



355 East Central Street
Franklin, Massachusetts 02038-1352

MEMORANDUM

TO: Franklin Town Council

FROM: Mark G. Cerel, Town Attorney

RE: Designation of Members of Recently-Created Municipal Committees as "Special Municipal Employees" under G.L. Chapter 268A, the State Ethics Law

DATE: June 20, 2018

I have previously recommended that the Town Council designate members of all eligible Town boards, commissions and committees as "special municipal employees" under G.L. Chapter 268A, the state ethics law. The basis of my recommendation was the fact that uncompensated volunteer members of Town boards, commissions and committees would otherwise be subject to all the prohibitions and restraints which the statute imposes on municipal employees. Specifically, the statute contains a prohibition on having any financial interest adverse to the Town; this effectively prohibits a professional such as an attorney, engineer, or architect from representing a private client on any project or matter which involves local municipal approval. That professional is therefore placed in a position in which he or she must choose between uncompensated public service and making a living. In recognition of this, the Legislature provided that a municipality may designate members of eligible boards, commissions and committees as "special municipal employees", which as to those designees, limits the application of the statute to more obvious conflicts, such as self-dealing.

In response to my recommendation, the Town Council initially passed Resolution 03-02 on January 8, 2003 designating members of all eligible (uncompensated volunteer) Town boards, commissions and committees as "special municipal employees". This designation was only effective as to the enumerated, then-existing, boards, commissions and committees; as new ones are created, a new designation is required. Accordingly, the Town Council has periodically passed resolutions designating newly-created committee positions as "special municipal employees". There have been several committees which the Council has created since the last time it passed a resolution designating "special municipal employees". The members of these committees, including but not limited to professional people, need the same protection afforded to other uncompensated volunteers by the Town Council's prior resolutions. As noted above, this



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designation will not exempt the members from the statutory prohibition against self-dealing; a member of a subject committee still could not participate in awarding a contract to himself/herself or an immediate family member nor could that person or an immediate family member be awarded such a contract.

If any Council member has any questions relating to the proposed resolution or the contents of this memorandum, prior to the next Town Council meeting, please feel free to contact me.

MGC:ce

cc : Jeffrey D. Nutting, Town Administrator
Jamie Hellen, Deputy Town Administrator



Sponsor: Administration

**TOWN OF FRANKLIN
RESOLUTION 18-30
ADDITIONAL DESIGNATIONS OF
“SPECIAL MUNICIPAL EMPLOYEE” UNDER STATE ETHICS LAW**

WHEREAS, G.L. Chapter 268A, the state ethics law, applies to all municipal employees, both elected and appointed, and regardless of whether they are compensated or uncompensated,

WHEREAS, the statutory scheme imposes stringent prohibitions on conflicts of interest, both actual and perceived, which make it difficult to recruit locally employed professionals and other qualified persons to serve in town government,

WHEREAS, in recognition of this, the statute provides that the governing body may make an express classification of uncompensated volunteers serving on town boards, commissions and committees as “special municipal employees”, with the exception of the governing body itself,

WHEREAS, by Resolution 03-02 dated January 8, 2003, and Resolution 11-13 dated May 4, 2011, the Franklin Town Council made said classification for all eligible Town boards, commission and committees then-existing, but there are now additional bodies which qualify,

NOW, THEREFORE, BE IT RESOLVED THAT the Franklin Town Council hereby makes an express classification of the members of the following additional town boards, commissions and committees as “special town employees”, under the terms and provisions of G.L. Chapter 268A as provided in Section 1, Paragraph (n) of said statute:

- Franklin Agricultural Commission
- Franklin Community Cable Access, Inc. Board of Directors
- Franklin Cultural Council
- Franklin Cultural District Committee
- Town of Franklin OPEB Trust Board of Trustees

DATED: _____, 2018

VOTED:
UNANIMOUS _____
YES _____ **NO** _____
ABSTAIN _____
ABSENT _____

A True Record Attest:

**Teresa M. Burr
Town Clerk**

**Glenn Jones, Clerk
Franklin Town Council**