



OVERVIEW

Lt. Pedrini Incident and Subsequent Town and Police Actions.

Prepared by the Arlington Legal Department

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I. Lt. Pedrini's Writings

In October of 2018, Town personnel were notified of a series of columns written by Arlington Police Department ("APD") Lieutenant Rick Pedrini for the Massachusetts Police Association newsletter "The Sentinel." As reported in MassLive, WBUR, and other news outlets, Lt. Pedrini's "Man on the Street" columns called for officers to meet "violence with violence." He further asserted "[i]t's time we forget about 'restraint', 'measured responses', 'procedural justice', 'de-escalation', 'stigma-reduction', and other feel-good BS that is getting our officers killed," apparently in response to the recent murder of two Yarmouth police officers in the line of duty.

Lt. Pedrini's writings furthermore criticized criminal justice reform efforts generally, analogized illegal immigration to Pearl Harbor, and castigated a wide swath elected officials, local policies, and civil rights advocates."

The Town Manager placed Lt. Pedrini on administrative leave and condemned his writings the same day. The Manager, and then Police Chief Fred Ryan issued the following statements on October 30, 2018:

"I am deeply disturbed by the apparent disregard for human life and for the duty of a police officer shown by Richard Pedrini in the Massachusetts Police Association newsletter. These comments do not represent the mission and values of the Arlington Police Department or the Town of Arlington. The sentiment raised by these comments is disturbing. The Town is taking these comments very seriously, and we will thoroughly investigate this matter."

Town Manager, Adam Chapdelaine

"The columns written by Mr. Pedrini in the Sentinel newsletter directly contradict the values, morals and mission statement of the Arlington Police Department. Such remarks risk eroding the public trust that municipal police departments in Massachusetts have worked so hard to build in recent years. I disavow the remarks in the strongest possible terms, and this matter will be dealt with swiftly and certainly."

Police Chief Fred Ryan

II. Town Investigation, Restorative Justice & Discipline

A. Investigation & Process Considerations

In the weeks that followed Lt. Pedrini's placement on administrative leave, the Town's management and human resources teams, including the Town Manager and Chief Ryan examined Lt. Pedrini's writings and considered its options for discipline.

As a unionized employee with a collectively bargained contract, and also covered by civil service laws, any discipline meted out is subject to process and review before either an arbitrator or the Civil Service Commission. For example, absent agreement to the contrary M.G.L. c. 31 (the Civil Service law) requires that employees covered by civil service be granted a hearing before a suspension of more than five (5) days can be issued.¹

Further, while the labor and personnel considerations in any serious employee discipline scenario are complex, several general principals are important to note. For one, the law favors progressive discipline, which means that sustainable discipline options available for management are informed by employees' past disciplinary record and overall record of service. In this instance, Lt. Pedrini's record over his twenty-five (25) years of employment with APD was a relevant consideration.

Second, employee discipline is part of personnel file records, which are exempt from public records disclosure in the interests of protecting public employee's privacy rights.² Given that prior conduct by employees factors into the sustainability of any discipline against them *and* that employee personnel records (including discipline) are not to be disclosed to the public, it is challenging both to make direct comparisons to employment decisions in other cities and towns and to effectively communicate with the public on matters of public concern.

¹ It may be helpful to note that these considerations are not synonymous with other legal issues often broadly referred to under the umbrella of "employment law." The Town additionally considered whether or not the qualified First Amendment rights of public employees were relevant to an employment decision. However, the primary lens was the rights and responsibilities of public sector employers and employees, specifically police officers, under Massachusetts labor and civil service laws.

² See e.g., "A Guide to the Massachusetts Public Records Law," January 201, William Francis Galvin, Secretary of the Commonwealth, Division of Public Records, pp. 14-15 (discussing privacy exemption and personnel records); *Worcester Telegram & Gazette v. Chief of Police of Worcester*, 58 Mass. App. Ct. 1, 5 (2003).

