

DATE: NOVEMBER 7, 2016  
TO: BOARD OF SELECTMEN  
FROM: NAN BALMER, TOWN ADMINISTRATOR  
RE: RECOMMENDATION OF EVALUATION COMMITTEE: TOWN COUNSEL

4. Town Counsel

**RECOMMENDED ACTION:**

1. INTERVIEW ATTORNEYS RECOMMENDED BY EVALUATION COMMITTEE TO SERVE AS WAYLAND TOWN COUNSEL;
2. POTENTIAL VOTE TO APPOINT TOWN COUNSEL SUBJECT TO APPROVAL OF TERMS OF ENGAGEMENT.

**EVALUATION COMMITTEE PROCESS:**

On August 15<sup>th</sup>, the Board of Selectmen approved a schedule for a Request for Proposal to seek town legal services with a projected date for award of a contract of December 5<sup>th</sup>. The following individuals served on the Evaluation Committee:

1. Cherry Karlson, Chair of the Board of Selectmen
2. Anette Lewis, Esq., Volunteer
3. Nan Balmer, Town Administrator
4. John Senchyshyn, Assistant Town Administrator / HR Director
5. Ellen Brideau, Director of Assessing
6. Geoffrey Larsen, Building Commissioner

The Evaluation Committee provided review and comment prior to issuance of the RFP. Three law firms responded. The Committee met four times including three meetings to interview candidates.

Current Town Counsel Mark Lanza did not submit a response to the RFP. Mark has offered his strong support in a transition to any new Town Counsel the Board of Selectmen selects.

The Committee interviewed teams of attorneys with specialties in municipal law. The Committee insisted that these firms assign only one attorney to serve as the candidate for Wayland Lead Town Counsel and that the firms provide provide a second municipal law specialist to serve as backup lead counsel.

**EVALUATION COMMITTEE'S RECOMMENDATION TO THE BOARD OF SELECTMEN:**

Two firms, K-P law and Deutsch Williams presented the Committee with excellent, but different, plans to serve the town's legal needs. The Committee's decision was difficult.

After lengthy deliberation, the Committee recommends the Selectmen appoint Attorney Carolyn Murray and the firm of K-P Law as Town Counsel for Wayland.

Although both of the finalist firms offered a high level of expertise in municipal law, K-P Law differentiates itself by providing an organized program of training in municipal law for staff and volunteers, emphasizing open meeting law, public records law, planning and zoning and municipal finance.

**NEXT STEPS:**

1. Interview and consider appointment, subject to agreement on terms of engagement.
2. Consider appointment of Mark Lanza as Special Counsel for the purposes of: 1) Completion of cases that will not be transferred; 2) Provide new counsel with historical information on legal matters, 3) Other assistance required for a smooth transition. Work would be authorized on a task by task basis.

**ATTACHED:** 1) Resume: Attorney Murray and, 2) Draft Agreement



## **CAROLYN M. MURRAY**

**Shareholder**

**E-mail:** [cmurray@k-plaw.com](mailto:cmurray@k-plaw.com)

**Phone:** 617.556.0007

**Practice Areas:** General Municipal, Employment & Labor, Litigation

### **Experience**

Attorney Carolyn Murray's practice focuses on municipal finance, labor/employment, land use, contracts, procurement, scope of municipal authority, conduct of town meeting, and compliance with state law. She serves as liaison between local officials and state officials and agencies, including Office of the Attorney General, the Alcoholic Beverages Control Commission, the Department of Revenue, the State Ethics Commission, the Inspector General, and the State Election Division.

### **Representative Matters**

- Defend municipalities in labor issues before the Civil Service Commission, Massachusetts Commission Against Discrimination, American Arbitration Association, Board of Conciliation and Arbitration, and Department of Labor Relations.
- Represent municipalities in land use issues before Zoning Boards of Appeal, Planning Boards, Land Court, and Superior Court.
- Provide guidance to municipalities with respect to various federal laws, including Title VII of the Civil Rights Act, the Family Medical Leave Act, the Americans with Disabilities Act, Age Discrimination in Employment Act, and Uniformed Services Employment and Reemployment Act.
- Advise towns in all aspects of Town Meeting, including preparation of warrants, motions, by-law amendments, and acts of special legislation.
- Advise city councils with respect to appropriation orders, bond authorizations, ordinances and parliamentary procedure.
- Provide guidance to Charter Commissions, Government Study Committees and Transition Committees on changes to forms of government.
- Served as counsel to town transitioning to city form of government.
- Negotiate collective bargaining agreements with various unions.
- Represent municipalities in grievance, arbitration and unfair labor practice hearings.
- Conduct workplace investigations of sexual harassment, violence in the workplace, and ethics violations.
- Prosecute and act as hearing officer in employee disciplinary matters.

