

Town of Auburn, Massachusetts

Julie A. Jacobson
Town Manager



August 8, 2016

Members of the Board of Selectmen:

The following report provides an analysis of legal expenditures for Fiscal Year 2016 (FY16) and an overview of legal expenditures over the past few years. Specifically, this report provides a comprehensive analysis of the legal expenditures for the period between July 1, 2015 and June 30, 2016 (FY16). The report also provides a six year comparison from FY11 through FY16 and an eight year comparison from FY09 through FY16.

I am pleased to report that the total legal expenditures for FY16 were \$97,775.90, which includes Town Counsel (\$87,799.40) and Labor Counsel (\$9,976.50) costs. Over the eight year period from FY09 to FY16, the FY16 total legal expenditures represent a 69.71% decrease (see Attachment 1). This is a 60.05% decrease over the six year period from FY11 to FY16 (see Attachment 2.)

An analysis of the legal expenditures for Town (General) Counsel shows expenditures in FY16 of \$87,799.40. This represents an eight year decrease of 31.40% since FY11 (see Attachment 3). Town Counsel expenditures decreased each year from 2009 to 2014, although the expenditures in FY15 increased by \$22,697.46 over FY14 due to several major legal matters which took place in FY15, particularly the Chapter 61A land purchase on Southold Road and the General and Administrative By Law Review process. In FY16, Town Counsel expenditures decreased by 6.2% over FY15 as the Southold Road and General By Law processes were both completed.

Attachment 4 shows the breakdown in Town Counsel expenditures in FY16 by category. The largest portion of expenditures was in Litigation under which \$35,842.66 or 40.82% of the total Town Counsel expenditures were generated. Legal matters related to zoning issues, enforcement and appeals at 196 Leicester Street account for 84% of the total litigation costs, or \$29,942.66. Issues within the Inspectional Services area accounted for \$26,997.50 or 30.75% of total Town Counsel expenditures. This includes zoning and code enforcement issues, complaints and research at several properties: 504 Rochdale Street, 514 Rochdale Street, 6 Meadow Street, 310 Leicester Street, 28 Millbury Street, and 12 Williams Street. Legal issues under Inspectional Services also includes work related to site plan review and conditions, review of road acceptance petitions, and Planning Board related issues. \$15,210.00 of total Town Counsel expenditures, or 17.32%, was related to general town

administration. This category includes determinations, review of Town Meeting warrants, review of proposed zoning bylaw amendments, and general legal questions and reviews.

Labor Counsel expenditures in FY16 totaled \$9,976.50, a one year decrease of \$14,119.18 or 58.60%. Over the six year period from FY11 to FY16, Labor Counsel expenditures have decreased 92.80% see (Attachment 5), while Labor Counsel expenditures decreased 90.26% over the eight year period from 2009 to 2015 (see Attachment 6.)

The low Labor Counsel expenditures in FY16 are particularly worth noting as ten municipal collective bargaining contracts expired on June 30, 2016 which necessitated collective bargaining negotiations from January through June of 2016. The Town Manager and Assistant Town Manager/CFO were the primary negotiators for all ten units, with department heads participating in the negotiations for units within their departments. We are proud that we were able to settle all ten bargaining contracts without mediation or arbitration and without assistance from Labor Counsel. Further, all Memorandum of Agreements and subsequent contracts were integrated in-house whereas this work had been outsourced to Labor Counsel prior to 2011. Parallel to the collective bargaining process, the Town Manager and Assistant Town Manager, along with the Human Resources Coordinator, spent several months negotiating health insurance reforms with sixteen collective bargaining units on both the municipal and school side. As a result, the Town and all sixteen unions were able to unanimously come to agreement and implement changes to co-pays and deductibles and implement strategies to reduce the increase in health insurance costs to the Town from 12% down to 2%. This process was completely handled by town administration which is estimated to have saved over one hundred thousand dollars in legal fees. I want to take this opportunity to thank all the bargaining units for collaborating with Town administration to collectively identify strategies to reduce the escalating cost of health insurance which, unfortunately, has continued to rise and which accounts for a significant portion of the operating budget.