B. Decision: Complimentary Restorative Justice & Conventional Discipline

After concluding the Town's investigation, the Town Manager was determined to implement a dual and complimentary approach to addressing the wrongs of, and harm caused by Lt. Pedrini's writings. The Town initiated a Restorative Justice ("RJ") process to reckon with the hurts Lt. Pedrini had visited upon a variety of people within the Arlington community consistent with the Town's values of fostering community input and reconciliation. The Town would also pursue conventional discipline for more conventional purposes, including suspension and other measures consistent with aforementioned progressive discipline principals. In summary, the Town Manager believed that utilizing both RJ and conventional discipline would achieve a broader range of results than either measure could or would in isolation. The Town's decision and approach was outlined in a statement to the community on February 21, 2019.³

1. Restorative Justice Process

A pre-requisite to an RJ Process is a viability meeting. The Town retained Communities for Restorative Justice, Inc. to explore and develop an RJ approach appropriate for the circumstances. As has been widely reported, there was some initial internal concern about Lt. Pedrini's ability to engage in an RJ process. The viability meeting with the Lieutenant was led by Communities for Restorative Justice and provided sufficient evidence of Pedrini's remorse to move forward.

Thereafter, a restorative circle was held over the course of several sessions with Lt. Pedrini, Town, and APD leaders. One of the primary goals of the first circle was to develop a restorative agreement that outlined work to be done and expectations to restore the harm. The restorative agreement included commitment to further restorative circles with a broad range of stakeholders, especially representatives of those most acutely harmed.⁴

A second restorative circle with community stakeholders, including the Arlington Human Rights Commission was planned. Members of the community were also invited to provide community statements describing the harm cause by Pedrini in the aforementioned February 21, 2019 Notice. One hundred and fourteen (114) such statements were collected and shared in the second restorative circle.

Before the second restorative justice circle was held, the Arlington Human Rights Commission ("AHRC") received criticism both about the use of RJ in the context at issue, and the AHRC's participation. The AHRC voted to limit its participation in the RJ process to receiving community statements.

The second restorative circle commenced with nine community members in addition to members of the first circle. These community member participants included

³ <https://www.arlingtonma.gov/Home/Components/News/News/9160/16?backlist=%2F>

⁴ The specifics of restorative agreements as well as restorative circle discussions are generally kept confidential in any context.

representatives of recent immigrant, African-American, Asian-American, and faith communities, as well as people of lower income in Arlington. The second circle was supported by nearly 20 hours of preparation by Communities for Restorative Justice, including individual and conference calls, surveys and de-briefings for community participants. Based on six hours of dialogue within the second circle over several sessions, the Town Manager added elements to the restorative justice agreement, including commitments by Lt. Pedrini to:

- Issue an apology to the community;
- Share what he has learned about his harms and from the RJ process with his fellow APD officers;
- Engage in further community dialogues to redress his wrongs; and
- Attend trainings with both the Police Chief and community members to facilitate a better understanding of the communities he harmed.

2. Conventional Discipline

In conjunction with RJ, the Town also pursued and levied conventional discipline. As noted previously, municipal employees hold privacy rights which preclude the public disclosure of their personnel file, including their disciplinary record. Accordingly, the Town cannot offer more detail than provided in the [Town Manager's August 8, 2019 Open Letter to Town residents](#), which is that Lt. Pedrini was subject to a significant suspension, and placed on an administrative assignment for at least 60 days upon his return to work.

In summary, once the Manager determined he did not believe termination was the best course of action, he considered alternative options and believed that both conventional discipline and RJ would combine to provide both the sustainable penalties and conciliation dialogue needed to rebuild trust and foster healing.

III. Pedrini Apology, Trainings, Informal Public Engagement & the Consensus Building Institute

A. Lt. Pedrini's Progress to Date

As committed within the restorative agreement, Lt. Pedrini has taken the following steps to date:

- Issued a public apology to the community. Lt. Pedrini's apology opens as follows:

I would like to take this opportunity to apologize for my comments published in editorials that I authored in the MPA Sentinel Magazine. I'd like to take every opportunity to try to grow as a person and learn from my mistakes. Upon reflection, I now realize that I was careless and crude. For this I am truly sorry and I apologize to everyone that I have offended or hurt in any way with these articles. I realize my words have damaged the well-earned relationship of trust and respect between the department and the community and I especially want to personally apologize to both the entire staff of the Arlington Police Department and the greater community as a whole. I was insensitive in my commentary on issues of great import and I was wrong. I take full responsibility for this.

