

**Board of Selectmen
Minutes of Tuesday, December 14, 2021
Bourne Veterans' Community Center
Buzzards Bay, MA**

ATA Glenn Cannon

Board of Selectmen

Peter Meier, Chair
George Slade, Clerk
Judy Froman, Vice Chair
Mary Jane Mastrangelo
Jared MacDonald

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TOWN CLERK BOURNE

1. **Moment of Silence to recognize our Troops and our public safety personnel.**
2. **Salute to the Flag**
3. **Vision:** Bourne is a proud community that embraces change while respecting the rich heritage of the town and its villages. It is a municipality based on strong fiscal government with a durable economy that recognizes the rights of all citizens, respects the environment, especially the coastal areas of the community and the amenities that it affords. Bourne embraces excellent education, and offers to citizens a healthy, active lifestyle.
4. **Mission:** Bourne will maximize opportunities for social and economic development while retaining an attractive, sustainable, and secure coastline and environment for the enjoyment of residents and visitors. Through responsible and professional leadership and in partnership with others, Bourne will strive to improve the quality of life for all residents living and working in the larger community.
5. **Public Comment on Non-Agenda Items**
 - a. Public comments are allowed for up to a total of 12 minutes at the beginning of each meeting. Each speaker is limited to 3 minutes for comment. Based on past practice, members of the Board are not allowed to comment or respond.

James Potter wished all a merry Christmas. He then expressed his concern that a second Town Administrator has left the Town of Bourne in the last six months, under the current Board of Selectmen, and neither time has the public received an explanation and he said that transparency is needed. He said that he had sent an email to the Board of Selectmen regarding the appointing of a new Acting Town Administrator and did not receive a response to his email. He wants to know why his correspondence didn't make it to the public correspondence and was not responded to, as he was one of the signers on the correspondence policy in 2018. He said he insists that the Board follow the policy. He summarized by saying that there is a need for more transparency, more communication and to follow the policy.

6. Approval of Minutes: November 2, 2021, November 9, 2021

Voted: Jared MacDonald moved, and George Slade seconded to approve the minutes of November 2, 2021.

Vote: 5-0-0.

Voted: Judy Froman moved, and Mary Jane Mastrangelo seconded to approve the minutes, with the edits to be made, of November 9, 2021.

Vote: 5-0-0.

7. Board of Selectmen Business

- a. Discussion and possible vote to approve the 2022 Recycling Policy.
- b. Discussion and possible vote to sign the deed for the 6.5 acre "Flyover" parcel. The "Flyover" parcel is required as open space mitigation for the potential Integrated Solid Waste Management (ISWM) facility expansion.
- c. Charter Review Committee Presentation by Steve Mealy, Chairperson and the Charter Review Committee.
- d. Climate Resilience Investment System and Implementation Plan presentation by Dan Nees and Joanne Throwe (via Zoom), representing the Environmental Protection Agency's (EPA) Southeast New England Program (SNEP) [Southeast New England Program | US EPA](#)
- e. Discussion and possible vote to select new Town Counsel from the Law Firms of Miyares & Harrington LLP, Brooks & DeRensis P.C., and KP Law P.C.
- f. Discussion and possible vote on the NextGrid (solar array) First Amendment to the Memorandum of Agreement.
- g. Discussion and possible vote to void and nullify the Memorandum of Agreement between the Town of Bourne and NextGrid, LLC dated July 26, 2021.
- h. Discussion and possible vote to enter into a purchase and sales agreement with Barnstable County for the Barnstable County Land located at 0 Julius Kelly Drive and 0 County Road.
- i. Discussion and possible vote relative to the possibility of a discharge of radioactive water from the Plymouth nuclear plant into Cape Cod Bay.
- j. Discussion and possible vote to go to remote access meetings or hybrid meetings (a combination of remote access and in-person).
- k. Discussion and possible vote to revoke the appointment of Glenn D. Cannon as Acting Town Administrator issued on September 7, 2021.
- l. Discussion and possible vote to appoint Glenn D. Cannon as the Acting Town Administrator effective December 6, 2021.

7.a. Discussion and possible vote to approve the 2022 Recycling Policy.

Dan Barrett, General Manager, Integrated Solid Waste Management (ISWM), said that there are not a lot of changes to the resident recycling policy this year. He listed the changes that were made on the 2022 Recycling Policy brochure.

Voted: Jared MacDonald moved, and Judy Froman seconded, to waive the second and third reading of the 2022 Bourne Board of Selectmen Recycling Center policy.

Vote: 5-0-0.

Voted: Jared MacDonald moved, and Mary Jane Mastrangelo seconded, to approve the 2022 Bourne Board of Selectmen Recycling Center policy as presented.

Vote: 5-0-0.

7.b. Discussion and possible vote to sign the deed for the 6.5 acre "Flyover" parcel. The "Flyover" parcel is required as open space mitigation for the potential Integrated Solid Waste Management (ISWM) facility expansion.

Assistant Town Administrator Glenn Cannon said that this a parcel of land the ISWM is looking to purchase for the expansion of the ISWM facility. Mr. Cannon said that this parcel of land would be purchased to offset 12 acres of land that was previously purchased. Mr. Cannon said that tonight the vote would be for the acceptance of deeds and the closing is set for next Wednesday, December 22.

Voted: Mary Jane Mastrangelo moved, and Jared MacDonald seconded, to approve purchase of Lot 2 on a Plan recorded with the Barnstable County Registry of Deeds in Plan Book 675, Page 72 known as the Flyover Nominee Trust consisting of approximately 6.5 acres and to sign the Acceptance of Deeds for the property.

Vote: 5-0-0.

7.c. Charter Review Committee Presentation by Steve Mealy, Chairperson and the Charter Review Committee.

Deferred.

7.d. Climate Resilience Investment System and Implementation Plan presentation by Dan Nees and Joanne Throwe (via Zoom), representing the Environmental Protection Agency's (EPA) Southeast New England Program (SNEP) Southeast New England Program | US EPA.

Joanne Throwe was not available to give the presentation. There were technical difficulties, therefore this agenda item will be deferred to January 4, 2022. Tim Lydon said that this is tied in with the Climate Resiliency Infrastructure Fund that was passed at Town Meeting. He said they are looking to create a structure in Bourne, starting with staff and understanding what the Town's issues are and what needs to be paid for going forward. He said it is a very good plan. There was some discussion about the plan and the timing. Mr. Lydon talked about a few points of the SNEP Program and about some projects that will be coming up regarding climate resiliency.

Chair Meier said that since it was after 7:30, item 8.a. would be taken out of order.

8.a. 7:30 PM Hearing on application from Old Bridge Bar and Restaurant, Inc. 304 Main Street, Buzzards Bay for a year-round Common Victualer License for the sale of all kinds of

alcoholic beverages to be drunk on the premises, application for Common Victualer Food License and Entertainment License.

Voted: George Slade moved, and Jared MacDonald seconded, to open the Public Hearing.

Roll Call Vote – Jared MacDonald - yes, Judy Froman - yes, Chair Peter Meier – yes, George Slade – yes, Mary Jane Mastrangelo – yes. 5-0-0.

Chair Meier read loud the public hearing notice:

NOTICE

TOWN OF BOURNE

LIQUOR HEARING

Notice is hereby given in accordance with Massachusetts General Laws Chapter 138, Section 12 that application has been received from Old Bridge Bar and Restaurant, Inc., d/b/a Old Bridge Bar and Restaurant, Benny P. Chu, Manager, 304 Main Street, Buzzards Bay, MA 02532 for a Year-Round Common Victualer License for the sale of all kinds of Alcoholic Beverages to be drunk on the premises. Description of premises: One floor – 7 rooms: 2 Dining rooms & 2 bars, office, kitchen, preparation/storage room men's and ladies' restrooms, 2 entrances, 3 exits, and enclosed outside 16'x60' patio. A hearing will be held at the Bourne Veterans' Memorial Community Center, 239 Main Street, Buzzards Bay, on Tuesday, December 14, 2021, at 7:30 p.m.

Benny Chu explained that this license would be for an American pub styled restaurant located at 304 Main Street in Buzzards Bay. There were no additional questions from the public.

Voted: Judy Froman moved, and Jared MacDonald seconded, to close the Public Hearing.

Roll Call Vote – Mary Jane Mastrangelo -yes, George Slade - yes, Chair Peter Meier – yes, Judy Froman – yes, Jared MacDonald – yes. 5-0-0.

Voted: Jared MacDonald moved, and Mary Jane Mastrangelo seconded, to approve a year-round Common Victualer License to Old Bridge Bar and Restaurant Benny Chu, Manager, for the sale of all kinds of alcoholic beverages under Mass General Law, Chapter 38, section 12. All alcoholic beverages should be drunk on the premises located at 304 Main Street, Buzzards Bay.

Roll Call Vote – Mary Jane Mastrangelo -yes, George Slade - yes, Chair Peter Meier – yes, Judy Froman – yes, Jared MacDonald – yes. 5-0-0.

7.e. Discussion and possible vote to select new Town Counsel from the Law Firms of Miyares & Harrington LLP, Brooks & DeRensis P.C., and KP Law P.C.

Chair Meier said that three firms that were the finalists to be chosen as Town Counsel are the Law Firms of Miyares & Harrington LLP, Brooks & DeRensis P.C., and KP Law P.C. Mr. Cannon said that the Board of Selectmen sent out an RFQ quite a while ago and they went through a selection process to narrow down the applicants for the RFQ and they picked their top three firms. The top three firms were interviewed by the Board of Selectmen, and they are here tonight to deliberate and discuss. Chair Meier added that Selectman Jared MacDonald was not present for the interviews,

and Mr. MacDonald said that he has watched the video of the interviews and he is all set to deliberate and discuss.

Chair Meier said they would start with a discussion about Miyares and Harrington, LLP. Ms. Froman said that one of the strengths that she saw with them connecting with Bourne was that they were very tied into developing community and connecting with who Bourne is. She said she liked the sense of how they talked about connecting with people and being accessible and they seem to be the right size for Bourne.

Ms. Mastrangelo said that she was struggling between this firm and one other firm, so she called some of the Towns that they represent and received high recommendations on the firm of Miyares & Harrington. She said that she heard from both Towns that she talked to that they have good bench strength. Overall, she found that what they said that they did in their interview is how they really work with their clients, and they became her number one choice.

Mr. Slade he was comfortable with all three firms. He feels sizing is an important factor. He said that Miyares and Harrington was not his first choice, but he would be fine with them as Town Counsel.

Mr. MacDonald said he felt that the statements that were made in their interview were impressive. He said he did his homework, and he was impressed with Ms. Rubin and her efforts in trying to stay ahead of things regarding training.

Chair Meier said that what stuck out to him was the senior person who has been in the business for a long time said that he is also there to offer wisdom and guidance to the rest of the staff that works for him. He said that he feels comfortable with this firm.

Chair Meier said the next firm that they interviewed was KP Law and he concerned because of their size, and he feels that they are too big. Also, the fact that they serve most of the Cape concerns him.

Mr. MacDonald said he was impressed with KP Law in that they truly did try to set a precedence for a smaller town community feel. He feels that they do have a lot of depth, but he feels that they are not the right fit for Bourne currently. He said that he agrees with Chair Meier that Bourne does not always fit the same criteria as the rest of the Cape.

Ms. Froman said she feels that KP Law is very sharp and qualified. She said she thinks they could do the smaller approach to the Town, but they still had a corporate feel. She said the deciding factor for her is that she does not think that the Town of Bourne should have Counsel that is also representing towns next to Bourne, because then you could be caught in a bind and need Special Counsel.

Mr. Slade said that he sought respondents on their experiences with KP Law and they were both very favorable and said that they had a good feel for the community. He does not see how the Town could lose with hiring them. He liked that they have a wealth of resources.

Ms. Mastrangelo said she agreed that they have depth, although she is concerned about their gatekeeper concept. She said her biggest concern with KP Law is a Conflict-of-Interest thing in that they are now the lawyers for the Barnstable County Commissioners. She feels they are a little too big and they have cookie cutter answers.

Ms. Mastrangelo said that she struggled with Brooks and DeRensis P.C. for her first choice. She feels they have a lot to offer. She thinks they would fit well in the community and would understand the Town of Bourne, and they came in a little behind for her.

Mr. Slade said he thought that Brooks and DeRensis P.C. were impressive and had all the credentials that you would want for attorneys. He also thought that Bourne could benefit from having a real estate attorney on the firm that represents the Town.

Ms. Froman said she felt the real estate attorney struck a note with her too. She thought all on the firm that interviewed, were fascinating and this firm could be very efficient. She said they came in a close second for her to Miyares and Harrington.

Mr. MacDonald said that all with Brooks and DeRensis were impressive, although he did not feel there was a lot of fluidity. He did receive great comments when he researched them. He did not feel there was a lot of looking toward the future with this firm.

Mr. Cannon agreed with Mr. MacDonald. Mr. Cannon also said that staff would welcome the training from whatever firm is chosen. Mr. Cannon said his choice order of firms is Miyares and Harrington first, then KP Law, then Brooks and DeRensis would be third choice. He said that he agreed with the Board of Selectmen about KP Law that they are a bit too big and the fact that they represent too many Cape Towns.

Chair Meier was concerned about the long-term succession of choosing Brooks and DeRensis.

Voted: Judy Froman moved, and Jared MacDonald seconded, to put KP Law, Miyares and Harrington and Brooks and DeRensis in a nomination.

Vote: 5-0-0.

Chair Meier said he would now ask each of the Board of Selectmen members which firm is their top choice: Jared MacDonald - Miyares and Harrington, Judy Froman - Miyares and Harrington, Chair Peter Meier – Miyares and Harrington, George Slade – Miyares and Harrington, Mary Jane Mastrangelo – Miyares and Harrington. Mr. Slade said he chose them because he listened to the reasons that each of the Board of Selectmen members gave, and he changed his mind from his original first choice.

Voted: Jared MacDonald moved, and Judy Froman seconded, to appoint the law firm of Miyares and Harrington as new Town Counsel for the Town of Bourne contingent on successful contract negotiations.

Vote: 5-0-0.

There was a brief discussion about negotiating the contract and signatures. Mr. Cannon will send an email to the chosen firm to notify them that they were chosen and an email to Bob Troy about his help in the negotiating the contract. There was also discussion about documents that need to be signed before Bob Troy is done working as counsel for the Town of Bourne.

7.f. Discussion and possible vote on the NextGrid (solar array) First Amendment to the Memorandum of Agreement.

Mr. Cannon said that this is something that the Board has agreed with the terms with NextGrid and it has gone to Town Meeting for approval. There were some minor inconsistencies that Town Counsel saw in the original contract, and they have been corrected. They are asking to approve this contract and to revoke the other one.

Voted: Mary Jane Mastrangelo moved, and Jared MacDonald seconded, to accept the following offer from Next Grid for the development of a solar array off Ernest Valeri Road:

- Premises: NextGrid to gift to the Town approximately 50 acres of land which includes an option to exercise a reversionary interest for consideration to the Town of \$2.78 million on the earlier of 25 years or upon decommissioning of the system.
- A donation of \$500,000 would be made to the town at commercial operations.
- An additional payment of \$500,000 (total \$1,000,000) would be made at commercial operations.
- An annual lease payment of \$75,250 per year for 25 years
- An Annual Payment In Lieu Of Taxes (PILOT) Payment of \$160,000 per year for 25 years
- Transaction Cost: Payment of \$15,000.

Vote: 5-0-0.

7.g. Discussion and possible vote to void and nullify the Memorandum of Agreement between the Town of Bourne and NextGrid, LLC dated July 26, 2021.

Motion: Jared MacDonald moved, and George Slade seconded, to nullify the July 26, 2021, Memorandum of Agreement between the Town of Bourne and NextGrid LLC and replace the original Memorandum of Agreement with the new Memorandum of Agreement date December 7, 2021.

Voted: Jared MacDonald moved, and Judy Froman seconded, to amend the main motion instead of saying December 7, 2021, it will say December 14, 2021.

Vote: 5-0-0.

Motion: The main motion as amended

Vote: 5-0-0.

7.h. Discussion and possible vote to enter into a purchase and sales agreement with Barnstable County for the Barnstable County Land located at 0 Julius Kelly Drive and 0 County Road.

Chair Meier said that they had a motion in executive session to submit an offer to Barnstable County to the Executive Director of the Barnstable County Commissioners, and they have acknowledged receipt. Mr. Cannon said they have until January 10, 2022, to give an answer.

~~Chair Meier read the motion: To authorize the Acting Town Administrator to sign the letter on behalf of the Board of Selectmen to the Barnstable County Commissioners and the Barnstable County Administrator relative to making an offer on Lot 7 and Lot 8 consisting of 65 acres located at 0 Julius Kelly Drive and 0 County Road.~~

Voted: Jared MacDonald moved, and George Slade seconded, to authorize the Acting Town Administrator to sign the letter on behalf of the Board of Selectmen to the Barnstable County Commissioners and the Barnstable County Administrator relative to making an offer on Lot 7 and Lot 8 consisting of 65 acres of Barnstable County land located at 100 Dr. Julius Kelly Drive and 0 County Road and offer the amount of \$500,000.00.

Vote: 5-0-0.

There was some discussion about the proposal and the appraisal.

7.i. Discussion and possible vote relative to the possibility of a discharge of radioactive water from the Plymouth nuclear plant into Cape Cod Bay.

Chair Meier said there has been a lot of communication in the newspapers about what may or may not happen, and as an abutting community he feels it is up to the leaders to be symbolic and give an opinion in what the Town of Bourne thinks should happen, because if it is discharged, it will end up in the waters of Bourne. Judy Froman thinks it is important for the leaders of the Town to say something about it.

Voted: Judy Froman made a motion, seconded by Mary Jane Mastrangelo, stating that the Bourne Select Board opposes the discharge of radioactive water into the waters of the Cape Cod Canal or Cape Cod Bay and authorized the Acting Town Administrator to draft a letter for signature by the Board to Mass DEP, EPA, the Nuclear Decommissioning Citizens Advisory Panel and the Nuclear Regulatory Commission to notify them of our opposition to the discharge of radioactive water and to request that the Town of Bourne and the Select Board be notified by Mass DEP, EPA, the Nuclear Decommissioning Citizens Advisory Panel and the Nuclear Regulatory Commission of any proposed use or actual use of an MPDES permit for the discharge of radioactive water in the waters of the Cape Cod Canal or Cape Cod Bay.

Vote: 5-0-0.

Mary Jane Mastrangelo asked if anyone knew if there was a letter written after the Town Meeting resolution on the safety of decommissioning. Chair Meier and Mr. Cannon were not aware of any such letter, and Ms. Mastrangelo asked that this topic become an agenda item at a future meeting.

7.j. Discussion and possible vote to go to remote access meetings or hybrid meetings (a combination of remote access and in-person).

Chair Meier put this on the agenda because last week they received correspondence from the Board of Health that they recommend going remote Zoom meetings going forward because of the spike in the number going up from 7.1% to 8%. There was some discussion about in person, remote or hybrid meetings and how each member of the Board feel about each type of meeting.

Voted: Jared MacDonald moved, and Mary Jane Mastrangelo seconded, that the Board of Selectmen go Zoom only for the January 4th and if needed for the January 11th meetings in 2022 and will re-evaluate further at the meeting on January 4th or January 11th.

Vote: 5-0-0.

7.k. Discussion and possible vote to revoke the appointment of Glenn D. Cannon as Acting Town Administrator issued on September 7, 2021.

Chair Meier said that when Mr. King resigned, it was questioned whether it was needed to get an agenda item and a special meeting for the purpose of making Glenn Cannon the Acting Town Administrator. After conversations with Town Counsel, Town Counsel felt because the Town never revoked his appointment when Mr. King came aboard and that his motion was active, and they didn't need to go through. As time went on, Mr. Cannon and Chair Meier were putting together the agenda, and Mr. Cannon was feeling more comfortable, so they revoked it to re-vote to make it official. Mr. Potter's email came in the same day that Chair Meier and Mr. Cannon were going over the agenda. Mr. MacDonald said that he thinks Mr. Potter's concern was more that his email was not responded to. Mr. Slade said that he apologizes for that as he usually does respond, but for some reason he thought that Mr. Potter was aware of the documents as he thought the agenda was the remedy to his email. Mr. Cannon said that he takes responsibility for it also as his office has a correspondence file and it was in Mr. King's old office and Mr. Cannon just discovered the file yesterday. Mr. Cannon said that other correspondence going back to November was discovered and it will all be on the January 4th agenda.

There was some discussion about the chain of the correspondence handling. Chair Meier said that overall, they cannot talk about why Mr. King left. Ms. Froman recommended that someone, either the Chair or the Clerk, follow up with Mr. Potter that his email was discussed and that the process was discussed.

Mr. Cannon said that on the appointment slip it says, "This appointment is valid until it is suspended or revoked". It was dated September 7, 2021. He said that it was never suspended or revoked. Bob Troy said that Mr. Cannon has the authority to be the Acting Town Administrator.

Voted: Judy Froman moved, and Jared MacDonald seconded, to revoke the appointment of Glenn Cannon as Acting Town Administrator as voted by the Select Board on September 7, 2021.

Vote: 5-0-0.

7.l. Discussion and possible vote to appoint Glenn D. Cannon as the Acting Town Administrator effective December 6, 2021.

Voted: Judy Froman moved, and Mary Jane Mastrangelo seconded, to appoint Glenn Cannon as the Acting Town Administrator effective December 6, 2021, until suspended, revoked or until a Town Administrator is appointed.

Vote: 5-0-0.

8. Appointments and Licenses

- a. **7:30 PM Hearing on application from Old Bridge Bar and Restaurant, Inc. 304 Main Street, Buzzards Bay for a year-round Common Victualer License for the sale of all kinds of alcoholic beverages to be drunk on the premises, application for Common Victualer Food License and Entertainment License.**
 - b. **Annual Common Victualer, Weekday and Sunday Entertainment, Coin Operated Amusement Device, General, Taxi and Livery, Auto Dealers Class I, II, III and Junk Yard licenses.**
 - c. **Discussion and possible vote to authorize the use of the Selectmen's stamps on an approved Year-Round Food, Entertainment, General and Coin-Operated Amusement Devices licenses.**
- 8.a. **7:30 PM Hearing on application from Old Bridge Bar and Restaurant, Inc. 304 Main Street, Buzzards Bay for a year-round Common Victualer License for the sale of all kinds of alcoholic beverages to be drunk on the premises, application for Common Victualer Food License and Entertainment License.**
- Previously heard and voted.
- 8.b. **Annual Common Victualer, Weekday and Sunday Entertainment, Coin Operated Amusement Device, General, Taxi and Livery, Auto Dealers Class I, II, III and Junk Yard licenses.**

Voted: Jared MacDonald made a motion, seconded by Mary Jane Mastrangelo, to approve the Auto Dealers Class 1 licenses for calendar year 2022 as follows:

- Prestige Auto Group, LLC, d/b/a Atlantic Subaru
- Frank Battles, Inc., d/b/a Battles Buick GMC
- Battles Nissan, LLC
- Baystate Equipment LLC, d/b/a Bobcat of Bourne
- Steel Horse Motorcycles of Cape Cod, LLC d/b/a Cape Cod Harley-Davidson
- T.F. Murphy Enterprises, Inc., d/b/a Falmouth Toyota
- Marty's Chevrolet, Inc.
- New England RV & Marine, Inc.
- South Shore Gold Carts, LLC

Vote: 5-0-0.

Voted: Jared MacDonald made a motion, seconded by Mary Jane Mastrangelo, to approve the Auto Dealers Class 2 licenses for calendar year 2022 as follows:

- Bay Motors
- Cataumet Auto Sales, Inc.
- Diamond Motors
- Falmouth Motor Car, Inc.
- Kent Auto
- Saade Pocasset Enterprises, LLC, d/b/a Pocasset Service Station
- Southeast Truck Center, LLC

- Tower Service Center, Inc., d/b/a Towers Used Cars
- Wenzel's Auto Rental, LLC

Vote: 5-0-0.

Voted: Jared MacDonald made a motion, seconded by Mary Jane Mastrangelo, to approve the Auto Dealers Class 3 license for calendar year 2022 for Knowlton's Garage Incorporated.

Vote: 5-0-0.

Voted: Jared MacDonald made a motion, seconded by Mary Jane Mastrangelo, to approve the Junk Yard license for Knowlton's Garage Incorporated

Vote: 5-0-0.

Voted: Jared MacDonald made a motion, seconded by Mary Jane Mastrangelo, to approve the Public Livery licenses for calendar 2022 as follows: Warren d/b/a Any Occasion Limousine (3 vehicles)

Vote: 5-0-0.

Ms. Froman asked if inspections are taken into consideration as they move forward with licenses, and Mr. Cannon said he is not sure about the specific inspections that they go through although they do track complaints on all issued licenses. Mr. MacDonald said the Health Inspector would take care of the inspections, and Mr. Cannon added that the Building Inspector does inspections also.

Voted: Jared MacDonald made a motion, seconded by Mary Jane Mastrangelo, to approve the Common Victualer without Liquor License for calendar year 2022 as follows:

- Koepfer, Inc., d/b/a Avocados Mexican and American
- Barlow's Clam Shack
- Blended Berry LLC
- Bourne Appe'tit LLC
- Bourne Nutrition
- Chen's Kitchen, Inc.
- Bayview Camp Ground, Inc. d/b/a Clammy's Pantry
- Colonial Concession
- Wurtzburger Creations, LLC, d/b/a The Corner Café
- Megansett Circle, Inc. d/b/a The Daily Brew
- Cape Cod Enterprises, LLC, d/b/a Dunkin Donuts (24 Meeting House Lane)
- Cape Cod Enterprises, LLC, d/b/a Dunkin Donuts (278 Main Street)
- Cape Cod Enterprises, LLC, d/b/a Dunkin Donuts (174 Clay Pond Road)
- Cape Cod Enterprises, LLC, d/b/a Dunkin Donuts (688 MacArthur Blvd)
- Cape Cod Enterprises, LLC, d/b/a Dunkin Donuts (2 Bourne Rotary)
- Cape Cod Enterprises, LLC, d/b/a Dunkin Donuts (343 Scenic Highway)
- Chankait Suksanit d/b/a Krua Thai
- DeMoulas Supermarket's Inc., d/b/a Market Basket
- McBee Enterprises, LLC, d/b/a McDonald's (370 MacArthur Blvd)

- McDonald's (15 Meetinghouse Lane)
- Tiplinger, Inc., d/b/a Monument Beach Pizza
- Carrie and Rob, Inc., d/b/a Mr. G's Pizza and Ice Cream
- E.B.A., Inc., d/b/a Prime Time House of Pizza
- Starbucks Coffee #14474
- Vela Juice Bar, Inc.
- D&P Myers Enterprise, LLC, d/b/a Whistle Stop Ice Cream Shop

Vote: 5-0-0.

Judy Froman asked why one of the McDonalds didn't have enterprise. Mr. Cannon said he would double check it.

8.c. Discussion and possible vote to authorize the use of the Selectmen's stamps on an approved Year-Round Food, Entertainment, General and Coin-Operated Amusement Devices licenses.

Voted: Jared MacDonald made a motion, seconded by Mary Jane Mastrangelo, to authorize the use of the Selectmen's stamp on Auto Dealers Class 1, Class 2, Class 3, Junk Yard and Public Livery, Common Victualer without liquor licenses for calendar year 2022

Vote: 5-0-0.

Chair Meier thanked Mr. Cannon, Kathleen, and Mary for holding it all together and all that they have done in the past few months.

9. Town Administrator

a. Complete Streets update and notification of the December 15, 2021, Complete Streets projects list public information meeting.

b. Green Communities Designation request has been forwarded to the State.

9.a. Complete Streets update and notification of the December 15, 2021 Complete Streets projects list public information meeting.

Chair Meier asked Mr. Cannon if there is any way that they can get a link for tomorrow's meeting posted on the Town news or calendar. Mr. Cannon said he will see what they can do about it.

Mr. Cannon gave a reminder about the Zoom meeting by the Cape Cod Commission. He said the next step of the plan is to seek funding from the State for the Complete Streets policy that the Board approved, and then start implementing projects around Town. There was some discussion on some areas that are of concern on the streets in Bourne.

9.b. Green Communities Designation request has been forwarded to the State.

Mr. Cannon said that the Board worked on Green Communities through the summer and fall and it has been completed. He said that the School Committee signed off on the Energy Reduction Plan, and it has been forwarded to the State and now they are waiting for the Green Communities designation, and after that there will be more funding for the Town of Bourne.

10. Correspondence

George Slade listed the following correspondence:

- Regina Hapgood – letter to the Roadways Safety Committee seeking and suggesting remedy to the speeding cars on Taylor's Point.
- Roger Forget of the Upper Cape Regional Technical High School, thank James McGrail of Marion for serving in the collective bargaining area.
- Mass Department of Marine Fisheries - two letters that it is ok to harvest shellfish at Pocasset Harbor through May 31, 2022, and Fisherman's' Cove, which is open until April 30, 2022.
- Xfinity regarding the channel selections including FUSE TV that is now being added.
- Massachusetts and Northern New England Laborers District Council representing DPW Units A and B and ISWM with attempt to re-negotiate the agreement that will expire June 30, 2022.
- Department of Environmental Protection with an impact area groundwater study program letter on the status of RDX breakthrough.

Chair Meier said that regarding Regina Hapgood, she said that she sent an email to Mr. King, and she was appalled by his response and Chair Meier wanted to apologize to her on behalf of the Board. Ms. Froman said that this email should have been forwarded to the Roadway Safety Committee and they would respond. Mr. Cannon said that he will forward the email to the Committee.

11. Committee Reports

Chair Meier said he is the liaison to the Community Building Trustees, and he was at a meeting earlier in the day and a list of concerns was brought forward that they wanted to Board of Selectmen to know. He read the list aloud:

- The Council on Aging activity room bathrooms have been nonoperational since September - new injection pump and pipes are needed.
- Gym lobby bathrooms have been nonoperational since January 2020 and should be completed by the end of the week.
- No HVAC in several of the offices and the appliances are not working currently and they need to follow up with facilities
- There are issues with mice in the building.
- WIFI is spotty in certain areas.
- Lack of custodial support.

Chair Meier said that the Community Building services almost everyone in the Town of Bourne at one point or another and they need to figure out a way to fix all the issues.

Mary Jane Mastrangelo said that some of these items are on the Capital Plan. She said the delays in the HVAC are due to the ESCO plan and there are a lot of moving parts in this issue getting fixed. Items like the bathrooms should be brought forward to the Finance Committee for a reserve

fund transfer because there is money there for emergencies. Chair Meier asked Mr. Cannon to give the Board of Selectmen a follow up report after he addresses these issues.

Jared MacDonald said he attended the Homeless for the Holidays, and a plaque was given to the Bourne Select Board from Craig Poirier for celebrating 20 years of Homeless for the Holidays.

George Slade said that he wanted to report something that is going on with the Assembly of Delegates because it may touch the Town of Bourne. He said the main thing is there is a meeting tomorrow and hopefully they reach an agreement to incorporate the Barnstable Municipal Police Academy into the County government.

Judy Forman said that she and Mr. Cannon met with Mass Maritime to talk about different types of connections and sources for jobs and job descriptions. She said that the American Cruise Line is going to be coming through in June through August. She said she is looking for ideas to showcase Bourne when these cruisers come to visit Bourne.

Chair Meier said that Corinne Moore is retiring on December 30th after many years of service. Mr. Cannon read aloud a citation that the Board signed for her. They will proclaim December 30th Corinne Moore Day.

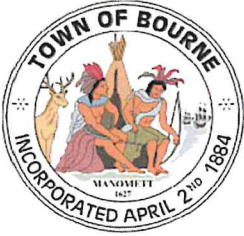
12. Adjourn

Voted: Jared MacDonald moved, and Judy Froman seconded to adjourn.

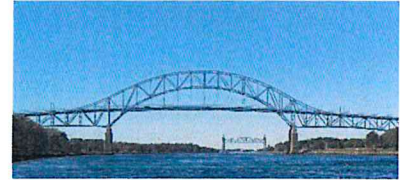
Vote: 5-0-0.

Respectfully Submitted,

Kim Johnson, Recording Secretary



Board of Selectmen Meeting Notice AGENDA



Date

December 14, 2021

Time

7:00 PM

Location

Bourne Veteran's Memorial Community Center
239 Main Street, Buzzards Bay

Note this meeting is being televised, streamed or recorded by Bourne TV. If anyone in the audience is recording or video-taping, they need to acknowledge such at this time.

All items within the meeting agenda are subject to deliberation and vote(s) by the Board of Selectmen.

7:00 PM Call Public Session to Order in Open Session

1. Moment of Silence to recognize our Troops and our public safety personnel
2. Salute to the Flag
3. Vision: Bourne is a proud community that embraces change while respecting the rich heritage of the town and its villages. It is a municipality based on strong fiscal government with a durable economy that recognizes the rights of all citizens, respects the environment, especially the coastal areas of the community and the amenities that it affords. Bourne embraces excellent education, and offers to citizens a healthy, active lifestyle.
4. Mission: Bourne will maximize opportunities for social and economic development while retaining an attractive, sustainable and secure coastline and environment for the enjoyment of residents and visitors. Through responsible and professional leadership and in partnership with others, Bourne will strive to improve the quality of life for all residents living and working in the larger community.
5. Public Comment on Non-Agenda Items
 - a. Public comments are allowed for up to a total of 12 minutes at the beginning of each meeting. Each speaker is limited to 3 minutes for comment. Based on past practice, members of the Board are not allowed to comment or respond.
6. Minutes: November 2, 2021, November 9, 2021
7. Selectmen's Business
 - a. Discussion and possible vote to approve the 2022 Recycling Policy.
 - b. Discussion and possible vote to sign the deed for the 6.5 acre "Flyover" parcel. The "Flyover" parcel is required as open space mitigation for the potential Integrated Solid Waste Management (ISWM) facility expansion.
 - c. Charter Review Committee Presentation by Steve Mealy, Chairperson and the Charter Review Committee.
 - d. Climate Resilience Investment System and Implementation Plan presentation by Dan Nees and Joanne Throwe (via Zoom), representing the Environmental Protection Agency's

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TOWN CLERK BOURNE

(EPA) Southeast New England Program (SNEP) [Southeast New England Program | US EPA](#)

- e. Discussion and possible vote to select new Town Counsel from the Law Firms of Miyares & Harrington LLP, Brooks & DeRensis P.C., and KP Law P.C.
- f. Discussion and possible vote on the Next Grid (solar array) First Amendment to the Memorandum of Agreement.
- g. Discussion and possible vote to void and nullify the Memorandum of Agreement between the Town of Bourne and NextGrid, LLC dated July 26, 2021.
- h. Discussion and possible vote to enter into a purchase and sale agreement with Barnstable County for the Barnstable County Land located at 0 Julius Kelly Drive and 0 County Road.
- i. Discussion and possible vote relative to the possibility of a discharge of radioactive water from the Plymouth nuclear plant into Cape Cod Bay.
- j. Discussion and possible vote to go to remote access meetings or hybrid meetings (a combination of remote access and in-person)
- k. Discussion and possible vote to revoke the appointment of Glenn D. Cannon as Acting Town Administrator issued on September 7, 2021
- l. Discussion and possible vote to appoint Glenn D. Cannon as the Acting Town Administrator effective December 6, 2021.

8. Appointments and Licenses

- a. 7:30 p.m. Hearing on application from Old Bridge Bar and Restaurant, Inc. 304 Main Street, Buzzards Bay for a year round Common Victualer License for the sale of all kinds of alcoholic beverages to be drunk on the premises, application for Common Victualer Food License and Entertainment License.
- b. Annual Common Victualer, Weekday and Sunday Entertainment, Coin Operated Amusement Device, General, Taxi and Livery, Auto Dealers Class I, II, III and Junk Yard licenses.
- c. Discussion and possible vote to authorize the use of the Selectmen's stamps on an approved Year-Round Food, Entertainment, General and Coin-Operated Amusement Devices licenses.

9. Town Administrator

- a. Complete Streets update and notification of the December 15, 2021 Complete Streets projects list public information meeting.
- b. Green Communities Designation request has been forward to the State.

10. Correspondence

11. Committee Reports

12. Adjourn

Recycling/Disposal Sticker

- 1st sticker **\$30**; 2nd sticker **\$15**
- Seniors (60), 1st **\$20**, 2nd **\$10**
- Replacement sticker **\$10**
- Limit of two (2) stickers per property owner/residential household.
- **Credit/debit card or check only. NO CASH.**

GENERAL RULES

- **No Smoking.**
- **Abusive language toward employees will not be tolerated.**
- Stickers are Town property.
- Any violations of these rules may result in loss of sticker.
- **State waste disposal bans must be followed.** These items include: commercial organic material, recyclable paper, single resin narrow neck plastic containers, metal and glass containers, yard waste and leaves, lead acid batteries, whole tires, cathode ray tubes, white goods (appliances), metal, asphalt pavement, brick, concrete, wood (>5 cu. yd. loads).
- Fluorescent bulbs must be recycled.
- Stickers only issued to Bourne **residential** property owners and renters with proof of residence. Raw landowners, JBCC residents and MMA students do not qualify.

- Stickers will not be applied to Vehicles with:
 - Dump bodies
 - Trailers greater than 12 feet
 - Beds longer than 8 feet
 - Sidewalls higher than cab
 - Bodies larger than a standard passenger van
 - Dealer plates or rental cars
 - Business lettering (but sticker is kept at the guard shack for referral)
- Proof of residence or ownership required including:
 - Current driver's license **and**
 - Current vehicle registration
 - One of the following shall be required:
 - Current property tax bill
 - Current lease
 - Current deed with stamps
 - Other current substantive documentation
- Department personnel will apply and remove all stickers on vehicles.
- Hazardous wastes/products and business wastes are prohibited.
- No high-pressure cylinders.
- The Town may track and question excessive numbers of loads or ask for proof of a building permit.
- Builders who build houses on speculation must bring that waste over the scale and pay.

- The acceptance of C&D and bulky items is dependent upon the Town's ability to replace full containers and may be suspended periodically.
- Trailers are not to be used for commercial "dump runs."
- Areas other than the residential recycling center and department offices are off limits.
- All scrap metal and other recyclables are the property of the Town. Picking is prohibited.
- Site is under video surveillance.
- The Town recognizes that special circumstances may arise. In these situations, a temporary sticker or other arrangements may be made. Sticker holders must be present with the load unless otherwise approved. Please call or visit the ISWM office in advance.
- Marijuana/cannabis residuals, including plants, must go in the trash not the composting area.

Household Hazardous Waste (HHW)

Regional waste collection days are held each April - October, dates TBA. Look for a separate mailing, local ads or visit the ISWM website for more information and how to access collections all over the Cape.

ACCEPTABLE ITEMS (prices may change)

- Bulky items: each household will get 4 bulky item stickers, good for **2022** only, that can be used for free disposal of the items below. Bulky item stickers must be presented or charges will apply. The charges are:
- Bulky item stickers must be presented or charges will apply. The charges are:
 - Appliances (including microwaves) - **\$10**
 - Flat screen monitors and TVs, computers (CPUs), Cathode Ray Tubes (TVs, monitors) - **\$20**
 - Mattresses, boxsprings, sofa beds - **\$20**
 - Fluorescent bulbs - One sticker per bundle of up to 8 - **\$4** each bulb
 - Tires - up to 4 small tires per sticker allowed. Auto/motorcycle/vehicle/mower < 16" - **\$10**, vehicle/truck 16" - 20" - **\$20**, vehicle/truck > 20" - **\$60**
- Recyclables, scrap metal
- Yard waste, brush and stumps
- Residential garbage and rubbish
- Bulky items, textiles and furniture
- Construction & demolition debris/shingles
- Propane tanks (20 lbs. and small cylinders)
- Batteries- Ni-Cad, auto/marine, lithium
- Mercury containing items- thermometers, thermostats, switches
- PCB ballasts
- Paint- March 26th through October 8th, 10 can limit/day
- Waste oil and antifreeze (5 gallon limit each), oil filters, **no gasoline**

SWAP SHOP

- Only leave items in good condition.
- No loitering over 20 minutes or harassing others.
- Items are to be left and taken free of charge. No financial transactions of any kind allowed.
- The Swap Shop is not for commercial users.

Do not leave at Swap Shop

- Items with sharp broken parts, water damage or mildew.
- Mattresses, boxsprings, futons, sleeper sofas, pillows.
- Fluorescent bulbs, child car seats
- Televisions, computer monitors
- Paint, hazardous products
- Rubbish
- Clothing (**use textile containers**)

PAY FOR AT SCALE (sticker holders only)

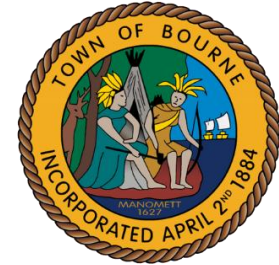
- Campers, boats and RVs.
- **Scale availability during residential recycling center hours; Mon. – Fri., 7:00 a.m. – 3:00 p.m. Saturdays 7:00 a.m. – noon. Closed Sundays. Subject to seasonal schedule.**

FOR SALE

Compost bins - \$40

Bourne Board of Selectmen Recycling Center Policy Calendar Year 2022

201 MacArthur Boulevard (RT. 28 N)



Approved by the Selectmen of Bourne:
Peter J. Meier, Chair
Judith MacLeod-Froman, Vice Chair
George G. Slade, Clerk
Jared P. MacDonald
Mary Jane Mastrangelo

HOURS OF OPERATION

Labor Day to Memorial Day
Wed. – Mon., 7:00 a.m. to 3:00 p.m.
Closed Tuesdays & Holidays

Memorial Day to Labor Day
7 days a week, 7:00 a.m. to 3:00 p.m.
Closed Holidays
Exact dates to be posted later

IMPORTANT PHONE NUMBERS

ISWM Office	508-759-0600, ext. 4
Recycling Center	508-759-0643
Scale	508-759-0639
Town Hall	508-759-0600
Bourne Board of Health	508-759-0600, ext. 1513
DPW (curbside)	508-759-0600, ext. 3
Website	www.townofbourne.com

**Town of Bourne
Charter
With Recommendations for Changes**

DRAFT Submission for the Legislature

**Submitted By The
CHARTER REVIEW COMMITTEE**

**For the Special Town Meeting
November 15, 2021**

Chapter 117 AN ACT AMENDING THE CHARTER OF THE TOWN OF BOURNE.

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

SECTION 1. The following shall be the charter of the town of Bourne:

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PREAMBLE

We, the people of Bourne, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantages inherent in the home rule amendment, article LXXXIX of the amendments to the Constitution of the Commonwealth, do hereby adopt the following home rule charter for the town of Bourne.

Article 1

Existence and Authority.

Section 1-1: Incorporation.

The inhabitants of the town of Bourne within the territorial limits established by law shall continue to be a body corporate and politic under the name "Town of Bourne."

Section 1-2: Charter and Form of Government.

This instrument shall be known and may be cited as the Bourne home rule charter. This charter provides for an open town meeting, ~~board of selectmen~~ **select board**, town administrator form of government.

Section 1-3: Division of Powers.

The administration of all the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch which shall be headed by a ~~board of selectmen~~ **select board**. The legislative powers shall be exercised by an open town meeting.

Section 1-4: Powers of the Town; Intent of the Voters.

It is the intent and purpose of the voters of the town of Bourne, through the adoption of this charter, to secure for the town all of the powers possible under the Constitution and laws of the commonwealth, as fully and as completely as though each power were specifically and individually enumerated herein.

Section 1-5: Interpretation of Powers.

The powers of the town under this charter shall be construed and interpreted liberally in favor of the town and the specific mention of any particular power shall not limit in any way the general powers of the town as stated in section 1-4.

Section 1-6: Intergovernmental Relations.

The town may enter into agreements, by contract or otherwise, with any other unit of government to perform any of its powers or functions jointly or in cooperation with any other unit of government.

Article 2

Legislative Branch.

Section 2-1: Open Town Meeting.

The legislative powers of the town shall continue to be exercised by a town meeting open to all voters.

Section 2-2: Presiding Officer.

The town moderator, elected as provided in section 6-2, shall preside at all sessions of the town meeting, shall regulate the proceedings at town meeting, shall decide all questions of order and shall make public declarations of all votes.

Section 2-3: Time of Meetings.

The annual town meeting shall convene at such time as provided by by-law. Special town meetings shall be convened at such times as may be called by the ~~board of selectmen~~ **select board**, by petition of the voters as provided by law or at such other times as may be provided by by-law.

Section 2-4: Warrants.

A town meeting shall be called by a warrant issued by the ~~board of selectmen~~ **select board**, which shall state the date, time and location at which the meeting is to convene and, by separate articles, the subject matters to be acted upon. The publication of the warrant for a town meeting shall be in accordance with town by-laws governing such matters.

Section 2-5: Initiation of Warrant Articles.

(a) The ~~board of selectmen~~ **select board** shall receive at any time before the warrant closes and insert in the warrant all petitions addressed to it which request the submission of any matter to the town meeting and which are submitted to it by: (1) an elected town officer; (2) a town elected or appointed ~~multiple member body~~ **governmental body** acting by vote of a majority of its members; (3) 10 or more voters stating their residences with street numbers, if any, subject to the subsequent certification by the board of registrars that at least 10 per cent of the signers are voters; provided, however, that in the case of a special town meeting, the number of voters shall be 100 or 10 per cent of the total amount of voters in the town, whichever is lesser; and (4) the town administrator.

(b) The ~~board of selectmen~~ **select board** shall close the warrant not less than 50 days prior to the date for the annual town meeting and not less than ~~25~~ **30** days prior to the date for any special town meeting. By ~~majority vote~~ **4/5th vote of members present and voting**, the ~~board of selectmen~~ **select board** may waive the aforementioned requirements for the special town meeting in case of emergency **or when calling a special town meeting less than 30 days before the date of the special town meeting.**

(c) The voter handbook shall include the text of any annual or special town meeting warrant with the recommendations and counted votes of the finance committee, ~~board of selectmen~~ **select board** and any other appointed or elected board or committee proposing an article. In the voter handbook for the annual town meeting, the ~~selectmen~~ **select board members** shall include the recommended operating budget with revenue projections, their budget goals. Departmental goals for the upcoming fiscal year an organization ~~table~~ **chart**, and five-year financial, debt and capital projections. The voter handbook shall be available to the public at the town hall, the public library, **and the town's website** not less than 15 days before the annual town meeting **or any special town meeting. By majority vote the select board may waive the requirements for a special town meeting in case of an emergency or when calling a special town meeting less than 30 days before the date of the special town meeting.**

Section 2-6: Availability of Town Officials at Town Meetings.

Town ~~officers~~ **officials**, members of ~~boards and commissions~~ **governmental bodies** and department heads or their duly designated representatives shall attend town meetings to furnish information when proposals affecting their respective offices, ~~boards, commissions~~ **governmental bodies** or departments are included in the warrant.

Section 2-7: Clerk of the Meeting.

The town clerk shall serve as clerk of the town meeting, shall give notice of all adjourned sessions thereof, shall record its proceedings and perform such additional duties in connection therewith as may be provided by the General Laws, this charter, by-law or other town meeting vote.

Section 2-8: Rules of Procedure.

Except for provisions addressed in this charter, the town meeting may, by by-law, establish and, from time to time, amend, revise or repeal rules governing the conduct of town meetings.

Section 2-9: Finance Committee.

A finance committee shall be appointed as provided by by-law. Town employees, including school employees, shall not be eligible for appointment to, or service on, the finance committee. The finance committee shall choose from its members a chairperson and fill such other offices as it may create. **The chairperson of the finance committee may not chair any other governmental body.**

Article 3

Executive Branch, ~~Board of Selectmen~~ Select Board.

Section 3-1: Term of Office, Composition.

There shall be a ~~board of selectmen~~ **select board** to consist of ~~five~~ members to be elected for ~~3-~~ **three** year terms, so arranged that as nearly an equal number of terms as possible shall expire each year. The ~~board of selectmen~~ **select board** shall also ~~serve~~ **act** as sewer commissioners until such time as the town adopts legislation creating a board of sewer commissioners.

Section 3-2: Vacancy.

A vacancy in the office of ~~selectmen~~ **the select board** shall be filled in accordance with the General Laws.

Section 3-3: Policy Role.

The ~~board of selectmen~~ **select board** shall serve as the chief goal-setting and policy-making agency of the town, keeping in mind the goals, policies and action items of the **strategic plan and** local comprehensive plan, or LCP, and shall appoint a town administrator to carry out such policies. Annual goals as voted by the ~~board of selectmen~~ **select board** shall be filed with the town administrator not later than ~~July 1~~ **September 1st**, after the regular spring town election and also published in the annual town report.

An individual ~~selectman~~ **select board member** shall have no independent authority unless specifically authorized by a vote of the ~~board of selectmen~~ **select board**. ~~Selectmen~~ **Select board members** shall deal with administrative agencies and departments only through the town administrator. ~~Selectmen~~ **Select board members**, individually or as a board, shall not become involved in the day-to-day administration of a town department. The ~~board of selectmen~~ **select board** shall act only through the adoption of written policy goals, **strategic plan goals**, policies and action items which shall be implemented by the town administrator and written in a policy book that shall be available to the public for review.

Section 3-4: Powers and Duties.

Except as otherwise provided by this charter, all executive powers of the town shall be vested in the ~~board of selectmen~~ **select board** and the board shall have all of the powers and duties given to ~~boards of selectmen~~ **select boards** under the Constitution and General Laws of the commonwealth, **shall have the power and authority to adopt rules and regulations, after public hearing and publication, for the conducting of town business, the use of town real and personal property, and other matters within its jurisdiction and to set the penalties for violations thereof**, and such additional powers and duties as may be authorized by this charter, by by-law or by town meeting vote. The ~~board of selectmen~~ **select board** shall cause the laws and orders for the government of the town to be enforced and shall cause a record to be kept of all its official acts.

Section 3-5: Appointing Powers.

The ~~board of selectmen~~ **select board** shall appoint the town administrator, town counsel, registrars of voters, ~~and constables and members of all multi-member bodies~~ **The board shall also have the power to appoint other governmental bodies** for whom no other appointment provision is made in this charter or by by-law. Representatives of ~~boards or committees~~ **governmental bodies** specified as members of a ~~committee~~ **governmental body** shall be designated by their respective ~~boards or committees~~ **governmental body**. **Governmental bodies established by the select board shall possess and exercise all powers given to them under the Constitution and laws of the Commonwealth and shall possess and exercise such additional powers and duties as may be authorized by this charter, by-law or vote of town meeting. This charter names those governmental bodies which (1) are mandated or authorized by the laws of the Commonwealth and (2) exercise regulatory or other authority.** All ~~boards, committees and commissions~~ **governmental bodies** appointed by the ~~board of selectmen~~ **select board** shall be responsible to the ~~board of selectmen~~ **select board**.

Section 3-6: Prohibitions.

(a) No member of the ~~board of selectmen~~ **select board** shall serve on an elected or appointed ~~town board or committee~~ **governmental body** established by this charter, by by-law, or by town meeting, unless otherwise specified in the charter, by-law, by town meeting or by any other applicable law.

(b) No member of the ~~board of selectmen~~ **select board** shall hold any other elected town office or town employment during that member's term in office.

(c) No person who has served as a member of the ~~board of selectmen~~ **select board** shall be employed by the town for two years after that member's resignation or after the member's term of office has expired.

Section 3-7: Intergovernmental Relations.

Members of the ~~board of selectmen~~ **select board** shall represent the town on federal, state, regional and intermunicipal committees or may designate a town employee or other person to represent the town on those committees. **The select board shall maintain an active list of the governmental bodies and representation and make accessible to the public on the town's website.**

Section 3-8: Rules of Procedure.

The ~~board of selectmen~~ **select board** shall adopt, make public and abide by its own rules of procedure to govern the conduct of its meetings. An agenda shall be posted with each notice of public meeting. A period of public comment shall be scheduled before the beginning of agenda items. In addition, a public comment period shall be provided before any vote on a policy issue. The ~~board of selectmen~~ **select board** may deviate from its agenda only for sudden, generally unexpected occurrences or for circumstances demanding immediate action.

Article 4

Town Administrator.

Section 4-1: Appointment; Qualification; Term.

The ~~board of selectmen~~ **select board** shall appoint a town administrator search committee of not fewer than ~~5~~ **five** and not more than ~~9~~ **nine** residents of the community to assist the ~~board of selectmen~~ **select board** in the recruitment and selection of the town administrator. If the ~~board of selectmen~~ **select board** does not select one of the candidates presented by the search committee within 60 days, then the search committee shall resume its search and submit an additional list of candidates to the ~~board of selectmen~~ **select board** within 60 days after it resumes the search.

The ~~board of selectmen~~ **select board**, by an affirmative vote of four members, shall appoint the town administrator for a term defined by contract and fix the town administrator's compensation within the amount annually appropriated for that purpose. **The town administrator's contract will not automatically renew each contract period. The select board, by an affirmative vote of four of its members, shall renew the contract.** The town administrator shall be appointed solely on the basis of executive and administrative qualifications.

