

MINUTES OF THE CHESHIRE TOWN COUNCIL SPECIAL MEETING HELD ON TUESDAY, JANUARY 28, 2014 AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Timothy Slocum, Chairman; David Schrumm, Vice Chairman; Council Members Patti Flynn-Harris, Liz Linehan, Robert J. Oris, Jr., Thomas Ruocco, James Sima, Peter Talbot. Absent: Sylvia Nichols

Staff: Michael A. Milone, Town Manager; James Jaskot, Finance Director; Gina DeFilio, Deputy Finance Director; Vincent Masciana, Director of Management Services, Dept. of Education; Ramona Burkey, Library Director; Police Chief Neil Dryfe.

Guest: James P. Daylor, Ameresco; David Newman, ECG

1. Roll Call.

The clerk called the roll and a quorum was determined to be present.

2. Pledge of Allegiance.

The group Pledged Allegiance to the Flag.

3. Approval of the FY 12-13 Comprehensive Annual Financial Report.

MOTION by Ms. Flynn-Harris; seconded by Mr. Schrumm.

BE IT RESOLVED, That the Town Council approves Resolution #012814-1

RESOLUTION #012814-1

BE IT RESOLVED, that the Town Council accepts the FY 12-13 Comprehensive Annual Financial Report (CAFR).

Discussion

Ms. Flynn-Harris reported that the Audit Committee met earlier in the evening with Scott Bassett from McGladrey LLP to review the report. The McGladrey firm did a good job with the audit, and the firm's staff worked over 500 hours to complete the audit. The Town is going into the 5th year of a five year contract with McGladrey LLP.

The financial statements, 6/30/13, were highlighted by Mr. Jaskot who informed the Council that the Town received a clean opinion. There were no significant weaknesses for internal controls; the reports are comprehensive; and they are used by rating agencies, investors, State of Connecticut and taxpayers. The reports contain financial information and economic and trend data. Cheshire had a tax collection rate of 99.71%; an unassigned fund balance of \$1,058,041; \$700,000 of this fund balance was used in the FY 2014 budget; and the fund balance is at 9.59%, which is above the 8% level. The financial report has been submitted to GFOA.

Mr. Jaskot thanked the Town staff who worked on the report, particularly Finance Department staff.

The Council was told by Ms. Flynn-Harris that Mr. Bassett looked at the statements, saw they were accurate with few adjustments to be made, and this is to the credit of Mr. Jaskot and his staff.

Town Manager Milone stated that the Town could not ask for a better Finance Department staff. Both Mr. Jaskot and Ms. DeFilio are CPAs and were municipal auditors before coming to Cheshire. The Finance Department is strong, top to bottom, and because of the prodigious amount of work done prior to the arrival of the auditors, there are many hours and much money saved for the Town. Mr. Milone spoke to the quality of work performed by the department staff, and the integrity, internal controls, and important oversight of the Town's finances. The excellent audit is indicative of the competency of the Town staff, and Mr. Masciana on the DOE side. It was noted by Mr. Milone that the 99.71% tax collection rate is one of the highest in the State.

Mr. Milone expressed his thanks and appreciation and kudos to Mr. Masciana and the DOE staff for their work on the financial statements and audit.

VOTE The motion passed unanimously by those present.

4. Approval of Performance Contracting.

MOTION by Mr. Sima; seconded by Ms. Flynn-Harris.

BE IT RESOLVED, That the Town Council approves Resolution #012814-2

RESOLUTION #012814-2

BE IT RESOLVED, that the Town Council approves the Ameresco Energy Audit/ Performance Contracting Investment Grade Audit and the project components recommended therein, per the recommendation of the Energy Audit/ Performance Contracting Committee.

Discussion

Mr. Sima informed the Council and the public that Mr. Daylor (Ameresco) and Mr. Newman (ECG) and Mr. Masciana (DOE) will be giving a presentation on the performance contracting. He stated that 80% of the project will be schools which must be updated with heating, lighting, air-conditioning, weatherization, vending machine sensors, etc. The Town will reap the benefits of \$10.2 million of upgrades to the buildings without incurring capital debt.

On a color chart, Mr. Sima pointed out that the larger areas are the schools. Cheshire High School and Highland School will be converted from electric to gas heating, and

Highland will have air-conditioning throughout the school because it is the site for all summer school programs.

