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April 5, 2022

VIA FIRST CLASS MAIL AND EMAIL (cgreene@greeneandhafer.com)

Corrine Hood Greene
Greene & Hafer
529 Main Street, Ste PH200
Charlestown, MA 02129

Re: Melissa Noe, Town of Monterey Administrator

Dear Attorney Greene:

This firm represents Melissa Noe, Town Administrator of the Town of Monterey ("Town"), in connection with her contractual employment with the Town. I write with regard to your report dated March 17, 2022 ("Report"), that details your investigation of behalf of the Town concerning complaints against Ms. Noe. As set forth herein, the Report is replete with inaccuracies. We request that you review these concerns and revise your Report accordingly. We are also copying the Members of the Town of Monterey Select Board ("Select Board") and this letter further constitutes a formal request that the Select Board reverse its decision to accept the Report as written as fact.

The only finding against Ms. Noe that is supported by a finding of fact is that on one occasion Ms. Noe yelled at Terry in a confrontation in which Terry was also yelling at Ms. Noe. Ms. Noe and Terry have both acknowledged their error on that occasion. The Report completely fails to provide any evidence that Ms. Noe harassed Terry in any way. Of course, Ms. Noe agrees that harassment is contrary to Town policy. But Ms. Noe strongly affirms that she has not and will not engage in such conduct.

The Report makes a number of factual errors. You claim that "no procedure for resolution" of problems between employees "is spelled out." (Report, p. 3.) Actually, the straightforward procedure is clear. Under subsection P of the Employment Manual, when a supervisor is concerned about an employee's conduct "[t]he initial step will be a discussion between the supervisor and the employee . . ." The next step is "a written warning" from the supervisor. The last step is a hearing before the Select Board. In addition, "[e]mployees who feel the need for review or clarification of a particular personal situation should present their problem to their immediate supervisor. If they are not satisfied with a decision, or are reluctant to address the issue with their supervisor, they may take their concern to the Select Board." To say these are not procedures makes no sense.

You suggest that the Employee Manual policy on harassment "does not provide any remedy for addressing harassment other than to direct complaints be made to the Select Board and Chief of Police . . ." You also assert that the manual lacks penalties and procedures. But the manual

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Williamstown, MA

clearly spells out the forms of discipline for any violations, which of course includes harassment. Those penalties expressly include “unpaid suspensions” and dismissal (Manual, p. 14, subsection P), and implicitly include any penalties allowed by state law.

In Section C of your Report, entitled “Conclusions,” you take issue with Ms. Noe’s job description, asserting that the “list of duties is unconstrained, as is the authority it grants with seemingly unlimited supervisory capacity.” (Report p. 17). You also assert that Ms. Noe drafted the list. Ms. Noe participated in the drafting based on such lists commonly available from other towns and on a list drafted by Mr. Weingold. The draft was fully discussed by the Select Board, amended by it, and approved by it at a public meeting. Ms. Noe’s authority is clearly not unlimited. The most important limitation is that Ms. Noe is not authorized to hire, discipline, or fire employees, all powers reserved to the Select Board. Ms. Noe did not just “technically answer() to the SB.” It appoints Ms. Noe, and Ms. Noe is totally subject to its “jurisdiction and policy direction.” The only limits on the Select Board’s powers in relation to Ms. Noe are those set out in Ms. Noe’s publicly approved contract and in state law.

You say that Ms. Noe “arguably” has “supervisory authority over” Terry. Actually, that authority is absolutely clear, although you and she have tended to ignore that fact. Of course, the Select Board has the authority to modify Ms. Noe’s job description to make her answerable only to it, but Ms. Noe cannot imagine how reason could support such an approach.

At various points in the Report, you suggest that the complaints, if proven, could expose the Town to liability. However, none of the complaints even suggest that Ms. Noe acted toward Terry or anyone else, for that matter, because of her or their membership in a statutorily protected class (race, religious, sex, etc). Please identify what claims could arise based on the conduct alleged.

You state that your objective is “to be impartial, precise, and thorough and to produce a fair and balanced report” (Report p. 1). You also claim that your credibility determinations would be supported by a description of your “rationale” for accepting or rejecting someone’s testimony. Ms. Noe’s ability to respond to the findings about her conduct has been made very difficult because you have not met any of the above standards. With regard to the allegations, Ms. Noe responds as following using the numbering system to address each complaint as numbered in the Report:

(1) This is the July 21, 2021, complaint filed by Terry against Shawn and Ms. Noe. There are no detailed findings of fact. You state that someone witnessed Shawn and Ms. Noe “angrily confront” Terry. Although omitted from this section, at page 18 of your Report you note that “Noe and Walker both admitted to behavior that would constitute violations of their duties to conduct themselves reasonably and without hostility during their confrontations.” You admit that the participants differed in their description of “the intensity of the argument,” but make no finding of your own as to what the intensity was. Despite that fact-finding failure, you then say there was a question “whether Terry could have reasonably feared for her safety.” Although

you knows that Terry has made similar claims in a number of prior Town employments, you said nothing about that. Nor do you even find that Terry's alleged fear was reasonably held. All she says is that it was "informed" by Terry's knowledge of an alleged assault by Shawn. That event was well-publicized. The alleged victim denied the assault, and the police determined that no assault took place. And Terry knew all that. In any case, you find nothing indicating that Terry had reason to fear an assault by Ms. Noe.

