



Town of Wilmington
Office of the Town Accountant
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Wilmington, MA 01887-3597

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WWW.WILMINGTONMA.GOV

May 18, 2023

TO: Select Board

RE: State House Note for Water Tank

Article 26 at the May 5, 2018 Annual Town Meeting authorized the appropriation and issuance of debt in the amount of \$2.5 million for the construction of the new water tank located off Nassau Avenue. During the spring of 2019 the Board members were required to execute the specific documents to acknowledge the issuance of debt.

The Town is once again seeking to issue a new note to replace the current note which expires on June 2, 2023. The amount of the new State House Note is \$2,320,000. Penni Dudley, Treasurer/Collector, requested bids for the new issuance and the most favorable rate from Unibank for Savings was received at 4.40%. This new issuance does not require a vote of the Select Board but will require the signatures of at least 3 of 5 members on the specific issuance documents.

Packaging this relatively small borrowing with the larger borrowing will save on the costs associated with debt issuance. The expectation is that borrowing will be required for the Senior Center and Town/School Administration Building. The plan is to incorporate the water tank short-term borrowing with long-term debt associated with those projects.

Thank you,

Bryan Perry
Finance Director/Town Accountant

cc: Jeffrey M. Hull, Town Manager
Susan L. Inman, Assistant Town Manager
Penni Dudley, Treasurer/Collector



Commonwealth of Massachusetts
MIDDLESEX COUNTY RETIREMENT SYSTEM
25 LINNELL CIRCLE • P.O. BOX 160 • BILLERICA, MA 01865
WWW.MIDDLESEXRETIREMENT.ORG

Over 100 Years of Public Service

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Chief Administrative Officer
LISA MALONEY, ESQ.

DATE: May 17, 2023
TO: All Member Units
FROM: Thomas Gibson, Chair
Middlesex County Retirement Board
RE: Approval of One-Time COLA Adjustment for Retirees

The Middlesex County Retirement Board is pleased to announce that Chapter 269 of the Acts of 2022 (“the Act”), a local option which allows a one-time increase to the Cost of Living Adjustment (COLA) granted to retirees in FY 2023, from 3% to 5% of the System’s \$16,000 COLA base, has met the requirements for enactment.

The one-time increase of 2% to the COLA percentage for FY 2023 will result in an additional annual COLA payment of \$320 for approximately 4,000 retirees and beneficiaries whose pensions exceed \$16,000 (from the previously granted \$480/year to \$800/year). The approximately 2,500 retirees and beneficiaries receiving less than \$16,000 annually will receive proportionately less. Retroactive COLA adjustments will be included in the June 30, 2023 monthly retiree payroll.

Acceptance of the Act was conditioned upon approval by the Middlesex County Retirement Board and by two-thirds of the System’s municipal Select Boards prior to June 30, 2023. After reviewing the financial impact upon the System, the Board voted to accept the Act on December 14, 2022, and to request approval by the System’s 31 Select Boards.

TEL: 800-258-3805 • 978-439-3000 • FAX: 978-439-3050
EMAIL: MRS@MIDDLESEXRETIREMENT.ORG



As of this date, the Select Boards of the following towns have voted approval, thus making the Act effective:

Town of Ayer	3/27/2023
Town of Bedford	4/10/2023
Town of Billerica	3/6/2023
Town of Boxborough	2/27/2023
Town of Carlisle	4/11/2023
Town of Chelmsford	3/13/2023
Town of Dracut	3/28/2023
Town of Groton	3/6/2023
Town of Holliston	3/6/2023
Town of Hopkinton	3/28/2032
Town of Hudson	2/6/2023
Town of Littleton	3/13/2023
Town of Sherborn	4/20/2023
Town of Shirley	3/6/2023
Town of Stow	4/11/2023
Town of Sudbury	3/21/2023
Town of Tewksbury	3/7/2023
Town of Tyngsborough	2/27/2023
Town of Westford	3/28/2023
Town of Weston	4/11/2023
Town of Wilmington	3/13/2023

The System's Actuary, The Segal Group, has estimated that acceptance of the COLA adjustment will increase the System's July 1, 2022 unfunded liability by 1.0%. After discussion with Town Administrators and Town Managers, the Board voted to begin funding the COLA adjustment in FY 2026. The System Valuation as of January 1, 2024 will be undertaken next year.

