

The project also aims to improve the habitat conditions in the pond. Building on prior engineering evaluations, the BSFD will retain a consultant to develop a dredging plan that will be designed to optimize effectiveness by taking into account channel location, water velocity and other relevant factors. The proposed plan is expected to involve dredging equipment operated from land as well as potentially

hydraulic dredging for excavation of the channel within the pond. Following initial state review, the BSFD will develop the appropriate permit applications to obtain the permits necessary to implement the project. These are expected to include CRMC (assent modification), DEM water quality certification and Army Corps of Engineers permits. It is estimated that up to 6,000 cubic yards will be removed.

Material to be dredged will be tested in advance in accordance with state requirements. Presuming the material is clean, the dredged sand will be loaded and hauled transported across Bonnet Point Road and spread on BSFD Kelley Beach and Bonnet Shore Beach Club (BSBC) beach to replenish sand and support existing dunes. The BSFD will compile records on flooding (road closures) for a period before the project and then track experience for one year after the project.

Project Tasks

Task #1: Retain consultant to assist BSFD in preparing a dredging plan.

Task #1 Deliverables: After consultation with the Coastal Resources Management Council, BSFD will develop a scope of work for project engineering services and retain a consulting engineer.

Task #2: Pre- Dredge Hydrographic Surveys (Depth of Sand).

Task #2 Deliverables: The BSFD will engage a separate contractor/engineer to survey the topographical depths of the sand in the pond. It is anticipated the contractor will use soundings in the pond's currently shallow water to measure the depths. The initial (pre-dredge) survey allows the BSFD to quantify in a more meaningful and accurate manner the sand to be dug out, removed, and relocated.

Task #3: Quality of Sand Analysis.

Task #3 Deliverables: The BSFD will engage a contractor to test the sand in the area to be excavated. The purpose of this testing is to determine if the sand meets standards for removal and relocation.

Task #4: Prepare of Dredge Plan.

Task #4 Deliverables: With consultant assistance and guidance from CRMC, the BSFD will prepare a dredging plan that identifies the areas to be dredged. The plan will outline the areas to be dredged, the equipment to be used, identify staging areas, specify the disposal of dredged sediment and note any erosion controls or site restoration activities that may be needed. The BSFD will obtain written authorization from ASRI or any other property owner as required to implement the plan. The BSFD will meet with CRMC, DEM and other partners to discuss and refine the plan as needed. As needed, the plan should include restoration of any areas temporarily disturbed to implement the dredging project.

Task #5: Acquire Permits:

Task # 5 Deliverables: With consultant assistance, the BSFD will prepare and submit permit applications or other required documentation required for the project. At minimum, these will include CRMC, DEM and ACOE permits. Note: BSFD will coordinate with Bonnet Shores Beach Club to provide secure overnight parking to dredge contractor for safe keeping of the two track trucks expected to be utilized in the dredging operation.

Task #6: Retain a Construction/Dredging Contractor.

Task #6 Deliverables: The BSFD will prepare bid specifications for the scope of services needed to implement the dredging project. A draft of the project specifications and bid forms will be submitted to CRMC and DEM for review and approval before solicitation of bids. The bid process must involve a public advertising of the opportunity to bid; e.g. newspaper advertisement or alternate arrangement approved in advance by DEM.

Task #7: Implementation of Dredging.

Task #7 Deliverables: Prior to dredging, all involved parties will meet on site to review implementation logistics. The BSFD will direct the dredging including coordination with local officials regarding road closures. Sediment will be dredged and disposed of in accordance with the approved plan. The site will be closed out and any needed shoreline stabilization or restoration activities will be implemented in accordance with the approved plan. In addition, any needed repairs to Bonnet Shores Road will be made at this time.

Task #10: Progress Reports: Throughout the project, the BSFD will provide DEM with a quarterly report which can be submitted by email.

Task #10 Deliverables: The quarterly report will provide an update on the progress toward completing the tasks in the Attachment A - Scope of Work.

Task #11: Grant Closeout.

Task # 11 Deliverables: Final project report and as-built drawings/post dredge survey, stamped by a professional engineer, shall be submitted. The final project report shall describe the dredging methods employed during the project, any difficulties encountered and an estimate of the quantity of the material removed. In addition, the report shall document incidences of flooding for a one-year period following project completion compared to the number of such instances at least one year prior to the execution of the project.