Labor counsel expenditures for FY16 related to one personnel matter totaled \$5,329.50 or 53.42%. Grievances and agency matters totaled \$2,425.80 or 24.32% of the total Labor Counsel expenditures (see Attachment 7). There was not any litigation involving Labor Counsel in FY16, nor is there currently.

The Town of Auburn has two principal firms which are contracted to provide the legal services for the Town. Town Counsel (or General) services are provided by Robert Hennigan, Esquire, and his legal team while Labor Counsel services are provided by Mirick O'Connell through Attorney D. M. Moschos and the legal team in his firm. These two firms are responsible for their own overhead, compensation, fringe benefits, malpractice insurance, and staff support.

The two law firms provide a spectrum of legal services based upon the needs of the Town. This includes, but is not limited to, the following general categories of legal services:

- Collective bargaining
- Grievances
- Appeals
- Legal opinions
- Town Meeting preparation and article reviews

- Procurement Issues
- Contract preparation and review
- Significant personnel matters
- Litigation resulting from lawsuits filed against the Town and/or its employees
- Litigation from appeals filed as a result of regulatory board or commission action
- Legal interpretation of the Charter, By-Laws, or Massachusetts General Laws

To summarize, total legal expenditures are down over the six and eight year period. The ongoing decrease in legal fees over the past several years is attributable to the direction the Board of Selectmen established for the Town Manager to monitor and control legal fees as closely as possible. As a result, town administration continues to employ the services of both Town Counsel and Labor Counsel only when it is deemed necessary to do so. Town administration has also undertaken the collective bargaining process with the unions and has continued to work with the unions to resolve grievances wherever possible.

In addition to ongoing General Counsel matters (Town Meetings and warrants, contracts and agreements, appeals, legal opinions, etc.), it is anticipated that there will be a need for Town Counsel to become more involved in the Zoning By Law Review process in FY2017 as that process moves forward and is estimated to continue over the next two to three years. While the cost associated with any future litigation matters that may arise cannot be forecast, it is anticipated that the majority of FY16 litigation cases will continue into FY17.

I would like to express our sincere thanks and appreciation to both Town Counsel Robert Hennigan and his team and Attorney Dee Moschos and his team for the efficient, professional, responsive and effective manner in which they continue to represent the Town of Auburn. Attorney Hennigan and Attorney Moschos are highly respected in their fields of practice. Both attorneys have and will continue to provide excellent legal services to the Town.

