

BET LAW COMMITTEE
Minutes of Meeting Held on
November 5, 2008

DRAFT: SUBJECT TO APPROVAL

The meeting began at 3:30 P.M. Attendance:

Committee Members: Nancy Barton, Jim Campbell

Law Department: Wayne Fox

Eugene McLaughlin (part of the meeting)

Fernando de Arango (part of the meeting)

Also Present: Peter Mynarski

1. Approval of Minutes: The amended minutes of the Committee's meeting held on September 16, 2008, were approved.
2. Approval of Minutes: The minutes of the Committee's meeting held on October 8, 2008, were approved.
3. The Committee voted 2-0 to take up the review of pending litigation and claims in executive session. Following review, the Committee voted 2-0 to return to regular session. The Committee approved, by a vote of 2-0, the requested authority to settle the following cases:

DiMaio v. Town of Greenwich (\$10,000)

Allstate Insurance v. Town of Greenwich (\$14,031.17)

4. The Committee reviewed the proposed Agreement between the Retirement Board and Welsh, Carson, Anderson & Stowe ("WCAS"), relating to a proposed \$5 million investment in a limited partnership sponsored by WCAS, with a view to considering whether the documents are in good legal order.

Eugene McLaughlin, counsel for the Town in connection with the proposed agreement, noted that such limited partnership agreements are offered to all prospective investors on essentially the same terms, and that there is little room to negotiate their contents. It is contemplated that the Town will receive a side letter, containing substantially the provisions negotiated by the Connecticut State Retirement Plans, which will address issues specific to the Town as an investor.

Mr. McLaughlin also reviewed the key issues presented by the Agreements:

- The agreements will not contain the provisions that the Town usually requires concerning fiduciary duty, indemnity, insurance, and bonding.
- The investment manager will not provide advice directly to the Retirement Board, but will provide investment services to the limited partnership as a whole.
- The standard of liability applicable to WCAS is not ordinary negligence; the standard is gross negligence or other willful or particularly egregious violations of duty.

The Committee noted that it was not being asked to review the appropriateness of the proposed investment, as to which a recommendation will be made to the BET by the Investment Committee. The Law Committee determined, by a vote of 2-0, that it would report to the BET that the documents are in good legal order, based upon the advice of the Town's counsel, and assuming that a side letter acceptable to the Town's counsel is provided.

5. The Committee reviewed the status of the Law Department's budget for outside counsel for FY09. The Comptroller reported that the aggregate legal fees expended for the four months July 2008- October 2008 were approximately \$580,000, with a budget for the entire year of \$1,255,000. Mr. Fox stated that he does not expect outside counsel fees to exceed the budget. He explained that the three major cases that had caused high fees in FY08 were either disposed of or are at a stage of diminishing cost (Kempner v. TOG, Honulik v. TOG, and Hardy v. TOG). He identified the major cases for FY09, with estimates concerning their costs this year that are far lower than the three major cases last year, leaving an adequate allotment for the numerous smaller cases.

The meeting was adjourned at 5:45 P.M.