Mr. Masciana did a power point presentation on the energy audit/performance contracting. The Council is being asked to approve the contract. There will be significant improvements to the Town's infrastructure at no cost to the tax payers. The goal is to make improvements to our facilities where some type of energy is consumed, i.e. CHS electric heat replacement. The energy savings and conservation pay for the improvements, and energy savings are guaranteed as part of the contract. There will be infrastructure improvements with third party financing, and no project will be bonded. The contract is for \$10.2 million; 37 buildings will have improvements; and there is a 16 year payback or better.

The project team (PW Director Noewatne, Town Engineer Gancarz, DOE Buildings Supervisor Marsaglia, and Mr. Biancur) reviewed, discussed and negotiated more than 200 energy conservation measures, and the recommendation is for 157 to go forward.

The project timeline began in March 2010 through January 2014, and the committee recommendation is for a \$10.2 million project.

Mr. Daylor, Ameresco representative, commended the team for its great work, and commented on the number of direct benefits to Cheshire with the project. These include a funding vehicle to complete the projects; no capital budget funding or borrowing; expertise insures high quality projects through Ameresco; upgrade and standardization of product and systems; Ameresco procures materials, hires local labor, and has full responsibility for the project. When the projects are completed and all improvements done, the energy savings will generate +\$1 million annually which goes back into the community.

A pie chart illustrated where the investments are being made – in the schools, Library, Town Hall, Police Headquarters, Senior Center, Community Pool, Fire Headquarters, Youth Center, Yellow House, Parks and Rec Garage, PW Garages. The energy conservation measures are for specific locations and 120 specific activities.

The cost of implementation of this work is \$10.2 million, all paid for through a tax exempt lease project of 16 years, at a 3.75% interest rate. In year #1 the guaranteed cost savings is \$660,000; net excess cumulative cash flow of \$5,289.

Implementation Process – Town Council review, discussion and approval to proceed; Town Manager negotiation and execution of ESA; procure and execute third party financing; project kickoff and implementation; project commissioning by ECG, Town staff, CL&P; ongoing measurements and verification of savings. Ameresco partners with the Town and has a financial interest to make sure the project is successful. Ameresco gets the product materials, hires local labor, hires full time project manager, coordinates work schedule with Cheshire, holds construction meetings, and sets work schedule for 2nd, 3rd shifts, weekends and holidays.

Mr. Oris asked about the specific buildings, updates and pay back and the point we get to on whether to do the project. He cited pay back times for the Police Headquarters, \$265,000, 36.5 years, Highland School, \$2.5 million, 39 years.

In response, Mr. Daylor said they look at the return on investment, pay back and whether it is smart to engage in an activity, what is broken that must be fixed, and what can make the building(s) better. These are capital projects using energy savings, and some have shorter or longer pay back times. In the aggregate the pay back for a project is 13 years. At Highland School the electricity will be replaced by gas heat; Town Hall's chiller needs to be replaced; and the 39 year pay back would be the same with Ameresco or any other firm. Ameresco has the vehicle to pay for the projects, and the buildings cited need capital improvements.

According to Mr. Masciana there was much negotiation about the schools and Town buildings which need improvements, and what is being stated is the list after negotiations. We want to take the high number year pay backs and get them done with this project. He noted that window replacements were not included in the project because of a very long pay back time.

Stating he has heard that this needs to be done and understands the reasons to do them, Mr. Oris asked about the debt service side of the projects, and the \$8 million of financing.

Mr. Daylor explained that Ameresco went through a series of financing with banks. The gross project size is \$10.2 million; calculated utility incentive is \$1.2 million; net project amount is \$9 million through third party financing. The money would be lent based on Cheshire's credit, supported by Ameresco's balance sheet and finances. The money goes into an escrow account and goes through the normal draw down process. Repayment starts post construction. An RFP is prepared for the financing; lenders are large banks familiar with Ameresco and performance contracting. The financing team will vet lenders; get the best interest rate; and will amend the project pro forma if the interest rate is lower than 3.75%; all benefits go to the Town; amortization is 16 years.

Regarding the equipment, Mr. Oris asked about the life span of equipment, and replacement relative to the pay back period.

Mr. Daylor said that some equipment will be new, and the life span of the equipment is factored into the calculations. Lighting will be replaced with installation of new, state of the art lighting, LEDs with a 10 year life period. And, these lights would have to be replaced without this project.