Respectfully Submitted,

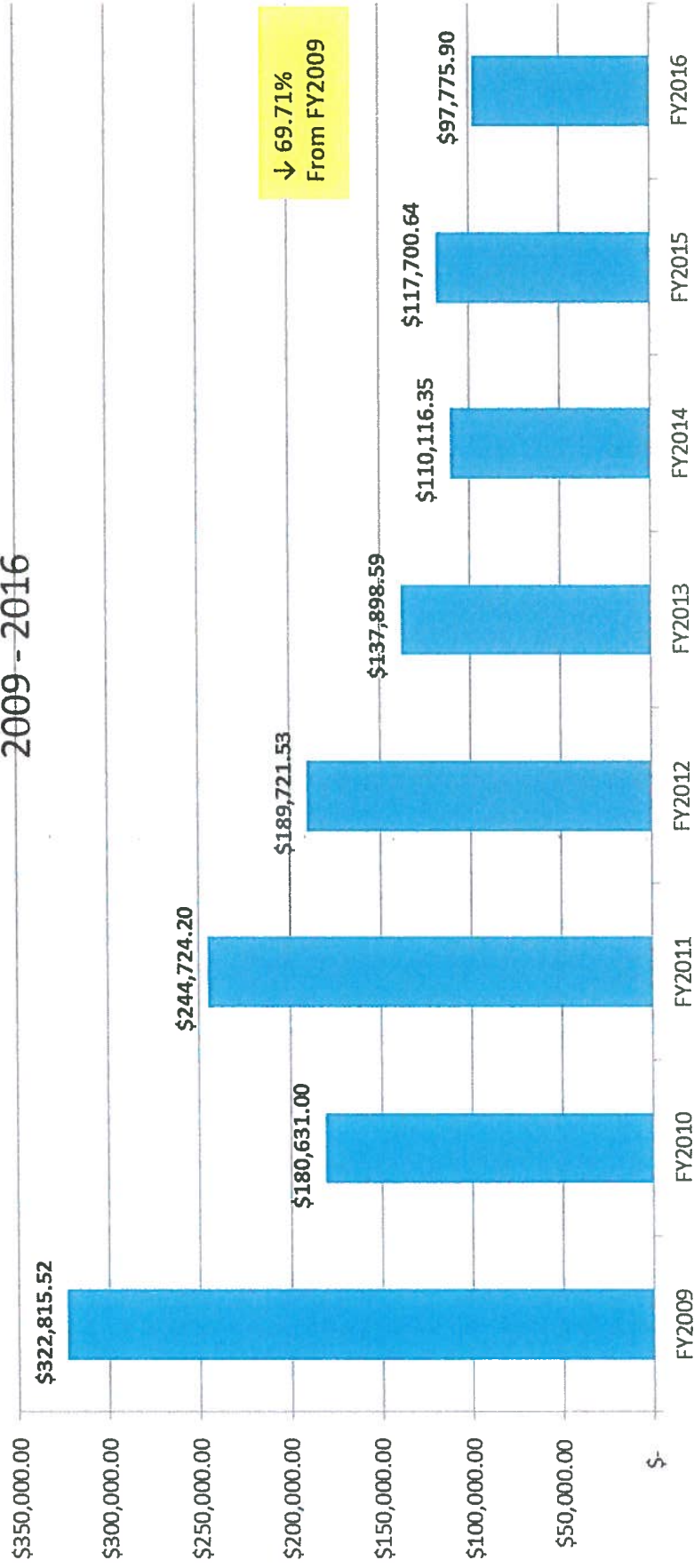


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