



December 9, 2024

**Via Email**

Mayor Joseph M. Petty, [mayor@worcesterma.gov](mailto:mayor@worcesterma.gov)  
Worcester City Council, [council@worcesterma.gov](mailto:council@worcesterma.gov)  
City Clerk Nikolin Vangjeli, [clerk@worcesterma.gov](mailto:clerk@worcesterma.gov)  
Worcester City Hall  
455 Main Street  
Worcester, MA 01608

City Solicitor Michael E. Traynor, [law@worcesterma.gov](mailto:law@worcesterma.gov)  
51 Sever Street  
Worcester, MA 01609

Re: Request to Restore the Excluded Ceasefire Resolution to the Agenda of the  
Worcester City Council

Dear Officials of the City of Worcester:

We write on behalf of Claire Schaeffer-Duffy, in her capacity as a member of a multi-faith coalition based in Worcester (“the Coalition”), to express serious concerns that Worcester (“the City”) has applied its City Council Rules in a viewpoint-discriminatory manner. Specifically, the City has excluded the Coalition’s proposed resolution calling for a ceasefire in Gaza from the City Council’s agenda when it has previously allowed other resolutions involving international matters to be placed on the agenda, including another resolution regarding Israel and Gaza just last year. Such differential treatment threatens the core constitutional protections enshrined in the First Amendment of the U.S. Constitution and Articles 16 and 19 of the Massachusetts Declaration of Rights. We call upon the City to restore the resolution to the Council's agenda for consideration at the December 17 Council meeting, or at the least, no later than the first Council meeting in January 2025.

**Factual Background**

On or about October 11, 2024, the Coalition submitted a petition containing a resolution pertaining to Israel and Gaza (“the Resolution,” enclosed) for inclusion in

the City Council’s agenda. The Resolution calls upon the U.S. government to facilitate a ceasefire in Gaza, the immediate release of Israeli hostages in Gaza and Palestinian detainees in Israel, and the resumption of humanitarian aid to Gaza, among other things.

On October 18, 2024, the Deputy City Clerk informed the Coalition by email that the Petition would not be added to the City Council agenda based on the City Clerk’s determination that it violated Rule 11 of the City Council. Rule 11 provides:

No petition . . . which deals . . . with matters not within the general supervision and/or relating to city government . . . shall be placed on any city council agenda by the city clerk. The city clerk, with the assistance of the city solicitor, shall determine when an item is not appropriate for placement on the city council agenda.

The City Clerk further noted in an October 21, 2024 email to the Coalition that on October 15, 2024—just days after the Coalition submitted its Resolution for inclusion in the Council’s agenda—“the City Council reiterated the importance for the City Clerk to follow Rule 11 even more closely.”

The City’s exclusion of this Resolution is a notable departure from its past policy and practice of allowing resolutions pertaining to national or international issues. In a 2018 legal opinion, Worcester’s City Solicitor concluded that resolutions wherein “the council expresses its collective opinion on a subject”—including opinions on national and international policy issues—are permitted under Rule 11.<sup>1</sup> Thus, for instance, in 2018 and 2022 respectively, the Council considered resolutions calling on the federal government to preserve or enact critical immigration and asylum protections<sup>2</sup> and to prioritize nuclear disarmament.<sup>3</sup> Most notably, shortly after Hamas’ October 7, 2023 attack on Israel, the Council passed a resolution “condemn[ing] the recent barbaric and inhuman taking of hostages in Israel, including a number of American citizens, and pray[ing] for their immediate and safe release and return to their loved ones.”<sup>4</sup> Thus, what the Mayor himself has described as “inconsisten[t]” application of Rule

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<sup>1</sup> David M. Moore, Worcester City Solicitor, Legal Opinion (Oct. 2, 2018). The City Solicitor explained that “[t]here is a difference between a proposed resolution, where the council expresses its collective opinion on a subject, and a petition asking the city council to exercise its authority as the legislative body of the city.” Thus, he concluded that “[i]t is one thing to request adoption of a resolution urging the removal of U. S. armed forces from a particular foreign land; while it is quite another for a petition to seek adoption of an ordinance prohibiting federal law-enforcement authorities from arresting people within the boundaries of the city.”