Measure of Success

Reduced instances of flooding along Bonnet Shores Road as a result of the dredging of the channel to Wesquage Pond

EXHIBIT D

Bonnet Shores Fire District By-Laws

(As of 2012; includes the 1984 “bluebook” as well as all known amendments made to the By-Laws since 1984)

ARTICLE I

Meetings

Section 1. **Annual Meeting.** The annual meeting of the district shall be held on the last Thursday of June¹ in each year at such hour and place within the town of Narragansett as shall be decided by the district council. In the event of the failure to hold said meeting at any time or for any cause any and all business which might have been transacted at such meeting may be transacted at the next succeeding meeting, whether special or annual.

Section 2. **Special Meetings.** Special meetings of the district may be held at any time and at any place within the town of Narragansett whenever and wherever called by the chairman or any three members of the district council, and shall be called by the chairman whenever requested in writing by fifty (50) qualified voters of the district. The general nature of the business to be transacted at any special meeting shall be stated in the notice for such meeting.

¹ Article I, Section 1 was **amended** to change the date of the Annual Meeting of the Fire District from the “last Thursday in June” to the “third Thursday in July” by an 80-8 vote at the 1999 Annual Meeting of the Fire District. Article I, Section 1 was **amended** to change the date of the Annual Meeting of the Fire District back to the “last Thursday of June” by a 72-10 vote at the 2011 Annual Meeting of the Fire District.

Section 3. **Notice of Meetings.** Notice of Annual or Special Meetings of the district shall be given by the Clerk of the district or in case of his absence, inability or failure to act, by the Chairman of the District Council. Notice shall state the time and place of the meeting and be posted in accordance with the Rhode Island Open Meetings Law in existence at the time of the meeting. Notice shall appear in “The Providence Journal” of Providence, Rhode Island and a Major weekly newspaper published in Washington County, Rhode Island. Said notice shall appear 2 times; the last of which shall appear not less than 5 days prior to the meeting date.

(a) **Additional Notice of Meetings.** In addition to the notice provisions of Article I, Section 3, Written Notice of an Annual Meeting or any special meeting of the district shall be sent to the taxpayers at the address supplied to the Clerk by the Tax Collector.² Bonnet Shores Fire District taxpayers shall be so noticed through 1st Class Mail at least 9 days prior to the Annual or Special Meeting as to time and place of said meeting.

(b) The Annual Meeting notice shall include:

- (1) Agenda
- (2) Budget
- (3) Report of Nominating Committee
- (4) Report of Tax Collector

² The first sentence of Article I, Section 3 (a) was **approved** at a July 29, 1993 Special Meeting of the Fire District. The remainder of Article I, Section 3 was **amended** by an 88-0 vote at the 1999 Annual Meeting of the Fire District (see footnote 3).

- (5) Report of Treasurer
- (6) Dates of regularly scheduled BSFD Council Meetings.

(c) Notice of all other meetings of the district shall be given by the Clerk of the district or in case of his absence, inability or failure to act, by the Chairman of the District Council. Notice of all meetings shall state the time and place of the meeting and be in accordance with the Rhode Island Open Meetings Laws in existence at the time of the meeting.³

Section 4. Quorum. At all meetings of the district a quorum shall consist of at least fifty (50) voters, qualified as hereinafter provided, present in person, or by proxy (as to those cases where voting by proxy is permitted as hereinafter provided).

Section 5. Voting at Meetings. Every person irrespective of sex, of the age of eighteen (18) years, who is possessed in his or her own right of real estate in said district of the value of four hundred dollars (\$400.00) over and above all encumbrances, being an estate in fee simple, fee tail, for the life of any person, or an estate in reversion or remainder, the conveyance of which estate shall, if by deed, have been recorded at least ninety (90) days, shall thereafter have a right to vote at all meetings of the corporation. Every person qualified to vote as aforesaid shall vote in person, except that a

³ Article I, Section 3 was **amended** (to require that notice of Annual and Special Meetings appear in any Washington County newspaper, rather than specifying The Narragansett Times, and to require that notice of Annual and Special Meetings be mailed directly to all Fire District taxpayers) by an 88-0 vote at the 1999 Annual Meeting of the Fire District.

person in common ownership to real estate may vote as the proxy of the other person who has been verified as being in common ownership in said real estate, provided that such proxy shall be in writing and filed with the Clerk at the meeting at which such proxy shall be used. The proxy shall be in a form to be furnished by the Clerk or otherwise approved by the Clerk. All voting shall be by ballot unless waived by unanimous consent of those present at the meeting and qualified to vote and the action of a majority at any meeting at which a quorum is present shall bind the district.⁴

Section 6. Voting List. The Tax Collector of the district shall prepare or cause to be prepared for the annual meeting and have present at said meeting and at all subsequent meetings until the next annual meeting and open throughout said meetings to the inspection of all persons present thereat a list of all qualified voters examined, approved and certified by a majority of the assessors of taxes of the district.

