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COMMONWEALTH OF MASSACHUSETTS

DUKES, ss.

SUPERIOR COURT
CIVIL ACTION
NO. 2014-00023

MARTHA'S VINEYARD AIRPORT COMMISSION,
Plaintiff

vs.

COUNTY COMMISSION FOR DUKES COUNTY & others^{1/}
Defendants

**MEMORANDUM OF DECISION AND ORDER ON PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AND DEFENDANTS' CROSS-MOTION FOR SUMMARY
JUDGMENT**

INTRODUCTION

This case stands as another chapter in the long running power struggle between the Martha's Vineyard Airport Commission ("the MVAC") and the County Commission for Dukes County ("the County") over the control of the Martha's Vineyard Airport (the "Airport"). The MVAC has brought suit against the County, Martina Thornton, in her official capacity as the County Manager for the County of Dukes County ("the County Manager"), and Noreen Mavro Flanders, in her official capacity as County Treasurer for the County of Dukes County ("the County Treasurer"). The MVAC complains that the County's attempt to insert the County Manager onto the MVAC as an ex-officio, non-voting member; the County Treasurer's refusal to pay invoices duly approved for payment by the MVAC; the County Treasurer's efforts to obtain so-called privileged attorney-client information regarding those invoices; and, the County

^{1/}Martina Thornton, in her official capacity as County Manager for the County of Dukes County, and Noreen Mavro Flanders, in her official capacity as County Treasurer for the County of Dukes County

Treasurer's release of the information to the public and the County's attempt to increase the membership of the MVAC from seven (7) to nine (9) members, all violate the provisions of G. L. c. 90, § 51E and the Grant Assurances.

The MVAC filed this action pursuant to G. L. c. 231A on April 25, 2014, seeking declaratory and injunctive relief against the County. The MVAC sought declarations that the County and the Treasurer lacked the authority to take the aforesaid actions. The County has counterclaimed for declaratory judgment seeking declarations that the MVAC falls under the County's jurisdiction; that the County Manager is authorized to sit on the board of the MVAC ex-officio; that the County Treasurer is authorized to require an itemized invoice before paying such invoices; that the invoices at issue are public records and are not protected by the attorney-client privilege; and, that it had the authority to increase the membership of the MVAC from seven (7) to nine (9) members.

The matter is presently before the court on the MVAC's Motion for Summary Judgment and the County's Cross Motion for Summary Judgment. For the reasons explained below, the plaintiff's Motion for Summary judgment is **ALLOWED** and the defendants' Cross Motion for Summary Judgment is **DENIED**.

PROCEDURAL BACKGROUND

The matter was first before the court on a request for injunctive relief.

On August 7, 2014, another judge of this court, (Chin, J.), granted preliminary injunctive relief: (1) enjoining the County from appointing the County Manager to the MVAC as an ex-officio, non-voting member; (2) enjoining the County Manager from serving in such capacity; (3) enjoining the County Treasurer from refusing to pay invoices duly approved for payment by the

MVAC; (4) enjoining the County Treasurer from obtaining privileged or confidential communications between the MVAC and its attorneys without notice to or the consent of the MVAC; and, (5) from releasing privileged or confidential communications between the MVAC and its attorneys to the public.

In an apparent response to the Court's Order, the County, on September 24, 2014, voted to expand the size of the MVAC from seven (7) to nine (9) members and to appoint two (2) new commissioners to the MVAC. The MVAC responded and filed a Second Amended Verified Complaint which sought declaratory and injunctive relief regarding the County's expansion of the Commission (Count V). On November 5, 2014, the court (Chin, J.) allowed the request for a preliminary injunction and enjoined the County from expanding the size of the MVAC from seven (7) to nine (9) members and appointing new members.