Attachment 1

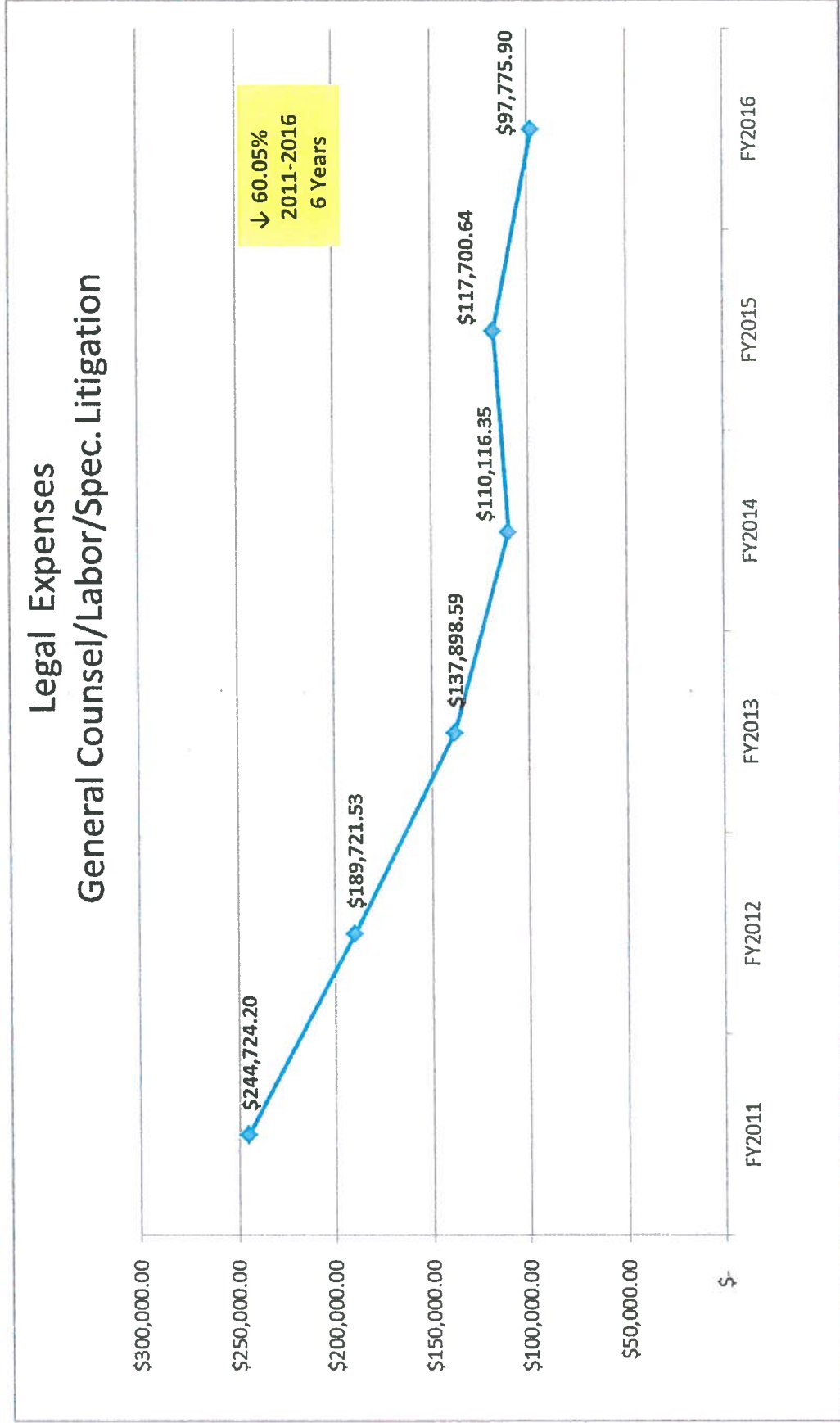
Total Legal Expenditures 8 Years 2009 – 2016