ARTICLE II

District Council

Section 1. Number and Qualification. The business and affairs of the district shall be managed by a district council of seven (7) qualified voters.

⁴ Article I, Section 5 was **amended** by virtue of the Rhode Island General Assembly's passage of legislation in 1985, which decreased the minimum voting age from twenty-one to eighteen, increased the minimum property value a property owner must own to vote in Fire District elections from \$134.00 to \$400.00 and altered the Fire District's rules for voting by proxy at Fire District meetings. Additional language covering these voting rules can be found in the 1985 legislation, which is included in the Fire District Charter.

Section 2. Election and Term of Office. A Nominating Committee consisting of five (5) qualified voters of the district, and two (2) members of the Council to be named by the Council, shall be elected at each annual meeting to present at the next subsequent annual meeting a slate of officers. The members of the district council shall be elected at the annual meetings. Successors to the members of the council whose term shall expire in the year fixed for the annual shall be elected to hold office for a term of three (3) years.

Section 3. Powers. In addition to the powers and authorities by these by-laws expressly conferred upon them, the district council shall have general supervision and management of the business and affairs of the district and may exercise all such powers of the district and do all such lawful acts and things as are not by law, by the charter or by these by-laws directed or required to be exercised or done by the qualified voters of said district. Without prejudice to the general powers conferred by the last preceding clause and the other powers conferred by law, by the charter and by these by-laws, it is hereby expressly declared that the district council shall have the following powers, that is to say:

- (a) from time to time to adopt such rules, regulations and ordinances to enable it to fulfill its corporate purposes as are permitted by its charter and to provide such penalties for the breach of said rules, regulations and ordinances as are fixed by said charter;
- (b) from time to time to provide such penalties as are fixed by the charter for the breach of any provision of these by-laws;

- (c) to employ, appoint and remove with our without cause all employees and agents of the district, and except as herein provided, to fix their compensation; to make and execute or authorize to be made and executed all ordinary contracts, purchases and sales for the account of the district; provided, however, that the total expenditure to be made under this provision shall not exceed in any one fiscal year the amount of money available from taxes for said year; to authorize and supervise the expenditure and investment of all its funds; and to authorize the execution and delivery on its behalf of all contracts, deeds, mortgages, leases, transfers, conveyances and other corporate instruments, whether of a like or different nature;
- (d) to determine from time to time the rate at which taxes shall be assessed by the assessors of taxes of said district, provided, however, that the tax assessed and payable in any one year shall not exceed seven (7) mills on each dollar of valuation of property in the district as defined in the charter.

Section 4. Meetings and Notice Thereof. A meeting of the district council shall be held as soon as convenient after each annual meeting of the district or if such annual meeting be for any cause omitted, then after any special meeting held in lieu of such omitted annual meeting. At said meeting said council shall organize and elect a chairman and vice chairman from its membership. Regular meetings of the district council may be held at such place either within or without the district and at such time the district council may by vote from time to time determine. Special meetings of the

district council may be held at any time and at any place within or without the district, whenever and wherever called by the council, the Chairman, or any three (3) members of the council requesting such a meeting in writing to the clerk. In the absence of a clerk, or his inability or failure to act, notice of such meetings of the district council shall be given by the chairman. Notice of all meetings of the district council shall be given to each member in person, or by mail, telephone, or telegram, addressed to his or her place of residence or business, as listed with the clerk, at least two (2) days prior to the date of such meeting.

Section 5. Quorum. A majority of the whole number of the members of the district council holding office for the time being shall constitute a quorum for the transaction of all business but less than a quorum may adjourn a meeting from time to time.

Section 6.⁵ Compensation. Members of the district council shall serve without compensation.