The town administrator shall be a professionally qualified person of proven ability, especially fitted to perform the duties of the office by education, training and previous experience in municipal administration. The town administrator shall have at least a bachelor's degree, but preferably a master's degree, in public administration, business management or a related field, at least ~~7~~ **seven** years experience in an upper level executive municipal position or any equivalent combination of education and experience. The town administrator need not be a resident of the town. ~~when appointed but shall establish primary residence in the town of Bourne within 1 year after the date of appointment; provided, however, that the board of selectmen may, by simple majority vote of the selectmen in office at the time of appointment, extend the time for establishing residence or otherwise allow the town administrator to reside elsewhere. Once a residency exemption is granted to a specific town administrator, it shall not be rescinded in future contracts with that town administrator.~~

The town administrator shall devote full time to the office and shall not hold any other public office, elective or appointive, or engage in any other business or occupation during the administrator's term unless such action has been approved in writing in advance of such action by the ~~board of selectmen~~ **select board**. The town may from time to time, by by-law, establish such additional qualifications as it deems necessary and appropriate.

Section 4-2: Relationship of the Town Administrator and the ~~Board of Selectmen~~ Select Board.

The town administrator shall be the primary officer responsible for the implementation of the broad policy directives of the ~~board of selectmen~~ **select board** and for the attainment of yearly goals. The daily administration of the affairs of the town shall be the responsibility of the town administrator only. The town administrator may create advisory ad hoc committees to assist in the execution of the town administrator's duties.

The town administrator shall be evaluated by the ~~board of selectmen~~ **select board** annually for the town administrator's ability to effectuate policy, to accomplish goals established by the ~~board of selectmen~~

select board, to effectively administer town government and to properly supervise all municipal employees, except school employees.

Section 4-3: Vacancy in Office.

Any permanent vacancy in the office of town administrator shall be filled as soon as possible by the ~~board of selectmen~~ **select board**. Pending the appointment of a town administrator, the ~~board of selectmen~~ **select board** shall, within 30 days, appoint ~~some other~~ a qualified person to serve as the acting town administrator.

Section 4-4: Temporary Absence.

The town administrator shall, by letter filed with the town clerk and ~~board of selectmen~~ **select board**, designate as acting town administrator, a qualified officer or employee of the town, to perform the duties of the town administrator during a temporary absence or disability. If the absence or disability is greater than ten business days, any designation made by the town administrator shall be subject to the approval of the ~~board of selectmen~~ **select board**. If the town administrator fails to make a designation or if the person so designated is unable to serve, the ~~board of selectmen~~ **select board** shall designate ~~some other~~ a qualified employee of the town to perform the duties of the town administrator until the town administrator shall return. **The select board reserves the right to limit the powers and duties of the acting or interim town administrator by a majority vote of the select board.**

Section 4-5: Procedures for Removal of Town Administrator.

The ~~board of selectmen~~ **select board**, by an affirmative vote of ~~4~~ **four** of its members, may initiate the removal of the town administrator by adopting a preliminary resolution of removal. The resolution shall set forth in reasonable detail the reasons for such removal. The preliminary resolution may suspend the town administrator for a period not to exceed 30 days. The resolution shall be delivered to the town administrator forthwith upon its adoption. The administrator, within ~~5~~ **five** days of receipt of the resolution of removal, may request a public hearing by the ~~board of selectmen~~ **select board** on the reasons stated in the resolution of removal. The ~~board of selectmen~~ **select board** shall convene the requested hearing not less than ~~7~~ **seven** and not more than 30 days after receipt of the request by the town administrator. The town administrator may be represented by counsel of the town administrator's choosing, may call and question witnesses and may file a statement on the town administrator's own behalf.

If the town administrator does not request a public hearing, then the ~~board of selectmen~~ **select board** may adopt a final resolution of removal not earlier than 10 days after the delivery of the preliminary resolution of removal and not later than 20 days after the delivery of the preliminary resolution. If the town administrator requests a public hearing, the ~~board of selectmen~~ **select board** may adopt a final resolution of removal not earlier than ~~5~~ **five** days and not later than 10 days after the close of the public hearing. A final resolution of removal shall have an affirmative vote of ~~4~~ **four** members of the ~~board of selectmen~~ **select board**. Failure to adopt a final resolution of removal within the time limits set forth herein shall nullify the preliminary resolution of removal.

The action of the ~~board of selectmen~~ **select board** in suspending or removing the town administrator shall be final. The town administrator shall continue to receive the town administrator's salary until a final resolution of removal becomes effective.

Section 4-6: Powers and Duties.

The town administrator shall be the chief administrative officer of the town. The town administrator shall be responsible to the ~~board of selectmen~~ **select board** for the proper administration of all town affairs placed in the town administrator's charge by or under the charter. The town administrator shall have the following powers and perform the following duties:

(a) implement and carry out all policies and goals established by the ~~board of selectmen~~ **select board** **and inclusion of the strategic plan;**

- (b) appoint and, in appropriate circumstances, remove, subject to civil service laws and collective bargaining agreements where applicable, all department heads and employees, including members of the board of assessors and other employees for whom no other appointment provision is made in this charter; provided, however, that appointments made by the town administrator shall be effective immediately; provided, further, that an appointment of a department head or member of the board of assessors shall become effective on the fifteenth day after the day on which notice of the proposed appointment is filed with the ~~board of selectmen~~ **select board** unless a majority of the ~~board of selectmen~~ **select board** votes to reject the appointment within that period;
- (c) prepare and submit an annual operating budget and capital improvement ~~program~~ **plan** and **capital improvement** budget in accordance with sections 7-1 and 7-2 of this charter; and in accordance with the policies and goals established by the ~~board of selectmen~~ **select board**.
- (d) investigate or inquire into the affairs of a town department under the jurisdiction of the town administrator or, when authorized by the ~~board of selectmen~~ **select board**, investigate or inquire into the affairs of any other town department;
- (e) attend all regular and special meetings of the ~~board of selectmen~~ **select board**, unless unavailable for reasonable cause; provided, however, that the town administrator shall have a voice, but no vote, in all proceedings of the ~~board of selectmen~~ **select board**;
- (f) keep the ~~board of selectmen~~ **select board** fully informed of all issues and problems it needs to address.
- (g) inform the ~~board of selectmen~~ **select board** on departmental operations, fiscal matters and administrative actions and provide regular periodic reports to the ~~board of selectmen~~ **select board**;
- (h) inform the ~~board of selectmen~~ **select board** of the availability of public and private funding opportunities;
- (i) administer ~~personnel~~ **human resource** policies, practices, rules and regulations, compensation plans and related matters for all municipal employees, except school employees;
- (j) be responsible for the negotiation, administration and enforcement of collective bargaining agreements and other employment agreements, exclusive of the schools, on behalf of the board of ~~selectmen~~ **select board**;
- (k) have jurisdiction over all town property, ~~insuring~~ **ensuring** that a full inventory of all real and personal property is kept, excluding property under the jurisdiction of the school committee;
- (l) be responsible for and oversee the purchase of all supplies, materials, services and equipment and approve the award of all contracts for all town departments; provided, however, that the town administrator shall secure the approval of the ~~board of selectmen~~ **select board** for contracts of ~~3~~ **three** or more years;

(m) fix the compensation of all town employees and officers appointed by the town administrator within the limits of the town's compensation plan, collective bargaining agreements and other employment agreements; and inform the ~~board of selectmen~~ **select board** of all changes in compensation made within 30 days;

(n) ~~coordinate~~ **oversee** the activities of all appointed and elected ~~boards, committees and commissions~~ **governmental bodies**; provided, however, that the town administrator may require elected ~~boards~~ **governmental bodies** and individuals to meet with and provide information to the town administrator at reasonable times ~~for the purpose of coordination and financial planning~~;

(o) create new full-time, compensated positions, subject to the approval of the **select board** and funding by the town meeting; provided, however, that the town administrator may enter into employment contracts for these positions;

(p) supervise, direct and be responsible for the efficient administration of all officers appointed by the town administrator and their respective departments, and for all functions for which the town administrator is given responsibility, authority or control by this charter, by by-law, by town meeting vote or by vote of the ~~board of selectmen~~ **select board**;

(q) delegate, authorize or direct any subordinate or employee appointed by the town administrator to exercise any power, duty or responsibility which the office of the town administrator is authorized to exercise; provided, however, that all such acts shall be deemed to be the acts of the town administrator;

(r) administer and enforce either directly or through a person supervised by the town administrator, in accordance with this charter, all provisions of law applicable to the town, all by-laws and all regulations established by the ~~board of selectmen~~ **select board**; and

(s) attend all sessions of the town meeting to answer questions addressed to the town administrator which are related to warrant articles and matters of general supervision of the town administrator.

Article 5

Administrative Organization.

Section 5-1: ~~Table of Organization~~ Organizational Chart.

The town administrator shall annually submit a ~~table of organization~~ **organizational chart** establishing personnel requirements within all town departments to the ~~board of selectmen~~ **select board** by June 1. The ~~table of organization~~ **select board** shall become effective unless rejected by the ~~board of selectmen~~ **select board** within 30 days following its submission.

Section 5-2: Organization of Town Government.

Subject only to the express prohibitions in the Constitution, General Laws or this charter, the town administrator may prepare a plan to organize, reorganize, consolidate or abolish any town agency as the town administrator considers necessary or advisable. The town administrator may prescribe the functions of any town agency and, for such purpose, transfer the powers and duties and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriations of ~~1~~ **one** town agency to another; provided, however, that no function assigned by this charter to a particular town agency may be discontinued or assigned to any other town agency unless specifically authorized in this charter **or transferred to another agency in accordance with the provisions of 5-3**. The town administrator shall not be prohibited by this charter from including the department of public works or the department of integrated solid waste management in any plan to organize, reorganize, consolidate or abolish a town agency that the town administrator considers necessary or advisable in accordance with this section. Any proposed plan submitted under this section by the town administrator shall be approved by an affirmative vote of ~~3~~ **three** members of the ~~board of selectmen~~ **select board**.

Section 5-3: Public Hearing and Effective Date.

Before the ~~board of selectmen~~ **select board** approves a proposed plan under section 5-2, it shall hold ~~1~~ **one** or more public hearings on the proposal, giving notice by publication in a local newspaper at least ~~7~~ **seven** days in advance of the hearing. The notice shall describe the scope of the proposal and the date and place where the hearing will be held. The ~~selectmen~~ **select board members** shall have 14 days after the close of the public hearing to propose amendments, if any, and vote on the final plan. ~~The proposed organization shall become effective not sooner than 60 days following the selectmen's vote on the final plan.~~ Where the reorganization moves a function or funding from ~~1~~ **one** department to another, voters may petition for a special town meeting to address those changes. **The proposed organization shall become effective not sooner than 60 days following the select board members' vote on the final plan.**

Section 5-4: Department of Public Works.

(a) There shall be a department of public works which shall be responsible for those public works functions described in this article and as may be assigned from time to time by the ~~board of selectmen~~, town administrator or town meeting.

(b) The department of public works shall be under the direct control of a ~~superintendent~~ **director** of public works who shall be appointed by and who shall be directly responsible to the town administrator. The ~~superintendent~~ **director** of public works shall be a registered civil engineer or a person otherwise especially suited by education, training and previous experience to perform the duties of the office. The ~~superintendent~~ **director** of public works shall keep full and complete records of the doings of the ~~superintendent's~~ **director's** office and shall render a report of all operations to the town administrator ~~and board of selectmen~~ as may be required. The ~~superintendent~~ **director** shall keep the town administrator fully advised as to the needs of the town within the scope of the ~~superintendent's~~ **director's** duties.

(c) The department of public works shall include, but not be limited to, the following functions: highways and streets; storm drains; tree and park maintenance; public sewers; rubbish collection; and the maintenance and repair of town buildings, except school buildings unless requested by the school committee and approved by the ~~board of selectmen~~ **select board**.

~~(d) The board of selectmen, acting through the town administrator, shall establish priorities and policies to govern the operation of the department of public works.~~

Section 5-5: Department of Integrated Solid Waste Management.

(a) There shall be a department of integrated solid waste management responsible for those solid waste functions described in this article and as may be assigned from time to time by the ~~board of selectmen~~, town administrator or town meeting;

(b) The department of integrated solid waste management shall be under the direct control of a general manager of waste management who shall be appointed by and directly responsible to the town administrator.

(c) The general manager shall be especially qualified by education, training and previous experience to perform the duties of the office. The general manager shall keep full and complete records of the doings of the office and report on all operations under its control to the town administrator ~~and board of selectmen~~ as may be required. The general manager shall keep the town administrator fully advised as to the needs of the town within the scope of its duties.

(d) The department of integrated solid waste management shall include the solid waste functions approved under the site assignment administered by the board of health and in accordance with the policies established by the ~~board of selectmen~~ **select board**. The department's functions shall also include the implementation of additional solid waste functions as approved by the **select board** and consistent with the site assignment.

~~(e) The board of selectmen, acting through the town administrator, shall establish priorities and policies to govern the operation of the department of integrated solid waste management.~~

Section 5-6: Department of Finance.

(a) There shall be a department of finance responsible for the fiscal and financial affairs of the town and for the coordination and overall supervision of all fiscal and financial activities of all town government agencies. The department of finance shall include the functions of accountant, treasurer, collector and assessors. The department of finance shall be responsible for, and shall include, the following functions:

- (1) coordination of all financial services and activities of town government;
- (2) maintenance of all accounting records and other financial statements for all town offices and agencies;
- (3) payment of all financial obligations on behalf of the town;
- (4) investment of town funds and management of debt;
- (5) receipt of all funds due to the town from any source;
- (6) maintenance of the system of property valuation under the direction of the board of assessors;
- (7) rendering of advice, assistance, guidance and recommendations to all other town offices and agencies in any financial or fiscal affairs;
- (8) monitoring throughout the fiscal year the expenditure of funds by town offices and agencies;
- (9) under the direction of the town administrator, supervise the purchase of all goods, services, materials and supplies by the town;
- (10) general supervision of related **financial** data processing functions, **and** activities and equipment of town offices and agencies; and
- (11) such additional functions as may from time to time be assigned by the town administrator.

(b) The director of finance shall be appointed as provided in subsection (b) of section 4-6. The director of finance shall be especially fitted by education, training and experience to perform the duties of the office. The director of finance may serve as town accountant, town treasurer, town collector or principal assessor, but the finance director shall not serve as town accountant and town treasurer or as town accountant and town collector simultaneously. At the discretion of the town administrator, the director of finance may serve as the head of any division within the department. The town administrator may also designate a person to serve as head of more than ~~1~~ **one** division within the department. The director of finance shall be responsible to the town administrator for the effective operation of the department of finance and all fiscal and financial activities of town government. The director shall coordinate and provide overall supervision for all activities of the department and, in consultation with the town administrator, may direct and assign all personnel serving in that department. The director of finance shall be responsible to the town administrator and shall have the following specific powers and duties, subject to the direction of the town administrator:

- (1) coordinating the financial functions of all departments and agencies and supervising the following functions: accounting; treasury; tax collections; assessing ~~related data processing~~; and budgeting and procurement and ensuring that each function is operating efficiently and in accordance with applicable laws, by-laws, codes and accepted practices;
- (2) planning, organizing and providing administrative direction for all financial functions;
- (3) working with the town administrator to develop strategic financial plans and policies;
- (4) compiling and submitting an annual operating budget and an annual capital improvement plan to the town administrator; provided, however, that the director shall receive all requests made for the expenditure of town funds from each town office and agency and shall assemble all such requests into a form deemed to be best suited to show a complete financial plan for all town funds and activities for the ensuing fiscal year; and provided, further, that the proposed budget shall show in detail all estimated income from the proposed property tax levy and from every other source by category; and
- (5) general oversight, throughout the year, of the expenditure of all town funds pursuant to such budgets and expenditures as authorized by town meeting.

(c) There shall be a board of assessors, consisting of ~~3~~ **three** members to be appointed by the town administrator for overlapping ~~3-three~~ year terms. The board of assessors shall have all of the duties and responsibilities assigned to boards of assessors by the General Laws.

(d) There shall be a town accountant appointed as provided for in subsection (b) of section 4-6. The town accountant shall be qualified in accordance with the General Laws and shall have a bachelor's degree in accounting and at least ~~3~~ **three** years of prior full-time accounting experience. The town accountant shall have all of the powers and duties conferred upon town accountants by the General Laws. The town accountant shall be responsible to the finance director and, in turn, to the town administrator for the proper performance of the town accountant's duties.

(e) There shall be a town treasurer appointed as provided for in subsection (b) of section 4-6. The treasurer shall be especially fitted by education, training and experience to perform the duties of the office. The treasurer shall have all of the powers and duties conferred and imposed upon town treasurers by the General Laws, this charter and town by-laws. The town treasurer shall be responsible to the finance director and, in turn, to the town administrator for the proper performance of the town treasurer's duties.

(f) There shall be a town collector appointed as provided for in subsection (b) of section 4-6. The town collector shall be especially fitted by education, training and experience to perform the duties of the office. The town collector shall have all of the powers and duties conferred upon town collectors and tax collectors by the General Laws, this charter and town by-laws. The town collector shall be responsible to the finance director and, in turn, to the town administrator for the proper performance of the town collector's duties.

Section 5-7: Police Department.

There shall be a police department which shall be under the control and supervision of a chief of police. The chief of police shall be appointed pursuant to clause (b) of section 4-6. The town administrator shall be the appointing authority for all police officers under control of the chief of police. The chief of police may from time to time make suitable regulations governing the police department, and the officers thereof, subject to approval of the town administrator; provided, however, that such regulations shall become effective without that approval if the town administrator fails to take action thereon within thirty days after the regulations have been submitted to the town administrator by the chief of police. The chief of police shall be in immediate control of all town property used by the police department and shall be in charge of the police officers. The chief of police shall assign to the police officers their respective duties and the police officers shall obey all orders of the chief of police.

Section 5-8: Fire Department.

There shall be a fire department which shall be under the control and supervision of a chief of the fire department. The chief of the fire department shall be appointed pursuant to clause (b) of section 4-6. The chief of the fire department shall have charge of extinguishing fires in the town and the protection of life and property in case of fire. The chief of the fire department shall purchase and keep in repair all property and apparatus used for and by the fire department, with the approval of the town administrator. The chief of the fire department shall have and exercise all the powers and discharge all the duties conferred or imposed by law upon fire chiefs in towns except as herein provided. The chief of the fire department shall appoint such deputy chiefs and such officers and firefighters as the chief deems necessary and may remove the same at any time for cause and after a hearing. The chief of the fire department shall have full and absolute authority in the administration of the fire department, shall make all rules and regulations for its operation, shall report to the town administrator from time to time as the administrator may require and shall annually report to the town the condition of the department, including any recommendations thereon. In the expenditure of money, the chief of the fire department shall be subject to such further limitations as the town may from time to time prescribe.

Article 6

Other Elected ~~Town Boards and Officers~~ Governmental Bodies and Officials.

Section 6-1: Other Elected ~~Town Boards and Officers~~ Governmental Bodies and Officials.

(a) Following the adoption of this charter, the only ~~officers~~ **officials** to be elected shall be the town moderator, town clerk and a constable.

(b) ~~Town boards~~ **Governmental bodies** to be elected in addition to the ~~board of selectmen~~ **select board** shall be:

- (1) school committee;
- (2) board of health;
- (3) planning board;
- (4) housing authority;

- (5) recreation authority;
- (6) trustees of Jonathan Bourne **Public** Library;
- (7) trustees of soldier's memorials;
- (8) upper cape cod regional vocational technical school committee; and
- (9) such town members of regional districts, ~~multi-member bodies~~ **governmental bodies** and authorities as are now or may be established as elective offices by the General Laws, a vote of town meeting or an intergovernmental agreement.

Section 6-2: Moderator.

There shall be a town moderator who shall be elected at the annual town election for a ~~1~~ **one** year term.

The town moderator, as provided in section 2-2, shall be the presiding ~~officer~~**official** at town meetings. The town moderator shall have all of the powers and duties given to town moderators under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

The town moderator shall perform such other duties as may from time to time be assigned to the office of town moderator by by-law or by other town meeting vote.

Section 6-3: Town Clerk.

There shall be a town clerk who shall be elected at the annual town election for a ~~3~~**three** year term.

The town clerk shall keep the official records of the town, record vital statistics, issue licenses and shall be the clerk of the board of registrars of voters. The town clerk shall have all of the powers and duties of town clerks as provided by the General Laws, by this charter, by by-law or by other town meeting vote.

Section 6-4: Constable.

There shall be a constable elected for a ~~3~~**three** year term.

The constable shall have all of the powers and duties given to constables under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-5: School Committee.

There shall be a school committee to consist of ~~7~~ **seven** members who shall be elected for ~~3~~**three** year overlapping terms.

The school committee shall have general charge of all public schools in the town and shall have all of the powers and duties provided to school committees under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-6: Board of Health.

There shall be a board of health to consist of ~~5~~ **five** members who shall serve for ~~3~~**-three** year overlapping terms. The board of health shall be responsible for the formulation and enforcement of rules and regulations affecting the environment and the public health. It shall have all of the powers and duties given to boards of health under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-7: Planning Board.

There shall be a planning board to consist of ~~9~~ **nine** members who shall be elected for ~~3~~**three**-year overlapping terms.

The planning board shall make studies and prepare plans concerning the development of the town. The planning board shall prepare the town local comprehensive plan and submit it to the town meeting. It shall hold public hearings and make recommendations to town meeting on all warrant articles seeking to amend the town zoning by-laws. The planning board shall have all of the powers and duties given to planning boards under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-8: Housing Authority.

There shall be a housing authority to consist of ~~5~~ **five** members, ~~4~~ **four** of whom shall be elected and ~~1~~ **one** of whom shall be appointed by the secretary of housing and community development or as otherwise provided by law. Housing authority members shall serve for ~~5~~**-five** year terms so arranged that as nearly an equal number of terms as possible shall expire each year.

The housing authority shall have all of the powers and duties given to housing authorities under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-9: Recreation Authority.

In accordance with chapter 820 of the acts of 1970, there shall be a Bourne Recreation Authority to consist of ~~5~~ **five** members. One member shall be appointed by the governor and ~~4~~ **four** members shall be elected for ~~3~~**-three** year terms. The Bourne Recreation Authority shall have all of the powers and duties specified in said chapter 820.

Section 6-10: Trustees of the Jonathan Bourne Public Library.

There shall be a library board to be known as the trustees of the Jonathan Bourne **public** library to consist of ~~6~~ **six** members who shall be elected for ~~3~~**-three** year overlapping terms.

- a) The trustees shall have the custody and management of the library and all property of the town related thereto.
- b) **The selection of the library director consistent with the General Laws; and this charter.**
- c) **Provide an annual review of performance of the library director and submit to the town administrator.**
- d) **Review and advise the library director regarding preliminary budget prior to being submitted to the town administrator's budget report to the select board.**
- e) All money raised or appropriated by the town for its support and maintenance shall be expended by the trustees and all money or property that the town may receive for the library by gift or bequest shall be administered by the trustees in accordance with the gift or bequest.

- f) **The trustees will establish and act upon their policies and by-laws consistent with the General Laws, town by-laws and this charter.**
- g) The trustees of the Jonathan Bourne **public** library shall have all of the powers and duties given to boards of library trustees under the Constitution and General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-11: Trustees of the Soldiers' Memorials.

In accordance with section 105 of chapter 41 of the General Laws, there shall be a trustees of soldiers' memorials to consist of ~~6~~ **six** trustees, ~~5~~ **five** of whom shall be elected for ~~3~~-**three** year terms so arranged that as nearly an equal number of terms as possible shall expire each year and ~~1~~ **one** of whom shall be the chairman of the ~~board of selectmen~~**select board**.

Section 6-12: Upper Cape Cod Regional Vocational Technical School Committee.

There shall be ~~2~~ **two** Bourne residents elected to the upper Cape Cod regional vocational technical school committee. Members shall serve for terms of ~~4~~ **four** years so arranged that the terms of the members shall overlap.

Article 7

Finance and Fiscal Procedures.

Section 7-1: Budget Process.

Prior to the annual town meeting and within a time fixed by by-law, the town administrator shall submit to the ~~board of selectmen~~ **select board** a proposed operating budget and a capital ~~program~~ **improvement plan** and capital **improvement** budget for all town departments, including the school department, for the ensuing fiscal year. **The school committee budget shall be submitted to the town administrator in sufficient time to enable the town administrator to consider the effect of the school department's requested appropriation on the total town budget and make recommendations on same.** The proposed budget shall be accompanied by a budget message and supporting documents. The budget message shall explain the budget both in fiscal terms and in terms of ~~work programs~~ **expected outcomes, delivery of services, and initiatives**. The proposed budget shall be balanced and shall show both proposed expenditures and anticipated revenue. The proposed budget shall provide a complete fiscal plan of all town funds and activities and shall be in the form the town administrator deems desirable or as the ~~board of selectmen~~ **select board** requires. The proposed budget shall include a listing of the funds requested by town departments and agencies. The ~~board of selectmen~~ **select board** shall review the proposed budget and capital ~~program~~ **improvement plan** and make such changes as the board deems appropriate prior to transmitting the budget and capital **improvement** plan to the finance committee. ~~The school committee budget shall be submitted to the town administrator in sufficient time to enable the town administrator to consider the effect of the school department's requested appropriation on the total town budget and make recommendations on same.~~

Section 7-2: Capital Improvement ~~Program~~ Plan and Capital Improvement Budget.

The town administrator, in conjunction with any committee established for such purpose, shall annually submit a capital improvement ~~program~~ **plan** to the ~~board of selectmen~~ **select board** **ten days** prior to the date fixed by by-law and prior to the submission of the operating budget. The capital improvement plan shall include a clear summary of its contents, an itemization of all capital improvements, including those of the school department, proposed to be undertaken during the next ~~5~~ **five** fiscal years with supporting data, cost estimates, methods of financing and recommended time schedules ~~and the~~

~~estimated annual cost of operating and maintaining the facilities included.~~ **The first year's budget would be the capital budget and include the estimated annual cost of operating and maintaining the facilities included.**

Section 7-3: Long-Term Financial Forecast.

The town administrator shall prepare annually, **in a format the town administrator deems desirable or as the select board requires,** a ~~5-five~~ year financial forecast of town revenue, expenditures and general financial condition of the town which shall be submitted to the ~~Board of Selectmen~~ **select board** as part of the annual budget message. The forecast shall include, but not be limited to, the identification of factors which impact the financial condition of the town; revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town. The forecast shall be submitted to the ~~board of selectmen~~ **select board** and the ~~board of selectmen~~ **select board** shall make it available to the public for inspection.

Section 7-4: Finance Committee Action.

The ~~board of selectmen~~ **select board** shall submit the operating budget and the capital improvement ~~program plan~~ **improvement** budget to the finance committee by a date fixed by by-law. The finance committee, upon receipt of the operating and capital improvement ~~program plan~~ **improvement** budget from the ~~board of selectmen~~ **select board**, shall consider in public meetings the detailed expenditures for each town department and agency and shall conduct ~~±~~ **one** or more public hearings on the proposed operating and capital **improvement** budgets, including the school budget. The finance committee shall issue its recommendations in a detailed written report, which shall include the fiscal and tax implications of the proposed budget, a statement outlining its support or opposition to the proposed budget or any sections thereof and its vote, by roll call, on all warrant articles.

The finance committee shall make copies of its report available to the voters in the town hall and the public library at least ~~21-20~~ days before the scheduled date of the town meeting. The report shall be prepared in sufficient time to be incorporated into the annual town meeting voter handbook.

The finance committee may request the town administrator to provide necessary information from any town agency and the town administrator shall promptly respond to such requests. The office of the town administrator shall provide staff support to the finance committee in issuing its recommendations on the operating budget and capital improvement ~~program budget~~. The budget to be acted upon by the town meeting shall be the budget approved by the ~~board of selectmen~~ **select board**.

Section 7-5: Approval of Warrants for Payment.

Warrants for payments of town funds, authorized and prepared by the town accountant, shall be submitted to the town administrator for approval. The approval of any such warrant by the town administrator shall be sufficient authority to authorize payment by the town treasurer.

Article 8

General Provisions.

Section 8-1: Charter Changes.

(a) This charter may be replaced, revised or amended in accordance with the procedures made available by article LXXXIX of the amendments to the Constitution of the Commonwealth and any legislation enacted to implement said article LXXXIX.

(b) At least once every ~~5~~ **five** years a special committee shall be appointed by the ~~board of selectmen~~ **select board** to review the charter and make a report to the town meeting concerning any proposed amendments or revisions which the committee deems necessary. The committee shall be appointed ~~immediately~~ following an annual town meeting and shall make its report at the next annual town meeting. **The select board may extend time to the charter review committee by majority vote to meet the duties and responsibilities of article LXXXIX enacted to implement said article LXXXIX.**

Section 8-2: Severability.

The provisions of this charter shall be severable. If any provision of the charter is held to be invalid the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held to be invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 8-3: Specific Provisions Prevail.

To the extent that any specific provision of the charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

Section 8-4: References to General Laws.

All references to General Laws contained in the charter refer to the General Laws of the commonwealth.

Section 8-5: Elections.

The election of town ~~officers~~ **officials** and referendum questions shall be acted upon and determined by voters on official ballots, without party designation, on the date fixed in the by-laws of the town.

All elections conducted pursuant to this charter shall be conducted in accordance with the election laws of the commonwealth.

Section 8-6: Procedures for ~~Multiple Member Bodies~~ Governmental Bodies.

(a) All ~~multiple member bodies~~ **governmental bodies** of the town whether elected, appointed or otherwise constituted shall meet at such times and in places open to the public within the town as they may by their own rules prescribe. Special meetings of a ~~multiple member body~~ **governmental body** shall be held at the call of the respective chairman or by a majority of the members thereof. Public posting of all meetings shall be made in accordance with the open meeting laws. The meetings of a multiple member body shall be open to the public and the press, except as may otherwise be authorized by law.

(b) A majority of the members of a ~~multiple member body~~ **governmental bodies** shall constitute a quorum but a smaller number may adjourn from time to time unless otherwise provided by law.

(c) Each ~~multiple member body~~ **governmental body** shall provide for the keeping of the minutes of its proceedings. **The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. A "timely manner" is considered to be within the next three public body meetings or 30 days from the date of the meeting, whichever is later, unless the public body can show good cause for further delay.** The minutes shall be a public record and a copy of the minutes shall be filed with the office of the town clerk, **once approved by the governmental body as outlined above.**

(d) Meetings of the ~~board of selectmen~~ **select board**, the school committee, the board of health and the planning board shall, if possible, be televised, **recorded, livestreamed or broadcasted** on the local cable channel or ~~streamed~~ **recorded and posted** on the town's website. The town shall choose the most effective method but technical difficulties with equipment shall not cause a meeting to be postponed.

Section 8-7: Computation of Time.

In computing times under this charter, ~~if 7 days or less, only business days shall be counted. If computing more than 7 days, every day shall be counted~~ **"days" will be defined as calendar days unless otherwise specified.**

Section 8-8: Number and Gender.

~~Words importing the singular number may extend and be applied to several persons or things. Words importing the plural number may include the singular and words importing the masculine gender shall include the feminine gender.~~

Section 8-9: Definitions.

For the purposes of this charter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Charter", this charter and any amendments to it made through any of the methods provided under Article LXXXIX of the amendments to the Constitution of the Commonwealth.

"Goal", the desired outcome of a policy, program or other action.

"Governmental Body", means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

"Gender Neutrality", any reference to gender in this charter shall be construed as meaning any person, people, individual or individuals.

"Library", the Jonathan Bourne **public** library and any branch thereof that may be established.

" Local Comprehensive Plan", is an important planning tool used to guide the growth and direction of the town while balancing a wide variety of needs, including economic growth, protection of environmental resources, quality of life and community character.

"Local newspaper", a newspaper of general circulation within the town.

"Majority vote", as to a town meeting, a majority of those present and voting; as to a multiple member body, the affirmative vote of a majority of all members present and voting shall be necessary to adopt any motion, order, appointment or approval or disapproval or to take any action not entirely procedural in nature, unless otherwise provided by law.

~~"Multiple member body", a board, commission or committee consisting of 2 or more persons, whether elected or appointed.~~

“Policy”, a statement of a preferred practice

“Strategic Plan”, the long-term vision, goals and objectives for the town of Bourne codified in a document accepted by the select board.

“Town”, the town of Bourne.

“Town agency”, a board, commission, committee, department or office of town government, whether elected, appointed or otherwise constituted.

“Town meeting”, the town meeting of the town of Bourne established in article 2.

“Town ~~officer~~ **official**”, an elected or appointed official of the town who, in the performance of that person’s official duties, exercises some portion of the sovereign power of the town, whether great or small; provided, however, that a person may be a town official whether or not that person receives compensation for his services.

“Voter handbook”, the voter handbook established in subsection (c) of section 2-5 and referenced in section 7-4.

“Voters”, the registered voters of the town.

Section 8-10: Rules and Regulations.

A copy of any rules and regulations adopted by a town agency shall be filed in the office of the town clerk and made available for review by any person who requests such information.

Article 9

Recall Provisions.

Section 9-1: Application.

Any person who holds elective office in the town of Bourne may be recalled therefrom by the registered voters of the town in the manner provided herein.

Section 9-2: Recall Petition.

Any 250 or more qualified voters of the town may file with the town clerk an affidavit containing the name of the elected official sought to be recalled and a statement of the grounds for recall. Within 10 working days thereafter, the town clerk shall deliver to any ~~1~~ **one** or more of the voters making such affidavit a sufficient number of copies of petition blanks demanding such recall. The blanks shall be issued by the town clerk, with the town clerk’s signature and official seal attached thereto. The blanks shall be dated and addressed to the ~~board of selectmen~~ **select board** shall contain the name of the elected official sought to be recalled, the office from which recall is sought and the grounds for recall as stated in the affidavit and shall demand the election of a successor to the office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within 45 days after its issuance. The petition, before being returned and filed with the town clerk, shall be signed by not less than 10 per cent of the qualified voters as of the most recent annual town election and to every signature shall be added the place of residence of the signer, including the street and number, if any. The town clerk shall, within ~~5~~ **five** working days following the date of such filing, submit the petition to the registrars of voters and the

registrars shall forthwith verify thereon the number of signatures which are names of registered voters as of the date of the most recent town election.

Section 9-3: Recall Election.

If the petition shall be found and certified by the town clerk to be sufficient, the town clerk shall submit it with the town clerk's certification to the ~~board of selectmen~~ **select board** without delay. ~~The board of selectmen~~ **select board** shall forthwith give written notice of receipt of the certificate to the official sought to be recalled. If the official does not resign within ~~5~~ **five** calendar days after receipt of the written notice, the ~~board of selectmen~~ **select board** shall order a recall election to be held on a date fixed by the board which shall be not less than 60 and not more than 90 days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is scheduled to be held within 120 days after the date of the certificate, the ~~board of selectmen~~ **select board** may, at its discretion, postpone the holding of the recall election to the date of the other town election. If a vacancy occurs in the office after a recall election has been ordered by the ~~board of selectmen~~ **select board**, the election shall proceed as provided in this section.

Section 9-4: Nomination of Candidates.

Any ~~officer~~ **official** whose recall is sought may be a candidate ~~to succeed himself~~ **for re-election to the same office**, and, unless ~~he~~ **the individual** requests otherwise in writing, the town clerk shall place that ~~officer's~~ **official's** name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the same shall all be in accordance with the General Laws related to town elections unless otherwise provided in this article.

Section 9-5: Incumbent Status.

The incumbent shall continue to perform the duties of the office until the recall election. If the official is not recalled, the official shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in section 9-7. If the official is recalled, the official shall be deemed removed upon the qualification of the successor, who shall serve for the balance of the unexpired term of the official recalled. If the successor fails to qualify within ~~5~~ **five** working days after receiving notification of election, the incumbent shall thereupon be removed and the office vacant.

Section 9-6: Propositions on Ballot.

Ballots used in a recall election shall state the following propositions in the order indicated:

For the recall of (name of ~~officer~~ **official**)

Against the recall of (name of ~~officer~~ **official**)

Adjacent to each proposition there shall be a place to vote for either of the propositions. After the propositions shall appear the word "Candidates", the directions to voters required by section 42 of chapter 54 of the General Laws and, beneath this, the names of the candidates nominated as hereinbefore provided. If the elected official who is the subject of the recall petition is a candidate, that person's name shall be the first listed and all others shall be listed alphabetically. If the majority of the votes cast upon the question of recall is in the affirmative, the official shall be deemed to be recalled and the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes cast upon the question of recall is in the negative, the ballots for recall need not be counted.

Section 9-7: Time Limitation.

No recall petition shall be accepted by the town for filing against an elected official within ~~6~~ **six** months after that official takes office and no recall petition shall be accepted against an elected official who was subjected to a recall petition and not removed thereby until at least ~~6~~ **six** months after that recall election.

Section 9-8: Limit on Recalled Official.

No person who has been recalled from office or who has resigned from office while recall proceedings were pending against that person shall be elected or appointed to a town office within ~~1~~ **one** year after such recall or resignation.

Article 10**Transitional Provisions.****Section 10-1: Continuation of Existing Laws.**

All General Laws, special laws, town by-laws, town meeting votes and rules and regulations of or pertaining to the town that are in force when this charter takes effect and not specifically repealed herein shall continue in full force and effect until amended or rescinded or until they expire by operation of law. Notwithstanding any general or special law to the contrary, if specific provisions of this charter conflict with any town by-laws, rules, regulations, orders, special acts and acceptances of General Laws, the charter provisions shall control.

Section 10-2: Continuation of Government.

Except as specifically provided in this charter, all town agencies shall continue in existence and all town employees and ~~officers~~ **officials** shall continue to perform their duties until successors to their respective positions are duly appointed or elected or their duties have been transferred.

Section 10-3: Continuation of Personnel.

Any person holding a town office or employment shall retain such office or employment and shall continue to perform the duties of that office or employment until provisions shall have been made in accordance with this charter for the performance of those duties by another person or agency. No person in the permanent full-time service or employment of the town shall forfeit ~~his~~ **their** pay grade or time in service. Each such person shall be retained in a capacity as similar to ~~his~~ **their** former capacity as is practical.

Section 10-4: Transfer of Records and Property.

All records, property and equipment whatsoever of any agency or part thereof, the powers and duties of which are assigned in whole or in part to another agency, shall be transferred forthwith to such assigned agency.

~~Section 10-5: Effective Date.~~

Article 11
Charter Compliance Committee.

There shall be a charter compliance committee to consist of ~~7~~ **seven** members who shall be appointed by the town moderator for ~~3-three~~ year overlapping terms, so arranged that the term of not more than ~~3 three~~ members shall expire each year. No appointee shall be a town employee or a member of an existing ~~board or committee~~ **governmental body** governed by the charter.

The committee shall take action only after receiving a written complaint, filed by ~~1~~ **one** or more voters of the town, alleging a violation of this charter by reason of an act or a failure to act by the town administrator, the ~~board of selectmen~~ **select board**, the school committee, the finance committee or a member of such ~~board or committee~~ **governmental body**.

The complaint shall state the specific section of this charter that is the subject of the violation, the individual, or ~~committee~~ **governmental body** responsible for the violation and the act or failure to act resulting in the violation. The complaint shall be filed with the town clerk who shall immediately send, via certified mail, return receipt requested, a copy to each member of the committee.

Within ~~3 three~~ weeks after receipt of the complaint by the town clerk, the committee shall vote whether to dismiss the complaint without further action. If the committee so votes, the chairman shall give written notification to the town clerk. If the committee votes to not dismiss the complaint, the chairman shall set a time and date for a hearing and mail notice of the hearing to the town clerk, the complainants and the individual, ~~board or committee~~ **or governmental body** named in the complaint. The town clerk shall post and publish the notice in a newspaper of general circulation for at least ~~7~~ **seven** days before the hearing date. The hearing shall occur within 60 days after the date on which the complaint was received by the town clerk. At the hearing, the committee shall allow any person to address the committee on the merits of the complaint.

Within ~~3 three~~ weeks after the hearing, the committee shall vote on whether there has been a violation of this charter as alleged in the complaint and shall mail a notice of its decision to the complainant, to the individual, ~~board or committee~~ **or governmental body** named in the complaint and to the town clerk. The town clerk shall post a copy of the decision at the town hall and on the town's website.

If the committee determines that there has been a violation of this charter as alleged by the complaint, and if, following its vote, there continues to be a violation, the committee may contact town counsel who may file a complaint on behalf of the town with the superior court. Nothing in this article shall limit the right to seek enforcement of this charter as otherwise provided by law.

SECTION 2. This act shall take effect upon its passage.

Charter Review Committee Amendments Approved, October 20, 2021.

APPENDIX

- Article 1: Section 3 Division of Powers **Amended by Article 21, 2011 ATM**
- Article 2: Section 2-5 Initiation of Warrant Articles-subsection (a-3) **Amended by Article 22, 2011 ATM**
Section 2-5 Initiation of Warrant Articles-subsections (b) and (c) **Amended by Article 21, 2011 ATM**
Section 2-5 Initiation of Warrant Articles-subsections (b) and (c) **Amended by Article 29, 2016 ATM**
- Article 3: Section 3-1 Term of Office, Composition **Amended by Article 22, 2011 ATM**
Section 3-3 Policy Role **Amended by Ch. 85, Acts 2007**
Section 3-3 Policy Role **Amended by Article 22 2011 ATM**
Section 3-3 Policy Role **Amended by Article 29 2016 ATM**
Section 3-5 Appointing Powers **Amended by Article 29 2016 ATM**
Section 3-6 Prohibitions **Amended by Ch. 85, Acts 2007**
Section 3-6 Prohibitions **Amended by Article 22, 2011 ATM**
Section 3-6 Prohibitions-subsections (a) (b) and (c) **Amended by Article 29, 2016 ATM**
Section 3-8 Rules of Procedure **Amended by Ch. 85, Acts 2007**
Section 3-8 Rules of Procedure **Amended by Article 22, 2011 ATM**
- Article 4: Section 4-1 Appointment, Qualification, Term **Amended by Ch. 85, Acts 2007**
Section 4-1 Appointment; Qualification; Term **Amended by Article 21, 2011 ATM**
Section 4-1 Appointment; Qualification; Term **Amended by Article 22, 2011 ATM**
Section 4-1 Appointment; Qualification; Term **Amended by Article 29, 2016 ATM**
Section 4-2 Relationship of the Town Administrator and the Board of Selectmen **Amended by Ch. 85, Acts 2007**
Section 4-4 Temporary Absence **Amended by Ch. 85, Acts 2007**
Section 4-4 Temporary Absence **Amended by Article 21, 2011 ATM**
Section 4-4 Temporary Absence **Amended by Article 29, 2016 ATM**
Section 4-6 (b) Powers and Duties **Amended by Ch. 85, Acts 2007**
Section 4-6 Powers and Duties-subsections (b) **Amended by Article 21, 2011 ATM**
Section 4-6 (c) Stricken **Amended by Ch. 85, Acts 2007**
Section 4-6 Powers and Duties **Amended by Article 22, 2011 ATM**
Section 4-6 Powers and Duties-subsections (c) (f) and (m) **Amended by Article 29, 2016 ATM**
- Article 5: Section 5-1 Table of Organization **Amended by Article 29, 2016 ATM**
Section 5-2 Organization of Town Government **Amended by Ch. 85, Acts 2007**
Section 5-2 Organization of Town Government **Amended by Article 21, 2011 ATM**
Section 5-3 Public Hearing and Effective Date **Amended by Article 21, 2011 ATM**
Section 5-4 Department of Public Works-subsection (b) **Amended by Article 21, 2011 ATM**
Section 5-5 Department of Integrated Solid Waste Management-subsection (c) **Amended by Article 21, 2011 ATM**
Section 5-6 Department of Finance (a) 11 **Amended by Ch. 85, Acts 2007**
Section 5-6 Department of Finance (b) 3 **Amended by Ch. 85, Acts 2007**
Section 5-6 Department of Finance-subsections (b) through (f) **Amended by Article 21, 2011 ATM**

Section 5-7 Police Department **New Section Added by Article 29, 2016**
Section 5-7 Fire Department **New Section Added by Article 29, 2016**

Article 6: Section 6-4 Constable **Amended by Article 21, 2011 ATM**
Section 6-8 Housing Authority **Amended by Article 29, 2016 ATM**

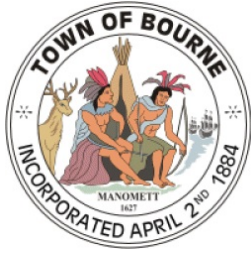
Article 7: Section 7-2 Capital Improvement Program and Capital Budget **Amended by Article 21, 2011 ATM**
Section 7-3 Long Term Financial Forecast **Amended by Article 29, 2016**

Article 8: Section 8-1 Charter Changes-subsection (b) **Amended by Article 21, 2011 ATM**
Section 8-6 Procedures for Multiple Member Bodies **Amended by Article 22, 2011 ATM**
Section 8-6 Procedures for Multiple Member Bodies **Amended by Article 29, 2016 ATM**
Section 8-7 Computation of Time **Amended by Article 21, 2011 ATM**
Section 8-9 Definitions-subsection (g) **Amended by Article 21, 2011 ATM**
Section 8-9 Definitions Amended **by Article 29, 2016 ATM**

Article 9: Section 9-2 Recall Petition **Amended by Ch. 85, Acts 2007**
Section 9-2 Recall Petition **Amended by Article 21, 2011 ATM**
Section 9-3 Recall Election **Amended by Article 21, 2011 ATM**
Section 9-5 Incumbent Status **Amended by Article 21, 2011 ATM**
Section 9-8 Limit on Recalled Official **Amended by Article 21, 2011 ATM**

Article 10: Section 10-5 Effective Date **Amended by Article 21, 2011 ATM-**

Article 11: Charter Compliance Committee - New Article **Added by Ch. 85, Acts 2007**
Article 11: Charter Compliance Committee **Amended by Article 21, 2011 ATM**
Article 11: Charter Compliance Committee **Amended by Article 16, 2014 ATM**



Town of Bourne 2020 Charter Review Committee



December 01, 2021

Bourne Select Board

Dear Select Board Members:

Please find attached the following documents:

Volumes ONE and TWO consisting of two 3-inch binders containing all relevant materials associated with the completion of the 2020 Charter Review Committee of the Bourne Charter to support its recommendations as unanimously adopted at the November 15, 2021 Special Town Meeting.

On behalf of the Committee,

Stephen F. Mealy

Stephen Mealy, Chairperson

Renee Gratis, Vice Chairperson

Anne-Marie Siroonian, Administrative Clerk

Barbara Princiotta, Recording Clerk

Michael Carlowicz

Griffin Girard

Joseph Gordon

Book 1 of 2

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2020 Committee Process Overview	
2020 Charter Committee Specific Charge	
Member Meeting Attendance	
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Chronology of Interviews	
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Chairman's Interview Notes	Section 3, Book 1
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Warrant Articles for STM, November 15, 2021	Section 7, Book 1
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As of September 25, 2018	
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Bourne, MA: Climate Resilience Investment System & Implementation Plan

Produced by the Southeast New
England Program (SNEP)
Network

December 2021

The SNEP Network is administered by:
New England Environmental Finance Center
University of Southern Maine, UMaine System
www.snepnetwork.org | TEL: 207-228-81-64



This project has been funded, in whole or in part, by the U.S. Environmental Protection Agency's Southeast New England Program under Assistance Agreement SE-00A00655-0. The contents of the document do not necessarily reflect the views and policies of the U.S. Environmental Protection Agency, nor does the U.S. EPA endorse trade names or recommend the use of any products, services or enterprises mentioned in this document

Background. The following report was produced by [Throwe Environmental, LLC](#), on behalf of the Southeast New England Program (SNEP) Technical Assistance Network (“the SNEP Network”). The [SNEP Network](#) is comprised of over 15 different partner organizations from across the region. It offers a full complement of technical and financial services to communities in support of leadership development and peer-to-peer learning. The goal of SNEP is to help communities understand the stormwater management challenges they face in light of a changing climate and how to overcome implementation barriers through capacity building and innovative financing systems.

In March 2020, the SNEP Network released a “Call for Participants” to offer direct technical, financial, and training assistance to municipalities, tribes, and non-profits in the SNEP watershed. Assistance was offered through the SNEP Network’s existing capacity and members of its pre-approved consultant pool. Through a competitive process, the Town of Bourne, Massachusetts (“Bourne” or “the Town”) was one of the initial twelve applications approved to receive technical assistance. The SNEP Network’s project with Bourne officially launched in July 2020 and was implemented in two phases. Phase 1 was completed in January 2021. It provided an assessment of the Town’s resilience programs, focusing specifically on the impacts that climate change will have on stormwater, flooding, and drainage management. [The final Phase 1 project report](#) included a suite of recommendations focused on the necessary steps and actions for establishing and expanding a sustainable climate resilience planning-to-action strategy.

Phase 2, which began in Spring 2021 and was completed in October 2021, was designed to provide the Town of Bourne with a more thorough understanding of the actions and resources that will be necessary to achieve the Town’s resilience vision in the future. The SNEP Project Team and Town leaders worked collaboratively to prepare two products. The team first created the [Planning to Action: Climate Toolkit \(PACT\)](#) to provide a standardized approach and process for identifying assets, assessing climate risk, and prioritizing mitigation actions and projects. Using the Toolkit as a framework, the team then drafted a suite of next steps and recommendations to provide more detail regarding the resources and next steps needed to establish a comprehensive resilience financing system.

This report serves as a culmination of the SNEP Project Team’s engagement in the Town of Bourne. Part 1 of this report summarizes the capacity assessment and the corresponding recommendations prepared in Phase 1. It also describes the components of PACT. Part 2 provides the expanded recommendations produced in Phase 2, as well as next steps.

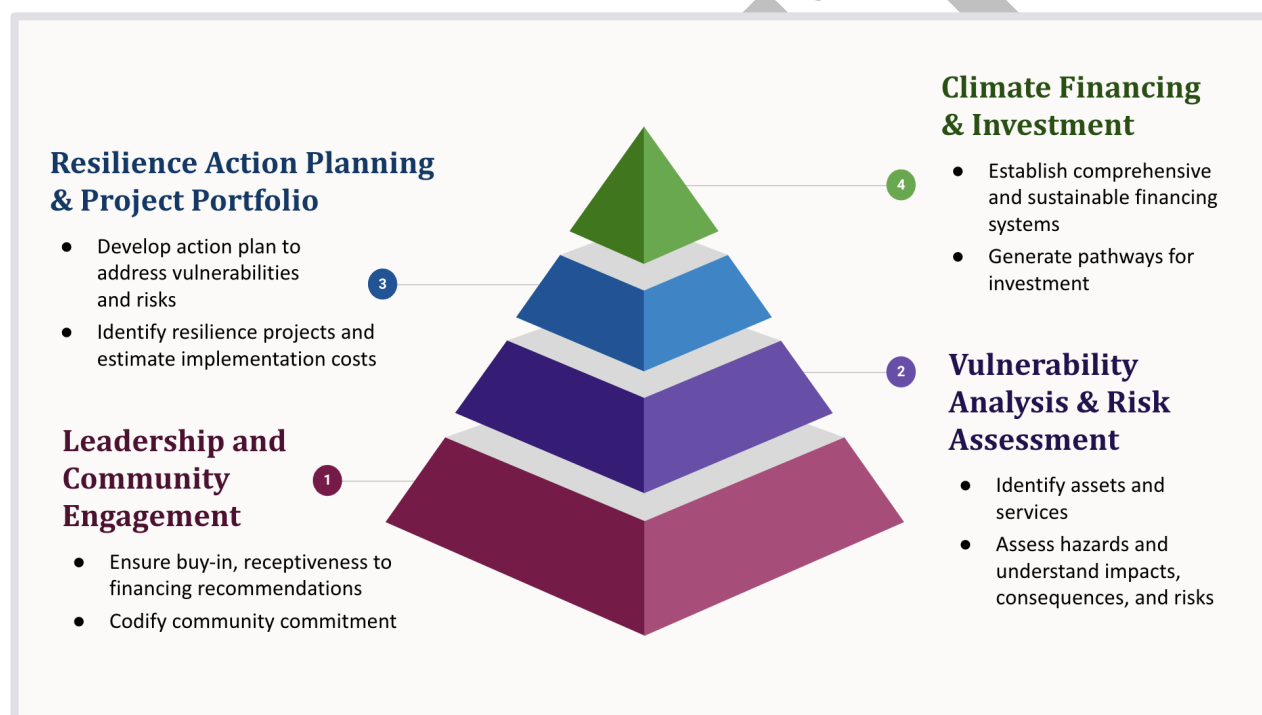
PART 1: BOURNE CLIMATE RESILIENCE ACTION STRATEGY.

The purpose of Phase 1 of the Climate Resilience Financing Assessment Project was to provide local leaders with the framework for a financing plan of action to address resilience infrastructure needs over time. The SNEP Project Team, led by the team at Throwe Environmental, worked in direct partnership with Bourne, MA leaders to address climate hazards and to identify opportunities to improve community resilience to anticipated climate impacts. The team conducted a detailed program assessment to identify the strengths and weaknesses of the Town’s existing resilience capacity and the conditions necessary for effectively financing critical infrastructure needs.

The SNEP Project Team used an assessment process based on the core components of the Coastal Resilience Action Strategy. It was designed to enable Bourne leaders to identify the necessary

conditions to effectively finance critical infrastructure needs and to evaluate the Town’s readiness to address those needs. In addition, the assessment was designed to be a dynamic system and process, thereby continually addressing how to enable conditions necessary to attract and incentive public and private investment. These enabling conditions are as varied and unique as the potential projects themselves. However, four key processes are common to virtually all resilience planning and financing systems. These are (1) leadership and community development; (2) climate risk and vulnerability assessments; (3) resilience planning and project portfolio development; and (4) funding, financing, and investment. These processes serve as the foundation for PACT, the Resilience Financing Framework (*see Fig. 1*), and the team’s assessment and recommendations to the Town of Bourne.

