



**TOWN OF BILLERICA
SELECT BOARD
TOWN COUNSEL SUBCOMMITTEE MINUTES
JULY 24, 2024**

Members Present: Vice Chair Dina Favreau and Secretary Michael Rosa

Staff Present: Acting Town Manager Clancy Main, and Recording Secretary Dawn McDowell

Secretary Rosa called the meeting to order at 8:34 AM.

1. Open Microphone

There was no one for open microphone.

2. Select Board Subcommittee – Discussion on Contract Language

Paul DeRensis and Len Kopelman joined the meeting from Brooks and DeRensis.

Secretary Rosa stated that a draft contract has been provided. This was based on the contract with KP Law.

Secretary Rosa stated that “f” should be reversed. Zoning should be reviewed by Town Counsel first. Mr. Main agreed to that. Vice Chair Favreau stated that all zoning and planning changes should be reviewed to form and function. Secretary Rosa agreed especially with warrant articles. We want the legal form, but we also want to know whether the change will conflict with MGL.

Vice Chair Favreau stated that we need to look at the bill that was submitted. We need Brooks and DeRensis to separate the bill into legal work for the Town and separate the work they had to recreate the files because KP Law did not submit the complete files with the ongoing litigation cases. The latest bill contained multiple public record requests and KP Law mishandled a number of cases. Brooks and DeRensis had to do due diligence on several of the ongoing cases because there were missing files that were delivered by KP Law. How do we fix the disaster that KP Law left and how much will this cost.

Secretary Rosa stated that we were handed a basket of disaster. We understand that and the contract that we want will not include all the work that Brooks and DeRensis has to do to fix the KP Law mess.

Vice Chair Favreau stated that we may need special counsel or have a sunset clause.

Mr. Kopleman stated that this is an unusual situation because we don’t know what is out there. We need probably about 3 months to try to recreate the files we received and see what a fair retainer is.

Secretary Rosa stated that getting back to the contract. The contract language is standard stuff. Vice Chair Favreau stated that we should add an addendum on contract for a period of time until we get the full scope of the missing information from KP Law.

Mr. DeRensis stated that in June, there was a fee of \$36,000 because of the pent-up demand of the Town having no Town Counsel. We don’t know what the baseline is for the Town. We should wait until July 31st, so that will give us a more accurate picture of the workload.

Vice Chair Favreau stated that Mr. Kopelman donated his time during this period on our behalf and we appreciate it. We definitely need to track the cleanup from KP Law separately, especially the cost because we need to look at recovering this cost. Vice Chair Favreau stated that missing information, notes, emails, opinions, etc. is our property. We paid for all the legal work and that should have been turned over to our new counsel. In her opinion it was intentional. When Brooks and DeRensis has to recreate to file, the billing should be tracked separately.

Mr. DeRensis stated that yesterday, they looked through the file for open litigation and there was nothing from KP Law. Mr. Main gave us the file he had and there were communications from KP Law that were not in the file that was turned over by KP Law including a letter from the MIAA declining insurance coverage. We spoke with the attorney and the insurance is paying for the lawyer but all the history is missing from the file.



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Vice Chair Favreau stated that we would pay hourly for any work needed to create missing KP Law files and the normal day-to-day work would be done under contract. We can add an addendum for specialty work but keep a separate billing for work that is needed because KP Law did not submit the entire files.

Secretary Rosa asked why there are two separate contracts. Mr. DeRensis stated that one is standard contract and the other is for hourly services not covered under the contract.

Mr. DeRensis stated that he wants a long-term relationship, but we need to get a baseline to come up with a real number for the contract, so we need some time to evaluate.

Vice Chair Favreau asked if you can do the billing and separate the work for everyday business and the work to recreate files that were missing information from KP Law. Mr. DeRensis replied yes, they can do that.

Mr. Main agreed that there were a lot of things that were pent up because we had no Town Counsel. The demand should slow down.

Vice Chair Favreau asked if Mr. DeRensis could send us a copy of a contract with another town. Mr. DeRensis replied he would do that.

Mr. Main stated that the appellate tax board has a separate attorney as well as labor counsel. Currently KP Law still represents the Town with some ongoing cases before the ATB. Secretary Rosa stated that we need to get KP Law off all our cases. Mr. Kopelman stated that with the ATB, usually all the cases are added at once, so they should still be representing the Town if the case is in process. Mr. Kopelman stated that in some cases a real estate expert is required. Mr. DeRensis stated that Mr. Hucksom would be that lawyer. Mr. Main stated that Mr. Hucksom seems like he is overloaded right now, and we are aggressive with our ATB cases so we may go with another firm.

Vice Chair Favreau stated that we can wait until July 31st to get all billables in for the month and asked how long they would need. Mr. DeRensis asked that they have two weeks after the end of July to get an accurate account. Vice Chair Favreau stated that the next meeting could be August 14th at 11:00 AM.

MOTION - Secretary Rosa made a motion to adjourn the subcommittee meeting at 9:17 AM. The motion was seconded by Vice Chair Favreau and unanimously voted 2-0-0.

*Respectfully Submitted by Dawn McDowell,
Recording Secretary*

Exhibits for the Select Board Town Counsel Subcommittee Meeting – July 24, 2024

1. **Open Microphone** – No Exhibits
2. **Select Board Subcommittee – Discussion on Contract Language** – KP Law Agreement dated 08/24/16, KP Law Notice of Rate and Retainer Increase for FY24 dated 03/17/23, Draft Agreement for Legal Services undated, Memo from A. Deslaurier dated 10/06/14,

Approved On: October 21, 2024