⁵ To comply with the Rhode Island Open Meetings Act, the pre-1999 version of Article II, Section 6, which read, "Any vote, resolution or other form of action which shall be in writing and signed by all of the members of the district council, and filed with the clerk, shall constitute action of the district council without any meeting of the district council," was **deleted** and the pre-1999 version of Article II, Section 7, (regarding compensation) was **renumbered** to Article II, Section 6 by an 83-4 vote at the 1999 Annual Meeting of the Fire District.

ARTICLE III

Officers and Committees

Section 1. Enumeration of. In addition to the members of the district council, the officers of the district shall be a moderator, clerk, treasurer, three assessors of taxes, collector of taxes and one or more fire wardens, which officers shall be elected annually. All officers shall be qualified voters of the district.

Section 2. Election and Term of Office. At the annual meeting and at each subsequent annual meeting of the district, officers to be elected shall be elected by a majority vote of the qualified voters of the district present at such meeting. Each officer shall be elected to serve until his successor is elected and shall qualify. Committees, the respective chairmen of which shall be members of the district council, may be appointed by the district council from time to time.

Section 2 (a). Ties. Ties. In the event that an election held for district council, district land trust, district nominating committee or for any other district office enumerated in Article III results in a tie vote, whereby two or more candidates each receive the same number of total votes at an Annual or Special Meeting of the district, the candidates with the same number of votes will partake in a game of chance to resolve the tie. The Clerk of the district shall oversee the game of chance. The winner of the game of chance shall win the election for that office and be seated in that office. The Clerk of the district shall provide the result of the game of

chance in an addendum to the minutes of the Annual or Special Meeting.

In the event the election for the Clerk of the district results in a tie vote, the Moderator of the District shall oversee the game of chance to determine which candidate shall serve in the office of Clerk.⁶

Section 2 (b). Recounts. Any candidate for district council, district land trust, district nominating committee or for any of the district offices enumerated in Article III may request a recount of the votes cast for the office at an Annual or Special Meeting of the district. The candidate requesting the recount must make the recount request before the Annual or Special Meeting is adjourned. In response to the recount request, the Moderator of the district must conduct and oversee the recount before the Annual or Special Meeting is adjourned. The recount process shall take place in the following manner:

- (i) All candidates for the office being recounted may identify up to two (2) qualified voters of the district to participate in the recount
- (ii) These designated recount participants shall recount the ballots during the Annual or Special Meeting
- (iii) The Moderator shall not count or recount any ballots, but shall resolve any disputes
- (iv) The Moderator shall tally the results provided by the recount participants.

⁶ Article III, Section 2(a) was **approved** by a vote of 103-33 at the 2010 Annual Meeting of the Fire District.

The Moderator's tally of the recounted ballots shall provide the official and final result for that office. The clerk shall include both the results of the original count and the results of any recount in the minutes of the Annual or Special Meeting.

If the election of the Moderator is being recounted or the Moderator is unable to perform the recount, the clerk of the district shall conduct and oversee the recount.⁷

Section 3. Moderator. It shall be the duty of the moderator to preside at all meetings of the district. He shall also perform such other duties as may from time to time be assigned to him by the district council. In the event of his absence, inability or failure to serve, the council shall appoint a moderator for that meeting.

Section 4. Clerk. It shall be the duty of the clerk to attend all meetings of the district and of the district council and to keep the records of all meetings of the district and the district council; to give or cause to be given notice of all meetings of the district council of which notice is required. He shall also perform such other duties as may from time to time be assigned to him by the district council. In the absence of the clerk at any meeting of the district or the district council, the records of the proceedings shall be kept and authenticated by such other person as may be appointed for that purpose at the meeting.

Section 5. Treasurer. It shall be the duty of the treasurer to receive and account for all moneys arising from the collection of taxes, sale of bonds and otherwise, and to deposit

⁷ Article III, Section 2 (b) was **approved** by a 106-29 vote at the 2010 Annual Meeting of the Fire District.

or invest the same in accordance with the direction of the district council. He shall have custody of the corporate seal and books of account of the district. He shall keep or cause to be kept accurate books of account and shall present at each annual meeting of the district a statement showing the financial condition of the district and shall upon request produce from time to time to the district council a full account and such books of account and other papers and documents in his possession as they may from time to time require. He shall give a bond for the faithful performance of his duties in such amount and with such surety or sureties as may be approved by the district council. The premium for said bond shall be paid by the district. He shall also perform such other duties as may from time to time be assigned to him by the district council.

