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**CONFIDENTIAL ATTORNEY-CLIENT  
WORK-PRODUCT/COMMUNICATION**

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**TO:** Domenic J. Sarno, Mayor  
**FROM:** Edward M. Pikula, City Solicitor  
**DATE:** June 21, 2019  
**RE:** Appointment/replacement of City Clerk

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You requested legal guidance as to the appointment of a new City Clerk upon receiving news that current City Clerk Anthony Wilson will be leaving the position in order to take a new job as City Clerk in Cambridge.

As indicated by the information provided to you by Deputy City Solicitor Alesia Days yesterday, Chapter 360 of the Acts of 1998 provides that the “city clerk of the city of Springfield”, after the first Monday, in January 2004, is “elected” by the city council “for a term of six years and until a successor is qualified”. The Special Act is silent as to selecting a candidate or any other terms or conditions of office.

However, the provisions of Mass. Gen. Laws Chapter 41, Section 14 make it clear that “If the office of city clerk is vacant, or if a city clerk is unable to perform the duties required by chapters fifty to fifty-six, inclusive, the mayor shall appoint a temporary clerk to perform such duties”.

As such, the statute recognizes that the duties required to be performed by City Clerks as a Department Head in the Executive branch of municipal government typically include those related to elections. However, in Springfield, elections come under the purview of a different Department, Elections, which is headed by the Election Commissioner.

Nonetheless, reading Chapter 360 harmoniously with other statutes, this act was developed and implement against the backdrop of Springfield’s emerging financial crisis and need to professionalize the administration of government, as well as perceptions in the Commonwealth that efforts to resolve

Springfield’s financial crisis required reforms towards professional management. In this regard, the Finance Control Board appointed Attorney Wayman Lee as City Clerk. Attorney Lee had, prior to his appointment, represented the City Council in his position as Associate City Solicitor. No confirmation or election process was required. Similarly, you appointed Associate City Solicitor Anthony Wilson

(who had represented the City Council prior to his appointment) upon Attorney Lee's retirement from the position of City Clerk. However, at the time of Attorney Wilson's appointment, the Control Board had departed and City Council confirmation (or "election") was required.

Similarly, the appointment (or "nomination") of Attorney Davis follows the framework of professionalization in the ever increasing complexity of the role and duties of municipal department heads. Consistent with Charter provisions that the Mayor, as Chief Executive, appoints all Department heads, and subject to the limitation of the Special Act providing for election here, the same framework should be applied in filling the vacancy that will be created upon Attorney Wilson's departure, i.e. the Mayor should make any temporary appointment that is required, and should nominate or appoint a qualified professional. Continuing to draw from the ranks of an experienced Attorney who is currently representing the City Council meets the requirements of that framework,