The MVAC now moves for summary judgment on the basis that the material facts of the case are not in dispute. It seeks declarations that: (1) the County's attempt to appoint the County Manager as an ex-officio, non-voting member of the MVAC constitutes an unlawful or reorganization of the MVAC, in violation of G. L. c. 90, § 51E *et seq.* and the Grant Assurances; (2) the County Manager's attempt to serve as an ex-officio, non-voting member of the MVAC constitutes an unlawful reorganization of the MVAC in violation of G. L. c. 90, § 51E *et seq.* and the Grant Assurances; (3) the County Treasurer's refusal to pay invoices duly approved for payment by the MVAC constitutes an unlawful interference with the operation and governance of the Martha's Vineyard Airport in violation of G. L. c. 90, §§ 51E and 51I and the Grant Assurances; (4) the County Treasurer's obtaining and releasing to the public the MVAC's privileged and confidential information constitutes an unlawful interference with the operations

and governance of the Martha's Vineyard Airport in violation of G. L. c. 90, § 51E *et seq.* and the Grant Assurances; and, (5) the County's attempt to increase the size of the MVAC from seven (7) to nine (9) members and add two (2) new members, constitutes an unlawful reorganization of the MVAC in violation of G. L. c. 90, § 51E *et seq.* and the Grant Assurances.

The MVAC also seeks a permanent injunction enjoining the defendant from taking any of the foregoing actions and summary judgment in its favor, dismissing all four counts of the defendants' counterclaims.

FACTUAL BACKGROUND

The evidentiary record before the Court consists of the following: the plaintiff's second amended verified complaint; the defendants' answer and counterclaims; the plaintiff's motion for summary judgment; the affidavit of Sean Flynn; a statement of material undisputed facts; the defendants' cross-motion for summary judgment; the affidavits of Martina Thornton and Noreen Mavro Flanders; the affidavit of Atty. David Mackey; and, an Appendix.

In consideration of the parties' submissions, the arguments of counsel, and with each motion considered in the light most favorable to the non-moving party, the following factual background is established.

The MVAC is an airport commission established pursuant to G. L. c. 90, § 51E.² Pursuant to that statute, the "custody, control and management of local airports, including Martha's Vineyard Airport, was placed in an Airport Commission, which consists of an odd number of

² Section 51E. In any city or town in which an airport is established under section fifty-one D, or under any other provision of law, there shall be established a board consisting of an odd number of members not less than three nor more than eleven in number, to be called the airport commission, which shall have the custody, care and management of the municipal airport of said city or town.

members of not less than three nor more than eleven in number."

By virtue of G. L. c. 90, § 39G,³ the County Commissioners appoint the Airport Commission.

In November, 1992, the citizens of Dukes County voted to adopt a Charter pursuant to G. L. c. 34A, §§15, 16, 18 and 20.

Dukes County adopted a County Manager form of government under which Dukes County chose to be governed by an elected board of County Commissioners and an appointed County Manager.

Pursuant to the adoption of this form of government, the Dukes County Commissioners adopted an Administrative Code ("Code").

Section II A (d) of the Code provides that the County Commissioners "shall appoint members of all boards and commissions in other bodies whose manner of appointment is not otherwise specified."

Section II B (4) (E) of the Code requires the County Manager to "Through the County Treasurer have oversight on the collection of revenues, audit and control all disbursements and expenditures and prepare a complete account of all expenditures."

Section II B (4)(1) of the Code requires the County Manager to "Serve, as an ex-officio, non-voting member of all appointive bodies in County Government."

The County Treasurer has certain responsibilities required by statute. Massachusetts General Laws c. 35, §11 provides in pertinent part that "No payments . . . shall be made by a

³ Section 39G. The provisions of sections thirty-five to fifty-two, inclusive, applicable to any city or town shall apply to airports and aeronautical facilities owned or operated by any county, except for the method of appointment of the airport commission thereof, which commission shall be appointed by the county commissioners.

treasurer except upon orders drawn and signed by a majority of the county commissioners, certified by their clerk and accompanied, except in Suffolk county, by the original bills, vouchers or evidences of county indebtedness for which payment is ordered, **stating in detail the items** and confirming the account." (emphasis added).