On page 7 of the report, Mr. Sima pointed out that there is a calculation of what will be saved with operation and maintenance of new equipment. This equipment is owned by the Town and is the Town's responsibility. Regarding maintenance, Mr. Sima commented on the Council having to establish a CNR account for the BOE for maintenance for the school system due to failure of units at the high school. Some of

these buildings were constructed in the 1970's, and this process is going through all the energy consuming devices.

Mr. Talbot thanked former Councilor White for his work on the energy audit and performance contracting initiatives when he was on the Council. Mr. Talbot commented on 200 ECMs identified, and the team going with 157, and asked about the other 43 and why there was a decision to not go forward with them.

Mr. Masciana explained that windows were one of them, and others not making the cut could not fit into the model. Boilers, ice rink, windows, were items not included.

The estimate of the 3.75% interest rate was raised by Mr. Talbot who asked what a ½% reduction would equate to, i.e. \$5,000 net cash flow.

Mr. Daylor said that a 3.25% interest rate would equate to a shorter term.

Ms. Linehan asked about the construction time period, and working on larger projects to get more savings early on.

Mr. Daylor estimates it will be 14 months to complete the project. There will be work on the projects with the most cash savings first, such as the high school heating, lighting, water conservation activities. Savings for the Town is after everything is built and accepted. The Town must operate and maintain the facilities; there is operational responsibility on the Town's end; and performance responsibility is with Ameresco. Savings to the Town can be used as the Town decides.

Mr. Milone said he estimated utility incentives of about \$1.79 million, and asked whether there is still potential for the incentives.

According to Mr. Daylor, CL&P told him the incentive would be about \$1.2 million. His experience tells him it is in the 20% to 25% range of total project costs, and this is another benefit to the community. He works closely with the utility company, and CL&P wants to get involved in this project. Mr. Daylor expects to know about the incentives in 3 to 4 months of the project kickoff.

If the Council approves the project tonight, Ms. Flynn-Harris stated that the next part is contract negotiation, and she asked about the time frame for negotiations.

Mr. Milone said the Council is being asked to support the project. The agreement kicks everything off, and the documents have been looked at in the past year and a half.

Attorney Smith advised that when the RFP was issued, the pro forma called for a negotiation period of 120 days, and this should be sufficient.

Regarding the 120 days, Mr. Daylor said that if the Town sits idle on the report, the audit fee associated with the process comes into play. He said the administrative and

contractual reviews begin in February, and in concert with that, in March, the financing fees are executed. Mr. Daylor expects the project could be up and running by April 1st. Dave Newman, ECQ, owner representative, informed the Council that ECG has been engaged through the development process to this point in time. ECG has vetted the plans, engineering, document and background data, activities, etc. Now, all the work comes together as a single book. ECG is currently in the process of taking the entire book, doing a complete financial and technical analysis, and the intent of this is to put a final stamp. Mr. Newman stated that ECG has worked with Ameresco countless times on about 70 projects. In the next two weeks ECG is actively engaged in looking into the book, and is engaged with Ameresco on the calculations, financials, pricing, profit, accounts, funding of design, any discrepancies, and looking over the ESA savings agreement with language recommendations. Mr. Newman said that ECG is an engineering design firm, and will be doing drawings and specifications against the design, and is a third independent party on the design side.

Chairman Slocum asked about the time frame of Council approval in May, and execution of the contract the next day, and summer time for some of the work into the next school year and following summer.

The Council was told by Mr. Newman that all ECG clients are municipal clients. He said Ameresco is well versed on how to work and interact with a Town and the schools. The process and arrangement is unique, clean and smooth, and there is a guarantee associated with it and performance. It is in Ameresco's interest to make sure the items are properly installed and equipment is of good quality and will last.

Mr. Daylor estimates the capital budget savings will be about \$4.5 million.

Mr. Sima commented on the 14 month construction schedule, and talk about it taking 12 to 18 months, as some items have longer lead times to get the equipment.

The construction schedule is tied to the financing schedule, and Mr. Daylor said the lender and Ameresco will make sure these two things are in sync. Related to the construction schedule, he said we must recognize the financing schedule. The lender and Ameresco will make sure those two things are in sync and together so they come out at the other end at the same time.

Chairman Slocum thanked Mr. Daylor, Mr. Newman and Mr. Masciana for the presentation and the reports which were very helpful.

PUBLIC

Tim White, 1682 Orchard Hill Road, talked about the estimated annual savings of 3.7 million kwh, the current 11 kwh used per year now, and that this is a 35% electricity reduction annually. He asked if other municipalities are doing these things.