Despite the absence of any findings of fact, you then conclude that "the conduct of each of the employees . . . may be considered violative of several sections of the Town's Employee Manual . . ." Those conclusions are not explained and no sections of the manual are cited. Of course, both Terry and Ms. Noe told you that they believe the argument was too hostile and thus not proper under the manual. Ms. Noe has not changed her mind about that, and Ms. Noe most certainly assures the Select Board that she will not exhibit inappropriate hostility when relating to Town employees.

(2) This complaint of Jon Sylbert dated August 18, 2021, concerns an email Ms. Noe sent to the Select Board informing it about a Finance Committee dispute between Jon and Michele. You rather begrudgingly admits that Ms. Noe sending the email was "not necessarily inappropriate." Actually, keeping the Select Board aware of problems in Town is one of Ms. Noe's duties. In any case, you then conclude that in this case Ms. Noe informed the Select Board to put Jon "under suspicion," and that this was "part of a pattern whereby Noe, when any of her actions has been called into question . . . engages in potentially retaliatory behavior or takes action that may be perceived as efforts to shame or discredit her accuser." So Ms. Noe did something she was supposed to do (and was directed to do by the Chair) but somehow Ms. Noe is criticized because Jon might perceive Ms. Noe providing the information as embarrassing to him. For proof of the supposed pattern, you asked the Select Board to look at her analysis of other specified complaints. You also assert in paragraph 2 that Ms. Noe was responsible, at least in part for financial reporting of the fire company. That is 100% false and Shawn Tryon, if he had been interviewed, could have confirmed this (as Ms. Noe also could have had she been asked during her interview). As you will see, none of those complaints support your proposed solution. This section ends with the statement that Ms. Noe's actions here "probably" did not expose the Town to liability. Ms. Noe is confident that if you check with Town counsel you will be informed that even suggesting Town liability here is untenable.

(3) This is described as the August 18, 2021, complaint concerning the Council on Aging. You says a member reported that Ms. Noe was "rudely dismissive" of the member's concerns. Ms. Noe absolutely denies that. Your Report does not find any facts regarding that claim. You then describe an allegation by the same member that Ms. Noe had failed to intervene when another member "berated" her. No finding is made as to that. You go on to criticize an email Ms. Noe sent to the Select Board responding to one sent by the complaining member. Without any explanation, you conclude the "tone of the email belittling." The email is neither quoted nor included in the report. You then add that the email was "intended to intimidate." No explanation appears for that conclusion. Your Report in the third sentence says that the outreach

workers were not employees, which is false, they most certainly were and they were **supposed** to be working from Town hall. The decision for Ms. Noe to co-supervise was made by members of the council on aging and Ms. Noe provided documents to this effect to you but apparently you have chosen to ignore them. In the last paragraph, you also blame Ms. Noe solely for failing to intervene (which is false) and being rudely dismissive of her HIPAA concerns, this is also false; this matter was discussed between Ms. Noe and the COA and that was where the decision was made. This section ends with your determination that Ms. Noe delayed payments on the project. Apparently, you are unaware that Ms. Noe had nothing to do with control of when payments are made since that is the job of the accountant and this particular request was denied by the accountant due to Ms. Banducci's failure to properly fill out the reimbursement form (this could have been easily verified). This seems to be yet another example of the Report's lack of objectivity.

(5) This section criticizes the "manner of" Ms. Noe's response to a public records request by a member of the Conservation Commission. According to the Report, Ms. Noe contacting Steve as chair instead of contacting the entire Select Board about it was "problematic." She does not say why that is so, and she certainly fails to identify how the contact violated any Town policy. Ms. Noe is also not familiar with this complaint and may not have been provided a copy to be able to properly defend herself.

(6) This concerns Terry's error on an important state form required for reporting on the Town meeting budget actions. The accountant informed Ms. Noe of the error and of the further error made by the accountant in failing to notice Terry's error. Of course, Ms. Noe was duty bound to inform the Select Board, which Ms. Noe did first through an email and later at a public meeting. Terry's claim is that Ms. Noe falsely said she erred. But all Ms. Noe did was report what the accountant said. You find no error on Ms. Noe's part in bringing this matter to the attention of the Select Board. The Report says Ms. Noe has control over the Select Board's agenda, but as the decision of what goes in the agenda belongs to the Select Board. You suggest that this complaint is only relevant if it "shed[s] light on the underlying issue of retaliation by Noe." But the Report does not say it does.

(7) This section purports to address the question of whether Ms. Noe attempted to intimidate or threaten Terry. You note that Ms. Noe contacted Justin, asking him to meet with her to discuss Terry and information in Ms. Noe's possession that would put her in a poor light if the investigation continued. Ms. Noe is at a loss to understand why she was not entitled to defend herself against Terry's charges. There is no suggestion that the information Ms. Noe had was untrue, when in fact if Justin had met with Ms. Noe, she intended to inform him of the possible liability to the Town if Terry's complaints fell under any of the protected classes. The Select Board had publicly discussed trying to have Terry and Ms. Noe mediate their differences, and at one public meeting Terry specifically agreed to do just that, as did Ms. Noe. Terry later changed her mind. But you fail to explain how any of what Terry refers to amounts to retaliation, intimidation, or coercion. Of course, Ms. Noe agrees that such behavior is inappropriate, but she

firmly deny that she engaged in it. And here again, the Report completely fails to explain or support its conclusions.

