

bargaining agreement with the City, WE WILL make him whole for any loss of compensation he may have suffered as a direct result of our unlawful conduct.

[signed]
United Steelworkers of America

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DEFACED OR REMOVED

This notice must remain posted for 30 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Labor Relations Commission, 399 Washington St., 4th Floor, Boston, MA 02108-5213 (Telephone: (617) 727-3505).

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In the Matter of TOWN OF EASTON

AND

EASTON PROFESSIONAL ADMINISTRATIVE
EMPLOYEES ASSOCIATION

Case No. MCR-03-5064

- 34.2 *community of interest*
- 35.2 *confidential*
- 35.5 *para-professionals*
- 35.7 *supervisory and managerial employees*

March 10, 2005

Allan W. Drachman, Chairman

Helen A. Moreschi, Commissioner

Hugh L. Reilly, Commissioner

Leo J. Peloquin, Esq. *Representing the Town of Easton*

Eric Davis *Representing the Easton Professional Administrative Employees Association*
Anne Carney

DECISION AND DIRECTION OF ELECTION¹

On September 17, 2003, the Easton Professional Administrative Employees Association (the Association) filed a petition in Case No. MCR-03-5064 seeking to represent certain full-time and regular part-time employees of the Town of Easton (the Town). On November 12, 2003, December 3, 2003, January 7, 2004 and January 13, 2004, a duty designated Commission agent Margaret M. Sullivan, Esq. conducted a hearing at which both parties had the opportunity to be heard, to examine witnesses, and to introduce evidence. The Association filed its post-hearing brief on February 9, 2004, and the Town filed its post-hearing brief postmarked on February 11, 2004.

The Association asserts that the petitioned-for bargaining unit, which includes the positions of animal control officer/animal inspector/milk inspector, assistant animal control officer, assistant assessor/data processing manager, assistant public health director, assistant water superintendent, building inspector, council on aging director, health inspector, highway foreman, information systems manager, land use engineer, local inspector/zoning code enforcement officer, outreach coordinator, plumbing and gas inspector, public health director, recreation director, recreation program director, systems designer/programmer, technical assistant to the department of public works (DPW) director, town accountant, town clerk, town planner, treasurer/collector, tree warden/supervisor of buildings and grounds, veterans services director/veterans services officer, water superintendent, and wiring inspector is an appropriate bargaining unit within the meaning of M.G.L. c.150E (the Law). If the Commission determines that

1. Pursuant to 456 CMR 13.02(1), the Commission has designated this case as one in which the Commission shall issue a decision in the first instance.

the petitioned-for unit is inappropriate, the Association requests that the Commission define the appropriate bargaining unit.

The Town maintains that the petitioned-for unit is inappropriate because the town accountant and treasurer/collector are managerial and/or confidential employees pursuant to Section 1 of the Law and are not entitled to bargaining rights under the Law. Further, the Town contends that two bargaining units are appropriate: 1) a unit of supervisory employees that includes the animal control officer/animal inspector/milk inspector, the assistant assessor/data processing manager, assistant water superintendent, building inspector, council on aging director, public health director, recreation director, town clerk, town planner, tree warden/supervisor of buildings and grounds, veterans services director/veterans service officer and the water superintendent; and 2) all of the remaining petitioned-for job titles.

Stipulations of Fact

1. The Town, acting through its chief executive officer, is a public employer within the meaning of Section 1 of the Law.
2. The Association is an employee organization within the meaning of Section 1 of the Law.
3. The positions that are the subject of the petition in Case No. MCR-03-5064 are currently unrepresented.
4. The sole issue that is being presented to the Commission in Case No. MCR-03-5064 is whether the petitioned-for unit is an appropriate unit within the meaning of Section 3 of the Law. However, the parties have preserved the right to argue whether: (a) the positions of treasurer/collector and town accountant perform managerial and/or confidential duties pursuant to Section 1 of the Law and should be excluded from the bargaining unit; (b) the town accountant should be excluded from the bargaining unit pursuant to M.G.L. c.41, s.108N; (c) the treasurer/collector should be excluded from the bargaining unit pursuant to M.G.L. c.150E, §3; and (d) the treasurer/collector should be excluded from the bargaining unit because the incumbent in that position represents the Town on the Southeastern Massachusetts Health Group (SMHG).
5. The job descriptions that were entered into the record Joint Exhibits #1-37, as supplemented or modified for this proceeding, accurately reflect the job duties of those positions but do not necessarily reflect their current salaries.
6. The positions of administrative secretary to the town administrator, administrative secretary to the police chief, executive assistant to the town administrator, executive secretary to the police chief and the administrative secretary to the fire chief perform confidential duties pursuant to Section 1 of the Law. Further, if the Commission finds that one of these positions does not perform confidential duties as described in the Law that the employer has

reserved the right to dispute whether the Association would be the appropriate bargaining unit for one of those positions.

7. The positions of fire chief, police chief, director of the DPW and assistant town administrator, which is currently vacant, perform managerial and/or confidential duties pursuant to Section 1 of the Law.

8. The parties are not invoking managerial or confidential status for the following positions: animal control officer/animal inspector/milk inspector, assistant animal control officer, assistant assessor/data processing manager, assistant public health director, assistant water superintendent, building inspector, council on aging director, health inspector, highway foreman, information systems manager, land use engineer, local inspector/zoning code enforcement officer, outreach coordinator, plumbing and gas inspector, public health director, recreation director, recreation program director, system designer/programmer, technical assistant to the DPW director, town clerk, town planner, tree warden/supervisor of building and grounds, veterans services director/veterans services officer, water superintendent, and wiring inspector.

9. The position of council on aging driver does not share a community of interest with the other positions being sought in Case No. MCR-03-5064.

10. The parties agree that the positions of town planner, treasurer/collector, and town accountant perform professional duties pursuant to M.G.L. c.150E, and if the Commission includes any of those positions in a bargaining unit, the incumbent in that position will be entitled to a *Globe* ballot.

Findings of Fact²

The Town has a population of approximately 22,000 residents. The Town has an open town meeting form of government and an elected five member Board of Selectmen. The selectmen appoint the full-time town administrator, who acts as the Town's chief financial officer pursuant to M.G.L. c.68. The Town's Departments include the Assessor's Department, the Board of Health, the Building Department, the Council on Aging, the Data Processing Department, the Department of Public Works (the DPW), the Fire Department, the Police Department, the Recreation Department, the Town Accountant's Office, the Town Administrator's Office, the Town Planner's Office, the Treasurer/Collector's Office, and the Veterans Services Department.³ The Association is seeking employees from all of these departments, except the police department and the fire department.

Town Administrator's Office

As chief financial officer, the town administrator prepares the annual revenue expenditure forecast.⁴ The revenue and expenditure forecast predicts revenue growth and expenditures for the next fis-

2. The Commission's jurisdiction in this matter is uncontested.

3. The Town currently has five bargaining units consisting of police officers, fire fighters, dispatchers, certain DPW employees and certain clerical employees.

4. The current town administrator Martha White (White) took over the position permanently on July 13, 2003, although she acted as interim town administrator from July through October 2000 and April through July 2003. At the time of the hearing, White had just commenced preparing her first revenue and expenditure forecast. White's predecessor Kevin Paicos (Paicos) was town administrator from February

cal year.⁵ If the Town has not commenced successor contract negotiations with any of its five bargaining units,⁶ the revenue and expenditure forecast includes a projected cost of living adjustment (COLA). If the Town is in the midst of successor contract negotiations, the COLA reflects the wage proposals that the Town has introduced during bargaining. The town administrator is assisted in the development of the revenue and expenditure forecast by certain Town employees who are referred to as the finance team.⁷ The finance team consists of the assistant assessor/data processing manager, the town accountant, the treasurer-collector and the assistant town administrator.⁸ The finance team members participate in brainstorming sessions with the town administrator concerning the revenue and expenditure forecast, which includes one lengthy session at the start of the process, and even write portions of the document. After the revenue and expenditure forecast is completed, the town administrator provides copies of the document to the Board of Selectmen, the Town's Finance Committee, the municipal department heads,⁹ and the presidents, vice-presidents and stewards of the unions representing the five municipal bargaining units. The town administrator then meets with the Board of Selectmen to give them an overview of the revenue and expenditure forecast and to answer any question that the selectmen might have.¹⁰ Several days later, the town administrator meets again with the Board of Selectmen in executive session to discuss the Town's parameters for upcoming successor contract negotiations or to update the parameters, if bargaining was ongoing, using the information contained in the revenue and expenditure forecast.¹¹

Additionally, the town administrator is responsible for negotiating successor collective bargaining agreements with the exclusive bargaining representatives of the Town's five bargaining units.¹² The town administrator previously assigned one member of the finance team to each of the Town's bargaining teams¹³ during successor contract negotiations¹⁴ to cost out¹⁵ the union's proposals and any counterproposals that the Town submitted.¹⁶ However, the finance team members did not formulate the Town's bargaining proposals. Rather, the town administrator and the particular

department head formulated the proposals without consulting the finance team members. Also, the town administrator did not show the completed proposals to the finance team members before introducing the proposals during negotiations.

Finally, the town administrator is responsible for overseeing the development of a financial plan before each town meeting. The financial plan details the cost of an article on the town meeting warrant and indicates from what account the Town will draw the funds to pay for that article.¹⁷ The town administrator consults with the members of the finance team about the financial plan, and the town accountant actually prepares the document using figures and funding sources that the town administrator has approved.