Figure 1: Resilience Financing Framework (Source: Throwe Environmental)



Leadership and Community Development. A clear vision for the future is a foundational component of the resilience financing process. Resilience planning should be community-led and comprehensive, while also serving as a strategy for future implementation and financing activities. To that end, strong community leadership is essential to attract and mobilize investments in resilience.

The first step in the resilience assessment process is to understand what resilience is, what the threats to the community are, and the appropriateness of plans for becoming more resilient in the future. This requires defining resilience in a way that is community-specific and reflects the anticipated risks, future goals, and expected outcomes of its citizens. This process focuses on three key issues: what is needed, what is valued, and what are the necessary systems.

Soak Up the Rain Webinar. The SNEP Project Team provided Bourne with a large-scale leadership engagement opportunity through the EPA Region 1 “Soak up the Rain” webinar program. This monthly webinar series highlights innovative approaches to addressing stormwater quality and quantity across New England, bringing these case studies to a national audience. In conjunction with EPA program staff, Throwe Environmental developed an August 2021 webinar, entitled “Addressing Stormwater Flooding through Resilience Action Strategies and Sustainable Financing,” that featured two SNEP Network technical assistance projects in Portsmouth, RI, and Bourne, MA. Former Bourne Town Administrator Anthony Schiavi and Town Engineering Technician Timothy Lydon were featured as community panelists representing Bourne. The webinar highlighted the innovative approach of the Bourne/SNEP Network project, as well as the strong record of community and leadership engagement in the Town. Once publicly available, the webinar recording will be linked [here](#).

Summary of Findings: Leadership and Community Development. The Town’s recently completed Hazard Mitigation Plan and Local Comprehensive Plan are important for advancing the resilience planning process. However, neither plan directly defines resilience in a uniform and community-specific way. The community has noted that the Town would welcome a clear definition for resilience that reflects its vision, and the Select Board has expressed openness to developing one internally.

Climate Risk and Vulnerability Analysis. Key to the resilience planning process is identifying and assessing a community’s future climate risks. A climate hazard becomes a climate risk when inhabitants and/or assets are exposed to and vulnerable to a particular hazard.

The Town can improve its resilience and its adaptive capacity to climate-related shocks and stresses by implementing climate adaptation actions. However, it is first necessary to develop a sound understanding of context-specific climate risks before developing such actions.

- **Climate change impacts.** In coastal communities, these changes will likely include increased coastal flooding; sea-level rise; intensified storms; more frequent drought and heat waves; changes in the distribution of disease vectors; and increased displacement and migration.¹
- **Other environmental crises.** The interactions between climate change and existing environmental needs will only complicate the resilience financing challenges in coastal communities. For example, climate change and stormwater management in Bourne will have tremendous impacts on each other, as well as the community-at-large, in the future. This means the two issues must be addressed collectively.²
- **Economic changes.** While threats to physical systems must be considered in the context of climate resilience, so too must the threats to economic systems. For example, the rise or collapse of key industries; changes in financial or regulatory systems; and changes in wealth distribution can have tremendous impacts on local economies. While these impacts will often occur outside the framework of climate change, the reality of a changing climate will almost certainly be an influencing factor.³

¹ Ibid

² Ibid

³ Ibid

- **Social risks.** Complex social challenges will also be compounded by climate change. Climate change will further disadvantage marginalized communities. To truly address resilience, communities must consider how they will ensure their most at-risk populations are protected and strengthened.

Summary of Findings: Climate Risk and Vulnerability Analysis. Bourne’s thorough understanding of its community hazards (erosion and shoreline change, flooding, extreme storms, high winds, severe winter weather, and sea-level rise) are well-documented in its 2018 Hazard Mitigation Plan update. Town officials have focused additional energy and resources on evaluating the impacts of flood risks and sea-level rise on Bourne’s important historic and cultural resources. More information is needed on specific threats that could worsen in the face of a changing climate and on the full spectrum of specific assets that are vulnerable to climate hazards. The SNEP Project Team determined that the Town would benefit from a standardized method to calculate the extent of an asset’s vulnerability, as well as its magnitude and probability of loss. PACT serves as a key resource that Bourne, and other communities, can utilize to conduct critical vulnerability and risk exercises.

Climate Resilience Planning and Project Portfolio. Before a financing strategy can be developed, it’s critical to understand anticipated infrastructure needs. While this planning process should be unique to each community, it should include the following key considerations:

- **Creating diversity and redundancy.** By nature, communities with more diversity in their economic base and decision-making and governance processes will be more resilient to disruptions to those systems. Unplanned redundancies can be inefficient and costly. However, planned redundancies ensure that the failure of any single component does not result in a system-wide crash.
- **Promoting equity and inclusiveness.** The planning process is typically associated with guiding land use and infrastructure development needs and issues. While this is important, especially in the context of financing climate change resilience, long-term resilience requires an equitable, inclusive planning process. Planners must be acutely aware of spreading anticipated risks and opportunities equally.
- **Proactively planning for innovation.** Resilient communities must develop new and innovative responses to risk and changing conditions. The capacity to innovate derives from many of the qualities just described. Diverse systems generate more opportunities for innovation than uniform ones. In social systems, innovation often comes from the margins. An inclusive society is better able to engage the agency and creativity of all its citizens.⁴

Summary of Findings: Climate Resilience Planning and Project Portfolio. The financing process and implementation system is predicated on a robust resilience plan; therefore, the planning process should be an immediate and ongoing priority. Developing an actionable, detailed, and comprehensive resilience plan should be a priority for Town leaders. Bourne is working to establish the necessary components, processes, and people to organize and prioritize action steps, especially those in the short-term. Current Town leadership aims to be proactive in its approach and seeks to emphasize efficiency in carrying out these action steps. While challenges

⁴ Bounce Forward report produced by the Kresge Foundation and Island Press. Citation: *Bounce Forward: Urban Resilience in an Era of Climate Change*. A Strategy Paper from Island Press and Kresge Foundation

related to prioritizing projects remain, the current Town leadership is in a good position to address these challenges. Assistance with prioritization methods will further enhance staff capacity.

Creating A Resilient Financing System. The planning and visioning processes that take place in the first three steps of the Resilience Financing Framework provide a foundation for developing and implementing a financing system that directs capital and investment in the most efficient, effective, and sustainable manner possible. The complex challenges ahead for financing large-scale infrastructure efforts are clear, especially in coastal communities. Therefore, communities need to develop innovative, scalable resilience financing institutions and systems that reflect their own needs. Financing systems must be designed to aid local leaders to make some very difficult and nuanced policy decisions. For example:

- **Balancing cost and benefit.** Resilience infrastructure projects require balancing short-term costs and long-term gains. It is very difficult to transform avoided costs into cash flow. This can put significant pressure on local revenues.
- **Achieving fairness in the financing system.** Fairness regarding infrastructure financing assumes that the cost burden reflects the benefits received from a project. This is often difficult to achieve when public revenues are creating significant private benefits in very specific places.
- **Ensuring equity in the financing and implementation process.** Achieving equity in the financing system, though important, has the potential to complicate resilience efforts. The ability to pay is a persistent issue regarding infrastructure financing, and it is often at odds with achieving fairness.
- **Expanding cooperation.** Effectively addressing climate change will require cooperation within and outside of local governments. Financing systems must function within a complex system that includes intra-community collaboration among agencies (planning, budgeting, and finance, operations, legal) as well as inter-community engagement and implementation efforts (local-state-federal).

Because of the long-term nature of the climate resilience issue, there may be the temptation to defer seemingly large-scale actions to a later date. However, the most productive reforms in local finance occur in small increments over the long-term.⁵ In other words, current leaders are not tasked with addressing the entirety of the local resilience challenge, but rather with establishing the systems and processes that can serve as the foundation for future leaders to build upon. Current leaders can begin taking action by addressing the following three areas that are fundamental to any resilience financing system: (1) institutional structure and capacity, (2) revenue streams and cash flow, and (3) financing mechanisms and cash flow management.

Institutional Structures and Capacity. Public institutions are the organizing mechanisms within financing systems, ensuring that rules, regulations, and codes of conduct are enforced. They establish and manage the procurement processes and provide structure to advance innovation and ingenuity within the public financing sector. In short, institutions will create the enabling conditions that are necessary for resilience financing processes to function effectively.

⁵ Bland, Robert L. A budgeting guide for local government: third edition. 2013. Page 5.

There are a variety of ways that institutions can be structured and capitalized; though their purpose in the financing process is relatively universal:

- **Mobilize public and private capital.** The primary role of financing institutions is to ensure sufficient investment in resilience and civic infrastructure. This requires identifying and leveraging a variety of funding and revenue sources.
- **Incentivize investment in infrastructure.** Financing institutions apply and utilize a variety of mechanisms (e.g., bonds, loans, grants). Institutions must provide long-term financing primarily in the form of tax-free revenue and conduit bonds.
- **Accelerate infrastructure development and construction.** Finally, a dedicated financing institution should be enabled to make existing design, permitting, contracting, and construction processes more efficient and effective. This requires serving as an organizational or focal point of multiple public agencies, departments, and processes. The financing institution in many ways becomes an important organizing element of the policy development and project investment process.

Revenue Streams and Cash Flow. Revenues are paramount to the financing process. Ultimately, the scale of revenues needed to support resilience activities will require a more thorough understanding of the anticipated impacts, assets at risk, and necessary mitigation activities.

Financing Mechanisms and Cash Flow Management. Resilience financing institutions also have the ability to utilize innovative financing and investment processes. There are opportunities associated with three innovative processes: (1) value capture; (2) alternative bonds and debt financing tools; and (3) performance-based financing.

- **Value capture.** Value capture is a type of public financing that recovers some or all the value that public infrastructure generates for private landowners. The public sector is often responsible for the large financial investments and maintenance of infrastructure required to support urban development. The financing of such projects often leans heavily on government bodies themselves.
- **Alternative bonds and debt financing tools.** Debt financing is the key type of long-term borrowing that localities use to raise money for building and constructing long-lived infrastructure assets. About 90% of state and local capital spending is financed by debt, primarily through municipal bond markets. Bond financing will likely remain a significant and popular financing resource. However, local leaders are beginning to adopt alternative financing mechanisms to address infrastructure needs, especially as they relate to mitigating the impacts of climate change. These alternative financing mechanisms provide local governments with cost-effective and flexible ways to pay for infrastructure systems.⁶
- **Paying for performance and outcomes.** Finally, performance-based financing focuses on achieving desired outcomes, rather than the means for getting there. If

⁶ *Infrastructure Financing: A Guide for Local Government Managers*. A Policy Issue White Paper Prepared on behalf of the ICMA Governmental Affairs and Policy Committee, January 2017. Can Chen, Florida International University, and John R. Bartle, University of Nebraska at Omaha. Page 15.

infrastructure investments can be evaluated based on desired environmental, economic, or social outcomes, investors would be able to target funds to projects that achieve those outcomes at the lowest cost. This provides incentives to private firms to find the most cost-effective and highest-performing technologies and practices.

These three alternative and innovative financing mechanisms are representative of broader financing innovations occurring at the local level; as the impacts of climate change and the need for resilient infrastructure grows over time, so too will the need to adapt financing systems and processes.

Summary of Findings: Creating a Resilience Financing System. While Bourne’s current financing position is favorable, the impacts of climate change require an expansion of Town capacities over time. Bourne will need to expand its institutional capacity to suit the scale of its short- and long-term capital and civic infrastructure needs.

It is a very encouraging sign to see that the Town is beginning to dedicate particular revenue streams for the sole and specific purpose of supporting investments in resilience infrastructure. Until recently, this was not the case; the Town has generally funded resilience projects out of its General Fund. That said, the NextGrid solar project has created an opportunity for the Town to establish a dedicated and sustainable flow of revenues supporting resilience projects and programs. This project is innovative, scalable, and a signal to the community of the Town’s long-term commitment to protecting its viability.

Bourne’s history of strong financial management and budgeting serves the Town well as it pursues innovative resilience financing options moving forward. The Town’s current rules, processes, and procedures have led the community to the point that it achieves budget surpluses in some years. The strong foundation described in this Phase 1 summary serves as the basis for the following recommendations from Phase 2.

PART 2: OPTIONS AND RECOMMENDATIONS FOR MOVING FORWARD

The Town of Bourne has a foundation in place for developing and advancing a strategic resilience vision and plan moving into the future. The Town’s financing processes have the capacity to address existing and short-term infrastructure, social, and environmental needs. However, the anticipated scale and complexity of addressing future climate change impacts will require the Town to make some significant changes and augmentations to its financing processes.

Recommendation 1: Establish a Director of Resilience position within Town government. An important first step in establishing a sustainable resilience program within the Town of Bourne is to establish a Resilience Director position. The position should report directly to the Town Administrator and should be structured to ensure the coordination and efficiency of resilience programs across the entire town government. The Resilience Director would work directly with other agency directors, thereby ensuring that infrastructure investments are meeting the collective goals and vision of the Town. The Director position will establish an organizational foundation for creating a more formal and expansive institutional structure in the future, should it be necessary.

Recommendation 2: Create a clear vision and plan of action. An important function of the Resilience Director will be to guide the community through the process of creating a clear resilience vision and plan of action for achieving that vision. This first plan of action will provide the

foundation for the Town's resilience programs and infrastructure implementation into the future. The resilience vision and plan will:

- Create a broad coalition of constituency groups and civic organizations dedicated to addressing climate change resilience and mitigation throughout the community.
- Identify the specific infrastructure projects that are critical for addressing climate change threats and achieving resilience goals and the estimated fiscal resources necessary for implementation.
- Create a framework for transforming the Town's economy to leverage the benefits and opportunities provided by investment in resilience infrastructure.

The effectiveness of the Town's resilience planning efforts will rely in large part on its success in mobilizing and incentivizing the citizens of Bourne to action. As a coastal community, Bourne is already directly experiencing the impacts of climate change, specifically regarding tidal flooding, sea-level rise, and major storm events. Town leaders and citizens are aware of many of the hazards, vulnerabilities, and risks that are likely to occur in the future. The Town's resilience vision must expand on this existing community awareness. This, in turn, requires clear leadership coupled with an actionable implementation plan.

The resilience plan should articulate the Town's response to long-term resilience by clearly stating the resilience goals and outcomes within each Town agency and program. Resilience represents one of those rare public priorities that will require virtually every agency and public employee to engage to at least some degree. Some agencies have a very direct connection to resilience—these include public safety and emergency preparedness; public works; planning; and environmental programs. Other agencies and programs have a less direct connection. However, the scale, complexity, and comprehensive nature of resilience planning and implementation will require an equally comprehensive response from the entire government system.

The Resilience Director will be catalytic to the entire resilience planning, implementation, and financing process. Specifically, the Director will create important connections between risk and vulnerability analysis, project portfolio development, and, perhaps most importantly, the financing and investment process. In short, establishing this position within the Bourne government will ensure program accountability and leadership, coordinated local government response to climate impacts, and effective community engagement and participation in the resilience planning and implementation process.

Recommendation 3: Implement a thorough risk and vulnerability assessment. The Town's long-term resilience plan must be predicated on the most up-to-date information and science associated with the anticipated climate hazards. The Municipal Vulnerability Preparedness (MVP) program provided Bourne with an effective baseline understanding of climate risks facing the community. A more thorough and granular assessment will be required to ensure effective and efficient long-term investments. The next step is to build on the results of the MVP by conducting a more refined assessment of anticipated climate impacts to the community. A robust climate risk and vulnerability assessment will provide Town leaders with a better understanding of the exposure, sensitivity, and resilience capacity of current systems to the impacts of climate change. This will in turn enable Town leaders to better understand these risks and identify the actions they can take now to be more prepared and resilient.

There is no standard method or framework for conducting a risk and vulnerability assessment. However, there are specific components of that assessment that are critical to the financing and implementation process. Specifically, the assessment should include four key elements:

1. An inventory and detailed summary of the climate hazards facing the community. This part of the assessment should build on the MVP process, thereby reassessing the hazards that are of the greatest concern to the community as well as the communities and neighborhoods that are likely to be adversely impacted.
2. An inventory of the assets and resources within the Town that are at risk, including publicly owned assets such as bridges, roads, public building, and stormwater conveyance systems; privately owned assets such as residential and commercial buildings, private roads, and power and energy delivery systems; and natural assets and resources, including wetlands, beaches, forests.
3. An evaluation of each asset's vulnerability and sensitivity to the climate hazards as well as the adaptive capacity of the asset to recover from the climate impacts.
4. An evaluation of the risk of adverse impacts to the assets, including the probability that an impact may occur and the potential magnitude of the impact should it occur.

The combination of these four elements will enable Bourne's community leaders to prioritize climate resilience action and investments.

Recommendation 4: Establish a detailed project portfolio. The risk and vulnerability assessment, coupled with the asset inventory, will provide the structure for a detailed mitigation strategy and project portfolio. The portfolio will enable Town leaders to codify a resilience plan of action. The action plan should be organized around three key elements: (1) project and programs typology, (2) the anticipated timing of impacts and associated project implementation, and (3) the expected cost of taking action.

1. Resilience project typology. Local resilience projects can and will take a myriad of forms. However, from a management perspective, they can be categorized based on three basic typologies.

1. **Baseline** projects and programs provide structure to the Town's resilience system, including staffing support (specifically the Resilience Director), necessary studies and assessments (such as the risk and vulnerability analysis), as well as catalytic project implementation.
2. **Enterprise** or outcome-based projects and programs are focused on many of the essential services that the Bourne government provides to its residents and businesses. Climate resilience will overlap a variety of enterprise programs and outcome-based needs in the community, including wastewater/watershed management, drinking water management and delivery, solid waste management and recycling, emergency services, and stormwater/drainage mitigation. Many of these outcome-based programs are codified through an established enterprise program/fund, while others such as stormwater management are addressed programmatically throughout various Town government agencies. All of them will be impacted by the Town's resilience implementation process in some way.
3. **Capital** and infrastructure projects are the primary focus of the resilience financing process. These projects can be embedded within baseline or enterprise processes, but they are often implemented as a result of specific community needs, including:

- **Protecting an essential asset.** The most targeted project approach is associated with protecting specific assets that are threatened by climate change (a particular community building, for example).
- **Protecting an asset class or system.** Many community resilience projects are designed to a suite of assets within a particular system. This can include protecting road and transportation networks, residential and commercial buildings, or essential public utilities. Projects designed to protect an asset class are often coupled with regulatory or permit changes (i.e., Building codes, floodplain management, etc.).
- **Protecting threatened geographies or communities.** Large-scale resilience projects are often designed to protect specific communities or neighborhoods from a variety of climate hazards and threats. These projects can include flood mitigation/abatement and transportation enhancements.
- **Incentivizing outcomes.** Finally, resilience projects may be designed to address a particular hazard or desired outcome. These projects are often associated with enterprise fund activities, but they can also include other community priorities such as habitat restoration and protection.

Figure 2: Bourne MVP Projects Across Resilience Project Typologies (Source: Throwe Environmental)

Baseline	Enterprise (like)	Infrastructure
<ul style="list-style-type: none"> Climate Risk and Vulnerability Assessment Integrated Water Resources Management Plan 	<ul style="list-style-type: none"> Flooding and Drainage Watershed Restoration Shoreline Erosion 	<ul style="list-style-type: none"> Academy Drive Circuit Avenue
<ul style="list-style-type: none"> Climate Resilience Action Plan Communications/Outreach Program Management 	<ul style="list-style-type: none"> Stormwater Management Wastewater Management Drinking Water Management 	<ul style="list-style-type: none"> Town Hall Buzzards Bay Fire Station
<ul style="list-style-type: none"> Grant Development and Management Financing Plan and Strategy 	<ul style="list-style-type: none"> Solid Waste and Recycling Emergency Management and Response 	<ul style="list-style-type: none"> Community Buildings Historic Structures Buzzards Bay District

2. Project timing. Climate impacts are expected to evolve and intensify over time. The community response to mitigate risks will also need to evolve. This will require that the resilience systems and processes – including financing processes – be dynamic. The project portfolio should address short-, mid- and long-term implementation needs and time horizons. Categorizing projects in this way will be critical for creating a sustainable revenue plan.

- **Short-term risks and infrastructure needs (0-3yrs).** Short-term risks represent immediate infrastructure and financing needs. The financing components necessary for addressing short-term needs include:

- Codified, stable funding streams, whether they be supported by general obligation bonds and general funds or through enterprise programs and dedicated fees; and,
 - A clear understanding of the project’s useful life, i.e., how long the project will sufficiently address changing resilience needs.
- **Mid-term risks and infrastructure needs (3-15yrs).** Mid-term risks and infrastructure needs are the systems that will replace or augment existing short-term infrastructure. Given the impacts of climate change, it is likely that the scale of mid-term needs will grow over time. Revenue streams in support of mid-term needs are not necessarily required immediately, but efforts should be made now to establish the processes necessary for generating revenue and investment in the future.
 - **Long-term risks and infrastructure needs (15yrs+).** Long-term risks and infrastructure needs will address the most significant climate impacts (i.e., major infrastructure projects to address sea-level rise, temperature and precipitation changes, and catastrophic storms). Given the anticipated scale of the need, community leaders need to begin establishing the necessary financing systems and processes in the short-term with a vision towards the long-term. This includes establishing the conditions necessary for investment, identifying anticipated revenue streams, and building capacity by establishing appropriate financing institutions.

3. Anticipated project costs. The third organizing element for the implementation plan and project portfolio is anticipated project costs. Project cost estimation is the process of forecasting the financial and other resources needed to complete a project within a defined scope. Cost estimation accounts for each element required for the project and calculates a total amount that determines a project’s budget. Cost estimates for projects within each project category will be essential for estimating necessary revenue needs and for determining when specific resilience projects can move forward. As climate resilience infrastructure projects move through the design and implementation process, it is essential to accurately account for all direct and indirect expenses, including labor, materials and equipment, facilities, and all associated risk. However, the initial resilience planning and implementation processes require a high-level or cursory evaluation of project costs, within each category over time. This high-level evaluation will enable community leaders to identify the appropriate institutional and revenue systems necessary for achieving long-term resilience.

Recommendation 5: Establish a Climate Resiliency Infrastructure Fund. In Phase 1, it was recommended that the Town of Bourne consider establishing a new program or institution to serve as the lead or center point of the resilience action planning and implementation process. After further conversations with Town leaders and evaluation of existing financing capacities, the recommendation is for the Town to establish an *internal* Climate Resiliency Infrastructure Fund (“the Resiliency Fund”). The primary purpose of the Resiliency Fund would be to expand resilience investments by creating efficiencies, economies of scale, and political synergies for addressing resilience infrastructure needs. The Resiliency Fund would provide Bourne with a variety of benefits, including:

- *Prioritizing resilience infrastructure projects within the financing system.* The targeted nature of the Resiliency Fund would enable it to focus fiscal resources on those projects that are most critical to the resilience implementation and planning process. The project prioritization process would not necessarily be implemented outside of existing processes but would provide a necessary focus to the financing process.
- *Accelerating and scaling the financing process by leveraging public and private revenue streams.* The Resiliency Fund would have the focus and capacity to target investments in projects identified in the resilience plan. If structured appropriately, the Resiliency Fund would be able to incentivize private investment in support of infrastructure and resilience projects.
- *Establishing more effective partnerships with the private sector.* Public-private partnerships are the foundation of local resilience design, implementation, maintenance, and financing. These partnerships will need to expand in scale, sophistication, and impact as climate change intensifies. The Resiliency Fund would have the capacity to develop and advance innovative relationships with a broad spectrum of private firms and actors.
- *Reducing stress on Town budgets.* The Resiliency Fund will not eliminate the need for public investment in resilience infrastructure. Local infrastructure will always require local government leadership and investment. However, the Resiliency Fund would potentially reduce pressure on local budgets by creating efficiencies, leveraging private investment, and reducing the cost of capital.
- *Stimulating and advancing innovation and economic growth.* In addition to streamlining and scaling financing processes, the Resiliency Fund can also be charged with incentivizing investment in those industries and businesses that will be integral to the Town's resilience efforts. This dual economic development/financing role will place the Resiliency Fund in a position to ensure that infrastructure investments serve multiple roles and provide multiple community benefits.
- *Creating more effective connections between climate change mitigation and adaptation activities and projects.* Establishing a Resiliency Fund would enable the Town to link climate change resilience and adaptation efforts with climate change and carbon mitigation efforts, which is important for several reasons. First, the Town of Bourne is being directly impacted by climate change. It has a unique need and responsibility to remain resilient to those impacts and reduce the pollution that is causing those impacts. Second, by linking adaptation and mitigation programs and strategies, the Town will create more potential revenue streams, more investment opportunities, and greater community/business engagement in the process. The Town is well-positioned to benefit directly from the mitigation-adaptation connection through the NextGrid solar project. The revenues generated from this new and innovative public-private partnership will create critical revenue flows while at the same time reducing the Town's carbon footprint. This creates a very effective revenue model for the Town's Resiliency Fund moving forward.

Resiliency Fund Revenues. The Resiliency Fund would support key functions and activities in support of the Town's resilience action plan. This Fund would provide a system for coordinating resilience programs and project investments. In some respects, the Resiliency Fund would function as an enterprise program, thereby coordinating and implementing climate mitigation and

adaptation programs within the Town government. In addition, it would target investments to those projects and programs that are directly associated with the Town's resilience action plan. While enterprise programs usually rely on single revenue streams, primarily in the form of service or regulatory fees, the Resilience Fund will have the capacity and perhaps even the mission to identify, secure, and leverage multiple revenue sources. An important function of the Resilience Director, through the auspices of the Resiliency Fund, will be to develop a resilience infrastructure revenue plan that addresses the unique resource needs of the three project typologies: baseline, enterprise, and capital infrastructure.

Revenue sources supporting resilience programs and infrastructure will be by necessity, diverse; however, potential revenue sources will fall within the three categories mirroring the project typologies: operational or baseline revenues, enterprise or ongoing revenue streams, or project-specific revenues. There is any number of potential revenues sources in the form of fees, taxes, and grants that have the potential to provide either temporary or permanent support for the Resiliency Fund and its activities. Key issues to consider when assessing the potential efficacy of a revenue source include its connection to the resilience issue; the potential scale of the source; the potential longevity of the source; and the impacts—positive or negative—on the community (specifically how the revenue source impacts fairness and equity). Specific opportunities within each of the three revenue categories include the following

- **Operational-baseline revenues.** Operational funds are those funds that, in theory, support any institutional activity. In actuality, they support those activities that are often not directly included in the project financing costs. In other words, operational funding would support administration *and* program-related activities. In the case of the Resiliency Fund, operational funds would potentially support all expenses, direct and indirect. Potential revenue sources include general fund revenues, targeted revenues from taxes and/or special service fees (i.e., the solar project funding), grant funding, and enterprise program funds (exclusive to enterprise programs).
- **Enterprise revenues.** Enterprise funds are used to support activities for which a fee is charged to external users for goods or services. While the Resiliency Fund will not officially be an enterprise program, it will likely have important characteristics of an enterprise fund, including sustained revenue streams in the form of fees supporting activities directly associated with the assessment and collection of those fees. Additionally, enterprise and enterprise-like funds support all expenses associated with the enterprise—direct and indirect. Therefore, they are appropriate for supporting administrative, programmatic, and infrastructure capital costs.
- **Project-specific revenues.** Project-specific funds refer to those revenues that are assessed and leveraged specifically to support a particular project. Though they can be in the form of taxes and fees, grants, or other investment revenues, they are often in the form of fees or infrastructure revenues. As is the case with enterprise funds, project funds can support administrative costs and direct project costs. Potential project-specific revenue sources include: general funds; property taxes (specifically through Special Taxing Districts and/or Tax Incremental Financing Districts); private capital through public-private partnerships and concession agreements; and private and nonprofit philanthropic investment, including donations, grants, and program investments.

There are clear overlaps between the three primary revenue categories. For example, fees generated through enterprise funds can cover all three revenue categories, while project-specific funding can, and really must, cover associated administrative costs. However, the distinctions between these three categories will enable Town leaders to identify potential sources of revenues most effectively.

Project financing and cash flow management. The Resiliency Fund will have the capacity to facilitate financing transactions, directly or indirectly, in support of restoration projects and practices throughout the Bay watershed. The SNEP Project Team recommends that the Resiliency Fund be established as an internal program and/or agency within the Bourne government system. This has two advantages. First, the resources supporting the Resiliency Fund’s activities will be restricted to those activities. This provides system oversight and accountability. Second, the financing activities associated with the Town’s resilience action plan will be conducted within the existing systems, agencies, and structures. This will allow the Resiliency Fund to be established in a manner that leverages the strengths of that system and ensure that the resilience process is efficient and effective. The Resiliency Fund will likely focus on three types of leveraging tools and processes: bond financing; value capture; and public-private partnerships.

- **Bond financing.** The use of municipal or publicly issued bonds is ubiquitous regarding infrastructure financing. Borrowing is essential for large-scale infrastructure projects and the use of tax-free bonds provides local and state governments with a relatively inexpensive source capital with long-term payback time horizons. The capacity to issue traditional tax-free revenue bonds will be important for many of the large-scale structural practices and projects in the Town’s project portfolio.
- **Value capture.** As previously discussed, this type of public financing recovers some or all the value that public infrastructure generates for private landowners. “Capturing” the subsequent increase in value, governments can recuperate funds, which can ultimately be used to generate additional value for communities in the future. Specific types of value capture financing mechanisms include:
 - **Special assessment districts** are independent, special-purpose governmental units, other than school district governments, that exist as separate entities with substantial administrative and fiscal independence from general-purpose local governments. Special district governments provide specific services that are not being supplied by existing general-purpose governments. Most perform a single function, but in some instances, their enabling legislation allows them to provide several, usually related, types of services.
 - **Tax increment financing (TIF)** is a tool used by municipal governments to stimulate economic development in targeted geographical areas. TIFs are used to finance redevelopment projects or other investments using the anticipation of future tax revenue resulting from new development. When a TIF district is established, the “base” amount of property tax revenue is recorded using the status quo before improvements. To the extent such efforts are successful, property values rise, leading to an increase in actual property tax receipts above the base. While the base amount of property tax revenue (the level before redevelopment investments) continues to fund city services, the increase in tax revenue is used to pay bonds and reimburse investors and is often captured as city revenue and allocated toward other projects.

- **Joint development** projects involve integrated development of public infrastructure improvements, with projects physically or functionally related to commercial, residential or mixed-use development. Public and private investments are coordinated between agencies and developers to improve land owned by a public agency. Projects are designed to benefit both public and private entities and share costs among project partners.
- **Public-private partnerships.** A public-private partnership (P3) is a cooperative arrangement between two or more public and private sectors, typically of a long-term nature. In other words, it involves government(s) and business(es) that work together to complete a project and/or to provide services to the population. P3s have become an increasingly popular way to get major infrastructure projects built. Compared with traditional procurement solutions, P3s can also spread a project's cost over a more extended period and can thus free up public funds for investment in sectors in which private investment is impossible or otherwise inappropriate. In short, P3s can be very effective tools for delivering effective, cost-efficient projects and associated services. As governments seek to upgrade infrastructure and address the challenges of climate change, among other objectives, the need for private-sector involvement has grown. P3s will likely become important mechanisms for addressing climate risks in coastal communities like Bourne given their capacity to manage certain types of risk.

PART 3: NEXT STEPS

Since the completion of Phase 1, the Town of Bourne has continued to show leadership on climate resilience planning and financing issues. With the strong desire to continue building a more prepared and resilient community, Bourne has become a model for resilience on Cape Cod and across the East Coast. By establishing a financing system that is dedicated to addressing climate resilience, Bourne will be in an excellent position to draw in outside capital and make the necessary investments in its community's civic and capital infrastructure.

The NextGrid project and the decision by the Board of Selectmen to establish the Climate Resiliency Infrastructure Fund have created a very effective and innovative foundation for scaling a sustainable resilience financing system. We recommend the following next steps to build on the momentum that Bourne leaders have generated.

- Establish the Resilience Director position.
- Convene a community task force charged with producing a detailed resilience plan. The plan should address the specific projects necessary for ensuring long-term resilience. In addition, the process should engage community and regional leaders from across Cape Cod to ensure effective coordination and synergies.
- Commission a detailed risk and vulnerability analysis parallel to the resilience planning process.
- Draft a strategic plan for the Resilience Fund, including programmatic goals and functions, administrative structure, and necessary funding support. The strategic plan should include a detailed revenue "map" that addresses each of the project typologies.

These four next steps, coupled with the five key recommendations above, will provide Bourne leaders with an effective road map for addressing long-term climate resilience. There are no easy solutions to the challenges facing the Town of Bourne and other coastal communities like it. However, the processes provided in this report will provide the Bourne community with an opportunity to stay resilient and vibrant regardless of the challenges ahead.

DRAFT



This report was produced by the dedicated team at [Throwe Environmental, LLC](#) in the company's role as a core partner within the SNEP Network. Throwe Environmental is committed to developing climate resilience, environmental finance, and policy and governance solutions for its public, private, and nonprofit clients. As a SNEP Network partner organization, Throwe Environmental focuses on financing, training, and leadership development. Throwe Environmental is based in Bristol, RI and helps communities nationwide address their climate challenges.

Paul R. DeRensis, Esq.
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April 6, 2021

VIA ELECTRONIC MAIL AND FIRST-CLASS MAIL
to aschiavi@TownofBourne.com

Select Board
c/o Anthony E. Schiavi
Town Administrator
24 Perry Avenue
Bourne, MA 02542

RE: Response to RFQ for Legal Services Town of Bourne

Dear Members of the Select Board:

We submit this application to apply for the Town Counsel position to provide legal services for the Town of Bourne. We carefully have reviewed the criteria set forth in the legal services RFQ and state that we meet or exceed those criteria. We have successfully provided the requested legal services to other communities in all categories listed in the RFQ and agree to provide the legal services so listed for the Town of Bourne. See your application form filled in, attached

We meet and exceed the qualification requirements set forth in the RFQ:

I, Paul DeRensis, am a member in good standing of the Massachusetts Bar and qualified to practice law in Massachusetts and able to represent the Town before all courts and governmental agencies in which the Town is likely to appear in the usual pursuit of its municipal functions. We have professional liability insurance in an amount of at least \$1,000,000.

I have been holding a Town Counsel position for over thirty -five years, with responsibility for legal services needed by a Town.

The firm of Brooks & DeRensis P.C. backs up Town Counsel and consists of experienced and seasoned attorneys including myself Paul DeRensis as a general municipal Town Counsel attorney; Leonard Kopelman, founder of the municipal law firm Kopelman & Paige PC, now KP-Law, P.C., Real Estate and Land Use Attorneys John Ruggieri and Pierre Youssef, procurement and contracts Attorney Rodney Hoffman and Litigator and Environmental

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Town of Bourne
April 6, 2021
Page 2

Attorney Daniel R. Deutsch, Litigator Noemi Kawamoto, and Litigator and Insurance claims/Coverage Attorney Jim Hargrove. Resumes are attached as Supplement 1.

Labor & Employment counsel Jack Dolan who is located approximately 12 miles from Bourne Town Hall, will be available for Labor & Employment services as may be requested or needed. .

I am a well-seasoned successful municipal lawyer, excellent at municipal Town Counsel services and common sense. I have been on both sides of the table, both as a Select Board member myself - because I am a nine-term elected member of a Select Board – in addition to personally holding the Town Counsel position in several communities (listed below I have served as President of the Massachusetts Select Board Association where I had the honor of representing all the Select Board members across the state. I have served ten years as an advisor to the present and predecessor Governor and his administration, on local affairs as a member appointed by the Governor to the Commonwealth's Local Government Advisory Commission. I have also served for ten years as a member of the Massachusetts Municipal Association Board of Directors.

Leonard Kopelman, who founded Kopelman & Paige (now KPLaw) and who has considerable experience as Town Counsel representing numerous municipalities, has joined Brooks & DeRensis P.C. as of counsel. Attorney Kopelman has decades of municipal law experience. He is particularly well qualified on Town Counsel issues and practical solutions to avoid costly litigation.

Because we are a mid-size firm, we are positioned midway between the small solo practitioner and the large impersonal municipal law firms. At our size, Bourne would become very important to us, and would get personal attention with direct access to top-level senior attorneys, directly consulting with the Town Administer and other Town officials. We do not give "cookie cutter" multi town answers to your questions. We believe in establishing direct communications between the Town Administrator and Paul DeRensis and/or Leonard Kopelman on all municipal law issues. Our lawyers at this level can provide quick response times as questions arise often directly on the same telephone call that initiates the inquiry.

Most importantly, we are dedicated to public service and would do whatever we could to make sure that good results were obtained to help you move the Town and its citizens forward. This is not a routine "job" for us: we care.

Town of Bourne
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Page 3

We provide updates on regulations, legislation and court decisions that affect municipalities. We also provide training. We organize, as requested by the Town, training seminars on the following:

Open Meeting Law
Public Records
Substantive Regulatory Jurisdiction applicable to specific boards and land use
New Select Board Member Orientation and Training
Ethics and Conflict of Interest

We are also available to conduct on-site training upon request concerning various land use and other issues affecting town boards and commissions and will supply alerts and our newsletters on new decisions and legislation that affects your community.

Paul DeRensis currently serves as Town Counsel to the Towns of Cohasset (25 years), Canton (18 years), Mansfield (11 years), Groton (4 years) and (New Braintree 2 years) as special counsel to other municipalities on specific legal issues. In addition, Paul DeRensis served as Town Counsel for the Town of Randolph for 20 years (1990-2010), and we continue to date to represent the town as "outside" counsel, to the present time.

Our offices are located at 260 Franklin Street, Suite 700, Boston, Massachusetts within a short walking distance of the State House, state agencies' offices and the state and federal courts.

Financial terms are flexible, reasonable, and furnished as an Attachment to this response.

Accordingly, I and the firm can bring to the Town of Bourne the highest level of expertise with all the issues facing a municipality in the Commonwealth of Massachusetts, and, equally important, a sense of hands-on practicality in solving problems.

In addition to the submission of this letter, we welcome an opportunity to meet with the Town to discuss these issues and to show you that Paul DeRensis, and Leonard Kopelman, with Brooks & DeRensis, P.C., are the best choice to assist you into the future.

Respectfully submitted,



Paul R. DeRensis
and the attorneys at B & D

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Brooks & DeRensis P. C.

RESPONSE TO RFQ

TOWN OF BOURNE

RESPONSE TO REQUESTS FOR QUALIFICATIONS/INFORMATION FOR BOURNE TOWN COUNSEL

NAME: Paul DeRensis_____

FIRM NAME: Brooks & DeRensis, P. C.

ADDRESS: 260 Franklin Street, Suite 700, Boston MA 02110

TELEPHONE: 857-259-5200 FAX: _____

EMAIL: PDERENSIS@BDBOSTON.COM

Please respond to each of the following:

1. Please identify by name (address and phone number if different than above) the proposed Town Counsel and each proposed back-up counsel. The Board of Selectmen wants to know the specific individual attorney who will serve as Lead Counsel.

Answer: Paul DeRensis, with back up Leonard Kopelman and others in connection with specific areas of practice as indicated in Cover Letter.

2. Please attach resumes for each attorney identified above.

Answer: Resumes attached as Supplement I

3. Do each of the attorneys identified above meet the minimum bar admission requirements of the RFQ/1? If other than "yes", please explain.

Answer: Yes

4. With respect to each attorney identified, please list each and every Massachusetts municipality represented by the attorney within the past ten years, the years of such representation, and the name, address and phone number of at least one contact person in each municipality with knowledge of the attorney's representation.

Answer: See response attached as Supplement 2

5. Please describe each identified attorney's experience in the areas of land use, zoning and planning.

Answer: See response contained in Supplement 1.

6. Please describe how you propose to satisfy the accessibility requirements of the RFQ/1.

Answer: We so commit to the accessibility requirements of the RFQ. We are available 24/7 by phone, text or email.

7. Please describe how you propose to satisfy the backup requirements in section V. of the RFQ/1.

Answer: Paul DeRensis will be backed up by Leonard Kopelman, see cover letter.

8. Will you meet or exceed the billing requirements of the RFQ/1?

Answer: Yes

9. State whether you have represented a client in the preceding three (3) years who has or had a matter pending before any officer, agency board or committee of the Town of Bourne.

Answer: No.

10. Confirm that you will not, during the time of your representation of the Town, represent any client in any matter in which the interests of the client are adverse to those of the Town, or in any matter seeking action by any officer, agency, board or committee of the Town, in accordance with MGLA 44A c268A s17.

Answer: We so confirm.

11. Provide a general description of the firm, its history, significant changes in its makeup over the last three (3) years and its range of business.

Answer: Brooks & DeRensis, P. C. is a general practice law firm that provides municipal law services and other legal service practice areas. It is an offshoot of the former law firm of Deutsch Williams Brooks DeRensis & Holland P. C. of Boston.

12. Provide a list of municipalities represented over the last 10 years (see attached sheet).

Answer: See response attached in Supplement 2.

13. Although the Town Administrator will select and appoint Labor Counsel, please explain your firm's experience with Municipal Labor Law as there may be times where collaborative discussions between Town Counsel and Town Labor Counsel are desired or warranted.

Answer: Jack Dolan, see cover sheet; we can provide Labor & Employment services through Jack Dolan if requested.

14. For the above Municipal Clients, have you or the firm:

- A. Exceeded the municipal legal budget appropriation (general fund) in the last three (3) fiscal years (FY2018, FY2019, FY2020) and if so, by what percent?
- B. If you have a retainer arrangement with the above clients, please note the retainer amount vs. total amount billed for the last three (3) fiscal years.

Answer: we do not have this information readily available to us


15. Provide details of any criminal investigation, regulatory or disciplinary proceedings or material litigation against your firm or members of your firm, which is either pending or has been completed in the preceding three (3) years.

Answer: NONE

16. Provide details as to the nature and amounts of your firm's professional insurance and of any claims asserted or made against such coverage in the preceding three (3) years.

Answer: \$2,000,000 coverage, NO CLAIMS

By my signature, I certify that the information contained in this Response to Requests for Qualifications are complete and accurate, to the best of my knowledge and belief.

Signed:  Date: 4/5/21

Print Name PAUL DEREWSKI

Firm Name BROOKS + DEREWISKI P.C.

Lists of municipalities represented over the last 10 years/references:

Client Name	Contact Name and Title	Telephone Number
<u>Answer: See Supplement 2</u>		

RESPONSE TO REQUESTS FOR QUALIFICATIONS/INFORMATION FOR BOURNE TOWN COUNSEL

Fees and Expenses Response Sheet

(To be attached to and made a part of the overall Response to Requests for Qualifications)

1. Please list the name and hourly rate for proposed Town Counsel and for each attorney intended or likely to serve as backup when the appointee is unavailable.

Answer: \$200 per hour

2. If you propose to bill for services provided by paralegals, clerical staff or other non-attorney personnel, please list by title and by hourly rate each position for whom you may bill.

Answer: paralegals, \$120 per hour.

3. Please provide a complete listing of all charges for expenses you intend to impose as incurred (i.e. any and all copy charges, telephone charges, fax charges, mileage charges and the like, but excluding any fees for stenographers, court fees, service fees and the like).

Answer: Court filing fees, stenographers, service of process fees, and the like, witness fees, parking, mileage, copying, postage, messenger service or other delivery fee, timed increment computer search charges and other similar items.

4. In what hourly increments do you intend to bill?

Answer: we bill in tenths of hours.

5. Do you bill out attorney time out of the office on a portal-to-portal basis or some other basis? Please describe.

Answer: we bill for an attorney's time for whatever time is spent representing the town and not working on representing another client. We do not charge for time for evening travel.

6. Will there be a separate charge for office hours and/or training sessions? If so, please itemize.

Answer: see the answer to item 5 above.

7. Do you intend to propose an alternative fee arrangement? Yes_ No___ If "yes", please attach additional sheet(s) fully describing and explaining your proposal.

Answer: while of course we would consider any mutually agreeable financial arrangement, no specific alternative proposal is represented at this time.

**ACKNOWLEDGMENT OF RECEIPT OF ADDENDA TO RFQ DOCUMENTS
TOWN OF BOURNE**

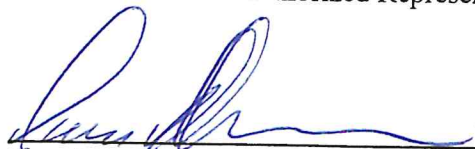
Town Counsel Legal Services

The undersigned responder hereby acknowledges receipt of the following notices, revisions, or addenda to the advertisement, specifications or RFQ/I documents. By indicating date of receipt, responder acknowledges the submittal takes into account the provisions of the notice, revision or addendum.

Reference # or Title of Addendum	Mode of Receipt (fax, email, pickup)	Date received
Answer: None		

Acknowledgment:

PAUL DERENIS
Name and Title of Authorized Representative


Signature

5 April 21
Date

SUPPLEMENT 1

BROOKSS & DERENSIS P. C.



PAUL R. DERENSIS, ESQ.

Principal – Municipal, Business
and Corporate, Labor and
Employment, and
Environmental Groups

pderensis@aol.com

WORK FOR CLIENTS

Mr. DeRensis has represented public entities and has served as Town Counsel or Special Town Counsel, County Counsel, counsel to a Land Bank, an Airport, and a Water Company. As a consequence he has extensive experience with City Councils, Town Managers, Boards of Selectmen, Planning Boards, Conservation Commissions, Town Meetings, Warrants, Boards of Appeals, Executive Secretaries or Town Administrators, Housing Partnerships, Study Committees, Historic District Commissions, Parks & Recreation

Commissions, Boards of Health, Boards of Assessors, Treasurers, Town Clerks, Town Accountants, Building Inspectors, Police and Fire Departments, Schools and Continuing Education Programs, Alcohol Licenses and other licenses and permits, Boards of Sewer Commissioners, Special Permit Granting Authorities, Department of Revenue and the State Ethics Commission. Mr. DeRensis is experienced in municipal matters involving public procurement, land use, environmental, civil rights, contracting, ethics, municipal finance/Department of Revenue issues, special education, and retirement issues. In addition, he practices in the area of corporate governance representing both non-profit and for-profit corporations.

PROFESSIONAL ACTIVITIES

Mr. DeRensis is admitted to practice in New York; U.S. District Court, Southern and Eastern Districts of New York; Massachusetts, U.S. Court of Appeals, Second Circuit and U.S. District Court, District of Massachusetts; U.S. Court of Appeals, First Circuit; U.S. Supreme Court.

PERSONAL AND COMMUNITY ACTIVITIES

- DeRensis is a member of the Boston Bar Association and the Massachusetts Bar Association.
- DeRensis is an eight-term elected official serving as a town selectman. He was also chairman of a Board of Selectmen for seven years, a former town planning board member, and former town Finance Committee Member.
- DeRensis has been President and First Vice President of the Massachusetts Selectman's Association and is a board member of the Massachusetts Municipal Association and the Massachusetts Selectmen's Association.
- DeRensis has served nine terms on the Governor's Massachusetts Local Government Advisory Committee.
- DeRensis was appointed by the Governor as "Public Member" of the Board of Registration in Medicine (the Board which regulates and supervises the medical profession in Massachusetts) for the term 2013-2016.

PUBLICATIONS/PRESENTATIONS

- "The Civil Liabilities of Data Base Operators", The Practical Lawyer, July 1978 (Reprinted), DATA EXCHANGE, March-April 1979).
- "Impact of Computers on Professional Malpractice", The Practical Lawyer, June 1979 (Reprinted), Case & Comment, May-June 1980).
- "Discovery and Pretrial Defense in a Proprietary Rights Case", Contesting Computer Disputes, Harcourt, Brace & Janovitch, 1981.
- Handbook for Massachusetts Selectmen, Fourth Edition, 2014, Member of Editorial Advisory Board, Mass. Municipal Association.

EDUCATION

Mr. DeRensis received his Bachelor Degree from Harvard College and his Juris Doctorate from Harvard Law School.

AWARDS

- DeRensis has been named 12 times as a New England Super Lawyers, most recently in 2016. The list of 2016 Super Lawyers is assembled by Thomson Reuters in conjunction with Boston Magazine based on peer nominations by attorneys, independent research

conducted by the Thomson Reuters research staff, and peer evaluations by practice area across the six New England states aimed at selecting as Super Lawyers the top 5 percent of New England attorneys in more than 60 practice areas and reflects both peer recognition and professional achievement verified through careful selection process to determine New England's best.

- DeRensis was recognized in Martindale Hubbell Bar Registry of Preeminent Lawyers, Municipal and Zoning Law (Volume 1 page 1258A and 1258B).
- DeRensis was named as one of the Boston Globe's Top Rated Lawyers of 2015 in both the Government Law category and the Zoning, Planning and Land Use category.

PRACTICE AREAS

- [Municipal](#)
- [Business and Corporate](#)
- [Labor and Employment](#)
- [Environmental](#)



**LEONARD KOPELMAN,
ESQ.**

Of Counsel – Municipal Group

WORK FOR CLIENTS

Mr. Kopelman specializes in advising town officials and departments on state law issues affecting the operation of local government, including open meeting law, public records law, conflict of interest, municipal finance, Town Meeting, the implementation of local laws and regulations, and land use.

**PROFESSIONAL
ACTIVITIES**

Leonard Kopelman serves as a master in the Superior Court and was the former chair of the Education Committee of the American Judges Association. He was appointed by the Justices of the Supreme Judicial Court to serve as member of the Court's Special Committee on Legal Education. He is a past president of the Massachusetts

State Chamber of Commerce, State Chairman of the American Bar Association Committee on Diplomatic and Consular Law and was appointed by the President of the United States to head the legal division of the Office of Economic Opportunity in Massachusetts. He is also active in community and civic organizations and serves on the Board of Trustees of several nonprofit organizations.

Mr. Kopelman has also appeared before the Supreme Court of the United States and is frequently called upon by state agencies to testify before the legislature and various commissions.

- Massachusetts Bar
- State and Federal Courts in Massachusetts
- Supreme Court of the United States

PERSONAL AND COMMUNITY ACTIVITIES

Mr. Kopelman has been lecturing on management and law at Harvard University for the past 30 years. He has taught at the Harvard Law School, Harvard Business School, Harvard College, and Harvard Extension School and is a Pre-Law Advisor. He delivered 1983 and the 2009 Commencement address to Harvard University Extension and was the 25-year Honorand for the year 2001. He has won two teaching awards at Harvard and lectures abroad extensively.

Leonard Kopelman has an international reputation as well. He serves as the Consul General to the Republic of Finland for the states of Massachusetts, New Hampshire, Vermont, Maine, and Rhode Island and is Dean of the Consular Corp of Boston. In addition, he was the Director General of the Consular Corps College. He has participated in several Foreign Policy Conferences for senior business executives with the Secretary of State and was the United States Delegate to the Society for International Development 14th World Conference held in Abidjan, Ivory Coast. He is past state chairman of the American Bar Association Committee of Diplomatic and Consular Law.

- Trustee, Cathedral of the Pines, a National Shrine
- Director, Camp Allan for Blind Girls (Kiwanis)
- Trustee, Faulkner Hospital
- Trustee, Parker Hill Medical Center
- Director, United Nations Association of Greater Boston

PUBLICATIONS/PRESENTATIONS

- Former Editor of *Law Notes* (second largest legal publication) and the *Quarterly Journal of Economics*
- Author of books entitled *Rent Control and the Health Code* and *Legal Checklists*
- Has appeared in *Business Week* and on CNN
- Various articles on Municipal Law in the Boston Bar Journal and the *Municipal Advocate* (MMA), including: "Municipalities Can Use Tax Agreements to Promote Affordable Housing" and "The Art and Science of Managing Legal Services"
- Boston Business Journal: "Municipal Bankruptcies"

EDUCATION

Mr. Kopelman received his Bachelor of Arts *cum laude* from Harvard College and his Juris Doctorate from Harvard Law School.

AWARDS

- *Who's Who in America*, *Who's Who in American Law*, and *Who's Who in the World*

- 2006 – 2011 “Super Lawyer” in the field of municipal law by *Law & Politics, Inc.*
- Recognized as one of the twelve most “Influential Lawyers in Massachusetts” by the *National Law Journal*
- Received a National Endowment for the Humanities Grant in Jurisprudence
- Harvard University Shattuck Award for Excellence in Teaching
- Harvard University Fussa Distinguished Teaching Award

PRACTICE AREAS

- Municipal



DANIEL R. DEUTSCH, ESQ.

Principal – Litigation,
Environmental, Labor and
Employment, Municipal,
Insurance Advisory Services,
and Real Estate and Land Use
Groups

ddeutsch@bdboston.com

WORK FOR CLIENTS

For 32 years, Mr. Deutsch has prepared complex civil and white-collar criminal cases and tried them before judges and juries in the state and federal courts of Massachusetts and New Hampshire and numerous administrative tribunals. He also has argued extensively before the Massachusetts Appeals Court, Supreme Judicial Court, and the First Circuit Court of Appeals in a wide array of cases, including matters of first impression.

In 2007, Mr. Deutsch tried in the federal court in Boston, with several other attorneys, a

wrongful imprisonment case arising from the 1968 capital murder conviction of four innocent men (*Limone et al. v. United States*). That trial resulted in an award of \$100 million for the plaintiffs and their families, which was upheld on appeal. It is the largest such award in United States history.

