

**SCAPPOOSE CITY COUNCIL
MONDAY, FEBRUARY 5, 2018
Scappoose Council Chambers
33568 East Columbia Avenue**

WORK SESSION ~ DISCUSSION ON LEGAL COUNSEL FEES ~ 6:00 PM

Mayor Burge called the Work Session to order at 6:00 p.m.

Present: Mayor Scott Burge, Council President Mark Reed, Councilor Patrick Kessi, Councilor Megan Greisen, Councilor Natalie Sanders, Councilor Joel Haugen, City Manager Michael Sykes, City Recorder Susan Reeves, and Legal Counsel Peter Watts.

Also present in the audience: Public Works Director Dave Sukau.

City Manager Sykes explained the City has received a request from our City Attorney to update their existing agreement for legal services. Presently, the City has a retainer agreement capping legal costs at \$4,200 per month. The firm has proposed a new agreement that would raise their hourly rates and eliminate the retainer agreement. The firm is willing to negotiate this agreement with the City. However, they have exercised the termination clause and have informed the City that the agreement will expire on February 28, 2018. The City Council is responsible for hiring the City Attorney and will need to advise staff how to proceed with this request.

Legal Counsel Peter Watts explained this wasn't a decision he was involved in, it is something he found out about shortly before the City did. He explained he thinks this is a decision that the firm has been looking at for a period of time, and this is the offer they are putting out there.

City Manager Sykes explained the impression he got from Tim Ramis is we could offer a counter proposal if we are so inclined, however, we have until February 28th until those rates go into effect. He explained we have talked amongst staff on how we can minimize our utilization of attorneys, and one of the things we talked about was that we do not need an attorney at every Council meeting, and that would save us money. He stated in the mean time we felt it was really important to get some guidance from the Council on how we should proceed. He explained he has been pleased with Peter and, and also with Shelby, who is no longer with the firm.

Councilor Haugen explained his experience with Jordan Ramis goes back to the early 1990's when he was on the Planning Commission. He has nothing but positive things to say about Jordan Ramis. He stated however, given the fact that it was just March of last year when we negotiated an increase on the billing process, he was literally shocked at the current proposed figures. He handed out a memo regarding legal billing rates from a friend in Wisconsin. He thinks we should do a two-track approach. One, try to negotiate a little different arrangement, and the second part, do an RFP for competitive rates. He stated there are a lot of attorneys out there, a lot of good ones.

Councilor President Reed stated in the past it had gone ten years without an increase. He thinks in anticipation of not doing that again and having a huge increase they are asking for an increase a little at a time. He explained he is okay with approving this as proposed.

Mayor Burge explained if he remembers correctly last time we went out for an attorney RFP Jordan Ramis was significantly lower, then we went into the flat rate agreement with them and it was still significantly lower than we would have been paying with any of the other firms. He asked is this in line with what you would be getting with any other firm?

City Manager Sykes stated his thoughts are, we went out for an RFP for an Insurance Agent of Record, and with the Auditor, and we have been with the same firm for several years, and they could submit an RFP. He feels that would be a good way to negotiate this rate. He stated this is a higher rate than what he has seen, and if it is not, then if you go out for an RFP at least you have validated what you are paying. He explained another option is maybe we renegotiate the \$350.

Councilor Haugen asked if we can take the two-step approach ~ try to negotiate and if that doesn't work then we go out for an RFP.

Mayor Burge explained Council needs to direct staff.

City Manager Sykes asked if we could add this to the meeting?

Mayor Burge replied we could add it as # 8 on the agenda.

Legal Counsel Peter Watts explained the other thing he could do is he was unaware that 2/28/18 was the deadline, is he could go back to the firm and ask them for an extension because there is no way the City can go through an RFP in that timeline.

Mayor Burge explained this discussion will be continued on the regular meeting agenda.

Mayor Burge adjourned the Work Session at 6:15 pm to start the Council Interviews.

Mayor Burge explained there is a Council vacancy and they have interviews to do this evening.

City Council interviewed separately Kevin Freimuth, Pavel Macholda, and Josh Poling for the open Council position.

Legal Counsel Peter Watts asked Council if they wanted to discuss Council qualifications?

Council replied yes.

Legal Counsel Peter Watts explained he pulled up the Scappoose City Charter on his phone. He explained the way the Charter Provision Section 21 is interpreted in the number of months, which can vary from jurisdiction to jurisdiction, but how he has seen that interpreted in the past is the Council decides whether someone has resided in the City for twelve months. He gave a hypothetical of how that could occur, then he gave an actual example.

Council thanked Legal Counsel Peter Watts.

Legal Counsel Peter Watts explained in this scenario you had someone who said they didn't reside in the City but they don't have to because you as a Council can determine that you are not going to apply that. He explained Council is responsible for interpreting the code, and he is not going to tell Council how they have to interpret it because that is not the role of the City attorney, but in every other jurisdiction where he has seen this come up it hasn't been whether that is applicable or not, he thinks all jurisdictions have said it has been. He explained it is in the instance of did they qualify, or didn't they qualify.

City Manager Sykes explained we had a couple of other applicants that were interested in this position and read the language in the Charter and determined that they didn't meet the qualifications because of the length of residency so they didn't apply.

Councilor Haugen stated he would advise against Council choosing to ignore the Charter.

Mayor Burge explained there is time now to finish discussing the Legal Counsel Fees.

City Manager Sykes explained there is a letter dated 2015 where it spoke to the hourly wage of the attorneys, which was \$200 an hour.

Councilor Kessi explained he thinks we should ask for an extension with whatever decision we make. He explained he does feel comfortable with the retainer, if possible, that way we can budget for it for the year.

Mayor Burge stated or really spell out what the retainer covers or doesn't.

City Manager Sykes stated Council wants staff to try to renegotiate this agreement, keep a retainer, and extend the deadline maybe to April.

Councilor Haugen also feels we should extend the grace period, but he would suggest May 1.

Legal Counsel Peter Watts replied he can certainly ask, but he is not the decision maker in this process.


Mayor Burge replied he thinks City Manager Sykes will talk with Legal Counsel regarding this.

Mayor Burge adjourned the Work Session at 6:53 p.m.



Mayor Scott Burge

Attest:



City Recorder Susan M. Reeves, MMC