If you have any questions in this regard, please contact our office.

Thomas F. Gibson



Wilmington, Massachusetts

INTER-DEPARTMENTAL COMMUNICATION

FROM THE TOWN MANAGER

May 5, 2023

TO: Select Board

RE: Special Environmental Counsel

At the Board's meeting on April 24th, I was directed to obtain information from KP Law relative to the transition of work currently handled by Brooks & DeRensis to KP Law. While the most prominent work that has been assigned to Brooks & DeRensis has been the Olin Superfund Site, the other legal matters tasked to the firm were representing the Town relative to New England Transrail/Wilmington Woburn Industrial's proposed redevelopment of the site and full closure of the Maple Meadow Landfill.

Mark Reich has indicated that his firm can represent the Town on these matters and will prepare to do so if directed by the Board. He does suggest that the Board carefully consider whether to change law firms particularly if the Board is not dissatisfied with the work of Dan Deutsch, Esq., from Brooks & DeRensis. It is not possible for Mark Reich to provide a specific estimate of the cost to transition these cases to KP Law at this time. These cases have lengthy histories and, in the case of the Olin site, extending back to the mid-1980s. In addition to the physical transfer of files, there would need to be communication between representatives from KP Law and Dan Deutsch to begin to understand the priority areas of focus on these cases. Extensive document review would be required by KP attorneys to become versed in the history and present circumstances. As previously noted, communications from EPA and Olin have been sent to KP Law however, Mark Reich has not engaged in a thorough review of each communication or environmental study that has been sent to him.

During periods in which an attorney from KP Law and Dan Deutsch are conferencing to transfer knowledge, the Town would be paying the hourly rates of both firms (\$360/hour for Brooks & DeRensis and \$300/hour for KP Law). It is unclear as to the number of hours that both firms would need to engage in discussions or the number of hours that it will take KP Law to review documentation related to the three matters to become knowledgeable about the status of each case. Attorney Reich has stated he can put a legal team together that is fully capable of representing the Town. A team approach with multiple attorneys

having knowledge of the cases may buffer the Town against knowledge loss if one attorney with the vast majority of the knowledge about the cases retires or leaves the firm. It is unclear the degree to which other attorneys at Brooks & DeRensis have significant knowledge about the environmental cases however, it is reasonable to believe that Attorney Dan Deutsch has the greatest level of historical and current knowledge about the cases. While such a circumstance is not insurmountable, with the lengthy history of the Olin Superfund Site the departure of a single attorney, particularly if that departure is on short notice, would take time for other attorneys from the firm to familiarize themselves with the case(s).

Attorney Reich also noted it is important for him to have a clear understanding of the scope of work that the Board expects from KP Law if they are to be engaged to represent the Town on these matters. Attorney Deutsch has been tasked with retaining knowledge about the requirements EPA is imposing on Olin, the environmental studies being prepared by Olin's consultants, communicating with the Town and Verdantas as needed when comment responses are prepared by Verdantas on the Town's behalf to be issued to EPA, recommending legal strategies as discussed in executive session related to the Superfund Site, filing reports with the federal Surface Transportation Board regarding changes to the status of the proposed redevelopment of the Olin site and representing the Town with respect to discussing with those parties interested in the redevelopment of the Olin site. Presumably, KP Law would be directed to take on a similar role if the Board decides to make a switch.



Jeffrey M. Hull
Town Manager

Jeff Hull

From: Mark R. Reich <MReich@k-plaw.com>
Sent: Thursday, May 4, 2023 3:37 PM
To: Jeff Hull
Subject: [EXTERNAL] Olin Superfund Site

Jeff –

You have indicated to me that the Select Board will be considering the Town's representation regarding the Olin Superfund Site and related matters. As I understand, Attorney Dan Deutsch has been representing the Town for many years in this matter and is currently monitoring the submissions being made by Olin and the EPA's responses as the matter proceeds to a Record of Decision.

As you are aware, this firm has not to date taken any role in this matter. While you have forwarded e-mails on this matter to me for my information, we have not undertaken any substantive role in the matter in the interest of avoiding unnecessary expense to the Town.

