



**TOWN OF GREENWICH
BOARD OF ESTIMATE AND TAXATION
LAW COMMITTEE
REGULAR MEETING MINUTES**

**Monday, February 14, 2022
Law Dept. Conference Room**

- Committee:** Karen Fassuliotis, Chair, Stephen Selbst
- Law Department:** Barbara Schellenberg, Town Attorney, Abby Wadler, Assistant Town Attorney
- BET:** Laura Erickson, Leslie Moriarty, Dan Ozizmir, Jeff Ramer, Leslie Tarkington
- Guests:** Christina Downey, Board of Education, Toni Jones, Superintendent, Board of Education

The Chair called the meeting to order at 3:06 P.M.

1. Approval of the Minutes

Upon motion made by Ms. Fassuliotis, seconded by Mr. Selbst, the members approved by a vote of 2-0-0 the Minutes of the Special Meeting of the Law Committee held on December 23, 2021 and the Regular Meeting of the Law Committee held on January 13, 2022. Both motions carried by a vote of 2-0-0.

2. Old Business

Covid 19 Update. Town Attorney Schellenberg reported that although some employees had been working remotely during the spread of the omicron variant, all were now working on site. She noted that masks in Town Hall would become optional after February 18, 2022.

Budget Update. Ms. Schellenberg reported that the Law Department continues to monitor outside counsel fees and noted that in the event of the settlement of any of the pending claims or cases against the Town, there may be a need for an additional appropriation.

3. New Business

Peluso v. Town of Greenwich. Ms. Schellenberg reported that Aamina Ahmad of the Law Department was arguing the pending appeal before the Connecticut Supreme Court in *Peluso v. Town of Greenwich*, a case where the Town had successfully won dismissal of the lawsuit and the dismissal of which had been affirmed by the Connecticut Appellate Court.

Claims Review Process. Abby Wadler of the Law Department briefed the Law Committee on the Town's claim review process. Ms. Wadler reviews all claims as they come in and notifies PMA Companies, which is the outside firm used by the Town as a claims administrator. PMA monitors reserves set for lawsuits, coordinates notice to insurance carriers where necessary and also conducts investigations of claims when requested. PMA also maintains a database of pending claims and cases involving the Town.

Ms. Wadler advised the Law Committee that if the claim is not complex, the Law Department may conduct its own investigation, but if the claim is complex, it may request PMA to assist in the investigation. If the claim can be resolved for less than \$5,000, the Law Department may settle the claim. If a settlement exceeds \$5,000, approval is sought from the Office of the First Selectman, the BET Law Committee, the BET Budget Committee and the Representative Town Meeting.

FOI Update. Ms. Schellenberg reported that Aamina Ahmad of the Law Department was investigating whether meetings between caucuses from the same political party, but comprised of members from different bodies, such as the BET and Board of Education could hold private meetings, or whether such meetings were subject to the Connecticut Open Meetings Law. Ms. Schellenberg reported that she expected that there would be a memorandum on this issue next week.

Post Road Tree Planting Indemnification Clause. Margarita Alban of the Planning & Zoning Commission and JoAnn Messina of the Greenwich Tree Conservancy made a presentation to the Law Committee on the proposal for an indemnity in favor of the State of Connecticut for the planting of trees along US-1 in Greenwich. Under the program, the Greenwich Tree Conservancy would make gifts of the trees, and would obtain insurance for the trees, which would be planted along the sides of US-1. US-1 is owned by the State of Connecticut, which is requiring an indemnity. The Law Committee reviewed the form indemnity agreement approved by the City of Norwalk. Leslie Moriarty of the BET questioned whether the BET should be accepting this liability. Leslie Tarkington of the BET asked whether there is a deductible on the insurance. Leslie Moriarty asked whether the Town could accept this liability by adopting as part of the budget. It was suggested that the Law Department ask Aamina Ahmad for advice on the liability issue. The Risk Manager, Megan Damato, will also be consulted.

Fiscal Year 2023 Budget. Town Attorney Schellenberg reported that the Law Department budget contained contractual increases for permanent and temporary staff. The salaries reflect an increase of 0.6%, with no increase in headcount. She also reported that the professional services portion of the budget consisted of outside counsel fees and expert services. Because the Town's Grand List is being revalued this year, she estimated that there may be approximately 150 tax appeals. The retainer agreement for the Town Attorney was changed in May 2021 and approved by the Office of the First Selectman. It

calls for an increase of approximately 7.3% over fiscal 2022. Ms. Schellenberg reported that the budgeted amount for the Town Attorney was \$200,000, but that actual billings were typically not that high.

Preliminary Review of Fiscal Year 2023 Budget Resolutions. The proposed fiscal year 2023 budget resolutions were distributed at the meeting, but the Chair determined to defer consideration of the budget resolutions until the Law Committee had an opportunity to review them.

Department Legal Services Budgets:

Human Resources Department. Mary Pepe of the Human Resources Department reported that the department uses Shipman & Goodwin for all human resource issues, and that its fees were paid out of the Human Resources Department budget. It also uses Shipman & Goodwin for grievance issues, and that those fees were part of the labor budget of the Office of the First Selectman and overseen by Ben Branyan. Human Resources also investigates complaints; if they are routine, the department may investigate them. If they are complex, the department notifies the Law Department and the investigation is conducted through the Law Department.

Board of Education. Dr. Toni Jones, the Superintendent of Schools, made a presentation on behalf of the Board of Education. She explained that the BOE tried to resolve claims informally and internally, but where those efforts are unsuccessful, the BOE will coordinate with the Law Department and outside counsel. Claims where outside counsel may be required include Title IX claims, student discipline issues, special education issues and human resource issues. She also reported that Shipman & Goodwin had been used for some litigation and negotiations. Under BOE Policy 91-25, the Board of Education is permitted to retain its own counsel. Law Committee chair Karen Fassuliotis suggested that BOE Policy 91-25 may conflict with section 235 of the Town Charter and suggested that the Board of Education should review that issue with the Town Attorney.

- 4. Recent Court Filings.** Town Attorney Schellenberg reported that there are two new cases, 1) *Leysa v Benson et al.*, which alleges a failure to accommodate in employment and employment discrimination claims, and 2) *Los v Rondini et al.*, a federal civil rights case alleging false arrest.

Mr. Stephen Selbst, the Law Committee voted 2-0-0 to go into executive session at 4:27 p.m. to discuss pending cases and claims.

- 5. Executive Session.** Upon a motion made by Ms. Fassuliotis, seconded by Mr. Selbst, the Committee entered an executive session to discuss pending litigation at 4:27 p.m.

Upon a motion made by Ms. Fassuliotis, seconded by Mr. Selbst, the Committee exited the executive session at 6:12 p.m.

- 6. Adjournment.** Upon a motion made by Mr. Selbst, seconded by Ms. Fassuliotis, the Committee voted unanimously to adjourn the meeting at 6:12 p.m. Motion carried.

Respectfully submitted,



Stephen Selbst, Recording Secretary



Karen Fassuliotis, Chair, Law Committee