(8) This is Terry's complaint about the hallway argument of September 22, 2021. You find that Ms. Noe yelled at Terry based on Ms. Noe's "admission" that she did so. But in fact, Ms. Noe specifically denied yelling on this occasion and pointed out that only Terry yelled. What Ms. Noe admitted was that she made a "snarky" comment as Terry left. Then you say the only remaining questions were whether "events . . . escalated such that" Ms. Noe's conduct could be considered "threats of violence and whether her behavior caused Terry to reasonably fear for her safety" You make no finding with respect to anything Ms. Noe said or her demeanor when she said it. Then, without finding the presence of any such threat, you turn to the question of whether Terry's alleged fear was reasonable. The only evidence the Report cites is that two people felt "compelled to intervene." But the Report does not say they did so because they thought Ms. Noe was going to act violently toward Terry; nor that if they did have that belief, that their belief was reasonable. Given the serious defects in the Report's purported fact finding on this issue, your suggestion of discipline is unfounded.

(12) This section concerns complaints regarding the accuracy of minutes and one or two instances of Ms. Noe forgetting to remove the initials of the Select Board member next to an agenda item he had added. No details are provided, and there is no finding that Ms. Noe intentionally violated any Town policy.

(13) This section concerns the public records request Ms. Noe made of Terry after she filed complaints against Ms. Noe. You conclude that Ms. Noe made the request to "discourage, intimidate or otherwise dissuade Terry from pursuing her claims." Your only proof of Ms. Noe's supposed intent was that she made the request after the complaints were filed. Ms. Noe believed the records would provide evidence to support her position that Terry's claims were baseless and coerced. You completely fail to explain why or how Ms. Noe's use of the public records statute was wrong or how it could possibly have violated Town policy. Nor does the Report mention that both Jon Levin, as RAO, and the state supervisor determined that Ms. Noe's records request was proper. You also take Ms. Noe to task for obtaining a copy of Terry's formal complaint against another town with the MCAD. The criticism is that Ms. Noe and others used that document to discredit Terry's Monterey claim. What that document showed was that Terry had made almost identical claims in the other town and then dismissed them four years later. Other documents submitted to you showed the same behavior in a number of other towns. They were all relevant to whether Terry's present claims were truthful. Apart from the complaint, the other documents were letters signed by Terry that were discovered by others and submitted by them to you. But you ignored them. In any case, Ms. Noe cannot agree that defending herself violated some Town policy.

(15) This section refers to a complaint of October 27, 2021, which appears to Ms. Noe to have been submitted by Mr. Weingold. He alleged that Ms. Noe "misused" her power, leaked confidential information to the press, and misled the Select Board. You make no finding of misuse of power or of leaking confidential information to the press. The reference to misleading

the Select Board concerns an email from Terry to the Select Board about the recall vote petitions. You speculate that if Terry certified the petitions on October 25, Ms. Noe erred in saying they had been certified on October 20th. However, you never found that the certification was done on October 25th. Consequently, your earlier statement that the documentation shows misleading is obviously incorrect.

(16) This section contains no finding against her at all.

(17) This section concerns the Conservation Commission. It reflects the Report's failure to understand the relationship between the Con Comm, the conservation agent and Ms. Noe. While there is a fair amount of rank speculation, the bottom line is that it does not identify any respect in which Ms. Noe's conduct violated any Town policy. The Con Comm Agent IS a Town employee, this is very easily verified through payroll.

(18) This section deals with leaks of information, but is limited to a statement that no facts can be found.

Based on the above, it is clear that the Report is flawed and unreliable. We request that you carefully review these concerns and revise your Report accordingly. In the meantime, the Select Board should reverse its decision to accept the Report as written as fact and take no action until these serious errors are addressed.

Absent your immediate rectification of these issues, we are prepared to zealously defend Ms. Noe's rights.

Sincerely,

COHEN KINNE VALICENTI & COOK LLP



Christopher M. Hennessey

CMH/mm

Copy:

Members of the Town of Monterey Select Board

Steven Weisz, Chair

John Weingold, Member

Justin Makuc, Member

435 Main Rd

P.O. Box 308

Monterey, MA 01245

steve@montereyma.gov; johnw@montereyma.gov; justin@montereyma.gov

Proposed

FINAL WRITTEN WARNING

TO: Melissa Noe, Town Administrator
FROM: Monterey Select Board
DATE: April 27, 2022
RE: Conduct and Behavior as Town Administrator

Investigation and Report

On December 9, 2021, the Monterey Select Board (“SB”) engaged Greene & Hafer of Charlestown, Massachusetts, a law firm specializing in employment law, to act as an independent third party to investigate complaints concerning Monterey Town employees that were filed with the SB by citizens, members of the SB, and employees of Monterey during the period July – November 2021. By written report, dated March 17, 2022 (“Report”), Corinne Hood Greene, a partner in Greene & Hafer, submitted the firm’s investigation findings to the SB. As expressly stated by Greene & Hafer in its Report, the law firm acted independently in conducting its investigation; it said it knew none of the persons involved in the investigation, had no interest in the outcome of the investigation, and had not previously worked for the Town. Greene & Hafer’s findings in its Report were accepted by the SB at an Executive Session meeting on March 23, 2022.

The Report states that Greene & Hafer reached its findings by reviewing each written complaint and its claims, interviewing witnesses, reviewing additional documents and assessing the information obtained from this evidence as well as relevant background information. Greene & Hafer made credibility findings and judged the weight to be given to each employee’s statements.

