

November 30, 2015

LC-2015-9

BEACHWOOD CITY COUNCIL MINUTES OF THE LEGAL AND PERSONNEL COMMITTEE MEETING HELD AT BEACHWOOD CITY HALL, CONFERENCE ROOM A, 25325 FAIRMOUNT BOULEVARD, ON MONDAY, NOVEMBER 30, 2015 AT 8:00 A.M.

The meeting was called to order at 8:00 A.M. by Chairman Mark I. Wachter.

ROLL CALL: Present M.S. Horwitz, M.M. Jacobs, M.I. Wachter
 Absent: M. Mintz, J. Pasch.
 Also Present: Mayor Gorden, B.A. Reali, F.S. Goodman,
 A. Isaacson, K. Winebrenner

1. Discussion regarding 2016 Consulting Contracts.

Mr. Reali stated that he gathered salary information from surrounding cities and the salaries range from \$35,000 per year to \$75,000 per year. Mr. Reali stated that because of the new probable cause laws it has increased the time Mr. Greve spends with each arrest and citations that are issued. Mr. Reali also stated that Mr. Greve's firm performs all the discovery preparation and there are the hidden costs of his secretarial staff which is also a large piece of the prosecutorial process.

Mr. Reali stated that Mr. Greve is in Mayor's Court every other Wednesday, Shaker Municipal Court every other Tuesday and due to the number of cases he is in Shaker Municipal Court every Friday.

Mr. Wachter stated that Mr. Greve also handles any appeals that are filed.

Chief Winebrenner stated that he met with Judge K.J. Montgomery and she stated that Shaker Municipal Court is one of the busiest Courts in Cuyahoga County.

Mr. Wachter stated that Shaker Municipal Court has a large docket that includes all the hearings and trials.

Chief Winebrenner stated that with every OVI (Operation of a Motor Vehicle while Impaired) a Motion to Suppress is filed which requires time for preparation.

Mr. Wachter stated that Mr. Greve is well respected in Shaker Municipal Court by Judge Montgomery.

Mayor Gorden stated that he would like to keep Mr. Greve and he also met with Judge Montgomery to discuss the Court process.

LC 2015-10

Mayor Gorden stated that the Mr. Reali and Ms. Jones could step in if needed because they both have prosecutorial experience. Mayor Gorden stated that he has received no complaints about Mr. Greve.

Chief Winebrenner stated that to date there have been 700 arrests and 3,000 tickets issued. Chief Winebrenner stated that Mr. Greve spends more time in Beachwood than he does in Shaker Municipal Court.

Mr. Goodman asked how many hours per week does Mr. Greve work for the City.

Mr. Wachter stated that Mr. Greve spends approximately 17 hours per month in Court, not including preparation and telephone calls.

Mr. Horwitz stated every other Friday from 8:00 AM until Noon in Shaker Municipal Court, every other Tuesday in Shaker Municipal Court and every other Wednesday in Mayor's Court.

Mr. Isaacson stated that negotiations happen with defense counsel prior to Court.

Mr. Wachter stated that there are a handful of cases without opposition.

Mr. Isaacson stated that City of Strongsville would be close in community size to Beachwood.

Mr. Reali stated that the City of Strongsville also uses an Assistant Prosecutor.

Mr. Isaacson stated that the City of University Heights has a higher volume in prosecutions

Mr. Wachter stated that the City of University Heights is sent to Shaker Municipal Court.

Mr. Horwitz suggested we meet at \$70,000.00.

Mr. Goodman stated that he agreed with \$70,000.00.

Chief Winebrenner stated that due to the probable cause determinations and felony arrests more time is required of Mr. Greve.

Mr. Wachter stated that Mr. Greve is a class act.

Mayor Gorden suggested the requested \$75,000.00.

Mr. Jacobs stated that it has been 13 years since Mr. Greve asked for a raise.

November 30, 2015

The Legal and Personnel Committee recommended to Council the \$75,000.00.

LC 2015-11

Ms. Kaplan and Mr. Forester asked to speak to Council regarding Eaton and the new Tax Code changes and SERP.

Ms. Kaplan stated that in 2009 the City passed an Ordinance which stopped taxing SERP.

Mr. Goodman stated that the Eaton executives did not want to pay the huge taxes.

Mr. Reali stated that there were two recent court cases involving the City of Shaker Heights and the City of Middleton. The language in the City of Middleton ordinance is similar to the language in the Beachwood Ordinance. Mr. Reali stated we would need to tax SERP which affects the highly paid executives in the \$200-300,000.00 salary range.

Mr. Forester stated that you cannot just take out one company, it is everyone in or everyone out. Mr. Forester stated that Mr. Pfaff wants to keep it in.

Mr. Forester stated that the City of Shaker Heights lost the court case because the SERP plan was not in an ordinance.

Mr. Wachter stated that the City might have to take it out.

Mr. Reali stated that the City of Cleveland is currently in court and if they lose they will most likely appeal to the Supreme Court.

Mr. Goodman suggested leaving SERP as is.

Mr. Jacobs stated that Eaton fought hard for this and it almost became a deal breaker.

Mr. Isaacson asked if there was a window – all or nothing.

Mr. Wachter stated that Eaton could file an injunction or a mandamus to compel the Tax Administrator to exclude SERP from taxable income.

Mr. Goodman stated that kglobal had a \$15,000.00 retainer and that if they were to perform additional work they would need to come back to City Council for approval. Mr. Goodman believes that kglobal has spent slightly under the \$15,000.00 retainer. Mr. Goodman stated that kglobal has billed the City for travel expenses of \$1,300.00 plus additional charges on top of that of \$8-9,000.00. Mr. Goodman stated that he called kglobal to discuss.

November 30, 2015

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Mr. Reali stated that contract provides for hourly rate plus expenses. Mr. Goodman suggested that Council agree to pay the \$1,300 travel expenses plus \$2,000.00 of the \$8-9,000.00 additional charges.

LC 2015-12

Mr. Goodman stated that kglobal should have come to Council before invoicing the City.

Ms. Janovitz stated that kglobal should eat the overrun.

Mr. Reali stated that the retainer should cover everything.

Mr. Wachter stated that if kglobal performed \$10,000.00 worth of work the City would still owe the expenses.

Mr. Goodman stated that Council should authorize the \$1,200-\$1,300 for travel expenses.

ADJOURNMENT

Moved by M.I. Wachter, seconded by M.S. Horwitz, at 8:30 A.M., to adjourn the meeting to the next regularly scheduled Council Meeting.

ROLL CALL:	Yes:	M.S. Horwitz, J. Pasch, M.I. Wachter
	Abstain:	None.
	No:	None.
	Not Voting:	None.

Approved:

Merle S. Gorden, Mayor

Clerk of Council