<sup>2</sup> Worcester City Council Meeting Minutes, Sept. 12, 2018, <https://www.worcesterma.gov/agendas-minutes/city-council/2018/20180912.htm>.

<sup>3</sup> Worcester City Council Meeting Minutes, March 8, 2022, <https://www.worcesterma.gov/agendas-minutes/city-council/2022/20220308.htm>.

<sup>4</sup> Worcester City Council Meeting Minutes, October 17, 2023, <https://www.worcesterma.gov/agendas-minutes/city-council/2023/20231017.htm>.

11<sup>5</sup> has resulted in differential treatment of resolutions based on their content or viewpoint.

### Legal Analysis

The First Amendment of the U.S. Constitution and Articles 16 and 19 of the Massachusetts Declaration of Rights provide robust protections both for political speech and petitioning of the government. *See Virginia v. Black*, 538 U.S. 343, 365 (2003) (political speech is “at the core of what the First Amendment is designed to protect”); *Barron v. Kolenda*, 491 Mass. 408, 420–21 (2023) (Article 16 provides even greater protections for political speech than does the First Amendment); *Kobrin v. Gastfriend*, 443 Mass. 327, 333 (2005) (setting forth the right to petition the government enshrined in the First Amendment and Article 19). Indeed, the Supreme Judicial Court of Massachusetts has recently emphasized that “the text, history, and case law surrounding art. 19 provide for the ‘fullest and freest’ discussion of public matters” at public meetings. *Barron*, 491 Mass. at 418.

The First Amendment is “plainly offended” when the government “give[s] one side of a debatable public question an advantage in expressing its views to the people.” *First Nat’l Bank of Boston v. Bellotti*, 435 U.S. 765, 785–86 (1978). Government censorship of speech on the basis of viewpoint is therefore unconstitutional. *See, e.g., Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 828 (1995); *McGuire v. Reilly*, 386 F.3d 45, 62 (1st Cir. 2004); *Barron*, 491 Mass. at 422 & n.14 (viewpoint discrimination prohibited by Articles 16 and 19).

This prohibition on viewpoint discrimination extends to the government’s enforcement of facially viewpoint-neutral rules such as Rule 11. The First Amendment bars the government from selectively enforcing a facially neutral rule or law in a viewpoint-discriminatory manner. *See McGuire*, 386 F.3d at 61 (citing *Thomas v. Chicago Park Dist.*, 534 U.S. 316, 325 (2002)); *Frederick Douglass Found., Inc. v. D.C.*, 82 F.4th 1122, 1141–42 (D.C. Cir. 2023). That makes good sense. Were the law otherwise, “the First Amendment’s guarantees would risk becoming an empty formality, as government could enact regulations on speech written in a content-neutral manner so as to withstand judicial scrutiny, but then proceed to ignore the regulations’ content-neutral terms by adopting a content-discriminatory enforcement policy.” *Hoye v. City of Oakland*, 653 F.3d 835, 854 (9th Cir. 2011).

Here, the City has applied the facially viewpoint-neutral Rule 11 differentially, with the result that it has allowed certain viewpoints on national or international topics to be heard on the City Council agenda, while denying the same opportunity to other

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<sup>5</sup> Dan Reidy, *Supporters of a Gaza ceasefire shut down a Worcester City Council meeting*, SPECTRUM NEWS 1 (Oct. 23, 2024), <https://spectrumnews1.com/ma/worcester/news/2024/10/23/supporters-of-a-ceasefire-in-gaza-made-their-voices-heard-at-worcester-city-council>.

viewpoints. The specter of viewpoint discrimination is especially plain where the Council allowed a different resolution relating to Israel and Gaza to be placed on its agenda approximately one year ago but has refused to provide the same consideration to the Coalition's Resolution.<sup>6</sup>

To the extent the City wishes to adopt a narrower interpretation of Rule 11 at some point going forward, it may do so if it is applied in a consistent and viewpoint-neutral manner. However, this would not eliminate its responsibility to first rectify the apparent viewpoint discrimination that occurred when Rule 11 was applied to exclude the Coalition's Resolution from the agenda. A narrower interpretation cannot be adopted at the precise moment that a resolution has been submitted which expresses differing views on the same subject that was considered on the Council's agenda a little over a year ago. To allow otherwise would enable an end-run around the fundamental prohibition against viewpoint discrimination enshrined in our state and federal constitutions.