In response, Mr. Daylor noted that performance contracting has been a vehicle for energy efficiency for 30+ years, became more popular in the last 10 years, especially

since the passing of PA 11-80 in July 2011. He cited some other municipalities who have engaged in performance contracting – East Hartford, Simsbury, Bloomfield, Southington, Cheshire, Darien, Monroe, Farmington, Newtown, Stratford, Stamford, Hartford and New Haven Housing Authority, Dept. of Motor Vehicles, Dept. of Corrections. At the present time, Mr. Daylor has over 15 RFPs from interested communities.

Mr. White said the equivalent electric offset being heard equates to 400 homes, and commented on this being good for the environment. He thanked the team for pulling everything together, and commended the Council for approving the contract.

Derf Kleist, 251 Lancaster Way, asked about the installed value of the equipment and an itemization.

Mr. Daylor stated that the overall gross value is \$10.2 million, and there is an inventory cited. The number is not a guess. Ameresco developed a schematic design, went out to local contractors, submitted multiple competitive bids for the scope of the work, received prices and vetted them. Those are the prices submitted for the different scopes of work in the project. It was a reliable process to get to the number. ECG has the costing book for all the equipment.

Mr. Kleist asked for Ameresco's profit of the \$10.2 million.

Mr. Daylor advised that the fee structure and overhead profit are negotiated and 10% is the profit margin to the project.

VOTE The motion passed unanimously by those present.

5. Approval of reclassification and amendment to Assistant Library Director position.

MOTION by Mr. Ruocco; seconded by Mr. Talbot.

BE IT RESOLVED, That the Town Council approves Resolution #012814-3

RESOLUTION #012814-3

BE IT RESOLVED, that the Town Council approves the amendments and reclassification of the Assistant Library Director position for the Cheshire Library, and approves the corresponding elimination of the position of the Library Clerk as recommended by the Personnel Committee and as presented and attached.

Discussion

Ms. Burkey, Library Director, reviewed the reclassification and amendment to the Assistant Library Director position with the Council.

Ms. Burkey explained that the Assistant Library Director position was designed in 1977, with one person in mind, was a 20 hour per week position, was compensated at an administrative level, and it had a narrow job description for programming and publicity for adults. With the retirement of the person who had held the job since 1977, along with the many changes in operations at the Library, Ms. Burkey requested that the position be a true administrative position. With the position vacant since November 2013, the Deputy Director has assumed many of the duties, and some of the spring and summer programs are not being coordinated.

At the present time there are 33 full time and part time staff members; one-half of them are in the union; and this is double the staff since 1977. With the addition of the Cheshire Performing and Fine Arts and Artsplace now under the Library administration, Ms. Burkey said changes to the Assistant Library Director position are needed.

Proposed changes to Assistant Library Director position:

- Increase hours from 20 per week to 25 hours to help with administrative load, and improve recruitment possibilities.
- Align the position with duties expected of other administrative positions; (3rd in command).
- The position would be in charge of Marketing and Communications; duties would also include supervising Library technology staff members, writing the technology funding plan and the newsletter, responsibility for the web site, running virtual services; the new job description includes “administrative, coordinating, supervising” responsibilities.

Currently, the Library is open 61 hours a week; when the Director and Deputy Director are off site, a union member is in charge; an administrative person (non-union) should be in charge and present on site. This person would be the Assistant Library Director. Since 1977, the Library has three times the number of staff, computers, technology, teen age programs, demand for virtual services, and the building is 50% larger than it was in 1977. With the increased hours for the Assistant Library Director, the position of “Clerk” will not be filled, reflecting an offset of \$5,400.

The proposed salary/benefits for the new Assistant Library Director total \$39,000 with a 25% premium share; Town 75% share of premium is \$16,947.88; total proposed annual cost for the position is \$55,947.88. Single benefits would cost less.

Mr. Ruocco stated his problem is the 25 hours per week resulting in higher medical benefits costs to the Town. With a 24 hour work week the premium costs would be shared 50% by the Town and 50% by the employee.

It was explained by Ms. Burkey that for a 20 hour employee with a family benefits plan (PPO), the employee cost is \$12.69 per hour worked, or 42% of gross pay. For a 24 hour work week, the employee cost is \$10.57 per hour worked or 35% of gross pay. She stated that recruitment will be difficult with less than a 25 hour work week.