Among the documents reviewed by Greene & Hafer was the Town’s Employee Manual. The Town policies in the Manual include a specific policy on behavior and conduct in the workplace. This policy, par. Q “Harassment”, of the section of the Manual titled “Employment Policies,” states in relevant part:

“It is essential the Town of Monterey provide a work environment that is comfortable and free from intimidation, hostility or other offenses that might interfere with work performance. Harassment of any sort – spoken, written, physical, visual – will not be tolerated. Harassment can take many forms. It may be, but is not limited to: words, signs, jokes, pranks, intimidation, physical contact or violence. Harassment is not necessarily sexual in nature. Any, action which is verbally or physically threatening, coercive or creates a hostile work environment, will be viewed as harassment.” (Employee Manual for the Town of Monterey, page 14)

Complaints against Melissa Noe, Town Administrator

Several of the complaints investigated by Greene & Hafer were filed against you (“you” or “Noe”), as Monterey’s Town Administrator, for alleged violation of the Town’s Policies, as embodied in its Employee Handbook, and statutory law. Of these, Greene & Hafer’s findings on the following four (4) complaints are the subject of this Final Written Warning.

Justin Makuc First Complaint against Noe dated September 19, 2021

This Complaint alleged that Noe reached out, in writing, to a single member of the SB, Justin Makuc (“Makuc”), to attempt to dissuade him from pursuing an investigation of claims made by the Town Clerk, Terry Walker (“Walker”), who directly reports to Noe. In its Report, Greene & Hafer found that “Noe proceeds to urge him (Makuc) and SB to dismiss Walker’s Complaints” concerning the July incident between the two of them (Noe and Walker) (and (Shawn) Tryon).” In assessing the September 19, 2021 Complaint by Makuc, which was followed by another Complaint by Walker against Noe on September 22, 2021, (see below) Greene & Hafer addressed Noe’s authority as Town Administrator, her intent to retaliate, intimidate and coerce Walker, and a pattern in Noe’s conduct.

Greene and Hafer found:

“As set forth above (with regard to the Makuc email) and below (in the context of other complaints), we find that Noe has undertaken several actions intended to retaliate, intimidate or otherwise coerce Walker. Moreover, based on the findings concerning our investigations of [other] complaints, we find there is a pattern of behavior whereby Noe has taken action against employees or individuals whom, in her estimation, have undermined her authority or otherwise challenged her.”
(page 9)

In connection with this attempt by Noe to “retaliate, intimidate or otherwise coerce” Walker, Greene & Hafer found that “Noe has also personally urged Walker to drop her claims” in concert with others who threatened Walker’s livelihood and reputation if Walker did not withdraw her claims. In particular, Greene and Hafer cited “(t)he most egregious example of conduct undertaken by a current or former SB member” to make Walker withdraw her complaints was a direct threat to Walker in a November 24, 2021 email from Don Coburn (a former SB member) to Walker titled “Perhaps it’s time to apologize and pray.” That email, as quoted in the Report states, in relevant part:

“Remember when I alerted you to the risks of precipitating an investigation ... [B]efore acting to bring your work history to the public’s attention, I thought I’d give you one last chance to publicly apologize for all the complaints you’ve filed against Melissa, Shawn, Steve, Ellen and me, and to formally withdraw them permanently. Perhaps then the Select Board will allow you to continue to work until your planned retirement. ... If you apologize and permanently withdraw your complaints BEFORE the end of TODAY’S SELECT BOARD MEETING, the information I have will be kept private.” (page 11)

Walker Complaint Against Noe dated September 22, 2021

This Complaint alleged that Noe's behavior towards Walker in the hallway of Town Hall immediately following a SB meeting placed Walker in fear for her personal safety, as similar behavior had on July 21, 2021, when she raised this fear in her Complaint of that date. With regard to the September 22 incident, Greene & Hafer found "Noe admits that she yelled at Walker" after the SB meeting and "given Noe's admission" and the fact that both SB Member, Steve Weisz and Gary Shaw, former Assistant Town Clerk, were compelled to intervene, "we credit his (Shaw's) description" of the incident.

Greene & Hafer found:

"Gary Shaw, former Assistant Town Clerk and assistant to Walker, witnessed the conduct at the meeting and after, describing Noe's behavior as belligerent toward both Walker and the SB members. We credit his description, given Noe's admission." (page 10)

Greene & Hafer further found:

"[I]f Weisz and Shaw were both compelled to intervene, Walker's fear [for her safety] was reasonable. ... [A]cts of violence is noted in the employee manual as one of the egregious behaviors that may warrant immediate dismissal. Where this was the second such incident admitted by Noe, we find disciplinary action was warranted ... By the time this incident occurred, the SB was on notice of Walker's first complaint in which she made specific allegations, including fear of physical violence." (page 10)

Makuc Third Complaint against Noe dated October 16, 2021

This complaint alleged that Noe engaged in intimidation and retaliation against Walker. Green & Hafer found that Noe took actions "to discourage, intimidate or otherwise dissuade Walker from pursuing her claims." Moreover, the Report states that Noe shared with Greene & Hafer documentation she personally obtained "in an effort to discredit Walker," and that "the same information was the subject of threats (made by [Don Coburn]) directly to Walker demanding that she stop pursuing her complaints or have this information (which he intended to be damaging to her reputation) exposed."

Greene & Hafer found:

"The actions [Noe] has taken, highlighted in this Makuc complaint, may be considered retaliatory if they amount to an adverse employment action against Walker. ... [and] the SB is publicly considering what the impact of some of the information from her past should have on her current employment. Any adverse employment action which can be directly related to her complaints may expose the Town to liability." (page 13)

Greene and Hafer found:

“Our investigation revealed a significant number of potentially actionable retaliation claims, some of which may be adjudged serious and ongoing. ... [T]he actions of the SB and Noe are likely imputable to the Town and therefore may subject the Town to liability. Immediate action must be taken to address retaliatory conduct, including assuring employees who have initiated complaints that they have the right to be free from retaliation and providing a conduit through which any such conduct can be reported.” (page 19)

Walker Complaint Against Noe dated September 9, 2021/Corresponding Complaint of Noe Against Walker in Response dated September 13, 2021

This Complaint by Walker, and the corresponding Complaint of Noe, each alleged false statements by the other individual. Greene & Hafer deemed the “underlying veracity of each allegation and counter immaterial,” but found these complaints “actionable to the extent that they shed light on the underlying issue of retaliation by Noe.”

