



*The Leader in Public Sector Law*

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September 1, 2021

**Mark R. Reich**  
mreich@k-plaw.com

BY FIRST CLASS MAIL  
AND BY ELECTRONIC MAIL

Hon. Donna D. Holaday  
Mayor of Newburyport  
Newburyport City Hall  
60 Pleasant Street  
Newburyport, MA 01950

Re: Determination and Consent Pursuant to Massachusetts Rules of Professional Conduct, Rule 1.7 - Representation of the City of Newburyport and Town of West Newbury Review and Amendment of 2020 Middle Street Bridge Memorandum of Understanding

Dear Mayor Holaday:

The Town of West Newbury and City of Newburyport have jointly requested KP Law to review and advise each municipality regarding proposed amendments to a Memorandum of Understanding pertaining to the allocation of costs for evaluation, design, and repair of the Plummer Spring Road/Middle Street Bridge (the "Agreement") by and between the City of Newburyport and the Town of West Newbury, whom the firm represents as City Solicitor and Town Counsel respectively. The parties further agreed that the costs for such representation will be split equally between both municipalities.

Our relationship with Newburyport and West Newbury creates interests that require disclosure pursuant to the Rules of Professional Conduct of the Massachusetts Bar that require us to obtain the "informed consent" of each Town, after disclosure of adequate information and explanation about the risks of, and alternatives to, the proposed simultaneous representation, before we can undertake such representation. In addition, while the State Ethics Commission has determined that KP Law, P.C. and its individual attorneys are not "municipal employees" pursuant to the Conflict of Interest Law, we provide this letter to dispel any appearance of a conflict on the firm's behalf in this matter.

#### MULTIPLE REPRESENTATION DISCLOSURE

The representation of multiple clients is regulated under the Massachusetts Rules of Professional Conduct. The relevant provision, Rule 1.7, states that an attorney may not represent multiple clients if the interests of one client are directly adverse to those of another client, or if his representation of one client may be materially limited by his responsibilities to another client or his own interests. If, however, the attorney reasonably believes that the representation of either client will not be adversely affected and each of the clients consents after consultation, the attorney may represent the client in such a situation.



Hon. Donna D. Holaday  
Mayor of Newburyport  
September 1, 2021  
Page 2

DETERMINATION

It is our belief that our position as counsel for West Newbury, for the purposes and under the conditions described in this letter, does not create a concurrent conflict of interest and will not affect the exercise of our independent professional judgment on behalf of Newburyport with regard to the Agreement or any other matter. It is our further belief that even if a conflict exists, our ability to provide competent and diligent representation to the City of Newburyport will not be negatively impacted by our role as counsel for West Newbury in this matter. The only risk I would note would be in the event that negotiations over the Agreement or any matter related to the Agreement break down between the parties, to the point where one municipality seeks legal redress from the other. Under these circumstances, KP Law, P.C. would likely have to cease representing all parties with regard to the Agreement. It is, however, for you to determine, as the Appointing Authority, whether the representation described herein will not impair the integrity of this firm's services to Newburyport.

Accordingly, I request that the Mayor, as Appointing Authority, consent to our representation of the City of Newburyport notwithstanding the firm also serving as counsel to the Town of West Newbury with regard to the review of proposed amendments to the Agreement. Should you so consent, I ask that you sign the enclosed determination as required by the Rules of Professional Conduct. Please sign the two originals provided, return one copy to this office, and retain one copy for your records.

Thank you for your consideration. Please do not hesitate contact me with any questions you have in this regard.

Very truly yours,

A handwritten signature in cursive script that reads "Mark R. Reich".

Mark R. Reich

MRR/JRD/jmp  
Enc.  
cc: City Council

777802/NBPT/0001

DETERMINATION

It is determined, pursuant to Rule 1.7 of the Massachusetts Rules of Professional Conduct, that the Mayor of the City of Newburyport consents to KP Law, P.C. representing Newburyport with regard to proposed amendments to a Memorandum of Understanding between the City of Newburyport and the town of West Newbury regarding the allocation of costs for evaluation, design, and repair of the Plummer Spring Road/Middle Street Bridge, as disclosed in a letter to the Mayor dated September 1, 2021, notwithstanding that KP Law, P.C. serves as Counsel for the Town of West Newbury.

Dated: \_\_\_\_\_

CITY OF NEWBURYPORT,  
By its Mayor,

\_\_\_\_\_  
Donna D. Holaday, Mayor