Finally, the town administrator provides administrative direction to the assistant town administrator, when the position is filled, and the land use engineer. The land use engineer assists the town administrator in matters relating to the review of proposed development plans and the proper construction of approved developments. The land use engineer reviews subdivision plans, site plans and as-built plans for Town boards; provides engineering advice in such areas as roadways, drainage and utility design; and ensures conformance with state and local requirements. The incumbent in the position meets with engineers, developers, and contractors to review projects and assists the general public by answering inquiries and addressing complaints. The incumbent prepares cost estimates for bonding purposes for subdivision infrastructure.

Also, the land use engineers serves as agent for the conservation commission. The land use engineer reviews all plans and inspects ongoing projects in accordance with all applicable Massachusetts General Laws, local bylaws, rules and regulations. The incumbent attends all public hearings of the Conservation Commission and advises the Conservation Commission on related matters.

Additionally, the land use engineer assists the director of public works in matters relating to the design and inspection of public works construction. The land use engineer assists in the prepara-

1988 through April 1, 2003, excluding a four-month period in 2000, and completed the revenue and expenditure forecast each year. His testimony about the revenue and expenditure forecast formed the basis of these findings.

5. Paicos characterized the revenue and expenditure forecast as a trial budget. However, the revenue and expenditure forecast does not project the expenses of each municipal department. Rather, the revenue and expenditure forecast groups projected expenses under general headings such as labor costs and property liability expenses.

6. The five bargaining units are comprised of police officers, fire fighters, police dispatchers, Department of Public Works (DPW) employees, and clerical employees.

7. Although White and Paicos referred to certain employees as being members of the finance team, the Town's bylaws and charter make no reference to a finance team, and only the assistant assessor's/data processing manager's job description refers to the finance team.

8. The position of assistant town administrator is currently vacant. Previously, White held the position from 1998 through 2003.

9. During the drafting of the revenue and expenditure forecast, the town administrator regularly discussed the document's contents with the municipal department heads.

10. The finance team members typically do not attend this meeting.

11. The finance team members do not attend those meetings in executive session that the town administrator has with the Board of Selectmen.

12. At times, the Town also employs labor counsel to assist the town administrator.

13. Paicos could not recall if the assistant assessor was ever on a bargaining team.

14. When the Association filed its representation petition in September 2003, the Town had not commenced successor contract negotiations with any of its bargaining units. Because of the pendency of the petition, White chose not to assign any finance team members to the Town's bargaining teams when successor contract negotiations began in January 2004.

15. During contract negotiations, a finance team member would cost out a proposal by determining the financial obligations that the Town would incur if it accepted the proposal, including whether there were any hidden costs and whether the Town would need to seek a special appropriation to cover the costs of the proposal.

16. Certain department heads such as the police chief, the fire chief and the DPW director participated on bargaining teams if the successor contract negotiations involved employees whom they supervised. At times, those department heads would also cost out proposals.

17. The financial plan is distributed to those individuals who attend town meeting and is available in advance on the Town's web site.

tion of applications for federal and state aid reimbursements. The incumbent conducts surveying work for basic roadway improvements, street layouts, curbing and grades. The land use engineer performs a variety of engineering projects in the field, compiles engineering data, and makes mathematical calculations as required.

Other Municipal Departments

Animal Control

The function of the animal control department is to ensure the safe return, care and handling of all residential animals and to provide protection to residents from annoyance, irritation, and injury from animals.

The animal control officer/animal inspector/milk inspector and the assistant animal control officer enforce all relevant statutes and town bylaws that relate to the control and regulation of animals, including patrolling municipal streets to enforce the local leash law and quarantining dogs and cats or other domestic animals suspected of having bitten a person or who have been exposed to wildlife by a bite or a scratch. They ensure the safe return, care and handling of all residential animals and provide protection to the Town's residences from annoyance, intimidation, irritation and injury from animals. They resolve problems by educating owners, issuing fines and pursuing complaints in court, if necessary. The animal control officer/animal inspector/milk inspector and the assistant animal control officer complete reports on calls from the public and prepare for court appearances.

Additionally, the animal control officer/animal inspector/milk inspector prepares the departmental budget for approval and compiles reports for the annual town report. The incumbent in the position also completes various reports for the chief of police, the director of public health and state agencies.

The animal control officer/animal inspector/milk inspector officer also enforces all relevant state statutes and municipal bylaws relating to the control and regulation of milk, including making visits to schools, supermarkets, restaurants and stores to collect milk samples, to check codes on dairy products, and to take temperature readings of refrigeration equipment. The milk inspector also completes and distributes milk licenses, prepares required reports for state agencies, maintains necessary records and must be certified as a milk inspector

Finally, the animal control officer/animal inspector/milk inspector directs and assigns the work of the assistant animal control officer, including making recommendations concerning hiring, discharge, suspension, transfer and promotion, and has previously issued an oral and a written reprimand. The animal control officer/animal inspector/milk inspector evaluates the performance of the assistant animal control officer. The animal control officer/animal inspector/milk inspector has the authority to resolve grievances at step

one pursuant to the Town's contract with the exclusive bargaining representative of the clerical employees (the clerical contract).

Assessing Department

The function of the assessing department is to appraise town-wide property in accordance with state and local statutes.

The assistant assessor/data-processing manager performs complex technical, administrative, supervisory and professional work relating to the planning and management of the assessing department, and in the appraisal of Town-wide property, in accordance with state and local statutes. The assistant assessor/data-processing manager reviews assessments of all real and personal property on an annual basis to test for equity and uniformity. The incumbent completes assessments in order to hold a timely classification hearing and completes tax recapitulation forms for certification by the Department of Revenue. She answers a variety of inquiries from taxpayers concerning potential tax liabilities on new dwellings, businesses, etc. and sends out timely tax bills. The assistant assessor/data processing manager updates maps with new subdivisions and form A lots by assigning new identifications for the engineering department to use by entering data and deleting parcels as needed. The incumbent in the position reviews all overvaluation applications by making personal inspections of the property and makes recommendations to abate or deny to the Board of Assessors.

The assistant assessor/data-processing manager prepares the annual operating budget for the assessors department and warrant articles for revaluation. The assistant assessor/data processing manager works with Town counsel to prepare cases for trial at the Appellate Tax Board and testifies on behalf of the Town at the appellate tax board, district court, land court and superior court.

Also, the assistant assessor/data-processing manager develops the operating budget and the capital budget for the data processing department as well as oversees its expenditures. The assistant assessor/data-processing manager works with the town administrator, other department heads, and the data processing staff to ensure adherence to the Town's policies governing e-mail, Internet access, and modem access. The incumbent sets the priorities and schedules for the data processing staff. The assistant assessor meets with the data processing staff and department heads when specific programs or hardware requests are made which are in addition to the department's proposed schedule.

The assistant assessor/data-processing manager makes assignments to and directs the work of the office assistant and the principal clerk in the assessor's office,¹⁸ and the systems designer/programmer and the information systems manager in the data processing office.¹⁹ The incumbent in the position has recommendatory authority to hire, fire, suspend, transfer or promote and can issue oral or written reprimands. She evaluates the performance of

18. The office assistant and the principal clerk are members of the clerical bargaining unit.

19. The functions of the data processing office and the duties of the system designer/programmer and the information systems manager will be more fully discussed in a subsequent section of this decision.

the system designer/programmer and the information systems manager.

The selectmen hire the assistant assessor/data-processing manager. The position requires a bachelor's degree and state accreditation as an assessor within eighteen months of hire.

Building Department

The function of the building department is to perform inspection work related to the enforcement of local and state building codes governing building standards, electrical, plumbing, and gasfitting standards, and special requirements governing air conditioning systems and fire protection systems.

The building inspector manages the operations of the building department and oversees the enforcement of the provisions of the state building code, mechanical code, architectural access regulations, the Town's zoning bylaws, and the plumbing, gas and electrical codes, the requirements of special permits issued by the zoning board of appeals or the planning board, the rules and regulations of the Americans with Disabilities Act, and all other applicable statutes, rules and regulations. The incumbent in the position meets with builders, contractors, architects, engineers, and homeowners to review plans for building construction or alteration to determine compliance and to ensure that all documents are presented properly. The building inspector answers and acts on all questions relative to the mode or manner of construction and the materials to be used in the erection, addition to, alteration, repair removal, demolition, installation of service equipment, and the location, use, occupancy, and maintenance of all buildings and structures, except as may otherwise be specifically provided for by statutory requirements. The building inspector receives applications and issues permits to construct, improve, move or demolish buildings or structures within the Town and reviews plans for appropriate conformance. The incumbent also performs weights and measures inspections.

The building inspector prepares the annual departmental budget, monitors expenditures, and oversees the maintenance of all official department records, including applications, permits, certificates and variances. The building inspector makes assignments to and directs the work of the wiring inspector, the plumbing and gas inspector, the local inspector/zoning enforcement officer and one full-time secretary, all of whom work out of the building department.²⁰ The building director has recommendatory authority to hire, fire, transfer, suspend or promote and can issue oral and written reprimands. The incumbent in the position completes performance evaluations for the inspectors and has authority to resolve grievances at step one pursuant to the clerical contract. The building inspector must possess a state construction supervisor's license and certification in Massachusetts as a building inspector.

The local inspector/zoning code enforcement officer enforces the state building code and town zoning and sign bylaws, which includes reviewing building permit applications for compliance with codes and bylaws; conducting site inspections; issuing building

permits and certificates of occupancy; reviewing all new subdivision and commercial development proposals; and collecting related fees. The local inspector/zoning code enforcement officer inspects buildings and alterations to buildings under construction and upon completion for conformance with structural requirements and approved plans and issues certificates of occupancy if required. The incumbent maintains a variety of logs and records related to inspection and enforcement activities. The local inspector/zoning code enforcement officer makes annual inspections of restaurants, liquor establishments, nursery schools, private schools, and places of assembly and other facilities as required in conformance with state statute, code and local bylaws.