Greene and Hafer found:

“Noe’s control over the agenda provides an avenue for her to raise alleged performance issues in a public forum in an attempt to disparage, whereas such issues should be addressed in the workplace between a supervisor and employee.” (page 9)

Greene and Hafer further found:

“[T]wo members of the SB provided credible evidence of instances in which they allege Noe manipulated agenda items for SB meetings.” (page 14)

Disciplinary Action

In view of the seriousness of the allegations against you which were made in the above Complaints, the Town’s explicit policy in its Employee manual against harassment, and the findings of Greene & Hafer that you have “undertaken several actions intended to retaliate, intimidate or otherwise coerce Walker” and that “there is a pattern of behavior whereby [you] ha[ve] taken action against employees or individuals whom, in [your] estimation, have undermined [your] authority or otherwise challenged [you],” we are issuing you a Final Written Warning on your behavior and conduct as Town Administrator.

In doing so, we have considered both the Report’s finding and our own efforts to conduct yourself to behave appropriately with SB members and Town employees, and the fact that your behavior toward Town employees has exposed the Town to potential liability.

We, as members of the SB, will immediately address your retaliatory conduct with our Town’s employees and assure all Town employees, including those employees who have initiated complaints, that they have the right to be free from retaliation and should report all complaints of retaliation, intimidation and coercion directly to the Select Board.

In conjunction with this Final Written Warning, we admonish you that if you, directly or indirectly, whether acting on your own or through others, engage at any time in retaliatory, intimidating or coercive behavior or commit any other violation of Town Policy or law, you will be further disciplined up to and including termination of employment.

Steve Weisz: _____ Date: _____

John Weingold: _____ Date: _____

Justin Makuc:  _____ Date: 4/27/22

The Monterey Select Board

April 13, 2022

Selectboard
Town of Monterey
PO Box 308
Monterey MA 01245

RE: Conservation Commission Appointment

Dear Selectboard,

My appointment to the Conservation Commission runs to May 2, 2022. Chris Blair may have pointed out to you that the responsibility of the commission falls on you if there are no appointed Commissioners. As we are still untangling the past and prepping for a busy summer, I am willing to remain on the commission until September 15, 2022, in order to help the town get through the spring and summer seasons so that our residents are serviced properly. If acceptable, please reappoint me as a Conservation Commissioner for Monterey until that date.

Sincerely,

Tim Lovett
28 Eaton Road
413-446-0059
tlovett@gmail.com

13 April 2022

Selectboard
Town of Monterey
PO Box 308
Monterey MA 01245
RE: Conservation Commission appointment(s)

Dear Selectboard,

As I am certain you are aware, the appointment you made of me to the Conservation Commission runs out on 4 May 2022.

We are engaged in responding to the applications before us, to finding and processing those left undone, to soliciting new members, and in general to attempt to stabilize the Monterey Conservation Commission to provide this unfunded mandate of the state law.

Accordingly it is crystal clear that if we do not ask for reappointment the work falls directly onto the desk of the Selectboard as the law requires.

Therefore I am willing to extend my tenure on the Conservation Commission to a date certain in order that the Commission continues to function well. Looking ahead to include the September commission meeting, as yet unscheduled, I would suggest a reappointment until 15 September 2022.

If you find that acceptable please reappoint me as a Conservation Commissioner for Monterey.

Sincerely,

Christopher Blair
33 Blue Hill Rd, Monterey

April 14th, 2022

To the Town of Monterey Police Chief and Select Board members,

I will be resigning from my appointed position as Reserve Patrol Officer with the Monterey Police Department effective on May 1st, 2022. Thank you for the opportunity to serve your community. It is time for me to move on and pursue other interests I have in life outside of police work that will further my personal and professional development.

Thank You,

Nathanial Sermini

A handwritten signature in black ink, appearing to read "Nathanial Sermini", written over a horizontal line.



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
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April 22, 2022

OML 2022 – 86

VIA EMAIL

Steve Weisz, Chair
Monterey Select Board
435 Main Road
Monterey, MA 01245
steve@montereyma.gov

RE: **Open Meeting Law Complaint**

Dear Mr. Weisz:

This office received a complaint filed by John Weingold on February 23, 2022, alleging that the Monterey Select Board (the “Board”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Board on December 15, 2021, and you responded on behalf of the Board by letter dated December 29, 2021. The complaint alleges that the minutes of the Board’s meeting held on November 6, 2021, are not “factual, accurate, or inclusive.”

We resolve this matter by **informal action**, in accordance with 940 CMR 29.07(2)(a), after reviewing the original complaint, the Board’s response to the complaint, and the complaint filed with our office requesting further review, and find that the Board did not violate the Open Meeting Law as alleged.

The Open Meeting Law requires that a public body “create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.” G.L. c. 30A, § 22(a).

The complainant alleges that the minutes of the Board’s November 6, 2021, meeting, which were posted on November 18, 2021, are not “factual, accurate or inclusive,” in violation of the Open Meeting Law. In the Board’s response to the complainant, the Board explained that it did not hold a meeting on November 6, 2021, and did not post minutes for any such meeting.