As you are aware, federal Superfund cases are complex and involve technical and legal matters pertaining to environmental review, administrative proceedings, and potential litigation. At this time, I am not aware of any active litigation and, as noted above, special counsel is currently monitoring the developments on behalf of the Town. The Town, through its Select Board, will at some point determine the course of action in this matter, including consideration of whether to pursue any actions related to damages incurred by the Town as a result of the Olin activities.

This particular matter has a very long history. We have similarly been involved in a number of long-standing Superfund matters, including the Shpack Landfill Site in Medway, the Blackburn/Union Privileges Superfund Site in Walpole, and the Beede Waste Oil Site in Plaistow, New Hampshire (involving over a dozen Massachusetts municipalities), among others. Our involvement in these particular matters is lengthy and extensive as many issues have arisen with the subject sites, including consideration of claims, institutional controls, development limitations, and administrative actions. We have been very active in these matters and have been able to fully represent our clients' interests.

These are complex long-term matters for which institutional knowledge is necessary. Thus, any representation in this matter would require significant review of all materials as well as an understanding of the Town's intentions with regard to this site and any potential actions to be taken. As we have discussed, this is specialized legal work, differing from standard Town Counsel services, and so would be charged at a rate of \$300 per hour. This charge would extend to the review of existing documents, meeting with the Board in executive session to review the matter, and proceeding with monitoring and any necessary action. We can certainly take on this matter and devote attorneys to review and consideration of the history and documents relative to the site. However, it is important for the Board to be aware that this may be a costly undertaking given the extensive site history.

Please let me know how you would like to proceed.

Thank you.

Mark

Mark R. Reich, Esq.
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www.k-plaw.com



Wilmington, Massachusetts

INTER-DEPARTMENTAL COMMUNICATION

FROM THE TOWN MANAGER

May 12, 2023

TO: Select Board


RE: Special Counsel for Environmental Cases

Separate discussions have taken place with Mark Reich, Esq. and Daniel Deutsch, Esq. about the prospect of transitioning the environmental cases (Olin Superfund Site, New England Transail/Wilmington Woburn Industrial and Maple Meadow Landfill) to KP Law. Neither attorney is able to provide an estimate as to the amount of time and associated cost that is required to complete the transition. There is an expectation that the two attorneys will need to spend some period of time engaged in communication about the histories of the respective cases which would be for a combined rate of \$660 for the duration of those communications. The legal team that Mark Reich has indicated he could assemble would require some amount of time reviewing information related to each case to develop a comprehensive understanding of the issues. These two circumstances would lead to a temporary increase in legal fees.

As Attorney Deutsch pointed out, if the Board is seeking to make a change in legal representation it would be advisable to make the change before the Town engages in litigation. Whether the Town seeks to terminate the "tolling agreement" and initiate legal action against Olin remains an open question. For the past several years Dan Deutsch has monitored the developments with each case which has involved reviewing environmental reports and Environmental Protection Agency (EPA) communications, working with the Town and its environmental consultant on preparing comment letters as needed and submitting quarterly reports to the federal Surface Transportation Board (STB) regarding the status of the New England Transrail/Wilmington Woburn Industrial efforts to redevelop the Olin property. Legal fees associated with this work have been relatively modest. If a decision is made to take legal action the amount of time, attention and resources required to mount such an effort will be significant regardless of which firm the Town uses.

Mark Reich has indicated that if KP Law is asked to represent the Town on the environmental cases he would assemble a team of attorneys to become proficient in the cases. An advantage to this approach with more than one attorney knowledgeable about the critical issues is that the disruption caused if one attorney left the firm would be lessened. It is my understanding that Dan Deutsch has been *the* attorney at Brooks & DeRensis who focuses on the 3 environmental cases. Attorney Deutsch has indicated that he plans to remain at the firm for the foreseeable future.

Clearly another factor to consider is the quality of legal representation and the knowledge about the issues and the pertinent laws governing the cases. Board members have some indication of Attorney Deutsch's knowledge and performance based upon the executive session meetings with him to discuss strategy. The expectation is to include special counsel as a "Board to Consider" on your May 22, 2023 agenda. The contracts for both KP Law and Brooks & DeRensis expire on June 30, 2023.