Additionally, the local inspector/zoning code enforcement officer serves as the zoning code enforcement officer for the Town, which includes answering zoning questions from the public; receiving and investigating zoning complaints; reviewing all Board of Appeals applications for accuracy and completeness; attending Board of Appeals meetings and preparing each agenda item; writing zoning enforcement letters; establishing deadlines and fines; and recommending new zoning bylaws. The incumbent in the position investigates complaints of alleged zoning violations and takes appropriate action, such as the issuance of cease and desist orders or the filing of non-criminal complaints in district court. The local inspector/zoning code enforcement officer enforces the regulations and requirements of special permits and variances issued by the zoning board of appeals, the planning board, and the board of selectmen as dictated by the zoning bylaw and all applicable statutes, rules and regulation. The incumbent meets with owners, tenants, contractors, developers, businesses, etc. to review and explain zoning bylaw requirements, violations or potential violations and to secure bylaw compliance. The incumbent testifies in court and at board hearings related to zoning actions and enforcement taken by the department, and acts as the Town's handicapped compliance coordinator for physical facilities. The local inspector/zoning code enforcement officer must be certified by the state board of building regulations and standards.

The plumbing and gas inspector enforces the state plumbing and gas codes and other applicable municipal laws, which includes reviewing all applications for plumbing and gas permits; calculating and collecting applicable fees; and issuing plumbing and gas permits. The plumbing and gas inspector performs inspections on all commercial and residential properties undergoing reconstruction to ensure code compliance, which includes keeping records of all permits issued, fees collected, inspections performed and approved plans. The incumbent in the position investigates complaints of alleged violations and takes appropriate action as required. The incumbent coordinates inspections and appointments and responds to phone and mail inquiries. The plumbing and gas inspector provides compliance information to contractors, developers and other customers. The plumbing and gas inspector also assists the fire department in the investigation of gas-related incidents. The incumbent must possess a state master plumber's license.

20. The secretary is a member of the clerical bargaining unit.

The wiring inspector examines plans for residential, commercial and industrial building construction or alteration for compliance with the state electrical code, issues electrical permits, and performs related inspections to ensure compliance. The wiring inspector investigates complaints of alleged violations and takes appropriate action, such as the issuance of cease and desist orders or the filing of criminal complaints in district court. The wiring inspector responds to emergencies and examines causes of electrical fires at scenes. The incumbent in the position must possess a state master electrician's license.

Council on Aging

The function of the Council on Aging (the COA) is to meet the needs of and to enhance the quality of life of the Town's elderly population.

The COA director is responsible for developing and implementing departmental programs and services, which includes participating in the monthly meetings of the COA board, making recommendations regarding programs, policies, funding and staff, and keeping the board informed of budget and subsidiary account balances and program needs. The COA director prepares bulletins, newsletters and press releases to inform the elderly and general public of the department's programs and services. The incumbent in the position also prepares and submits applications for federal, state and charitable grant programs and pursues additional monies to support current programs or expand into new areas. The COA director coordinates the senior tax relief program and develops the department's budget, including the preparation of payroll and bill warrants. The COA director assigns tasks and directs the work of the outreach coordinator, the driver and the full-time clerk that works in that department.²¹ The COA director makes recommendations to hire, fire, transfer, suspend or discharge those employees and can issue oral or written reprimands. The COA director also has authority to resolve grievances at step one of the clerical contract.

The outreach coordinator performs professional, social service, and administrative work in maintaining contact with the Town's elderly, including the development of programs that would decrease elder isolation and encourage participation in group activities. The outreach coordinator makes home visits to housebound or unserved elders to explain the COA and the services it offers, which includes identifying the elder's service needs; making referrals to appropriate agencies; and maintaining written records on each person contacted. The incumbent in the position counsels the elderly as needed and maintains a senior-at-risk list. Also, the incumbent makes program reservations, records program donations and schedules transportation requests to utilize vehicles, staff and volunteers to produce the most efficient delivery of services. Additionally, the outreach coordinator submits monthly reports to the director and develops intergenerational programs with local schools.

Data Processing Department

The function of the data processing department is to administer the Town's computer network, which includes maintaining and trou-

bleshooting computer hardware and software, Internet access and e-mail. The department consists of the assistant assessor, whose duties were discussed above, an information systems manager and a systems designer/programmer.

The information systems manager performs administrative and technical work in connection with coordinating and administering the Local Area Network (LAN) and the Wide Area Network (WAN), which includes troubleshooting, optimizing and maintaining the network infrastructure of the two networks and all internet protocol addressing within WAN. The information systems manager assigns and maintains all Internet protocol addressing within the WAN and troubleshoots, upgrades and monitors all router functions and hardware. The information systems manager implements and configures all network/personal computer operating systems, software applications and hardware, makes recommendations for future improvements and upgrades, and develops, implements and maintains effective security measures with regard to both internal and external access to the Town's network resources. The incumbent in the position establishes and maintains baselines for each server, oversees proper backup procedures for all servers, and administers the Town's electronic mail server for both internal and Internet access and insures proper security precautions are in place. The information systems manager provides support and technical assistance to all employees with regard to network and personal computer matters and provides individual training for employees on personal computer operating systems and user applications.

The systems designer/programmer performs administrative and technical work in designing, maintaining, enhancing, training and documenting new and existing municipal software for the following applications: financial, accounting, payroll, personnel, accounts payable, new budget creation, census, motor vehicle, ambulance billing, real estate and personal property (billing and collection). The system designer/programmer modifies programs and/or systems to comply with new laws, government statistical changes, and government agencies which modify computer data exchange policies and record information. The incumbent in the position upgrades the level of the MAPPER management software in order to maintain support from the vendor software supplier. The incumbent in the position assists users of software to learn and to make decisions on how to access and utilize the software developed and documents application software. The incumbent troubleshoots all software and corrects logic errors that produce incorrect results from either a system design flaw or programming bug.

DPW

The DPW administers and maintains the Town's highways, water distribution network, trees, and vehicles.

The DPW director develops and coordinates all departmental programs and projects, which includes planning and monitoring the overall work schedule for timely implementation of work projects and for the effective coordination of individual operating divisions. The DPW director advises division heads on all policies,

21. The COA clerk is a member of the clerical bargaining unit.

procedures, and standards for the implementation of construction and maintenance projects. The DPW director provides necessary information to the land use engineer for the preparation of specifications and requests for proposals and prepares grants applications for public works projects. The DPW director formulates departmental goals and objectives, and responds to and consults with the town administrator regarding ongoing, special, and future department projects. The incumbent in the position represents the department at a variety of different meetings both within and outside of the municipal system, which includes responding to complaints, concerns and questions. The incumbent communicates frequently with county, state, and federal agencies to ensure compliance with laws and regulations affecting the work of the department. The DPW director attends professional meetings and seminars in order to stay abreast of changes or trends in the field and to remain familiar with state law and maintains membership in a variety of professional associations.

The DPW director prepares the departmental operating and capital budgets in consultation with the division superiors, which includes regularly monitoring the status of the budget, making adjustments or making recommendations to amend the budget as appropriate. The DPW director exercises purchasing authority consistent with town and state policies and procedures; researches and writes specifications for materials, equipment, road work, etc., and approves of all expenditures, including payroll, procurements and contracts for outside services. The incumbent oversees the management of department personnel, administration, labor relations, training, staffing and evaluation of employees and ensures the proper maintenance and confidentiality of department personnel records. The DPW director serves on the employer's bargaining team during successor contract negotiations with the DPW bargaining unit and the clerical bargaining unit. The incumbent oversees and monitors staffing levels and, through subordinates, assigns personnel and develops work schedules. The director must be registered as a professional engineer.

Administration Division

The technical assistant to the DPW director researches, develops and prepares computerized drawings and presentations for all municipal departments as well as specific outside organizations and committees of which the Town is a member. The technical assistant to the DPW designs all engineering projects including roads, sidewalks, site, playground and building layouts, etc, and develops computerized contract plans for DPW construction. The incumbent in the position prepares street inspection reports and roadway cost estimates for the planning and zoning board for bonding of subdivisions. The incumbent provides surveying assistance to the DPW director. The technical assistant to the DPW director inspects DPW construction projects as well as subdivision construction projects.

The technical assistant to the DPW serves as chairman of the DPW's safety committee. The incumbent serves as technical advisor to the Town's Canoe River Aquifer advisory committee and

coordinates with the Department of Environmental Protection and the Taunton River Basin Watershed team leader. The incumbent oversees a geographic information system prototype for the Town, maintains the computerized phoenix fuel system, and is the historical record keeper of major DPW projects and activities. The technical assistant to the DPW responds to inquiries and requests for assistance from the public, which includes investigating citizen complaints and recommending solutions. The incumbent also performs general office work and duties such as filing maps, making prints, and performing simple engineering computations.

Buildings and Grounds Division

The function of the buildings and grounds division is to perform maintenance, construction and repair operations on all municipal property, including grounds, buildings, trees, parks and cemeteries.

The tree warden/supervisor of buildings and grounds operates aerial lift trucks, chain saws, hydraulic saws, and other related equipment to trim and top trees and to remove branches and limbs from decayed/hazardous trees. The tree warden/ supervisor of buildings and grounds responds to reports of tree damage caused by hurricanes and other severe weather conditions, removes dangerous limbs/trees, and clears debris from public road and walkways, using a bucket truck, chipper, hydraulic, chain saws, stump grinding, removal equipment, and dump truck to dispose of limbs and debris. The incumbent in the position responds to inquiries, requests and complaints related to tree removal and trimming operations, posts and conducts necessary hearings regarding tree issues, and administers the Town's arbor rules and regulations.