Legal Expenses General Counsel/Labor/Spec. Litigation 2009 - 2016



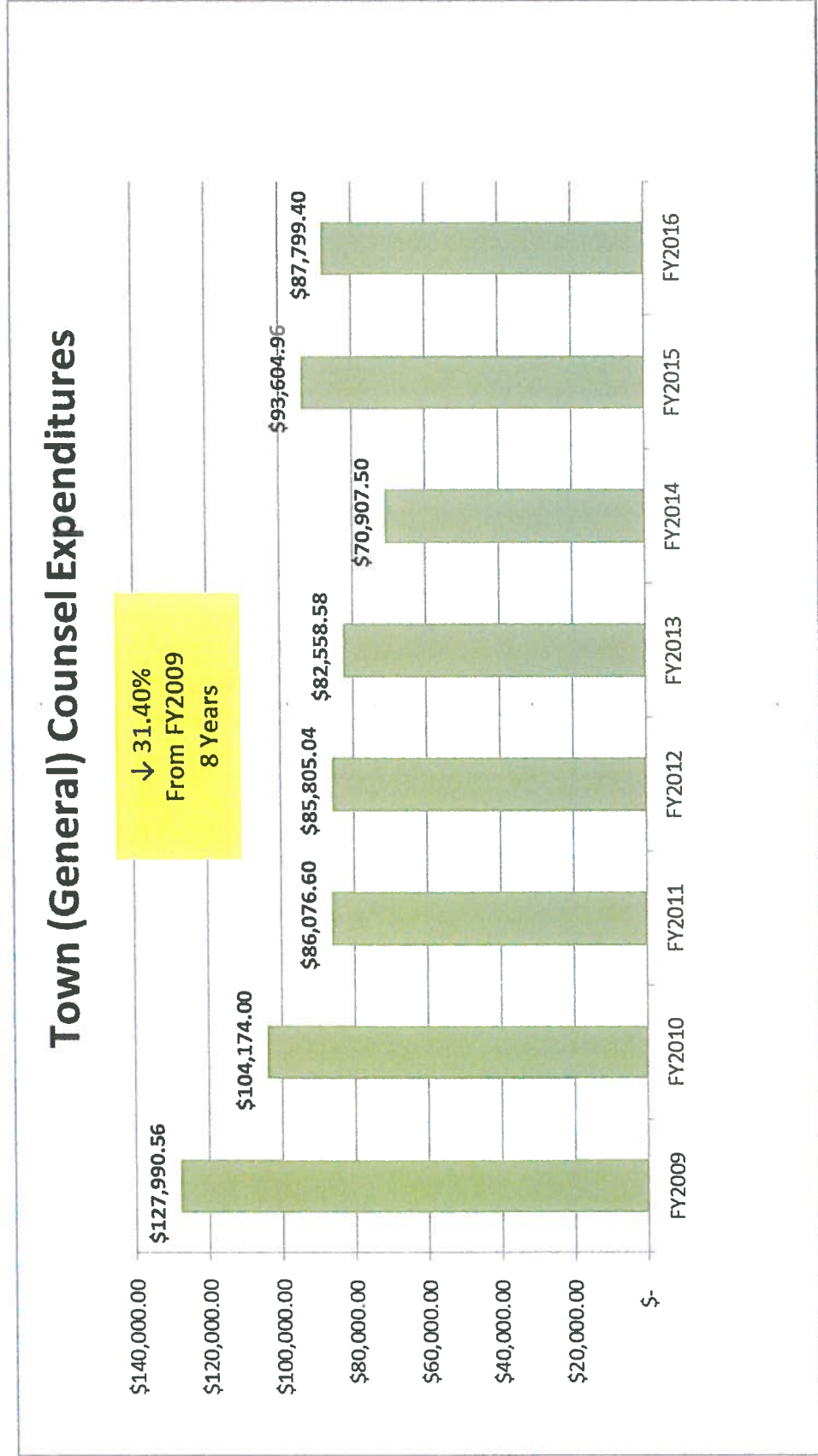
Attachment 2

Total Legal Expenditures Six Years 2011 - 2016



Attachment 3

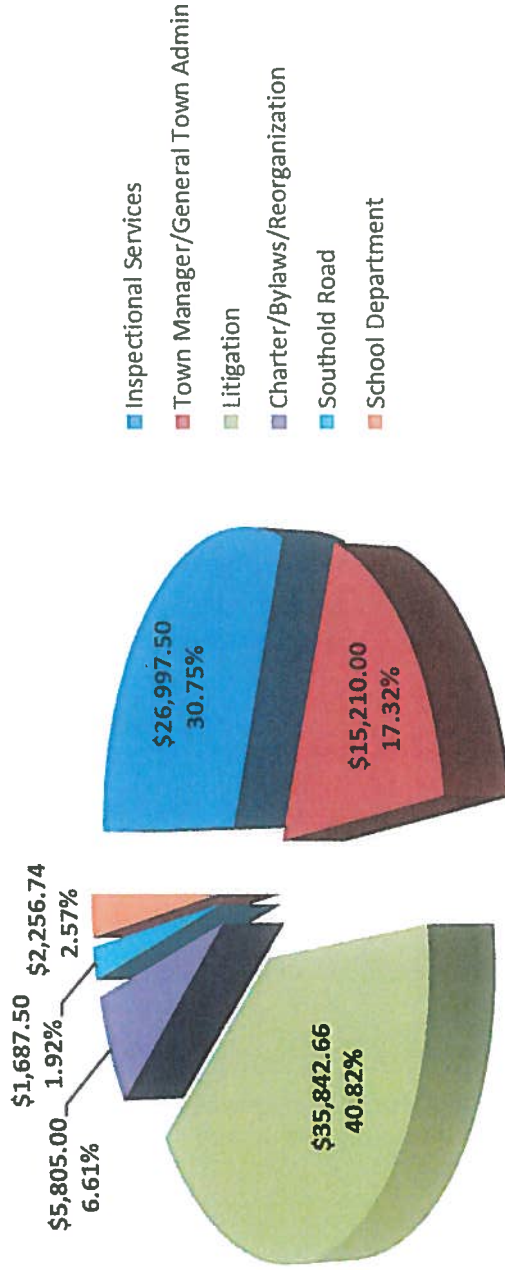
Town (General) Counsel Expenditures 2009- 2016



