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May 28, 2025

Andrea Egmont
Director, Newburyport Recreation and Youth Services
60 Pleasant Street
Newburyport, MA 01950

Re: CPF-25-31

Dear Ms. Egmont:

This office has completed its review of information we received which indicated that public resources were used to influence voters with respect to a ballot question that appeared on the ballot at the May 13, 2025 special election in Newburyport. The question, relative to a debt exclusion to fund a new municipal recreation center, passed.

In Anderson v. City of Boston, 376 Mass. 178 (1978) appeal dismissed, 439 U.S. 1069 (1979), the Supreme Judicial Court concluded that the City of Boston could not appropriate funds, or use funds previously appropriated for other purposes, to influence a ballot question submitted to the voters at a state election. The Court stated that the campaign finance law, M.G.L. c. 55, demonstrates an intent "to assure fairness of elections and the appearance of fairness in the electoral process" and that the law should be interpreted as prohibiting the use of public funds "to advocate a position which certain taxpayers oppose." 376 Mass. at 193-95.

Accordingly, this office has concluded that governmental entities may not expend public resources or contribute anything of value to influence or affect the outcome of a ballot question. Public resources may not, therefore, be used to distribute information regarding a ballot question, even if the information is intended to be objective and factual, unless expressly authorized by state law. However, the use of public resources to compile information and prepare materials may be consistent with Anderson and M.G.L. c. 55, as a policy-making official may research and analyze the impact a potential ballot question may have on matters that are within their scope of responsibility. See IB-91-01.

In conversations with OCPF staff, you acknowledged that, on March 24, 2025, you composed and sent an email focused exclusively on the proposed ballot question. The email



included information relative to costs of the project, the scheduled vote before the City Council on March 31, 2025, and links to a variety of documents related to the debt exclusion. It was sent to an email list maintained by Newburyport Recreation and Youth Services (“NRYS”), a department of the City of Newburyport, using publicly-owned computers.

Based on its review, OCPF concluded that public resources, in the form of staff time and city-owned technology (e.g., computers, email lists, internet, etc.), were used to compile materials relative to the ballot question. Certain of those materials were posted to the Newburyport city website, to enable the public to access the materials, if they so chose. The email you drafted addressed the ballot question at length, and was distributed, using staff time, NRYS email lists, and NRYS computers/internet, to subscribers to the NRYS email list without that information being requested.

The use of public resources to research and compile the described materials was consistent with Anderson and M.G.L. c. 55. As a policy-making official, you may research and analyze the impact a ballot question may have on matters within the scope of your responsibilities, and you may compile materials relative to that analysis. Such non-advocacy materials, being public records, can be made available to the public upon request, including at forums concerning the subject of the ballot question, or by posting the materials to a website accessible to the public. Accordingly, the posting of materials to portions of the city’s website did not present an issue under the campaign finance law and the Anderson decision, as those have been interpreted by OCPF.

Public resources may not be used, however, to *distribute* that information without it being requested, absent specific statutory authority to do so. See Mass. Const. Art. CVIII and M.G.L. c. 54, §§ 53-54 (establishing a mechanism for the Secretary of the Commonwealth to provide information to voters via distribution of the “red book”); M.G.L. c. 53, § 18B (establishing a mechanism for local government officials to provide information to voters). Consequently, the use of NRYS staff time, email lists, and computers to proactively distribute materials relative to a ballot question – namely, the email sent to NRYS subscribers – was not consistent with Anderson, the Massachusetts campaign finance law, and 970 CMR 1.24(6) (stating, in pertinent part: “Public resources, e.g., public computers, may not be used to support or oppose a candidate, political committee, political party or ballot question...”).

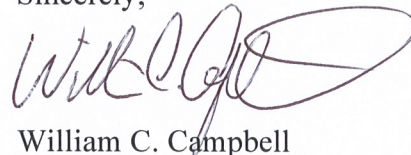
Pursuant to Section 22A of the campaign finance law, the treasurer of a city, town, or governmental unit which expended any money or any valuable thing in order to influence or affect the vote on any local ballot question submitted to the voters of the municipality shall file reports with the local clerk, setting forth the amount or value of every expenditure. You, in your capacity as Director of NRYS, worked with the City Treasurer to file a CPF Form 22A (Report of Governmental Treasurer) with the Newburyport City Clerk on May 12, 2025, to disclose the use of public resources, which were reported to be valued at \$43.00.

Although you cooperated fully with this review, the Form 22A was not timely filed; it was, however, filed prior to the May 13, 2025 special election.¹ Because further action under Section 22A lies with the local clerk and OCPF expects this review will ensure future compliance with the campaign finance law, our review has been closed at this time.

Note that nothing in the campaign finance law authorizes the expenditure of public monies for political purposes. See M.G.L. c. 55, §22A. If there is a question whether certain action in the future may result in the use of public resources for election-related communications, you are encouraged to contact OCPF to ensure compliance with the campaign finance law.

In accordance with the opinion of the Supervisor of Public Records, this letter is a matter of public record. A copy is being provided to the local clerk, and may be provided to the person(s) who brought this matter to our attention.

Sincerely,

A handwritten signature in dark ink, appearing to read 'William C. Campbell', with a large, stylized loop at the end.

William C. Campbell
Director

WCC/mc

cc: Kathleen Sullivan, Newburyport City Clerk

¹ Pursuant to M.G.L. c. 55, § 22A, the Form 22A must be filed "...on or before...the fifth and twentieth day of each month complete as of the preceding first and fifteenth day of the month, until the election...". Because the email was sent on or about March 24, 2025, the Form 22A that reflected that activity was due on April 5, 2025.