The complainant did not respond further regarding this discrepancy, despite corresponding with our office on other matters pertaining to the filing of this complaint. Based on our review of the Board's response, as well as meeting notices and minutes for numerous other meetings that are available on the Town's website, we conclude that the Board did not hold a meeting on November 6, 2021. Therefore, the Board could not have violated the Open Meeting Law as alleged.

We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Board. Please feel free to contact the Division at (617) 963 - 2540 if you have any questions.

Sincerely,



Carrie Benedon
Assistant Attorney General
Division of Open Government

cc: John Weingold (via email: johnweingold@gmail.com)
Melissa Noe, Town Administrator (via e-mail: admin@montereyma.gov)

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.

Monterey Town Administrator

From: Steven Weisz <steve@montereyma.gov>
Sent: Monday, April 25, 2022 10:52 AM
To: Monterey Town Administrator
Subject: Fwd: Town Counsel

FYI

Begin forwarded message:

From: Steven Weisz <steve@montereyma.gov>
Date: April 21, 2022 at 9:34:53 AM EDT
To: Leonard Kopelman <leonardkopelman@gmail.com>
Subject: Re: Town Counsel

Good Morning Len,

Thank you for reaching out. As a member of a 3 person board, I am not comfortable having a discussion about the situation in Monterey.

With your permission, I will bring up your desire to apply for the position of Town Counsel at the next Selectboard meeting.

Best regards,

Steven Weisz

On Apr 21, 2022, at 8:45 AM, Leonard Kopelman <leonardkopelman@gmail.com> wrote:

To: Chair of Select Board Steven Weisz

From: Leonard Kopelman --Former candidate for Town Counsel and interviewed on Aug. 19th.

I did call the Town Administrator's office and left a message and when I called the next day I learned that she was on vacation. I hope I am not imposing on you.

I would like to apply again but would like to learn what concerns about my candidacy the Board had last August.

Also I note that the amount budgeted for litigation has gone down substantially for the coming fiscal year.

I assume the case load has been reduced.

Is there anything special the Select Board is looking for.

Obviously a good fit goes both ways. That being said each town has a different perspective of counsel's

work and even different Boards in the same town over time may desire Town Counsel to provide services differently.

I believe assuming the fit is good that Town Counsel should be available by phone at all times to the Chair and respond to written requests

in a timely manner. Counsel should always remember that there is a priority to stay within budget and better yet to reduce it.

If you feel uncomfortable answering any and all of this I certainly will understand.

Best----Len

Monterey Town Administrator

From: Leonard Kopelman <leonardkopelman@gmail.com>
Sent: Tuesday, April 26, 2022 4:19 PM
To: Monterey Town Administrator; Steven Weisz
Subject: Town Counsel Application

Hon. Steven Weisz, Chair, and members of the Select Board,

I hereby apply for the position of Town Counsel.

A graduate of Harvard College and Harvard Law School, I have been a town attorney for most of my legal career. I was the founder of Kopelman & Paige, PC, now known as KP Law. I grew the practice so that when I left about 7 years ago, we numbered almost 100 employees on two large floors in downtown Boston. We were town counsel to over 125 towns in all 13 counties, including 10 in Berkshire County. I left because I enjoyed the municipal practice, but not being the managing partner, which took too much of my time away from hands-on daily practice. I stayed on for a year to train my successor and then went to the municipal law firm of Brooks & DeRensis. They have a smaller practice of 8 towns as town counsel and others as special counsel. When I joined, two of the principals were on their hometown Select Boards. In fact, Paul DeRensis has been serving his town as a member of its board for over 30 years. He also graduated from Harvard College and Harvard Law School.

As to budget, my general legal advice is not expensive because I know the laws affecting towns and rarely need to do any research. I do not charge for quick calls and my turnaround time is immediate or, when reviewing changes to personnel bylaws, same day or next day at the most.

Since the cost of legal services inevitably rises with litigation, I always tell my Boards what the likelihood of success will be and what it will cost to get there. Since I have many years of experience with litigation, I am quite accurate. More importantly, I always try to figure out ways to avoid or get rid of litigation in the first place, using it only as a last resort. I was appointed by the Chief Justice of the Superior Court as a Master in the Superior Court, and presided over many cases. None of my decisions were ever overturned.

I have almost always come in under budget in my towns. While I cannot guarantee it in Monterey since I am not familiar with your existing litigation, I would review the open cases at no charge to the town and would try to resolve them if possible, with your approval, in executive session.

My rate is \$200/hour, but I don't charge for anything under 1/4 hour. I do not charge for Town Meeting, but I have found in many towns that being available for town meeting by phone works equally as well – and is more cost effective. I do not charge for being on call and available by phone and answering any questions that come up during the meeting. In fact, I have not been called once by phone. I would of course speak with the moderator before the meeting, also at no charge.

Our labor lawyer, Jack Dolan, is excellent at labor work and personnel issues for towns. He used to work at KP Law, but has since joined our practice as head of our labor department.

I would appreciate the opportunity to answer any questions you may have.

