Policy Regarding Use of the Town Attorney

I. **Purpose**
   a. The purpose of this policy is to clarify the proper procedure to engage and authorize the services of the Wayne Town Attorney, and to establish budgetary controls for such use.
   b. This policy applies to all officials (elected or appointed) of the Town of Wayne appointed by the Board of Selectmen as well as the elected Board of Assessors and the Selectmen collectively and/or individually.

II. **Authority**
   a. The Selectmen are the duly authorized, elected and sworn municipal officers of the Town of Wayne and hereby are responsible for making policy regarding day to day operations of the town. The Selectmen are also responsible for appointing and supervising numerous individuals to various boards, Committees and municipal jobs within the Town of Wayne.

III. **Standards**
   a. The Board of Selectmen, appointees, and other officials seeking legal advice relating to business of the town shall utilize Maine Municipal Association's legal services prior to consulting the Town attorney. Should there be a significant time delay (more than 24 hours) in a MMA resource the Chairman of the Board or the Town Manager may consult the Town Attorney, after appropriate consultation.
   b. The use of the Town Attorney is only for issues that arise during the conduct of municipal business where a legal opinion is required in order to proceed, decide, or adjudicate matters. The following boards or their designee have permission for initial consultation with the Town Attorney only after Maine Municipal Association's legal services has been contacted and consulting the Town Manager:
      i. Planning Board
      ii. Board of Appeals
      iii. Board of Assessors
   c. The following personnel have permission to initially consult with the Town Attorney prior to approval by the Board of Selectmen:
      i. Town Manager
      ii. Code Enforcement Officer
   d. Following initial consultation with the Town Attorney pursuant to paragraphs b. and c. above, the person contacting the Town Attorney shall notify (in writing) the Board of Selectmen through the Town Manager indicating the date and the nature of the matter for

which the consultation was made. The Selectmen shall decide at their next regular meeting whether further consultation shall be authorized for the affected board/position. Should the situation warrant emergency action in which waiting for a regular Selectmen's meeting to occur is impossible, the Chair of the Board of Selectmen shall be notified immediately, and the Selectmen shall hold a special meeting at their earliest practical convenience. The Chair of the Board of Selectmen shall have the right to grant emergency further consultation privileges, and so inform the Town Manager.

e. Other boards, committees, and staff appointees shall not consult the Town Attorney without an express vote of the Board of Selectmen.

f. When contacting the Town Attorney, the appointed/elected official shall identify their capacity with the town, the issue upon which they seek advice, and clarify what party the Town Attorney is expected to represent in the matter. Ideally, initial consultations shall be in written as well as oral form.

g. The Town Treasurer will supply a written report of attorney's fees paid during the current fiscal year every six months.

IV. Validity & Severability

a. Should any section of this policy be declared illegal or unenforceable, it shall not invalidate any other section of this policy.

V. Definitions

a. **Town Attorney** – The Attorney so designated in the personnel list by the Board of Selectmen. At the time of initial adoption of this policy, the Town Attorney is Lee Bragg of the firm of Bernstein Shur of Augusta. The designation of the Town Attorney may change from time to time, but the designation of town attorney shall continue until the Board of Selectmen decides otherwise.

b. **Consultation** – A consultation includes, but is not limited to, contact by telephone, facsimile, or e-mail between an appointed/elected official and the Town Attorney. Initial consultation shall be limited to identification of the issue, identification of the appointed/elected official, clarification of what entity the Town Attorney is representing, and, if practical, an initial response to the query posed by the appointed/elected official by the town attorney.

c. **Municipal Matters**- A municipal matter is one that an elected/appointed official has the authority to deal with. For example, the Code Enforcement Officer could consult with the town attorney for a matter related to a zoning violator. That same CEO could not consult with the Town Attorney on a dispute with his neighbor on a potential code enforcement violation.

d. **Emergency** – An emergency matter is one which, through inaction, could result in a threat to public safety, public or private property, or could jeopardize the legal standing of the Town of Wayne. Such emergencies include, but are not limited to: dangerous health situations, filings of lawsuits against the town, execution of

administrative search warrants, matters dealing with dangerous animals, and matters dealing with unsafe building or road conditions.

VI. Signature

Adopted on this day 22 November, 2011

Gary Kenny, Chairman

David Criss, Vice Chairman

Carroll Paradis, Member

Ray Giglio, Member

Lawrence Stewart, Member

Attested by Cathy A. Cook
Cathy A Cook