As a counselor, Mr. Deutsch regularly advises individuals and businesses on insurance coverage matters. Informed by his litigation experience, he also negotiates and drafts corporate and transactional documents, employment contracts, and severance agreements. Because he has operational experience in a family-run manufacturing business, he is especially attuned to the concerns of small businesses, for whom he acts as general counsel.

PROFESSIONAL ACTIVITIES

Mr. Deutsch is a Vice-Chair of the Appellate Advocacy Committee, Torts Trials and Insurance Practice Section of the American Bar Association. He served the Massachusetts Bar Association as a member of its September 11 Committee and has presented to students in the public schools. Mr. Deutsch received the Boston Bar Association President's Award in 2014 for his assistance to a business victimized by the Boston Marathon bombing.

PERSONAL AND COMMUNITY ACTIVITIES

Mr. Deutsch has served on Vision 2020, a strategic planning committee for the Town of Lexington, and is a member of the Executive Committees of the University of Chicago Laboratory Schools and of the Boston University School of Law Alumni Association. He is an accomplished landscape and architectural photographer and enjoys bicycling and cross-country skiing.

PUBLICATIONS/PRESENTATIONS

Mr. Deutsch lectures on environmental law to visiting Chinese pre-law students at Boston University School of Law each summer. He also has lectured and authored articles on business planning, litigation prevention, and employment practices for trade groups, including several chapters of the Painting and Decorating Contractors Association, the nation's oldest trade association. His professional publications include:

- Co-author: "Recent Developments in Appellate Advocacy," 45 TORT TRIAL & INS. PRAC. L.J. 179 (Winter 2010).
- Co-author: "Recent Developments in Appellate Advocacy," 46 TORT TRIAL & INS. PRAC. L.J. 195 (Winter 2011).

Cases that Mr. Deutsch has litigated have resulted in decisions published by state and federal appellate courts:

- *Cardoso v. Liu; Soares v. Liu*, App. Div. No. 10-ADMS-10036, 10038 (May 4, 2011)
- *Limone v. United States of America*, Court of Appeals, Case No. 08-1327 (2010)
- *Limone v. United States of America*, U.S. District Court for District of Massachusetts, Civil Action No. 02-cv-10890NG(2007)
(<http://pacer.mad.uscourts.gov/dc/opinions/gertner/pdf/limonefinalalljuly26.pdf>)
- *Grassia v. Magee*, 10 Land Court Rptr. 179 (2002)
- *California Plant Protection, Inc. v. Durand*, 39 Mass. App. Ct. 627 (1996)

EDUCATION

Mr. Deutsch served as a law clerk with the Office of the United States Attorney for the District of Massachusetts, practiced law in southern New Hampshire, and for 29 years practiced with the Deutsch Williams law firm in Boston, where he also served as co-Managing Principal. He earned his Bachelor of Arts in Government, with distinction, from Cornell University and his Juris Doctorate from Boston University School of Law.

PRACTICE AREAS

- [Litigation](#)
- [Environmental Law](#)
- [Labor and Employment](#)
- [Municipal](#)
- [Insurance Advisory Services](#)
- [Real Estate and Land Use](#)

NOEMI KAWAMOTO, ESQ.

Litigation and Municipal Groups

nkawamoto@bdboston.com

AREAS OF PRACTICE

Noemi concentrates her practice on the prevention, management, and litigation of a wide variety of matters, including commercial disputes and municipal matters.

WORK FOR CLIENTS

Noemi has practiced law for over ten years, concentrating on a wide variety of litigation matters in both state and federal court. Her experience includes managing complex commercial disputes, antitrust issues, professional malpractice claims, and land use and municipal matters.

Noemi has experience at both the trial and appellate court levels and has briefed and argued cases in Superior Court, Land Court, the Massachusetts Appeals Court, the Massachusetts Supreme Judicial Court, the federal District Court for the District of Massachusetts and the First Circuit Court of Appeals, including matters of first impression.

As a litigator, Noemi pays particular attention to working with clients to devise strategies that make sense for each matter and client, including pre-litigation strategies. Noemi also has experience mediating and arbitrating disputes.

Noemi is admitted to practice law in the Commonwealth of Massachusetts as well as in the State of New York.

PERSONAL AND COMMUNITY ACTIVITIES

Noemi is an avid fitness enthusiast and enjoys cycling and teaching group fitness classes in her free time.

EDUCATION

Noemi earned her J.D. from Boston University School of Law after graduating *magna cum laude* from Santa Clara University with dual degrees in Combined Sciences and Spanish Studies. She is also a member of Phi Beta Kappa.

PRACTICE AREAS

- Litigation
- Municipal



**JOHN GF RUGGIERI-LAM,
ESQ.**

Of Counsel – Real Estate and
Land Use Group

[857-930-4828](tel:857-930-4828)
jruggieri@bdboston.com

WORK FOR CLIENTS

Mr. Ruggieri has extensive experience in residential condominium development and financing including business entity (LLC, Partnerships, et al) selection in connection with real estate development and residential purchase and sales contracts and conveyancing. John also advises businesses in the restaurant and hospitality industry as to all aspects of business formation, financing, contracts and business dispute and issue resolution.

**PROFESSIONAL
ACTIVITIES**

Mr. Ruggieri is a member of the Massachusetts and Rhode Island Bars, the Massachusetts Bar Association, and the Real Estate Bar Association.

PERSONAL AND COMMUNITY ACTIVITIES

Mr. Ruggieri is presently the Chairman of the Board of the Boston Center for the Arts, a non-profit organization based in the Boston's South End, whose mission is connecting emerging artists to the community, as well as providing space and opportunity for artists to thrive and foster their work. John is board member emeritus of the East End House, one of Cambridge Massachusetts oldest charitable organizations catering to the elderly and children in the Cambridge area.

PUBLICATIONS/PRESENTATIONS

Mr. Ruggieri has made numerous presentations to real estate brokers and professionals, as well as first time home buyer seminars, for purposes of education and fostering of good business and understanding of the real estate purchase and sales process and legal aspects related to such transactions.

EDUCATION

Mr. Ruggieri received his Bachelor's Degree in Business Administration for Boston University, and his Law Doctorate from Suffolk University, Boston in 1990.

PRACTICE AREAS

- Real Estate
- General Business
- Restaurant and Hospitality
- Litigation

PIERRE C. YOUSSEF, ESQ.

Real Estate, Municipal, and Litigation Groups

pyoussef@bdboston.com

WORK FOR CLIENTS

Pierre Youssef is an Associate with the firm. Pierre's practice focuses on real estate, municipal, and general litigation matters. Prior to joining Brooks & DeRensis, Pierre represented municipalities throughout the Commonwealth concerning: evictions, land court and property title matters, tax taking matters and general litigation.

PROFESSIONAL MEMBERSHIPS

Pierre Youssef is a Member of the Massachusetts Bar and is licensed to practice in the United States District Court for the District of Massachusetts.

PERSONAL AND COMMUNITY ACTIVITIES

In his spare time, Pierre enjoys spending time with his family and fiancée. He enjoys staying active and traveling.

EDUCATION

Mr. Youssef holds a Bachelor's Degree, cum laude, from Framingham State University, and a Juris Doctorate from Suffolk University Law School.

PRACTICE AREAS

- [Real Estate](#)
- Municipal
- General Business
- [Litigation](#)



RODNEY G. HOFFMAN, ESQ.

Of Counsel – Business and
Corporate Law and Municipal
Groups

rhoffman@bdboston.com

WORK FOR CLIENTS

Mr. Hoffman's broad transactional practice embraces general corporate formation and documentation, commercial and secured transactions, capital formation, lending transactions, and intellectual property matters. He counsels closely-held and other businesses relative to those matters, as well as corporate governance, strategic planning, and employment law matters relating to compensation, non-

competition, and severance issues. In addition, Mr. Hoffman regularly advises municipal clients on contracting and construction transactions and procurement matters.

PROFESSIONAL ACTIVITIES

Mr. Hoffman is a member of the Massachusetts Bar Association and Boston Bar Association and is a member of both the Massachusetts and Pennsylvania bars. He is long-time counsel to and President of the Massachusetts Council on Compulsive Gambling, which provides services for both professionals and clients regarding

problem gambling in the Commonwealth. He also is a member of the municipal Personnel Committee in the city in which he resides.

EDUCATION

Mr. Hoffman holds a Bachelor of Arts degree from the University of Pittsburgh and a Juris Doctorate from Harvard University.

PRACTICE AREAS

- Business and Corporate Law
- Municipal



JAMES T. HARGROVE, ESQ.

Chair – Insurance Advisory
Services and Litigation Groups

jhargrove@bdboston.com

WORK FOR CLIENTS

Mr. Hargrove's litigation has included personal and commercial property, personal and commercial liability, environmental liability, directors' and officers' liability, errors and omissions liability, fidelity and surety, and inland and ocean marine. He has represented commercial insureds as well as many major domestic and foreign insurers including

Underwriters at Lloyds, London. In addition to his trial work, Mr. Hargrove has consulted with insurers and insureds regarding the drafting and interpretation of insurance policies and alternative methods of managing risks.

Over the years, Mr. Hargrove has tried numerous cases to verdict in state and federal Courts, ranging from arson and fraud defense to fish mortality claims in jurisdictions from Maine to California. He has argued matters before the Massachusetts Appeals Court, Connecticut Appeals and Supreme Courts, and the Federal First and Second Circuits. Prior to joining Brooks & DeRensis, Mr. Hargrove

was counsel at Deutsch Williams, a shareholder at Goulston & Storrs, PC, and a partner at Morrison Mahoney LLP.

PROFESSIONAL ACTIVITIES

Mr. Hargrove is admitted to practice in Massachusetts and admitted before the Federal District Courts of Massachusetts, Maine, Connecticut, New York, Vermont, and Michigan. He is admitted to practice before the Federal First and Second Circuit Courts of Appeal. He has been admitted *pro hac vice* in the state courts of Maine, Connecticut, New York, Nevada, Louisiana, and California. Mr. Hargrove has acted as a trial advisor for the Harvard Law School Trial Advocacy Workshop, as a judge for the Suffolk University Law School Moot Court Board, and as a judge for the ATLA (now American Association for Justice) National Student Trial Advocacy Competition.

PERSONAL AND COMMUNITY ACTIVITIES

He has also volunteered in Scene Design and Construction for the Manchester Essex Regional Schools. In addition, he has taught at the University of Windsor, Ontario, while in the MFA program at Wayne State University, as well as an instructor at Northeastern University.

EDUCATION

Mr. Hargrove holds a Bachelor of Arts degree in Theatre from Loyola University in Chicago and received his Juris Doctorate from Suffolk University Law School.

PRACTICE AREAS

- Insurance Advisory Services
- Litigation



JOHN F. DOLAN, ESQ.

Municipal, Labor and
Employment Groups

AREAS OF PRACTICE

Mr. Dolan has decades of experience as a municipal attorney. Further, he has served three communities as a Town Administrator. He knows first-hand the challenges management faces.

WORK FOR CLIENTS

Mr. Dolan provides legal advice and representation to employers concerning all labor and employment/human resource issues; conducts labor negotiations with employee unions; represents public and private employers in resolving disputes involving labor matters, employment and

discrimination issues; provides training for employers in all aspects of employment law; represents management entities in labor relations/employment proceedings before the courts, the American Arbitration Association, the Massachusetts Department of Labor Relations, the Civil Service Commission, the Massachusetts Commission Against Discrimination, the Joint Labor/Management Committee and other forums; and advocates management interests with the Massachusetts legislature.

Mr. Dolan regularly counsels management in all phases of the employer-employee life cycle. He provides guidance on best practices and pitfall avoidance in hiring, drafts personnel policies and employment handbooks, prepares employment and severance agreements, and serves as an integral part of the management team in managing employment-related legal risks. Mr. Dolan also has extensive experience in the area of

health insurance, particularly in the public sector.

Mr. Dolan is admitted to practice in Massachusetts and New Hampshire (inactive status at present), the Federal District Courts of Massachusetts and New Hampshire, and the Supreme Court of the United States.

PERSONAL AND COMMUNITY ACTIVITIES

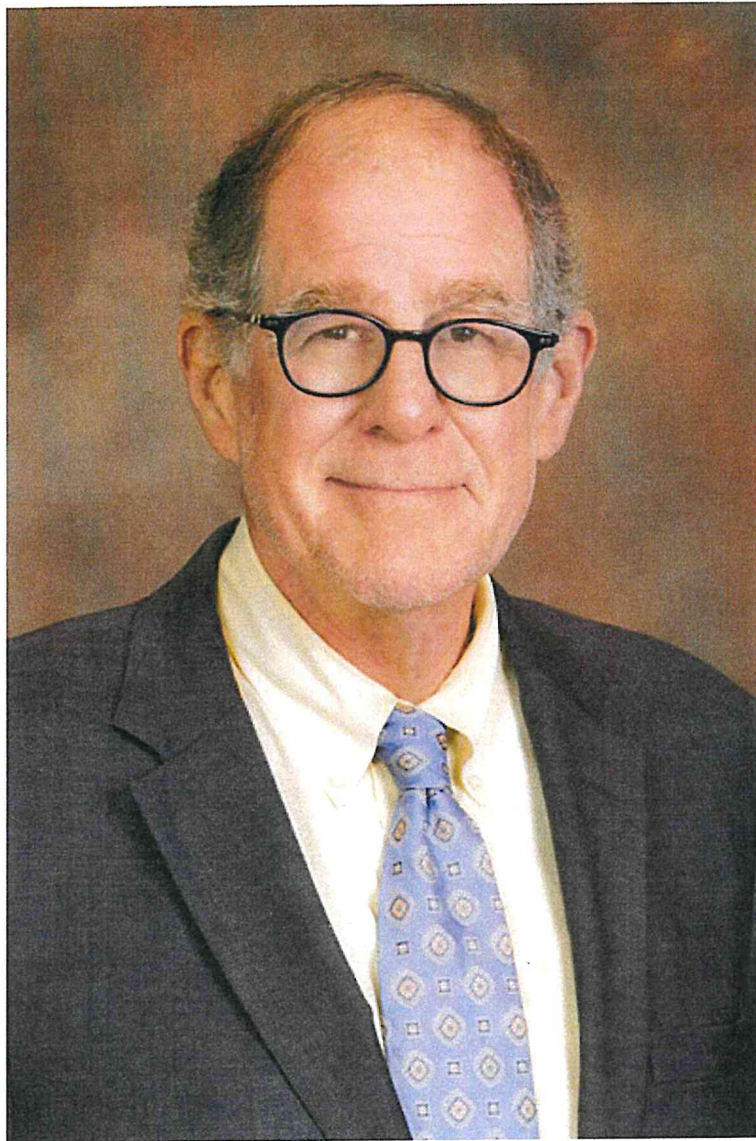
In his rare spare time, Mr. Dolan enjoys saltwater flyfishing and performing with the Irish band Rare Ould Times (at least in the pre-COVID days).

EDUCATION

Mr. Dolan holds a Bachelor of Arts degree from Harvard College and a Juris Doctor degree from the Boston University School of Law.

PRACTICE AREAS

- Municipal
- Labor
- Employment



**PETER J.
BERRY, ESQ.**

Labor and Employment Group

pberry@bdboston.com

WORK FOR CLIENTS

Mr. Berry provides legal advice and representation to employers concerning all labor and employment/personnel issues; conducts labor negotiations with employee unions; represents public and private employers in initiating and defending litigation involving labor relations, employment and discrimination issues; provides training for employers and educational entities in all aspects of

employment law; represents management entities in labor relations/employment litigation before Massachusetts and Federal Courts, the American Arbitration Association, the Massachusetts Labor Relations Commission, the Civil Service Commission, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Board of Conciliation and Arbitration, and the Joint Labor/Management Committee; and advocates management interests with the Massachusetts legislature.

Mr. Berry has represented management interests in both traditional and interest-based bargaining with unions representing police, fire, dispatch and other public safety personnel, employees of public works departments, custodians, clerical employees, teachers, administrators, and paraprofessionals.

PROFESSIONAL ACTIVITIES

- Massachusetts Bar Association, Labor and Employment Law Section Council: Chair, 1999-2000; Vice-Chair, 1998-1999
- Massachusetts Bar Foundation: Fellow, 1989-Present.
- Lawyers Clearinghouse on Affordable Housing and Homelessness: Founding Board Member, 1987-1995.
- Berry received the Boston bar Association President's Award in 2014 for his assistance to a victim of the Boston Marathon bombing.

PERSONAL AND COMMUNITY ACTIVITIES

- Acton Board of Selectmen: 2007- 2010; 2013-present
- Massachusetts Division of Labor Relations Advisory Council – Governor's Appointment, 2007 – 2013
- Emmanuel Church, Newbury Street, Boston, MA: Senior Warden; 1983-1990.
- Acton Housing Authority: Commissioner, 1988-1990.
- Acton Community Housing Corporation: Director, Chairman, 1989-2002
- Acton Zoning Board of Appeals: Member, Chairman, 1993-2000
- Action Conservation Commission: Commissioner, Vice-Chair, 2001-2003.
- Acton Community Preservation Committee, Chair, 2002-2005; 2013-present

EDUCATION

Mr. Berry holds a Bachelor of Arts degree from University of Massachusetts and Juris Doctorate from New England Law.

PRACTICE AREAS

- Labor and Employment

SUPPLEMENT 2

BROOKSS & DERENSIS P. C.

SUPPLEMENT 2

Town of Canton, 801 Washington Street, Canton MA 02021

Town Counsel 2003- to present time

Chair of the Select Board John Connolly,

Telephone: 781-760-1405;

Email, jconnolly781@verizon.net

Town of Randolph, 41 South Main Street, Randolph, MA 02368

Town Counsel 1990-2010, Outside counsel 2011-present time.

Council President William Alexopoulos,

Telephone: 781-389-8132

Email: walexopoulos@randolph-ma.gov

Town of Mansfield, 6 Park Row, Mansfield, MA 02048

Town Counsel 2010 to present time

Select Board Chair Frank Delvecchio, vvv

Telephone: 860-335-0343

Email: fdelvecchio@mansfieldma.com

Town of Groton, 173 Min Street, Groton, MA 01450

Town Counsel 2018 to present time

Select Board Chair Alison Manugian

Telephone : 978-877-7042

Email amanugian@grotonma.org

Town of New Braintree (Attorney Len Kopelman)

Executive Secretary Kristen Thacker

Telephone: 508-867-2071 extension 1

Email: selectboard@newbraintree.org

Special Counsel:

Town of Templeton,

Select Board member Jeff Bennett

Telephone : 978-939-8201

Email: jbennett@TempletonMA.gov

Town of Wilmington (Attorney Dan Deutsch)

Former 27 year select board member, Michael McCoy

Telephone 978-604-8115

City of Somerville (Attorney Peter Berry)

Attorney Francis Wright, City Solicitor

Telephone: 617-625-6600 x4410

Email: fwright@somervillema.gov

Town of Halifax (Attorney Kawamoto)

Town Administrator Charles Seelig

Email: Cseelig@town.halifax.ma.us



The Leader in Public Sector Law

101 Arch Street, Boston, MA 02110
Tel: 617.556.0007 | Fax: 617.654.1735
www.k-plaw.com

April 9, 2021

Lauren F. Goldberg
lgoldberg@k-plaw.com

BY ELECTRONIC MAIL ONLY (aschiavi@townofbourne.com)

Mr. Anthony E. Schiavi
Town Administrator
Bourne Town Hall
24 Perry Avenue
Bourne, MA 02532

Re: Proposal for Town Counsel Services

Dear Mr. Schiavi:

The law firm of KP Law, P.C. is delighted to submit the within Proposal for Town Counsel Services. The proposal includes a detailed description of our approach to municipal legal services, the varied areas in which we have expertise, and the several services we provide at no cost. These value added, complimentary, services keep clients abreast of constantly changing and ever more complex legal requirements. Choosing the firm as Town Counsel ensures that a small team of stellar municipal lawyers with expertise in virtually every area of municipal law will oversee, coordinate and undertake legal services needed by the Town in a cost effective, efficient manner.

The proposed legal team for the Town includes Attorney Gregg J. Corbo as primary contact attorney with Attorney Brian M. Maser as the Town's back-up contact and Attorney Jonathan M. Silverstein as the primary provider of Land Use Services. Should the Town wish to pursue labor and employment counsel services, Attorney Maser would act as lead counsel in this area. All three members of the proposed team are senior attorneys at the firm with decades of municipal law experience.

Should the firm be appointed as Town Counsel, there would be no charge for transition. Attorneys Corbo and Maser would meet with you, the Board of Selectmen, and key Town boards and staff, and review existing background and case file materials, to determine the Town's goals and priorities. In this way, we would work together with the Town as a team to prepare for an efficient transition.



Mr. Anthony E. Schiavi
Town Administrator
April 9, 2021
Page 2

Should you have further questions, we would welcome the opportunity to discuss in greater depth how choosing KP Law as Town Counsel will ensure that the Town has excellent, cost effective legal services, with no need for more expensive special counsel services. In the meantime, please contact me with any further questions at either lgoldberg@k-plaw.com or my mobile phone at 617-548-7622.

Very truly yours,

A handwritten signature in blue ink, reading "Lauren F. Goldberg".

Lauren F. Goldberg

LFG/aem
Enc.
757872/KP/0005



The Leader in Public Sector Law

PROPOSAL FOR TOWN OF BOURNE TOWN COUNSEL SERVICES

SUBMITTED BY:

KP Law, P.C.
101 Arch Street
Boston, MA 02110

Contact: Lauren F. Goldberg
E-Mail: lgoldberg@k-plaw.com

Tel: 617-556-0007
Fax: 617-654-1735

Toll Free: 800-548-3522
Toll Free: 800-951-5455

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A. PROPOSAL FOR TOWN OF BOURNE TOWN COUNSEL SERVICES

EXHIBIT 1: Attorney Resumes

- Gregg C. Corbo
- Brian M. Maser
- Jonathan M. Silverstein

EXHIBIT 2: Municipalities Represented Within the Last Ten Years
For each identified Attorney

- Gregg C. Corbo
- Brian M. Maser
- Jonathan M. Silverstein

EXHIBIT 3: Municipal Client Lists

- Town Counsel/City Solicitor Client List with Years of Service
- Labor Counsel Client List with Years of Service

EXHIBIT 4:

- A Detailed Overview of Certain Practice Areas
- List of Full Range of Services

EXHIBIT 5:

- List of Recent eUpdates & Webinars
- Samples of eUpdates
- Samples of Municipal Law Reference Sheets

EXHIBIT 6: List of Seminars and Workshops

EXHIBIT 7: Acknowledgement of Receipt of Addenda to RFQ Documents

B. FEES AND EXPENSES RESPONSE SHEET

ATTACHMENT A



The Leader in Public Sector Law

RESPONSE TO REQUEST FOR QUALIFICATIONS/INFORMATION FOR TOWN OF BOURNE TOWN COUNSEL SERVICES

NAME: Lauren F. Goldberg, Esq., President
BBO#: #631013
FIRM NAME: KP Law, P.C.
ADDRESS: 101 Arch Street, Boston, MA 02110
TELEPHONE: 617-556-0007
EMAIL: lgoldberg@k-plaw.com
FAX NO: 617-654-1735
WEBSITE: www.k-plaw.com

The firm of KP Law, P.C. is pleased to submit this response to the Town's Request for Qualifications/Information for Town Counsel Services. We appreciate the opportunity to provide the Town with an understanding of the commitment we make to our municipal clients and the value-added benefits the firm provides.

INTRODUCTION

KP Law, P.C., is the Commonwealth's most experienced municipal law firm. With the experience gained in our service to client communities as Town Counsel and City Solicitor, where we provide legal services in each of the areas of law in the Town's Requests for Proposals, together with our focus on personal relationships, responsiveness and complete accessibility, the firm is uniquely poised to serve as your Town Counsel. We are confident that the proposed legal team, with their collective proven municipal experience, and the support of the firm's other highly experienced municipal attorneys, will provide the Town of Bourne with outstanding, comprehensive legal representation at a competitive, affordable price.

RESPONSES TO SPECIFIC QUESTIONS

1. Please identify by name (address and phone number if different than above) the proposed Town Counsel and each proposed back-up counsel. The Board of Selectmen want to know the specific individual attorney who will service as Lead Counsel.

Attorney Gregg J. Corbo (BBO #641459)

Primary Contact

Email: gcorbo@k-plaw.com

Tel: 617-654-1764

Attorney Brian M. Maser (BBO #655667)

Back-Up Contact

Email: bmaser@k-plaw.com

Tel: 617-654-1725

Attorney Jonathan M. Silverstein (BBO #630413)

Zoning and Land Use Contact

Email: jsilverstein@k-plaw.com

Tel: 617-654-1729

Additionally, other attorneys at the firm could be called upon to provide legal services to the Town in the event that the circumstances so require. Profiles for all of the firm's attorneys can be viewed at www.k-plaw.com/attorneys.

2. Please attach resumes for each attorney identified above.

Resumes for Attorneys Corbo, Maser and Silverstein are attached as *Exhibit 1*.

3. Do each of the attorneys identified above meet the minimum bar requirements of the RFQ/I? If other than "yes", please explain.

Yes.

4. With respect to each attorney identified, please list each and every Massachusetts municipality represented by the attorney within the past ten years, the years of such representation, and the name, address and phone number of at least one contact person in each municipality with knowledge of the attorney's representation.

A list of municipalities represented by Attorneys Corbo, Maser and Silverstein, within the past ten years including years of representation, is attached as *Exhibit 2*. Attorneys Corbo, Maser and Silverstein provide legal counsel in other municipalities in connection with their areas of expertise; should you so request, we can provide additional references. Attached as *Exhibit 3* please find a list of municipalities represented by the firm as Town Counsel or City Solicitor, and Labor Counsel, with years of service listed. Note that the firm serves as Labor and Employment Counsel to the vast majority of our general municipal clients.

5. Please describe each identified attorney's experience in in the areas of land use, zoning and planning.

No other Massachusetts firm can match the scope and depth of experience KP Law offers our clients. The firm's major practice areas are discussed in detail in the document attached hereto as *Exhibit 4*, along with a list of our full range of services. We have some level of experience with virtually any issue that may arise in the municipal context, or have experience in a similar matter from which we are able to draw upon to provide practical legal advice. The firm's attorneys are all municipal generalists and each attorney has also developed particular areas of expertise based upon their individual experiences and interests.

Attorney Jonathan M. Silverstein, a Shareholder of the firm and a member of the firm's Management Committee, is proposed as the Town's main contact for land use, zoning and planning matters. We have provided profiles of all three of the attorneys that would constitute the Town's legal team. Like all of our attorneys in the Land Use Practice Area, Attorney Silverstein provides a full range of legal services to public entities in connection with planning, zoning, planning boards, zoning boards of appeal, historic district commissions, building officials, boards of health, and conservation

commissions. Moreover, our attorneys assist client municipalities in all aspects of permitting of municipal projects. Attorney Silverstein, and all of our land use attorneys specialize in all aspects of land use law, including: affordable housing, G.L. c.40B; G.L. c.40R; building permits; expedited permitting; historic district development; subdivision development; telecommunication permits; Title 5 permits; wetland protection permits; zoning permits; and code enforcement of all types. Many of our clients have significant shorelines, as well as harbors, piers, commercial and recreational fishing, seasonal use of public beaches, endangered wildlife and more. For that reason, all of our Land Use attorneys, including Attorney Silverstein, have worked with municipalities from the North Shore to the South Shore, Cape and Islands on matters ranging from harbor regulations, shell fishing, enforcement, marina and beach permitting of all kinds, and similar matters.

Our related environmental law practice includes substantial experience with water and wastewater permitting and compliance, solid waste management and disposal, transfer station and noisome trade site assignment, and G.L. c.21E and federal Superfund liability and litigation.

Attorney Profiles

Attorney Gregg J. Corbo, a Shareholder of the Firm, is proposed as the Town's primary contact. Attorney Corbo has broad experience as a general municipal law practitioner, regularly advising clients on core administrative law matters such as preparation for and attendance at Town Meeting, compliance with the Open Meeting, Public Records and Conflict of Interest Laws, as well as Title 5 compliance issues, vicious dogs, alcoholic beverages and firearms licensing, advising and representing towns at town meetings, and more. Attorney Corbo has been practicing municipal law for over 15 years, has attended hundreds of board and committee meetings, and assisted dozens of towns in drafting warrant articles and motions, advised on posting and notice requirements, attended pre-town meetings to work with the moderator and other important town officials to ensure that the procedures for holding such meetings are fully vetted, and represented municipalities at town meetings of all sizes, with simple and complex warrants, and parliamentary procedure issues of all kinds.

Attorney Corbo frequently represents municipalities through all stages of code and bylaw enforcement efforts. He appears frequently in court and before administrative agencies on a regular basis on behalf of clients on a full range of legal issues. Attorney Corbo is a seasoned litigator, and appears in court regularly on behalf of municipal clients on matters ranging from prosecution of enforcement actions to defending decisions of local boards. Examples of the importance of his work include winning a major case for the Town of Essex with respect to the status of seasonal cottages erected on Town-owned land and successfully represented the Town of Boxford in litigation against MassDOT for pollution caused by the improper storage of road salt.

Attorney Brian M. Maser, also a Shareholder of the firm, is proposed as the Town's back-up attorney. Since joining the firm more than 15 years ago, Attorney Maser has been providing public sector entities with quality counseling and assistance in all facets of municipal law, including Open Meeting Law, Public Records Law, Conflict of Interest Law, and Town Meeting. He serves as the primary contact attorney or back-up attorney to numerous communities and advises clients at open meetings and executive sessions, public hearings, Town Meetings, City and Town Council Meetings, and works closely on a regular basis with Town Managers, Town Administrators and Mayors.

Attorney Maser, while providing advice and counsel intended to help the client avoid litigation and other adversarial proceedings, is a seasoned negotiator and litigator, advocating zealously on his clients' behalf. He represents clients before state and federal courts, labor arbitrators, retirement boards and numerous administrative agencies on such issues as employment discrimination, wrongful termination, organizing petitions, unfair labor practices, employee discipline, and contractual grievances. Attorney Maser has successfully represented his clients in several high profile termination arbitrations with favorable results and has argued two cases before the Supreme Judicial Court.

Attorney Jonathan M. Silverstein, a Shareholder of the firm and member of the Management Committee, is proposed as your principal provider of land use and zoning legal services. Attorney Silverstein has more than 20 years of experience in municipal law, including serving in the role of primary contact attorney or litigation/land use attorney. His extensive land use and environmental experience, includes zoning and subdivision control, affordable housing, licensing, and property contamination. Attorney Silverstein's general municipal law experience includes, but is not limited to, municipal finance, conflict of interest, public records and Open Meeting Law. He regularly assists with town meeting matters, including drafting warrant articles and motions, reviewing annual and special town meeting warrants, meeting with moderators and other key town officials and representing towns at town meeting.

As one of the firm's leading litigators, Attorney Silverstein successfully represents clients before every level of the state and federal courts, as well as various administrative agencies, such as the Housing Appeals Committee and the Department of Environmental Protection. He has an impressive list of appellate victories on various land use and real estate issues, and his broader litigation experience in areas such as tort and civil rights claims places him in a unique position to represent and protect the firm's municipal clients. Massachusetts *Super Lawyers* regularly recognizes Attorney Silverstein as a Super Lawyer in the field Government/Cities/Municipalities. In 2004 Massachusetts Lawyers Weekly also named him one of five "Up and Coming Lawyers" statewide.

Additional information about each member of the proposed team is detailed in their resumes, attached as ***Exhibit 1***.

Other attorneys at the firm are prepared to provide direct support to the Town's legal team in their respective areas of expertise, including all of those areas enumerated in the Section 3, of the Request for Qualifications/Information. Additional information about all the firm's attorneys can be reviewed at www.k-plaw.com/attorneys.

6. Please describe how you propose to satisfy the Accessibility requirements of the RFQ/I.

We look forward to working directly with elected and appointed officials and staff at in-person or remote day or evening meetings, as required, as well as office hours at Town Hall two half-days per month. All of our attorneys are accessible to the Town when and as needed in person, by direct and toll-free telephone numbers, and by voice mail, fax, e-mail, and mobile phone. As a firm of town counsels and city solicitors, we understand that your work does not start and end during "regular" business hours, and expect that we will be called upon at any time. For that reason, designated Town officials will be provided with the cell and office direct dial telephone numbers of each of the primary and back-up contact attorneys proposed for Bourne's legal team.

All attorneys who work with the Town commit to returning calls/e-mails promptly and certainly within 24 hours, as you require. Similarly, attorneys who work with the Town will respond to requests for written opinions promptly, and within one week, unless the circumstances of the opinion warrant a shorter or longer time frame for response. Legal services require collaboration, and we will seek to ensure that we understand your expectations, and that you are informed of any circumstances that would result in the need for additional time to prepare a well-researched, responsive, written opinion.

We will provide detailed monthly summaries of all ongoing legal activity as part of our standard billing protocols, at no cost to the Town. Finally, we are very conscious of how tight municipal budgets are, and will work closely with the Town to manage the legal budget. We will, of course, respect any policy applicable to contact with Town Counsel.

7. Please describe how you propose to satisfy the back-up requirements in section V. of the RFQ/I.

Our approach to the day-to-day management of our clients' legal needs is through a "primary attorney" or "lead attorney" system. The firm developed this system based on its extensive experience with municipalities to provide each client with the benefit of personalized service, enhanced by the full range of our attorneys' experience, expertise and reputation in the legal community. As the designated lead attorney for the Town, Attorney Corbo will be the coordinator of all legal services to the Town. All legal matters will be submitted to Attorney Corbo who will either provide the service himself or coordinate assignments to an appropriate member of the team, all in a thorough, speedy and cost-effective manner.

In the event Attorney Corbo is unavailable for whatever reason, Attorney Maser will be prepared, as needed, to provide such guidance or information as may be requested from time to time. The Town's legal team, comprised of Attorneys Corbo and Maser together with Attorney Silverstein are supported by the firm's other practitioners with proven experience and success in the broad range of municipal law practice areas, ensures full coverage at all times. This highly experienced municipal law team for all the Town's general, specialty, and emergency needs eliminates the need for Special Counsel. Thus, should you choose KP Law for legal services, we will create savings for the Town, both in terms of the financial cost of Special Counsel and the administrative burden required to monitor multiple lawyers or law firms.

8. Will you meet or exceed the Billing requirements of the RFQ/I?

We will meet or exceed the billing requirements of the RFQ by providing detailed monthly summaries of all legal activity as part of our standard billing protocols. Of course, our billing practices are such that the firm can provide such level of billing detail as is requested. In addition, we will, of course, provide upon request a substantive analysis and/or a status report concerning the progress on any matter.

9. State whether you have represented a client in the preceding three years who has or had a matter pending before any officer, agency board or committee of the Town of Bourne.

No.

10. Confirm that you will not, during the time of representation of the Town, represent any client in any matter in which the interests of the client are adverse to those of the town, or in any

matter seeking action by any officer, agency, board or committee of the Town, in accordance with MGLA 44A c.268A, s17.

KP Law is dedicated to the practice of municipal law. As a firm policy, we do not represent private clients against municipalities that we represent. We therefore confirm the statement above, and note further that the firm is also bound by the Rules of Professional Responsibility.

11. Provide a general description of the firm, its history, significant changes in its makeup over the last three years and its range of business.

KP Law has approximately 45 years of experience in public sector law and represents over one-third of the cities and towns of Massachusetts as Town Counsel or City Solicitor. More than 98% of our practice is devoted to representing municipalities and public agencies. The firm is Town Counsel or City Solicitor to over one-third of the municipalities in Massachusetts. The firm is also special counsel to numerous other communities for housing, appellate tax, litigation, environmental, land use, tax title, and labor and employment. Please refer to *Exhibit 3* for a list of municipalities where we serve as Town Counsel or City Solicitor and/or as Labor Counsel.

The firm's approximately 40 attorneys are all members in good standing of the Massachusetts Bar, supported by a dedicated staff of paralegals and assistants. Our trial lawyers are admitted to the U.S. District Court (Mass.) and the U.S. First Circuit Court of Appeals and many are also admitted to the U.S. Supreme Court. Some have held high level positions in state and federal agencies and local governments. Our attorneys work in a collegial atmosphere that encourages collaboration and sharing of information, resulting in measurable benefit for our clients, creating solutions, when appropriate, consistent with the trend towards regionalization and shared services.

Since the main focus of the firm is municipal and public sector law, we are not internally organized into conventional "departments" but rather into broad practice groups: General Municipal Law; Land Use, Zoning, and Planning; Environmental; Real Estate; Public Construction and Procurement; Government Information and Access; School and Education Law; Labor and Employment; Tax Title; and Litigation. See *Exhibit 4*, for a full list of legal services provided by the firm. Monitoring the passage of general and special laws, as well as litigation matters relevant to municipalities, we ensure that all of our lawyers stay current on trends and developments in municipal law throughout the Commonwealth.

12. Provide a list of municipalities represented over the last 10 years.

Please see *Exhibit 3* for a list of municipalities represented by the firm as Town Counsel or City Solicitor.

13. Although the Town Administrator will select and appoint Labor Counsel, please explain your firm's experience with Municipal Labor Law as there may be times where collaborative discussions between Town Counsel and Town Labor Counsel are desired or warranted.

KP Law's labor and employment attorneys have been providing a full range of services in labor, employment, discrimination, and related litigation to public sector entities for decades. We provide collective bargaining, labor relations, and employment legal services to municipalities, municipal agencies and districts, school committees, and school districts. Our attorneys represent clients before the State Department of Labor Relations, the Civil Service Commission, the Massachusetts Commission

Against Discrimination, and various arbitrators including those appointed under the rules of the American Arbitration Association.

Collectively, our attorneys have negotiated hundreds of collective bargaining agreements and frequently represent clients at proceedings before the Department of Labor Relations and JLMC. We routinely represent public sector clients in arbitrations and contract disputes, including collective bargaining related grievances. Our considerable experience in bargaining and negotiation services on behalf of public sector agencies has covered the full range of bargaining units, including maintenance Public safety, and public works units, as well as clerical and other support staff.

Our labor and employment attorneys regularly:

- Negotiate non-union employment contracts and advise public sector authorities on implementation of the agreements;
- Negotiate collective bargaining agreements as either sole negotiator or as part of a collective or collaborative negotiating team;
- Represent employers/management before state and federal courts;
- Represent employers in disciplinary hearings involving the “just cause” provisions of employment/collective bargaining contracts;
- Monitor and keep clients advised as to developing law in areas such as health care reform and health insurance, COBRA, HIPAA, CORI, ADA, ADAAA, FMLA, and FLSA;
- Assist clients in properly categorizing employees as exempt or nonexempt, calculating overtime, and identifying and avoiding common FLSA pitfalls; and
- Review and update personnel policies, procedures, and handbooks.

We are also firmly committed to providing proactive counseling to clients on, and representing clients with respect to, employment-related matters including, in part:

- Policy drafting and implementation (including drafting of personnel policies);
- Provision of health insurance under G.L. c. 32B;
- CORI issues;
- Personnel matters, including hiring, discharge, discipline, and non-reappointment, as may be applicable;
- Disciplinary and grievance proceedings;
- Management of internal investigations such as discrimination claims;
- Injured on Duty - GL c. 41, § 111F;
- Unemployment claims;
- Requirements of state and federal laws relating to employment, such as FMLA, ADA, ADEA, Title VII, and G.L. c. 151B; and
- Retirement issues.

Should the Town wish to pursue labor and employment counsel services with the firm, **Attorney Maser**, who is proposed as the Town’s back up legal counsel, would act as lead counsel in this area. With nearly two decades of experience as a labor and employment attorney, Attorney Maser has been providing municipalities with counsel and assistance in all facets of this area of the law, including labor negotiations, grievance and interest arbitrations, and employment disciplinary and separation matters. Attorney Maser regularly advises clients on managing and maintaining cost-effective health insurance

and employee benefits. He provides proactive counsel, including drafting and implementing policies that assist with the creation and maintenance of an efficient and effective workplace. Attorney Maser assists clients at all stages of negotiating collective bargaining agreements and individual employment contracts, including serving as the lead negotiator for employers in a wide range of union negotiations.

14. For the above Municipal Clients, have you or the firm:

A. Exceeded the municipal legal budget appropriation (general fund) in the last three (3) fiscal years (FY2018, FY2019, FY2020) and if so, by what percent?

Where the firm represents many municipal clients, this information is not readily available. However, the firm is cognizant that our municipal clients can pay only the sum appropriated for legal services, and such other amounts as may be authorized by a Reserve Fund transfer or further appropriation by Town Meeting at an Annual Town Meeting by a 4/5ths vote or at a Special Town Meeting by a 9/10ths vote. We pride ourselves on being in close communication with our clients concerning the nature and scope of work on any particular matter, and work only at the direction of our clients.

B. If you have a retainer arrangement with the above clients, please note the retainer amount vs. total amount billed for the last three (3) fiscal years.

There are several clients where we have retainer arrangements where the client directs legal work undertaken. There are times when these arrangements are particularly advantageous for the client. Ultimately, the cost of a retainer is directly related to the scope of services included in the retainer; we would work closely with the Town to review past legal services and anticipated legal services to determine the appropriate scope of the retainer for Bourne.

15. Provide details of any criminal investigation, regulatory or disciplinary proceedings or material litigation against your firm or members of your firm, which is either pending or has been completed in the preceding three (3) years.

There are no pending, nor have there been any, criminal investigations, regulatory or disciplinary proceedings or material litigation against KP Law, P.C. or members of the firm within the preceding three years.

16. Provide details as to the nature and amounts of your firm's professional insurance and of any claims asserted or made against such coverage in the preceding three (3) years.

There are no complaints against any of the attorneys identified to serve on the Town's primary legal team. Please note, however, that from time to time, we, like the cities and towns we represent, are named in suits brought against our clients. Attorneys Corbo, Maser and Silverstein are members in good standing of the Massachusetts Bar and of the Federal Bar for the District of Massachusetts.

The firm has Professional Liability Insurance in the amount of \$3,000,000, a certificate of which will be provided with the Town named as an insured if we are appointed as counsel.

Value Added Services

The firm provides its municipal clients with several value added services at no cost, designed to keep our cities and towns abreast of the latest developments. These include the following:

- eUpdates – These electronic advisories are intended to provide our clients with more immediate, practical updates on important cases, legislative actions, and other developments of interest to municipalities, also at no charge. eUpdates generally address matters of a critical or urgent nature, and provide necessary information in an easily accessible, timely format, i.e., most recently, the ever-evolving issues implicated by the novel coronavirus COVID-19. A list of recent eUpdates and several examples may be found in *Exhibit 5*.
- Municipal Law Reference Cards – The firm maintains and publishes useful municipal law reference cards on topics including the Open Meeting Law, Public Records Law, Municipal Finance, Public Procurement, and Municipal Real Estate Acquisition. Samples can be found in *Exhibit 5*. Additional examples can be found on our website at the “Resources” tab.
- Training for Employees and Volunteers - We take great pride in our comprehensive seminar program offered at no charge to our municipal clients. Please see a list of our more popular seminars and workshops attached as *Exhibit 6*.

As evidence of our commitment to training and education, we have continually provided key guidance to cities and towns during the COVID-19 pandemic, issuing many eUpdates and making them available to all municipalities, clients and non-clients alike, as well as participating in MMA meetings and leading MMLA seminars to help municipalities navigate during these difficult and challenging times. Please also view our website, www.k-plaw.com, and click on the “Resources” tab for examples of the broad scope of training and preliminary legal analysis we provide our municipal clients. Note that there are separate pages for our eUpdates, COVID-19 guidance, and Public Records Law.

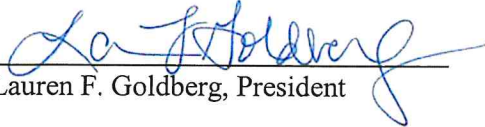
Required Acknowledgement of Receipt of Addenda to RFQ Documents

For a copy of our Acknowledgement of Receipt of Addenda to the RFQ, please see *Exhibit 7*.

Conclusion

As the state’s preeminent municipal law firm, we are confident that we can provide timely, accurate and cost-effective legal services to the Town of Bourne, coupled with our unparalleled commitment to excellent, personalized service. In selecting KP Law, you can rely on a team of the highest-quality lawyers with specific expertise in the matters you are facing, with the value added by our record of four decades of success on behalf of our municipal clients. The KP Law difference is our dedication to our municipal client base.

By my signature, I certify that the information contained in this Response to Request for Qualifications are complete and accurate, to the best of my knowledge and belief.

Signed: 
Lauren F. Goldberg, President

Date: April 9, 2021

757138/KP/0005

EXHIBIT 1

**GREGG J. CORBO****Shareholder****E-mail:** gcorbo@k-plaw.com**Phone:** 617.556.0007**Practice Areas:** General Municipal, Litigation, Land Use**Experience**

Attorney Corbo has broad experience as a general municipal law practitioner, regularly advising clients on core administrative matters such as preparation for and attendance at Town Meeting, compliance with Title 5 and other local code enforcement, licensing, dangerous dogs and civil rights and tort litigation. Attorney Corbo has been practicing municipal law for over 20 years, has attended hundreds of board and committee meetings, and assisted dozens of towns in drafting town meeting warrant articles and motions, advising on posting and notice requirements, attending pre-town meetings to work with the moderator and other important town officials to ensure that the procedures for holding such meetings are fully vetted, and representing municipalities at town meetings of all sizes, with simple and complex warrants, and parliamentary procedure issues of all kinds.

Attorney Corbo frequently represents municipalities through all stages of code and bylaw enforcement efforts. He is a seasoned litigator, with experience in representing municipal clients in proceedings before the First Circuit Court of Appeals, the U.S. District Court, the Massachusetts Supreme Judicial Court, the Massachusetts Appeals Court, the Massachusetts trial courts, and numerous administrative agencies, including the Department of Environmental Protection, the Alcoholic Beverages Control Commission, the Architectural Access Board, and the Appellate Tax Board. Attorney Corbo counsels clients on the development and implementation of policy, drafting by-laws and regulations, contract review, and consultation on day-to-day operations. Attorney Corbo also has extensive experience in land use litigation, including the defense of permit appeals and the prosecution of enforcement actions.

Examples of the importance of his work include winning a major case for the Town of Provincetown to affirm the authority of its Conservation Commission to prohibit hydraulic dredge in environmentally sensitive waters and, in another case, convincing the Appeals Court to reverse a lower court judgment requiring the Town of Dennis to provide restoration of a privately-owned beach in connection with a jetty reconstruction project. In addition to these significant litigation successes, Attorney Corbo recently assisted the Towns of North Reading and Andover in concluding years of contentious negotiations concerning the extension of Andover's public water supply into North Reading, culminating in special legislation and a 99 year agreement.

Representative Matters

- Represent clients before State and Federal Courts and administrative agencies to prosecute enforcement actions, to defend decisions of local boards, to defend allegations of misconduct by public officials, and to advance client interests in real estate, contract and other matters.
- Negotiate and draft intermunicipal agreements.
- Featured speaker at the annual meetings of Tri-County Clerks, Worcester County Clerks, Middlesex Town and City Clerks Associations, and North Shore City and Town Clerks Association on topics including of the regulation of animals, open meeting law and public records.
- Counsel clients with respect to residency challenges and assist clients in conducting residency hearings and recounts, including assisting a seaside community in proceedings to challenge the residency of a large group of part-time occupants.
- Provide formal trainings and seminars to clients on a wide range of topics including: public records, open meeting law, conflict of interest law, animal control laws and licensing laws.

Representative Decisions

- Maria Asvestas, et al. v. Town of Carver, Plymouth Superior Court, C.A. No. 1983CV00596 (2019). Superior Court denied Motion for Preliminary Injunction to enjoin construction of a new police station on land used for playground purposes because the plaintiffs had no likelihood of success on their claim that the change in use was subject to the procedural requirements of Article 97 of the amendments to the Massachusetts Constitution. After denial of their motion, the plaintiffs withdrew the lawsuit.
- Isabella Jancourtz v. Weston Board of Selectmen, Middlesex Superior Court, C.A. No. 1981CV01013 (2019). Superior Court denied Motion for Preliminary Injunction and dismissed lawsuit brought by resident who sought to invalidate Town Meeting vote and prevent voters from voting on debt exclusion question based on allegations that false information was presented at Town Meeting.
- Miramar Park Association v. Town of Dennis, 480 Mass. 366 (2018). Supreme Judicial Court reversed injunction issued by Barnstable Superior Court which required Town of Dennis to provide restoration of a privately-owned beach in connection with a jetty reconstruction project.
- Town of Swansea v. Maura T. Healey, Suffolk Superior Court, C.A. No. 1784CV03269 (2018). Superior Court reversed decision of Attorney General's Division of Open Government which found that the Board of Selectmen violated the Open Meeting Law by failing to post sufficiently detailed meeting notices.
- Aqua King Fishery v. Conservation Commission of Provincetown, 91 Mass.App.Ct. 712 (2017). Appeals Court upheld enforcement order issued by local conservation commission, holding that the Wetlands Protection Act applies to the harvesting of shellfish by means of hydraulic dredge in wetland resource areas, notwithstanding the fact that the plaintiff held a commercial fishing license issued by the Department of Marine Fisheries.
- John R. Fitzgerald v. Town of Millis, Norfolk Superior Court, C.A. No. 17-00768 (2017). Superior Court refused to enjoin Town Meeting vote to construct a new school building

based on a claim by an individual resident alleging that the Town Moderator violated rules of parliamentary procedure during Town Meeting.

- Kendra Dumont v. Town Clerk of Shirley, Middlesex Superior Court, C.A. No. 16-03344 (2017). Superior Court denied request for preliminary injunction to invalidate recall election, finding that Town Clerk and Board of Registrars properly applied the procedural requirements of the Town's special legislation relating to recall elections.
- In Re: Yankee Spirits, Inc. (Town of Plymouth), Alcoholic Beverages Control Commission (2016). ABCC upheld local licensing authority's decision to deny application to transfer package store license on the ground that the area of the proposed new location was already adequately served by the number of existing licensed establishments.
- Touher v. Town of Essex, 87 Mass.App.Ct. 837 (2015). Appeals Court affirmed Superior Court ruling in favor of Town, rejecting claim for compensation based on allegations that Town officials fraudulently induced tenants to build cottages on Town-owned land pursuant to long-term leases.
- Town of Boxford v. Massachusetts Highway Department, 458 Mass. 596 (2010). Supreme Judicial Court held that state agencies are not exempt from regulations and orders issued by local boards of health when such regulations and orders do not interfere with the agency's essential governmental function.
- Water Department of Fairhaven v. Department of Environmental Protection, 455 Mass. 740 (2010). Supreme Judicial Court ruled in favor of numerous municipalities to limit the authority of the Department of Environmental Protection to impose restrictions on public water supplies.
- David W. Eisenberg v. Edmund Wall (Town of Burlington Board of Health), 607 F.Supp.2d 248 (D. Mass. 2009). United States District Court ruled in favor of the Town and Board of Health finding that administrative inspections and enforcement of the State Sanitary Code did not violate the property owner's Constitutional rights.
- Charles F. McCoy, Jr. v. Town of Kingston, 68 Mass.App.Ct. 819 (2007). Massachusetts Appeals Court upheld Superior Court's ruling in favor of Town on indemnification dispute.
- Thore v. Howe, 466 F.3d 173 (1st Cir. 2006). First Circuit Court of Appeals upheld District Court decision granting police officer's motion for summary judgment on excessive force claim arising out of officer's decision to shoot at a moving vehicle to prevent imminent bodily harm to himself and others.
- Padden v. Town of West Boylston, 64 Mass.App.Ct. 120 (2004). Massachusetts Appeals Court reversed a Superior Court finding that a Board of Health mandatory sewer connection regulation was invalid and entered judgment upholding Board of Health regulations.

Bar & Court Admissions

- Massachusetts Bar
- U.S. District Court (Mass.)
- U.S. Court of Appeals for the First Circuit



Education

Boston University School of Law
Juris Doctor, 1998

Long Island University
Bachelor of Arts, *cum laude*, 1995



BRIAN M. MASER

Shareholder

E-mail: bmaser@k-plaw.com

Phone: 617.556.0007

Practice Areas: Labor and Employment, General Municipal

Experience

Attorney Brian Maser's practice focuses on general municipal law, and public sector labor and employment law. In this capacity, he provides counsel to municipalities on labor issues, including compliance with state and federal labor statutes, such as the Fair Labor Standards Act, the Family Medical Leave Act, the Massachusetts Wage Act, and the Massachusetts Paid Family Leave Act. Attorney Maser represents municipalities in labor disputes in state and federal courts, drafts and negotiates successor collective bargaining agreements, drafts and negotiates individual employment agreements, employee settlement agreements and releases, grievance and arbitration settlement documents, conducts investigations relative to employee misconduct and policy compliance, conducts pre-deprivation show cause hearings, advises clients with respect to municipal health insurance issues, including issues facing municipalities as a result of the passage of the Affordable Care Act, and represents municipalities before the American Arbitration Association, the Massachusetts Department of Labor Relations, the Massachusetts Commission Against Discrimination, the Massachusetts Civil Service Commission, the Department of Industrial Accidents, the Department of Administrative Law Appeals, and the Joint Labor-Management Committee. He also has experience representing school committees in state court and in labor arbitration disputes. Attorney Maser assists clients with a variety of general municipal law issues, including issues surrounding town meetings, municipal charters and by-laws, conflict of interest, public records, the Open Meeting Law, and municipal finance.