The full text of his apology may be found on the Town's website here:

<https://www.arlingtonma.gov/Home/Components/News/News/9382/16?backlist=%2f>

- Participated in the following trainings over the summer and fall of 2019:
 - "Implicit Bias" with Harvard University Professor Mahzarin Banaje;"
 - "Changing Perspectives, A Fair and Impartial Policing Approach," United States Department of Justice COPS Program;
 - "Procedural Justice: Roll Call Training for Law Enforcement," United States Department of Justice COPS Program
 - "Procedural Justice and Implicit Bias," Captains Dunn and Batchelor, Chelsea Police Department; and
 - "Recognizing Hate: Why Symbols Matter," with Combined Jewish Philanthropies; and
 - ADL Law Enforcement Presentation-ADL, with Robert Treston

- Served a significant suspension and returned to work on an administrative assignment.

B. Informal and Formal Public Engagement

In addition to processes the Town undertook during the RJ process, and would later take as described below, the Town Manager and Chief of Police Juliann Flaherty engaged in a steady series of informal meetings, and shared detailed exchanges of correspondence with community leaders and stakeholders, particularly those who have expressed significant anxiety and frustration with the Town’s process and decisions throughout the year. Since the incident, the Manager has met with more than twenty (20) groups or individuals who have expressed concern about Lt. Pedrini to listen to and communicate with such parties. Similarly, Chief Flaherty engaged in forty (40) similar, informal meetings and discussions, and solicited further engagement.

Supplementing more formal process, such opportunities proved valuable both in formulating next steps and clearing up some public misapprehensions about the process and options available to the Town. In this vein, the Manager agreed with many concerned parties that formal third-party facilitation was and remains needed to move to the next stage of working with Lt. Pedrini and the public to redress harm. The Manger also provided an “Open Letter to the Community from Arlington Town Manager Regarding Lt. Pedrini” on August 8, 2019 to update the community on the status of efforts to that date, clarify the Town’s approach and considerations, and outline future steps. A fully copy of the letter can be found here:

<https://www.arlingtonma.gov/Home/Components/News/News/9636/16?backlist=%2fhome>

On September 9, 2019, the Select Board, while limited in its role in any personnel matter,⁵ reviewed the Town Manager’s statement and plan for continuing to address community harms. Many of those who have been concerned about Lt. Pedrini and/or the Manager’s decisions presented their perspectives at such meeting. The Select Board voted to support the Manager and APD’s ongoing efforts to address the many challenging problems at stake, while also emphasizing that the work is not yet complete. Following such meeting, many concerned persons have utilized “Open Forum” time at Select Board meetings, including on September 23, 2019 and October 17, 2019 to further articulate their perspectives, positions, and proposals relative to Lt. Pedrini.

⁵ Section 15(c) of the Town Manager Act vests the Town Manager with the sole authority to hire, discipline, and terminated most Town employees subject to conditions of collective bargaining and civil service status (G.L. c. 31). A modest area of confusion may be why the Select Board in some communities is more involved in personnel decision, but not in Arlington. In short, like many other communities with a “Strong Manager” system, Arlington chose to vest such authorities in a Manager rather than elected officials. Thus, the Select Board must exercise care to not interfere with managerial personnel decisions; a practice also reflected in their Handbook.

C. CBI & Work Remaining for Pedrini & the Town

Consistent with the restorative agreement, the Town committed to developing further means by which the Lieutenant specifically, but APD and the Town generally as well, could have further dialogues with broader groups of community members about the harms caused by Pedrini's writings, concerns about racism and policing of vulnerable communities. To realize such a goal, the Town retained the services of the Consensus Building Institute ("CBI"), an internationally respected and independent third-party facilitator charged with gathering further perspectives of community stakeholders in confidential small-group settings with residents and Town officials. Twenty-two (22) individuals participated over the course of four (weeks) through June and July, including many who have most directly and strenuously voiced objections and concerns about the Town's approach and process, members of the AHRC, and limited Town Management staff.

CBI's report details myriad perspectives, frustrations, and proposals from participating community members. The Town takes note that concerns and proposed solutions are not monolithic, were sometimes conflicting, and in some cases, were not legally tenable options.⁶ The information gathered from the CBI, while at times challenging to Town officials was healthy and valuable for determining how to continue the process.