Since as early as 1997, the MVAC has received state and federal funds. Pursuant to G. L. c. 90, § 51K, the Massachusetts Department of Transportation, Aeronautics Division ("Aeronautics") holds the funds.⁴ In order to receive funds, Aeronautics requires the MVAC, the County and the County Manager execute a document entitled "Grant Assurances."

On June 8, 2011, the County Manager and the Dukes County Commission signed the most recent version of the Grant Assurances. The Grant Assurances recite several pertinent provisions. First, the Grant Assurances provide the oversight of the airport is exclusively held by the MVAC and that the MVAC has sole custody and control of the airport.

Second, the Grant Assurances require that the MVAC shall not take or permit any action which would diminish its control over the Airport, and that the MVAC will act promptly to acquire, extinguish or modify claims of others which would interfere with the MVAC's control over the Airport.

Third, and most significantly, the Grant Assurances provides: "Notwithstanding any powers that may be granted to the County Commissioners under Chapter 34A of the General Laws (the "Charter"), the County Commissioners agree not to take any action to reorganize the

⁴ Section 51K provides: Any airport commission established by law obtaining an offer for a grant of federal funds shall designate the Massachusetts aeronautics commission as its agent to receive federal moneys and receipt therefor in its behalf, shall enter into an agreement with said last mentioned commission prescribing the terms and conditions of such agency in accordance with federal laws, rules and regulations and applicable laws of the commonwealth.

Airport Commission, or in any way to interfere with the autonomy and authority of the Airport Commission as created under Chapter 90, Section 51E of the General Laws, without the express written approval of the Aeronautics Division."

The genesis of the current dispute involves the payment of invoices for legal services. As was the established pattern the MVAC, upon receipt of a third-party invoice, it reviewed the invoice and, if approved, submitted it to the County Treasurer for payment from accounts containing MVAC funds. With respect to invoices for legal services, once the MVAC approved them, it redacted confidential or privileged information and forwarded the redacted copies to the County Treasurer for payment. The County is paid for this service out of the MVAC funds. According to an affidavit provided by Airport Manager Sean Flynn, the MVAC paid the County \$104,302.00 and \$97,994.00 in fiscal years 2012 and 2013 respectively.

Sometime in 2013, the County Treasurer refused to process for payment invoices from third-party vendors that the MVAC had approved for payment. She demanded the original invoices for legal services, without redactions, before she processed the invoices for payment. On occasion, and without the consent of the MVAC, she communicated directly with staff at the law offices of the MVAC's attorneys in order to obtain un-redacted copies of the invoices. In addition, she released the un-redacted invoices to the public in response to public records requests. These actions set in motion the current flurry of legal punches and counter-punches.

On April 25, 2014, the MVAC filed suit to enjoin the Treasurer from refusing to pay invoices approved by the MVAC and obtaining and disclosing to the public un-redacted copies of the MVAC's legal bills. In response, the County passed a motion to recognize the County Manager's role on the MVAC as an ex-officio, non-voting member of the MVAC pursuant to

Section II B (4)(1) of the Code. Thereafter, the MVAC amended its complaint and sought an injunction enjoining the County Manager from serving in such a capacity.

On August 7, 2014, this court (Chin, J.) granted the preliminary injunction as previously outlined. Not to be out done, on September 24, 2014, the County voted to expand the size of the MVAC from seven (7) to nine (9) members and to appoint two (2) new members to fill the additional seats.

On September 25, 2014, Christopher J. Willenborg ("Willenborg"), the Administrator of the Aeronautics Division of the Massachusetts Department of Transportation, wrote to the Dukes County Commissioners. Willenborg sought an explanation for the increase in the membership of the MVAC from seven (7) to nine (9) members and reminded the County that any reorganization or interference with the autonomy and authority of the MVAC would require the express written approval of the Aeronautics Division.