Section 6. Assessors of Taxes. The assessors of taxes shall assess taxes on all taxable inhabitants and taxable property within the district as of December 31 in each year at such rate as may from time to time be determined by the district council and such assessment shall be committed by them to the collector of taxes of said district. In the assessment of the taxes the assessors of taxes shall follow generally the practice and procedure adopted by the corresponding officers of the town of Narragansett, Rhode Island. The assessors of taxes shall prior to each annual meeting of the district examine, approve and certify the list provided for in Sec. 6 of Article I hereof. They shall also perform such other duties as may from time to time be assigned to them by the district council.

Section 7. Collector of Taxes. The collector of taxes shall collect and pay over to the treasurer of the district all taxes. In the collection of taxes he shall follow generally the practice and procedure adopted by the corresponding

officer in said town of Narragansett. He shall give bond for the faithful performance of his duties in such amount and with such surety or sureties as may be approved by the district council. The premium for said bond shall be paid by the district. He shall receive such compensation as shall be voted at the meeting of the district at which he is elected and before entering upon his duties he shall file with the clerk a written acceptance of the compensation fixed by the terms of said vote. He shall endeavor to keep a current mailing list of all taxpayers. He shall also perform such other duties as may from time to time be assigned to him by the district council.

Section 8. Fire Wardens. The fire wardens shall have such powers and duties as are generally exercised in fire districts within the state of Rhode Island, and shall also have such powers and shall perform such other duties as shall from time to time be delegated or assigned to them by the district council.

Section 9. Compensation. Except as herein otherwise provided, and except as from time to time otherwise provided by vote of the qualified voters of the district, no officer or member of any committee of the district shall receive any compensation for his services in such capacity.

Section 10. Absences. Any elected official of the District with 6 absences within a 12 month period may be removed from office and his position may be filled at any regular meeting of the council. Said appointee shall serve until the next subsequent annual meeting of the district, or until a special meeting of the district is called to fill the vacancy.⁸

⁸ Article III, Section 10 was **approved** by a 78-10 vote at the 1999 Annual Meeting of the Fire District.

ARTICLE IV

Vacancies

Section 1. Filling of. Any vacancy in any office of the district due to death, resignation, or inability to serve due to illness or other cause, may be filled by the Council at any regular meeting of the council. Said appointee shall serve until the next subsequent annual meeting of the district, or until a special meeting of the district called to fill the vacancy.

ARTICLE V

Signing of Corporate Instruments

Section 1. Signing of Checks, etc. All checks, drafts, orders and obligations of the district for the payment of money, notes, deeds, contracts, mortgages, leases, bonds and other corporate instruments must be signed and delivered by such officer or officers, or other person and/or persons as the district council may from time to time designate.

ARTICLE VI

Fiscal Year

Section 1. End of. The fiscal year of the district shall end on the thirtieth day of April in each year.⁹

⁹ Article VI, Section 1 was **amended** to change the end of the district's fiscal year from the "thirtieth day of June" to the "thirtieth day of April" by a 134-3 vote at the 2010 Annual Meeting of the Fire District.

ARTICLE VI

Roads

Section 1. Miscellaneous. By vote of the district council moneys of the district may be expended for the purpose of repairing and maintaining roads within the district, all of the roads within said district being private roads, but the district shall not be liable to any person or persons whatsoever, whether or not residents of the district, for any damages resulting from or caused by the condition of any of said roads or any defect therein or any other cause whatsoever.

ARTICLE VII

Seal

The seal of the district shall be in the form of a circle and shall bear the full name of the district and the words "Rhode Island 1932."

ARTICLE VII

Amendment of By-Laws

Section 1. Method of Amendment. The by-laws may be altered, amended or repealed at any annual or special meeting of the district by the affirmative vote of two-thirds (2/3) of the qualified voters of the district present at such meeting; provided that notice of said meeting shall state the substance of the proposed amendment; and provided further that no amendment shall be made which shall conflict with the charter except upon the previous amendment of the charter in that respect according to law.

EXHIBIT E



State of Rhode Island and Providence Plantations
Department of State | Elections Division
Nellie M. Gorbea, Secretary of State

August 22, 2019

Michael Vendetti, Chairperson
Bonnet Shores Fire District
130 Bonnet Shores Road, Narragansett, RI 02882

Dear Chairperson Vendetti:

Recently, I received correspondence expressing concerns regarding provisions of the Bonnet Shores Fire District (BSFD) Charter establishing who is an eligible voter in District elections. After further analysis, it appears the provisions may conflict with a 1981 Supreme Court ruling regarding voting rights of residents of the West Glocester Fire District.