Attachment 4

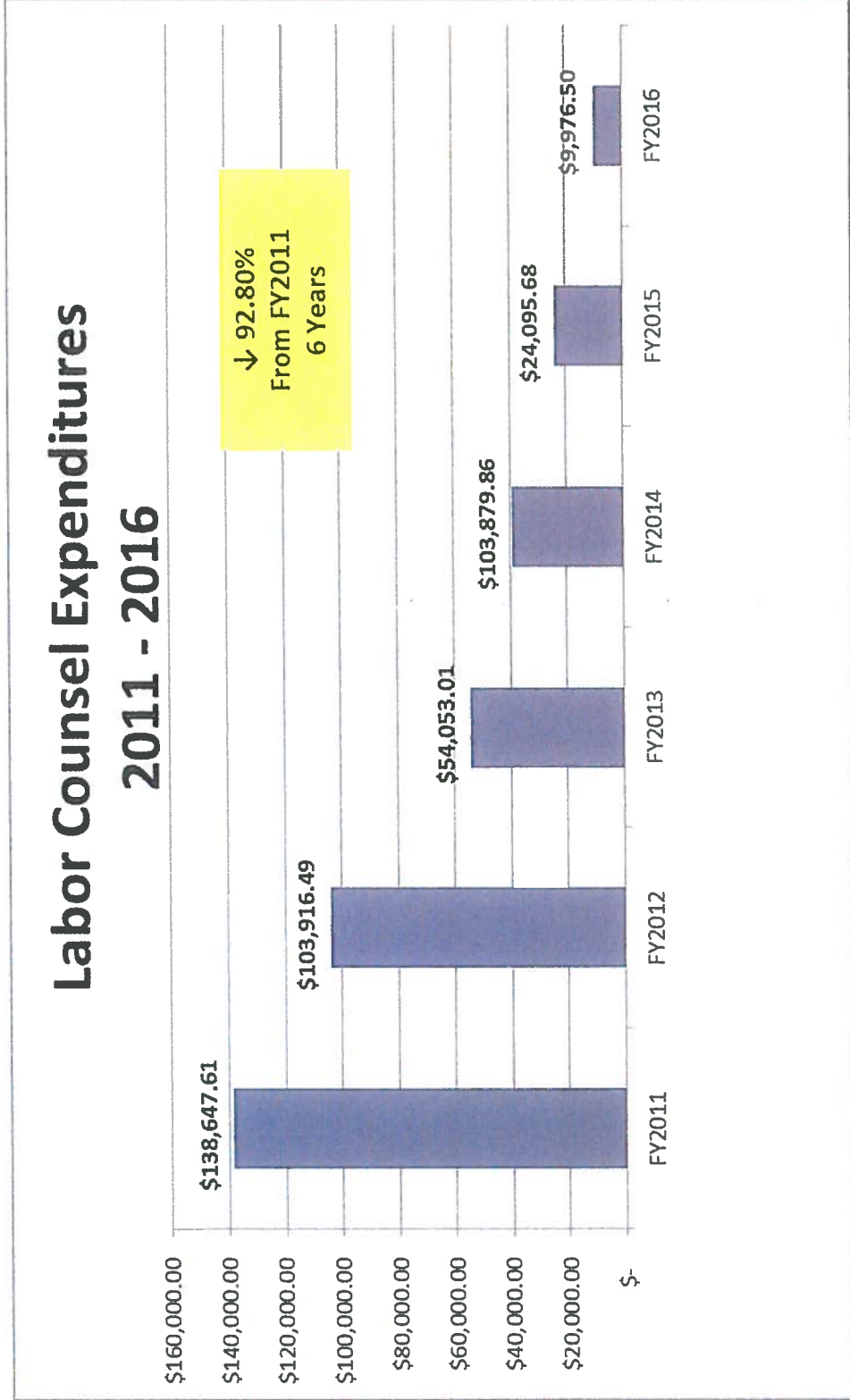
FY16 Town (General) Counsel Expenditures by Category