The tree warden/supervisor of buildings and grounds sprays, paints and disinfects trees in order to control pest and fungi attack. The incumbent fells dead, diseased and dangerous trees; plants, transplants and fertilizes trees and shrubs; and maintains trees and shrubs within town jurisdiction. The incumbent is responsible for the storage, application and disposal of pesticides, herbicides and fertilizers. The tree warden/supervisor also reports evidence of diseased trees to the Director of Public Works.

The tree warden/supervisor of buildings and grounds performs all tasks not requiring additional licenses for any division within the DPW and may perform the duties of a working supervisor for other divisions, on an as-needed basis. The incumbent responds to snow emergencies to operate snow plowing/removal equipment and to apply sand and salt to roadways and sidewalks. The incumbent maintains all athletic fields under the Town's control.

The tree warden/supervisor of buildings and grounds works under the general direction of the DPW director. The tree warden/supervisor of buildings and grounds is responsible for the division's budgets, programs, schedules, equipment, purchases and day-to-day operations. The incumbent assigns and directs the work of five permanent employees²² and a number of summer employees,²³ which includes overseeing and assisting personnel in the removal of brush and other debris and supervising all mowing

22. The five employees are members of the DPW's bargaining unit.

23. The summer employees are not currently included in a bargaining unit.

of parks, cemeteries and other municipal areas. The incumbent operates and supervises the preventative maintenance of all equipment used by the division in its activities and ensures the safe operating condition of all vehicles and equipment. The tree warden/supervisor of buildings and grounds must have a commercial driver's license, a hoisting engineer's license, a pesticide applicator's license, and certification as an arborist.

Highway Division

The highway division's functions include the construction, maintenance and repair of municipal roadways.

The highway foreman provides direct in-field supervision of employees working on all phases of highway division construction, maintenance and repair operations. The highway foreman acts as a leader and an in-field supervisor for crews engaged in street maintenance and repair projects. Examples of projects include: constructing and repairing streets, roads, sidewalks, manholes, catch basins and drainage systems, laying pipe, grading and hot topping streets, roads and sidewalks, cutting brush, repairing damaged curbing, guardrails, street signs, plowing snow, sanding and salting streets, and sweeping streets. Under the general direction of the DPW director, the highway foreman directs the operations of the highway division and provides instructions to and assigns work to six laborers and two mechanics.²⁴ The incumbent in the position trains new employees in proper work procedures and makes recommendations to the DPW director pertaining to disciplinary actions. During snow/ice storms, the incumbent supervises a large number of equipment operators. The highway foreman operates all light and heavy equipment and trucks and other equipment necessary for completion of projects and performs labor incidental to the work of operating assigned equipment or other laboring tasks. The incumbent in the position arranges for supplies and equipment to be used for projects, checks for proper use and operation of equipment and vehicles, reports on damage and non-functioning of parts and equipment, and ensures that normal servicing of assigned equipment is performed properly.

Water Division

The function of the water division is to provide for the delivery of a high quality water product throughout the water distribution network.

In conjunction with the DPW director, the water superintendent establishes priorities for division operations, which includes coordinating and providing short and long-range planning of division needs and strategies. The water superintendent supervises the overall administration and direction of the water division, including the implementation of the Department of Environmental Protection and federal safe drinking water act regulations. The incumbent in the position develops the work schedule and assignments for all water division employees; establishes a time frame for assignments; and ensures timely completion of tasks and projects.

The incumbent in the position also reviews the quality of work performed and ensures that work complies with industry standards. The incumbent orders materials and supplies and plans the utilization of manpower and equipment in accordance with work schedules. The water superintendent responds to inquiries from residents or others pertaining to water division operations, handles complaints, and settles bill disputes. The water superintendent confers with Town officials/organizations and advises them on appropriate measures relating to water distribution and supply decisions. The incumbent produces the division newsletter.

The water superintendent participates as a department head in various board or committee meetings to discuss division-related and Town-wide plans and initiatives. The water superintendent prepares and submits proposed annual budgets, completes various annual, quarterly and/or monthly reports, as needed, and drafts articles for town meeting. The incumbent ensures the proper maintenance of departmental fiscal and administrative records and prepares narrative and fiscal reports for the town administrator and the Board of Selectmen upon request. The water superintendent oversees the assistant water superintendent and twelve other employees.²⁵ The water superintendent assigns and directs the work of those employees. The incumbent has recommendatory authority to hire, fire, transfer, promote or suspend. The water superintendent evaluates the assistant water superintendent and resolves grievances at step one that are filed by members of the clerical or DPW bargaining units. The water superintendent must possess a Class III drinking water operator's license, which covers water treatment and water distribution.

The assistant water superintendent assists the water superintendent in the planning, organizing, and scheduling of the operation, maintenance and repairs of the municipal water supply and distribution system. In the absence of the water superintendent, the assistant water superintendent has direct supervisory responsibility for nine employees.²⁶ The assistant water superintendent supervises the daily field operations of the division, schedules and oversees work done by maintenance staff, including repairs and relocation of service lines, motorized equipment, and division building and grounds. The incumbent in the position ensures that all work is completed properly and expeditiously and that employees observe safe work practices for themselves, fellow employees and the general public. The incumbent assists in the training of staff, and carries out manpower and personnel responsibilities as assigned by the superintendent.

The assistant water superintendent oversees the division's program of backflow prevention and cross connection control. The assistant water superintendent assists in reviewing plans for installation of water mains and appurtenances in new subdivisions and determining their proper size and location, which includes the placement of hydrants. The incumbent assists in the preparation of technical specifications and plans for water system improvements. The incumbent conducts and/or supervises chemical treatment at

24. The laborers and the mechanics are members of the DPW bargaining unit.

25. Nine of the twelve employees are members of the DPW bargaining unit, and the other three employees are members of the clerical bargaining unit.

26. All nine of the employees are members of the DPW bargaining unit.

pumping stations and the maintenance of pumping stations and takes samples of water supply for quality and compliance with federal and state regulations. The assistant water superintendent may supervise the flushing of water mains and oversees pressure and bacteriological testing of water mains and other installations. The assistant water superintendent assists the highway division during snow/ice removal operations by serving as a route supervisor. The incumbent must possess a Class III drinking water operator's license, which combines water treatment and water distribution.

Planning Department

The function of the Planning Department is to coordinate and shape the short-range and long-range physical, social, and economic development of the Town.

The town planner performs professional, technical, and administrative work in planning and land use controls, which includes developing short and long range plans and strategies; compiling and interpreting data; and applying for and administering grants in aid expenditures to achieve adopted objectives. The town planner provides technical assistance and information to citizens, landowners, developers, attorneys, engineers and other interested parties seeking interpretation of the zoning laws and the subdivision rules and regulations of the Town's planning board, which includes conferring with developers to review alternatives for achieving desired project outcomes. The incumbent in the position reviews subdivision plans and nonresidential site plans prior to submission to the Town planning board for completeness and conformance with applicable bylaws and rules and regulations and ensures that the plans are approved and/or endorsed according to procedures established by municipal regulations and state law. The incumbent also participates with the DPW in inspecting roadway construction for compliance with approved plans and participates in the process whereby the Town accepts roadways as streets.

The town planner prepares and monitors the annual departmental budget and presents the proposed budget to the planning board. The town planner authorizes all expenditures and oversees the departmental payroll. The town planner oversees one secretary who works in the same office.²⁷ The town planner has recommendatory authority to hire, fire, suspend, transfer or promote and can issue oral and written reprimands. The incumbent in the position has the authority to resolve grievances at step one of the clerical contract.

The incumbent in the position must hold a master's degree in community planning or a related field and be eligible to earn an American Institute of Certified Planners designation.

Public Health Department

The purpose of the public health department is to enforce and to interpret the public health laws and to manage the Town's public health programs.

The public health director, the assistant public health director, and the health inspector witness soil tests, including deep hole and per-

colation tests, to determine the adequacy of sites for the installation of private sewage disposal systems including new, required replacement systems, and approves or disapproves the tests. Also, the public health director, the assistant public health director, and the health inspector investigate reports of communicable diseases and contact appropriate local and state officials and agencies. They also conduct workshops, seminars and training programs for the public and local businesses regarding health issues.

The public health director develops and administers the department's budget and oversees the preparation of payroll and bill warrants, which includes ascertaining that the systems for records of expenditures and receipts is functioning properly and efficiently. The public health director represents the department and the Board of Health to the general public, the media, legal entities, regional organizations, etc. The incumbent in the position prepares the agenda for and attends Board of Health meetings and develops and prepares the Board of Health's nursing contract. The incumbent represents the Board of Health at court proceedings seeking regulatory enforcement and represents the board at depositions related to outside civil cases. The public health director recommends and develops environmental and public health programs/activities, including licensed food handlers seminars, public health seminars, employee wellness seminars, rabies vaccination clinics, etc.

The public health director establishes a timetable for all department inspections, sees to it that inspections are carried out in a professional and timely manner, reviews inspections upon completion, and issues appropriate permits and licenses. The public health director trains subordinates, develops work schedules, and issues assignments. The incumbent makes assignments, develops work schedules and directs the work of the assistant public health director, the health inspector, the administrative assistant and the part-time clerk²⁸ and supervises the functions of the milk inspector and the animal inspector. The incumbent makes recommendations to hire, fire, transfer, suspend or promote those employees and can issue oral or written reprimands. The public health director completes performance evaluations for the assistant public health director and the health inspector. The incumbent also has the authority to resolve grievances at step one of the clerical contract. The public health director is a state sanitarian and must be certified as a health officer.