Your charter stipulates that an eligible voter is anyone "...who is possessed in his or her own right of real estate in said district of the value of one Four Hundred (\$400) Dollars over and above all encumbrances, being an estate in fee simple, fee tail, for the life of any person, or an estate in reversion or remainder, the conveyance of which estate shall if by deed, have been recorded at least ninety (90) days, shall thereafter have a right to vote at all meetings of the corporation. Any such firm, corporation or unincorporated association having title to real estate as aforesaid, shall be entitled to cast one (1) vote through its duly authorized representative for such purposes. The duly authorized representative shall present to the Clerk before casting its vote and obtaining a ballot, an authorization by the firm, corporation or unincorporated association, which authorization shall be notarized and clearly identify the person authorized to vote on behalf of said firm, corporation or unincorporated association holding title to real estate."

The 1981 case is *Flynn v. King*, 433 A.2d 172 (R.I. 1981) (attached), which involved the enfranchisement provisions of the West Glocester Fire District's 1959 charter providing that in order to be eligible to vote and hold office one must be an owner of taxable property in the district. The Rhode Island Supreme Court held that such limitation denied equal protection to otherwise qualified voters since fire protection was a governmental function that substantially affected all residents in the district and no compelling state interest was promoted by the limitation. *Flynn*, 433 A.2d at 175.

I encourage you to review your charter and make any necessary changes to ensure it is not in conflict with the above decision. As the State's Chief State Election Official, it is my duty to ensure that all eligible voters have the right to vote in elections that affect their everyday lives. It is critical not to disenfranchise any resident of the Bonnet Shores Fire District in any election.

My staff and I are available to work with you as needed to make these changes as soon as possible. If you have any questions, please feel free to contact me. Thank you for your attention to this matter.

Sincerely,

Nellie M. Gorbea
Secretary of State

CC: Honorable Members, Bonnet Shores Fire District

EXHIBIT F

Bonnet Shores Fire District

Bonnet Shores Fire District Council Monthly Meeting
Wednesday, October 16, 2019
7:30 pm

Meeting Minutes

Call to Order

Council Vice Chair Janice McClanaghan called the meeting to order at 7:31 pm. In attendance were Council Chair Michael Vendetti (arrived at 7:30 pm) and council members Anita Langer, Christopher Mannix, Marlene Bellini and Carol O'Donnell (arrived at 7:40 pm). Also in attendance were Tax Collector Kevin Koehler and Harbormaster Mike Tortolani. Council member Daniel Johnson, Treasurer Natalie McDonald and District Manager Lisa DiBello were absent.

C. Mannix **moved**, seconded by M. Bellini to move the agenda item under New Business regarding the October 26, 2019 Breast Cancer fundraiser to the top of the agenda. The motion was approved, 4-0. M. Vendetti and C. O'Donnell arrived at the meeting shortly after the vote on this item.

Breast Cancer Fundraiser – October 26th, 2019

Erin Colman requested the usage of the BSFD Community Center for an upcoming fundraiser to fight breast cancer. It will be held on October 26, 2019. She requested a waiver of the rental fee. A. Langer **moved**, seconded by C. Mannix, that the fundraiser be permitted at the BSFD Community Center and the rental fee waived. The motion was approved, 4-0. M. Vendetti and C. O'Donnell arrived at the meeting shortly after the vote on this item.

Approval of Minutes

C. Mannix **moved**, seconded by M. Bellini, to approve the August 21, 2019 monthly council meeting minutes, with the addition of J. McClanaghan's recommendation that the BSFD Treasurer obtain a BSFD credit card during the E-Blast discussion on p. 3 of the minutes. The motion was approved, 4-1, with A. Langer dissenting. C. O'Donnell arrived at the meeting shortly after the vote on this item.

Committee Reports

Beach/Security (J. McClanaghan): The beach bus bill came to \$8,190.50. The security bill for the beach guard will come in soon and the Beach Club will be billed one-quarter of that cost.

Social (A. Langer): The Potluck Dinner will be held at the community center on Wednesday, October 30, 2019 at 6:00 pm. BYOB. Halloween costumes optional.