Prior to joining the firm in 2005, Attorney Maser represented various public sector labor organizations at the state and municipal level. There, he litigated and arbitrated labor disputes before the Massachusetts Superior court, the American Arbitration Association, the then-Massachusetts Labor Relations Commission, and in state and federal courts. Attorney Maser has more than fifteen years of experience representing clients before the various administrative agencies that adjudicate public sector labor and employment law matters.

Representative Matters

- Sturbridge Police Association and Town of Sturbridge, AAA# 01-18-0004-0640 (January 2020). The Town terminated a patrol officer following a Department investigation and disciplinary hearing before the Town Administrator, who found that the officer failed to properly investigate a possible violation of a restraining order after a female reported to the

officer, in person, that her estranged husband had been near her place of employment, in violation of the order, on several occasions the day before. The female appeared at the Town's Public Safety Complex on June 27, 2018, and asked to speak to an officer about the restraining order she had taken out against her husband. After the officer spoke with the female, beyond having the dispatcher note the visit in the dispatcher's log, she did not take any other steps relative to the female's visit. Two days later, the female was murdered by her husband. When the Chief reviewed Department records and saw that the female had interacted with one of his officers in the days prior to her murder, he directed his lieutenant to conduct an investigation. The investigation found that the officer committed various rules violations relative to conducting investigations. After the officer met with the female in the lobby, she did not properly document the interaction, did not take any steps to investigate the possible violation, and she failed to review relevant Department records concerning the restraining order, which included an arrest report from a prior violation that occurred earlier that month at the same location. Given the officer's failures and her disciplinary history, which included multiple counselings, warnings, suspensions of varying lengths, and finally, several last chance warnings that were issued in 2014, 2017, and 2018, the Town Administrator found just cause for the officer's termination. After a four-day hearing and the submission of post-hearing briefs, Arbitrator Sheila Mayberry upheld the officer's discharge. Arbitrator Mayberry found that the Town had just cause to discipline the officer as the evidence established that she exhibited poor job knowledge and incompetence when she did not conduct a proper interview of the female complainant at the Police Department and failed to conduct a preliminary investigation as required by Department rules. When she analyzed whether there was just cause for the officer's termination, Arbitrator Mayberry found just cause for the separation given the officer's well-documented disciplinary history over the prior twelve (12) year period.

- AFSCME, Council 93 and Reading Municipal Light Department, AAA# 01-18-0003-3541 (June 2019). The Department bypassed a first class lineworker for promotion to the position of Leader Lineworker in favor of a first class lineworker with less seniority. After a two-day hearing and the submission of post-hearing briefs, Arbitrator Betty E. Waxman, Esq. found that the Department did not violate the contract when it appointed the junior lineworker following an assessment process that included a written test, a practical test, a Department interview, and peer review. While the Union attempted to show that the Department had historically appointed the senior lineworker to the position of Leader due to their seniority and without an assessment, Arbitrator Waxman found that the plain language of the contract provided the Department with the discretion not only to develop an assessment process for lineworkers, but the Department also had the discretion to promote without regard to seniority, so long as the Department's promotional decision was not exercised in a manner that was arbitrary, capricious, or an abuse of discretion. At arbitration the grievant presented various excuses for his poor performance in the written and practical tests, all of which the arbitrator found to be not credible in light of the testimony offered by the Department's witnesses and evidence offered at the arbitration, as a whole. This result was of great importance to the Department as it confirmed the Department's discretionary authority to promote without regard to seniority and upheld and enforced the Department's management right to develop and administer an assessment to determine qualifications for promotion.

- Town of Braintree and Braintree Police Officers Association, MCOP, Local 365, Department of Labor Relations Case No. MUP-15-4450. The Town's patrol officers' union filed a charge concerning the Police Chief's decision to reduce minimum staffing levels on weekend day shifts starting in November 2014. The DLR issued a Complaint following an investigation at which the union contended that the Town's conduct violated a past practice in place between the parties and the change impacted officer workload. Over the course of a three-day hearing, the Town presented evidence that demonstrated the Department had historically increased and decreased minimum staffing levels across the various patrol shifts via written memoranda without providing the union notice and an opportunity to bargain. In response to the union's proffer that the reduction in staff increased officer workload, the Town offered several years of call data on the weekend day shift that showed officers' workloads did not increase due to the decrease in weekend day shift staffing. The hearing officer credited the Town's position, concluded that the union did not establish a violation of either G.L. c. 150E, §§10(a)(5) or 10(a)(1), and dismissed the Complaint. The DLR Decision confirmed and preserved the Chief's managerial right to determine appropriate staffing levels across the Department's patrol shifts.
- Shorey v. City of Leominster, Civil Service Commission Case No. G2-12-277. The City bypassed the Appellant, Ms. Kimberly Shorey, for promotion to the position of Sergeant for comments she made about the then-Chief of Police and for her lackluster handling of several calls involving domestic violence. At the time of the bypass Officer Shorey was the only female member of the Leominster Police Department, had implicated the then-Chief in wrongdoing, and had three (3) discrimination charges pending at MCAD. After three (3) days of hearing, however, and despite the Appellant's attempts to argue that the City's stated reasons for the bypass were a pretext to continued discrimination, harassment, and retaliation, Cynthia A. Ittleman upheld the City's reasons for bypass as being sound and sufficient.
- Local 1839, IAFF and Town of Chelmsford, AAA# 11-020-01300-0950. Fire fighters employed by the Town are required to become EMTs within twelve months of their appointment. After several veteran members of the Department allowed their EMT certifications to expire, the Fire Chief placed the fire fighters on unpaid administrative leave pending their becoming recertified. The Fire Union grieved their members' unpaid status through the grievance steps and demanded arbitration. At arbitration, before Tammy Brynie, Esq., the Town argued that the fire fighters were required to maintain their EMT certifications as a condition of their employment, despite the absence of any contract language setting forth such an on-going requirement, and that the requirement was clear and obvious, not only based upon the conduct of the parties relative to recertification, but the conduct of the grievants' themselves, in their self-reporting their lapsed certifications to the Department and their letters of apology to the Fire Chief. Arbitrator Brynie agreed, finding that the Town had just cause for taking the action it took and that, based upon the evidence presented by the Town at arbitration, maintaining an EMT certification was a well-known, understood, and long-standing employment expectation of the Town.
- Leominster Patrolmen's Union and City of Leominster, AAA# 11-390-01559-12. The City terminated a patrol officer in the Police Department after an investigation found that the officer, while off-duty, uttered racial slurs towards an African-American baseball player during a minor league baseball game in New Hampshire. At arbitration, before James M.

Litton, Esq., the City argued that the grievance was not arbitrable as the negotiated contract language provided that a disciplinary appeal may only be processed with the Civil Service Commission. The City offered testimony during the hearing that throughout the parties contractual arrangement, all other prior disciplinary sanctions issued by the City had been appealed, if at all, to the Civil Service Commission. Arbitrator Litton ruled in favor of the City on the arbitrability of the Union's grievance and dismissed it as not arbitrable.

- Tisbury Police Union and Town of Tisbury, AAA# 11-390-02148-11. The Town terminated the employment of a long-standing supervisor in the Police Department following a Department investigation that the supervisor violated various Department policies relative to his response to a domestic violence incident, evidence preservation at the scene, and properly handling a sexual assault allegation. At arbitration, despite a limited disciplinary history, the arbitrator upheld the supervisor's termination as being for just cause.
- Rooney v. Town of Groton, 577 F.Supp.2d 513. A Town police lieutenant brought suit against town to recover overtime compensation. On summary judgment, the District Court found that the lieutenant satisfied requirements for exemption from overtime pay as an executive employee; the lieutenant also satisfied administrative employee exemption; and the lieutenant was not a first-responder entitled to overtime pay.
- Leominster Patrolmen's Union and City of Leominster, AAA# 01-14-0001-0336. The City prevailed in arbitration of a dispute with the patrol officers' union relative to the Police Chief's decision to place a patrol officer on leave pending a fitness for duty exam and the continuation of the officer's leave after the officer was found to be unfit for duty. In ruling for the City, the arbitrator credited the Chief's testimony relative to his reasons for ordering the exam, including his observations of the officer's diminishing performance and negative comments the officer made to others over the course of several months, and concluded that the Chief's actions relative to the officer's leave were at all times reasonable and appropriate.
- AFSCME, Council 93, AFL-CIO v. Burlington School Department, 462 Mass. 1009 (2012). After the Appeals Court vacated an arbitration award that found an employee's termination grievance to be inarbitrable on jurisdictional grounds, the Supreme Judicial Court reversed and confirmed the arbitrator's award, finding that the arbitrator had the authority to determine the arbitrability of the grievance while rejecting the union's argument that the arbitrator exceeded her authority in ruling upon the arbitrability of the grievance without sufficient evidence.

Bar & Court Admissions

- Massachusetts Bar
- U.S. District Court (Mass.)

Education

Suffolk University Law School
Juris Doctor, 2002

James Madison University
Bachelor of Arts, Cum Laude, 1999



JONATHAN M. SILVERSTEIN

Shareholder

E-mail: jsilverstein@k-plaw.com

Phone: 617.654.1729

Practice Areas: General Municipal, Land Use, Litigation

Experience

Attorney Jonathan Silverstein has 25 years of experience counseling clients on as licensing, land use, real estate, zoning, contracts and permitting, as well as general municipal law.

Jonathan has represented clients in a broad range of cases, including land use, real estate, civil rights, tort, contract, education, employment, and environmental, before all levels of the Massachusetts and Rhode Island trial courts, the United States District Court (Districts of Massachusetts and Rhode Island), the Massachusetts Appeals Court and Supreme Judicial Court, the Rhode Island Supreme Court, and the United States Court of Appeals for the First Circuit.

Jonathan is the chair of the firm's active Expanded Gaming and Casino practice. He has represented more than two dozen host and surrounding communities across Massachusetts and New York in negotiating agreements with gaming facility developers as well as ancillary matters, such as establishment of redevelopment authorities, negotiation of urban redevelopment agreements, and large-scale rezoning efforts.

Jonathan also advises clients with respect to large-scale development and redevelopment projects, including residential, mixed-use and commercial projects. He assists in the adoption of urban redevelopment plans and special zoning districts, all aspects of land use permitting, and negotiation of development and land disposition agreements.

Jonathan also regularly represents clients in matters relating to medical and adult use marijuana establishments, including the preparation of zoning, licensing and other regulatory mechanisms, negotiation of host community agreements, and litigation.

Representative Litigation Matters

Civil Rights/Tort

- Freeman v. Town of Hudson, 714 F.3d 29 (1st Cir. 2013). Federal Court of Appeals upheld dismissal of federal civil rights claims brought by developer against members of Town's Police Department and Conservation Commission, claiming that his development activities were wrongfully scrutinized/regulated and that he was falsely arrested and criminally

charged as a result of plaintiff's dispute with his neighbor, who is also a member of the Town's police department.

- Grossi Development LLC v. Town of Rehoboth, U.S.D.C. 1:10-cv-10728-RWZ (Aug. 25, 2011) (Zobel, J.), affirmed 1st Cir. No. 2011-2365 (July 9, 2012). Federal District Court dismissed equal protection and due process claims by Chapter 40B developer, who claimed that Town's Zoning Board of Appeals and Conservation Commission had interfered with ability to permit and construct residential housing development. The District Court's judgment was affirmed by a panel of the United States Court of Appeals.
- Rocheleau v. Town of Millbury, 115 F.Supp. 173 (D.Mass. 2000). Federal District Court awarded summary judgment to the Town and Town officials on various civil rights and tort claims against the Town and police officers, arising out of a pretrial detainee's alleged injuries while in a Town lock-up facility.
- Marinelli v. Stoughton Board of Selectmen, NOCV2008-00121 (2008). Superior Court dismissed equal protection and due process claims arising out of the Board of Selectmen's vote to discontinue maintenance of a private road. Plaintiff claimed he was treated differently from others similarly situated and suffered damages as a result of the Board's decision. The Court also rejected the plaintiff's request for a review of the Board's vote to discontinue maintenance.

Comprehensive Permits/Enforcement

- Town of Boxborough v. Boxborough Meadows, LLC. In the settlement of the first-ever action by a municipality to enforce the profit limitation imposed upon recipients of comprehensive permits for affordable housing projects under G.L. c.40B, the developer agreed to pay \$1.2 million to the Town, to be used for affordable housing purposes.

Constitutional/Licensing

- DHL Associates v. Town of Tyngsborough, 64 Mass. App. Ct. 254 (2005). In a case of first impression, the Appeals Court held that Article 16 of the Massachusetts Declaration of Rights does not afford broader protections to adult entertainment than the First Amendment.

Employment

- Jackson v. Town of Belchertown, 84 Mass. App. Ct. 1107 (2013). Appeals Court upheld dismissal of wrongful termination claim by former police lieutenant, who claimed his position was eliminated in retaliation for his participation in the investigation of a town official's son.
- City of New Bedford v. MCAD, 440 Mass. 450 (2003). SJC reversed MCAD's decision to affirm arbitration award in favor of police officer, who claimed that decision to remove him from City's SWAT teams was based upon unlawful handicap discrimination. In case of first impression, SJC adopted federal courts' definition of "handicap" in ADA cases for purposes of claims under G.L. c.151B.

Education

- Doe v. Superintendent of Schools of Stoughton, 437 Mass. 1 (2002). In the first case to interpret student-discipline provisions of G.L. c.71, §37H½ part of the Education Reform Act, the SJC upheld the decision of the Town's Superintendent of Schools to suspend a student charged with a felony that took place off school premises and during the summer

break. This decision reaffirms the broad discretion of school officials with respect to student discipline and safety.

Environmental

- Town of Sturbridge v. Mobil Oil Company, U.S. District Court, C.A. No. 01-40019NMG. \$1.6 million settlement in groundwater contamination action, pursuant to G.L. c.21E.

Municipal/Presentment

- Antonio v. City of Peabody, 51 Mass. App. Ct. 655 (2001), MLW June 4, 2001 (opinion digest). Appeals Court reversed denial of City's motion for summary judgment on grounds of inadequate presentment and ordered that judgment enter for City.

Municipal Finance

- Iacobucci v. Town of Amesbury, 77 Mass. App. Ct. 1109 (1:28 Decision), further appellate review denied, 458 Mass. 1104 (2010). Appeals Court held that debt authorization for capital expenditure (library renovation project) was not subject to referendum process under municipal charter. Court also held that plaintiffs' Open Meeting Law claim and mandamus claim (seeking enforcement of various charter provisions) were properly dismissed.

Open Meeting Law

- Paicopolis v. Dartmouth School Committee, 72 Mass. App. Ct. 1117, further appellate review denied, 452 Mass. 1109 (2008). Appeals Court rejected a claim that the School Committee held improper executive sessions and also rejected a claim that the School Committee breached obligation of good faith and fair dealing with the public by considering various employment and contract matters in executive session.

Real Estate (Registered Land)

- Town of Sandwich v. Panciocco, 48 Mass. App. Ct. 556, further appellate review denied, 431 Mass. 1105 (2000). Appeals Court affirmed summary judgment for plaintiff Town in right-of-way case involving inconsistencies between confirmation plan of defendant's property and registration plan of plaintiff's property.

Real Estate (Right of Reverter)

- Faneuil Investors Group v. Board of Selectmen of Dennis, 458 Mass. 1 (2010). Supreme Judicial Court held that Town could enforce right of reverter to void sale of municipal land to housing authority, based upon housing authority's failure to obtain permission of selectmen prior to granting mortgage on property. Mortgagee/Bank claimed that mortgage was not "conveyance" sufficient to trigger reverter clause.

Sewer Connection

- Lemansky v. Charlton Water & Sewer Commission, WOCV2004-01107 (2005). Summary Judgment rejecting the claim of property owners that they were improperly denied connections to municipal sewer for a large-scale development based upon a narrow strip of land connecting the development site to a public way in which municipal sewer line was located. Court also upheld sewer connection moratorium as valid exercise of Commission's authority.

Subdivision Control

- Wine v. Planning Board of Newburyport, 74 Mass. App. Ct. 521 (2009). Appeals Court upheld denial of definitive subdivision approval and rejected property owners' claims that: (1) compliance with current subdivision rules and regulations was not required due to prior approval of subdivision plan for the same property; and (2) that the Planning Board's denial of a waiver requirement for centerline offset was motivated by an improper attempt to prevent further subdivision of the property in question.

Subdivision Control/Damages

- Arelo v. Town of Auburn, WOCV2008-02542 (2009). Superior Court dismissed claims for damages and to remove cloud on title, arising from filing of conditions of subdivision approval approximately fifteen years after the original decision of Planning Board and seven years after the plaintiff purchased subject property.

Zoning

- Arena v. Nantucket Planning Board, Appeals Court, 96 Mass. App. Ct. 1116, cert. denied 484 Mass. 1103 (2020). Jonathan successfully defended the Nantucket Planning Board's issuance of special permits for a 64-unit workforce housing development on Town-owned land, obtaining a summary judgment from the Land Court, which was affirmed by the Appeals Court.
- Barkan v. Town of Truro, 95 Mass. App. Ct. 378 (2019) and Zehnder v. Town of Truro, Land Court No. 12 Misc. 459506 (2017). In this highly publicized zoning enforcement matter, Jonathan secured a settlement for the Town resulting in payments totaling \$3 Million and successfully defended the settlement in subsequent litigation initiated by a group of abutters.
- Palitz v. Tisbury Zoning Board of Appeals, 470 Mass. 795 (2015). In a case of first impression, the Supreme Judicial Court held that endorsement of an Approval Not Required (ANR) plan under the so-called "existing structures exemption" of the Subdivision Control Law does not protect the resultant lots from zoning enforcement, where the division of land results in new zoning nonconformities.
- Kennard v. Zoning Board of Appeals of Eastham, 52 Mass. App. Ct. 1005 (2001), MLW July 23, 2001 (opinion digest). Affirming judgment after trial upholding a decision of the Zoning Board of Appeals to deny plaintiff a special permit for the enlargement of a preexisting nonconforming structure and rejecting plaintiff's argument that denial of a special permit for "de minimis" enlargement was abuse of discretion.
- Perotti-Cyrus v. Town of Sandwich, BACV2004-0767 (2009). After trial, Superior Court upheld a zoning enforcement order against the use of a cottage that was unlawfully sold into separate ownership from remaining cottages in a former seasonal cottage colony.

Prior Experience

Rhode Island Supreme Court

Law Clerk, Justice Victoria Lederberg (1995-1996)

Honors & Awards

- Named a “Super Lawyer” in Municipal Law in the 2015-2020 editions of *Super Lawyers Magazine*
- Named a “Rising Star” in Municipal Law in the 2010 edition of *Super Lawyers Magazine*
- Named one of five “Up and Coming Lawyers” by *Massachusetts Lawyers Weekly* in 2004

Bar & Court Admissions

- Massachusetts Bar
- Rhode Island Bar
- U.S. District Court (Mass.)
- U.S. District Court (Rhode Island)
- U.S. Court of Appeals for the First Circuit
- Supreme Court of the United States

Education

Boston College Law School

Juris Doctor, 1995

Editor, *Environmental Affairs Law Review*

Brandeis University

Bachelor of Arts, *cum laude*, with High Honors, 1992

Representative Presentations

- Adopting and Revising Rules and Regulations, Citizens Planner Training Collaborative, Virtual Presentation, December 2020
- Special Permits and Variances, Citizen Planner Training Collaborative, West Newbury, MA, October 2019 & Chelsea, MA, December 2019
- Introduction to Subdivision Control, Citizen Planner Training Collaborative, Danvers, MA, June 2019; North Reading, MA, October 2018 & Brewster, MA, November 2017
- Cannabis & Host Communities: What You Need to Know, Cannabis Society and Prince Lobel Tye LLP, March 2018
- The Zoning Act and Municipal Control of Land Use, Middlesex County Town and City Clerks Association Annual Meeting, December 2017
- Zoning Exemptions, Citizen Planner Training Collaborative Annual Meeting, March 2017
- Massachusetts Case Study—Host and Surrounding Community Agreements, National Conference of Legislators from Gaming States Annual Meeting, July 2016
- Zoning Code Administration and Enforcement, Eastern States Building Officials Federation Annual Conference, Portsmouth, NH, April 2016
- Exempt Uses Under the Massachusetts Zoning Act, Massachusetts Building Commissioners and Inspectors Association, July 2015
- Hot Topics in Zoning Law, Boston Bar Association, May 2015

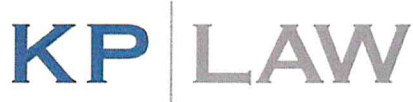


- Casino Gaming, State Policy and Local Planning, Massachusetts Association of Planning Directors (MAPD), Westminster, MA, January 2014
- Surrounding Communities Under the Massachusetts Gaming Act, Massachusetts Continuing Legal Education (MCLE), Boston, MA, December 2013
- Massachusetts Gaming Law Update 2012, Massachusetts Continuing Legal Education (MCLE), Boston, MA, December 2012
- Casino Coming to Town, Planning at a Crossroads, presented at the annual conference of the Southern New England American Planning Association (SNEAPA), Hartford, CT, September 2012

Publications

- “Procurement Opportunities in the Gaming Sector: A Good Bet for those Who Play By the Rules,” *Boston Bar Journal*, Summer 2015
- Comment: “Taking Wetlands to the Bank: The Role of Wetland Mitigation Banking in a Comprehensive Approach to Wetland Protection,” *Boston College Environmental Affairs Law Review*, Volume 22, Number 1
- Author, “Lucas One Year Later: Merely a Footnote to the Regulatory Takings Doctrine,” *National Environmental Enforcement Journal*

EXHIBIT 2



The Leader in Public Sector Law

LIST OF MUNICIPALITIES REPRESENTED WITHIN THE LAST TEN YEARS

Attorney Gregg J Corbo

Attorney Corbo has more than twenty years of experience representing municipalities, with extensive experience in working with coastal communities, including those on Cape Cod and the Islands. While Attorney Corbo has represented many of the Firm's clients during his career, he has served as primary or secondary contact attorney for the following communities for more than ten years unless otherwise noted:

MUNICIPALITY	CONTACT INFORMATION
Abington 500 Gliniewicz Way Abington, MA 02351 <i>(primary since 2015)</i>	Mr. Scott Lambiase <i>Town Manager</i> Tel: 781-982-2100
Ayer One Main Street Ayer, MA 01432	Mr. Robert A. Pontbriand <i>Town Manager</i> Tel: 978-772-8220
Belchertown One South Main Street Belchertown, MA 01007 <i>(primary since 2017)</i>	Mr. Gary Brougham <i>Town Administrator</i> Tel: 413-323-0403
Brewster 2198 Main Street Brewster, MA 02631 <i>(secondary since 2016)</i>	Mr. Peter Lombardi <i>Town Administrator</i> Tel: 508-896-3701

MUNICIPALITY	CONTACT INFORMATION
Carver 108 Main Street Carver, MA 02330	Mr. Richard LaFond <i>Town Administrator</i> Tel: 508-866-3400
Essex 30 Martin Street Essex, MA 01929	Mr. Brendhan Zubricki <i>Town Administrator</i> Tel: 978-768-6531
Montague One Avenue A Turners Falls, MA 01376	Mr. Steven F. Ellis <i>Town Administrator</i> Tel: 413-863-3201
Plympton Five Palmer Road Plympton, MA 02367 <i>(primary since 2015)</i>	Ms. Elizabeth Dennehy <i>Town Administrator</i> Tel: 781-585-2700
Sterling One Park Street Sterling, MA 01564	Ms. Kellie Hebert <i>Town Administrator</i> Tel: 978-422-8111, ext.2316
Westford 55 Main Street Westford, MA 01886	Ms. Jodi Ross <i>Town Manager</i> Tel: 978-692-5500

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The Leader in Public Sector Law

**LIST OF MUNICIPALITIES REPRESENTED
WITHIN THE LAST TEN YEARS**

Attorney Brian M. Maser

MUNICIPALITY	CONTACT INFORMATION	YEARS OF SERVICE
Chelmsford 50 Billerica Road Chelmsford, MA 01824	Mr. Paul E. Cohen <i>Town Manager</i> Tel: 978-250-5231	10+ Years
Groton 173 Main Street Groton, MA 01450	Mr. Mark W. Haddad <i>Town Manager</i> Tel: 978-448-1111	10+ Years
Hinsdale 39 South Street Hinsdale, MA 01235	Mr. Robert Graves <i>Town Administrator</i> Tel: 413-655-2245	8 Years
Leominster 25 West Street Leominster, MA 01453	Hon. Dean Mazzearella <i>Mayor</i> Tel: 978-534-7500	10+ Years
Northborough 63 Main Street Northborough, MA 01532	Mr. John Coderre <i>Town Administrator</i> Tel: 508-393-5040	10+ Years
Northbridge 7 Main Street Whitinsville, MA 01588	Mr. Adam Gaudette <i>Town Manager</i> Tel: 508-234-2095	10+ Years
Upton 1 Main Street, Box 1 Upton, MA 01568	Mr. Derek S. Brindisi <i>Town Manager</i> Tel: 508-529-6901	10+ Years



The Leader in Public Sector Law

**LIST OF MUNICIPALITIES REPRESENTED
WITHIN THE LAST TEN YEARS**

Attorney Jonathan M. Silverstein

MUNICIPALITY	CONTACT INFORMATION	YEARS OF SERVICE
Brewster 2198 Main Street Brewster, MA 02631	Mr. Peter Lombardi <i>Town Administrator</i> Tel: 508-896-3701	5 Years
Brimfield 23 Main Street Brimfield, MA 01010	Ms. Carol L. Camerota <i>Assistant to the BOS</i> Tel: 413-245-4112	21 Years
Everett 484 Broadway, Room 14 Everett, MA 02149	Hon. Carlo DiMaria, Jr. <i>Mayor</i> Tel: 617-394-2232	20 Years
Mattapoisett P.O. Box 435 Mattapoisett, MA 02739	Mr. Michael Lorenc <i>Town Administrator</i> Tel: 508-758-4100	14 Years
Medford 85 George P. Hasset Drive Room 202 Medford, MA 02155	Mr. David Rodrigues <i>Chief of Staff</i> Tel: 781-393-2408	1 Year
Middleborough 10 Nickerson Avenue Middleborough, MA 02346	Mr. Robert Nunes <i>Town Manager</i> Tel: 508-946-2405	3 Years
Nantucket 16 Broad Street Nantucket, MA 02554	Andrew Vorce <i>Planning Director</i> 508-325-7587	10 Years

MUNICIPALITY	CONTACT INFORMATION	YEARS OF SERVICE
New Bedford 133 William Street New Bedford, MA 02740	Ms. Mikaela McDermott <i>City Solicitor</i> Tel: 508-979-1460	10 Years
Plainville 142 South Street Plainville, MA 02762	Ms. Jennifer L. Thompson <i>Town Administrator</i> Tel: 508-695-3142	7 Years
Sandisfield 66 Sandisfield Road Sandisfield, MA 01255	Ms. Joanne Grybosh <i>Town Administrator</i> Tel: 413-258-4711	7 Years
Sandwich 130 Main Street Sandwich, MA 02563	Mr. George H. Dunham <i>Town Manager</i> Tel: 508-888-4910	24 Years
Sudbury Flynn Building 278 Old Sudbury Road Medway, MA 01776	Mr. Henry Hayes <i>Town Manager</i> Tel: 978-639-3381	5 Years
Tisbury P.O. Box 1239 Tisbury, MA 02568	Mr. John W. Grande <i>Town Administrator</i> Tel: 508-696-4200	23 Years
Truro 24 Town Hall Road Truro, MA 02666	Hon. Robert Weistein <i>Chair, Board of Selectmen</i> Tel: 508-349-7004	6 Years

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EXHIBIT 3



Town Counsel and City Solicitor Client List

Abington, 12 years	Hubbardston, 25+ years	Salisbury, 25+ years
Acushnet, 25+ years	Huntington, 25+ years	Sandisfield, 6 years
Alford, 1 year	Lakeville, 20 years	Sandwich, 25+ years
Amesbury, 25+ years	Lancaster, 25+ years	Seekonk, 21 years
Amherst, 12 years	Lanesborough, 6 years	Sheffield, 8 years
Ashby, 19 years	Lenox, 7 years	Shirley, (returned in 2014)
Ayer, 23 years	Leominster, 25+ years	Somerset, 2 years
Becket, 9 years	Lincoln, 17 years	Southampton, 25+ years
Belchertown, 25+ years	Manchester-by-the-Sea, 25+	Southbridge (returned 2020)
Bellingham, 3 years	Marion, (new in 2019)	Spencer, 7 years
Berlin, 7 years	Mattapoisett, 16 years	Sterling, 7 years
Billerica, 6 years	Medway, 4 years	Stoughton, 25+ years
Blandford, 25+ years	Merrimac, 4 years	Stow, 1 year
Boxborough, 25+ years	Middlefield, 23 years	Sturbridge, 24 years
Boxford, 24 years	Millville, (returned in 2016)	Sudbury, 5 years
Brewster, 5 years	Montague, 25+ years	Sunderland, 20 years
Brimfield, 25+ years	Montgomery, 25+ years	Sutton, 22 years
Brookfield, 18 years	Mount Washington, 24 years	Swampscott, 24 years
Buckland, 25+ years	Nantucket, 10 years	Tisbury, 25 years
Carver, 25+ years	New Ashford, 20 years	Topsfield, 25+ years
Charlemont, 23 years	New Salem, 23 years	Truro, 6 years
Chesterfield, 25+ years	Newburyport, 16 years	Upton, 18 years
Clarksburg, 17 years	North Adams, 2 year	Wales (returned in 2020)
Colrain, 25+ years	North Attleborough, 1 year	Walpole, 25+ years
Dalton, 25+ years	North Brookfield, 25+ years	Warren, 16 years
Dedham, 25+ years	North Reading, 25+ years	Wayland, 4 years
Dennis, 25+ years	Northborough, 25+ years	Watertown, 25+ years
Dudley, 2 years	Northbridge, 25+ years	Webster, 25+ years
Duxbury, 3 year	Northfield, 25+ years	Wellfleet, 21 years
East Brookfield, 20 years	Norton, 25+ years	Wendell, 15 years
Eastham, 25+ years	Oakham, 16 years	Wenham, 4 years
Essex, 20 years	Oxford, 25+ years	West Boylston, 25 years
Florida, 25+ years	Pelham, 25 years	West Stockbridge, 25 years
Freetown, 21 years	Pembroke, 25+ years	Westborough, 5 years
Georgetown, 25+ years	Pepperell, 2 years	Westford, 12 years
Goshen, 25+ years	Peru, 25 years	Westhampton, 25+ years
Granville, 25+ years	Petersham, 25 years	Westminster, 10 years
Great Barrington, 25+ years	Phillipston, 18 years	Weston, 25+ years
Groveland, 25+ years	Plainfield, 19 years	Westport, 23 years
Hadley, 25+ years	Plainville, 14 years	Whately, 21 years
Hamilton, 1 year	Plymouth, 25+ years	Williamsburg, 20 years
Hardwick, 25+ years	Plympton, 22 years	Williamstown, 25+ years
Harwich, 23 years	Provincetown, 25+ years	Wilmington, 2 years
Heath, 25+ years	Rockport, 18 years	Winchendon, 18 years
Hinsdale, 23 years	Rowe, (new in 2019)	Windsor (new in 2020)
Holland, 3 years	Royalston, 25+ years	Winthrop, 10 years
Hopedale, 25+ years	Rutland, 1 year	Worthington, 7 years



List of Municipalities Where We Serve as Labor Counsel

Acushnet, 25+ years
Athol, 5 year
Amesbury, 25+ years
Amherst, 12 years
Ashby, 19 years
Ayer, 23 years
Becket, 10 years
Belchertown, 25+ years
Belmont, (new 2020)
Berlin, 5 years
Blandford, 25+ years
Boxborough, 25+ years
Boxford, 24 years
Brewster (new in 2020)
Brimfield, 25+ years
Brookfield, 178 years
Buckland, 25+ years
Carver, 25+ years
Charlemont, 23 years
Chelmsford (returned in 2020)
Chesterfield, 25+ years
Clarksburg, 17 years
Colrain, 25+ years
Dalton, 25+ years
Douglas, 25+ years
East Brookfield, 20 years
Eastham, 25+ years
Essex, 20 years
Florida, 25+ years
Freetown, 21 years
Georgetown, 25+ years
Goshen, 25+ years
Granville, 25+ years
Great Barrington, 25+ years
Groton, 25+ years
Groveland, 25+ years
Hadley, 25+ years
Hardwick, 25+ years
Heath, 25+ years
Hinsdale, 23 years
Hopedale, 25+ years
Hubbardston, 25+ years
Huntington, 25+ years
Ipswich, 23 years

Lakeville, 20 years
Lancaster, 25+ years
Lenox, 7 year
Leominster, 25 years
Lincoln, 17 years
Littleton, 9 years
Mattapoisett, 16 years
Merrimac, 4 year
Methuen, 4 year
Middlefield, 24 years
Montague, 25+ years
Montgomery, 25+ years
Mount Washington, 24 years
Nantucket, 10 years
New Ashford, 20 years
Newburyport, 16 years
New Salem, 23 years
North Brookfield, 25+ years
North Reading, 25+ years
Northborough, 25+ years
Northbridge, 25+ years
Northfield, 25+ years
Norton, 25+ years
Oakham, 16 years
Pelham, 25 years
Pembroke, 25+ years
Peru, 25+ years
Petersham, 25 years
Phillipston, 18 years
Plainfield, 18 years
Plainville, 14 years
Plymouth, 25+ years
Plympton, 24 years
Provincetown, 25+ years
Rockport, 18 years
Rowley, 16 years
Royalston, 25+ years
Rutland, 17 years
Salisbury, 25+ years
Sandisfield, 6 years
Sandwich, 25+ years
Seekonk, 21 years
Sheffield, 8 years
Sherborn, 4 year
Southampton, 25+ years

Spencer, (new 2019)
Sturbridge, 17 years
Sunderland, 18 years
Sutton, 22 years
Swampscott, 24 years
Tisbury, 25 years
Topsfield, 25+ years
Truro, 6 year
Tyngsborough, 18 years
Upton, 18 years
Warren, 16 years
Watertown, 25+ years
Webster, 25+ years
Wellfleet, 21 years
Wendell, 22 years
Wenham, 4 year
West Boylston, 25 years
West Stockbridge, 25 years
Westborough, 5 years
Westford, 12 years
Westhampton, 25+ years
Westminster, 10 years
Weston, 25+ years
Westport, 23 years
Whately, 22 years
Williamsburg, 20 years
Williamstown, 25+ years
Winchendon, 17 years
Windsor, (new 2020)

#456279v26A (updated 3/26/21)

EXHIBIT 4



The Leader in Public Sector Law

FULL RANGE OF MUNICIPAL LAW SERVICES

Airports	Labor and Employment Law – Including Sexual
Americans With Disabilities Act – Building Compliance, Discrimination	Harassment Prevention Training, Health Insurance,
Appellate Tax Board/Assessors	Internal Investigations, Employee Benefits and
Board of Health, Site Assignments, Title 5	Discipline, Union Negotiations, and Collective
Bond Counsel and Public Finance	Bargaining Agreements
Cable Television License Renewal and Negotiations	Land Bank Issues
Casinos and Gaming	Land Use
Chapter Lands 61, 61A, 61B (Forestry, Agriculture, Recreation Land)	Licensing and Leasing
Chapter 91 Permitting, Tidelands	Litigation
Charter Commissions – Establishment and Revision	Local Legislation – Bylaws, Charters, Regulations, Special Legislation
Civil Rights Complaints	Marijuana Law
Coastal Zone Management/Harbor Regulation	Municipal Finance and Prop. 2 1/2
Code Enforcement, State and Local	Municipal Light and Electric Plants
Collective Bargaining	Open Meeting Law
Community Preservation Act	Parks, Commons, Conservation Land, Playgrounds
Comprehensive Permits c. 40B – Affordable Housing	Permitting – Health and Environmental
Conflict of Interest (State Ethics)	Police Misconduct
Conservation and Preservation Restrictions	Procurement – Contracting
Contracts	Public and Charitable Trusts
Data Privacy and Security	Public Construction – Designer Selection
Discrimination Law (MCAD)	Public Power and Energy
Districts	Public Records Law
Economic Development Including Tax Incentives	Public Utility Law
Elections and Campaign Finance	Public and Private Ways
Eminent Domain and Regulatory Takings	Real Estate Transactions
Environmental Law	Regional Agreements
Expedited Permitting	Regional Facilities
Facility Siting/MEPA	Regulatory Compliance and Enforcement
Firearms Licensing and Revocation	Renewable Energy Projects
Forms of Government and Reorganizing Departments	School Law
Government Information and Access	Smart Growth, c. 40R and c. 43D
Green Energy	Solid Waste
Harbormaster/Shellfish Constable	Storm Water Management
Hazardous Waste Law/Brownfields	Subdivision Control
Historic District Commissions	Tax Collection/Tax Title
Housing Authorities	Telecommunications
Human Resources (FLSA, FMLA, COBRA, HIPAA, etc.)	Town Meeting
Industrial Development and Redevelopment	Transit Authorities
Infrastructure and Public-Private Partnerships	Water/Sewer/Drainage – Supply, Compliance, Permitting, Financing, Betterment Assessments
Insurance Defense and Coverage	Water and Wastewater
Intermunicipal Agreements	Wetlands – State and Local, Accretion and Erosion
	Zoning



The Leader in Public Sector Law

A DETAILED OVERVIEW OF CERTAIN PRACTICE AREAS

KP Law, P.C. attorneys are seasoned advocates and skilled negotiators. We provide cities and towns with a level of in-depth knowledge and expertise that only municipal specialists attuned to statewide trends can offer. All of our attorneys practice in general municipal and public sector law, including, for example, the Public Records, Conflict of Interest and Open Meeting Laws, municipal finance, forms of governance including charters, bylaws and regulations, town meeting, parliamentary procedure for city and town councils, as well as in the more specialized areas needed by municipalities and other public entities, as outlined below. Additionally, we assist communities with all aspects of licensing and enforcement matters.

Litigation

Our litigation practice is unsurpassed in the Commonwealth in terms of breadth, depth of experience, and level of expertise in all areas of litigation involving municipalities. These include specialty areas such as land use, labor and employment, real estate, environmental, Appellate Tax Board, and contracts. In addition to representing our large municipal client base, this group provides defense for public employers for a large public sector insurance company. This client insures approximately 125 Massachusetts cities and towns; 200 public and private schools; and 150 public sector agencies that encompass water districts, public housing authorities, and various commissions. Thus, coverage includes defense of the full range of issues facing municipalities. Representing this client requires our complete understanding of the client's insurance coverage and availability for financial participation in the defense and/or payment of claims.

Our litigation practice also serves as defense counsel for the Boston Housing Authority, providing defense of personal injury and property damage claims. These include: premises liability; "slip and fall" cases; alleged defective building components, elevators, and playground equipment; assault; negligent security; and claims related to the presence of toxic substances.

Labor and Employment Law

As the Commonwealth's largest provider of public sector labor services, we have represented public sector entities in labor, employment, discrimination, and related litigation since the firm was founded over 40 years ago. We offer the full range of collective bargaining, labor relations, and employment discrimination legal services to numerous communities and county type governments and agencies, as well as to state agencies. Several of our attorneys specialize in employment discrimination law and the representation of clients before the Massachusetts Commission Against Discrimination (MCAD) and other venues.

Real Estate

KP Law's real estate practice is diverse and highly sophisticated. It encompasses every aspect of real estate, including purchases, sales, exchanges (swaps), leases, easements, taking by eminent domain, and financing. Our experienced real estate practice group has thoughtfully developed legal strategies and techniques to assist our clients with achieving their goals. Our lawyers not only understand real estate law in the municipal context, but also strive to realize our clients' goals with innovative solutions, such as public-private partnerships. Since municipal goals often require a multi-disciplinary approach, attorneys in this practice group frequently work closely with our firm's other practice groups, such as land use and litigation, to bring the right combination of experience and skills to the project.

Land Use

Our land use attorneys are experts in all aspects of land use law, including zoning, subdivision control, historic districts, affordable housing (G.L. c. 40B), Title 5 and wetlands protection. The group provides a full range of legal services to planning boards, zoning boards of appeal, building inspectors, boards of health, and conservation commissions. All of the attorneys in the land use practice possess relevant practical experience; some have served as town planners, others as members of planning boards and conservation commissions. Our land use, zoning, and planning services routinely include:

- Providing opinions on land use matters such as Form A (ANR) requests and subdivision plans
- Reviewing, prior to final issuance, various decisions of the Planning Board, Conservation Commission, and Zoning Board of Appeals
- Representing Building Inspectors and Health Agents with enforcement actions
- Assisting communities in adopting the newly enacted Chapter 43D
- Reviewing and drafting by-laws and regulations.

Cable Television and Telecommunications

KP Law, P.C. is a leader in cable television licensing law and has negotiated with all Massachusetts cable providers, including Verizon. We have successfully represented over 20% of the cities and towns in Massachusetts in all phases of license renewals, including negotiations, consultations, evaluations, rate increases, and execution of contracts. Familiar with the major issues confronting licensing agencies during the renewal process, we have guided many communities through the complex processes of license renewal negotiation and competitive initial cable television license selection. We have conducted and overseen public hearings, offered advice and direction about the ascertainment process, and advised about and conducted compliance hearings. We have also advised and assisted in license transfer proceedings and in the establishment of not-for-profit cable access corporations.

Our telecommunications team likewise possesses extensive experience and expertise with the Federal Telecommunications Act of 1996, FCC requirements, and issues currently and previously litigated concerning Personal Wireless Service Facilities. We have assisted various committees, planning boards, town meetings, and zoning boards of appeal in developing and/or amending by-laws that satisfy federal law while protecting the community's interest to the maximum extent possible. In addition, we have significant experience successfully defending numerous municipal clients in state and federal courts and agencies with jurisdiction over telecommunications and related matters.

Casinos and Gaming

KP Law has been at the forefront of the legal community in educating, advising and representing municipalities in negotiating host and surrounding community agreements with gaming facility developers, as well as related regulation, permitting and contracting activities. We also regularly practice before the state's Gaming Commission.

Chapters 40B and 40R – Affordable Housing

The high cost of housing in Massachusetts is cited as one of the major factors inhibiting economic growth. As a result, the Commonwealth has put increased pressure on municipalities to provide greater opportunities for the construction of affordable housing through the use of Chapter 40B. At the same time, however, other legislation offers incentives to municipalities to permit development of affordable housing through the use of Chapter 40R (Smart Growth Zoning). KP Law, P.C. is a leader in all areas of affordable housing, from assisting towns with developing tools for their affordable housing initiatives to providing counsel to local boards that have denied projects for failure to address local concerns. Our services include assistance in:

- Creation of community-based affordable housing trusts, implementation of affordable accessory unit and inclusionary zoning by-laws, and transfer of municipal land for development of affordable housing
- All stages of the G.L. c. 40B process: reviewing applications; attending hearings of Boards of Appeals; coordinating expert consultants; negotiating project revisions; drafting decisions; and, if necessary, providing representation before the Housing Appeals Committee, Land Court, Superior Court and Appellate Courts
- Negotiating and obtaining the approval of smart growth overlay districts under the new Chapter 40R, including two of the first three districts approved by the Commonwealth in North Reading and Plymouth
- Post-approval review and enforcement of affordable housing conditions, including: drafting regulatory agreements and use restrictions, coordinating with subsidizing agencies, and auditing project costs and revenues.

Environmental Law

In addition to providing wetlands protection-related services, the firm has several attorneys who are eminently qualified to provide other environmental law services, such as water and wastewater permitting and compliance, solid waste management and disposal, site assignment, and 21E liability. The firm serves as Special Counsel to the Central Massachusetts Resource Recovery Committee that has negotiated, on behalf of 34 central Massachusetts communities, a long-term solid waste disposal agreement with Wheelabrator Millbury, Inc.

Green Communities and Alternative Energy

KP Law, P.C. has been at the forefront of providing a wide range of legal services to our municipal clients in the areas of energy management, Green Communities initiatives, and alternative energy solutions, as well as solid waste management and water and wastewater services. We have been highly successful in helping our clients take advantage of the environmental benefits and cost savings that can be gained by implementing alternative and renewable energy solutions and through proper stewardship and management of finite resources. We advise clients on procurement and contracting, land acquisition and leasing, regulatory compliance, and public construction, among other issues.

Infrastructure and Public-Private Partnerships (P3)

Alternative project delivery methods, such as public-private partnerships (P3), offer cities, towns, districts and redevelopment authorities' new tools to combat growing infrastructure needs without relying solely on traditional government resources. Leveraging experience in innovative project delivery throughout New England and across the country, KP Law provides public sector clients with seamless 'one stop' legal services to successfully procure and deliver complex infrastructure projects in a highly regulated and complex environment.

Municipal Light Plant and Public Entity Utility Practice

KP Law has a highly experienced team of attorneys that understands every aspect of municipal light plant and public power utility operations. We understand the unique statutory and regulatory framework governing our clients. For over 30 years, our attorneys have been devoted to counseling public power utilities in a variety of legal, regulatory and business matters, including power purchase transactions; infrastructure and facility development; siting and permitting; energy and environmental regulation; bidding and procurement; policy development; telecommunications; labor and employment; real estate transactions; and complex litigation.

Public Construction and Procurement

All attorneys in this practice group are thoroughly familiar with the requirements of Chapters 30 and 149 of the General Laws that govern the bidding procedures for public building and public works construction projects, as well as specification standards for construction materials and payment to contractors and sub-contractors. This group also represents municipal building committees and designer selection committees on all aspects of designer selection. We have extensive experience in the areas of general procurement of supplies and services under the Uniform Procurement Act, Chapter 30B, and local procurement requirements, including design/build procurements. The group is well-versed in municipal finance requirements, town meeting procedures, and Proposition 2 ½ issues.

Public Finance and Bond Counsel

Financing public infrastructure and other capital projects in a complex regulatory environment presents numerous challenges to municipal, district governments and public authorities. Our Public Finance team serves as bond counsel, issuer's counsel, underwriter's counsel, borrower's counsel, and trustee's counsel in connection with virtually every type of governmental issue, including general obligation, special obligation, lease revenue, tax anticipation, and revenue anticipation financings and refundings. From development of appropriate town meeting warrant articles and city and town council loan orders, identifying applicable state and local law relative to provision of appropriate notice for such action and ensuring compliance therewith, to drafting and securing special legislation to facilitate borrowing for specific projects, the expertise at KP Law allows clients to successfully address the many legal, procedural, and practical challenges they face in this highly regulated and complex environment.

Public Power and Energy

KP Law provides a full range of legal counsel to its public power and energy clients. We pride ourselves on providing value-added service and counseling. Our services include transactional representation, regulatory advice, litigation, appeals, representation before regulatory agencies and local boards.

Specifically, we have extensive experience with:

- Electricity distribution
- Electricity and power markets
- Electricity rates
- Power plant development
- Distributed generation
- Renewable energy
- Energy procurement and demand-side management
- Infrastructure, including transmission, distribution and transformation
- Natural gas markets
- Gas rates
- District chilled water
- Wireless and wireline telecommunications, including both internet and CATV

We also advise our public power and energy clients on issues involving procurement, labor and employment, siting and land use, environmental, real estate, litigation and general business.

Regionalization and Shared Services

As communities begin to think about new ways of managing business, our attorneys are prepared to advise clients in these developing areas of law. Attorneys from all practice areas come together to assist

clients in assessing the impact and potential benefits of regionalization and/or shared services between communities.

School Law/Education

Experienced in the unique issues arising in the school environment, such as students' rights, collective bargaining, special education, and the hiring and firing of school personnel (including teachers), KP Law, P.C. can meet the complete legal needs of school committees and school districts. Through periodic bulletins, we keep our clients up to date on the latest case law, statutory changes, and employment trends impacting schools.

Tax Title

With ongoing focus on revenue enhancement, our firm has assisted municipalities in the aggressive pursuit of tax title matters, Land Court foreclosures, dispositions, and reuse of tax title parcels for nearly 40 years. We are able to assist you at every step, from the initial demand letters and takings through foreclosure, identification of the ownership of "owners unknown" parcels, judgment, and auction.

Transportation/Transit Authorities

As general counsel for several regional transit authorities, we are fully familiar with their unique operations, regulations, and funding. Our attorneys have extensive knowledge of Chapter 161B and are well-versed in the funding, purchasing, and grant administration of the U.S. Department of Transportation and the Massachusetts Executive Office of Transportation. We have the in-depth expertise needed to handle the increasingly complex laws and regulations governing transit authorities, including those related to:

- Grants, agreements, contracts and certifications
- Competitive procurements
- Public hearings, open meetings law, compliance with local mandates and by-laws
- Real estate and property acquisition and transfer
- Employment and labor
- Litigation

Waterways Practice

Our Waterways interdisciplinary practice group spans environmental, land use, and real estate practice areas and includes Chapter 91 licenses, Great Ponds, harbor regulation, and related real estate law issues, such as, for example, accretion and erosion. In a time when environmental issues are a component of many municipal transactions, and where licenses, moorings, and harbor and beach uses are of the utmost importance to municipalities, neighbors, private users, and businesses, it is essential to have a team of highly skilled municipal attorneys attuned to these issues.