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- Advise Zoning Board of Appeals and Planning Boards on all aspects of variances, findings, nonconforming uses, the Subdivision Control Law, special permits, including preparation of decisions.
- Counsel licensing boards regarding standards and procedures for approving, denying or revoking various municipal licenses.
- Provide guidance relative to public procurement procedures and drafting contracts.
- Represent awarding authorities in bid protest hearings.
- Conduct sexual harassment training.

## **Prior Experience**

### **Town of Braintree, Braintree, MA**

#### *Town Solicitor (2008-2014)*

Appointed by Mayor to serve as first in-house counsel to Town transitioning to city form of government. Responsible for interpreting Town Charter, converting by-laws to ordinances, and advising Town Council on legislative procedures. Provided general advice to all Town departments on topics ranging from ordinance interpretation to procurement requirements and municipal finance issues. Drafted special legislation for Town to obtain additional liquor licenses and to design/build/operate a pool/rink facility. Acted as liaison between developers and various Town boards to navigate permitting processes and to achieve projects that balance needs of developer with best interests of community. Represented Town in all litigation, including land use issues pending with Superior Court and the Land Court, and labor issues before the Civil Service Commission, Department of Labor Relations, Board of Conciliation and Arbitration, and American Arbitration Association. Drafted all contracts to which the Town was a party.

Negotiated collective bargaining agreements with eleven unions and defended the Town in all grievance, arbitration or disciplinary hearings. Attended all meetings of and advised Zoning Board of Appeals and Board of Licensing Commissioners, prepared decisions of said boards, and defended said boards in appeals.

### **Kopelman and Paige, P.C., Boston, MA**

#### *Associate (2002-2003, 2004-2008)*

Represented various municipalities and public entities in all aspects of municipal government, with emphasis on labor and land use issues

### **Massachusetts State Lottery, Braintree, MA**

#### *Executive Administrator (2003-2004)*

Advised Executive Director with respect to personnel policies and issues, contract drafting and interpretation, procurement requirements, compliance with state law, budgeting, local aid, new developments in lottery business, and reports to General Court, Governor, and State Treasurer.

### **Representative Joseph C. Sullivan, Chairman of Transportation Committee, State House, Boston, MA**

#### *Legislative Aide/Research Assistant (2001-2002)*

Researched, drafted and analyzed impacts of legislation. Served as liaison to address constituent concerns.



Town of Braintree, Braintree, MA

*Paralegal (1994-2001)*

*Acting Executive Secretary (2000)*

### Recent Decisions

United States v. Clean Harbors: Represented Town and successfully intervened in environmental enforcement action to negotiate settlement that included procurement of platform ladder truck for Fire Department.

United States v. Town of Braintree: Defended Town in municipal wastewater enforcement action and negotiated settlement allowing for construction of rain garden at municipal golf course in lieu of penalty.

Erali v. Town of Orange: Federal Court defense verdict in case alleging female supervisor sexually harassed male subordinate.

Lambert v. Town of Montague: Franklin Superior Court defense verdict in wrongful termination case.

DeMco v. Braintree Building Inspector: Norfolk Superior Court granted motion to dismiss complaint seeking enforcement action.

In re: Wine Nation (Wine Nation v. Braintree Board of Licensing Commissioners): Alcoholic Beverages Control Commission upheld Town's denial of all-alcoholic liquor license under Ballarin factors.

Skrycki v. Braintree Board of Selectmen: Civil Service Commission upheld termination of police sergeant, in part based on lack of truthfulness.

Venuto v. Town of Braintree: Civil Service Commission upheld termination of police officer for violation of several department policies.

AFSCME v. Town of Braintree: Board of Conciliation and Arbitration affirmed termination of employee for violating Violence in the Workplace Policy.

AFSCME v. Town of Braintree: Board of Conciliation and Arbitration affirmed Town's by-pass of union employee to appoint non-union employee to vacant position.

Police Patrol Officers Association v. Town of Braintree: American Arbitration Association upheld discipline of police officer for pattern of sick leave abuse.

### Bar & Court Admissions

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

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## **Memberships & Affiliations**

- Massachusetts Bar Association Public Law Section Committee (2010-2013)

## **Education**

New England School of Law

Juris Doctorate, *cum laude*, 2002

Full merit scholarship recipient

Smith College

Bachelor of Arts, 1990