On October 3, 2014, the County Commission, through its chairman, Leonard Jason ("Jason"), responded to Willenborg and explained that G. L. c. 90, §51E empowered the County to appoint between three (3) and eleven (11) members and that the County had voted to expand the MVAC in order to bring additional qualified individuals who were willing to serve in order to assist the Airport in carrying out its obligations and to assure compliance with the Grant Assurances. Jason further acknowledged that the County Manager had inquired of Aeronautics Division as to whether the County could make these appointments and whether Aeronautics would characterize this action as inconsistent with the Grant Assurances. Jason claimed that Aeronautics informed the County Manager that the County had the statutory right to increase the MVAC up to eleven (11) individuals so long as the new members honor the Grant Assurances.

Thereafter, the MVAC filed its Second Amended Verified Complaint seeking an injunction prohibiting the County from expanding the number of MVAC commissioners from seven (7) to nine (9). Soon thereafter, the court (Chin, J.) granted the MVAC's request for injunctive relief.

This brings us the present posture of the case, which involves consideration of the plaintiff's motion for summary judgment and the defendants' mirror image cross-motion for summary judgment.

DISCUSSION

1. Summary Judgment Standard

This court grants summary judgment where the record establishes that no genuine issue of material fact exists, and that the moving party is entitled to judgment as a matter of law. Mass. R. Civ. P. 56(c); *Cassesso v. Comm'r of Corr.*, 390 Mass. 419, 422 (1983); *Cnty. Nat'l Bank v. Dawes*, 369 Mass. 550, 553 (1976). The moving party bears the burden of establishing that there is no dispute of material fact on every relevant issue. *Pederson v. Time, Inc.*, 404 Mass. 14, 17 (1989). A party moving for summary judgment who does not bear the burden of proof at trial may demonstrate the absence of a genuine dispute of material fact either by submitting affirmative evidence negating an essential element of the non-moving party's case, or by showing that the non-moving party has no reasonable expectation of proving an essential element of its case at trial. *Flesner v. Technical Commc'ns Corp.*, 410 Mass. 805, 809 (1991); *Kourouvacilis v. Gen. Motors Corp.*, 410 Mass. 706, 716 (1991).

Once the moving party establishes the absence of a triable issue by either of these methods, the party opposing the motion must respond with evidence of specific facts establishing

the existence of a genuine dispute. *Pederson*, 404 Mass. at 17. The opposing party may not rest on the allegations of the pleadings, or rely on "bare assertions and conclusions regarding [his] understandings, beliefs, and assumptions." *Polaroid Corp. v. Rollins Env'tl. Servs. (NJ), Inc.*, 416 Mass. 684, 696 (1993); *Key Capital Corp. v. M&S Liquidating Corp.*, 27 Mass. App. Ct. 721, 728 (1989). Mere contradictions of factual allegations, without evidentiary support, are insufficient to raise questions of material fact sufficient to defeat a summary judgment motion. *Madsen v. Erwin*, 395 Mass. 715, 721 (1985). The opposing party's obligation, rather, is to demonstrate the existence of admissible evidence sufficient to meet the burden of proof on the issues raised by the motion. *Key Capital Corp.*, 27 Mass. App. Ct. at 728.

ANALYSIS

Central to the resolution of the issues in this case are two questions: (1) Do the provisions of the Airport Act (G. L. c. 90, §§ 35 to 52) prevail over provisions of the Dukes County Charter, established by G. L. c. 34A ("the Charter"); and, (2) what is the legal effect of the Grant Assurances.

With the enactment of the County's Charter, the County has taken the legal position that its powers thereunder supersede any powers conferred on the Airport Commission under the earlier enacted Airport Act. Resolution of the issue is determined by resort to familiar principles of statutory construction.