The assistant public health director and the health inspector inspect food service establishments and housing units to ascertain compliance with state and local laws, codes and regulations, propose proper compliance measures and procedures, and prepare necessary reports and advisory letters. They also inspect inns, motels, lodges, swimming pools, whirlpools, saunas, public schools, landfills, nursing homes, bathing beaches and bathing facilities, and investigate complaints in those facilities. They also perform inspections for local health regulations as adopted by the board of health for stables, chickens, pigs, and massage establishments, propose proper compliance measures, and prepare necessary reports and advisory letters. The assistant public health director and the health

27. The secretary is a member of the clerical bargaining unit.

28. The administrative assistant and the part-time clerk are members of the clerical bargaining unit.

inspector prepare required reports in detail so that the Board of Health has sufficient documentation in instances where potential court action could be necessary.

The assistant public health director assumes the duties of the public health director in the absence of the public health director, including oversight of the health inspector and the two clerical employees in the department and attendance at Board of Health meetings. The assistant public health director inspects dwelling units for rent or lease, issues appropriate permits and licenses, investigates and initiates corrective measures to eliminate unsanitary living conditions, and initiates legal action. The incumbent in the position enforces title V of the state environmental code, enforces the rules and regulations for the removal, transportation and disposal of refuse, and performs all related administrative work. The incumbent assists in rabies testing.

The health inspector reviews applications for installation and repair of septic systems. The health inspector provides information, advice and documentation to the general public, business owners and other municipal departments. Finally, the health inspector performs special projects as assigned by the public health director.

Recreation Department

The function of the recreation department is to develop and direct the operations of a comprehensive youth and recreational program in accordance with the policy plans of the recreation commission.

The recreation director and the recreation program director develop and implement recreational programming to meet the community's needs, including the Town pool, after school programs and summer recreational programs. The recreation director and the recreation program director recruit, hire, train, and instruct program staff in all aspects of departmental policies and procedures. Further, the recreation director and the recreation program director develop an organizational structure to meet programming-staffing goals, create work schedules, assign staff and oversee staff in the performance of their work. The recreation director and the recreation program director attend all recreation commission meetings; perform public relations by representing the department at various community functions and meetings; coordinate and design a marketing program for department services, including the development and publication of brochures; and keep the public advised of available programs. Also, the recreation director and the recreation program director maintain an inventory of equipment and supplies and oversee the purchase of needed equipment and supplies. Both the recreation director and the recreation program di-

rector must be certified in cardiopulmonary resuscitation and first aid.

Additionally, the recreation director prepares and administers the annual budget and advises the recreation commission on all budgetary measures, including the development of budget estimates, the administration of specific program budgets, and the calculation of program fees. The recreation director drafts the five-year plan for recreation programs, which includes identifying and recommending special projects that are consistent with the mission of the recreation commission. The incumbent in the position develops specifications and contracts for vendor services, oversees contracts with service vendors, and monitors vendor performance. The incumbent also oversees the preparation of payroll and bill warrants and ensures that the system for records of expenditures and receipts is functioning properly and efficiently.

The recreation director makes assignments and directs the work of the recreation program director and a part-time records/accounts clerk, who is a member of the clerical bargaining unit, which includes assigning and directing their work. The recreation director has recommendatory authority to hire, fire, suspend, transfer or promote and can issue oral or written reprimands. The recreation director evaluates the recreation program director, although the town administrator reviews and signs off on the recommendation. The recreation director has authority to resolve grievances at step one of the clerical contract.

The recreation program director is responsible for the profit and loss of programs that the incumbent oversees. The recreation program director may be required to temporarily run the day-to-day supervision of any specific program during a start-up or ramp down phase.

Town Accountant's Office

The function of the town accountant's office is to develop and implement the Town's accounting system and procedures.

The town accountant provides timely and accurate financial information and institutes proper controls to safeguard the integrity of financial data. The incumbent in the position ensures that no claim or invoice payable against the Town is fraudulent, unlawful or excessive as prescribed by Massachusetts law, which includes preparing and certifying warrants for payment by the treasurer/collector.²⁹ The incumbent reviews the expenditure of municipal funds by examining all vouchers.³⁰ The town accountant prepares and submits an annual report to the Department of Revenue entitled schedule A, which details all of the Town's financial activity. The

29. On or about spring 1998, the Town and the firefighters' exclusive bargaining representative agreed upon a successor collective bargaining agreement that would pay the fire fighters wages retroactive to July 1, 1996. Because a quorum did not exist at Town Meeting in May 1998, town meeting members were unable to vote on an appropriation to fund the contract before June 30, 1998. In summer of 1998, the town accountant sought to reconcile the Town's obligation under the proposed successor contract to pay retroactive monies and the provisions of M.G.L. c.44, §68. After conferring with Paicos, labor counsel Philip Collins, Esq. (Collins) and representatives from the state Department of Revenue, the town accountant proposed that the Town pay the fire fighters a lump sum signing bonus rather than retroactive monies for the period from July 1, 1996 through June 30, 1997.

30. On or about May 23, 2003, the Town accountant, in response to queries from the payroll clerk, sought to ascertain whether an earlier agreement to pay a one-percent defibrillator differential to the Town's police officers effective July 1, 2003 should be applied to the officers' base pay or should be treated like a COLA payment that also impacts the officers' overtime payments and educational incentives. While investigating the matter, the town accountant consulted with Paicos, Collins and the police chief as well as reviewing the minutes from the executive session in which the Board of Selectmen approved the agreement.

incumbent in the position develops and prepares year-end financial reports to include balance sheet and revenue and expense statements for the audit process and for the Department of Revenue for certification of free cash. The town accountant also prepares a year-end report for the Town's annual report.

Also, the town accountant reviews contracts before award to assure conformance with Town Meeting approval and certifies the availability of funds to pay for the contracts. The incumbent also maintains central files for the municipality's insurance certificates and contracts. The town accountant also acts as the municipal parking clerk, which includes processing all parking ticket information and conducting hearings on unpaid tickets.

The town accountant submits monthly reports to the town administrator detailing all financial activity and alerts the town administrator to any abnormalities in spending or excessive spending. The town accountant prepares monthly operating statements that detail current and annual expenditures under authorized appropriations. The incumbent in the position develops and prepares monthly reports to track all financial activity within the Town's many funds, including special revenue funds, state and federal grants, capital projects, enterprise funds, trust funds, and the general appropriations. The incumbent also develops and prepares monthly reports to track all financial activity within the Town's receivable accounts, including property taxes, motor vehicle excise payments, tax title payments, tax deferrals, taxes in litigation, tax foreclosures, water use and betterment payments, ambulance fees, and other town accounts. The town accountant ensures that funds are reconciled on a monthly basis with the various municipal departments and that those funds are in balance. She also prepares a cash reconciliation with the treasurer/collector on a monthly basis.

Additionally, when department heads submit their proposed budgets for the next fiscal year, the town accountant checks the accuracy of the numbers that were used in the proposed budgets. Upon request, she also assists department heads in the preparation of their proposed budgets. Finally, the town accountant assists the town administrator in the preparation of the proposed overall town budget, including those portions of the budget that contain unclassified funds.

As a member of the finance team, the incumbent in the position³¹ was a member of the employer's bargaining team³² for successor contract negotiations between the Town and the fire fighter's union that eventually resulted in the 1999-2002 collective bargaining agreement. The town accountant attended at least ten bargaining sessions that were held over an extended period of time. She did not assist in the formulation of the Town's initial bargaining proposals because those proposals had already been formulated before she joined the bargaining team. However, she did participate fully in the caucuses that took place in the town administrator's office, which included commenting about statements that the un-

ion's representatives had made during negotiations. During those caucuses, the Town's bargaining team members openly discussed the merits of the union's proposals and possible counterproposals that the Town might make in response to those proposals.

The town accountant is required to hold a bachelor's degree in accounting, finance or a related field³³ and a Massachusetts Governmental Accounting Certificate. The town accountant supervises a principal systems computer operator and a principal clerk, who are both members of the clerical bargaining unit. The town accountant makes work assignments; imposes discipline, including oral and written reprimands; has authority to resolve grievances at step one of the clerical contract; and makes recommendations about the hiring, discharge, transfer, suspension and promotion of employees in her department.

Town Clerk's Office

The Town Clerk's Office maintains official municipal records, issues various licenses and documents and administers fair and accurate elections.

The town clerk processes and maintains vital statistics, census data, records and other documents by the office in conformance with other state statutes and municipal bylaws. The town clerk issues certified copies of documents on request and may notarize documents. The incumbent in the position issues a variety of licenses and permits to applicants, ascertains compliance with laws, collects records, and accounts for fees. The incumbent assists and answers questions of customers, public officials, department heads and staff in person and by telephone; receives complaints and responds to complaints appropriately; and makes referrals as appropriate. The town clerk types a variety of reports and forms, composes correspondence, and directs the filing of public notices and decisions of various municipal boards.

The town clerk interprets laws and bylaws for the general public and administers oaths of office. The incumbent attends town meeting to take notes and transcribe significant actions taken by town meeting members. The town clerk provides for and directs the preparation of all elections, which includes sending out absentee ballots; ensuring that tally sheets are ready; and generally furnishing hands-on aid to ensure that all necessary preparations are made. The incumbent distributes other town-related literature including by-laws, maps and various applications and provides information on local, county and state government to the public.