EXHIBIT 5



The Leader in Public Sector Law

eUpdates & Webinars

2021

- March 29 Revised Capacity Limits for Public Meetings/Hearings
- March 22 Governor Baker Updates the State Travel Order, the State Gatherings Order, and Advances all Communities to Phase IV of the Re-Opening Plan
- February 26 Governor Announces Transition in Reopening Plan for all Municipalities
- February 26 Notice to Quit and Eviction Actions Updated
- February 16 State Enacts Extensive Police Reform Legislation Establishes new “POST” Commission, Police Officer Certification System, and Law Enforcement Standards
- February 5 COVID-19 capacity restrictions adjusted effective Monday, February 8, 2021
- February 1 New Requirements for Notice to Quit for Non-Payment of Rent and Changes to the Summary Process Rules and Procedures
- February 1 Housing Choice Act of 2020 Update
- January 22 Announcement of Temporary Revisions to COVID-19 Safety Measures - Updated
- January 20 MMA Annual Meeting - January 21 and 22, 2021
- January 8 Announcement of Temporary Revisions to COVID-19 Safety Measures

eUpdates & Webinars

2020

- December 29 Expiration of Families First Coronavirus Response Act Paid Leave Provisions
- December 24 Governor Announces Temporary Revisions to COVID-19 Measures Effective December 26, 2020
- December 17 Labor and Employment Issues Concerning the COVID-19 Vaccine
- December 16 Desrosiers v. Baker – Important Supreme Judicial Court Decision Upholding Governor’s Authority During the COVID-19 State of Emergency
- December 7 Fraudulent and Improper Unemployment Claims
- November 16 Important Update on Time Frame for Action on Land Use Applications (Updated November 16, 2020)
- November 13 Alcoholic Beverage License Renewals – November 2020
- November 12 Governor Signs New Executive Orders Relative to COVID-19 (Updated November 12, 2020)
- November 12 Important Update on Time Frame for Action on Land Use Applications
- August 7 Governor Baker Issues Updated Gatherings Order, Effective August 11, 2020
- July 31 Implementation of Governor Baker’s Post-Travel Quarantine Order, effective August 1, 2020
- June 6 Latest COVID-19 Related Municipal Relief Legislation
- June 2 Governor Baker’s 6/1/20 Order on Outdoor Dining
- May 18 Governor Issues Reopening Plan and Related Executive Order
- May 6 Governor Baker Issues Guidance Allowing Use of Non-Essential Workers for Remote Fulfillment
- May 4 General Court Deliberating New Emergency Act Regarding Conduct of Town Meeting and City Budget Procedures
- April 28 Use of Electronic Signature and “Virtual” Notarization
- April 22 Governor Extends School and Day Care Closure Orders
- April 22 Legislature Passes Eviction and Foreclosure Moratorium
- April 15 Additional Municipal Relief Legislation Passed Chapter 56 of the Acts of 2020

eUpdates & Webinars

April 3	Land Use Permitting Deadline Extensions: Municipal Relief Legislation (Chapter 53 of the Acts of 2020)
April 3	Municipal Relief Legislation Passed by State Legislature
April 3	Updated Process for Continuing Town Meeting
April 1	Important Update Regarding Effective Date of Families First Coronavirus Response
March 30	COVID-19 Emergency Response: General Court Authorizes Postponement of Elections
March 23	Order Assuring Continued Operations of Essential Services in the Commonwealth, Closing Certain Workplaces, and Prohibited Gatherings of More than 10 People <ul style="list-style-type: none">• Exhibit A to Order, COVID-19 Essential Services Listing• DPH Revised Guidance Regarding Assemblies
March 21	COVID-19 Employment and Labor Law FAQ (UPDATED in light of enactment of Families First Coronavirus Response Act and superseding prior FAQs)
March 21	COVID-19 Open Meeting Law and Public Records Implications
March 21	Land Use Permitting FAQ
March 19	Postponement of Local Elections (update)
March 16	COVID-19 Emergency Response: Implementation of Governor's Order Suspending Certain Provisions of the Open Meeting Law
March 16	COVID-19 Update <ul style="list-style-type: none">• Sample Declaration of Emergency
March 13	Postponing Annual Town Elections <ul style="list-style-type: none">• Sample Letter to Governor Re: Special Act to Postpone Elections• Sample Special Legislation to Postpone Election (Single Municipality)• Sample Special Legislation to Postpone Election (All Municipalities)
March 13	Governor Baker Issues Order Temporarily Suspending Certain Provisions of the Open Meeting Law
March 11	Considerations for Municipalities and Government Entities Implicated by Novel Coronavirus COVID-19
March 11	Process for Continuing Town Meeting (Updated 2020)
March 11	Emergency Powers of Municipalities (Updated 2020)



The Leader in Public Sector Law

eUpdates & Webinars

- | | |
|------------|---|
| March 11 | Guidance for Board of Health Re: COVID-19 |
| March 3 | Coronavirus Legal Resources for Public Entities |
| March 3 | Upcoming Free Seminars, Presented by KP Law, P.C. |
| February 3 | MMA 2020 Annual Meeting Recap |
| January 22 | Criminal History Background Checks for Public School Employment FAQs |
| January 22 | Criminal Offender Record Information FAQs |
| January 22 | Entering Private property to Conduct Inspections |
| January 22 | Authorizing a Home Rule Petition |
| January 22 | Guidelines for Initial Handling of Claims or Lawsuits |
| January 22 | Open Meeting Law – Preparing Your Meeting Notice |
| January 22 | Participation in Executive Session |
| January 22 | Tips for Negotiating Municipal Recycling Contracts in a Changing Marketplace |
| January 22 | Calculation of Majority Votes |
| January 22 | New FCC Rule Regarding Small Wireless Facilities (5G Technology) |
| January 22 | Cannabis Control Commission Regulatory Amendments Impacting Municipalities |
| January 22 | New central Database of CDL Drivers with Past Drug and Alcohol Testing Violations |
| January 22 | Reminder – Changes to Federal Overtime Regulations Now in Effect |
| January 22 | Reviewing Proposed Amendments to Bylaws and Ordinances |



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eUpdates & Webinars

2019

October 1	Final Changes to Federal Overtime Regulations
October 1	PFML Payroll and Wage Withholdings Begin Oct 1st
September 27	Janus Response Union Dues and Fees
September 25	DPH Issues Emergency Order Banning Sale and Display of Vaping Products
July 31	Supreme Judicial Court Amicus Brief Requests - July, 2019
July 11	New Employer Obligations Imposed by Paid Family and Medical Leave Act - Part 2
July 11	New Employer Obligations Imposed by Paid Family and Medical Leave Act - Part 1
July 1	Good Bye FY2019 / Hello FY2020
May 3	New Federal Communication Commission Rule Regarding Small Wireless Facilities
April 24	Attorney Jackie Cowin Appointed Associate Justice
March 18	Memorandum to Municipal Clients
February 21	Opioid Litigation
January 21	Tax Title Practice Group Update
January 18	The Open Meeting Law and Social Media Pitfalls
January 18	Emergency Powers of Municipalities
January 18	Open Meeting Law Update
January 18	Sample Notice Pregnant Workers Fairness Act
January 18	New Law Taxing and Regulating Short-Term Rentals
January 18	Short-Term Rental Law – Key Provisions
January 18	OSHA Standards: Applicability to Public Sector Employment
January 18	SJC Upholds Broad Termination for Convenience Clause in Public Contracts
January 18	Public Records Law – Update
January 18	Public Records Law – Best Practices
January 18	New Municipal Bond Continuing Disclosure Rules Adopted
January 18	An Act Protecting Youth from the Health Risks of Tobacco and Nicotine Addiction
January 18	Firearms Licensing Update: Red Flag Law
January 17	MMA Annual Meeting



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eUpdates & Webinars

2018

August 17	Designer Selection Thresholds Adjusted as of June 15, 2018
June 30	U.S. Supreme Court Declares Public Sector Agency Fees Unconstitutional under First Amendment
March 29	Pregnant Workers Fairness Act Written Notice to Employees
March 26	Employment Implications of the Expanded Massachusetts Employee Safety Law
March 15	Water Infrastructure Projects – Pending Legislation
March 12	Storm Tomorrow – Election Related Deadlines, Zoning Hearings, and More
February 14	Sick Leave Pay is Not Wages Under the Massachusetts Wage Act
January 19	A Guide to the Law Legalizing Non-Medical Marijuana – January, 2018
January 19	Automobile Dealer Licensing
January 19	Cannabis Control Commission Draft Regulations – 935 CMR 500.00 A Municipal Top 10 List
January 19	General Laws Chapter 40U – Alternate Process for Collection of Certain Fines
January 19	Drug and Alcohol Free Workplace Policy SAMPLE
January 19	Emergency Powers of Municipalities
January 19	Entertainment Licensing
January 19	Equal Employment Opportunity and Anti-Discrimination and Harassment Policy
January 19	Massachusetts Continuing Legal Education Zoning Practice
January 19	Non-Medical Marijuana by the Unofficial Numbers
January 19	Open Meeting Law Update – January, 2018
January 19	Proposition 2 ½ Part I – A Practical Guide
January 19	Proposition 2 ½ Part II – Contingent Appropriations
January 19	The Evolving Interpretation of Article 97 – Smith v. Westfield
January 19	The Prevention of Sexual Harassment in the Workplace
January 16	KP Law Joins Leading Local and National Law Firms Pursuing Opioid Litigation on Behalf of Massachusetts Municipalities
January 8	SJC Affirms Authority of Cities and Towns to Regulate Land Use for Private Aircraft



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eUpdates & Webinars

2017

- October 16 Important Changes to the Open Meeting Law
- September 19 Employment Implications of the Massachusetts Pregnant Workers Fairness Act
- August 17 An Act to Ensure Safe Access to Marijuana – A Guide to the Revised Law Legalizing Recreational Use of Marijuana
- August 2 SJC Issues Important Ruling Concerning Employee Off-Duty Use of Medical Marijuana
- July 27 Solar Energy “SMART” Program
- June 22 Preparation of Public Records Guidelines – Deadline of July 1, 2017
- May 12 Massachusetts Prevailing Wage Laws Violation Letters – Olaf Zwickau, Air Solutions & Balancing LLC
- January 20 Denial of Licenses for Non-Payment of Certain Municipal Charges – Amendment to G.L. c.40 §57
- January 20 G.L. c.41 §111F (Injured on Duty Benefits) FAQ
- January 20 Implications for Public Employers – The Regulation and Taxation of Marijuana Act
- January 20 KTU, LLC v. Board of Assessors of the Town of Swansea
- January 20 Municipal Modernization Act – A Practical Guide
- January 20 Municipal Modernization Act – Public Procurement and Contracting
- January 20 Municipal Modernization Act – Tax Administration
- January 20 Open Meeting Law and Social Media – Potential Pitfalls
- January 20 Public Building Construction Projects – Issues for Consideration When Drafting Warrant Articles
- January 20 The Regulation and Taxation of Marijuana Act – A Guide to the New Law Legalizing Recreational Use of Marijuana

Governor Baker Updates the State Travel Order, the State Gatherings Order, and Advances all Communities to Phase IV of the Re-Opening Plan

March 22, 2021

Advancement of all Communities to Phase IV, Step 1

As previously announced, Phase IV of the Commonwealth's Reopening Plan takes effect **today, March 22, 2021**. Pursuant to [COVID-19 Order No. 66](#), the following Phase IV, Step 1 enterprises may open their brick-and-mortar premises to workers, customers, and the public:

- Stadiums, arenas, and ballparks, and other large capacity venues (indoor and outdoor) use for spectator sports, entertainment, or similar performances;
- Exhibition and convention halls;
- Overnight camps (Summer 2021); and
- Dance floors at events only.

Facilities that have capacities of 5,000 persons or more, as specified in a certificate of occupancy or some other equivalent authorization, are "large capacity venues" for the purposes of this Order. Large capacity venues may operate at 12 percent of permitted capacity, and must submit a COVID-19 safety plan for review by the Department of Public Health, at least 10 days prior to opening to the public.

The state Department of Labor Standards will adopt sector-specific workplace safety rules for businesses opening in this phase of the Reopening Plan, as well as for event venues with less than 5,000 person capacities.

Enterprises designated as Phase IV, Step 2 must keep their brick-and-mortar premises closed to the public, and may not conduct Phase IV activities until Step 2 of Phase IV. A date for the Phase IV, Step 2 transition has not been determined. A complete list of Phase IV enterprises can be located in [Schedule A to COVID-19 Order No. 66](#).

Replacement of Mandatory Travel Order with DPH Travel Advisory

State officials have also replaced the 14-day quarantine requirement for travelers arriving in Massachusetts. The Department of Public Health has issued in its place an [Advisory for Travelers to Massachusetts](#).

Effective **March 22, 2021**, all visitors entering Massachusetts, including returning residents, are advised to quarantine for 10 days upon their arrival. Travelers are exempt from this advisory if they have a negative COVID-19 test result that has been administered up to 72 hours prior to their arrival in Massachusetts. Travelers are also

exempt from this advisory if: (a) they are returning to Massachusetts after an absence of fewer than 24 hours; (b) are a worker who enters Massachusetts to perform critical infrastructure functions; or (c) they are fully vaccinated and do not have any symptoms of COVID-19.

Adjustment to Gathering Limits

Lastly, effective **March 22, 2021**, gatherings at event venues or in public settings are now limited to a maximum of 100 people indoors, and 150 people outdoors. The Governor's [March 22, 2021 Appendix Adjusting Gathering Limits Set in COVID-19 Order No. 63](#) defines "event venue or public setting" as any setting open to the public and any event venue, club, park, or other venue or space, public or private, that is used or available for gatherings through lease, license, permit, contract, or similar arrangement.

Gathering limits for indoor and outdoor gatherings at private residences remain the same: 10 people indoors, and 25 people outdoors.

Please feel free to contact your KP Law attorney with any questions and/or e-mail us at coronavirusinfo@k-plaw.com. We will be in touch with you as soon as possible.

Disclaimer: This information is provided as a service by KP Law, P.C. This information is general in nature and does not, and is not intended to, constitute legal advice. Neither the provision nor receipt of this information creates an attorney-client relationship with KP Law, P.C. Whether to take any action based upon the information contained herein should be determined only after consultation with legal counsel.

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Important Update on Time Frame for Action on Land Use Applications

UPDATED – November 16, 2020

Under Chapter 53 of the Acts of 2020 (“Chapter 53”), the state Legislature generally tolled the time periods for land use regulatory and permitting boards to act on permit applications, where the COVID-19 pandemic presented obstacles on the ability of such boards to act within statutorily-required timeframes. That tolling was set to expire within 45 days after the termination of the current State of Emergency (which is still in effect), or other later time period if applicable.

Without notice, the Legislature revised these deadlines in the FY20 supplemental budget passed on November 6, 2020 (H. 5102), which was signed by the Governor last week. Specifically, the Legislature amended the relevant provisions of Chapter 53 to change the tolling period to December 1, 2020. Thus, boards and committees will no longer have until 45 days after the termination of the State of Emergency to complete necessary actions on pending applications. Instead:

- The statutory time periods for conducting public hearings upon receipt of an application, which had been suspended as of March 10, 2020, shall resume on December 1, 2020;
- Any required public hearings that were opened as of or after March 10, 2020, but continued, must resume on or before December 1, 2020; and
- The “clock” for taking final action or risking constructive approvals/grants of permit applications shall resume December 1, 2020. However, these timelines for taking final action shall be tolled from March 10, 2020 to December 1, 2020.

H. 5102 contains a mechanism whereby permitting boards and committees may apply to the state Secretary for Housing and Economic Development (“Secretary”) for relief from the December 1, 2020 suspension of the tolling provisions. Unfortunately, this relief will only be available where boards/committees lack the technological resources to conduct virtual public hearings, and have been prevented from holding in-person public hearings as a result of COVID-19 related gatherings limitations imposed by the Governor (or other similar public health orders). We have no information at the present time whether the Secretary has established, or intends to establish, processes for such applications. Moreover, failure to secure the Secretary’s approval may result in a particular application being deemed constructively approved or granted. In any event, we advise that written extensions of time be obtained from applicants with pending permit applications whenever possible, and filed with the Town or City Clerk where applicable, so as to avoid the potential for constructively approved permits in light of this significantly shortened tolling period.

Please feel free to contact your KP Law attorney with any questions and/or e-mail us at coronavirusinfo@k-plaw.com. We will be in touch with you as soon as possible.

Disclaimer: This information is provided as a service by KP Law, P.C. This information is general in nature and does not, and is not intended to, constitute legal advice. Neither the provision nor receipt of this information creates an attorney-client relationship with KP Law, P.C. Whether to take any action based upon the information contained herein should be determined only after consultation with legal counsel.

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**G.L. c.39, §10A Process for Continuing Town Meeting
in the Case of Inclement Weather or Public Safety Emergency**
(updated 2020)

In the event of a weather-related or public safety emergency, the moderator may recess and continue a Town Meeting, following the process set forth in G.L. c. 39, §10A and summarized below. This process applies if the warrant for Town Meeting has already been posted in accordance with G.L. c.39, §10. If the warrant has not yet been posted, the Board of Selectmen/Selectboard may simply vote to delay the date of Town Meeting, and the process outlined below does not need to be followed in such circumstances.

Declaration of Recess and Continuance

- (A) The moderator is required to issue the declaration of recess and continuance as far in advance of the town meeting being continued as is practicable, in accordance with the following procedure:
- consult with public safety officials and members of the board of selectmen
 - declare that voters or representative town meeting members will be unable to attend due to a weather-related or public safety emergency
 - continue the meeting to a time, date and place certain ("Declaration") no later than 30 days following the date of the moderator's announcement of the Declaration.

(B) Amended Declaration and Notice

If due to the emergency it is not possible at the time the Declaration is made to identify a location for the continued town meeting, the board of selectmen may, within three days of the Declaration, select a meeting place. If no "suitable" town facility is available, the board of selectmen may move the meeting to a location in a contiguous municipality. This is an exception to the general rule found in G.L. c.39, §9 that town meeting must be held within the geographic boundaries of the town unless otherwise authorized by bylaw, special act or charter.

Upon the identification of the meeting place, the moderator must declare the location and issue an amended Notice subject to all of the posting requirements applicable to the original Notice.

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Notice of Declaration

The moderator is required to prepare a Notice of the Declaration ("Notice") in a legible, easy to understand format listing:

- time, date, and place of the continued meeting
- reason for the declaration
- date and time the moderator announced the recess and continuance
- if the notice does not include the place of the continued meeting as outlined in paragraph (B) above, within three days of announcement of the recess, the moderator shall issue an amended notice including the location

As soon as practicable, the Notice and any amended notice shall be filed with the town clerk and:

- be posted:
 - in a manner conspicuously visible to the public at all hours in or on the building where the clerk's office is located;
 - by a constable or other person so directed in the same manner as is required by the General Laws, charter or bylaws for the posting of town meetings;
 - on the building entrance door to the original meeting location; and
 - on the town website, if it has one;
- may be circulated by such other available electronic, broadcast or print media as may be desirable; and
- shall be provided to members of a representative town meeting as directed by an applicable bylaw.

Timing of Continued Town Meeting

Town Meetings recessed and continued under G.L. c.39, §10A shall be convened by the moderator no later than 30 days following the date and time of the original Declaration.

Notification to the Attorney General

Within 10 days of the Declaration, a local public safety official designated by the Board of Selectmen/Selectboard (such as the Chief of Police) is required to submit a report to the Attorney General stating the reasons why the Declaration was made.

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HOW TO CONDUCT A PUBLIC HEARING

There are three types of Public Hearings:

- **Adjudicatory Hearings** – hearings to determine the legal rights, duties or privileges of specifically named persons or entities, such as license violations or dangerous dog hearings.
- **Application Hearings** – hearings to act on applications for a license, permit, variance or other approval.
- **Regulatory Hearings** – hearings on adoption or amendment to a public body's rules or regulations.

Basic Framework – Four Step Process

Step 1 – Notice

- Prior to conducting any public hearing, proper notice must be given to all interested parties.
- **Timing** - Substantive law will dictate when the notice needs to be sent and to whom. In the absence of a statutory requirement, ten days' notice is generally acceptable for due process purposes. At a minimum, the notice must comply with the Open Meeting Law by posting at least forty-eight hours prior to the hearing, except in an emergency, calculated as required by law.
- **Content** - Substantive law will also dictate the content of the notice. Generally, notice must include the date, time and location of the hearing, statutory basis, and a brief statement of facts.
- **Delivery** – Unless addressed by applicable substantive law, when individual notice is required, it should be sent certified mail and first class mail, or in any other manner reasonably likely to provide actual notice to interested parties, e.g. service by constable.

Step 2 - Open the Hearing

- The Chair should open the meeting by reading the hearing notice into the record and asking staff to confirm that notice was published, posted and served upon interested parties as required by law. For Application hearings, the Chair should confirm that the application is complete.
- The Chair (or Town Counsel if present) should establish ground rules, informing those present that: testimony will be limited to the issues directly related to the subject matter of the hearing; only one person will be permitted to speak at a time; all discussion will go through the Chair; all parties will be expected to conduct themselves civilly; and argument between parties will not be permitted. The proceeding should be recorded and the recording preserved.
- Before taking testimony, witnesses must be sworn. The Chair may ask anyone who intends to testify to stand, raise his/her right hand and swear that "the testimony I am about to give in this matter is the truth, the whole truth and nothing but the truth."

Step 3 – Collect Evidence

- Adjudicatory Hearings generally proceed in two phases: (1) collection of evidence of the violation from staff and/or complaining parties; and (2) collection of evidence in defense from the subject of the hearing and/or supporting witnesses.
- Application and Regulatory Hearings also proceed in two phases: (1) collection of evidence from the applicant/proponent and those wishing to speak in favor of the application or regulation; and (2) collection of evidence from those in opposition to the application or regulation.
- For each person who testifies, the Chair should ask them to identify themselves by stating their name and address for the record. Witnesses may be questioned by members. In Adjudicatory Hearings, however, witnesses may first be cross-examined by a representative of the hearing target.
- Any documentary or physical evidence should be given a unique identifier as part of the record and made available for inspection by interested parties. Such documents must be maintained as part of the official meeting record.

Step 4 – Deliberate and Decide

- When it is determined that all relevant testimony and evidence has been presented, the Chair should entertain a motion to “close the evidentiary portion of the hearing”. Once the vote is taken, the Chair should declare the evidentiary portion of the hearing closed and inform the public that deliberations will begin.
- Members must then deliberate, in open session and in a manner that can be followed by those in attendance, i.e., in loud, clear voices.
- For Adjudicatory Hearings, members will vote on two issues: (1) whether there was a violation; and (2) if so, what, if any, action should be taken. To insulate a decision from challenge, members must separately consider each violation and, in connection therewith, make specific findings of fact.
- For Application Hearings, members will vote on whether to grant the license, permit or approval, and if so, whether to impose any conditions thereon. In order to insulate the decision from challenge, members must separately consider each criterion for issuance and make specific findings of fact to support that criterion.
- For Regulatory Hearings, following submission of written or oral testimony, members will deliberate and then vote on whether to adopt, rescind or amend regulations.
- Once final votes are taken, the Chair should entertain a motion to close the public hearing, and staff should be directed to prepare proper notice of the decision or other action taken, in accordance with applicable law. For Adjudicatory and Application proceedings, written notice should be sent, certified and first class mail, as soon as possible to all interested parties including any right of appeal, and such notice may also be required to be filed with the municipal clerk. For Regulatory proceedings, further notice or publication of the decision may be required.

THE PUBLIC RECORDS LAW – EFFECTIVE JAN. 1, 2017 G.L. c.66, §10 and G.L. c.4, §7(26)

Basic Facts

- A presumption exists that all governmental records are public records subject to mandatory disclosure upon request, unless a statutory exemption is applicable.
- The law applies to any kind of “document” made or received by a public officer or employee, regardless of its format, such as papers, maps, recordings, e-mails, computer generated or stored records, etc.
- The law applies to records in existence and in the custody of the public entity. Therefore, a public entity is not required to either create a record in response to a public records request, or answer questions posed by the requester.
- A public records request may be made in person or in writing; a public entity is not obligated to respond to requests made by telephone only but may do so in its discretion.
- A Records Access Officer (“RAO”) or other custodian of public records is presumed to have superior knowledge of the records in his or her custody or in the custody of the public entity generally, and even if a records request is not precise, RAOs/records custodian should use their superior knowledge of the records to attempt to identify and provide responsive records.
- Generally, requesters may not be asked why they are seeking a particular record, subject to limited statutory exceptions.

The Response

- A public entity **must** respond to a records request within 10 business days following receipt of the request.
- A public entity must provide a written response if any record(s) sought by the requester will not be produced or will be redacted. That written response has specific required elements. *See KP Law reference card, “New Public Records Law - Responding to a Public Records Request” for more information.*
- Pursuant to the Public Records Access Regulations, 950 CMR 32.00 et seq., a public entity may charge a requesting party the following fees:
 - (1) Photocopies (black and white) single or double sided, \$.05 per page; computer printouts (black and white), \$.05 per page, unless otherwise specified by statute; and for records not susceptible to ordinary means of reproduction, the actual cost to provide a copy.
 - (2) Search time (i.e., the time necessary to search for and copy responsive records) or segregation time (i.e., the time necessary to delete or redact protected information from records otherwise subject to disclosure); such fee to be determined at the pro-rated hourly rate of the lowest paid employee capable of performing the search, but no more than \$25 per hour. Municipal RAOs may seek permission of the Supervisor of Records to charge a higher rate, however.

NOTE: Municipalities with 20,000 or more residents may not charge for the first two hours of work. Agencies may not charge for the first four hours of work. There may be further limitations upon the time that may be charged for segregation and redaction.

- The analysis a public entity undergoes upon receipt of a public records request is generally the same regardless of the identity of the requester, except in certain limited circumstances, such as where the requester or requester’s representative has a “unique right of access” as a result of statutory, regulatory or other judicial means (i.e., requests for abutters’ lists in land use permitting matters, union information requests pursuant to G.L. c. 150E, and requests from litigants in civil or criminal cases).

Frequently Asserted Exemptions

- Exemption (a) allows withholding of records that are “specifically or by necessary implication exempted from disclosure by statute.”
- Exemption (c) allows withholding of “personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy.”
- Exemption (d) allows withholding of “inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this subclause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based.”
- Exemption (e) allows withholding of “notebooks and other materials prepared by an employee of the commonwealth which are personal to him and not maintained as part of the files of the governmental unit.”
- Exemption (f) allows withholding of “investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest.”
- Exemption (h) allows withholding of “proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person.”
- Exemption (i) allows withholding of “appraisals of real property acquired or to be acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired.”
- Exemption (n) allows a records custodian, who reasonably believes that disclosure is “likely to jeopardize public safety” to withhold records including, but not limited to, “blue prints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety, or cyber security, of persons, buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth.”
- Exemption (o) allows withholding of “the home address, personal email address and home telephone number of an employee of the judicial branch, an unelected employee of the general court, an agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of a political subdivision thereof or of an authority established by the general court to serve a public purpose, in the custody of a government agency which maintains records identifying persons as falling within those categories; provided that the information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180, or a criminal justice agency as defined in section 167 of chapter 6.”

Reasons for Convening Executive Session (M.G.L. c.30A, Sec. 21(a) – Effective July 1, 2010)

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or discuss the discipline or dismissal of, or complaints or charges against, a public officer, employee, staff member or individual. *(See Rights of Individuals on reverse.)*
2. To conduct strategy sessions in preparation for negotiations with non-union personnel or to conduct collective bargaining sessions or contract negotiations with non-union personnel.
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.
4. To discuss the deployment of or strategy regarding security personnel or devices, e.g., a sting operation.
5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints.
6. To consider the purchase, exchange, lease or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.
7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.
8. To consider or interview applicants for employment by a preliminary screening committee, if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants. This shall not apply to any meeting regarding applicants who have passed a prior preliminary screening.
9. To meet with a mediator regarding any litigation or decision; provided that (i) any decision to participate in mediation shall be made in open session and the parties disclosed and (ii) no action shall be taken with respect to the issues involved without deliberation and approval of the action at an open session.
10. To discuss trade secrets or confidential or proprietary information regarding activities by a governmental body as energy supplier, municipal aggregator or energy cooperative, if an open session will adversely affect conducting business relative to other entities making, selling or distributing energy.

Procedures for Convening Executive Session

1. The meeting must be convened in an open posted session, with executive session listed on the agenda when reasonably anticipated by the chair.
2. The chair states the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose of the executive session (and, under exemptions 3, 6, and 8, makes the required declaration).
3. A majority must vote in a recorded roll call to go into executive session.
4. The chair announces whether the meeting will reconvene in open session.
5. Accurate minutes and other records of the executive session must be maintained, with all votes recorded by roll call.

Rights of Individuals

1. When a governmental body wishes to discuss: (a) the reputation, character, physical or mental health of an individual; or (b) the discipline or dismissal of or complaints or charges brought against a public officer, employee, staff member or individual, it must notify that person in writing at least 48 hours in advance of the meeting, not including Saturdays, Sundays or holidays.
2. Written notice may be waived by the individual.
3. The individual may request that the meeting be held in open session.
4. If an executive session is held, the individual has the right to be present for deliberations and to speak, and to have counsel or a representative of choice present for the purpose of giving advice but not for active participation.
5. The individual may have an independent record of the executive session created by audio recording or transcription, at the individual's expense.

EXHIBIT 6



SEMINARS AND WORKSHOPS: Knowledge is Prevention

Topics Include:

The New Public Records Law: Technical Requirements and Practical Implications	Betterment Assessments
Land Use and Zoning Law Updates	Private and Public Ways – Municipal Duties and Liabilities
Tax Title Foreclosure Basics	How to Conduct a Liquor License Hearing
Basic Zoning Code Administration and Enforcement	Municipal Tort Claims and Street Defects
What Municipalities and Public Entities Should Know About CORI Reform in Massachusetts	Effective Enforcement for Zoning, Planning, Health Boards, and Conservation Commissions
Public and Private Ways: Navigating Your way through the Law on Highways and Byways	Cable TV – License Negotiations in the Age of Competition
Everything You Always Wanted to Know About Town Meeting but Were Afraid to Ask	Acquisition and Disposition of Land, Leases, Easements, and Restrictions
Massachusetts Gaming Law	Avoiding Unfair Labor Practice Charges
Community Preservation Act	
Writing Sound Decisions for Planning Boards, Zoning Boards of Appeal, and Conservation Commissions	
Drafting Reasonable Wetlands By-laws and Regulations to Withstand Successful Challenge	
Open Meeting Law	
Pre-existing Nonconforming Residences	
Street Layout Process	
Comprehensive Permits	
Discrimination/Harassment Avoidance Training	
How to Conduct a Flawless Public Hearing	
Disciplining Public Employees with Due Process	
Conflict of Interest	
Show Cause and Disciplinary Hearings	
Land Use Law and Procedures	
Procurement and Contracting	

#300515

EXHIBIT 7

**ACKNOWLEDGMENT OF RECEIPT OF ADDENDA TO RFQ DOCUMENTS
TOWN OF BOURNE**

Town Counsel Legal Services

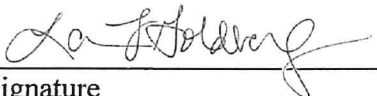
The undersigned responder hereby acknowledges receipt of the following notices, revisions, or addenda to the advertisement, specifications or RFQ/I documents. By indicating date of receipt, responder acknowledges the submittal takes into account the provisions of the notice, revision or addendum.

Reference # or Title of Addendum	Mode of Receipt (fax, email, pickup)	Date received
Town Counsel Services Addenda	We did not receive a copy, we obtained it from the Town's website.	March 31, 2021

Acknowledgment:

Lauren F. Goldberg, President

Name and Title of Authorized Representative



Signature

April 9, 2021

Date

ATTACHMENT B



The Leader in Public Sector Law

**RESPONSE TO REQUEST FOR
QUALIFICATIONS/INFORMATION
FOR TOWN OF BOURNE TOWN COUNSEL SERVICES**

FEES AND EXPENSES RESPONSE SHEET

(TO BE ATTACHED TO AND MADE A PART OF THE OVERALL REQUEST FOR QUALIFICATIONS)

NAME:	Lauren F. Goldberg, Esq., President		
BBO#:	#631013		
FIRM NAME:	KP Law, P.C.		
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TELEPHONE:	617-556-0007	FAX NO:	617-654-1735
EMAIL:	lgoldberg@k-plaw.com	WEBSITE:	www.k-plaw.com

- 1. Please list the name and hourly rate for proposed Town Counsel and for each attorney intended or likely to serve as back-up.**

As listed in more detail in our qualifications proposal, **Attorney Gregg G. Corbo** is proposed to serve as the Town's primary attorney, with **Attorney Brian M. Maser**, as back-up attorney. This primary and back-up team will manage the Town's legal work, with **Attorney Jonathan M. Silverstein** as the Land Use contact.

It is proposed that the Town Counsel services be provided to the Town at the single, blended hourly rate of \$220.00. We provide annually two in-person seminars free of charge, and, upon request, additional seminars as needed to address particular issues.

- 2. If you propose to bill for services provided by paralegals, clerical staff, or other non-attorney personnel, please list by title and hourly rate each position for whom you may bill.**

We bill paralegal work at one-half the proposed attorney rate. We do not charge for client work performed by any other non-legal staff.

- 3. Please provide a complete listing of all charges for expenses you intend to impose as incurred (i.e. any and all copy charges, telephone charges, fax charges, mileage charges and the like, but excluding any fees for stenographers, court fees, service fees and the like).**

Mileage is charged at the rate allowed by the Internal Revenue Code. Costs for stenographers, recording fees, and deposition and transcript fees, photocopying and landline use or other out-of-pocket disbursements on Town matters are charged at cost with no mark-up. We will seek prior authorization from the Town Administrator for any single expense/disbursement exceeding \$500.

4. In what hourly increments do you intend to bill?

We bill in 1/10th hour increments.

5. Do you bill out attorney time out of the office on a portal-to-portal basis or some other basis? Please describe.

We bill travel time on a portal to portal basis from our Boston office to the Town, or such closer location actually travelled by the attorney. Many of the courts and administrative agencies in which the Town may have matters pending are within a short walking distance of our Boston office, reducing travel time expenses.

6. Will there be a separate charge for office hours and/or training sessions? If so, please itemize.

As stated above, we provide annually two in-person seminars free of charge, and, upon request, additional seminars as needed to address particular issues. If the Town wishes to use the alternative fee arrangement below, office hours would be included in the basic Town counsel services, however, typically, if we have an hourly fee arrangement with a municipality, our hourly rate would apply to such hours. We would be happy to discuss other ways of addressing office hours.

7. Do you intend to propose an alternative fee arrangement? Yes X No ____ . If “yes”, please attach additional sheet(s) fully describing and explaining your proposal.

In the alternative to the traditional hourly rate arrangement, we propose the following alternative fee arrangement, using a retainer for typical, or basic, town counsel services and an hourly rate for matters outside the retainer.

A. Basic Town Counsel Services

KP Law will provide all basic and ordinary Town Counsel services to the Town for a yearly fixed fee, which services shall be referred to Basic Town Counsel Services, plus out-of-pocket expenses at cost. The fixed annual fee for Basic Town Counsel Services covers typical town counsel services, including the following (so long as the service is not part of an excluded matter):

- consultation with town officials at Town Hall during office hours, two half-days per month;
- telephone conferences with Town officials;
- research and writing of opinion letters;
- review, interpretation, and drafting of Town bylaws;
- review and drafting of Town Meeting warrant articles;
- review and drafting of Town Meeting motions;
- attendance at all sessions of the annual Town Meeting or any Special Town Meeting;
- review and drafting of contracts;

- review of subdivision documents, such as covenants (to the extent not paid for by the developer);
- review and drafting of planning board, board of appeals, or other town board or committee decisions;
- the first three hours of the review or drafting of routine legal instruments such as restrictive covenants, conservation restrictions, releases, and easements;
- attendance at Departmental Heads meetings each month or the equivalent; and
- preparation of periodic status reports and meeting with the Town Administrator and Board of Selectmen to review.

The list of services covered within Basic Town Counsel Services is not intended to be exhaustive, but merely illustrative of the Basic Town Counsel Services covered by the fixed annual fee. Note Basic Town Counsel Services are billed in equal monthly increments at a monthly rate of one-twelfth the yearly fixed fee. Basic Town Counsel Services would also include two free seminars annually. (See list of sample topics in Exhibit 6 to our Response to your RFQ/I.)

If the Town were to select this alternative fee proposal, transition costs would be included in Basic Town Counsel Services.


B. Hourly Legal Services

Matters outside of the retainer will be billed separately at the hourly rate set forth above, and are referred to herein as “Hourly Legal Services.”

The following are Hourly Legal Services not within Basic Town Counsel Services:

- work on litigation and other adversarial matters, including appeals to administrative agencies such as the ABCC and the Appellate Tax Board;
- labor and employment;
- real estate transactions, i.e. acquisition or disposal by the Town of a parcel of real estate, and any real estate-related legal services requiring more than three hours of work;
- real estate drafting requiring more than three hours of work;
- comprehensive permit matters, including hearings;
- comprehensive general or zoning bylaw revision or review and form of government charter or special act adoption;
- construction and building committee issues and litigation;
- special projects;
- matters paid for by third parties;
- tax title work
- bond counsel services; and
- cable television licensing.

By my signature, I certify that the information contained in this Response to Request for Qualifications/Information: Fees and Expenses Response Sheet is complete and accurate to the best of my knowledge and belief.

Signed:  Date: April 9, 2021
Lauren F. Goldberg, President

#757870



J. Raymond Miyares Thomas J. Harrington Christopher H. Heep Donna M. Brewer Jennie M. Merrill
Rebekah Lacey Bryan Bertram Ivria Glass Fried Alexandra B. Rubin Ethan B. Dively Maurica D. Miller Rian Rossetti

April 9, 2021

By Email (aschiavi@townofbourne.com)

Anthony E. Schiavi
Town Administrator
Town of Bourne
24 Perry Avenue
Bourne, MA 02532

Re: Town Counsel RFQ/I

Dear Mr. Schiavi

Miyares and Harrington LLP is dedicated to the practice of law in the public interest and concentrates its professional work in municipal and related areas of law. We are pleased to submit this response to you and to the Board of Selectmen, in response to the Town's Request for Qualifications/Information for Town Counsel Services.

Our firm is focused on the needs of local government, with special expertise in areas of law important to good government. Our firm currently serve as Town Counsel to Carlisle, Hopkinton, Littleton, Reading, Stockbridge, Templeton, and Wellesley, and as Adjunct Town Counsel in Needham. We also serve as special counsel to other Cities and Towns (often in complex matters), Labor Counsel to the Town of Dracut, and as counsel to the Berkshire Regional Planning Commission.

Our attorneys are adept in the areas of law that so often present local issues—including general municipal practice, solar installations and regulation, municipal finance, procurement, charter and bylaw revisions and interpretations, open meeting law and public records, special legislation, zoning and land use, real estate, liquor licensing, environmental law, and litigation—and our legal skills are recognized by our clients as well as leading legal publications, such as the Martindale Hubbard Law Directory, which gives us an AV® Rating—its highest.

But you will no doubt receive responses from other firms and attorneys with good legal credentials. What sets our firm apart is its culture and commitment to local government. Our firm is composed of attorneys and staff with a diverse set of backgrounds and skillsets,

united in a common commitment to Massachusetts Cities and Towns. Municipal law is our passion, and we love what we do. We have reviewed your RFQ/I with interest, as well as the Bourne Board of Selectmen's Strategic Plan and believe that our deep experience, our broad legal expertise, and our enthusiasm for partnering with local government offer an excellent—and unique—match for those needs. We hope to be given the opportunity to partner with Bourne's local government to help implement that Strategic Plan and meet the legal needs of the Town's diverse and thriving community.

Enclosed with this letter is our response to your RFQ/I, organized to match your format. As you will find, we offer competitive rates, years of experience, personal service, diligent attention to our clients' needs, and good humor. We propose to designate Bryan Bertram and Alexandra ("Alex") Rubin as lead and backup counsel, respectively, and J. Raymond ("Ray") Miyares as senior counsel, in a complementary arrangement that we explain more in our response and one that we believe best serves Bourne's needs.

We thank you for the opportunity to express our interest and provide you this information. We look forward to the opportunity to discuss our interest and qualifications in more detail.

Respectfully Submitted,

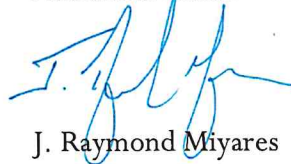
MIYARES AND HARRINGTON LLP



Bryan Bertram



Alexandra Rubin



J. Raymond Miyares

Encs.



J. Raymond Miyares Thomas J. Harrington Christopher H. Heep Donna M. Brewer Jennie M. Merrill
Rebekah Lacey Bryan Bertram Ivria Glass Fried Alexandra B. Rubin Ethan B. Dively Maurica D. Miller Rian Rossetti

**TOWN OF BOURNE
RESPONSE TO REQUEST FOR QUALIFICATIONS
FOR TOWN COUNSEL SERVICES**

Bryan Bertram
Alexandra Rubin
J. Raymond Miyares
MIYARES AND HARRINGTON LLP
40 Grove Street • Suite 190
Wellesley, MA 02482
Tel. (617) 489-1600
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ray@miyares-harrington.com

Miyares and Harrington LLP is pleased to submit this response to Bourne's Request for Qualifications for Town Counsel Services ("RFQ/I").

Our firm has a single core focus: providing sophisticated legal advice to municipalities, and we have been doing so since 1988. We are a full-service municipal law firm, with experience in a wide range of local government law, including town meeting, the *Open Meeting Law*, the *State Ethics Law*, public records requirements, procurement, contracts, insurance, land use, environmental law, solar installations and regulation, special legislation, wetlands protection, public health, the *Community Preservation Act*, historic preservation, telecommunications, public ways, parks and recreation, municipal finance, taxation, licensing, construction law, and employment.

We serve as Town Counsel to the Towns of Wellesley, Reading, Hopkinton, Littleton, Carlisle, Stockbridge, and Templeton, and as Adjunct Town Counsel in Needham, Labor Counsel to Dracut, and Counsel to the Berkshire Regional Planning Commission. We also serve as special counsel to boards and officials in other communities across the Commonwealth. In that capacity, we are currently representing particular boards or officials in Weymouth, Burlington, Dracut, Beverly, Boxford, Hamilton, Lenox, Newburyport, Palmer, and Southborough.

Our team is pleased to offer our services to the Town of Bourne. We are confident that our firm's record of legal excellence, our deep and diverse roster of practitioners, and our enthusiasm for partnering with local government will be an excellent match for Bourne's legal requirements. In the pages below, we respond to your RFQ/I in the format and on the forms you have provided.

To aid in your review, we provide the following table of contents. Each page of this response, including all attachments, is sequentially page numbered for ease of reference and fully text searchable.

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3. Do each of the attorneys identified above meet the minimum bar admission requirements of the RFQ/I?.	7
4. With respect to each attorney identified, please list each and every Massachusetts municipality represented by the attorney within the past ten years, the years of such representation, and the name, address and phone number of at least one contact person in each municipality with knowledge of the attorney's representation.	8
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9. State whether you have represented a client in the preceding three (3) years who has or had a matter pending before any officer, agency, board or committee of the Town of Bourne.	14

10. Confirm that you will not, during the time of your representation to the Town, represent any client in any matter in which the interests of the client are adverse to those of the Town, or in any matter seeing action by any officer, agency, board or committee of the Town, in accordance with MGLA 44A c268A s17.	15
11. Provide a general description of the firm, its history, significant changes in its makeup over the last three (3) years and is range of business.	15
12. Provide a list of municipalities represented over the last 10 years (see attached sheet).	19
13. Although the Town Administrator will select and appoint Labor Counsel, please explain your firm’s experience with Municipal Labor Law as there may be times where collaborative discussions between Town Counsel and Town Labor Counsel are desired or warranted.	20
14. For the above Municipal Clients, have you or the firm: A. Exceeded the municipal legal budget appropriation (general fund) in the last three (3) fiscal years (FY2018, FY2019, FY2020) and if so, by what percent? B. If you have a retainer arrangement with the above clients, please note the retainer amount vs. total amount billed for the last three (3) fiscal years.....	20
15. Provide details of any criminal investigation, regulatory or disciplinary proceedings or material litigation against your firm or members of your firm, which is either pending or has been completed in the preceding three (3) years.	21
16. Provide details as to the nature and amounts of your firm’s professional insurance and of any claims asserted or made against such coverage in the preceding three (3) years.	22
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**RESPONSE TO REQUESTS FOR QUALIFICATIONS/INFORMATION FOR
BOURNE TOWN COUNSEL**

NAME: Bryan Bertram, Alexandra Rubin, J. Raymond Miyares

FIRM NAME: Miyares and Harrington LLP

ADDRESS: 40 Grove Street, Suite 190, Wellesley MA

TELEPHONE: 617-489-1600 FAX: 617-489-1630

EMAIL: bbertram@miyares-harrington.com; arubin@miyares-harrington.com
ray@miyares-harrington.com

Please respond to each of the following:

- 1. Please identify by name (address and phone number if different than above) the proposed Town Counsel and each proposed back-up counsel. The Board of Selectmen wants to know the specific individual attorney who will serve as lead counsel.**

We propose to designate three attorneys to work as the firm's primary client service team for Bourne: Bryan Bertram, Alexandra ("Alex") Rubin, and J. Raymond ("Ray") Miyares.

Bryan Bertram is proposed as Lead Counsel and Alex Rubin as Backup Counsel. Bryan would serve as the primary point of contact for legal services but, under our proposed arrangement, Bryan and Alex would collaboratively be responsible for all legal matters, providing a depth of legal experience enhanced by each attorney's complementary skills in different specific subject matters. Both attorneys would also be in regular contact with Town officials. We additionally propose to compliment Bryan and Alex's skillsets with the deep legal experience and skills of Ray Miyares—the firm's founding partner—as a senior legal resource to provide the highest quality of services.

We propose this structure following substantial thought about Bourne's needs. It is important that one attorney serves as a principal contact to the Town, to avoid any confusion or miscommunication about legal projects or their management. But we also believe that a collaborative, team approach by Lead and Backup Counsel is the best mechanism to provide swift, responsive, and sophisticated legal advice to Bourne. And we believe that backstopping our collaborative team with a senior legal resource such as Ray best enhances the quality of the legal services that we have to offer to Bourne.

Finally, we offer our services as a firm for a reason. Each of our attorneys brings a unique set of skills and experience to our efforts. That means that all our attorneys are available to Bourne and we will staff your matters with those attorneys best suited to each individual issue. We believe this provides two principal benefits: First, it ensures that all tasks have the attention of lawyers whose skills align with that task. Second, it ensures effective cost-control—experienced lawyers are typically capable of identifying issues and performing legal work quickly and efficiently.

2. Please attach résumés for each attorney identified above.

We have attached to the end of this RFQ/I response, beginning on page 34, résumés of all attorneys in our firm, as all our attorneys will be available to provide legal services within their areas of experience. Additionally, and for your convenience, below we provide brief backgrounds for each of the three attorneys identified as the core team for providing services to Bourne.

Bryan Bertram. (Proposed Lead Counsel). Bryan Bertram has 15 years of experience as a trusted advisor to both public and private entities. He believes strongly that local government is the most impactful level of government on people's lives and has chosen to focus his career on helping local government with decision-making, policy implementation, and all-around good governance. Bryan is a municipal law generalist, with particular experience in municipal governance, litigation (both in trial and appellate courts), administrative law and proceedings, and Constitutional law. At Miyares and Harrington, he works both as lead and supporting counsel for many of our municipal clients.

Before joining our firm, Bryan served the Commonwealth as an Assistant Attorney General in the Government Bureau of the Massachusetts Attorney General's Office. He represented State agencies and officials in a wide range of matters, defending policies and programs, and other government decision-making against legal challenges. Bryan's portfolio of matters spanned many issues of interest to local government, including open meetings, environmental licensing, affordable housing regulation, civil service matters, legislation and finance issues, and other forms of board and official hearings and decision-making. He has won cases in the Supreme Judicial Court, Appeals Court, and both Federal and State trial courts.

In addition to his service to the Commonwealth, Bryan worked for seven years at Goodwin Procter LLP, where he focused on complex civil litigation, and government and internal investigations. He also served as a Special Assistant District Attorney in Woburn, responsible for a heavy criminal caseload, including trials.

Bryan earned his law degree *cum laude* from Boston College Law School, where he served on the Editorial Staff of the Boston College International and Comparative Law

Review. He graduated *cum laude* with a Bachelor of Science degree in Business Administration from The Ohio State University, Max M. Fisher School of Business, where he was a nationally ranked member of the Ohio State Speech and Debate Team and a finalist in the national speech and debate tournament, in multiple events.

Alex Rubin (Proposed Backup Counsel). Alex has more than a decade of experience advising public and private entities and their employees. She concentrates her practice on issues related to general municipal law, labor and employment matters, state ethics and public records law, and boards of health. Her experience and background in public health has made her a uniquely valuable asset to our clients during the COVID-19 pandemic and in planning for the “new normal” post-pandemic.

Prior to joining our firm, Alex was Deputy General Counsel for the Massachusetts Department of Public Health, where she advised the agency and its programs on matters pertaining to federal and state emergency preparedness, employment law, Open Meeting Law, state ethics and public records law, federal law and regulatory compliance including FERPA and HIPAA, and issues pertaining to school health law. She has experience both prosecuting and serving as a Hearings Officer in administrative hearings.

Before government service, Alex was an associate at Locke Lord LLP (f/k/a Edwards Angell Palmer & Dodge, LLP), where she focused on labor and employment counseling and litigation for clients including medical organizations, private educational institutions, and non-profit organizations. She has represented public and private entities in cases involving discrimination, retaliation and wage and hour laws, and provides guidance to our clients on matters related to disciplinary action, employee trainings, internal investigations, and employee handbooks.

Alex has appeared in administrative proceedings at the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Alcoholic Beverages Control Commission, the Department of Public Health, and the Division of Administrative Law Appeals. She began her legal career as a judicial law clerk for the Honorable Maureen McKenna Goldberg, Senior Associate Justice of the Rhode Island Supreme Court.

Alex earned her law degree *magna cum laude* from Suffolk University Law School, where she served as the Executive Editor of the Suffolk University Law Review. She is a *summa cum laude* graduate of the University of Rhode Island and its Honors Program, where she earned a Bachelor of Arts degree in Political Science and Communications.

Ray Miyares (Proposed Senior Counsel). Ray holds a degree in Urban Studies from the Massachusetts Institute of Technology, in addition to his law degree from the University of Virginia. Ray has served as lead Town Counsel for the Towns of Stockbridge, Hopkinton and Reading, and is principally known for his expertise in planning, zoning, and facility siting matters. He served on the Secretary of Environmental Affairs’ Siting Policy

Task Force and has represented municipalities both in favor of and opposing a wide range of major developments and facilities.

Prior to founding our firm in 1988, Ray was a partner at Bracken and Baram in Boston, New England's first environmental law firm. Ray was the principal drafter of the *Water Management Act, M.G.L. c.21G*, and has assisted numerous public water suppliers with registration and permitting issues under that statute.

Ray has represented municipalities both in favor of and opposing a wide range of major developments and facilities. An experienced negotiator, Ray has also concluded numerous Host Community Agreements requiring mitigation and offsetting benefits in Towns that are asked to accept controversial facilities, provide zoning or tax relief, provide support in state permitting processes or settle development-related litigation. He is particularly adept in land use matters with significant technical issues requiring interaction with expert consultants and witnesses. He has frequently appeared in administrative proceedings where technical and engineering issues are being adjudicated.

Ray has been selected as a Super Lawyer© in the area of State, Local and Municipal Law for each of the past five years. He has also been designated one of Boston's Top-Rated Lawyers, as well as a Top-Rated Lawyer nationally in Land Use and Zoning, as well as Energy, Environment and Natural Resources, by ALM Legal Leaders.

Ray was a co-author of a Chapter entitled "Municipal Real Estate Transactions" in MCLE's *Massachusetts Municipal Law (2nd edition 2015)*. He has served as a member of a number of advisory committees in his hometown of Belmont, including as a member of the Town's Bylaw Review Committee for 12 years.

3. Do each of the attorneys identified above meet the minimum bar admission requirements of the RFQ/I? If other than yes, please explain.

Yes, Bryan, Alex, and Ray all meet the bar admission requirements in Section IV of the RFQ/I, as do all other members of our firm.

4. With respect to each attorney identified, please list each and every Massachusetts municipality represented by the attorney within the past ten years, the years of such representation, and the name, address and phone number of at least one contact person in each municipality with knowledge of the attorney's representation.

Bryan Bertram: Bryan serves, in conjunction with Ray, as the firm's Lead Counsel for the Town of Hopkinton. Bryan has additionally provided legal services in specific matters to the Towns of Littleton, Reading, Weymouth and the City of Woburn. A table of those municipalities and contact persons is below. Bryan has also provided legal counsel on discrete issues in all towns in which we serve as Town Counsel.

Municipality	Contact Person
Hopkinton (Town Counsel)	Norman Khumalo, Town Manager Town of Hopkinton (508) 497-9700
Littleton (Counsel to Littleton Water Department)	Nick Lawler, General Manager Littleton Electric Light and Water Departments (978) 540-2251
Reading (Town Counsel)	Robert LeLacheur, Town Manager Town of Reading (781) 942-9043
Weymouth (Special Environmental Counsel)	Joseph Callanan, Town Solicitor Town of Weymouth (781) 337-3613
Woburn (Special Counsel – Energy Facilities Siting)	Ellen Callahan Doucette, City Solicitor City of Woburn (781) 897-5910

In addition to the above representations, we believe and urge you to consider Bryan's prior service to the Commonwealth as an Assistant Attorney General as "equivalent

experience,” (Section V of the RFQ/I) supplementing his representations in the table above. For many years, Bryan served in the Government Bureau, advising state agencies, officials, and entities on legal matters related to their policy and decision-making and defended those policies and decisions in courts. He thus advised both elected and appointed government officials on complicated and sensitive issues across a wide range of matters, including many of relevance to municipalities, such as issues pertaining to licensing, environmental, public records, open meeting, finance, procurement, and utilities. Indeed, we believe that Bryan’s prior experience—both as an Assistant Attorney General and, before that, in private practice and as a prosecutor—gives him an enhanced and sometimes unique outlook on issues that confront our clients.

Alex Rubin:

Municipality	Contact Person
Dracut (Labor Counsel backup)	Ann Vandal, Town Manager Town of Dracut (978) 452-1227
Hopkinton (Associate Town Counsel)	Norman Khumalo, Town Manager Town of Hopkinton (508) 497-9700
Wellesley (Associate Town Counsel)	Meghan Jop, Executive Director Town of Wellesley (781) 431-1019, ext. 2201
Carlisle (Associate Town Counsel)	Timothy Goddard, Town Administrator Town of Carlisle (978) 371-6688
Templeton (Associate Town Counsel)	Carter Terenzini Former Town Administrator (603) 498-0958

Municipality	Contact Person
Berkshire Regional Planning Commission (Associate Commission Counsel)	Thomas Matuszko, Executive Director Berkshire Regional Planning Commission (413) 442-1521 ext. 34

Alex provides legal counsel in all towns in which we serve as Town Counsel, particularly those involving public records law, boards of health, school law, ethics law, open meeting law, procurement and contract drafting and negotiations, and labor and employment matters. She has represented our clients at the State Ethics Commission and the Alcoholic Beverages Control Commission.

In addition to the above representation, we believe and urge you to consider Alex's prior service to the Commonwealth as Deputy General Counsel of the Massachusetts Department of Public Health as "equivalent experience," (Section V of the RFQ/I) supplementing her representations described above. For many years, Alex advised DPH and its officials, boards, commissions, and employees on legal matters relating to their policy and decision-making. She advised appointed government officials on complicated and sensitive issues across a wide range of matters, including many of relevance to municipalities, including issues pertaining to the ethics law, public records law, open meeting law, licensure, the drafting and promulgating of regulations, as well as employment matters and federal compliance, including HIPAA and FERPA. Like Bryan, we believe that Alex's prior experience—both as Deputy General Counsel and, before that, in private practice—gives her an enhanced and sometimes unique outlook on issues.

Ray Miyares:

Municipality	Contact Person
Hopkinton (Town Counsel)	Norman Khumalo, Town Manager Town of Hopkinton (508) 497-9700

Municipality	Contact Person
Reading (Town Counsel)	Robert LeLacheur, Town Manager (781) 942-9043
Stockbridge (Town Counsel)	Michael Canales, Town Administrator Town of Stockbridge (413) 298-4170
Needham (Adjunct Town Counsel)	Kate Fitzpatrick, Town Manager Town of Needham (781) 455-7500
Brookline (Special Counsel - Negotiations with developer)	Jonathan Simpson, Associate Town Counsel Town of Brookline (617) 730-2190
Hamilton (Water Counsel)	Joseph J. Domelowicz, Jr., Town Manager Town of Hamilton (978) 468-5572
Lenox (Special Counsel)	Christopher J. Ketchen Chief Administrative Officer Town of Lenox (413) 637-5500 ext. 7
Newburyport (Special Counsel)	Barry N. Connell President of City Council City of Newburyport (978) 462-7462
Wareham Community Development services	Marilyn Whalley Community Economic Development Authority (retired)

Municipality	Contact Person
Weymouth (Special Environmental Counsel)	Joseph Callanan, Town Solicitor Town of Weymouth (781) 337-3613
Woburn (Special Counsel – Energy Facilities Siting)	Ellen Callahan Doucette, City Solicitor City of Woburn (781) 897-5910
Wrentham (Special Counsel - casino agreement negotiation)	William Ketcham, Town Administrator (retired)

5. Please describe each identified attorney's experience in the areas of land use, zoning and planning.

Bryan, Alex, and Ray each have experience in land use, zoning, and planning matters and would, further, be supported by the firm's practice area leaders in these areas.