Of course, neither the First Amendment nor Articles 16 and 19 require the City to *adopt* the Coalition's Resolution—that decision lies squarely within the discretion of the Council—but they do require that the Resolution is placed on the agenda and is given the same consideration to which all such petitions are entitled.

### Conclusion

The City has applied Rule 11 differentially, with the result that it has “give[n] one side of a debatable public question an advantage in expressing its views to the people.” *Bellotti*, 435 U.S. at 785–86. Such a result is not permitted by the First Amendment, nor by Articles 16 and 19. On behalf of Ms. Schaeffer-Duffy, we call upon the City to restore the Coalition's Resolution to the Council's agenda for consideration at the December 17 Council meeting, or no later than the first Council meeting in January 2025, and we ask the City to inform us of its intent to do so. Should City officials wish to otherwise discuss this letter, we invite you to contact us.

Sincerely,



Jessie Rossman  
Legal Director



Rachel E. Davidson  
Staff Attorney

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<sup>6</sup> Both the October 2023 resolution and the Coalition's Resolution call for the safe return of Israeli hostages. However, the Coalition's Resolution expresses additional views not expressed in the October 2023 resolution, including support for an immediate ceasefire in Gaza.



The City of  
**WORCESTER**

**City Clerk Department**

Nikolin Vangjeli, City Clerk  
Stephen A.J. Pottle, Deputy City Clerk I  
Clare M. Robbins, Deputy City Clerk II

Please print out this form, provide your full contact information, including your name, residential address and phone number, sign the form and return to:

Worcester City Clerk  
City Hall Room 206  
455 Main Street  
Worcester, MA 01608

The undersigned hereby petition the City Council as follows, request

*We would like this item to be on the agenda for October 22, 2024  
City Council Meeting.*

RECEIVED  
WORCESTER CITY CLERK  
2024 OCT 10 AM 11:37

Signature	Name	Address, Zip Code	Phone Number	Email
<i>Patricia Kirkpatrick</i>	Patricia Kirkpatrick	[REDACTED]	[REDACTED]	[REDACTED]
<i>Clare Schaffer-Duffy</i>	Clare Schaffer-Duffy	[REDACTED]	[REDACTED]	[REDACTED]

# Worcester Ceasefire Resolution

## A RESOLUTION TO END THE WAR ON GAZA

Be it resolved by the City Council of the City of Worcester, in City Council assembled, as follows:

WHEREAS on October 17th, 2023, the Worcester City Council voted 8 to 2, with one abstention, in favor of a resolution condemning the October 7th Hamas attack on Israel that took nearly 1,200 lives,

AND WHEREAS the ongoing war on Gaza has resulted in over 42,000 Palestinian lives lost, more than 50% being women and children,<sup>1</sup>

AND WHEREAS Israeli hostages in Gaza and Palestinian detainees in Israel have died in custody and face ever-increasing risks of dying,

AND WHEREAS the United Nations reports that over a million Gazans face starvation and life-threatening diseases as a result of the present blockade of desperately needed medical supplies and the staples of life itself,<sup>2</sup>

AND WHEREAS the International Court of Justice ruled in July 2024 that Israel's occupation of the Gaza strip and the West Bank is unlawful, and that Israel's legislation and actions violate the international prohibition on racial segregation and apartheid,<sup>3</sup>

AND WHEREAS US law proscribes the sale or transfer of American munitions to systematically carry out indiscriminate attacks on civilians and prevent the transport and delivery of US humanitarian aid,

AND WHEREAS the United States has backed a ceasefire plan passed by the United Nations Security Council,

BE IT RESOLVED that the City Council of Worcester calls on the US government to facilitate and demand:

1. An immediate and permanent ceasefire to end the violence
2. Immediate release of hostages and detainees on all sides
3. Immediate resumption of the delivery of humanitarian aid to Gaza unhindered
4. Enforcement of US laws, including the Leahy Law of 1997, the Conventional Arms Transfer Policy, and the Arms Export Control Act, which would halt US weapon sales and transfers to Israel that make us accomplices to the present mass slaughter of innocents

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<sup>1</sup> <https://www.ochaopt.org/>