In interpreting the meaning of conflicting statutes a court looks to the intent of the Legislature "ascertained from all its words construed by the ordinary and approved usage of the language, considered in connection with the cause of its enactment, the mischief or imperfection to be remedied and the main object to be accomplished, to the end that the purpose of its framers

may be effectuated." *Indus. Fin. Corp. v. State Tax Comm'n*, 367 Mass. 360, 364 (1975), quoting *Hanlon v. Rollins*, 286 Mass. 444, 447 (1934). "Where possible, [a court] construes statutes on the same subject matter together, so as to constitute a harmonious whole consistent with the legislative purpose." *District Attorney for the N. Dist. v. School Comm. of Wayland*, 455 Mass. 561, 568-569 (2009) (internal quotations omitted), quoting *Board of Educ. v. Assessor of Worcester*, 368 Mass. 511, 513-514 (1975). This recognizes that the Legislature did not intend one provision of a statute to contradict another. See *Locator Servs. Group, Ltd. v. Treasurer & Receiver Gen.*, 443 Mass. 837, 859 (2005).

"The longstanding test for the principle of implied repeal is whether the prior statute is so repugnant to, and inconsistent with, the later enactment that both cannot stand. Only then is the former statute repealed." *Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd.*, 457 Mass. 663, 673 (2010), quoting *Commonwealth v. Graham*, 388 Mass. 115, 125 (1983), *Dedham Water Co. v. Dedham*, 395 Mass. 510, 518 (1985). However, if "a general statute and a specific statute cannot be reconciled, the general statute must yield to the specific statute." *Commonwealth v. Russ R.*, 433 Mass. 515, 521 (2001), quoting *Pereira v. New England LNG Co.*, 364 Mass. 109, 118 (1973). The issue here has been previously addressed on three separate occasions by two different Justices of this Court (Bohn, J. and Chin, J.). This court agrees with both justices that as a matter of statutory construction, when in conflict, the provisions of the Charter, a broad enabling statute, must yield to the Airport Act, a narrowly tailored statute, even though the Charter was enacted at a later date.

The County's position with regard to the Grant Assurances is more difficult to contemplate. On one hand, the County claims that the provisions of the Charter trump the

Airport Act. Yet, on the other hand, it agrees that the Grant Assurances are a binding contract and it committed to the Grant Assurances being honored, which provides that: "Notwithstanding any powers that may be granted to the County Commissioners under Chapter 34A of the General Laws (the "Charter"), the County Commissioners agree not to take any action to reorganize the Airport Commission, or in any way to interfere with the autonomy and authority of the Airport Commission as created under Chapter 90, Section 51E of the General Laws, without the express written approval of the Aeronautics Division."

It appears that the County seeks to run with the hare and hunt with the hounds. It may not do so. Here the County has forfeited its right to manage the airport through the execution of the Grant Assurances and the acceptance of state and federal funds.

With these principles established the Court now looks to the County's actions which form the core of this case.

A. The Placement of the County Manager on the MVAC as an Ex-Officio, Non-Voting Member.

The placement of the County Manager on the MVAC as an ex-officio, non-voting member of the MVAC is arguably authorized by the general provisions of Section II B (4)(1) of the Code which requires the County Manager to "serve, as an ex-officio, non-voting member of all appointive bodies in County Government."

However the Airport Act, which controls, makes no provision for an ex-officio, non-voting member and requires that there be an odd number of commissioners who are each appointed for a term of three (3) years. Were the placement of the County Manager on the commission be permitted, the number of MVAC commissioners, voting or not, would increase

from seven (7) to eight (8), an even number. In addition, as an ex-officio member, the County Manager would be exempt from the three (3) year term limitation since, as an ex-officio member, her term would be co-terminus with her tenure as the County Manager which is not necessarily limited to three (3) years.

In addition, this appointment clearly runs afoul of the promises made by the County in the Grant Assurances wherein it agreed "not to take any action to reorganize the Airport Commission . . ." To this, the County argues that a genuine issue of material fact exists as to whether such an appointment constitutes a "re-organization." I disagree.

