

TOWN COUNCIL
Town of Trumbull
CONNECTICUT
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TOWN HALL
Trumbull

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LEGISLATION & ADMINISTRATION COMMITTEE
MINUTES
January 31, 2011

Call to Order: Vice-Chairman Jeff Jenkins called the Legislation & Administration Committee meeting to order at 7:30 p.m. All present joined in the pledge of allegiance.

Present: Vice-Chairman Jeff Jenkins, Mark Altieri, Chad Ciocci, Kristy Waizenegger and Michael Rappa.

Absent: Chairwoman Suzanne Testani.

Also Present: Chief of Staff, Mr. Dan Nelson, Town Council Chairman, Carl A. Massaro Jr., Town Attorney Edward Walsh.

1. RESOLUTION TC23-147: Moved by Mr. Rappa, seconded by Mr. Ciocci.

BE IT RESOLVED, That the Trumbull Charter Revision Commission shall submit its draft report to the Town Clerk on or before June 1, 2011.

Mr. Nelson stated that this resolution satisfies the statutory deadline requirements of the Charter Revision in order to submit the draft report and to be able to be placed on the November 2011 ballot. Mr. Massaro added that the June 1, 2011 date is 16 months from the first Charter Revision meeting.

Vote: Motion carried unanimously 5-0.

2. RESOLUTION TC23-148: Moved by Ms. Waizenegger, seconded by Mr. Ciocci.

BE IT RESOLVED, That \$10,000 is hereby appropriated from 20-315200 WPCA Retained Earnings to Professional Services 20100000-522202.

Mr. Ciocci summarized the information provided to the L&A Committee relating to the potential lawsuit between the Trumbull WPCA and Mark IV Construction Company regarding contract 3 of the sanitary sewer construction as follows: there are several claims included in the notice; failure to install pipe improperly, failure to

back-fill areas, failure to properly test, document and preserve such documentation relating to work performed and failure to characterize the nature of their work. The town is asking for \$3 million in damages. Ms. Waizenegger clarified that the town has not filed suit to date; it is a letter of notice if there is no settlement; the next step would be to file a suit.

Town Attorney Walsh clarified for Mr. Altieri that the resolution before the town council appropriating \$10,000 represents a retainer for the law firm hired, Ury & Moscow. Attorney Neil Moscow specializes in performance bonds and the type of work the town is seeking. The notice is a demand letter, which includes a request a reply by a date certain; the letter outlines in detail the alleged claims against Mark IV (contract 3). The \$10,000 retainer is reasonable based on this litigation. It is in the town's best interest to retain this firm.

In response to Mr. Ciocci, Attorney Walsh stated that the firm's hourly rate is included in the body of the retainer. It is difficult to speculate on the final cost at this point; it is still possible that they will settle and the costs could be lower. In response to Ms. Waizenegger, Atty. Walsh stated there has been no meaningful discussion pertaining to a settlement to date. The letter was sent on December 13, 2010 with a response date of January 15, 2011. This is the first notice of claim.

In response to Mr. Jenkins, Attorney Walsh stated that the \$3 million was derived from a reasonable "guesstimate" based on the claims and what the total damages are.

In response to Mr. Rappa, Attorney Walsh explained that the town is making an affirmative claim against Mark IV to recoup damages; therefore the retainer would not be covered by insurance. The legal work performed would come from the retainer, if further funds are necessary approval by the proper board and town council would be necessary. Attorney Walsh stated that Attorney Moscow would come before the council to update the Town Council during the process.

Mr. Jenkins clarified for Mr. Rappa that resolution only approves up to a \$10,000 allocation it would not allow more than \$10,000 to be allocated; they would have to come back for approval for any further requests. Atty. Walsh agreed.

In response to Ms. Waizenegger, Attorney Walsh stated that Town Attorney Dennis Kokenos is the town attorney who oversees the WPCA, the lead Town Attorney is Bob Nicola. Both would be the direct contacts with Attorney Moscow with regard to this case.

Mr. Jenkins requested that Attorney Moscow's hourly rate be provided to the council for the February 7, 2011 Town Council meeting. Atty. Walsh agreed.

VOTE: Motion to recommend carried 5-0 unanimously.

There being no further business to discuss and upon motion made by Mr. Ciocci, seconded by Ms. Waizenegger the L&A Committee adjourned by unanimous consent at 7:51 p.m.

Respectfully Submitted,

Margaret D. Mastroni, Council Clerk