Bryan has advised the Town of Hopkinton concerning its zoning, land use, and other planning issues during his representation. This includes annual review of the Town's proposed zoning bylaw amendments for Town Meeting, providing advice to the Zoning Advisory Committee and Planning Board in the drafting and application of zoning bylaws, and providing legal advice and guidance on other land use and planning issues. This experience includes legal advice on complex issues of zoning and land use, including with respect to an LNG peak-shaving energy facility to which the Town is host community.

Alex has advised the Town of Hopkinton concerning a major eminent domain project which required the acquisition of both permanent and temporary easements on 85 properties and acted as the liaison between the Town and MassDOT regarding state and federal compliance. Alex has drafted a number of developer agreements and purchase and sale agreements regarding the transfer and development of land for multiple clients of the firm.

Ray has substantial experience in all matters of zoning, land use, and planning. He has undertaken a comprehensive revision of the Town Zoning Bylaws in Stockbridge and Reading. He also developed new subdivision regulations in West Boylston and, in 1998,

under a contract with the Metropolitan District Commission, authored a set of Model Subdivision Control Regulations for use by any community with special water resource protection needs.

Ray has assisted with a host of zoning changes for our client Towns, ranging from fine-tuning a use table to the creation of an Open-Space Mixed-Use Development Overlay District (OSMUD). He has drafted countless zoning and general bylaws and amendments, as well as Planning Board and Zoning Board of Appeals rules and regulations.

6. Please describe how you propose to satisfy the accessibility requirements of the RFQ/I.

It is our firm's standard practice to be available to the same standards set forth in the RFQ/I. We respond to any inquiry within 24 hours and expect to be able to provide legal opinions within one week, unless unusual circumstances require otherwise.

In fact, we have structured our proposed core service team—with Bryan as Lead Counsel, Alex as Backup Counsel, and Ray as Senior Counsel—to exceed even those standards as often as possible. As Lead Counsel, Bryan would commit to that availability other than during preplanned absences, communicated in advance. He would additionally be available by cellphone and the Town would be encouraged to call or text him, including during non-work hours, in the event a response or other action is needed on an emergency basis.

But we would further propose, and highly encourage, that any request for legal services by email be directed to both Bryan and Alex and that Town officials would not hesitate to call either Bryan or Alex (or both if one proves unavailable in the short-term), irrespective of "Lead" and "Backup" designations. As "Senior Counsel," Ray would be readily available to add an additional layer of legal expertise, pursuant to the same availability standards as need be.

We recognize that, in municipal government, last-minute requests are routine and not unexpected. We encourage our municipal clients to contact us at any time, including at home, to make necessary requests, and we have structured our proposed team to answer last-minute requests, when needed.

We also believe that "availability" goes beyond just responding to requests, when received. We would first propose to undertake an intensive "listening tour" of Town Boards and Offices during our first month as Town Counsel, to hear firsthand what issues they are now facing, what advice and counsel they require, and how best to interact with them efficiently and cost-effectively. After that, we would plan to present our findings to the Select Board and Town Administrator and, with their assistance, develop a plan for

managing the provision of legal services at the high level that Bourne expects. There would be no charge to the Town for this initial effort.

Secondly, after selection as Town Counsel, we would expect to present training programs upon request, when new members have been elected or appointed, or when substantive or procedural issues have arisen. We would be pleased to provide a yearly training session to department heads and support staff, as well as up to three sessions per year to elected and appointed officials. The topics will be selected by the Town Administrator with the advice of Town Counsel. These sessions will be at no cost to Bourne.

7. Please describe how you propose to satisfy the backup requirements in section V. of the RFQ/I.

When Bryan is unavailable on a preplanned absence or otherwise, Alex will be available as Backup Counsel, with Ray's support. Also, for many matters, other firm attorneys will be involved with either Bryan or Alex and will therefore also be available, in supplement to either, to Bourne. And, in a truly exceptional circumstance, where both Bryan and Alex become unavailable, any of the firm's other partners are qualified pursuant to Bourne's standards to respond to any request for legal services.

8. Will you meet or exceed the billing requirements of the RFQ/I?

Yes, we will meet the billing requirements of the RFQ/I. These standards are similar to or the same as many of our other clients and our time-tracking and billing systems are therefore configured to do so.

9. State whether you have represented a client in the preceding three (3) years who has or had a matter pending before any officer, agency, board or committee of the Town of Bourne.

We have not.

10. Confirm that you will not, during the time of your representation to the Town, represent any client in any matter in which the interests of the client are adverse to those of the Town, or in any matter seeing action by any officer, agency, board or committee of the Town, in accordance with MGLA 44A c268A s17.

Our firm and attorneys value ethics and our professional reputations above all else. We happily confirm as much.

11. Provide a general description of the firm, its history, significant changes in its makeup over the last three (3) years and its range of business.

Miyares and Harrington was founded in 1988. The firm's focus has never changed in the three decades of its existence: municipal clients and their legal needs. Every attorney and staff member at our firm works here because we believe in local government. For that reason, our firm has seen little significant change over the last three years. Our work remains a constant and our focus the same.

As part of this description, we think it worthwhile to highlight our extensive experience in the areas you highlighted as of particular interest to Bourne, in Section III of the RFQ/I.

1. General Municipal Law. Our firm has over three decades of experience in general municipal law, both as counsel and special counsel to towns, across innumerable subject matters and issues. We have drafted hundreds of zoning and general bylaws, amendments, and regulations. We have a cordial working relationship with the staff of the Attorney General's Municipal Law Unit, which ultimately must review and approve all Town bylaws before they go into effect, and we routinely discuss unusual issues of bylaw substance or language with that Office before finalizing warrant articles.

2. Municipal Finance. We advise our client municipalities on a host of budgeting, funding, taxation, borrowing, and accounting issues related to capital, operating, reserve, enterprise, and revolving funds, as well as special-purpose gift accounts. We work closely with bond counsel and the Department of Revenue's Division of Local Services in addressing concerns immediately as they arise. We help prepare grant and loan applications, federal and state assistance agreements, Tax Increment Financing (TIF) agreements and host community agreements (HCAs). We have drafted numerous debt exclusions, capital outlay exclusions, and override ballot questions and related Town Meeting motions, and advise our municipal clients regarding a range of *Community Preservation Act* accounting issues. We have presented seminars to other municipal counsel on municipal finance in partnership with lawyers at the Division of Local Services and presented to municipal officials on some of the more obscure elements of TIFs and HCAs.

3. State Procurement Laws. We draft, review and defend Town contracts and procurement documents and have experience doing so in various factual contexts ranging from a typical goods and services agreement executed subsequent to a procurement in compliance with the requirements of the *Uniform Procurement Act*, *M.G.L. c.30B* to more complex design, project management, and construction contracts obtained through the Town's designer selection procedures adopted pursuant to *M.G.L. c.7C, §§44-57* and the Commonwealth's public construction statutes (*M.G.L. c. 149, §§44A-44J* (building construction), *M.G.L. c.149A* (public construction, alternate delivery methods), and *M.G.L. c.30, §39M* (public works)).

We have represented client municipalities in public construction contracting involving school and other public buildings, water and sewage facilities, solid waste disposal facilities, roads and bridges, dams, and telecommunications facilities. We have experience assisting Towns with school construction projects funded by the Massachusetts School Building Authority ("MSBA"), reviewing all project agreements with the MSBA and MSBA bidding and contract documents. We also have assisted Towns with the procurement and execution of energy management contracts with solar energy providers under *M.G.L. c.25A, §§11C & 11I*.

4. Town Charter. We have served as the principal drafters of the Home Rule Charters of Reading and Hopkinton and the Special Act proposed to reorganize the structure of the Town government in Wellesley.

5. Open Meeting Law. We have provided advice and guidance on applying the *Open Meeting Law*, *M.G.L. c.30A, §§18-25* and the *Public Records Law*, *M.G.L. c. 4, §7(26)* and *c.66, §10*, and defended our clients on appeals to the Attorney General's Division of Open Government and the Supervisor of Public Records. This includes assisting our clients in responding to Public Records Law requests from individuals who frequently lodge such requests. Our attorneys have served on the *Open Meeting Law* and Electronic Records Working Groups of the Massachusetts Municipal Law Association.

6. Land Use and Real Estate. We assist our clients regularly in both the purchase and sale of municipal real estate interests, the acquisition of property by gift and by eminent domain, and transferring the care, custody, management and control of real estate from one municipal board to another. We have considerable experience with respect to special-purpose interests in real estate, including easements and rights of way for sewer and water facilities, municipal light utilities (including solar collectors), and streets and ways.

We assist Towns with all matters related to the license, lease, acquisition, and disposition of interests in real estate (including the acquisition or creation of various restrictions thereon), pursuant to applicable statutes, including *M.G.L. c.30B, §16*, *M.G.L. c.184, M.G.L. c.44B, §12*, *M.G.L. c.40, §§3 and 14*, *M.G.L. c. 61, M.G.L. c. 61A, M.G.L. c.*

61B, *M.G.L. c.79*, and *M.G.L. c. 82*. We have also been involved in the acquisition or donation of many Conservation Restrictions, under *M.G.L. c.184*, §§31-33.

For our municipal clients, we have been involved in developing, supporting, permitting, or opposing a wide range of development projects, including construction and demolition, hazardous and other solid waste facilities and transfer stations, power plants, shopping malls, lifestyle centers and “big box” stores, office facilities, highway projects, water and wastewater treatment facilities, a variety of residential, hotel and mixed-use developments, “40B” developments, and a religious shrine.

We have extensive experience with Chapter 40B and have represented Boards of Appeal throughout many long and contentious comprehensive permit hearings, and in later appeals to the Housing Appeals Committee. We have also negotiated with 40B developers to produce developments that are acceptable to the Town, and two such developments have recently allowed our Towns to reach the 10% affordability requirement and insulate them from further comprehensive permit applications. We have also helped our Towns draft zoning bylaws that seek to increase the local stock of affordable housing and helped our Towns administer such bylaws after their adoption.

7. Open Town Meeting. Our attorneys have participated in preparing innumerable warrant articles and motions for Annual and Special Town Meetings. We have also served at numerous Annual and Special Town Meetings and have advised Moderators on procedural and substantive issues of concern. Our attorneys arrive at Town Meeting fully prepared to perform our duties and with ready access to all necessary research materials.

Additionally, we understand that there are often a few select articles on an Annual or Special Town Meeting warrant that are the culmination of a year or more of meetings, work and effort by our client boards. For those and other unique or significant articles, we work with our clients to plan so that the article, motion, legal research, and supporting arguments are drafted before the warrant closes. We strive to anticipate public concerns and to prepare our clients to address those concerns before projects are derailed.

8. Special Legislation and Home Rule Petitions. As part of our service to municipal clients, we have often drafted special legislation and Home Rule petitions.

9. Zoning. We have participated in countless public hearings of local boards and devote a significant portion of our practice to interpreting and explaining the proper application of the *Zoning Act* for our client boards or in court. The bulk of this work consists of assisting Boards of Appeals with variance or comprehensive permit applications, or Special Permit Granting Authorities (typically, the Board of Appeals or Planning Board) with a Special Permit application. Upon request, we guide our clients through an application process from determining whether an application is complete to drafting the

decision and representation in court. We offer guidance through phone calls and emails if just a little assistance is needed, or by appearing at hearings when necessary.

We have assisted Planning Boards with applications for preliminary or definitive subdivision plan approval and requests for endorsement as Approval Not Required, often reviewing or even drafting decisions and supporting covenants, and defending their decisions upon appeal in Land or Superior Court. We assisted in the comprehensive revision of the subdivision regulations in Littleton and Carlisle, developed new subdivision regulations in Dracut.

10. Liquor Licensing. We have advised local licensing authorities on a range of liquor issues, involving license award, renewal, suspension, and other enforcement mechanisms, and have assisted several of our client Towns in updating their governing alcoholic beverage policies. We consult regularly with the Alcoholic Beverages Control Commission on matters subject to its purview so that local decisions will be upheld if appealed. We have also drafted special legislation seeking an increase in the permitted number of licenses available to be issued in one of our client towns. We have frequently appeared before the ABCC in defense of disciplinary action taken by towns against licensees.

11. Environmental. Beyond our reputation in municipal law generally, Miyares and Harrington is probably best known for our expertise in environmental controversies. We have represented municipal clients in a very wide range of natural resource conservation and environmental protection matters, arising under federal, state and local laws and regulations pertaining to water quality and management issues, air emissions, odor control, toxic and hazardous materials, noise abatement and control, traffic mitigation, public nuisances, noisome trades and site assignments, and environmental impact analysis, in the context of compliance advice, permitting, enforcement proceedings, administrative appeals, and litigation.

Our expertise includes compliance advice, regulatory drafting, strategic planning, site selection review, permitting assistance, enforcement, administrative appeals, and litigation.

We assist with the management of wetland resource areas, areas of critical environmental concern (ACEC), and scenic mountain resources for both public and private-sector clients. We help with the adoption, administration, and enforcement of local wetland bylaws, with the implementation of airport runway safety areas and associated vegetation management plans, and with ACEC protection strategies. We draft land conservation restrictions, agricultural and historical preservation restrictions, and special-purpose covenants regulating or restricting the use of land for natural resource protection purposes.

We provide support for the financing, design, permitting and construction of public water supply upgrades and expansions and the acquisition of property interests associated

with those projects. In addition, we offer strategic advice and support in connection with the purchase and sale of water service and water rights, applications to license, expand or discontinue public water supply wells, and responses to notices of noncompliance and administrative consent orders.

12. Energy. We often represent municipalities, or their boards and officials, on energy or utility issues. Sometimes, that means purely local review related to the construction, relocation, or removal of utility infrastructure—such as poles or wires. Other times it means representing municipal interests before the State’s Department of Public Utilities and Energy Facilities Siting Board or the Federal Energy Regulatory Commission with respect to energy and utility infrastructure.

The goal of local communities is to be assured that major energy facilities can co-exist with residents and businesses safely and efficiently. We negotiate and draft host community agreements to lock down the key features of proposed projects and to secure mitigation and offsetting benefits for the community.

We also help with the procurement and contract negotiations associated with ground-based and rooftop solar facilities. We assist with lease terms, payment in lieu of taxation (PILOT) agreements, power purchase agreements, and energy management service agreements.

13. Litigation and Legal Proceedings. Our attorneys have appeared before all courts of the Commonwealth, as well as the U.S. District Court for Massachusetts, U.S. Bankruptcy Court of the District of Massachusetts, U.S. Bankruptcy Appellate Panel for the First Circuit, and the First Circuit and D.C. Circuit Courts of Appeals. We have also participated in adjudicatory proceedings before administrative agencies such as the Alcoholic Beverages Control Commission, the Department of Environmental Protection, the Department of Public Utilities, the Housing Appeals Committee, the Appellate Tax Board, the Energy Facilities Siting Board, the Board of Conciliation and Arbitration, the Massachusetts Commission Against Discrimination, and the Division of Administrative Law Appeals.

12. Provide a list of municipalities represented over the last 10 years (see attached sheet).

A List of Municipalities Represented over the Last 10 Years/References is provided in this RFQ/I response beginning on page 23.

13. Although the Town Administrator will select and appoint Labor Counsel, please explain your firm's experience with Municipal Labor Law as there may be times where collaborative discussions between Town Counsel and Town Labor Counsel are desired or warranted.

Our firm serves as Labor Counsel to the Town of Dracut. In that role, we assist the Town Manager and Human Resources Director with day-to-day labor and employment matters including rendering advice regarding rights and responsibilities under various collective bargaining agreements, grievances, civil service matters, and injury-on-duty/workers' compensation issues. We also have extensive experience assisting municipalities with human resource administration and day-to-day counseling, development of employee policies and handbooks, employee benefits contracting and administration, disciplinary matters, sexual harassment and discrimination investigations, and other related employment matters, including matters concerning post-COVID-19 issues such as vaccination and reasonable accommodations.

Our staff includes attorneys with experience in collective bargaining, Joint Labor Management Committee mediation, grievance hearings, and arbitration of contract disputes. When called upon, we have taken the lead in all these matters and we are happy to do so for Bourne. However, we have typically recommended that municipal clients retain a separate labor counsel. As an alternative, we also enjoy a very good collegial relationship with Mirick O'Connell, a firm with a robust labor practice with many public clients, and which serves as labor counsel in three of our client Towns. We would be pleased to pursue either approach or craft a hybrid that works for the Town of Bourne.

14. For the above Municipal Clients, have you or the firm:

A. Exceeded the municipal legal budget appropriation (general fund) in the last three (3) fiscal years (FY2018, FY2019, FY2020) and if so, by what percent?

We recognize that managing legal spend and budgeting is important to all Towns. We therefore regularly communicate with our clients concerning legal projects, their priorities, and the amount of work—and corresponding cost—for their completion. For that reason, we are happy to report that, for almost all our clients, we have remained within the initial allotted municipal legal budget and in no instance has a client expressed dissatisfaction to us about our legal billing.

For those few instances where we may have exceeded an initial legal budget appropriation, the circumstances were discussed and authorized in advance with the client and resulted in subsequent appropriations and re-budgeting to perform what was agreed upon all to be necessary legal work. For example, our firm has represented the Town of

Weymouth over the past three fiscal years in opposition to a natural gas pipeline compressor station that resulted in over 20 judicial and administrative challenges. The amounts expended to do so were all carefully discussed and pre-authorized with the Town and the Town subsequently appropriated the full amount billed by the firm.

B. If you have a retainer arrangement with the above clients, please note the retainer amount vs. total amount billed for the last three (3) fiscal years.

Retainer Clients	FY2020	FY2019	FY2018
Carlisle			
Retainer	\$42,000.00	\$42,000.00	\$42,000.00
Non-Retainer	\$41,248.00	\$51,930.92	\$29,252.00
Total billed	\$83,248.00	\$93,930.92	\$71,252.00
Hopkinton			
Retainer	\$108,000.00	\$102,000.00	\$102,000.00
Non-Retainer	\$356,746.75	\$223,735.50	\$153,517.00
Total billed	\$464,746.75	\$325,735.50	\$255,517.00
Stockbridge			
Retainer	\$42,130.92	\$40,903.92	\$40,903.92
Non-Retainer	\$83,458.16	\$93,430.17	\$52,310.46
Total billed	\$125,589.08	\$134,334.09	\$93,214.38
Hamilton			
Retainer	N/A	\$35,000.00	\$31,000.00
Non-Retainer	N/A	\$67,879.54	\$106,284.34
Total billed	N/A	\$102,879.54	\$137,284.34

15. Provide details of any criminal investigation, regulatory or disciplinary proceedings or material litigation against your firm or members of your firm, which is either pending or has been completed in the preceding three (3) years.

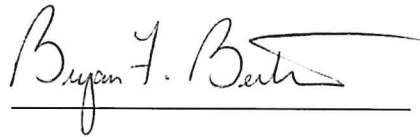
There are none.

16. Provide details as to the nature and amounts of your firm's professional insurance and of any claims asserted or made against such coverage in the preceding three (3) years.

Our firm maintains professional insurance in an aggregate amount of \$3 million. We can and shall provide evidence of this coverage prior to the execution of any contract for services. There have been no claims made against that coverage in the preceding three years.

By my signature, I certify that the information contained in this Response to Requests for Qualifications are complete and accurate, to the best of my knowledge and belief.

Signed:



Date: April 9, 2021

Bryan Bertram



Alexandra Rubin



J. Raymond Miyares

Firm Name: Miyares and Harrington, LLP

List of Municipalities Represented over the Last 10 Years/References

Below is a list of clients for whom Miyares and Harrington LLP provided legal counsel within the past ten years. Miyares and Harrington authorizes the Town of Hadley to contact the references listed below either by telephone, in person or by written correspondence.

TOWN COUNSEL	
Municipality	Contact Person
Carlisle Town Counsel (Lead: Tom Harrington) 2013 to present	Alan Lewis, Chair, Select Board Timothy Goddard, Town Administrator Town of Carlisle 66 Westford Street Carlisle, MA 01741 (978) 371-6688
Hopkinton Town Counsel (Lead: Bryan Bertram, Ray Miyares) 2007 to present	Norman Khumalo, Town Manager Town of Hopkinton 18 Main Street Hopkinton, MA 01748 (508) 497-9700
Littleton Town Counsel (Lead: Tom Harrington) 1988 to present	Cynthia Napoli, Chair, Select Board Anthony Ansaldi, Town Administrator Town of Littleton 37 Shattuck Street Littleton, MA 01460 (978) 540-2460
Needham Adjunct Town Counsel 2020 to present (Lead: Chris Heep) Wetlands permitting, EFSB administrative hearing, land use (Leads: Ray Miyares and Tom Harrington) 2012 to 2020	Kate Fitzpatrick, Town Manager Town of Needham 1471 Highland Ave. Needham, MA 02492 (781) 455-7500

TOWN COUNSEL	
<p>Reading Town Counsel (Lead: Ray Miyares) 2014 to present</p>	<p>Robert LeLacheur, Town Manager Town of Reading 16 Lowell Street Reading, MA 01867 (781) 942-9043</p>
<p>Stockbridge Town Counsel (Lead: Ray Miyares) 1996 to present</p>	<p>Chuck Cardillo Chair, Select Board Michael Canales, Town Administrator Town of Stockbridge 50 Main Street Stockbridge, MA 01262 (413) 298-4170</p>
<p>Templeton Town Counsel (Lead: Tom Harrington) 2018 to present</p>	<p>Michael Currie, Chair, Select Board Adam Lamontagne, Town Administrator Town of Templeton 160 Patriots Road East Templeton, MA 01438 (978) 894-2755</p>
<p>Wellesley Town Counsel (Lead: Tom Harrington) 2014 to present</p>	<p>Thomas Ulfelder, Chair, Select Board Meghan Jop, Executive Director Town of Wellesley 525 Washington Street, 3rd Floor Wellesley, MA 02482 (781) 431-1019, ext. 2201</p>

SPECIAL COUNSEL	
Municipality	Contact Person
<p>Dracut Special Counsel (Lead: Jennie Merrill & Donna Brewer) 2019-present</p> <p>Labor Counsel (Lead: Donna Brewer & Alex Rubin) 2020-present</p>	<p>Ann Vandal, Town Manager Town of Dracut 62 Arlington St. Dracut, MA 01826 (978) 452-1227</p>
<p>Hamilton Water Counsel (Lead: Ray Miyares) 2003 to present</p> <p>Town Counsel (Lead: Donna Brewer) 2014 to 2019 (at MH) 1998 to 2014 (at Casner & Edwards)</p>	<p>Joseph J. Domelowicz, Jr., Town Manager Town of Hamilton 577 Bay Road Hamilton, MA 01936 (978) 468-5572</p>
<p>Lenox Special Counsel (Lead: Ray Miyares) 2019 to present</p>	<p>Christopher J. Ketchen Chief Administrative Officer 6 Walker Street Lenox, MA 01240 (413) 637-5500 ext. 7</p>
<p>Newburyport Special Counsel (Lead: Ray Miyares) 2019 to present</p>	<p>Barry N. Connell President of City Council City of Newburyport 36 Woodland St. Newburyport, MA 01950 (978) 462-7462</p>

SPECIAL COUNSEL	
<p>Palmer Land use permitting advice and litigation (Lead: Chris Heep) 2016 to present</p>	<p>Linda Leduc, Town Planner/Economic Development Director Town of Palmer 4417 Main Street Palmer, MA 01069 413-283-2600 Ext. 2605</p>
<p>Salem-Beverly Water Supply Board ATB Counsel (Lead: Donna Brewer) 2017 to present</p>	<p>John Darling, General Counsel Correnti & Darling LLP 63 Federal St. Salem, MA 01970 (978) 744-0212</p>
<p>Southborough Special Counsel to the Conservation Commission (Lead: Rebekah Lacey) 2019 to present</p>	<p>Aldo Cipriano, Town Counsel 277 Main Street Marlborough, MA 01752 Tel. (508)485-7245 Fax (508)485-2304 AldoC.Esq@comcast.net</p>
<p>Weymouth Environmental Counsel (Lead: Ray Miyares) 1988 to present</p>	<p>Joseph Callanan, Town Solicitor 87 Broad Street Post Office Box 29 Weymouth, MA 02188 (781) 337-3613</p>

PRIOR MUNICIPAL CLIENTS	
Municipality	Contact Person
Attleboro Wetlands permit appeal (Lead: Rebekah Lacey) 2016 to 2017	Robert S. Mangiaratti, City Solicitor (retired) Murphy, Hesse, Toomey & Lehan, LLP 300 Crown Colony Drive Quincy, MA 02169 (617) 479-5000
Belmont Telecommunications permitting services (Lead: Chris Heep) 2014 to 2016	Phyllis Marshall, Assistant Town Administrator Currently Treasurer/Collector Town of Arlington 730 Massachusetts Avenue Arlington, MA 02476 (617) 316-3030
Boxford Special Counsel (Lead: Donna Brewer) 2018-2020	Alan J. Benson, Town Administrator Town of Boxford 7A Spofford Rd. Boxford, MA 01921 (978) 887-6000 ext. 502
Brookline Negotiations with developer (Lead: Ray Miyares) 2017	Jonathan Simpson, Associate Town Counsel 333 Washington St. Brookline, MA 02445 (617) 730-2190
Burlington Special Counsel (Lead: Donna Brewer) 2019	Jim Tigges, Vice-Chair, Board of Selectmen Town of Burlington 29 Center Street Burlington, MA 01803 (781) 270-1600
East Bridgewater Brownfield development (Lead: Tom Harrington) 2009 to 2017	Laura Brown, Tax Title Counsel The Cornerstone Building 800 Hingham Street Rockland, MA 02370 (781) 871-3111

PRIOR MUNICIPAL CLIENTS	
Municipality	Contact Person
Newburyport Advice regarding City Council process (Lead: Ray Miyares) 2018	Barry N. Connell, President, City Council City of Newburyport 60 Pleasant Street Newburyport, MA 01950 (978) 465-4413
Paxton Zoning litigation (Lead: Chris Heep) 2017 to 2018	Carol Riches, Town Administrator Town of Paxton 697 Pleasant Street Paxton, MA 01612 (508) 754-7638
Shirley Sewer System services (Lead: Chris Heep) 1999 to 2016	Robert C. Schuler, Vice Chairman Sewer Commission 7 Keady Way Shirley, MA 01464 (978) 425-2600
Sturbridge Opposition to expansion of Southbridge Landfill (Lead: Rebekah Lacey) 2016 to 2018	Linda Cocalis Chair, Board of Health 301 Main Street Sturbridge, MA 01566 (508) 347-2504
Wareham Community Development services (Lead: Ray Miyares) 2006 to 2016	Marilyn Whalley Community Economic Development Authority (retired)
Wenham Land use and environmental services (Lead: Tom Harrington) 1996 to 2016	Emilie Cademartori Land Use Coordinator 138 Main Street Wenham, MA 01984 (978) 468-5520

PRIOR MUNICIPAL CLIENTS	
Municipality	Contact Person
Whitman Brownfield services (Lead: Tom Harrington) 2015	Francis Lynam, Town Administrator Town of Whitman 54 South Street Whitman, MA 02382 (781) 618-9704
Woburn Energy facility siting litigation (Lead: Ray Miyares) 2018 to 2019	Ellen Callahan Doucette, City Solicitor City of Woburn 10 Common Street Woburn, MA 01801 (781) 897-5910
Wrentham Telecommunications services and casino agreement negotiation (Leads: Chris Heep and Ray Miyares) 2013 to 2017	William Ketcham, Town Administrator (retired) Virginia Stuart Secretary, Zoning Board of Appeals 79 South Street Wrentham, MA 02093 (508) 384-6320

**RESPONSE TO REQUEST FOR QUALIFICATIONS/INFORMATION FOR
BOURNE TOWN COUNSEL**

Fees and Expenses Response Sheet

(To be attached and made part of the overall Response to Requests for Qualifications)

- 1. Please list the name and hourly rate for proposed Town Counsel and for each attorney intended or likely to serve as backup when the appointee is unavailable.**

For all matters we proposed the following hourly billing rates (please note that each of Bryan Bertram, Alexandra Rubin, and J. Raymond Miyares bill at the “Partners and Counsel” rate):

Partners and Counsel: \$225 per hour

Associate Attorneys: \$215 per hour

- 2. If you propose to bill for services provided by paralegals, clerical staff, or other non-attorney personnel, please list by title and hourly rate each position for whom you may bill.**

Paralegals and Law Clerks: \$125 per hour

- 3. Please provide a complete listing of all charges for expenses you intend to impose as incurred (i.e. any and all copy charges, telephone charges, fax charges, mileage charges and the like, but excluding any fees for stenographers, court fees, service fees and the like).**

Travel: \$140 per hour

All out-of-pocket expenses and disbursements will be billed at cost. There is no charge for routine copying, scanning, or online legal research. Out-of-the-ordinary copying projects or fees will be subject to approval by the Town.

4. In what hourly increments do you intend to bill?

Hourly billings would be recorded in tenths of an hour and billed monthly.

5. Do you bill out attorney time out of the office on a portal-to-portal basis or some other basis? Please describe.

We bill attorney time that must be conducted out of the office at our regular rates when the attorney performs legal work and at a reduced travel rate of \$ 140 per hour for travel time to and from a location.

6. Will there be a separate charge for office hours and/or training sessions? If so, please itemize.

As we explain in response to Item #6 in our responses, we believe strongly that training sessions are part and parcel to making ourselves “available” to our clients. We therefore would provide up to three training sessions per year, at no charge. Should additional training be desired, we would bill such a training hourly, at our normal rates.

As for office hours, we would charge for the provision of legal services at our normal hourly rates. We would not, however, bill for slack time – *i.e.*, time in office hours during which no advice was being provided.

7. Do you intend to propose an alternative fee arrangement? Yes X No __. If “yes”, please attach additional sheet(s) fully describing and explaining your proposal

As an alternative to our hourly billings outlined above, we are happy to discuss establishing a retainer arrangement for core Town Counsel services provided to the Town. The amount of the retainer would depend on the scope of services to be provided under the retainer and the services that we would be asked to provide on an hourly basis. To function properly for all parties, however, the fixed monthly retainer payment should be based on the scope of work that the Town expects its counsel to provide, and it should further provide for payments that, on average, do not radically depart from the hourly rates we propose above.

Therefore, to set a monthly retainer that meets the needs of both parties, we typically need to review the way the Town has historically involved its counsel in the “routine” legal matters and discuss how the Town plans to use its counsel going forward. This information

is not readily available through public record, but we would be pleased to discuss an appropriate monthly retainer further should the Town determine that it wishes to employ this kind of fee agreement.

Irrespective of whether we bill hourly, pursuant to a retainer, or through a hybrid of both models, we believe strongly that the foundation of cost-effective legal services is communication and planning. Legal fees can (and often do) vary based on the complexity of an issue and the timing under which it must be resolved. But while they may vary, legal fees should not be a surprise. We are committed to regular review of open matters with the appropriate Town officials, to ensure a full understanding of all matters then pending and proper planning for all matters reasonably anticipated in the future.

**ACKNOWLEDGMENT OF RECEIPT OF ADDENDA TO RFQ DOCUMENTS
TOWN OF BOURNE**

Town Counsel Legal Services

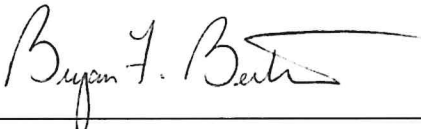
The undersigned responder hereby acknowledges receipt of the following notices, revisions, or addenda to the advertisement, specifications or RFQ/I documents. By indicating date of receipt, responder acknowledges the submittal takes into account the provisions of the notice, revision, or addendum.

Reference # or Title of Addendum	Mode of Receipt (fax, email, pickup)	Date received
Request for Qualifications Town Counsel Services ADDENDA	Town website	4-1-2021

Acknowledgement:

Bryan F. Bertram

Name and Title of Authorized Representative



Signature

April 9, 2021

Date

LEGAL RÉSUMÉS

DONNA M. BREWER

Academic Background

Juris Doctor

New York University
School of Law

Bachelor of Arts, cum laude

Middlebury College

Member of the Bar

Massachusetts
New York

United States District Court for Massachusetts

United States Southern and
Eastern Districts of New York

United States Court of
Appeals, First Circuit

United States Court of Appeals, DC Circuit

Supreme Court of the

United States

Community Service

Board Member
Lawyers for Civil Rights
2011-present

Contributor
Massachusetts Municipal Lawyers
Association

Co-author, "Municipal Code
Enforcement," Massachusetts Municipal
Law, Ch. 25 (MCLE 2020)

Lecturer
MCLE
Municipal law issues

Honors

AV®, Martindale-Hubbell®
2012+Massachusetts Super
Lawyers®
2011 Bar Register of
Preeminent Women Lawyers™
Inaugural Edition

Our partner, Donna M. Brewer, received her A.B. degree, *cum laude*, from Middlebury College and her J.D. from New York University School of Law. Ms. Brewer is experienced in the broad range of matters of particular concern to towns and regional school districts, including budget disputes, labor, citizens' petitions, Proposition 2 1/2, local board practice and procedure, Open Meeting Law, Public Records Act, intermunicipal agreements, public works and construction projects, elections, and zoning and non-zoning land use matters. She has advised municipalities and lectured on local regulation of Small Wireless Facilities in light of FCC Rulings.

In addition to her background in litigation, Ms. Brewer has substantial litigation experience in such varied fields as zoning and land use, 5G, real estate, business contracts, civil rights, consumer protection, professional malpractice, products liability, guardianship and conservatorship, employment, surety and insurance coverage disputes on behalf of individuals, corporations, partnerships, non-profit organizations and municipal clients. She has experience in all levels of regional federal and state courts and alternative dispute resolution forums.

Ms. Brewer is a member of the Massachusetts Municipal Lawyers Association and the International Municipal Lawyers Association. She is a board member of the Lawyers for Civil Rights.

Ms. Brewer is rated AV in Martindale-Hubbell®, assessed by her peers as holding the highest ethical standards and professional ability.

PROFESSIONAL EXPERIENCE

Partner, 2014-present
Miyares and Harrington LLP

Partner, 2001-2014
Associate, 1984-2000
Casner & Edwards LLP

Associate, 1982-1984
Hughes Hubbard & Reed
New York, NY

LEGAL RÉSUMÉS

JENNIE M. MERRILL

Academic Background

Juris Doctor

Northeastern University

Bachelor of Arts

University of Massachusetts
at Lowell

Member of the Bar

Massachusetts
United States District Court for Massachusetts

Community Service

Member
Topsfield Planning Board
2019-present

Member
Topsfield Conservation
Commission
2008-2014

Member
Steering Committee of the
Administration of Justice
Section of the Boston Bar Association
2009-2012

Lead Author
"Municipal Real Estate Transactions," Chapter
15 of Massachusetts Municipal Law (MCLE)
2012- 2020

Partner Jennie M. Merrill's practice is focused on representing municipal interests in construction and engineering contract matters, as well as matters relating to public procurement. She also has experience representing municipalities and private clients in real estate matters, wetlands protection permitting and appeals. Ms. Merrill received her law degree from Northeastern University School of Law and graduated magna cum laude from the University of Massachusetts at Lowell.

Ms. Merrill served as a law clerk for the Honorable James McHugh of the Massachusetts Appeals Court. Her experience also includes work at the U.S. First Circuit Court of Appeals, the Conservation Law Foundation and the U.S. Environmental Protection Agency (Region I). Ms. Merrill currently serves as a member of the Topsfield Planning Board and formerly served as Chair of the Topsfield Conservation Commission.

PROFESSIONAL EXPERIENCE

Partner, 2016- present
Associate, 2005-2015
Miyares and Harrington LLP

Law Clerk, 2006-2007
The Honorable James F. McHugh
Massachusetts Appeals Court

LEGAL RÉSUMÉS

J. RAYMOND MIYARES

Academic Background

Juris Doctor

University of Virginia

Bachelor of Science

Urban Studies

Massachusetts Institute of Technology

Member of the Bar

Massachusetts

United States District Court for Massachusetts

United States Court of

Appeals, First Circuit

and D.C. Circuit

Community Service

Secretary, Board of Directors

Massachusetts Hazardous

Waste Insolvency Fund

1986-1989

Siting Policy Task Force,

Executive Office of

Environmental Affairs 1990

Construction Industry Arbitrator

American Arbitration Association 1988-1994

Belmont Financial Task Force Advisory

Committee

1995-1996

Belmont Telecommunications Bylaw Study

Committee

1997-1998

Belmont Purecoat Planning Committee 2004-

2006

Belmont Bylaw Review

Committee 2006-2018

J. Raymond Miyares, founding partner of the firm, is principally known for his work in facility siting, water and resource management, and municipal finance matters. He is the principal author of two entire Chapters of the Massachusetts General Laws. Mr. Miyares is particularly experienced in matters with significant technical issues requiring interaction with expert consultants and witnesses.

Mr. Miyares has represented municipalities and private clients both in favor of and opposing a wide range of major developments and facilities. He has concluded numerous host community agreements requiring mitigation and offsetting benefits in Towns that accept controversial facilities or provide property tax relief.

Mr. Miyares is the lead author of a Chapter entitled "Municipal Real Estate Transactions" in MCLE's Massachusetts Municipal Law (2nd edition 2016).

REPRESENTATIVE CLIENTS

Town Counsel: Town of Stockbridge MA 1996-present

Town Counsel: Town of Hopkinton MA 2007-present

Town Counsel: Town of Reading MA 2014-present

Counsel, Low-Level Radioactive Waste
Management Board 1989-1999

Counsel, Special Legislative Commission on Water Supply
1982-1983

PROFESSIONAL EXPERIENCE

Partner, *Miyares and Harrington LLP*
1988-present

Clark University Department of Geography
Visiting Lecturer 1987

Bracken and Baram 1978-1987
Partner 1982-1987

Instructor and Staff Attorney
Boston University School of Public Health
1982-1983

Director of Research
The Research Group, Inc., 1974-1978

LEGAL RÉSUMÉS

THOMAS J. HARRINGTON

Academic Background

Juris Doctor

Northeastern University

Bachelor of Arts

Hartwick College

Member of the Bar

Massachusetts

United States District Court for Massachusetts

Community Service

Chair

Wellesley Recreation Commission

2010-2014

Member

Wellesley Town Meeting

2004-2009

President

Vice President

Wellesley United Soccer Club

2002-2009

Member

Board of Directors

Roxbury Community College

Center for Environmental Education

1997-2000

Principal Author

Model Subdivision Control Regulations

Metropolitan District Commission

1998

Member

Sherborn Conservation Commission

1990-1996

Thomas J. Harrington focuses his practice on real estate, land development, planning and wetlands protection issues, assisting municipal boards in contracting, conveyancing, permitting and litigation matters. He has particular experience representing municipal interests in construction and engineering contract matters, as well as in matters before the Department of Environmental Protection. Before joining our firm, he served in the state Division of Capital Planning and Operations.

Mr. Harrington is a graduate of Hartwick College and the Northeastern University School of Law. He is particularly recognized for his successful defense of a Conservation Commission's decision under a local Wetlands Bylaw, despite the project's having received an inconsistent Superseding Order of Conditions from the Department of Environmental Protection. *See Hobbs Brook Farm Property Co. v. Conservation Commission of Lincoln*, 65 Mass. App. Ct. 142 (2005).

Mr. Harrington has been a panelist at the Massachusetts Association of Conservation Commissions (MACC) Annual Meeting, and was a member of the Sherborn Conservation Commission for five years. He has also served on the Board of Directors Roxbury Community College Center for Environmental Education from 1997 through 2000. He was an elected Town Meeting Member in the Town of Wellesley from 2005 through 2008, and was an elected member of the Wellesley Recreation Commission from 2010 through 2014.

REPRESENTATIVE CLIENTS

Town Counsel: Town of Wellesley, MA 2014-present

Town Counsel: Town of Carlisle, MA 2013-present

Town Counsel: Town of Littleton, MA 2001-present

PROFESSIONAL EXPERIENCE

Partner, 1997-present

Counsel, 1990-1997

Miyares and Harrington LLP

1986-1987

Payment Appeals Coordinator

Office of the General Counsel, DCP

LEGAL RÉSUMÉS

CHRISTOPHER H. HEEP

Academic Background

Juris Doctor

Northeastern University

Bachelor of Arts

Oberlin College

Member of the Bar

Massachusetts

United States District Court for Massachusetts

Community Service

Member

Watertown Zoning Board of Appeals

2011-present

Lead Author

"Municipal Real Estate Transactions," Chapter

15 of Massachusetts Municipal Law (MCLE)

2012

Our partner, Christopher Heep serves clients in all areas of the firm's practice, with particular emphasis on disputes concerning zoning and land use. Before joining Miyares and Harrington LLP, Mr. Heep served as Law Clerk to the Honorable Gordon H. Piper of the Massachusetts Land Court.

Mr. Heep received his law degree from Northeastern University School of Law, and has worked for the Honorable William G. Young of the United States District Court for the District of Massachusetts and for the Office of Regional Counsel of the United States Environmental Protection Agency (Region 1). He received his B.A. in History from Oberlin College. Mr. Heep is presently an associate member of the Watertown Zoning Board of Appeals.

PROFESSIONAL EXPERIENCE

Partner, 2011-present

Counsel, 2005-2011

Miyares and Harrington LLP

Law Clerk, 2004-2005

The Honorable Gordon H. Piper

Massachusetts Land Court

Legal Intern, 2003

Sugarman, Rogers, Barshak & Cohen PC

Law Clerk, 2003

Miyares and Harrington LLP

Legal Intern, 2002

U.S. Environmental Protection Agency

Office of Regional Counsel

LEGAL RÉSUMÉS

BRYAN F. BERTRAM

Academic Background

Juris Doctor

Boston College Law School
(*cum laude*)

Bachelor of Science

Business Administration

The Ohio State University,
School of Business
(*cum laude*)

Member of the Bar

Massachusetts
United States District Court for Massachusetts
United States Court of
Appeals for the First Circuit

Bryan F. Bertram has advocated for public and private clients for over a decade. He is an experienced government attorney, focused on municipal law, and believes strongly that local government is the most impactful level of government on people's lives. Mr. Bertram is a municipal law generalist, who has served both as lead and associate Town Counsel for our clients, with particular experience in municipal governance, litigation (both in trial and appellate courts), administrative law and proceedings, and Constitutional law.

Before joining the firm, Mr. Bertram served as a Massachusetts Assistant Attorney General, representing State agencies and officials in a wide range of matters, including defending policies, programs, and government decision-making against legal challenges. He has won cases in the Supreme Judicial Court, Appeals Court, and other State and federal courts. Before government service, Mr. Bertram worked for an AmLaw 100 firm, where he focused on complex civil litigation, and government and internal investigations, and served for six months as a Special Assistant District Attorney in Woburn, prosecuting and trying criminal cases.

At Boston College Law School, Mr. Bertram served on the Editorial Staff of the *Boston College International and Comparative Law Review*, with his student note published in the Spring 2006 edition. He competed on Boston College's 2nd place J. Braxton Craven Constitutional Law Moot Court Competition team and was a quarterfinalist in the Boston College Grimes Moot Court Competition.

PROFESSIONAL EXPERIENCE

Counsel, 2018-present
Miyares and Harrington LLP

Assistant Attorney General, 2013-2018
Office of the Massachusetts Attorney General,
Government Bureau

Senior Associate, 2006-2013, and Law Clerk, 2005
Goodwin Procter, LLP

Special Assistant District Attorney, 2010
Office of the Middlesex County District Attorney,
Woburn, MA

LEGAL RÉSUMÉS

ALEXANDRA RUBIN

Academic Background

Juris Doctor

Suffolk University Law School *magna cum laude*

Bachelor of Arts

*Political Science and Communications
(Honors Program)*

University of Rhode Island *summa cum laude*

Member of the Bar

Massachusetts

*United States District Court for Massachusetts
United States Court of Appeals, First Circuit*

Honors and Awards

University of Rhode Island Academic
Centennial Scholarship

Suffolk University Law School Academic
Leadership Scholarship

Suffolk University Law Review,
Executive Editor

2016 Commonwealth of Massachusetts
Performance Recognition and Citation
for Outstanding Performance

Alexandra Rubin concentrates her practice on issues related to general municipal law, employment matters, state ethics and public records law, FERPA and HIPAA compliance, board of health permitting and regulation, and emergency preparedness.

She has represented public and private employers in cases involving discrimination, retaliation, and wage and hour laws, and provided guidance to employers on matters related to disciplinary action, employee trainings, internal investigations, and employee handbooks.

Ms. Rubin has appeared in administrative proceedings at the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Department of Public Health, and the Division of Administrative Law Appeals.

PROFESSIONAL EXPERIENCE

Counsel, *Miyares and Harrington LLP*
April 2019-Present

Deputy General Counsel
Massachusetts Department of Public Health
June 2013-April 2019

Newman & Newman, PC
October 2012-June 2013

Locke Lord, LLP
(f/k/a Edwards Angell Palmer & Dodge, LLP)
September 2010-September 2012

Judicial Law Clerk
Maureen McKenna Goldberg, Senior Associate Justice
Rhode Island Supreme Court
September 2009-September 2010

LEGAL RÉSUMÉS

IVRIA GLASS FRIED

Academic Background

Juris Doctor

Northeastern University

Master of Environmental Law and Policy

Vermont Law School

Bachelor of Arts

University of Vermont

Member of the Bar

Massachusetts

United States District Court for Massachusetts

United States Court of

Appeals, First Circuit

United States Court of Appeals, District of

Columbia

Community Service

Executive Board Member

Massachusetts Municipal Lawyers Association

2018-Present

Co-Chair

Wetlands, Waterways and Water Quality

Committee, Boston Bar Association

2019-Present

Co-Chair

Environmental Public Service Committee, Boston

Bar Association

2016-2018

Conservation Commission Member

City of Cambridge

2014-2015

Ivria Glass Fried graduated *magna cum laude* from the University of Vermont with a degree in a Political Science and Sociology and *summa cum laude* from Vermont Law School with a Master of Environmental Law and Policy. She received her law degree from Northeastern University School of Law, where she was a semifinalist in the Pace National Environmental Law Moot Court Competition.

Ms. Fried has been selected to the Super Lawyers® list of Massachusetts Rising Stars for Environmental Law in 2017, 2018, and 2019. In 2020, she was named an “Up & Coming Lawyer” by Massachusetts Lawyers Weekly®.

Ms. Fried concentrates her practice on general municipal governance, environmental, land use, and energy law, licensing matters, and implementation of open government requirements. Ms. Fried has litigated in Massachusetts and federal courts, as well as in administrative proceedings before the Department of Environmental Protection, the Energy Facilities Siting Board, and the Department of Public Utilities.

PROFESSIONAL EXPERIENCE

Associate, 2014-present

Miyares and Harrington LLP

Associate, 2013-2014

Law Office of Stuart J. Farkas

Legal Intern, 2013

Department of Justice, Environmental Enforcement Section

Washington, D.C.

Law Clerk, 2013

Anderson & Kreiger, LLP

Legal Intern, 2012

Conservation Law Foundation

Legal Intern, 2012

Earthjustice, San Francisco, CA

Judicial Intern, 2011

Massachusetts Appeals Court

Associate Justice Cynthia J. Cohen

LEGAL RÉSUMÉS

ETHAN B. DIVELY

Academic Background

Juris Doctor

Northeastern University
School of Law

Bachelor of Science

Environmental Studies

Gettysburg College
cum laude

Member of the Bar

Massachusetts
United State District Court
for Massachusetts

Honors and Awards

Gettysburg College David Wills Scholar
and William F. Muhlenberg Award
Recipient

Ethan Dively is a graduate of the Northeastern University School of Law, and joins our firm after serving as the judicial law clerk to the Hon. Robert Foster, Justice of the Land Court. Ethan focuses his practice on land use, real estate, environmental and energy law, as well as other areas of municipal law.

Ethan graduated *cum laude* from Gettysburg College with a Bachelor of Science in Environmental Studies, with a particular focus on environmental science, land use, urban planning and environmental justice. His academic experience at NUSL included serving as Staff Editor of the Northeastern University Law Review and internships at the Massachusetts Land Court, at the Environmental Protection Division of the Massachusetts Attorney General's Office, and at a private firm with a practice focus on real estate transactions and condominium law.

Ethan has worked particularly closely with zoning appeals brought under *M.G.L. c40A §17*; appeals of comprehensive permits brought under *M.G.L. c.40B, §21*, and title disputes over rights in private ways.

PROFESSIONAL EXPERIENCE

Associate, 2019-present
Miyares and Harrington LLP

Law Clerk, 2017-2019
The Honorable Robert B. Foster
Massachusetts Land Court

Legal Intern, 2016
Massachusetts Attorney General's Office
Environmental Protection Division

Law Clerk, 2015-2016
Goldman & Pease, LLC

Legal Intern, 2015
The Honorable Robert B. Foster
Massachusetts Land Court

LEGAL RÉSUMÉS

MAURICA D. MILLER

Academic Background

Juris Doctor

Suffolk University Law School

Bachelor of Science

Psychology

Virginia Polytechnic Institute &
State University

Member of the Bar

Massachusetts

Honors and Awards

Sargent Scholarship,
Honorable Mention Brief
Award, LPS, City-wide Memo to the
Mayor Runner Up, Rappaport Center for
Law and Public Service

Maurica Miller is a graduate of Suffolk University Law School. She focuses her practice on land use, real estate environmental and energy law as well as other areas of municipal law.

While at Suffolk Law, Maurica served as Editor-in-Chief of the Suffolk Transnational Law Review. Her academic experience included internships at the Massachusetts Department of Conservation and Recreation and the Massachusetts Land Court. Maurica graduated from Virginia Tech with a Bachelor of Science in Psychology, where she was a member of the Corps of Cadets and Marine-Option Naval Reserve Officer Training Corps. She went on to serve in the United States Marine Corps.

Maurica's previous legal experience includes serving as a judicial law clerk to the Hon. Howard P. Speicher, Justice of the Land Court, a judicial clerkship with the Massachusetts Superior Court, and work at a private firm with a practice focused on land use and municipal law.

PROFESSIONAL EXPERIENCE

Associate, 2020-present
Miyares and Harrington LLP

Associate, 2018-2020
Mead, Talerman & Costa, LLC

Law Clerk, 2017-2018
The Honorable Howard P. Speicher
Massachusetts Land Court

Senior Law Clerk to the Justices, 2016-2017
Superior Court of Massachusetts

Judicial Intern, 2014
The Honorable Karyn F. Scheier
Massachusetts Land Court

Legal Intern, 2014
Office of the General Counsel
Massachusetts Department of Conservation and Recreation

LEGAL RÉSUMÉS

RIAN ROSSETTI

Academic Background

Juris Doctor

UCLA School of Law

Bachelor of Science

Journalism

Minors in Political Science and

English Literature

Northwestern University

Member of the Bar

Massachusetts

Honors and Awards

Masin Awards in Evidence and Patent

Law classes

Rian Rossetti is a graduate of the UCLA School of Law, where she served as a Comments Editor of the UCLA Law Review and participated in El Centro, UCLA Law's volunteer legal aid clinic. Prior to law school, Rian earned her Bachelor of Science degree in Journalism from Northwestern University. Her experience includes a fellowship with the Berkshire Natural Resources Council in Pittsfield, Massachusetts.

Rian joined Miyares and Harrington after spending two years practicing intellectual property litigation at WilmerHale in Boston, where she also worked as a summer associate after her second year of law school.

PROFESSIONAL EXPERIENCE

Associate, 2020-present

Miyares and Harrington LLP

Litigation Associate, 2017, 2018-2020

WilmerHale

Research Assistant, 2016

Professor E. Tendayi Achiume

UCLA Law Review

Paralegal, 2014-2015

Law Offices of Iannella and Mummolo

Rice Fellow, 2013

Berkshire Natural Resources Council (BNRC)

Editorial Intern, 2013

GlobalPos

Town Counsel Scoring Sheet

Brooks & DeRensis

Miyares & Harrington

KP Law

Comments

Meier

Froman

Slade

MacDonald

Mastrangelo

King

Cannon

November 29, 2021

Concerns Grow Over Plans To Discharge Radioactive Water Into Bay

By CARRIE GENTILE

Dec 3, 2021

Home / Falmouth / Falmouth News

Opposition is mounting against dumping radioactive water into Cape Cod Bay as part of the process to decommission the Pilgrim Nuclear Power Station in Plymouth.

On November 22, the Nuclear Decommissioning Citizens Advisory Panel met with Holtec International, the nuclear company that is decommissioning the plant. Spokesperson Patrick O'Brien was there, along with Harwich resident Diane Turco, the director of Cape Downwinders, a citizen group that spearheaded the effort to close Pilgrim.

It was highlighted in a report by state Department of Environmental Protection Deputy Regional Director Seth Pickering at the Monday meeting in Plymouth.

One of the options Holtec is considering is to release one million gallons of radioactive water into Cape Cod Bay from the reactor vessel and spent-fuel pool.

But state Senator Susan Moran, D-Falmouth, said she is opposed to any release of radioactive water into Cape Cod Bay as part of the decommissioning process. She called for Holtec to release plans on how it will handle all waste materials at the plant.