The town clerk develops the department budget, oversees the preparation of payroll and bill warrants, ensures that the systems for records of expenditures and receipts is functioning properly and efficiently. The incumbent makes assignments and directs the assistant town clerk and the records account clerk, who are located at a different work site than the town clerk.³⁴ The town clerk has recommendatory authority to hire, fire, transfer, suspend or pro-

31. The current accountant has held the position since 1998.

32. The other members of the Town's bargaining team included Paicos, Collins, and Fire Chief Philip Blye.

33. The incumbent in the position holds a bachelor's degree in accounting and previously worked as a certified public accountant.

34. The assistant town clerk and the records account clerk are members of the clerical bargaining unit.

mote and can issue oral and written reprimands. The town clerk has the authority to resolve grievances at step one of the clerical contract. Certification as a Massachusetts Municipal Clerk and from the International Institute of Municipal Clerk is highly desired.

Treasurer/Collector's Office

The treasurer/collector's office manages the Town's financial operations and maintains the Town's financial well being and stability in concert with the town administrator.

The treasurer/collector prepares an annual report of all activities, including debts incurred, collections received, tax titles taken, and all cash account activities that occurred. The treasurer/collector prepares deposits, balances all bank accounts, reconciles cash to the general ledger, and prepares reconciliation of cash reports to the Department of Revenue. The incumbent in the position pays all of the municipality's legal obligations, including payroll expenses, accounts payable, and debt obligation, and balances and files all federal and state tax reports, including W-2 and 1099 forms.³⁵

The incumbent prepares all borrowings of authorized debt, prepares disclosure statements, maintains debt records, prepares the debt budget, sells bonds and notes, and monitors expenditures of arbitrage rule compliance. The treasurer/collector manages cash flow, including the investment of cash flow within legal limits, and takes custody of all money belonging to the Town, including the trust fund.

The treasurer/collector supervises the billing and collection of all money owed to the Town, including ambulance billing and collection activities, supervises all mailings, and orders bills, envelopes and any other billing supplies. The treasurer/collector balances, updates and maintains records of all receivables. The incumbent in the position initiates tax liens, prepares advertising, maintains tax title accounts, and invokes any and all legal remedies for non-payment of taxes, including tax foreclosure, civil suits and small claims court. The incumbent adjusts errors and resolves complaints and meets with taxpayers to discuss and resolve tax problems and provides an explanation of and an interpretation of the General Laws. Also, the treasurer/collector responds to inquiries from taxpayers, banks, attorneys, and mortgage companies and sends letters of certification.

The treasurer/collector reviews personnel records to determine the accuracy of employee names, and their rates of pay. The treasurer/collector ensures that personnel records reflect any changes in employee wage rates or occupations of employees on payroll. The treasurer/collector compiles and maintains records for use in the administration of employee benefits,³⁶ which includes explaining benefits to employees and resolving any problems, balancing accounts monthly, and preparing enrollments, disbursements and charges. The treasurer/collector prepares the departmental budget and a benefits budget.

The current treasurer/collector has held the position since mid-December 2002³⁷ and has not participated in collective bargaining on behalf of the Town.³⁸ However, in response to Paicos's and White's requests that the Town's department heads submit suggestions for upcoming successor contract negotiations, the treasurer/collector made certain suggestions. The treasurer/collector in a February 2003 letter to Paicos proposed that the Town make changes in the following sections of the clerical employees' contract: the grievance procedure, release time for union meetings, seniority and longevity. Later, in an October 1, 2003 letter to White, the treasurer/collector suggested that: 1) the Town change the manner in which it supplements the worker's compensation benefits of DPW employees; 2) the Town adopt a biweekly payroll; and 3) the Town seek to remove the assistant treasurer/collector's position from the clerical bargaining unit because she needed to handle certain situations with the clerical staff in the absence of the treasurer/collector and because she has access to information that was confidential under newly enacted federal health care regulations.

Also, when White became the town administrator, she assigned the treasurer/collector to be the Town's primary designee to the Southeastern Massachusetts Health Group (SMHG), a collaborative comprised of seventeen to nineteen municipalities and non-profit agencies who jointly purchase insurance benefits through an insurance advisory service pursuant to M.G.L. c.32B, §12. The treasurer/collector has attended approximately four or five SMHG meetings as the primary designee³⁹ and has cast a vote on behalf of the Town approximately a half-dozen times, including one vote to renew an insurance contract. The treasurer/collector received White's approval before casting the Town's vote to renew the insurance contract. White has also instructed the treasurer/collector to investigate creative ideas, including the feasibility of adopting health care spending accounts, to address the dis-

35. When members of the DPW bargaining unit received a clothing allowance separate from their weekly paychecks on or about July 2003, the treasurer/collector reviewed the relevant Internal Revenue Service regulations and concluded that the Town needed to deduct a higher percentage rate of taxes from the clothing allowance than was usually deducted from the wages of employees.

36. The treasurer/collector and the library director are currently working with Town counsel on developing a Family Medical Leave Act policy (FMLA). Town counsel submitted a draft FMLA policy to the treasurer/collector and the library director. Both employees suggested certain additions or revisions to the draft policy, which they then forwarded to White. After White conferred with Town counsel, counsel prepared a second draft. At the time of the hearing, the treasurer/collector and the library director were reviewing the second draft.

37. The prior collector treasurer Cynthia Curry (Curry) held the position since prior to 1988 until she retired in 2002. Although White and Paicos made reference to

Curry being on two bargaining teams as a member of the finance team, the record does not contain information about the nature and extent of her participation.

38. The Town and its five bargaining units did not engage in successor contract negotiations during the period from December 2002 until December 2003.

39. Prior to April 2003, Paicos was the Town's primary designee to the SMHG. However, beginning in the later 1990's, Curry also attended certain SMHG meetings as the Town's alternate representative. When Curry was unavailable on two or three occasions, Pamela Bergland, the assistant treasurer/collector, attended as the alternate representative instead. After Curry's retirement, the current treasurer/collector also attended two or three SMHG meetings as the Town's alternate representative. However, according to the SMHG charter, alternate representatives cannot vote on substantive issues.

parity in the percentage amount of premiums that employees and the Town pay for health insurance.

Finally, the treasurer/collector makes assignments and directs the work of an assistant treasurer/collector and three principal clerks, all of whom are members of the clerical bargaining unit. The treasurer/collector has authority to make recommendations to hire, fire, transfer, suspend or promote those employees. The incumbent also has the authority to resolve grievances at step one of the clerical contract.

Veterans Services Department

The purpose of the veterans services department is to assist and advise veterans and their dependents regarding benefits to which they are entitled under state and federal law, to ensure that accurate records are maintained, and to make certain that veterans receive valid information and sound advice regarding services that are available to them.

The veterans services director/veterans services officer interviews veterans and their dependents and counsels them on appropriate services and agencies that are available to them, which includes preparing and processing applications for ordinary benefits under M.G.L. c.115. The veterans services director/veterans services officer acquires the documentation necessary to prove eligibility for benefits and completes necessary applications and other forms for service and non-service connected pensions, disability compensation, hospitalization benefits, long-term care benefits, outpatient treatment, vocational rehabilitation, educational benefits, and other state and federal benefits such as social security payments. The incumbent in the position prepares and submits appeals for veterans and their dependents, when they are denied benefits, and may appear before the Board of Veterans' Appeals on their behalf. The incumbent may act under a power of attorney for veterans in researching and processing cases to the Rating Review Board.

The veterans services director/veterans services officer authorizes certain monetary payments to veterans and their dependents as well as payments for approved medical expenses. The incumbent also submits timely documentation for reimbursement of benefits that the Town has paid. The veterans services director/veterans services officer monitors all cases in progress, conducts periodic investigations of claimants, including home visits, places property liens and recovers payments when necessary. The incumbent prepares and manages the departmental budget, including the maintenance of an accurate record of expenses and account balances.

The veterans services director/veterans services officer visits homebound veterans and those confined to hospitals, nursing homes and extended care facilities and arranges transportation for disabled and ill veterans to and from hospitals or health care providers. The incumbent in the position serves as the burial officer for indigent veterans and their dependents. If the veterans services director/veterans services officer is a resident of the Town, the incumbent may serve as the veterans graves officer, who ascertains that all veterans' graves are suitably kept and cared for, which includes ensuring that sunken gravestones are repaired and replaced.

Opinion

When certain issues raised by the representation petition are resolved by the parties' stipulations, the Commission will adopt the stipulations if those stipulations do not conflict with the Law or established Commission policy. *Town of Hopedale*, 20 MLC 1059, 1067; citing, *Board of Trustees, State Colleges*, 4 MLC 1427, 1428 (1977). Because the parties' stipulations do not appear to conflict with the Law or with established Commission policy or precedent, we adopt the parties' stipulations that the fire chief, the police chief, the DPW director, the assistant town administrator, the administrative secretary to the town administrator, the administrative secretary to the police chief, the executive assistant to the town administrator, the executive secretary to the police chief, the administrative secretary to the fire chief, and the COA van driver are appropriately excluded from the proposed bargaining unit(s). Further, we adopt the parties' stipulation that the town planner, the treasurer/collector and the town accountant are professional employees within the meaning of Section 1 of the Law.

Whether the town accountant and the treasurer/collector are managerial or confidential employees

We turn next to examine whether the town accountant and the treasurer/collector should be excluded from the proposed bargaining unit(s) because they are either managerial or confidential employees within the meaning of Section 1 of the Law. Section 1 of the Law contains the following three-part test to determine whether an individual is a "managerial" employee:

Employees shall be designated as managerial employees only if they (a) participate to a substantial degree in formulating or determining policy, or (b) assist to a substantial degree in the preparation for or the conduct of collective bargaining on behalf of a public employer, or (c) have a substantial responsibility involving the exercise of independent judgment of an appellate responsibility not initially in effect in the administration of a collective bargaining agreement or in personnel administration.