<sup>2</sup>

[https://www.pbs.org/newshour/world/un-agencies-say-over-1-million-in-gaza-could-experience-highest-level-of-starvation-by-mid-july#:~:text=by%2Dmid%2Djuly-.UN%20agencies%20say%20over%201%20million%20in%20Gaza%20could%20experience,of%20starvation%20by%20mid%2Djuly&text=CAIRO%20\(AP\)%20%E2%80%94%20United%20Nations,next%20month%20if%20hostilities%20continue](https://www.pbs.org/newshour/world/un-agencies-say-over-1-million-in-gaza-could-experience-highest-level-of-starvation-by-mid-july#:~:text=by%2Dmid%2Djuly-.UN%20agencies%20say%20over%201%20million%20in%20Gaza%20could%20experience,of%20starvation%20by%20mid%2Djuly&text=CAIRO%20(AP)%20%E2%80%94%20United%20Nations,next%20month%20if%20hostilities%20continue)

<sup>3</sup>

<https://www.ohchr.org/en/press-releases/2024/07/experts-hail-icj-declaration-illegality-israels-presence-occupied#:~:text=The%20ICJ%20mandated%20Israel%20to.the%20return%20of%20displaced%20people.>

# Petition for a Municipal Resolution Calling for A Ceasefire in Israel/Hamas War

*As a resident of Worcester, I strongly urge our city councilors to pass the Worcester Ceasefire Resolution put forth by the Multi-faith Coalition for Worcester Ceasefire Resolution (see below).*

## Worcester Ceasefire Resolution

### A RESOLUTION TO END THE WAR ON GAZA

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AND WHEREAS the ongoing war on Gaza has resulted in over 42,000 Palestinian lives lost, more than 50% being women and children,<sup>1</sup>

AND WHEREAS Israeli hostages in Gaza and Palestinian detainees in Israel have died in custody and face ever-increasing risks of dying,

AND WHEREAS the United Nations reports that over a million Gazans face starvation and life-threatening diseases as a result of the present blockade of desperately needed medical supplies and the staples of life itself,<sup>2</sup>

AND WHEREAS the International Court of Justice ruled in July 2024 that Israel's occupation of the Gaza strip and the West Bank is unlawful, and that Israel's legislation and actions violate the international prohibition on racial segregation and apartheid,<sup>3</sup>

AND WHEREAS US law proscribes the sale or transfer of American munitions to systematically carry out indiscriminate attacks on civilians and prevent the transport and delivery of US humanitarian aid,

AND WHEREAS the United States has backed a ceasefire plan passed by the United Nations Security Council,

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[https://www.pbs.org/newshour/world/un-agencies-say-over-1-million-in-gaza-could-experience-highest-level-of-starvation-by-mid-july#:~:text=by%2Dmid%2Djuly-.UN%20agencies%20say%20over%201%20million%20in%20Gaza%20could%20experience.of%20starvation%20by%20mid%2DJuly&text=CAIRO%20\(AP\)%20%E2%80%94%20United%20Nations,next%20month%20if%20hostilities%20continue](https://www.pbs.org/newshour/world/un-agencies-say-over-1-million-in-gaza-could-experience-highest-level-of-starvation-by-mid-july#:~:text=by%2Dmid%2Djuly-.UN%20agencies%20say%20over%201%20million%20in%20Gaza%20could%20experience.of%20starvation%20by%20mid%2DJuly&text=CAIRO%20(AP)%20%E2%80%94%20United%20Nations,next%20month%20if%20hostilities%20continue)

<sup>3</sup>

<https://www.ohchr.org/en/press-releases/2024/07/experts-hail-icj-declaration-illegality-israels-presence-occupied#:~:text=The%20ICJ%20mandated%20Israel%20to.the%20return%20of%20displaced%20people.>

**BE IT RESOLVED** that the City Council of Worcester calls on the US government to facilitate and demand:

1. **An immediate and permanent ceasefire to end the violence**
2. **Immediate release of hostages and detainees on all sides**
3. **Immediate resumption of the delivery of humanitarian aid to Gaza unhindered**
4. **Enforcement of US laws, including the Leahy Law of 1997, the Conventional Arms Transfer Policy , and the Arms Export Control Act, which would halt US weapon sales and transfers to Israel that make us accomplices to the present mass slaughter of innocents**