Respectfully submitted----Leonard Kopelman



J. Raymond Miyares Thomas J. Harrington Christopher H. Heep Donna M. Brewer Jennie M. Merrill
Bryan Bertram Ivria Glass Fried Alexandra B. Rubin Ethan B. Dively Maurica D. Miller Rian R. Holmquest Andrew N. Bettinelli

April 25, 2022

Via email

Steven Weisz, Chair
Select Board
Town of Monterey
steve@montereyma.gov

Melissa Noe
Town Administrator
Town of Monterey
admin@montereyma.gov

Re: Response to Request for Quotes for Legal Services

Dear Mr. Weisz and Ms. Noe:

We are pleased to submit this letter expressing our interest in providing Town Counsel services to the Town of Monterey. Miyares and Harrington LLP is a law firm dedicated to the practice of law in the public interest and committed to addressing the needs of local governments. Our attorneys are skilled in the areas of law that so often present local issues (and opportunities), including general municipal practice, Town Meetings, zoning and planning, construction, contracts, municipal finance, environmental, public health, labor and employment law, litigation, conflict of interest, public records, and open meeting.

We currently serve as Town Counsel in Bourne, Carlisle, Hopkinton, Lancaster, Littleton, Needham, Norfolk, Reading, Stockbridge, Templeton, and Wellesley. We also serve as Labor Counsel in Dracut and Stockbridge and provide labor/employment law services in our other Towns to supplement outside Labor Counsel. We are Counsel to the Berkshire Regional Planning Commission and serve as special counsel to other cities and towns in Massachusetts.

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 neither so large that Monterey officials would be unfamiliar with the attorney assisting in a matter, nor so small that we would lack the requisite expertise to deliver sophisticated advice on the variety of questions posed by the Town. 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

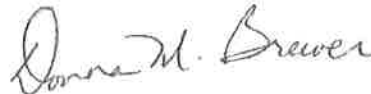
what we do. We believe that our deep experience, our broad legal expertise, and our enthusiasm for partnering with local government offer an excellent—and unique—match for Monterey's legal needs.

Enclosed with this letter is our response to your request for quotes for an hourly fee or retainer fee arrangement. 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 Donna Brewer as Lead Counsel, whom you should not hesitate to contact if you need more information. Donna's direct line is (617) 804-2423 and her cell is (617) 797-8690.

Thank you for the opportunity to express our interest and provide you with this information. We look forward to the opportunity to discuss our interest and qualifications in more detail.

Respectfully Submitted,

MIYARES AND HARRINGTON LLP

A handwritten signature in cursive script that reads "Donna M. Brewer".

Donna M. Brewer

dbrewer@miyares-harrington.com

Encs.

**TOWN OF MONTEREY
RESPONSE TO REQUEST FOR QUOTES
FOR LEGAL SERVICES**

Donna M. Brewer
MIYARES AND HARRINGTON LLP
40 Grove Street • Suite 190
Wellesley, MA 02482
Tel. (617) 489-1600
Fax. (617) 489-1630
www.miyares-harrington.com
dbrewer@miyares-harrington.com

Miyares and Harrington LLP is pleased to submit this response to Monterey's Request for Quotes for Legal Services. Our firm has a single core focus: providing sophisticated legal advice to municipalities. We've been doing so since 1988 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. We are confident that our firm's record of legal excellence, a deep and diverse roster of practitioners, and enthusiasm for partnering with local government is an excellent match for Monterey's legal requirements.

We propose to designate Donna Brewer as Lead Counsel to serve as the primary point of contact for legal services. However, 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 Monterey 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—skilled lawyers are typically capable of identifying issues and performing legal work quickly and efficiently.

We propose this structure following substantial thought about Monterey'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 is the best mechanism to provide swift, responsive, and sophisticated legal advice to Monterey.

We have attached to the end of this response, résumés of all attorneys in our firm, as each will be available to provide legal services within their areas of specialization. Below is a summary of Donna's qualifications.

Donna M. Brewer. Donna has been practicing for almost 40 years, first as a civil litigator, and for the past 23 years in municipal law. She is the head of the firm's litigation and employment practice groups. Donna got her start in the municipal field by serving as a volunteer appointed member of her town's Historic District Commission and later as its chairman before being appointed as Town Counsel. She currently serves as Town Counsel to Stockbridge and Labor Counsel to Dracut, as well as special counsel to countless communities. In addition to her years of Town Counsel representation, Donna has decades of experience in private and public-sector litigation on such disparate topics as zoning and land use, consumer protection, contracts, and *cy pres*. She is an experienced litigator at all levels of regional federal and state courts and alternative dispute resolution forums.

Donna is a frequent presenter on topics of general municipal interest to municipal counsel and officials. In 2022 alone, she has presented to the Massachusetts Municipal Association on recent municipal law updates, the Second Amendment and local regulations, and DHCD draft guidelines to MBTA Communities.

Donna was selected as a Massachusetts Super Lawyer® for three years' running in the area of litigation and is currently a multi-year honoree as a Massachusetts Super Lawyer® in the field of state, local, and municipal law. Donna is named in the Martindale-Hubbell® Bar Register of Preeminent Women Lawyers™ for achieving the highest possible rating in both legal ability and ethical standards (AV® Preeminent™).

Prior to joining Miyares and Harrington LLP, Donna was a partner in the Boston law firm of Casner & Edwards, LLP and an associate with the New York law firm of Hughes Hubbard & Reed. She received her A.B. degree *cum laude* from Middlebury College and her J.D. from New York University School of Law. She is a co-author of Ch. 25, "Municipal Code Enforcement" in MCLE's *Massachusetts Municipal Law* (2nd edition 2015 (Supplement 2020)).

When not practicing law or walking her dog, Donna is a volunteer at the New England Aquarium.