The term "reorganize" is not defined in the Grant Assurances and accordingly, I give the term its "usual and accepted" meaning, so long as it is "consistent with the statutory purpose." *Seideman v. Newton*, 452 Mass. 472, 477-478 (2008). Courts determine a word's "usual and accepted meanings from sources presumably known to the statute's enactors," such as dictionary definitions. *Id.* at 478, quoting *Commonwealth v. Zone Book, Inc.*, 372 Mass. 366, 369 (1977). Webster's Third New International Dictionary 1923 (3rd ed. 1981) defines reorganize as "to organize again or anew: to change the organization of." The County Manager, prior to the initiation of this lawsuit, did not sit on the MVAC as an ex-officio member. To allow her to do so now would work a change in the organization in violation of the Grant Assurances.

B. The Vote to Expand the MVAC from Seven (7) to Nine (9) Members

Here, the County likewise argues that a genuine issue of material fact exists as to whether the vote to expand the MVAC from seven (7) to nine (9) members constitutes a "reorganization" First, for the reasons outlined above, I conclude that the expansion of the MVAC would work a reorganization which is prohibited by the Grant Assurances. Although the statute permits the

County to appoint up to eleven (11) members, there were seven (7) members on the Commission at the time of the execution of the Grant Assurances. Thus the expansion is prohibited unless authorized by the express written approval of the Aeronautics Division.

To that end the County argues there is a genuine issue of material fact as to whether the County obtained the express written approval of Aeronautics. I see nothing in the summary judgment record to suggest that the written approval of Aeronautics was obtained nor is there any record evidence to support the proposition that the requirement was waived.

C. The Treasurer's Refusal to Pay Invoices.

The Treasurer has justified her refusal to pay invoices approved by the MVAC on the basis that they lack sufficient detail as required by G. L. c. 35, § 11. Her refusal, in my judgment, violates the requirements of the Grant Assurances.

As a threshold matter, the MVAC is authorized by statute to expend funds and make contracts for the operation of the Airport. While the County may argue that legal services are not necessary for the operation of the airport, this argument, as amply demonstrated by the very existence of this lawsuit, is meritless. There is nothing in the provisions of G. L. c. 90, § 51E that gives the County Treasurer veto power over the MVAC's expenditures. Nevertheless, the County posits that the provisions of G. L. c. 35, § 10, which provides that "the Treasurer shall collect, receive and safely keep all money belonging to the county, and disburse it according to law" and § 11, which requires that invoices contain sufficient detail, authorize the Treasurer's refusal. The problem with that argument is that the bills of the MVAC do not constitute "county indebtedness." It is undisputed that the MVAC is financially self-sufficient and that no County funds are expended for its operations. As such, the Treasurer possesses no statutory oversight

concerning these invoices.

Moreover the Treasurer's refusal to pay the MVAC-approved invoices violates the provisions of the Grant Assurances which require the County to take no steps which in any way interfere with the autonomy, i.e., independence, see Webster's Third New International Dictionary 148 (3rd ed. 1981), of the MVAC.

D. The County Treasurer's Unilateral Attempt to Obtain and Disclose Confidential Attorney-Client Communications Between the MVAC and its Attorneys and Release of That Information to the Public

It is an undisputed fact that the County Treasurer has attempted to obtain information from the MVAC's attorneys as to just what legal services were provided to the MVAC in order to justify payment. She has no right to do so for three reasons. First, as explained above, she has no statutory oversight over these invoices. Second, I conclude that an inquiry into the subject matter of the invoices violates the provisions of the Grant Assurances, which requires that the County take no action that interferes with the autonomy of the Airport. Finally, her actions trample on the attorney-client privilege. It well established that communications between government agencies and agency counsel are protected by the privilege as long as they are made confidentially and for the purpose of obtaining legal advice for the agency. See *Suffolk Cons. Co. v. Div. of Capital Asset Mgmt.*, 449 Mass. 444, 450-452 (2007). The privilege, which belongs to the MVAC, and not the County Treasurer, shields from the view of third parties all such confidential communications between the MVAC and its attorneys. See, e.g., *Matter of a John Doe Grand Jury Investigation*, 408 Mass. 480, 481-482 (1990). Moreover enactment of the public records law, G. L. c. 66, § 10, and G. L. c. 4, § 7, did not extinguish the protection provided by the attorney-client privilege to public officers or employees and governmental entities subject to that

law. *Suffolk Cons.*, 449 Mass. at 460.

