

OFFERED BY COUNCILOR KENZIE BOK AND MICHAEL FLAHERTY



## CITY OF BOSTON IN CITY COUNCIL

AN ORDINANCE TO PROVIDE FOR LEGAL  
REPRESENTATION OF THE BOSTON GROUNDWATER  
TRUST BY THE CITY OF BOSTON LAW DEPARTMENT

- WHEREAS,** In 1986, the Boston City Council established the Boston Groundwater Trust (“Trust”) to monitor groundwater levels in areas of the city where foundations are threatened by low levels and to make recommendations to solve the problem; *and*
- WHEREAS,** In 1997, the Mayor of Boston appointed a new Board of Trustees, who are unpaid volunteers, and who discovered existing groundwater observation wells that had been installed on public property for various projects and incorporated them into a comprehensive monitoring network; *and*
- WHEREAS,** In 2005, the City of Boston and the Commonwealth of Massachusetts came together to sign a Memorandum of Understanding creating a City-State Groundwater Working Group that includes all of the public agencies responsible for the underground infrastructure, who have pledged to work together to understand the causes of the problem and to repair those problems for which they are responsible; *and*
- WHEREAS,** The City of Boston has established a Groundwater Conservation Overlay District that requires people building or renovating properties in the affected area to make sure that their projects will not cause any reduction in groundwater levels and to incorporate systems that will recharge rainwater into the ground instead of sending it into the streets and storm drains; *and*
- WHEREAS,** The Corporation Counsel of the City of Boston has opined that the trustees of the Trust, as well as the Trust’s officers, members, employees, and volunteers as well as every other person who shall, on a part time and consultative basis, perform any professional services for the Trust, cannot be deemed to be “officers or employees” of the City of Boston for the purposes of City of Boston Code, Ordinance, § 5-8.1 (the “Opinion”); *and*
- WHEREAS,** As a result of this Opinion, the City of Boston Law Department will not, on application, advise any trustee, officer or employee of the Trust on any question of law connected with the discharge of their official duties, and will not appear as Counsel in any suits, actions, or prosecutions which may involve the rights or interests of the Trust, and defend the trustees, officers or employees of the Trust in

suits against them for their official actions, or for the performance of their official duties, or when any estate, right, privilege, interest, ordinance, act, or direction of the Trust is brought in question; *and*

***WHEREAS***, The Board of Trustees are unpaid volunteers who promote the public health, safety, convenience, and welfare of the residents of the City of Boston by monitoring groundwater levels and making recommendations to raise, restore, or protect the water table in areas where it is low to protect wood pile and other types of foundations of buildings with the City of Boston, and without the needed legal representation by the City of Boston Law Department, the Trustees will be unable to continue to freely work on behalf of the residents of City; ***NOW, THEREFORE***

***Be it ordained by the City Council of Boston as follows:***

**Section 1.**

The City of Boston Code, Ordinances, Chapter 5, Section 8.1 is hereby amended by adding the following after “and may settle any suit against the City.”:

All trustees, officers, members, employees, and volunteers as well as every other person who shall, on a part time and consultative basis, perform any professional services for the Boston Groundwater Trust, shall be advised, on application, by the City of Boston Law Department on any question of law connected with the discharge of their official duties. The City of Boston Law Department shall appear as Counsel in any suits, actions, or prosecutions which may involve the rights or interests of the Trust, and defend the trustees, officers, employees, or volunteers of the Trust in suits against them for their official actions, or for the performance of their official duties, or when any estate, right, privilege, interest, ordinance, act, or direction of the Trust is brought in question; the City of Boston Law Department may take such steps, and incur such expenses, for the prosecution and defense of suits as the Corporation Counsel deems necessary; and the City of Boston Law Department shall look into the potential settlement of a claim when requested so to do by the co-chairs of the Trust and, if the Corporation Counsel deems such settlement advantageous to the Trust, may settle any claim or suit against the Trust, with the concurrence of the Board of Trustees of the Trust.

**Section 2.**

The provisions of this ordinance are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions, which remain in full force and effect.

**Section 3.**

The provisions of this ordinance shall be effective immediately upon passage.

Filed on: August 13, 2021



**RECEIVED**

By City Clerk at 4:20 pm, Nov 04, 2021

# BOSTON CITY COUNCIL

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## COMMITTEE HEARING NOTICE

November 4, 2021

The Boston City Council's Committee on Government Operations will hold a hearing on **Monday, November 15, 2021 at 10:00 AM**. This hearing will be held virtually.

The subject of the hearing is:

***Docket #0900, ordinance to provide for legal representation of the Boston Groundwater Trust by the City of Boston Law Department.***

This matter was sponsored by Councilors Kenzie Bok, Michael Flaherty, and Lydia Edwards, and was referred to the Committee on August 18, 2021.

NOTICE: The Boston City Council may have a quorum in attendance due to standing committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the standing committee.

**Attendance** In accordance with Chapter 20 of the Acts of 2021, modifying certain requirements of the Open Meeting Law and relieving public bodies of certain requirements, including the requirement that public bodies conduct its meetings in a public place that is open and physically accessible to the public, the City Council will be conducting this hearing virtually. This enables the City Council to carry out its responsibilities while adhering to public health recommendations and ensuring public access to its deliberations through adequate, alternative means. The public may watch this hearing via live stream at [www.boston.gov/city-council-tv](http://www.boston.gov/city-council-tv) and via broadcast on Xfinity 8/RCN 82/Fios 964.

**Public Testimony** Written testimony may be sent to the Committee or staff email (below) and will be made a part of the record and available to all Councilors. Members of the public wishing to testify virtually via videoconference should email the staff contact for a link and instructions to do so.



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For the Committee:

Lydia Edwards, Chair  
Committee on Government Operations

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**Staff Contact:** Michelle A. Goldberg

**Committee Email:** [ccc.go@boston.gov](mailto:ccc.go@boston.gov)

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**Broadcast on Xfinity 8/RCN 82/Fios 964 and streamed at:** [boston.gov/city-council-tv](http://boston.gov/city-council-tv)