Mr. Oris stated that the 25 hour work week will help with recruiting the best person for the position. Looking at the health care analysis (worst case scenario), we are only talking about a \$4,000 differential. By not filling the Library Clerk position, the offset is \$5,400. On that basis, Mr. Oris said he would support the resolution.

Ms. Flynn-Harris commented on the Library positions getting attention during the budget with changes in technology, assumptions of the growth in technology. She said the best thing would be for Councilors to go into the Library, see the jobs staff does on a regular basis, the level of activity of the public coming in on a daily basis, and the high number of people being served on a yearly basis.

VOTE The motion passed 6 – 2; Opposed – Sima and Ruocco.

6. Approval of reorganization of Police Department.

MOTION by Mr. Ruocco; seconded by Mr. Talbot.

BE IT RESOLVED, That the Town Council approves Resolution #012814-4

RESOLUTION #012814-4

BE IT RESOLVED, that the Town Council approves the Police Department Reorganization as recommended by the Personnel Committee and as presented and attached.

Discussion

Personnel Committee Chairman Ruocco advised that this agenda item was discussed at the committee meeting. He said the recommendation from the Chief is very detailed, well thought out, and the most significant he has seen in a while.

Mr. Milone reported that this reorganization is the cornerstone of the re-negotiated contract; many changes were supported by the Council; and it is the most significant and transformative for any department. Money will be saved and there will be more police officers on the street. During negotiations of the contract, there was the opportunity, in principle, from the Council to accomplish this. It has taken six months, and Chief Dryfe has been able to get what he wanted for the department, and got it a lot faster.

Chief Dryfe reviewed the organization chart which was in place for more than 30 years. It had a Chief, Deputy Chief, two Captains, five Lieutenants, seven Sergeants...16 supervisors out of 48 officer department. This is a supervisor for every two employees.

The new organizational chart reflects the changes which Chief Dryfe has made in the department (chain of command, job titles, supervision, reporting).

Chief Dryfe informed the Council that the 4th Lieutenant position will be eliminated this week, so between retirements and resignations, the positions seeking to be eliminated will be completed through the attrition process. Two Captain positions and two of the five Lieutenant positions are eliminated. The Chief was advised by the Town's labor attorney that the Town needed to engage in impact bargaining, as it is the right of management to reorganize.

The proposed reorganization and savings analysis – Chief Dryfe reviewed the 9% pay raise request for Lieutenants. Captain position is a 35 hour work week; is non-union; and pay is \$48.18 an hour. Lieutenant position is a 40 hour work week at a pay rate of \$38.00 per hour; and the new rate (+9%) would be \$41.78. A Sergeant receives slightly one-half of a Lieutenant's hourly rate, and has shift responsibility. The savings are "payroll savings".

The department has been short up to seven (7) people for an extended period of time since July 2013. The total number of officers for the Police Department is 48, and there are 45 positions currently filled including 3 officers in the Police Academy. There are 3 vacancies right now, and it will be 4 vacancies on Friday. Chief Dryfe hopes to get 3 or 4 additional hires in the Police Academy class that starts in April.

According to the Chief, overtime may offset some of the payroll savings.

Chief Dryfe compared the two organizational charts. The new organizational chart keeps the same number of positions but changes titles.

Lieutenant, Patrol Division with 6 direct reports; works administrative schedule, Monday to Friday daytime hours, with flexibility to meet the assignment needs; at full staffing, Chief Dryfe wants 25-27 officers assigned to the Patrol Division.

Lieutenant, Support Services with 12 direct reports; the Crime Prevention Officer and Narcotics Detective position are both vacant, with no plans to fill them until the department is back up to full staff.

Lieutenant, Administrative Services – Civilian Dispatchers, Technology Coordinator, Animal Control Officer and Records Personnel are direct reports.

Under the new plan 4 supervisory positions (out of 16) are cut down to 12 people who will supervise 36 staff members. This results in labor cost reductions of about \$94,000.

Chief Dryfe stated that retirements and unexpected resignations enabled him to bring the department to this point or reorganization.

Mr. Sima asked about earlier discussions about additional police staff as part of the mall proposal and reorganization of the Police Department.