A full copy of the CBI Report can be found here:

<https://www.arlingtonma.gov/Home/ShowDocument?id=47757>

⁶ For example, the Town having reached a decision on conventional discipline, it may not under labor and civil service rules disregard such decision and start over. Lt. Pedrini is also not employed on a contract that is set to expire, but rather is a union employee who continues employment regardless of expiration of a specific CBA with his union. Similarly, the Town cannot waive confidentiality privileges that belong to an employee.

IV. APD Activity and Complaint Snapshot

One of the most critical concerns that the Town has heard from the affected members of our community is about whether Lt. Pedrini’s writings are reflected in a deeper or wider sense at APD and/or whether residents and visitors of Arlington feel safe relative to APD officers’ policing activities. The work remaining before us is one of the chief ways we will address those concerns. That work should however be set within a context formed at least in part, by current data about policing in Arlington.

4 YEAR SNAPSHOT OF APD ACTIVITY				
	2017	2018	2019	2020⁷
USE OF FORCE REPORTS	8	6	1	4
FIREARM SHOWN	2	1	0	0
ARRESTS	138	118	75	36
PROTECTIVE CUSTODY	7	2	7	10
MENTAL HEALTH/SECTION 12	254	139	169	175

As seen above, over the last three years and nine months the number of arrests in Arlington is on the decline, as are the number of incidents where a “Use of Force” report is filed.⁸ Force was also employed sparingly within the total number of arrests in each year. Moreover, a large volume of APD responses have been oriented towards requests for mental health admissions. No officer has discharged a firearm in the last three years and nine months in the line of duty, and service firearms have been shown (drawn upon a suspect for any reason) only three times within that period of time.⁹ This data corroborates that APD’s training and commitment to de-escalation and other alternative forms of maintaining public safety, such as its use of social workers and partnerships with the Arlington Health Department, and local and regional organizations have been successful in reducing the total number of arrests and incidents of force.

4 YEAR SNAPSHOT OF PROFESSIONAL STANDARDS COMPLAINTS

⁷ 2020 data is provided to the date of this writing.

⁸ Police officers who employ any application of force through the use of lethal and or non-lethal weapons, use striking techniques, or any force including weaponless force are required to document the incident in a Use of Force Report.

⁹ The last time an APD officer discharged a firearm in the line of duty was January of 2014 when an APD officer responded to an armed robbery in progress committed by two white suspects. As with any shooting case, an independent investigation was conducted by the Middlesex District Attorney’s Officer, which found the officer’s actions justified and in compliance with applicable laws and standards.

	2017	2018	2019	2020
TOTAL COMPLAINTS/APD INVESTIGATIONS	6	7	2	5
TOTAL CITIZEN COMPLAINTS	3	5	0	3
TOTAL SUSTAINED AGAINST OFFICERS	3	1	1	*
TOTAL NO VIOLATION/EXONERATED OFFICERS	7	3	0	*

*2020 Professional Standards Complaints have not yet reached final determinations.

It may also be helpful to examine both APD and civilian-initiated complaints and inquiries known as “Professional Standards” investigations in Arlington.¹⁰ In addition to the above general data, it should be noted that of the total twenty (20) Professional Standards complaints in such a time period, four (4) of which were levied against APD administrative personnel. Of the remaining sixteen (16) complaints against officers, only four (4) in the last nearly 4 years involved a stop or arrest of some kind, including motor vehicle citations. None involved impermissible use of force.

The Town provides this data in the interests of informed debate and discussion, not to excuse or limit the impact of Lt. Pedrini’s words and actions. Nonetheless, it is the perspective of the Town and APD that the above data is representative of a modern and effective Police Department which has embraced progressive policing policies consistent with the values of the community.

In keeping with those policies, especially given the breach of public trust involved in this matter, Chief Flaherty conducted a bias assessment of the entirety of APD in January/February 2020 with Visions Inc. Read their report Arlington Police Department: Diversity, Equity, and Inclusion Climate Assessment:

<https://www.arlingtonma.gov/home/showdocument?id=52062>

¹⁰ APD receives civilian initiated complaints in person, by phone, or by mail. Complaint forms are available on APD’s webpage, which also describes the investigatory process and the role of the Office of Professional Standards: <https://www.arlingtonma.gov/departments/police/about-apd/professional-standards>

Chief Flaherty also implemented or scheduled the following non-exhaustive list of trainings for APD officers and staff:

- “Improving Public Perception of the Police: Winning Back Your Community,” (for Command Staff) – Dolan Consulting Group – completed August 2019;
- Improving Services and Climate for LGBTQIA+ Community – MaeBright Group, LLC & the Arlington Rainbow Commission – completed August 2019;
- Procedural Justice and Implicit Bias, with the Chelsea Police Department – completed September 2019;
- Restorative Justice- Roll Call Trainings - C4RJ – completed September 2019;
- “Recognizing Hate: Why Symbols Matter” – Combined Jewish Philanthropies – completed October 2019;¹¹

Moreover, the Town Manager is providing training to all Town department managers and supervisors run by the National League of Cities and their Race, Equity and Leadership Division (REAL) on race and equity, part of which was completed before the interruption on the COVID-19 pandemic.

V. Present Stage

At the outset, it must be acknowledged that in the Town’s view, issues of race and equity are larger than Lt. Pedrini and his writings. Both before and after this incident, the Town, through its professional staff, volunteers, departments, boards, committees, commissions, and Town Meeting, has been engaged both internally and with the community on race, equity, and inclusion. From the establishment of its Human Rights Commission and Disability Commission in the early 1990s, to the more recent creation of the Rainbow Commission, APD bias and deescalation trainings and emphasis on stigma reduction and community policing (all of which predate Lt. Pedrini’s writings), and the creation of a Diversity, Equity and Inclusion Coordinator position for the Town, this community has demonstrated its commitment to broader reckonings with racism and other forms of discrimination and undoubtedly must and will continue such work.

Indeed it bears recalling that in December of 2014, then Police Chief Ryan and other members of APD worked with and joined members of Arlington’s Diversity Task Group, Human Rights Commission, faith leaders, and others in holding a Black Lives Matter vigil on street corners of Arlington following the events in Ferguson, Missouri and Staten Island, New York. Thus, one

¹¹ Further trainings that were planned were postponed or cancelled for the time being due to the COVID-19 pandemic.

of the many reasons Lt. Pedrini's words had and have the impact they do is because they repudiated that work, including the work of the police department and his fellow officers.

Therefore, the work now before the Town, the community, and Lt. Pedrini relative to his actions is to translate the input from the CBI Report and other venues of public feedback to cultivate trust, healing, and a pathway forward in the wake of that repudiation and many associated individual and community harms.

The Town recognizes that a multitude of perspectives have been expressed on decisions, processes and outcomes to date, including a host of concerns. Among these are fears that Lt. Pedrini has not been sufficiently contrite or fully recognized the errors laden in his past writings; anxieties that other members of APD might harbor similar thoughts; and mistrust of Town Management based upon deep disagreement about the decision not to terminate Lt. Pedrini or employ an RJ process to his misconduct.

It also bears noting of course, that while this summary details information and stages of a process specific to Lt. Pedrini and the Town of Arlington, the broader context of the killings of George Floyd, Breonna Taylor, and others by police officers in other jurisdictions, and the national discourse surrounding policing and various forms of racism inform our community conversations. Further, the COVID-19 pandemic has impacted the day-to-day lives of all persons, including how we have those conversations. To both the ends of this process relative to Lt. Pedrini and broader dialogues and issues of racism and of policing, the Town hosted the following forums and community dialogues throughout the pandemic.

Community Outreach During Pandemic

The Town enlisted the help of Allentza Michel of Powerful Pathways, in collaboration with Jillian Harvey Arlington's Diversity, Equity and Inclusion Coordinator to help bring the community into the process. Powerful Pathways works to facilitate social change and racial justice work through consulting, programming and training to non-profits, government agencies and social enterprises. The pandemic has created unique challenges to this process, but Ms. Michel and Ms. Harvey have put in great efforts to include as many diverse voices as willing to participate. To date they have reached out to over 20 community groups, held community stakeholder meetings, and collected a wide variety of constructive feedback and commentary used to shape the public engagements. This community engagement has also helped to provide guidance to the Town in how they can address systemic racism. Their efforts to date are below, but the work is ongoing.

Community Conversations Held or Planned Related to Pedrini and Policing

June 1: Calling Out the Issues – A Time of Reflection and Action

Moderated by Jillian Harvey, DEI Coordinator and Allentza Michel, DEI Community Consultant- Powerful Pathways, the panel discussion with town leadership will reflect upon the roots of systemic racism, its implications for Arlington and acknowledge the calls for action now. Topics will cover town racial equity initiatives and goals, school data and racial disparities, and policing policies. Panelists will include Town Manager Adam Chapdelaine, Police Chief Juliann Flaherty, and Assistant Superintendent Dr. Roderick MacNeal Jr.