An employee must be excluded from an appropriate bargaining unit under Section 3 of the Law if the person's actual duties and responsibilities satisfy any one of three statutory criteria referenced above. *Town of Manchester-by-the-Sea*, 24 MLC 76, 81 (1998).

In analyzing the first determinant of managerial status, the Commission has held that the scope of discretion of a managerial employee must be significant when considered in relation to the mission of the public enterprise. *Wellesley School Committee*, 1 MLC 1389, 1403 (1975); *School Committee of Wellesley v. Labor Relations Commission*, 376 Mass. 112 (1978). The policy decision must be of major importance to the mission and objectives of the public employer. *Wellesley School Committee*, 1 MLC at 1403. To participate to a substantial degree in formulating policy includes not only the authority to select and implement a policy alternative but also regularly participating in the policy decision-making process. *Town of Plainville*, 18 MLC 1001, 1009 (1991); citing, *Town of Agawam*, 13 MLC 1364, 1368 (1986). Neither limited participation in the decision-making process, nor attending and participating in policy-making discussions is sufficient to consider an employee managerial, if the employee's input is merely informational or advisory in nature. *City of Northampton*,

CAS-3149, slip op. at 9 (June 26, 1997); *Town of Medway*, 22 MLC 1261, 1268 (1995); *Town of Wellfleet*, 11 MLC 1238, 1241 (1984); *Wellesley School Committee*, 1 MLC at 1403. Unlike supervisory personnel who “transmit policy directives to lower level staff and, within certain areas of discretion, implement the policies,” managerial employees “make the [policy] decisions and determine the objectives.” *Wellesley School Committee*, 1 MLC at 1400.

To be considered a managerial employee under the second part of the statutory definition, an individual must participate to a substantial degree in the preparation for, or conduct of, collective bargaining on behalf of the employer. *City of Quincy*, 13 MLC 1436, 1440 (1987). Identifying problem areas to be discussed during bargaining, or merely consulting about bargaining proposals is insufficient to satisfy this second criterion. *Town of Manchester-by the Sea*, 24 MLC at 81. Participation to a substantial degree in the collective bargaining process requires an employee to have a voice in determining bargaining strategy or the conditions for settlement. *City of Boston*, 19 MLC 1050, 1063 (1992); *City of Quincy*, 13 MLC at 1441; *Town of Needham*, 3 MLC 1251, 1257 (1976); *Town of Wellesley*, 1 MLC at 1407.

Construing the third statutory test of a managerial employee, the Commission has determined that the words “independent judgment” require that an employee exercise discretion without consultation or approval. *Town of Manchester-by-the-Sea*, 24 MLC at 81; citing, *Wellesley School Committee*, 1 MLC at 1408. A coincidence of recommending and accepting by a higher authority is insufficient. *Id.* To be “substantial,” the responsibility must not be perfunctory or routine, it must have some impact and significance. *Id.* Finally, the appellate authority must be exercised beyond the first step in a grievance-arbitration procedure. *Id.* The exercise of supervisory authority to insure compliance with the provisions of a collective bargaining agreement is insufficient, standing alone, to satisfy this third criterion. *Town of Agawam*, 13 MLC at 1369.

Turning first to the town accountant, we conclude that the position should be considered managerial because the incumbent in the position assists to a substantial degree in the conduct of collective bargaining on behalf of the Town. The town accountant was a member of the employer’s bargaining team during negotiations with the fire fighters union for the 1999-2002 collective bargaining agreement. Although the Town’s initial bargaining proposals were formulated before the town accountant joined the bargaining team, the town accountant fully participated in the management team’s caucuses during which she commented upon statements that the union made at the bargaining table. During those caucuses, the management team members also discussed the Town’s bargaining strategy, evaluated the union’s proposals, and formulated the Town’s counterproposals. Because the town accountant was privy to the Town’s bargaining strategy and to the Town’s counterproposals before those proposals were introduced at the bargaining table, we must conclude that she is a managerial em-

ployee. See *City of Boston*, 19 MLC at 1065-1066. (The administrative coordinator was not a managerial employee because the employee was not privy to the employer’s counterproposals before they were submitted during negotiations).⁴⁰

Next, after carefully examining the job duties and responsibilities of the treasurer/collector, we conclude that the incumbent in the position is not a managerial employee within the meaning of Section 1 of the Law. First, the Town contends that the treasurer/collector’s membership on the finance team makes him a managerial employee because he assists to a substantial degree in the employer’s preparation for collective bargaining. However, the facts before us do not support the Town’s argument. While the town administrator certainly relied on the expertise of the finance team when drafting the revenue and expenditure forecast, finance team members were never present when the town manager met with the Board of Selectmen in executive session to discuss parameters for contract negotiations. Rather, the town administrator and certain department heads, including the police chief, the fire chief and the DPW director, composed the bargaining proposals. Moreover, the town administrator did not show the completed proposals to the finance team members before management submitted the proposals in negotiations.

Additionally, the record does not contain sufficient information to support the Town’s contention that the treasurer/collector has participated to a substantial degree in the conduct of collective bargaining on behalf of the Town. The current treasurer/collector, who only took over the position in December 2002, has not yet partaken in collective bargaining on behalf of the Town. Further, although the record contains references to the prior treasurer/collector’s presence on two management bargaining teams, we do not have sufficient information about the nature and extent of Curry’s involvement on those bargaining teams to conclude that she substantially participated in the conduct of collective bargaining on behalf of the employer.

Also, the Town argues that the treasurer/collector is a managerial employee because the incumbent in the position exercises independent judgment of an appellate responsibility not initially in effect in the administration of a collective bargaining agreement or in personnel administration. In support of its argument, the Town points out that the treasurer/collector is the Town’s representative to the SMHG, that the treasurer/collector is presently drafting an FMLA policy on behalf of the Town, and that the current treasurer/collector determined what percentage of taxes that the Town’s DPW employees should pay on their clothing allowances. However, the record reveals that the treasurer/collector has not exercised independent judgment while performing those duties. Although the treasurer/collector has voted on behalf of the Town at SMHG meetings, he also consulted with White before casting a vote whether or not to change the Town’s health insurance. Further, while the treasurer/collector is presently drafting an FMLA policy with the library director, the draft is subject to review by

40. We need not address the Town’s argument that the town accountant should be excluded as a managerial employee because the town accountant can negotiate an individual employee contract pursuant to M.G.L. c.41, §108N.

White and town counsel. Additionally, in response to solicitations from Paicos and White, the treasurer/collector made various suggestions about issues that the Town could raise at successor contract negotiations, including a proposal for biweekly pay, but those suggestions were subject to the town administrator's approval. Finally, although the treasurer/collector determined the proper tax rate for the DPW employees' clothing allowance, he acted in accordance with the Internal Revenue Service regulations. *See City of Northampton*, CAS-3149, slip op. at p.4. (The auditor is not a managerial employee, in part, because the incumbent in the position acts in accordance with generally accepted principles for government accounting and auditing).

We next consider whether the treasurer/collector is a confidential employee within the meaning of the Law. Section 1 of the Law defines the "confidential" exclusion as follows:

Employees shall be designated as confidential employees only if they directly assist and act in a confidential capacity to a person or persons otherwise excluded from coverage under this chapter.

The Commission has construed this statutory language to exclude those persons who have a direct and substantial relationship with an excluded employee that creates a legitimate expectation of confidentiality in their routine and recurrent dealings. *Town of Medway*, 22 MLC at 1269; *citing*, *Littleton School Committee*, 4 MLC 1405, 1414 (1977); *Town of Plainville*, 18 MLC at 1010. The exclusion has been narrowly interpreted to exclude as few employees as possible, while not unduly hindering the employer's operations. *Silver Lake Regional School Committee*, 1 MLC 1240, 1243 (1975). Regular exposure to confidential material directly related to labor relations policy or other equally sensitive policy information while directly assisting a person excluded from the Law's coverage is grounds for finding an employee confidential. *Town of Medway*, 22 MLC at 1269; *citing*, *Framingham School Committee*, 17 MLC 1233 (1990); *Pittsfield School Committee*, 17 MLC 1369 (1990).

The Town maintains that the treasurer/collector directly assists and acts in a confidential capacity to White because she relies on the treasurer/collector as the Town's representative to the SMHG to advise the town manager about any contemplated changes in health insurance. It also asserts that the treasurer/collector's position on the SMHG regularly exposes the incumbent to sensitive information directly related to labor relations policy. Conversely, the Association asserts that the town administrator is the decision-maker about any changes in employee health insurance benefits and formulates the bargaining proposals about those proposed changes.

However, we are not persuaded by the Town's argument on this point. While the treasurer/collector may be privy to information about changes that the SMHG is contemplating in the health insurance that it purchases on behalf of its member communities, the SMHG has clearly informed its members that each community is responsible for bargaining with its employee unions. Thus, the SMHG does not determine the bargaining strategy that each member community employs with its employee bargaining representatives. Further, the record does not demonstrate that the treasurer/collector has been privy to the Town's bargaining strategy

about health insurance matters. Rather, White has simply used the treasurer/collector to investigate various health care options, including health care spending accounts.