Furthermore, the senator is concerned about a November 7 accidental release of 7,200 gallons of water following a storm when contractors pumped water into a storm drain that emptied into the bay.

"Although the recently reported violation of the National Pollutant Discharge Elimination System at the Pilgrim nuclear station has been described as isolated, it brings to light that there are not sufficient safeguards and procedures in place to prevent discharges of contaminated water into the Cape Cod Bay. The potential for pollutants and dangerous materials being discharged in our water

resources is alarming,” she said. “Furthermore, it is imperative that the federal agencies stop kicking the can down the road and determine long-term solutions for the removal of these materials safely and expeditiously.”

Mr. O’Brien said at the meeting if Holtec does discharge from its plant in Plymouth into the bay, it would be done in batches of 20,000 gallons each to stay under discharge limits.

Releasing radioactive water into the bay is nothing new, Ms. Turco said.

“Radioactive water is part of the decommission process, but they have also been doing it since they opened in 1972. Radioactivity has been found in sediment, shellfish and algae in Cape Cod Bay,” she said.

“It is why we need voices to speak up. A lot of people are calling me about this because they are very concerned, as they should be,” she said. “No amount of radiation is safe and to think that the government would consider ongoing damage to the bay is unconscionable. It’s alarming that they would think this is still OK.”

She is urging people to call Massachusetts Senator Edward J. Markey and US Representative William R. Keating’s offices to voice opposition.

Holtec holds a permit for discharge of water into the bay. The permit bars the company from discharging common water pollutants but has no control over radioactive material, because radioactive substances are excluded from the definition of “pollutant” under the Clean Water Act, Ms. Turco said.

The discharge process is controlled by the Nuclear Regulatory Commission.

Ms. Turco was skeptical of the commission’s oversight of the decommission process and said the NRC has already given Holtec exemptions for emergency planning, allowed it to use the Nuclear Decommissioning Trust Fund, paid for by ratepayers, for uses outside of the guidelines. For instance, she said, Holtec was allowed to use it for spent fuel storage and management planning.

She also noted that the NRC has allowed discharging radioactive water in other areas.

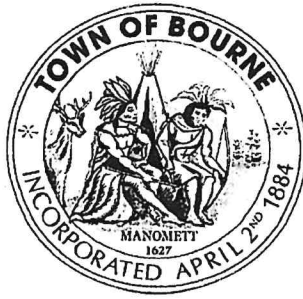
“They allow it elsewhere, so I don’t see why they wouldn’t allow Holtec to do it here,” she said.

The company discussed other disposal methods include storage, shipping the contaminated water to a site in Idaho or to evaporate it.

Ms. Turko said Holtec will make a decision in the next six to 12 months on whether the water will be discharged into the bay.

“The insane option of dumping radioactive water into the bay highlights the fact that the industry and government have no solution to safely dispose of nuclear waste,” she said.

By mid-December, the company expects to finish removing used nuclear fuel assemblies from underwater storage and placing them in steel-reinforced concrete drums.



Town of Bourne

OFFICE OF SELECTMEN

Bourne, MA September 7, 2021

Glenn D. Cannon

The undersigned Board of Selectmen have this day appointed you

Acting Town Administrator

This appointment is valid until Suspended or Revoked

Sworn to before me

This day of

September 2021

.....

Town Clerk

Board of Selectmen

.....

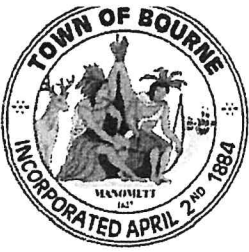
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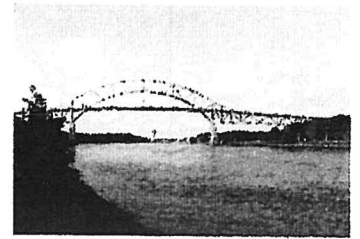
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TOWN OF BOURNE

Board of Selectmen

24 Perry Avenue – Room 101
Buzzards Bay, MA 02532-3496
www.townofbourne.com



PETER J. MEIER, Chair
JUDITH MACLEOD, FROMAN, Vice Chair
GEORGE G. SLADE, JR., Clerk
JARED P. MACDONALD
MARY JANE MASTRANGELO

Phone: 508-759-0600 x1503
Fax: 508-759-0420

TOWN OF BOURNE BOARD OF SELECTMEN

CERTIFICATE OF VOTE

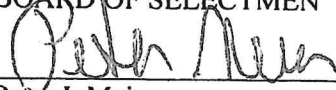
The undersigned members of the Board of Selectmen of the Town of Bourne hereby certify at a public meeting of said Board held on Tuesday, August 24, 2021 at 7:00 p.m., a quorum of the Board of Selectmen being present and voting throughout, upon a motion duly made by Selectperson, Judith MacLeod Froman and seconded by Selectperson George G. Slade Jr., it was unanimously

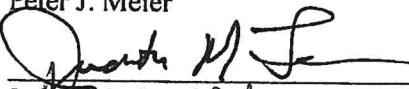
VOTED: to appoint Glenn D. Cannon as the Acting Town Administrator on September 7, 2021 until such until time as an Interim/Acting Town Administrator or Town Administrator is in place.

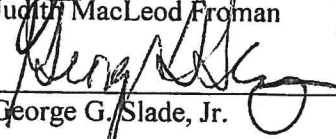
Unanimous Vote – 4-0-0

Peter J. Meier – yes, Judith MacLeod Froman – yes, George Slade – yes, Mary Jane Mastrangelo- yes.

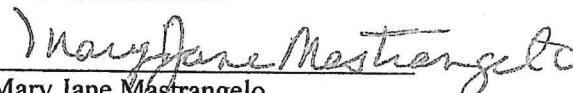
PER ORDER:
BOARD OF SELECTMEN


Peter J. Meier


Judith MacLeod Froman


George G. Slade, Jr.

Jared P. MacDonald


Mary Jane Mastrangelo

Dated: August 24, 2021

RECEIVED
2021 SEP -1 AM 9:04
TOWN CLERK BOURNE



TOWN OF BOURNE

Board of Selectmen

24 Perry Avenue - Room 101
Buzzards Bay, MA 02532-3496
www.townofbourne.com



PETER J. MEIER, 01AIRMAN
JUDITH MACLEOD, FROMAN, VICE
CHAIRMAN GEORGE G. SLADE, JR., CLERK
JARED P. MACDONALD
MARY JANE MASTRANGELO

Phone: 508-759-0600 x1503
Fax: 508-759-0420

November 29, 2021

Bourne Enterprise
Depot Avenue
Falmouth, MA 02540

Legal Advertisement

Please advertise the following as a legal notice in the December 3, 2021 edition of your newspaper.

Please provide a proof before inserting in the newspaper. If you have any questions, please call me at 508.759.0600, ext. 1503.

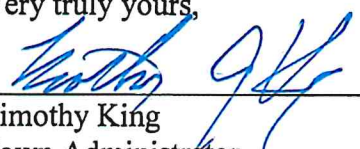
NOTICE TOWN OF BOURNE LIQUOR HEARING

Notice is hereby given in accordance with Massachusetts General Laws Chapter 138, Section 12 that application has been received from Old Bridge Bar and Restaurant, Inc., d/b/a Old Bridge Bar and Restaurant, Benny P. Chu, Manager, 304 Main Street, Buzzards Bay, MA 02532 for a Year Round Common Victualer License for the sale of all kinds of Alcoholic Beverages to be drunk on the premises. Description of premises: One floor - 7 rooms: 2 Dining rooms & 2 bars, office, kitchen, preparation/storage room men's and ladies' restrooms, 2 entrances, 3 exits, and enclosed outside 16'x60' patio. A hearing will be held at the Bourne Veterans' Memorial Community Center, 239 Main Street, Buzzards Bay, on Tuesday, December 14, 2021, at 7:30 p.m.

BOARD OF SELECTMEN

Peter J. Meier
Judith MacLeod Froman
George G. Slade, Jr.
Jared P. MacDonald
Mary Jane Mastrangelo

Very truly yours,



Timothy King
Town Administrator

**NOTICE TOWN OF BOURNE
LIQUOR HEARING**

Notice is hereby given in accordance with Massachusetts General Laws Chapter 138, Section 12 that application has been received from Old Bridge Bar and Restaurant, Inc., d/b/a Old Bridge Bar and Restaurant, Benny P. Chu, Manager, 304 Main Street, Buzzards Bay, MA 02532 for a Year Round Common Victualer License for the sale of all kinds of Alcoholic Beverages to be drunk on the premises. Description of premises: One floor - 7 rooms: 2 Dining rooms & 2 bars, office, kitchen, preparation/storage room men's and ladies' restrooms, 2 entrances, 3 exits, and enclosed outside 16'x60' patio. A hearing will be held at the Bourne Veterans' Memorial Community Center, 239 Main Street, Buzzards Bay, on Tuesday, December 14, 2021, at 7:30 p.m.

BOARD OF SELECTMEN

Peter J. Meier
Judith MacLeod Froman
George G. Slade, Jr.
Jared P. MacDonald
Mary Jane Mastrangelo

December 3, 2021



Town of Bourne
Interdepartmental Advisory Form



Start Date:	11/29/2021
Owner/Applicant:	Old Bridge Bar and Restaurant, Inc. Benny P. Chu, Manager 508.759.3888 - chuchu002@aol.com
Project Location:	304 Main Street, Buzzards Bay
Nature of Request:	Hearing December 14, 2021 - 7:30 p.m. Application for New License - Year Round Common Victualer License for the sale of all kinds of alcoholic beverages to be consumed on the premises. Application for Common Victualer [food] license. Description of premises: One Floor - 7 rooms: 2 Dining rooms & 2 bars, office, kitchen, preparation/storage room men's and ladies restrooms, 2 entrances, 3 exits, and enclosed outside 16'x 60' patio. Full application on file in the TA's Office.
Liability Insurance Naming Town of Bourne as Additional Insured	Has applicant provided insurance? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Map:	20.3	Parcel:	132	District:	
-------------	------	----------------	-----	------------------	--

☐ **Engineering:**

Date of Recording:		Lot Area:		Frontage:		Zone:	DTG
Resource District:	No	Town Road:	Yes	Paved:	Yes	Contiguous Lots:	No
Flood Zone:	X	Within 100' of Wetland:	No				

Owner:
Remarks:

11/29/2021 Timothy P Lydon
Date Department Head

☐ **Planning Department/Planning Board:** ☒ **Concurs** ☐ **Does Not Concur**

Remarks:

12/7/2021 CMoore/jlc
Date Town Planner

☐ **Conservation Commission:** ☐ **Must File** ☐ **Determination** ☐ **Notice of Intent**
☒ **Need not File**

Remarks:

11/29/2021 Timothy P Lydon (Associate Member)
Date Conservation Agent

☐ **Board of Health:** ☒ **Concurs** ☐ **Does Not Concur**

Remarks: Pending preop inspection and food permit application

12/8/2021 Stephanie Fitch
Date Health Agent

☐ **Building Inspector:** ☒ **Concurs** ☐ **Does Not Concur**

Remarks: Needs to apply for an occupancy permit (\$50) as it's been closed, and needs a Cert. of Inspection (\$40).

11/29/2021 KMurphy/ag
Date Building Inspector

☐ **Sewer Commissioners:** ☒ **Approved** ☐ **Disapproved** ☐ **Not Under Sewer Jurisdiction**

Remarks: Will need to confirm that appropriate grease trap is in place, separate from Way Ho.

12/10/21 K. Thut/Admin w/TJ and BOH
Date Department Head

☒ **Town Collector:** ☐ **Outstanding Taxes** ☒ **Taxes Paid In Full**

FY	RE	\$0.00	FY	RE	\$0.00	FY	RE	\$0.00
FY	RE	\$0.00	FY	RE	\$0.00	FY	RE	\$0.00
FY	RE	\$0.00	FY	RE	\$0.00	FY	RE	\$0.00

Remarks:

11/29/2021 A Dastous
Date Town Collector

☐ **Town Clerk:**
If not corporation has business certificate been issued? ☐ **Yes** ☐ **No**

Remarks: N/A business is incorporated

11/29/2021 MFernandes
Date Clerk's Office

☐ **Assessors:**
This individual has (have) completed the Form of List? ☐ **Yes** ☐ **No**

Remarks:

12/10/2021 Rui Pereira - ok to move forward
Date Assessors Office

☐ Department of Public Works: ☒ Approved ☐ Disapproved ☐ Not Under DPW Jurisdiction

Remarks:

12/10/2021 Shawn T Patterson
Date Department Head

☐ Department of Natural Resources: ☐ Approved ☐ Disapproved ☒ Not Under DNR Jurisdiction

Remarks:

11/29/2021 Sharon Hamilton
Date Department Head

☐ Recreation Department: ☐ Concurs ☐ Does Not Concur ☒ Not Under Jurisdiction

Remarks:

12/7/2021 Krissanne M. Caron
Date Department Head

☐ Police Department: ☒ Concurs ☐ Does Not Concur ☐ Not Under Police Jurisdiction

Remarks:

12/6/2021 Lt. John R. Stowe
Date Department Head

☐ Fire Department: ☒ Concurs ☐ Does Not Concur

Remarks: Will need an inspection prior to issuing a certificate of inspection.

11/30/2021 David S. Pelonzi, Assistant Chief
Date Department Head

☐ Town Administrator/Board of Selectmen: ☐ Concurs ☐ Does Not Concur

Remarks:

Date Town Administrator/Board of Selectmen Chairman



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
MONETARY TRANSMITTAL FORM**

APPLICATION FOR A NEW LICENSE

**APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL
LICENSING AUTHORITY.**

ECRT CODE: RETA

Please make \$200.00 payment here: ABCC PAYMENT WEBSITE

**PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE
PAYMENT RECEIPT**

ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

ENTITY/ LICENSEE NAME Old Bridge Bar and Restaurant, Inc.

ADDRESS 304 Main Street

CITY/TOWN Buzzards Bay - Bourne

STATE MA

ZIP CODE 02532

For the following transactions (Check all that apply):

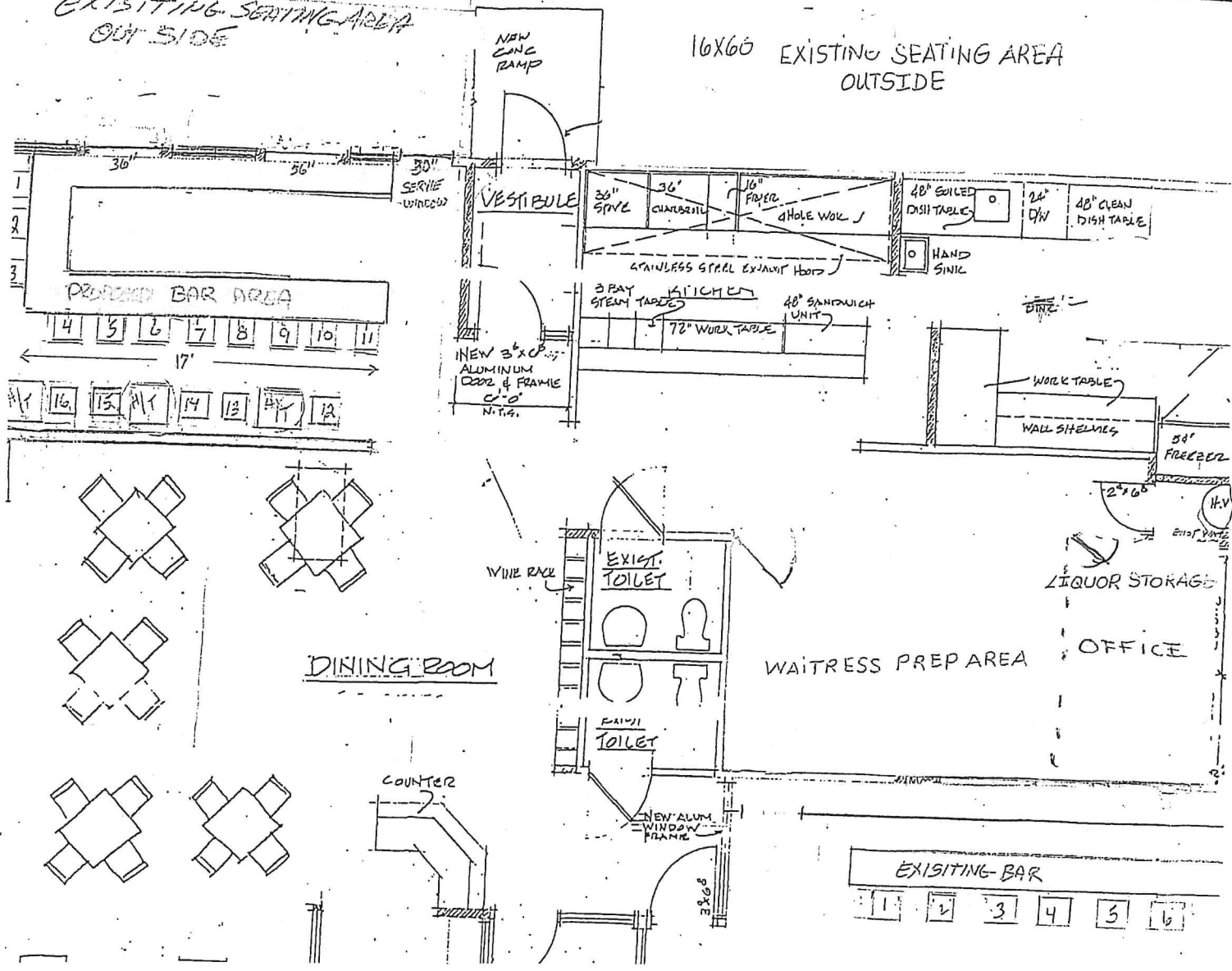
- | | | | |
|--|---|---|---|
| <input checked="" type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | <input type="checkbox"/> Other <input type="text"/> | <input type="checkbox"/> Change of DBA | |

**THE LOCAL LICENSING AUTHORITY MUST MAIL THIS
TRANSMITTAL FORM ALONG WITH
COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:**

Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, MA 02150-2358

EXISTING SEATING AREA
OUTSIDE

16X60 EXISTING SEATING AREA
OUTSIDE



5-1-19

PARKING LOT

Swing Gate

304 Main Street

Piers w/ Rope

PATH AREA

16 X 60
AREA

WALKWAY

PLATFORM

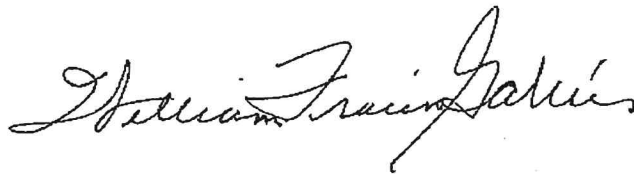
COOLER

Building

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

August 24, 2021 02:47 PM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive style with a large, stylized "G" at the end.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth



TOWN OF BOURNE

Board of Assessors

24 Perry Avenue

Buzzards Bay, MA 02532

(508) 759-0600 Ext. 1510 ♦ Fax (508) 759-8026

Michael Leitzel, Chairperson
Ellen Doyle Sullivan, Clerk
Donna Barakauskas, Member

Rui Pereira, MAA
Director of Assessing

December 1, 2021

Benny Chu
304 Main St.
Buzzards Bay, Ma. 02532

Reference: Abutters List for Map 24.1 Parcel 55.0
Subject Property: 304 Main St

Pursuant to the provisions of Massachusetts General Laws Chapter 138, Section 15A, as amended, this is to certify that the enclosed list of names and addresses constitutes all of the abutters of the premise, including schools, churches and hospitals within 500 feet of the subject property on the most recent tax list of the Town of Bourne. The purpose of the abutters list is for an application of a Liquor License from the Board of Selectmen.

Abutting properties are 20.3 Parcels 118,119,130,133,134

Your payment of \$10.00 has been received by the Assessor's Office.

Please be advised that this abutters list is only good for 30 days from the date on this letter. Expired abutters list can be recertified for an additional filing fee.

See enclosed Data Base Inquiry Forms for abutters mailing addresses.

Board of Assessors

List Enclosed

Ellen Doyle Sullivan
Donna Barakauskas
Michael Leitzel

**2022
Common Victualer
without Liquor**

Common Victualer				
D/B/A	NAME	MANAGER	STREET	CITY
d/b/a Avocados Mexican and American	Koepfer, Inc.	Kristin Koepfer, Mgr.	4 Barlows Landing Road, Unit 6	Pocasset
	Barlow's Clam Shack	Sherry M. Flynn, Manager	856 Scenic Highway	Bourne
Blended Berry	Blended Berry, LLC	Sara Thompson, Mgr.	283 Main Street	Buzzards Bay
	Bourne Appe'tit LLC	Judith S. Comeau, Mgr.	41 Meetinghouse Lane - Unit B	Sagamore Beach
	Bourne Nutrition	Kristina Nelson, Mgr.		
	Chen's Kitchen Inc.	Neng Zhong Chen, Manager	41 Meetinghouse Lane	Sagamore
d/b/a Clammy's Pantry	Bayview Camp Ground, Inc.	Mareana Nightingale, Manager	260 MacArthur Blvd.	Bourne
	Colonial Concession	Ron Braga, Manager	231 Sandwich Road	Bourne
d/b/a The Corner Café	Wurtzburger Creations LLC	Brian Wurtzburger, Mgr.	369 Barlows Landing Road	Pocasset
d/b/a The Daily Brew	Megansett Circle, Inc.	Kathryn A. Hickey, Mgr	1370 Route 28A	Cataumet
d/b/a Dunkin Donuts	Cape Cod Enterprises, LLC	Jose S. Couto, Manager	24 Meeting House Lane	Sagamore
d/b/a Dunkin Donuts	Cape Cod Enterprises, LLC	Jose S. Couto, Manager	278 Main Street	Buzzards Bay
d/b/a Dunkin Donuts	Cape Cod Enterprises, LLC	Jose S. Couto, Manager	174 Clay Pond Road	Monument Beach
d/b/a Dunkin Donuts	Cape Cod Enterprises, LLC	Jose S. Couto, Manager	688 MacArthur Blvd.	Pocasset
d/b/a Dunkin Donuts	Cape Cod Enterprises, LLC	Salvi Couto, Manager	2 Bourne Rotary	Bourne
d/b/a Dunkin Donuts	Cape Management Team, LLC	Jose S. Couto, Manager	343 Scenic Highway	Buzzards Bay
d/b/a Krua Thai	Chankait Suksanit		91 Main Street	Buzzards Bay
d/b/a Market Basket	DeMoulas Supermarket's Inc.	Ian Harcourt, Manager	1 Factory Outlet Way	Sagamore

**2022
Common Victualer
without Liquor**

Common Victualer Continued				
D/B/A	NAME	MANAGER	STREET	CITY
d/b/a McDonald's [Monument Beach]	McBee Enterprises, LLC	Alexandra Szostek, Manager	370 MacArthur Boulevard	Monument Beach
	McDonald's [Sagamore Beach]	Kerri Martin, Manager	15 Meetinghouse Lane	Sagamore Beach
d/b/a Monument Beach Pizza	Tiplinger, Inc.	James H. Hildreth, Jr. & Robert F. Walton, Mgrs.	18 Beach Street	Monument Beach
d/b/a Mr. G's Pizza & Ice Cream	Carrie and Rob Inc.	Rob Lawrence Mgr.	41A Meetinghouse Road	Sagamore Beach
d/b/a Prime Time House of Pizza	E.B.A., Inc.	Edward B. Ashbaugh, Manager	590D MacArthur Blvd.	Pocasset
Starbucks Coffee #14474		Caitlin Webb, Manager	2 Bourne Bridge Approach	Buzzards Bay
	Vela Juice Bar, Inc.	Daniel Anthony - Ana Walsh, Managers	89 Main Street	Buzzards Bay
d/b/a Whistle Stop Ice Cream Shop	D&P Myers Enterprise, LLC	Wanda Myers & Don Myers, Manager	430 Shore Road	Monument Beach

2022
Auto Dealers Class I - II - III - Junkyard - Public Livery

Auto Dealers - Class I				
D/B/A	NAME	MANAGER	STREET	CITY
Atlantic Subaru	Prestige Auto Group, LLC	Levon H. Semerjian, Pres.	124 Waterhouse Road	Bourne
d/b/a Battles Buick GMC	Frank Battles, Inc.	Frank Battles, Mgr.	50 MacArthur Blvd.	Bourne
	Battles Nissan LLC	F. Jeffrey Battles, Manager	60 MacArthur Blvd.	Bourne
d/b/a Bobcat of Bourne	Baystate Equipment LLC	Mark Blanchard, Mgr.	170 MacArthur Blvd.	Bourne
d/b/a Cape Cod Harley-Davidson	Steel Horse Motorcycles of Cape Cod, LLC	Michael Keeham, Mgr.	750 MacArthur Blvd.	Pocasset
d/b/a Falmouth Toyota	T.F. Murphy Enterprises, Inc.	Thomas F. Murphy, Mgr.	290 MacArthur Blvd.	Bourne
	Marty's Chevrolet, Inc.	Christine Karnolt, Manager	420 MacArthur Blvd.	Bourne
	New England RV & Marine, Inc.	David Major, Pres.	150 MacArthur Blvd	Bourne
	South Shore Golf Carts LLC	Susan J. Peterson, Mgr.	111 Cranberry Hwy	Sagamore
Auto Dealers - Class II				
D/B/A	NAME	MANAGER	STREET	CITY
	Bay Motors	Anthony Delia, Mgr.	29 Harrison Avenue	Buzzards Bay
	Cataumet Auto Sales, Inc.	Edward F. Parker	1236 Route 28A	Cataumet
	Diamond Motors	Frederick S. Doctorloff & Donald Foley	857 Shore Road	Pocasset
	Falmouth Motorcar, Inc.	Richard A. Duffy, President	10 Longhill Road - 45 Route 28A	Cataumet
	Kent Auto	Ken Powderly, Mgr.	PO Box 936 - 692 MacArthur Blvd.	Pocasset
d/b/a Pocasset Service Station	Saade Pocasset Enterprises, LLC	Joseph Saade, Manager	372 Barlows Landing Road	Pocasset
	Southeast Truck Center, Inc.	Gary S. Allen, Pres.	147 State Road	Sagamore Beach
d/b/a Towers Used Cars	Towers Service Center, Inc.	George E. Towers, Jr., Mgr.	610 MacArthur Blvd.	Pocasset
	Wenzel's Auto Rental, LLC	Stephen Wenzel, Manager	26 Commerce Park Road	Pocasset
Auto Dealers - Class III				
D/B/A	NAME	MANAGER	STREET	CITY
	Knowlton's Garage, Inc.	John H. Anderson, Mgr.	Route 6A	Sagamore
Junk Yard				
D/B/A	NAME	MANAGER	STREET	CITY
	Knowlton's Garage, Inc.	John H. Anderson, Mgr.	Route 6A	Sagamore
Public Livery				
D/B/A	NAME	MANAGER	STREET	CITY
d/b/a Any Occasion Limousine [3 vehicles]	Francis Warren		449 County Road	Pocasset

Complete Streets Prioritization Plan: Improving Safety & Accommodating All Users

Town of Bourne – Review of Draft Prioritization Plan



REVIEW DRAFT PRIORITIZATION PLAN

Wednesday, December 15, 2021 at 6:00 pm

Join with the link below:

<https://capecodcommission.org/completestreets/join>

If prompted for a passcode, enter: join

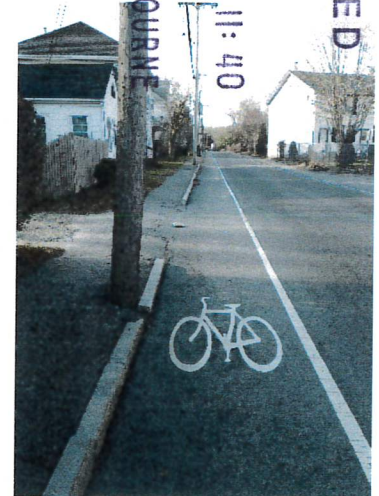
Phone: (929) 205-6099

Meeting ID: 932 6393 2207

Q: What is a "Complete Street"?

A: A Complete Street provides accommodations for all users including motorists, pedestrians, bicyclists and persons with disabilities.

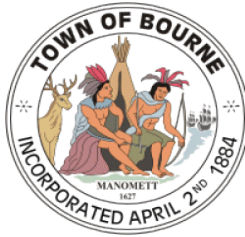
The Town of Bourne along with the Cape Cod Commission have been preparing a draft list of priority projects to be included in the Bourne Complete Streets Prioritization Plan. Staff will be presenting the draft list of projects and will be seeking the public's input on the ranking and the features of the draft projects. Comments will be accepted through December 31st in preparation of a final Complete Streets Prioritization Plan in early 2022.



For more information, please visit

www.capecodcommission.org/BourneCompleteStreets or call 508-362-3828

This meeting is accessible to people with disabilities. The Cape Cod Metropolitan Planning Organization (MPO) provides reasonable accommodations and/or language assistance free of charge upon request (including but not limited to interpreters in American Sign Language and languages other than English, assistive listening devices and alternate material formats, such as audio tapes, Braille and large print, as available). For accommodations or language assistance please contact the Cape Cod MPO by phone: (508) 362-3828, fax (508) 362-3136, Telecommunications Relay Services (TRS), dial 711 or email frontdesk@capecodcommission.org. Title VI Notice of Nondiscrimination: The Cape Cod MPO complies with Title VI of the Civil Rights Act of 1964 and related federal and state statutes and regulations. It is the policy of the Cape Cod MPO to ensure that no person or group of persons shall on the grounds of Title VI protected categories, including race, color, national origin, or under additional federal and state protected categories including sex, age, disability, sexual orientation, gender identity or expression, religion, creed, ancestry, veteran's status (including Vietnam-era veterans), or background, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity administered by the Cape Cod MPO. To request additional information about this commitment, or to file a complaint under Title VI or a related nondiscrimination provision, please contact the MPO's Title VI Coordinator by phone at (508) 362-3828, Telecommunications Relay Services (TRS), dial 711, fax (508) 362-3136 or by e-mail at mhevenor@capecodcommission.org. If this information is needed in another language, please contact the MPO's Title VI Coordinator by phone at (508) 362-3828. Caso estas informações sejam necessárias em outro idioma, por favor, contate o Coordenador de Título VI da MPO pelo telefone 508-744-1299.



Selectmen's Correspondence

December 14, 2021

- A. Letter from R. Hapgood re Roadway Safety Committee
- B. Upper Cape Cod Regional Tech School letter re negotiations with teachers & administrators
- C. Letter from MA Division of Marine Fisheries re shellfish at Barlows Landing
- D. Xfinity letter regarding channel changes
- E. Intent to negotiate letter from the MA & Northern New England Laborers' District Council (Bourne DPW, Units A & B, ISWM.)
- F. DEP Impact Area Groundwater Study Program Letter
- G. Letter from MA Division of Marine Fisheries re shellfish at Fishermans Cove

November 10, 2021

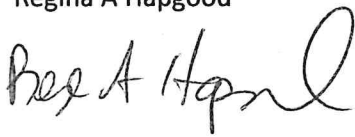
Hello, Town of Bourne Board of Selectmen

I recently sent an email / USPS mail to the Roadway Safety Committee with my concern in reference to the safety in the neighborhood of Taylor's Point. I have attached a copy of the letter and the email response I received from Timothy King. I am appalled by his response. I will continue with my efforts to correct this ongoing issue within our beautiful Taylor's Point.

I will also contact Mr. Shaun Patterson the Director of DPW to see what his possible solution is.

Sincerely

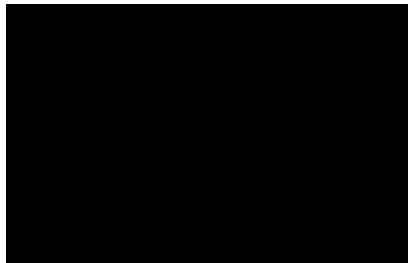
Regina A Hapgood

A handwritten signature in black ink, appearing to read "Reg A Hapgood", written in a cursive style.

BOURNE BD OF SELECTMEN
ROUD 2021 NOV 12 AM 11:27

Regina A Hapgood

10/02/2021



Hello RTS Committee:

I am a lifelong resident of Taylor's Point. Over the past several years myself and other residents have noticed an increase of speed with residents, vacationers, MMA cadets, MMA employee's, fisher men, etc. With this being said "there is a safety concern for everyone walking, biking, and those driving vehicles." The speed limit on Academy Drive is 30mph, there are no speed limit signs on any other road on Taylor's Point, so most vehicles drive 30 mph on all the roads on Taylor's Point faster than the posted speed limit. I do understand the reason for the 30mph speed on Academy Drive, due to the width of the road, etc. But this speed is too fast for the neighborhood. There are only 3 stop signs on Taylor's Point. Wright Lane/Academy Drive. Tower Lane / Academy Drive. Bay Drive/Wright Lane

My solution to this issue would be to drop the speed limit on Academy Drive to 25mph. All other roads in the neighborhood to 15 mph. Post speed limit signs within the neighborhood. Stop signs at cross roads.

Wright Lane/ Buttermilk Way

Bourne Neck Drive/ Wright lane

Bourne Neck Drive/ Tower Lane

Plaza lane/ Bourne Neck Drive

Plaza Lane/ Wright lane

Salt Works/ Bay Drive

Salt Works /Bourne Neck Drive

Bay Drive/Tower Lane

Buttermilk Way/ Bay Drive.

Sincerely

Regina Hapgood



Regina Hapgood [REDACTED]

Speeding Complaint

2 messages

King, Timothy <tking@townofbourne.com>

Wed, Oct 20, 2021 at 12:19 PM

To: [REDACTED]

Ms. Hapgood,

The Town acknowledges receiving your letter expressing concern about motor vehicles speeding in your neighborhood. We have received similar complaints about speeding motor vehicles from other residents. The Police Department has been directed to provide additional speed enforcement in the neighborhood.

Respectfully,

Tim King

Town Administrator

Regina Hapgood [REDACTED]

Fri, Oct 22, 2021 at 10:50 AM

To: "King, Timothy" <tking@townofbourne.com>

Hello Mr. King:

Thank you for responding to my email in a timely manner. Unfortunately, Bourne Police Department is only able to solve the issue while they are present with radar and just puts a bandaid on the issue but not a permanent solution for which we are looking for. Thank you again for your time. I will continue my effort to make our neighborhood a safe place to live.

Sincerely

Regina Hapgood

[Quoted text hidden]

Upper Cape Cod Regional Technical School

220 SANDWICH ROAD, BOURNE, MASSACHUSETTS 02532

www.uppercapetech.com

Roger D. Forget
Superintendent

Telephone: 508-759-7711
FAX: 508-759-7208

November 9, 2021

BOURNE BD OF SELECTMEN
RCUD 2021 NOV 12 AM 11:28

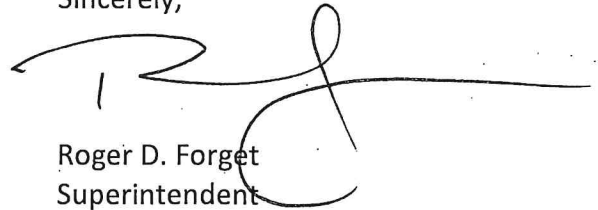
Mr. James McGrail
Town Administrator
Town of Marion
2 Spring Street
Marion, MA 02738

Dear Mr. McGrail:

Thank you for agreeing to serve as the representative of our member communities for the purpose of collective bargaining. The Upper Cape Cod Regional Vocational Technical-School District has recently entered into negotiations with the teachers and administrators for collective bargaining agreements to be effective in Fiscal Year 2023. Section 1 of Chapter 150E of the Massachusetts General Laws provides that a representative of the member communities shall be added to the District Committee for the purpose of discussing strategies relative to collective bargaining and the ratification of any tentative agreements which are recommended to the full Committee. In accordance with our conversation yesterday, you will be representing the member communities until the ratification of the successor agreements.

Thank you again for your willingness to serve in this role and your continued support of Upper Cape Tech. I look forward to working with you in the future.

Sincerely,



Roger D. Forget
Superintendent

cc: Town Administrators, Member Towns
Chair, Boards of Selectmen, Member Towns



BOURNE - FALMOUTH - MARION - SANDWICH - WAREHAM



The Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114

p: (617) 626-1520 | f: (617) 626-1509

www.mass.gov/marinefisheries



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

KATHLEEN A. THEOHARIDES
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

October 29, 2021

Board of Selectmen
Town of Bourne
Town Hall
Bourne, MA 02532

Ladies & Gentlemen:

In accordance with Chapter 130, Section 74A of the Massachusetts General Laws, the Division of Marine Fisheries has re-examined the waters of Pocasset and Red Brook Harbors (BB:49.3), in the Town of Bourne, classified as "CONDITIONALLY APPROVED" and in the "CLOSED" status based on seasonal water quality changes. As a result of this examination, the Division has determined that the below defined area meets the established criteria for the harvest of shellfish and has changed the status to "OPEN TO SHELLFISHING" as of sunrise on November 1, 2021.

The below defined area may be opened to the harvest of shellfish for direct human consumption subject to local rules and regulations under authority of Massachusetts General Laws, Chapter 130, Section 52.

CLASSIFICATION: CONDITIONALLY APPROVED

SEASONAL STATUS CHANGE

Status: Open to Shellfishing

November 1- May 31

All Dates Inclusive]

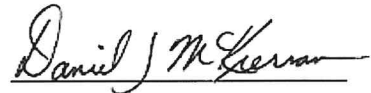
BB:49.3

Pocasset Harbor (Barlows Landing)

"The waters, flats and all tributaries of Pocasset Harbor, in the Town of Bourne, north of a line drawn east from the house at 45 Harbor Drive on the western shore to the northern most tip of Bassets Island thence to the foot of Massasoit Avenue, excluding BB:49.4."

The status of above Conditionally Approved area, BB:49.3 shall automatically revert to "CLOSED TO SHELLFISHING" on June 1, 2022 unless the Division changes the status prior to said date.

Sincerely,

A handwritten signature in cursive script, reading "Daniel J. McKiernan", written over a horizontal line.

Daniel J. McKiernan,
Director

cc: P. Moran, K. Clayton, OLE
J. Kennedy, DMF
R. Amidon, DFG
J. Hobill, DEP
DPH, FDA
C. Southwood, Bourne Shellfish Constable



November 23, 2021

Board of Selectmen
Town of Bourne
24 Perry Avenue
Buzzards Bay, MA 02532

Re: Programming Advisory

Dear Chairman and Members of the Board:

As part of our ongoing commitment to keep you and our customers informed about changes to Xfinity TV services, we wanted to update you that effective December 17, 2021, Fuse HD will be added to Digital Preferred Tier channel 1414, and FM HD will be added to More Sports & Entertainment Package channel 1638.

HD Technology Fee and IP-capable equipment are required to view the channels. A limited number of customers may still have older devices that do not support these channels and will not be able to view them until the devices are replaced.

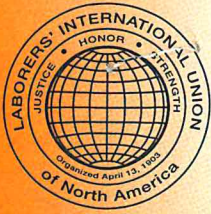
Customers are receiving notice of these channel additions in their bill. Please feel free to contact me at Michael_Galla@cable.comcast.com should you have any questions.

Very truly yours,

Michael Galla

Michael Galla, Sr. Manager
Government Affairs

BOURNE BD OF SELECTMEN
RCUD 2021 NOV 29 AM 10:30



**MASSACHUSETTS & NORTHERN NEW ENGLAND
LABORERS' DISTRICT COUNCIL**

OF THE LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO

November 22, 2021
BOURNE BD OF SELECTMEN
ROUD 2021 NOV 29 AM9:55

Certified Mail 70150640000258693811

Second notice

Bourne Board of Selectmen
24 Perry Ave.
Buzzards Bay, MA 02532

Re: Notice of Intent to Renegotiate

Dear Board:

In accordance with the existing Collective Bargaining Agreements between the Town of Bourne and the Massachusetts Laborers' District Council, covering Bourne DPW, Unit A&B, and I.S.W.M., notice is hereby given to renegotiate successor agreements to replace the current Agreements which expire on June 30, 2022.

Please contact Tim Mahoney of this office to set up a mutually agreeable time and place to commence negotiations.

Sincerely,

Tim Mahoney
Business Manager

TM/dlm

cc: A.E. Sabitoni, Gen. Sec.-Treas., Reg. Mgr.
Joseph Bonfiglio, Bus. Mgr. MA&NNE District Council
T. Mahoney, Bus. Mgr., Pub. Emp.

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Department of Environmental Protection

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December 9, 2021

Impact Area Groundwater Study Program
ATTN: Mr. Mark Leeper, Remediation Manager
ARNG Cleanup & Restoration Branch
111 George Mason Drive
Arlington, VA, 22204

RE: **BOURNE--BWSC**
Release Tracking Number: 4-0015031
Joint Base Cape Cod (JBCC) **Draft Central
Impact Area 2021 Annual Environmental
Monitoring Report**, Comments

Dear Mr. Leeper:

The Massachusetts Department of Environmental Protection ("MassDEP") has reviewed the document entitled "**Draft Central Impact Area 2021 Annual Environmental Monitoring Report**" (the "Report") dated November 2021. The Report was prepared by the U.S. Army Corps of Engineers (USACE) on behalf of the Army National Guard Impact Area Groundwater Study Program (IAGWSP) at Joint Base Cape Cod (JBCC). The Report describes groundwater and system performance monitoring activities performed at the Central Impact Area (CIA) groundwater plume between July 1, 2020, and June 30, 2021. MassDEP offers the following comments on the Report.

General Comment:

There are several places in the Report where the IAGWSP notes that hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX) in specified CIA monitoring wells have had concentrations either above or below the RDX risk-based concentration (RBC) of 0.6 micrograms per liter ($\mu\text{g/L}$) in consecutive groundwater sampling rounds. MassDEP recommends that CIA plan views and cross-sections depicting RDX distribution in groundwater be updated whenever there are multiple consecutive sampling results to confirm the presence or absence of RDX RBCs at any location within the CIA groundwater plume. Notable examples are provided in the page-specific comments of this letter.

Page-specific Comments:

1. Page 3-1, Section 3.1, Laboratory Analysis:

The text states, "**Breakthrough of RDX was detected at the CIA MTU1 "MID2" sampling port on 09 July 2020. Carbon media was exchanged on 06 August 2020. Breakthrough of RDX was detected at the CIA MTU1 "MID2" sampling port on 04 May 2021. Carbon media was exchanged on 02 June 2021. Breakthrough of RDX was detected at the MTU2 "MID2" sampling port on 01 October 2020**

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

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and again on 03 November 2020. Carbon media was exchanged on 17 November 2020. Breakthrough of RDX was detected at the MTU3 "MID2" sampling port on 01 December 2020 and again on 05 January 2021. Carbon media was exchanged on 13 January 2021. Breakthrough of RDX was detected at the MTU3 "MID2" sampling port on 02 February 2021, 02 March 2021, and again on 01 April 2021. Carbon media was exchanged on 14 April 2021." Please indicate what the carbon changeout criteria is for the CIA MTUs. The text indicates that carbon was changed after an initial breakthrough of RDX at the CIA MTU1 "MID2" sampling port; after two consecutive monthly breakthroughs of RDX at the CIA MTU2 "MID2" sampling port; and after two and three consecutive monthly breakthroughs of RDX at the CIA MTU3 "MID2" sampling port. Also, please indicate if the IAGWSP identified any operational issues with the MTU3 treatment system that may have resulted in the rapid breakthrough of RDX at the MID2 sampling port between the carbon exchange on January 13, 2021, and breakthrough on February 2, 2021.

2. Page 4-1, Section 4.2, Water Levels and Hydraulic Gradients:

The text indicates, **"The horizontal hydraulic gradient from MW-89M2 to MW-209M2 (Zone 1 and nearer the Top of Mound) measured approximately 0.00201 ft/ft during the January 2021 gauging event (Figure 4-2) while the gradient measured between the same well pair in January 2021 was approximately 0.00188 ft/ft."** MassDEP notes that a January 2021 measurement period is referenced twice for comparison in the text. Please correct the text to January 2020 for one of these periods.

3. Page 4-3, Section 4.5, Capture Zone Analysis – Zone 1:

The Report states, **"Southwest of the MW-89 monitoring wells pair the width of the capture zone gradually decreases."** MassDEP notes that Figure 4-2 in the Report indicates a gradual narrowing of the capture zone upgradient and to the southeast of the MW-89 monitoring well pair. Please revise the text.

4. Page 5-3, Section 5.4.1, Explosives Zone 1, Main Plume:

The Report indicates, **"In the shallow southern lobe of the main plume recent concentration spikes or rising trends in wells along Turpentine Road are likely related to extensive intrusive munitions removal activity in adjacent areas. Until 2019 concentrations of RDX in well MW-01S (0.37 µg/L, February 2021) had consistently been above the RBC, and usually the HA of 2.0 µg/L, over its sampling history but have been below the RBC in three consecutive samples. Well MW-01M2 (1.0 µg/L, February 2021), which is screened 35-40 feet deeper than MW-01S was consistently above the HA until 2010 but has fluctuated below the HA in recent years (except for 2018) and was below the RBC for two before rising above the RBC during the current reporting period. Approximately 360 feet to the north RDX concentrations at MW-90S, which have historically fluctuated mostly below 3.0 µg/L but spiked to 17.2 µg/L in 2016, fell to 1.1 µg/L (February 2021), its lowest level since 2010, during reporting period. Another 360 feet to the north at MW-91S, where concentrations have fluctuated between 2.0 µg/L and 4.0 µg/L since 2010, yielded its highest concentration since 2009 (4.3 µg/L, February 2021). However, the concentration at well OW-1 (approximately 100 feet south and screened at a similar elevation as MW-91S), was an historic low for that well 0.46 µg/L (February 2021). Thus, the source areas for the main plume remain active and likely will for as long as the munitions removal activity continues. In the deeper lobe of the main plume in February 2021, concentrations continue to fluctuate around the HA at MW-91M1 (2.4 µg/L). Approximately 390 feet to the north, the RDX concentration at MW-93M1 (0.19 J µg/L) was below the RBC for a third consecutive year. Approximately 330 feet further north, at MW-101M1 a concentration of 5.0 µg/L was observed, which is an historic high for this well. Approximately 350 feet further, at the northernmost well in the deeper lobe (MW-100M1), a third consecutive concentration (0.20 µg/L)**

below the RBC was observed.” MassDEP recommends that the RDX distribution on the F-F’ cross-section (Figure 5-6) be substantially revised based upon the information provided in the Report. For instance, RDX concentrations below the RBC have been detected during multiple consecutive sampling events at monitoring wells MW-01S, MW-93M1 and MW-100M1, indicating that RDX concentrations are consistently below the RBC in these three wells. However, these wells are in the 0.6 µg/L to 2 µg/L RDX concentration range on Figure 5-6. RDX concentrations above the RBC were detected during the reporting period at monitoring wells MW-01M2 and MW-98M1, but these wells are located outside of the CIA RBC plume boundary on Figure 5-6. The 2 µg/L to 6 µg/L RDX concentration range should be extended southward on Figure 5-6 to encompass MW-91M1 where a RDX concentration of 2.4 µg/L was detected during the reporting period. Also, the RDX concentration of 0.43 µg/L for MW-91S shown on Figure 5-6 should be changed to 4.3 µg/L to match the concentration reported for this well in the text and provided on Table 5-2 of the Report.

5. Page 5-6, Section 5.4.1, Explosives Zone 1, CS-19 Plume:

The Report states, **“The highest RDX concentration was 0.55 µg/L detected at source area monitoring well 58MW0002 and RDX increased from 0.97 µg/L to 1.4 µg/L at 58MW0009E.”** Please clarify if the highest RDX concentration was detected at 58MW0009E (1.4 µg/L) rather than 58MW0002 (0.55 µg/L) and revise text as necessary.

6. Page 5-7, Section 5.2, Explosives Zone 2, Main RDX Plume:

The Report indicates, **“Well MW-42M1 (0.85 µg/L), located nearly 400 feet southwest of MW-607, MW-42M1, which had been ND for explosives from 1999 to 2017, saw its second consecutive concentration above the RBC in February 2021.”** MassDEP recommends revising the B-B’ cross-section provided as Figure 5-3 to depict RDX concentrations greater than the RBC in the vicinity of monitoring well MW-42M1 due to consecutive detections of RDX at concentrations above the RBC in this well. MassDEP also recommends extending the B-B’ RDX cross-section to the southwest to include monitoring well MW-618 since this well bounds the main body of the RDX plume in this area.

7. Page 5-10, Section 5.4.2, Perchlorate:

The Report states, **“At MW-184M1, approximately 530 feet to the northeast, concentrations gradually increased from 2010 to the historical high detection of 2.2 µg/L in March 2014. A sixth consecutive detection below the MMCL (1.6 µg/L) was observed at this well in February 2021, however, the 2.0 µg/L plume contour still extends into the CIA source area pending confirmation of a declining trend at the source (Figure 5-14).”** MassDEP notes that Figure 5-14 depicts the trailing edge of the CIA perchlorate plume as being downgradient and outside of the CIA boundary. Please describe what the IAGWSP considers to be the CIA source area and revise the text if necessary.

8. Page 5-10, Section 5.4.2, Perchlorate:

The Report indicates, **“Approximately 2,500 feet downgradient, monitoring wells MW-95M1/M2 have historically approximated the northeast boundary of the perchlorate plume at the well fence along the impact area boundary. However, the 2.1 µg/L detected in MW-95M1 in March 2021 was an historic high and the second MMCL exceedance in three years so this plume boundary may need to be reconsidered if further monitoring indicates a rising trend. Twenty-five feet higher in the section concentrations in MW-95M2 were last >RL in 2011.”** MassDEP recommends replacing the MW-95M2 perchlorate trend plot provided on Figure 5-14 with a perchlorate trend plot for MW-95M1 as the rising perchlorate trend in this well is of greater interest.

9. Page 5-10, Section 5.4.2, Perchlorate:

The Report states, "**Wells MW-209M1, located approximately 900 feet upgradient of extraction well CIA-EW2, monitors the perchlorate plume's leading edge on cross-section E-E' (Figure 5-12). This well was ND from 2002 to 2006 when sampling for perchlorate was discontinued. Upon resumption in 2015 concentrations have steadily increased, reaching the MMCL in 2018 and an historic high of 3.0 in March 2021, which was also the site-wide maximum during the current reporting period. Except for a single sample in 2007 perchlorate concentrations in MW-209M2 have always been below the MMCL, with the most recent result being 0.27 µg/L in March 2021, the lowest measurement at this well since 2005.**" MassDEP recommends replacing the MW-209M2 perchlorate trend plot provided on Figure 5-14 with a perchlorate trend plot for MW-209M1 as the rising perchlorate trend in this well is of greater interest.

Please incorporate this letter into the Administrative Record for the Central Impact Area groundwater. If you have any questions regarding this matter, please contact me at (508) 946-2871 or Elliott Jacobs at (508) 946-2786.

Sincerely,



Leonard J. Pinaud, Chief
Federal Site Management
Bureau of Waste Site Cleanup

P/EJ

Ec: Upper Cape Boards of Selectmen
Upper Cape Boards of Health
JBCC Cleanup Team
MassDEP Boston/Southeast Region



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Director

December 6, 2021

Board of Selectmen
Town of Wareham
Town Hall
Wareham, MA 02571

Board of Selectmen
Town of Bourne
Town Hall
Buzzards Bay, MA 02532

Ladies & Gentlemen:

In accordance with Chapter 130, Section 74A of the Massachusetts General Laws, the Division of Marine Fisheries has determined that the portion of Fisherman's Cove designated as (BB:43.4), in the Towns of Wareham and Bourne, classified as "CONDITIONALLY APPROVED" and in the "CLOSED" status based on the NSSP Marina Policy now meets established criteria for the harvest of shellfish. As a result, the status of this area has been changed to "OPEN TO SHELLFISHING" as of November 1, 2021. The Towns were notified of the opening, but the notice was inadvertently not emailed out.

The below defined area may be opened to the harvest of shellfish for direct human consumption subject to local rules and regulations under authority of Massachusetts General Laws, Chapter 130, Section 52.

CLASSIFICATION: CONDITIONALLY APPROVED

SEASONAL STATUS CHANGE

Status: Open To Shellfishing

November 1 - April 30

[All Dates Inclusive]

BB:43.4 Macos

"The waters and flats and all tributaries of that portion of Fishermans Cove, in the Towns of Wareham and Bourne, south of a line drawn along the Route 6 Bridge and north of a line drawn from the "NO SHELLFISHING" sign at #39 Buttermilk Way to the "NO SHELLFISHING" sign at the western end of the stone wall approximately 300' southwest of the railroad bridge and west of a line drawn across the mouth of the Bourne Marina."

The status of the above conditionally approved area, BB:43.4, shall automatically revert to "CLOSED TO SHELLFISHING" on May 1, 2022 unless the Division changes the area's status prior to said date.

Sincerely,

A handwritten signature in dark ink, reading "Daniel J. McKiernan". The signature is fluid and cursive, with a long horizontal flourish extending to the right. It is positioned above a thin horizontal line.

Daniel J. McKiernan,
Director

cc: P. Moran, K. Clayton. OLE
J. Kennedy, DMF
R. Amidon, DFG
J. Hobill, DEP
FDA, DPH
G. Buckminster, Wareham Shellfish Constable
C. Southwood, Bourne Shellfish Constable