Jeffrey M. Hull
Town Manager

Jeff Hull

From: Morash, Melanie (she/her/hers) <morash.melanie@epa.gov>
Sent: Thursday, May 11, 2023 2:26 PM
To: Jeff Hull; Shelly Newhouse
Cc: Robert C. Reynolds; Kevin D. Trainer; Jamie Magaldi; Joseph Lobao; Audet, Matthew; Valerie Gingrich; garry waldeck; alicia.fraser@state.ma.us; Kelly, Christopher; Cosio, Julie (DPH); Gray, Charlotte (she/her/hers); Dumville, Kelsey; Janet Waldron; Jennifer Lambert; Jeffrey Brunelle
Subject: [EXTERNAL] Olin Site (Wilmington, MA) - EPA announces settlement for cleanup

Dear Jeff and Shelly,

I wanted to highlight for you that EPA has just announced the proposed Consent Decree for the Olin Site:

<https://www.epa.gov/newsreleases/epa-announces-48-million-settlement-cleanup-olin-chemical-superfund-site-wilmington>

Under the agreement, American Biltrite Inc., NOR-AM Agro LLC, Olin Corporation, and Stepan Company will address areas of soil, sediment, and surface water contamination on and around the former Olin property and implement the interim cleanup plan for groundwater.

The four settling defendants, led by Olin Corporation, will perform the cleanup. In addition to the site cleanup costs outlined in the Consent Decree (\$48 million), the four parties will also pay approximately \$400,000 for EPA's past response costs at the site, as well as the agency's costs to oversee the cleanup.

A copy of the Consent Decree and information on how to provide comments will be made available on the U.S. Department of Justice's website: <https://www.justice.gov/enrd/consent-decrees>

A fact sheet with responses to Frequently Asked Questions (FAQs) on the proposed Consent Decree will be uploaded shortly to EPA's website: www.epa.gov/superfund/olin


I will also e-mail you the FAQ sheet as soon as it is completed.

Sincerely,

Melanie

Melanie Morash (she/her/hers)
Superfund Project Manager
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EPA Announces \$48 Million Settlement for Cleanup of the Olin Chemical Superfund Site in Wilmington, Massachusetts

May 11, 2023

Contact Information

David Deegan (deegan.dave@epa.gov)
(617) 918-1017

WILMINGTON, MASS. – The U.S. Environmental Protection Agency (EPA) today announced a proposed Consent Decree with four parties responsible for contamination at the Olin Chemical Superfund Site in Wilmington, Mass. Under the agreement, American Biltrite Inc., NOR-AM Agro LLC, Olin Corporation, and Stepan Company will address areas of soil, sediment, and surface water contamination on and around the former Olin property and implement an interim cleanup plan for groundwater at an estimated cost of approximately \$48 million.

“This settlement allows EPA to move forward on the much-needed cleanup of contaminated groundwater, surface water, soil, and sediment at this site,” **said EPA New England Regional Administrator David W. Cash.** “Cleaning up Superfund sites is

a top priority for EPA here in New England and is part of the agency's commitment to protecting community health and ecosystems through our cleanups nationwide. This is also a good example of EPA's cleanup enforcement program holding potentially responsible parties to account in addressing contaminated sites so taxpayers aren't stuck with the costs."

"We are pleased that significant funds will be committed to address contaminated soil, wetlands, and surface and drinking water at and near the Olin site," **said Commissioner Bonnie Heiple of the Massachusetts Department of Environmental Protection (MassDEP)**. "MassDEP's involvement with the site spans four decades – from early identification and investigation of impacts, to directing removal of impacted soil, drums, and debris. We look forward to continuing to work alongside EPA and our federal partners to ensure completion of a thorough cleanup that is protective of Massachusetts residents and resources."

Under the proposed Consent Decree, the four settling defendants, led by Olin Corporation, will perform the cleanup at the site. In addition to the site cleanup costs outlined in the consent decree, the four parties will also pay approximately \$400,000 for EPA's past cleanup costs at the site, as well as the agency's costs to oversee the cleanup.

The site is comprised of the Olin property, an approximately 50-acre parcel located at 51 Eames Street in Wilmington, and the surrounding areas where contamination has migrated.

Site Background

Chemical manufacturing by a series of owners and operators began at the site in 1953 and continued until 1986. Olin Corporation purchased the property in 1980. The facility was used to produce blowing agents, stabilizers, antioxidants, and other specialized chemicals for the rubber and plastics industry. Prior to the early 1970s, chemicals were discharged into several unlined pits and ponds in the central portion of the property, and later even when lined lagoons were used, leaks in the liners resulted in additional releases of fluids. The wastes percolated into the soil or overflowed into streams. As the liquid materials moved downward through the soil, they reached the groundwater table

– because the liquids were more dense than water, they continued to sink downward (as dense aqueous phase liquid or “DAPL”), pooling in a series of cascading depressions on the bedrock surface.