**TOWN OF MONTEREY
RESPONSE TO REQUEST FOR QUOTES
FOR LEGAL SERVICES – HOURLY FEE ARRANGEMENT**

Donna M. Brewer
MIYARES AND HARRINGTON LLP
40 Grove Street • Suite 190
Wellesley, MA 02482
Tel. (617) 489-1600
Fax. (617) 489-1630
www.miyares-harrington.com
dbrewer@miyares-harrington.com

We believe that clients are best served through the billing of individual matters. For all matters we proposed the following hourly billing rates:

Partners and Counsel:	\$225 per hour
Associate Attorneys:	\$215 per hour
Travel:	\$140 per hour
Paralegals and Law Clerks:	\$125 per hour

Hourly billings would be recorded in tenths of an hour and billed monthly.

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.

We also 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.

**TOWN OF MONTEREY
RESPONSE TO REQUEST FOR QUOTES
FOR LEGAL SERVICES – RETAINER FEE ARRANGEMENT**

Donna M. Brewer
MIYARES AND HARRINGTON LLP
40 Grove Street • Suite 190
Wellesley, MA 02482
Tel. (617) 489-1600
Fax. (617) 489-1630
www.miyares-harrington.com
dbrewer@miyares-harrington.com

In our experience, retainer arrangements are counterproductive to a Town's interests so we do not propose a retainer arrangement. Monterey will benefit from the collective decades of municipal law experience that all of our lawyers offer, so that there is an excellent chance that we can answer your questions quickly and with confidence. But less populated Towns do not necessarily have minor or common legal questions. Monterey can be assured that we will give a matter the time and attention it needs, not giving it short shrift because of the size of the retainer.

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 2015 (Supplement
2020))

Lecturer
MCLE
Municipal law issues

Honors

AV®, Martindale-Hubbell®
2012+Massachusetts *Super
Lawyers*®
2011 Bar Register of
Preeminent Women Lawyers™

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 Law*, 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

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 2015 (Supplement 2020)).

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

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.

PROFESSIONAL EXPERIENCE

Partner, 1997-present

Counsel, 1990-1997

Miyares and Harrington LLP

1986-1987

Payment Appeals Coordinator

Office of the General Counsel, DCP

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)
2015

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

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

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 has particular expertise as a litigator and in administrative and regulatory matters.

Before joining Miyares and Harrington, Mr. Bertram served as a Massachusetts Assistant Attorney General. As a member of that Office's Government Bureau, he represented State agencies and officials in a wide range of matters, including defending policies and programs, and other 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 seven years at an AmLaw 100 firm, where he focused on complex civil litigation, and government and internal investigations. He also served for six months as a Special Assistant District Attorney in Woburn, responsible for a heavy criminal caseload, including trials.

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 Intern, 2004
Community Legal Services and Counseling Center
Cambridge, MA

IVRIA GLASS FRIED

Academic Background

Juris Doctor

Northeastern University

Master of Environmental Law and Policy

Vermont Law School
summa cum laude

Bachelor of Arts

University of Vermont
magna cum laude

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
2019-2021*

Co-Chair
*Environmental Public Service
Committee, Boston Bar Association
2016-2018*

Conservation Commission Member
*City of Cambridge
2014-2015*

Ivria Glass 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.

Ms. Fried has been selected to the Super Lawyers® list of Massachusetts Rising Stars for Environmental Law in 2017-2021. In 2020, she was named an “Up & Coming Lawyer” by Massachusetts Lawyers Weekly®.

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

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

Community Service

Primary Author "Isolation & Quarantine"
(Local Public Health Institute of
Massachusetts, 2015)

Co-author, "Municipal Code
Enforcement," Massachusetts Municipal
Law, Ch. 25 (MCLE 2015 (Supplement
2020))

Society for Human Resource
Management (SHRM), Member

Framingham Board of Health, Member

Alexandra Rubin concentrates her practice on issues related to general municipal law, labor and employment matters, state ethics and public records laws, 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. She has also appeared as counsel in matters in the Massachusetts state and federal courts.

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

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 joined 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*

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.

Maurica served in the United States Marine Corps.

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 Kayn F. Scheier
Massachusetts Land Court

Legal Intern, 2014
Office of the General Counsel
Massachusetts Department of Conservation and Recreation

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
GlobalPost

ANDREW BETTINELLI

Academic Background

Juris Doctor

New England Law
cum laude

Bachelor of Arts

Political Science

University of Massachusetts, Amherst
magna cum laude

Member of the Bar

Massachusetts
New Hampshire

Honors and Awards

Justice Sandra Day O'Connor Full
Tuition Merit Scholarship,
Commonwealth College Honors
Program

Andrew Bettinelli has deep experience at all levels of government. He joined Miyares & Harrington after more than a decade of service in the legislative branch. Most recently, Andrew was the Chief of Staff for the President Pro Tempore of the Massachusetts Senate. Previously, he served as a Legislative Aide in the State Senate, and as a Special Assistant to a Member of the U.S. House of Representatives.

Andrew is a *cum laude* graduate of New England Law | Boston and a *magna cum laude* graduate of the University of Massachusetts Amherst. He serves as a member of his town's Finance Committee.

PROFESSIONAL EXPERIENCE

Associate, 2022-present
Miyares and Harrington LLP

Chief of Staff, 2017-2022
Legislative Aide, 2013-2016
Office of State Senator William N. Brownsberger

Special Assistant, 2010-2012
Office of Congressman Barney Frank

Campaign Manager, 2013
Deputy Manager, 2013
Will Brownsberger for Congress

Director of Political Affairs, 2012-2013
Consulate General of Israel to New England

Political Organizer, 2012
Elizabeth Warren for U.S. Senate

Transfer Agent Associate, 2007-2010
State Street Corporation