

**Cuyahoga Falls City Council  
Minutes of the Finance Committee Meeting  
March 17, 2008**

**Members:**      Don Walters, Chair  
                     Debbie Ritzinger  
                     Carol Klinger

Mr. Walters called the meeting to order at 6:15 p.m. All members were present.

**Legislation Considered**

Temp. Ord. A-37  
Temp. Ord. A-38  
Temp. Ord. A-39

**Discussion:**

Mr. Walters indicated that Temp. Ord. A-39 was the second piece of legislation out of three regarding the State Road Shopping Center and was going to be held until all three pieces were before Council.

**Temp. Ord. A-37**

An ordinance authorizing the Director of Law to enter into a contract or contracts, according to law, for legal representation in the case of *Garner v. Cuyahoga Falls*, and declaring an emergency.

Hope Jones stated this was regarding a lawsuit which was filed after Mr. Garner was terminated. The lawsuit was based on three federal counts and one state count. The City opened a \$25,000 P.O. to John Landrich to act as the City's Council. It was necessary to hire someone outside the City since Virgil Arrington was named as a party to the suit. There was a Motion to Dismiss filed that has not been ruled on as quickly as the City would like. In the meantime, it was necessary for discovery to move forward. Several depositions have been taken which increased the amount the City owed to Mr. Landrich. At this point, the Court has ruled in the City's favor and Mr. Garner's attorney has filed an appeal.

Mr. Walters asked what Mr. Garner was claiming. Ms. Jones stated it was equal protection, wrongful termination, defamation and due process. The Union matter is still on-going. Both parties filed briefs with the arbitrator 45 days ago, however, the arbitrator's ruling will not affect the federal case against the City.

Mr. Walters stated there was \$90,000 budgeted under Contractual Other and wondered if the \$50,000 couldn't come out of that. Ms. Jones stated that the \$90,000 is also for Clemens & Nelson, the public defenders and for Squires, Sanders & Dempsey. She said she is hoping this additional \$25,000 will also cover the appeal so they would not need to come back for more; however, if the Sixth Circuit rules against the City, it is possible the additional \$25,000 will not be enough. She suggested that Council may want to hold an Executive Session the following week so Virgil can give an update on the case and answer their questions. Mrs. Klinger asked where this \$25,000 put the City in relation to the \$90,000. Mr. Brodzinski stated he would get that information to Council because there are other things that come out. [Note: Mr. Brodzinski's post-meeting response is attached.]

Mrs. Colavecchio asked if the counts listed in the lawsuit were dismissed with or without prejudice. Ms. Jones stated the state counts were without and the federal was with. Mrs. Colavecchio added for the

benefit of the public that “with” prejudice means if the City is successful, Mr. Garner can never refile charges. “Without” prejudice means he can. She asked what Mr. Landrich’s hourly rate was. Ms. Jones stated it was \$160 per hour.

Mrs. Hummel asked for clarification on whether the City was asking for \$25,000 or \$50,000. Ms. Jones stated they have already spent \$25,000 and are asking for another \$25,000 so this legislation actually covers the full \$50,000.

Mr. Walters stated he would be amending A-37 to include the words “in an amount not to exceed \$50,000” on line 21. He also indicated he would be requesting an executive session next week to discuss pending litigation.

Mrs. Ritzinger asked if the hearings in October and November were regarding Mr. Garner getting his job back. Ms. Jones stated they were. Mrs. Ritzinger asked once that decision comes in whether that will be the end of the line. Ms. Jones stated for the most part it would be the end.

Bill Crooks, 508 Chart Road, asked when Mr. Garner was terminated. Ms. Jones indicated it was December, 2006. Mr. Crooks stated he was concerned about how long the process has been taking and how much of the City’s, and taxpayers’, money has been spent on the case. He asked if there wasn’t some way to have ended it earlier. Ms. Jones stated the City has no control over when a defendant files a lawsuit. Mr. Garner waited until near the end of his statute of limitations to file. The City has no control over that. Mr. Crooks asked if there was something that would expedite arbitrations in the future so a decision could be made prior to the end of the statute of limitations. Ms. Jones stated there is nothing contractual that would allow for that. Because Mr. Garner is a member of the union, it was agreed to do a binding arbitration. The City has no control over Mr. Garner filing a federal case against it. It is not the City driving the cost up, it is Mr. Garner.

Bill Rhines, 1868 Windsor Street, indicated he was confused over the matter. He said it appeared that the Administration was asking for additional money and Council didn’t know exactly what it was for. He thought Council should know the details before agreeing to the legislation. Mr. Walters stated that is the purpose for his requesting an executive session the following week so that the Law Director can update Council privately on the details of the case without hurting either side. The City has an obligation to hire outside counsel since there are City employees personally named in the lawsuit.

***Committee recommended bringing out Temp. Ord. No. A-37.***

**Temp. Ord. A-38**

An ordinance authorizing the Director of law to enter into a contract or contracts, according to law, to provide prosecutorial services for the City of Munroe Falls, and declaring an emergency.

Ms. Jones stated the City of Cuyahoga Falls began prosecuting for Munroe Falls in 1983. The amount per year at that time was \$5,896.48. The City provided criminal prosecution for all misdemeanor matters, representation for all appeals for those misdemeanors, and representation for felony criminal matters. The prosecutors also heard citizen complaints. Mr. Arrington decided the amount being charged needed to be revisited. He did two different calculations and then split the difference. For the first calculation, he took the 1983 amount and added three percent each year to date. For the second calculation, he determined that three percent of the court cases were for Munroe Falls so he took three percent of the average of salaries and benefits of three part-time prosecutors, which came to \$9,500, and added three percent on top of that. She added that the new contract amount would be increased by three percent each year.

Mr. Walters asked if the City could bill on an hourly basis. Ms. Jones stated that would not work out because sometimes courts get so busy that a prosecutor may sit for a couple of hours before the case gets called. She added that this matter has already passed Munroe Falls' City Council. Mrs. Klinger indicated it appeared the new amount was not included in this year's budget. Mr. Brodzinski agreed but stated the \$5,800 was included.

*Committee recommended bringing out Temp. Ord. No. A-38.*

The meeting adjourned at 6:40 p.m.

3/17/08 mtg

## Meacham, Cathy

**From:** Carol Klinger [Carol@klingers.us]  
**Sent:** Wednesday, March 19, 2008 5:58 AM  
**To:** 'DON WALTERS'; Meacham, Cathy  
**Subject:** FW: Law Dept Contractual Services

Don,  
I believe it is appropriate to add Mr. Brodzinski's response to the Finance committee minutes from last week.  
Thank you,  
Carol Klinger

-----Original Message-----

From: BrodzinskiJF@cityofcf.com [mailto:BrodzinskiJF@cityofcf.com]  
Sent: Tuesday, March 18, 2008 1:09 PM  
To: Council%CCFO@cityofcf.com; CarrVW@cityofcf.com; TrubySL@cityofcf.com;  
LohanB@cityofcf.com; ArringtonVE@cityofcf.com; JonesHL@cityofcf.com; Mayor@cityofcf.com  
Subject: Law Dept Contractual Services

Law budgeted \$90,000 in Contractual Legal. They have \$67,000 remaining with \$10,000 known to be going to Squires. The requested additional \$25,000 would come out of this line item. They also have \$52,000 remaining in their contractual "other" account. In 2007 \$30,000 of budgeted funds remained at year end. This account could also be used this year if needed.

Within Payroll there are also current savings versus the budgeted amount. These monies may also be used if needed.

Hope this answered the budgetary question from last night. Any other specific question please let me know.

Thanks