Stating he would not rule out any possible changes in the future, Chief Dryfe said that with the management structure in place, there could be officers hired later on. There have been other large retail developments around the State. For the Cheshire mall, the service calls would involve increase in vehicular traffic, pedestrian traffic, some retail theft, a few medical calls, car accident, and this is line police officer work, with a uniformed officer in a patrol car acting as first responder. Lieutenants and Sergeants are not needed to do this work. Past studies indicated a need for 4 or 5 more police officers. By taking the two Captain and two Lieutenant positions and converting the positions to line police officers, without increasing the department staffing, there are 4 more police officers. The Chief does not believe anything coming from the mall development will require assignment of 2 officers every day on 2nd shift for 8 hours. If something happens, it can be covered with overtime, with the developer hiring and paying for the extra duty police officers.

Mr. Sima asked about the new management in the department handling the situation and problems.

According to Chief Dryfe any need to change it would be predicated on an operational change that he does not envision.

Overtime – Chief Dryfe commented on the fact that most overtime comes from minimal staffing requirements written into the collective bargaining agreement, and this comes from patrol officer staffing levels. With more officers assigned to patrol shifts the less chance there is for the department to get below that staffing level, requiring overtime. In the analysis prepared for the Council, \$135,000 went to patrol officer overtime in 2011. With full staffing the Chief envisions savings of 18% to 25% of that piece of the overtime, and officers working 18% to 25% fewer hours. There would also be officers available to handle the dispatch duties when a dispatcher takes a day off.

Town Manager Milone said the other part of the contract change was elimination of double time for Sunday call-ins, and this is an estimated \$30,000 savings. Everything is integrated and related to the reorganization; is the cornerstone of the contract; and there are savings.

VOTE The motion passed unanimously by those present.

7. Appointment of Town Attorney and approval of fees.

MOTION by Mr. Schrumm; seconded by Ms. Flynn-Harris.

BE IT RESOLVED, That the Town Council approves Resolution #012814-5

RESOLUTION #012814-5

BE IT RESOLVED, that the Town Council appoints Alfred E. Smith, Jr. of Murtha Cullina LLP as the Town Attorney for the Town and Cheshire for the term of January 1, 2014 through December 31, 2015, and

BE IT FURTHER RESOLVED, that the Town Council approves the following fees:

Services will be provided on (1) the basis of a monthly retainer for specified relatively routine matters, and (2) on an hourly basis for all other matters.

Effective as of July 1, 2013, the monthly retainer increases to \$19,300. Effective January 1, 2015, the monthly retainer will increase to \$20,000. . The retainer will continue to cover normal day-to-day handling of Town legal matters, including but not limited to attendance at regular Town Council meetings; attendance at monthly meeting with the Town Manager and his staff; preparation and review of Town ordinances; preparation of written legal opinions; routine written and oral advice with respect to Town matters; preparation and/or review of RFPs, contracts, and other Town documents; and routine monitoring of litigation that is handled by attorneys other than those of Murtha Cullina. The retainer covers the services of Town Attorney, and such other members of Murtha Cullina as the Town Attorney determines to be appropriate. The Town Attorney is responsible for the coordination and execution of all work performed by Murtha Cullina.

For legal services not covered by the retainer, hourly billing rates for attorneys will remain at \$247.00 until January 1, 2015. As of January 1, 2015, the hourly rate for attorneys will increase to \$250.00. The hourly rate for paralegals will remain at \$160.00 throughout the term. The services that are subject to hourly rates will continue to include, without limitation: (a) litigation (other than litigation before Town administrative bodies), court appeals, and enforcement actions on behalf of the Town; (b) the incremental time on any single project that requires more than 25 hours of attorney work, including such items as a large building project or a complete review of the Town's benefits plan. Non-retainer work will also include legal work (c) performed with respect to projects that will be capitalized by the town, and (d) as to which the Town will be reimbursed by the federal or state governments or by third parties such as developers and beneficiaries of tax abatements.

No charges shall be made for routine photocopying, long distance telephone calls, secretarial services, and faxes. The Town will be billed for outside photocopying services (i.e. for large jobs), deliveries, mileage charges for firm travel, and out-of-pocket disbursements (including charges for computer-based research).

For matters not covered by the retainer, lawyers would continue to charge one-half of the hourly rate for travel time between the town and the firm's Hartford or New Haven offices.

Discussion

Mr. Schrumm stated that the legal services received from Murtha Cullina for the past few years have been very good. The attorneys work cooperatively with Town staff and

the Town Council. He commented on the resignation of Attorney Dwight Johnson, who will be missed.

The Town Council welcomed Attorney Smith as the Town of Cheshire's new Town Attorney.