Harbor (M. Tortolani): The dock at Little Beach came out of the water two weeks ago. All boats are out of the cove. Six individuals are giving up their moorings this winter, so there will

be movement on the waitlist. Rowboats and dinghies must be off the beach and shore by December 1, 2019. The next committee meeting is tentatively scheduled for Tuesday, October 22, 2019.

Roads/Public Works (C. Mannix): The next committee meeting will be held on November 12, 2019 at 7:00 pm.

Tony Lupino questioned the council regarding an audit, stating he would file a complaint with the Auditor General. C. Mannix stated that he discussed the possibility of conducting an audit with the Treasurer Natalie McDonald. He stated that an audit is required if an organization has over \$500,000 in account activity during the fiscal year. The reimbursements for the dredge did not bring the Fire District's total account activity to \$500,000 because the reimbursements came in separate fiscal years. C. Mannix also indicated that the DEM reimbursements were provided to the BSFD after the work had been performed, documented and paid, which means that the grantee fronted the cash. For that reason, according to General Accepted Accounting Principles (GAAP), the Fire District is not required to conduct an audit. Tony Lupino replied that he would file a complaint anyway.

Tax Collector (K. Koehler): Ninety-two percent (92%) of taxes have been collected. Approximately \$8,500 in taxes has been collected since last month's meeting.

Land Trust (G. Monaghan): The Land Trust met on October 1, 2019. All trustees were present. The attorney(s) are still working on the Audobon land transfer.

District Manager (J. McClanaghan summarized report): Duct work is ongoing in the BSFD Community Center. The fire alarms are being fixed. The monthly meeting sign, usually posted at the fork, is missing. The generator will be inspected next week. Six trash barrels in the back of the Community Center were destroyed recently. This vandalism, together with the doors sometimes being left open after events, leads to security problems. The security guard is not a 24/7 operation and the community may want to obtain a security camera. The breachway was opened prior to the most recent northeaster.

Old Business

Update on E-Blast System

- Steve Ryder reported that he has been reviewing options and the MailChimp system. He said it will take a few weeks to get the data ready. He stated that the real work is somewhat minimal and that he touched base with the Beach Club webmaster to share ideas. M. Bellini expressed concerns about protecting individual passwords.

New Business

Motion to Amend the Charter Under Section 2 on the Voting Rights within the Bonnet Shores Fire District to Comply with Secretary of State's Letter of August 22, 2019

- A. Langer stated that we need to link the right to vote in the BSFD to residency because the current taxpayer requirement is unconstitutional. A. Langer **moved** the following

resolution: That until such time as the Rhode Island General Assembly amends the charter of the Bonnet Shores Fire District to comply with the decision of the Rhode Island Supreme Court in *Flynn v. King* (433 A.2d 172 (1981)), in all future Bonnet Shores Fire District general or special elections, those persons who reside in the Bonnet Shores Fire District and are eligible to vote in a general or special election in the Town of Narragansett shall be permitted to vote, whether or not they own taxable property. The motion did not receive a second.

Public Comment

- J. McClanaghan stated that the BSFD is still responding to a complaint made by individuals to the R.I. Attorney General's Office. She stated that the BSFD is different from the Fire District cited in the *Flynn* case because the BSFD is a recreational fire district.
- Tony Lupino stated that the BSFD often describes itself as a quasi-municipality.
- M. Vendetti stated that there are no elections in the Fire District until June of 2020 and that we are in the process of getting responses and opinions from the R.I. Attorney General's Office regarding these issues.
- Tony Lupino criticized the council's decision to disband the Walkway Committee and the Bylaw Committee. He also criticized the Fire District's failure to conduct an audit. He also stated that his comments during meetings are watered down in the meeting minutes.
- Nancy Cordy stated her concern over the formal complaints being filed against the BSFD. She stated that she was disturbed by the Clerk's response to the Stenmark complaint. She indicated her displeasure with a lack of response from the council.
- C. Mannix and M. Vendetti indicated that the police detail was needed because of disruptive behavior and that the policeman present at the July monthly meeting broke up an altercation.
- Nancy Cordy indicated that recording the meeting on facebook is a deterrent to disruptions.

Adjournment:

C. Mannix **moved**, seconded by A. Langer, to adjourn the meeting. The motion was approved unanimously (6-0). The meeting adjourned at 8:33 pm.

Respectfully submitted,

/s/Matthew M. Mannix
Bonnet Shores Fire District Clerk

Ratified on December 18, 2019