E. Standard for the Issuance of a Permanent Injunction

The defendants finally argue that the standards for the granting of a permanent injunction have not been met. They argue that the standard for obtaining a permanent injunction differs from that of a preliminary injunction. The standard for granting permanent injunctive relief is the same as the test used for granting preliminary injunctive relief, except that "the movant must show 'actual success' on the merits of the claim, rather than a mere likelihood of success." *K-Mart Corp. v. Oriental Plaza, Inc.*, 875 F.2d 907, 915 (1st Cir. 1989); see also *Caroline T. v. Hudson School Dist.*, 915 F.2d 752, 755 (1st Cir. 1990). Further, the plaintiffs need not show irreparable harm when they are "the government or a citizen, as a private attorney general to enforce a statute or a declared policy of the Legislature" *LeClair v. Town of Norwell*, 430 Mass. 328, 331 (1999).

In such circumstances, a court must first consider whether the plaintiffs prevailed on the merits, and then determine whether injunctive relief will benefit or harm the public interest. *Id.* at 331-332, citing *Commonwealth v. Mass. CRINC*, 392 Mass. 79, 89 (1984). Hence, the public interest is a factor in this Court's determination in whether to grant the MVAC permanent injunctive relief. Thus, the only consideration left to determine is whether the public interest would be benefitted or harmed by granting a permanent injunction.

Here, I find the grant of a permanent injunction satisfies the public interest in several important particulars. First, it is in the public interest that the funding provided by the Grant Assurances not be jeopardized in order to ensure that the Airport be safely and efficiently

operated. Secondly, it is in the public interest that the MVAC have access to quality legal counsel in order to ensure that its operates in accordance with the law. Third, it is in the public interest that the MVAC's bills are promptly paid. Finally, there is no showing that the grant of the requested relief will adversely affect the public interest.

THE DEFENDANTS' CROSS-CLAIMS FOR SUMMARY JUDGMENT

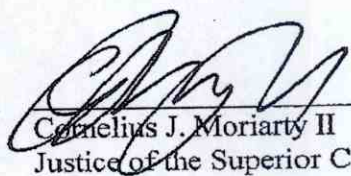
The defendants here seek declaratory relief which in effect seeks to declare that all of the actions taken by the County and the County Treasurer are authorized by law. The MVAC first counters that the Cross Motions for Summary Judgment must be denied because of the alleged failure of the defendants to comply with Superior Court Rule 9A(b)(v). Whatever the merits of that argument might be, there is no reason why the defendants' motion should not, at this stage, be decided on the merits. Accordingly, because I have decided all of the plaintiff's claims favorable to it, it follows as a logical consequence that the defendant's motions must be **DENIED**.

CONCLUSION AND ORDER

For the reasons stated, plaintiff's Motion for Summary Judgment is **ALLOWED** and the Defendants' Cross Motion for Summary Judgment is **DENIED**. Accordingly, it is **ORDERED** that: (1) The County is enjoined from appointing the County Manager to the MVAC as an ex-officio, non-voting member; (2) the County Manager is enjoined from serving in any such capacity; (3) the County Treasurer is enjoined from refusing to pay invoices approved for payment by the MVAC; (4) the County Treasurer is enjoined from obtaining privileged or confidential communications between the MVAC and its attorneys without the consent of the MVAC; (5) the County Treasurer is enjoined from releasing privileged or confidential

communications between the MVAC and its attorneys to the public; (6) the County is enjoined from expanding or reducing the size of the MVAC from seven (7) members without the express written approval of the Aeronautics Division; and, (7) the County is enjoined from in any way interfering with the autonomy or the authority of the MVAC without the express written approval of the Aeronautics Division.

DATE: June 8, 2015



Cornelius J. Moriarty II
Justice of the Superior Court