Whether one or two bargaining units are appropriate under the Law

Here, the Association seeks a single bargaining unit. Conversely, the Town argues that the Commission should create two bargaining units, a unit of department heads and supervisory personnel and a unit of the remaining petitioned-for employees. Section 3 of the Law requires the Commission to determine appropriate bargaining units that are consistent with the purpose of providing for stable and continuing labor relations while giving due regard to the following considerations: 1) community of interest; 2) efficiency of operations and effective dealings; and 3) safeguarding the rights of employees to effective representation. *City of Everett*, 27 MLC 147, 150-151 (2001); *Town of Bolton*, 25 MLC 62, 65 (1998). To determine whether employees share a community of interest, the Commission considers factors like similarity of skills and functions, similarity of pay and working conditions, common supervision, work contact, and similarity of training and experience. *Princeton Light Department*, 28 MLC 46, 48 (2001); *Town of Bolton*, 25 MLC at 65; *Boston School Committee*, 12 MLC 1175, 1196 (1985). No single factor is outcome determinative. *See City of Springfield*, 24 MLC 50, 54 (1998); *City of Worcester*, 5 MLC 1108, 1111 (1978).

To satisfy the second and third statutory criteria, the Commission considers the impact of the proposed bargaining unit structure upon a public employer's ability to effectively and efficiently deliver public services, while safeguarding the rights of employees to effective representation. *Peabody School Committee*, 27 MLC 7, 8 (2000); *Town of Bolton*, 25 MLC at 66. The Commission complies with these directives by placing employees with common interests in the same bargaining unit, thus avoiding the proliferation of units that place an unnecessary burden on the employer, while maximizing the collective strength of employees in the bargaining relationship. *City of Springfield*, 24 MLC 50, 54 (1998); *citing*, *Mass. Board of Regional Community Colleges*, 1 MLC 1426, 1440 (1975). The Commission has broad discretion in determining appropriate bargaining units. If a petition describes an appropriate unit, the Commission will not reject it because it is not the most appropriate unit, or because there is an alternative unit that is more appropriate. *City of Somerville*, 24 MLC 69, 71 (1998); *City of Boston*, 18 MLC 1036, 1037 (1991); *citing*, *Lynn Hospital*, 1 MLC 1046, 1050 (1974).

Integral to the community of interest analysis in the present case is the issue of whether certain of the petitioned-for positions exercise significant supervisory authority over other employees in the petitioned-for bargaining unit. *See Somerville School Committee*, 6 MLC 2092 (1980) (A line must be drawn between a true supervisor who possesses authority to effectively recommend personnel decisions and an employee with limited supervisory authority who instead acts as a conduit for the employer's actions). The Commission generally establishes separate bargaining units for supervisory employees and the employees that they supervise. *City of Chicopee*, 1 MLC 1195, 1196 (1974). This well-established policy is rooted in the belief that individuals who possess significant su-

persuasive authority owe their allegiance to their employer, particularly in the areas of discipline and productivity. *City of Westfield*, 7 MLC 1245, 1250 (1980). Therefore, rather than place supervisors in the untenable position of having to discipline employees on whom they rely to secure improved economic benefits and working conditions through the collective bargaining process, the Commission places supervisors in separate bargaining units. In determining whether an employer is a supervisory employee, the Commission considers the following factors: whether the employee has the independent authority and judgment to assign and to direct the work of employees, *Worcester School Committee*, 22 MLC 1762, 1766 (1996); *City of Westfield*, 7 MLC at 1252; the authority to initiate and to recommend discipline, *id.*; the authority to adjust grievances, *Eastham School Committee*, 22 MLC 1190, 1197 (1995); *Town of Newbury*, 14 MLC 1660, 1662 (1988); and the independent authority to make, or the power to recommend effectively, personnel decisions about whether to hire, to transfer, to suspend, to promote or to discharge employees. *Town of Sturbridge*, 18 MLC 1416, 1421 (1992); *Town of Hadley*, 11 MLC 1457, 1460 (1985). Further, the Commission has determined that non-binding recommendatory authority in hiring decisions is indicative of supervisory status. *Eastham School Committee*, 22 MLC at 1197.

Here, at the outset of the proceeding, the parties stipulated that that the animal control officer/animal inspector/milk inspector,⁴¹ the assistant assessor,⁴² the building inspector,⁴³ the COA director,⁴⁴ the public health director,⁴⁵ the water superintendent,⁴⁶ and the recreation director⁴⁷ assigned and directed the work of other petitioned-for employees, had recommendatory authority to hire, fire, suspend, discharge or transfer those employees, and could issue oral or written reprimands. Thus, we conclude that those positions exercise significant supervisory authority and should be included in a separate supervisory bargaining unit.

Furthermore, the animal control/animal inspector/milk inspector, the assistant assessor/data-processing manager, the building inspector, the COA director, the public health director, and the recreation director are all department heads and the water superintendent sometimes participates in meetings as a department head.⁴⁸ The Association also petitioned for four more department heads, the town clerk, the town planner, the treasurer/collector and the veterans services officer/veterans officer.⁴⁹ All of the department heads and the water superintendent prepare and submit proposed annual budgets, prepare various annual, quarterly and/or monthly reports, sets departmental priorities, and oversee departmental expenditures, attend department head meetings, and frequent inter-

action with the town administrator. Thus, we conclude that the department heads and the water superintendent share a sufficient community of interest to warrant inclusion in a bargaining unit comprised of those employees.

The remaining job positions for which the Association petitioned, the assistant animal control officer, the assistant public health director, the assistant water superintendent, the health inspector, the highway foreman, the information systems manager, the land use engineer, the local inspector/zoning code enforcement officer, the outreach coordinator, the plumbing and gas inspector, the recreation program director, the systems designer/programmer, the technical assistant to the DPW director, the tree warden/supervisor of buildings and grounds, and the wiring inspector, also share a sufficient community of interest to warrant inclusion in a bargaining unit. All of the positions require specialized skills, training or licenses. The incumbents in the positions exercise initiative and perform problem solving or troubleshooting functions. Also, all of the positions work out of either Town Hall or the DPW.

Accordingly, we conclude that a unit of full-time and regular part-time department heads and supervisory personnel and a unit of full-time and regular part-time technical, regulatory and community relations personnel constitute appropriate bargaining units.

Conclusion and Direction of Election

Based on the record and for the reasons stated above, we conclude that a question of representation has arisen concerning certain employees of the Town of Easton and that the following units constitute appropriate bargaining units within the meaning of Section 3 of the Law:

Unit A: All full-time and regular part-time department heads and supervisory personnel employed by the Town of Easton, including the animal control officer/animal inspector/milk inspector, the assistant assessor/data processing manager, the building inspector, the council on aging director, the public health director, the recreation director, the town clerk, the town planner, the treasurer/collector, the veterans services director/veterans services officer, and the water superintendent, but excluding all managerial, confidential and casual employees, and all other employees.

Unit B: All full-time and regular part-time technical, regulatory, and community relations personnel employed by the Town of Easton, including the assistant animal control officer, the assistant public health director, the assistant water superintendent, the health inspector, the highway foreman, the information systems manager, the land use engineer, the local inspector/zoning code enforcement officer, the outreach coordinator, the plumbing and gas inspector, the

41. The animal control officer/animal inspector/milk inspector oversees the assistant animal control officer.

42. The assistant assessor/data processing manager oversees the systems designer/programmer and the information systems manager.

43. The building inspector oversees the local inspector/zoning code enforcement officer and the plumbing and gas inspector.

44. The COA director oversees the outreach coordinator.

45. The public health director oversees the assistant public health director and the health inspector.

46. The water superintendent oversees the assistant water superintendent.

47. The recreation director oversees the recreation program director.

48. The water superintendent heads a division of the DPW.

49. Although the treasurer/collector, town planner, and town clerk exercise supervisory authority, they exercise the authority over members of the clerical bargaining unit. However, the veterans services officer/veterans officer exercises no supervisory authority.

recreation program director, the systems designer/programmer, the technical assistant to the DPW director, the tree warden/supervisor of buildings and grounds and the wiring inspector, but excluding all managerial, confidential, and casual employees and all other employees.

IT IS HEREBY DIRECTED that an election by secret ballot shall be conducted to determine whether a majority of employees in the above-described bargaining units desire to be represented by the Easton Professional Administrative Employees Association or by no employee organization.

In as much as the above-referenced bargaining unit A includes the positions of treasurer/collector and town planner, who are professional employees within the meaning of Chapter 150E, the treasurer/collector and the town planner shall be given an opportunity to vote as to whether they wish to be included in Unit A, an overall collective bargaining unit consisting of both professional employees and non-professional employees. If a majority of the professional employees vote for inclusion in the overall unit, they shall be given the opportunity to vote as to whether they wish to be represented by the Easton Professional Administrative Employees Association or no employee organization.

Should a majority of professional employees vote not to be included in the overall bargaining unit, they will be in a separate professional unit consisting of the treasurer/collector and the town planner, but excluding all other employees of the Town of Easton,

and they will have an opportunity to vote whether the professional unit shall be represented by the Easton Professional Administrative Employees Association or by no employee organization.

The eligible voters shall include all those persons within the above-described bargaining units whose names appear on the Town of Easton's payroll for the payroll period for the week ending the Saturday preceding the date of this decision and who have not yet since quit or been discharged for cause. The list of eligible voters must be either electronic (e.g. Microsoft Access or Excel) or in the form of mailing labels. Accordingly, IT IS HEREBY FURTHER DIRECTED that two copies of an election eligibility list containing the names and addresses of all eligible voters must be filed by the Town of Easton with the Executive Secretary of the Commission, 399 Washington Street, 4th Floor, Boston, MA 02108 no later than fourteen days from the date of this decision.

The Executive Secretary shall make the list available to all parties to the election. Failure to submit this list in a timely manner may result in substantial prejudice to the rights of employees and the parties; therefore, no extension of time for filing the list will be granted except under extraordinary circumstances. Failure to comply with this direction may be grounds for setting aside the election, should proper and timely objections be filed.

SO ORDERED.

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