Breakdown of Town (General) Counsel Expenditures
FY2016



Attachment 5

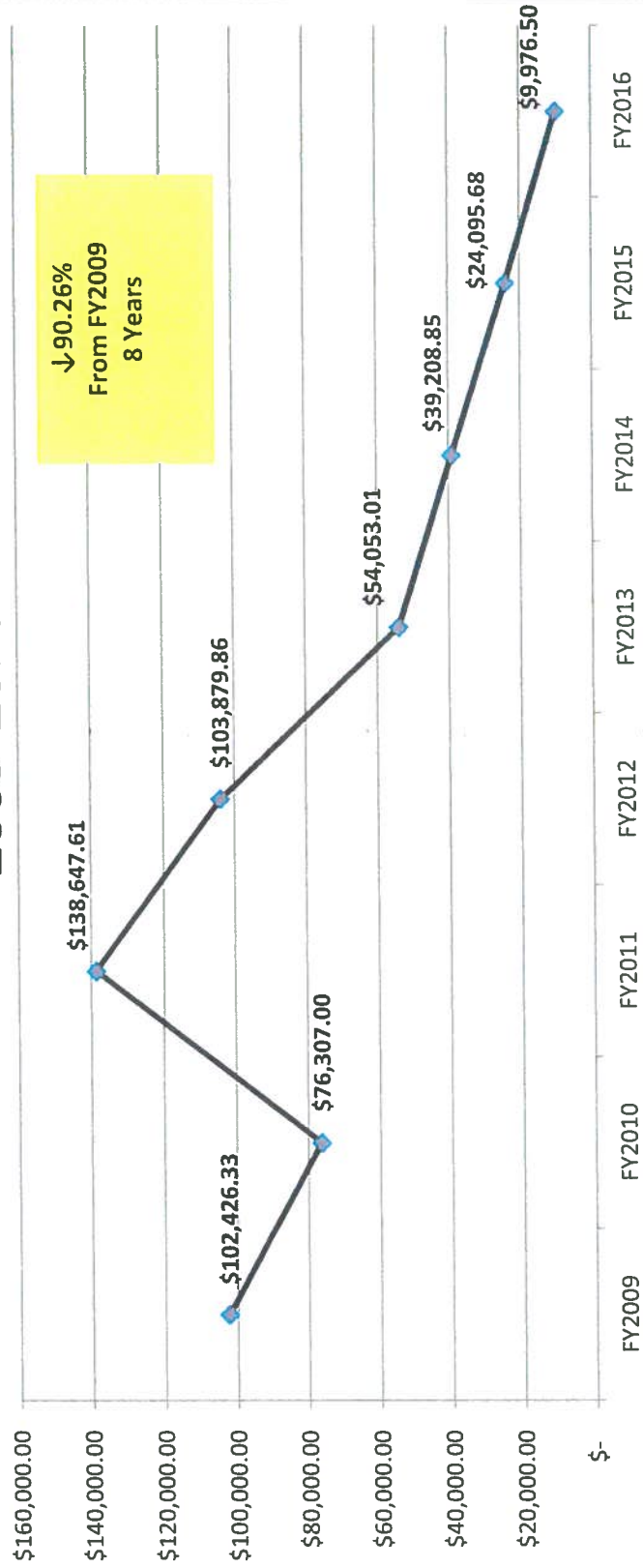
Labor Counsel Expenditures 6 Years 2011-2016



Attachment 6

Labor Counsel Expenditures 8 Years 2009 – 2016

Labor Counsel Expenditures 2009-2016



Attachment 7

Labor Counsel Expenditures By Category FY16