Ultimately, contaminated groundwater migrated nearly a mile to the west and northwest of the property and resulted in the Town of Wilmington placing its municipal drinking water supply wells in the Maple Meadow Brook aquifer off-line due to contamination from the site.

Prior to 2006, the site was regulated by MassDEP under Massachusetts’ cleanup statute. EPA added the site to the Superfund program’s National Priorities List in April 2006 with state support. The cleanup plan for the site, selected by EPA in 2021 with state concurrence, includes interim actions to remove ongoing sources of contamination in groundwater and final cleanup actions for addressing contaminated soil, sediments, and surface water at the site:

- Construction and operation of new groundwater extraction and treatment systems.
- Capture and treatment of oily waste and contaminated groundwater that flows into surface water by construction and operation of new multi-phase extraction and treatment systems.
- Construction and maintenance of caps and cover systems on areas of soil contamination, including an impermeable cap over the feature on the Olin property known as the “Containment Area.”
- Remediation and restoration of contaminated wetlands.
- Long-term monitoring and land use controls.

In parallel to the cleanup, studies are ongoing to improve the characterization of the bedrock and further define the extent of groundwater contamination. These studies will be used to evaluate long-term groundwater remedial alternatives, leading to the selection in the future of a final cleanup plan for groundwater. In the near term, these aquifer surveys will help identify the best places to locate groundwater extraction wells for the selected cleanup.

More Information:

The Consent Decree, lodged in the U.S. District Court for the District of Massachusetts on May 11, 2023, is subject to a 30-day public comment period and approval by the federal court. A copy of the Consent Decree and information on how to provide comments will be available on the U.S. Department of Justice's website [🔗](https://www.justice.gov/enrd/consent-decrees) at <https://www.justice.gov/enrd/consent-decrees> [🔗](#).

Design of the groundwater extraction and treatment system and other site cleanup work can begin upon approval of the Consent Decree by the court.

More information on EPA's cleanup of the Olin Chemical Superfund Site [🔗](#):
<https://www.epa.gov/superfund/olin> [🔗](#)

Map of Olin Chemical Superfund Site [🔗](#):
<https://semspub.epa.gov/work/01/100020028.pdf> [🔗](#)

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Contact Us <https://epa.gov/newsreleases/forms/contact-us> to ask a question, provide feedback, or report a problem.

LAST UPDATED ON MAY 11, 2023



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WWW.WILMINGTONMA.GOV

May 19, 2023

Karen Levesque, Right of Way Manager
Verizon
3rd Floor
85 High Street
Pawtucket, RI 02860

Dear Ms. Levesque:

The Select Board met on May 8, 2023 to consider a request for a pole relocation on 18 Dunton Road. As you know, this request was being made notwithstanding the fact that a new utility pole had already been located in February of 2023 along that road under the premise that an emergency existed. This action also took place without filing for a Street Opening Permit with the Public Works Department. While this action took place without approval from the Select Board based upon a reported emergency, the existing pole remained in place through May 8, 2023. Please be reminded that Massachusetts General Law Chapter 166, Section 22 provides for the Select Board to approve relocation of utility poles. There is at least one other incident in recent history, March of 2022, in which Verizon took similar action in advance of obtaining approval.

Making such requests to the Board provides the Town with advance notice to evaluate the site to consider impacts on site distance for motorists and to determine whether such relocation will adversely impact municipal infrastructure including water or sewer lines or drainage. In the event of a true emergency necessitating immediate relocation of a utility pole, Verizon should contact the Engineering Division at 978-658-4499 to provide notice of such relocation so that the planned new location can be evaluated and to provide notice of when the required request for the pole relocation will be filed. Members of the Select Board were extremely frustrated by the lack of attention to the appropriate protocol.

While the Town endeavors to maintain a positive and productive working relationship with Verizon, continued disregard for seeking approval from the Board in advance of pole relocations will not be viewed favorably and could impact the response to future requests.

Sincerely,

Jeffrey M. Hull
Town Manager

cc: Select Board