Monday July 27: VISIONS, Inc. Diversity/Equity/Inclusion Climate Assessment of APD

Dr. Michelle Holmes and Doug Weinstock of VISIONS, Inc. will be presenting on the Arlington Police Department: Diversity, Equity and Inclusion Climate Assessment and Final Report that they conducted in January. The presentation will review the process of conducting the assessment, and the findings and recommendations, along with information about review of several of the Department's policies.

September 22: Acknowledgement & Apology

The Town, in an effort to heal and bring together the Arlington community, has rescheduled the session with Lt. Pedrini for Tuesday September 22 at 7:00 p.m. To ensure that we have input from community members regarding the agenda, and in response to concerns raised, we will host a round table with select representatives of community groups.

Announcements

May 29, 2020: Arlington Issues Statement Regarding Death of George Floyd and Actions of Minneapolis Police:

<https://www.arlingtonma.gov/Home/Components/News/News/10225/494?arch=1>

June 11, 2020: APD Updates Use of Force Policy to Include Duty to Intervene:

<https://www.arlingtonma.gov/Home/Components/News/News/10268/494?arch=1>

June 11, 2020: Arlington Police Association Issue Statement Regarding Death of George Floyd and Actions of Minneapolis Police:

<https://www.arlingtonma.gov/Home/Components/News/News/10274/494?arch=1>

Finally, to those who may find it helpful, below is the Town's timeline of events that brings us to the work before us.¹²

VI. Timeline of Events

- Oct. 30, 2018 – Lt. Pedrini Writings Reported in Media and Conveyed to Town Management;
- October 30, 2018 – Lt. Pedrini placed on administrative leave and rebuked by Town Manager and Police Chief Statements;
- November – December 2018 Investigation and Initial Considerations by Town Management;
- January 2019 – RJ Process Development and RJ Viability Meeting;
- February 5, 2019 – First Restorative Circle with Town Officials;
- February 20, 2019 – Human Rights Commission Meeting with then Acting-Chief Flaherty and CR4J;
- February 21, 2019 – RJ Announcement and Solicitation of Community Impact Statements
- March 7, 2019 – Conference Call with Potential Community Representatives for Second RJ Circle
- March 14, 2019 – Second Meeting for First Restorative Circle
- March 15 – 20, 2019 – Development of initial Restorative Agreement, Development of Second Restorative Circle, and Conferences with Second Circle Community Members;
- March 20, 2019 – AHRC vote to withdraw from Restorative Circle

¹² The Town appreciates that throughout the time periods outlined below, community organizations and concerned individuals were often meeting, discussing, and debating the many important concerns at work independent of the Town's government. Further, not all associated Town boards and bodies which discussed to varying degrees either the broad themes or specific issues of this matter are represented.

- March 21, 2019 – First Session of Second Restorative Circle
- March 22 – 24, 2019 – Second Circle Follow-up, Surveys and Support
- March 25, 2019 – Second Session of Second Restorative Circle
- March 29, 2019 – Conventional Discipline Finalized
- March 29, 2019 – Town Officials Announce Resolution on Lt. Pedrini
- April 2019 – present – Informal Meetings between Town Manager or Police Chief
Community Stakeholders and Concerned Parties
- May 2, 2019 – Public Apology from Lt. Pedrini
- June 22 – July 24, 2019 – CBI Interviews and Meetings
- June 2019 – present – Lt. Pedrini Training per Restorative Agreement
- April 15, 2019 Lt. Pedrini Administrative Assignment Begins
- August 2019 – present – APD Supplemental Training
- August 8, 2019 – Open Letter from the Town Manager
- September 9, 2019 – Select Board Meeting Discussing Management of Lt. Pedrini
Misconduct and Future Work
- September 26, 2019 – CBI Report Completed and Released
- March 10, 2020 Visions Inc Report: Arlington Police Department: Diversity, Equity,
and Inclusion Climate Assessment (released July 22, 2020, delayed due to pandemic)
<https://www.arlingtonma.gov/home/showdocument?id=52062>