1. BET Law Comm. Meeting Documents

Documents:

BET_LAW_COMM_AGENDA_06-04-18.PDF
SUB_TO_APP_BET_LAW_MINUTES_06-04-18.PDF
APPROVED_BET_LAW_COMM_MINUTES_06-04-18.PDF
AGENDA

1. Executive Session to discuss pending litigation

2. Review request for transfer of funds from 100 line to 200 line within the FY17-18 budget for the Law Department

3. Review insurance coverage for the Town

4. Review Amendment to Investment Management Agreement
   a. BET fiscal responsibility under Charter for engaging independent investment custodian for Retirement Funds

5. Discuss whether or not the Board of Assessment Appeal has the legal right to waive a penalty for commercial property owners

6. Approval of BET Law Committee Meeting Minutes of May 15, 2018

7. New Business
TOWN OF GREENWICH
BOARD OF ESTIMATE AND TAXATION
LAW COMMITTEE MEETING
MINUTES

Monday, June 4, 2018
Law Department Conference Room

Committee: Elizabeth K. Krumeich, Chair; Karen Fassuliotis

Law: John Wayne Fox, Town Attorney; Eugene F. McLaughlin, Jr., Assistant Town Attorney; Fernando F. de Arango, Assistant Town Attorney

BET: Jill Oberlander, Chair; Leslie Tarkington

Finance: Peter Mynarski, Comptroller; Megan Damato, Director of Risk Management

Others: Jose Irizarry, Executive Vice President, Frenkel & Company (international insurance broker by telephone)

The meeting was called to order at 2:25 P.M.

1. Discussion in Executive Session of Pending Cases in Litigation

   The Committee voted 2-0 to go into Executive Session at 2:26 PM to discuss pending cases in litigation. After some discussion the Committee voted 2-0 to come out of Executive Session at 2:55 P.M.

   On motion by Ms. Fassuliotis, seconded by Ms. Krumeich, the Committee voted 2-0 to accept the proposed recommended settlement of $15,000 for the D’Andrea case.

2. Request by the Law Department to Transfer Funds from the 100 to 200 Line

   The Committee discussed a request by the Law Department to transfer $12,000 from the 100 to 200 line within the Budget for FY 2017-18. The request for the transfer relates to expenditures relating to Westlaw. Wayne Fox informed the Committee that the expenditures for Westlaw were higher than expected, the contract for Westlaw was expiring and that the Law Department was considering Lexis-Nexis as an alternate vendor for legal searches.

   On motion by Ms. Fassuliotis, seconded by Ms. Krumeich, the Committee voted 2-0-0 to approve the transfer of $12,000 in the Law Department’s FY 2017-18 budget from the 100 line to the 200 line. Motion carried.

   The Committee noted that this request does not need to be approved by the full BET and will be referred only to the BET Budget Committee for approval per the Rules of the BET.
3. Discussion of Insurance Policies for Town

Megan Damato Peter Mynarski and Jose Irizarry joined the meeting for a discussion on the insurance coverage for the Town. Mr. Irizarry explained that the Town had multiple insurance companies with layers rather than one carrier with a larger layer because insurance companies did not want to assume the full risk for insurance covering a municipality; they preferred to bind layers of coverage. The Committee voiced its concerns relating to the Town’s decision several years ago to place coverage with Starr Insurance Company that excluded outside legal fees from the Town’s self-insured retention costs, resulting in much larger costs for litigation during that two-year coverage period. The Committee wanted some assurances that this exclusion would not be in future insurance coverage placed for the Town.

Mr. Irizarry indicated that he is in the midst of placing the Town’s insurance program for the next year. He advised that Argonaut/Trident Insurance Group (“Argonaut”), has indicated that it may look to either raise its premium or increase the Town’s self-insured retention amount to $1.5 million (from $1.0 million) because of concerns with recent cases that were disclosed in the historical exhibits provided to Argonaut (e.g., Abercrombie, D’Bella (class action) and others). The company must look at the Town’s claims history to determine past and potential future claims. Argonaut has not yet made a bid and is evaluating the coverages. Mr. Irizarry stated that he has made it clear that if they want to stay as the Town’s insurers that a key provision will be that legal defense costs will be deducted from the self-insured retention amount.

The Committee also discussed with Mr. Irizarry the type of insurance covering the Bruce Museum. He explained that the Bruce Museum has a separate insurance program, including fine arts coverage for the collection.

4. New Business

a. Sewer Encroachment Permit
The Committee was informed that the insurance for the force main project in Old Greenwich is in place and the sewer encroachment permit and the permanent encroachment agreement are before the RTM for approval by that body. Once approved, the project will begin.

b. Amendment to the Investment Management Agreement: Custodian
Attorney McLaughlin reported that he requested from Neuberger Berman’s counsel a red-lined copy of the Amendment to the Investment Management Agreement with Neuberger Berman (NB) and was awaiting the document. Attorney McLaughlin explained that the main issue expressed by the Treasurer is that there is no ability for independent verification of information provided by National Financial Services LLC (NFS), the sub-custodian that NB would like to retain to perform custodial services for the Town’s Retirement Fund, including online access and disclosure.

The Committee also discussed the role of the BET as it relates to the appointment of a custodian. The BET would be appointing NB as the custodian and NB would retain NFS to replace State Street Company, the Town’s current custodian, for the Retirement Funds. Under the Town Charter, the BET has the authority to retain a corporation trustee. It is unclear if NB
is then permitted to retain NFS. The Committee awaits a confirmation by the Town Attorney that the BET can permit NB to retain NFS as the sub-custodian.

6. Commercial Owners Rights and Board of Assessment Appeals Authority

Attorney McLaughlin also informed the Committee that he will be informing the Board of Assessment Appeals (BAA) about some procedures relating to re-appeals to the Board by those who have appealed their assessments. He will ask the BAA to change their letter of decision to include a reference to the statute and that there is a right to appeal to Superior Court. Attorney McLaughlin will also clarify that the BAA cannot waive the income expense penalty on a late receipt unless that Town has an ordinance allowing it to do so, which the Town currently does not have. That does not preclude the BAA from having the right to equitably act if they feel the assessment was too high but that is separate and distinct from waiving the income expense penalty.

6. Approval of Minutes of Past Meetings

The approval of the May 14, 2018 minutes were deferred to the next meeting.

Adjournment

The meeting was adjourned at 3:56 P.M.

SUBJECT TO APPROVAL

Karen Fassuliotis, Recording Secretary

Elizabeth K. Krumeich, BET Law Committee Chair
TOWN OF GREENWICH
BOARD OF ESTIMATE AND TAXATION
LAW COMMITTEE MEETING
MINUTES

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Karen Fassuliotis, Recording Secretary

Elizabeth K. Krumchein, Chair