Mr. Talbot noted the minutes of January 14, 2014 which state that this agenda item was "tabled". This is incorrect as the item was deferred to the January 28, 2014 meeting.

Before the end of the term of the contract with Murtha Cullina, Mr. Sima recommended the Council start the bid process for Town Attorney services, and that the Personnel Committee undertake this matter.

Chairman Slocum read the current and proposed rates for the services of the Town Attorney, and noted the rate change was modest.

VOTE The motion passed unanimously by those present.

7. Amendment to action on pool zoning issue.

MOTION by Mr. Oris; seconded by Ms. Flynn-Harris.

BE IT RESOLVED, That the Town Council approves Resolution #012814-6

RESOLUTION #012814-6

BE IT RESOLVED, that the Town Council rescinds Resolution 011414-11, and hereby authorizes Town Manager Michael A. Milone to submit zoning regulation amendments to the Planning and Zoning Commission as presented and attached regarding the height limitations for the Community Pool.

Discussion

Chairman Slocum read paragraph #2 from the Town Manager's memo of January 18th into the record.

Mr. Oris stated that some Council members were concerned about the broadness of the proposed zone text change and its impact on residential neighbors. Based on these concerns, the Council went with the option with an impact only on Bartlem Park piece. It was thought there was a risk in doing that, and the zone text change has been amended to be more specific and tighter. Stating he is not 100% in support of the amendment, Mr. Oris does not like it, because it still impacts some of the residential neighborhoods, but he wants the pool project to move forward.

Mr. Talbot is prepared to vote in favor of the resolution, but was prepared to vote on the January 14th resolution. His issue regarding what happened at the January 14th meeting centers around the fact that he was notified of the resolution change as the

meeting was called to order. With the Councilors receiving packets on Friday, they have the weekend and time to review, research, question policy, ask questions and get answers to make an informed decision. Mr. Talbot believes changes made and presented to certain Council members at that late a date, is a disservice to Councilors because they cannot make an informed decision. He said we are back tonight doing exactly what Councilor Flynn-Harris articulated two weeks ago. She said the Town would not get a hardship variance, and the Democrat Councilors voted against the resolution. Mr. Talbot said he would vote in favor of the subject resolution.

As a result of discussion at the last meeting and concerns for residents, Mr. Oris said Councilors focused on the impact to residents. It would have been a mistake to approve the zone text change on the table at the last meeting as it was too broad. As a result of the discussions held, there is a better solution on the floor, with more protection of homeowners and their property values. This is something the Council takes very seriously. The end result is better for the community and we are in a better place today than we were with a better resolution. Mr. Oris is glad the Council had this dialogue.

Mr. Talbot agreed with Mr. Oris. He said his point was the Council deferred the Town Attorney resolution because of not having enough information. If there was a question about the best way to go, especially after Ms. Flynn-Harris articulated the exact point – which ended up being correct. The resolution should have been tabled to the next meeting, coming back with the proper information, instead of passing a resolution by a 6-3 margin, then rescinding this resolution, putting it back with some tweaks. Mr. Talbot believes things could have been handled differently, and this was his point.

Chairman Slocum commented on his having misunderstanding of “hardship”, and now understands what it truly means.

Mr. Ruocco said he would have felt better if the height restriction was known before the referendum.

In response, Ms. Flynn-Harris stated that this should have been addressed with the first bubble because it hit 55 feet.

Mr. Ruocco sees this as self serving, and there should be public involved.

The legitimacy of the legislative process of the Planning and Zoning Commission was raised by Ms. Flynn-Harris. PZC has two different processes – one is legislative and one is administrative. By the Council doing the process in the resolution, there are other municipal agencies reviewing the application, not just PZC, to make sure it is legitimate without negative impact. The process is solid, and going for a waiver is not as solid. The process is a 30 to 60 day window, ongoing simultaneously, to the public hearing which allows public input, and is the best process to go through.

Mr. Schrumm stated the Council is in a better place tonight, but it is still an amendment to the zoning regulations which could come back to haunt the Town in a few years.

VOTE The motion passed 6-2; Opposed - Schrumm and Sima.

9. Referral of Friends of Boulder Knoll request for more space to Planning Committee.

Chairman Slocum referred this agenda item to the Planning Committee.

10. ADJOURNMENT

MOTION by Mr. Schrumm; seconded by Mr. Ruocco.

MOVED to adjourn the Special Meeting of the Town Council at 10:22 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk

Item 8