

Scenes from a Council Meeting (Representations)

Council President Allen 00:00

C13, action regarding retaining an attorney to represent common council on personnel matters.

Human Resources Director Marquardt 00:03

Let Mr. Stone go ahead.

Council President Allen 00:14

Go ahead, David.

Councilmember Stone 00:16

I move to authorize the council to retain a separate attorney for common council's use in regard to personnel matters or employees that council oversees.

Council President Allen 00:28

Okay. Is there a second? All right, I'll second it.

Human Resources Director Marquardt 00:37

So you do have two attorneys available to you already.

Council President Allen 00:41

Yes, we understand. But I talked to [pause] the League of Municipalities. And what we're looking to do here is something different that puts our attorneys in kind of a pickle. And they suggested that we seek an outside attorney for this.

City Manager Weidl 01:04

Sara, maybe it'd be beneficial for you to explain how Kyle doesn't actually report to the city manager. And how that is the exact thing that they're asking for.

Council President Allen 01:11

We understand that

Councilmember Stone 01:11

I got an email from, I specifically asked that that attorney doesn't represent the council or the city manager, and that I was looking for a

possibly an attorney, that would represent the council on employees that the council oversees, only employees that the council oversees.

City Manager Weidl 01:14

So the city manager, because you only oversee the city manager. [Aside] Don't look at me quizzically, it's not my request.

Councilmember Brown 01:39

I have no idea what's going on.

Councilmember Dawsey Smith 01:41

Can I make just a comment, please be cautious and using the we want to do, it's not something we have discussed as a body. So we have yet to form of what we want to do. And that would take the shape of our vote.

Councilmember Stone 01:53

My motion was I.

Councilmember Dawsey Smith 01:53

That's correct. But Jim indicated what we want to do. And that's, that's not transparent. This is the discussion of the body in front of the public as to whether or not the body is going to vote to do this. I for one, I'm not supportive. We already retained the counsel of two professional attorneys, one of whom specializes in labor relations. I do not feel that it's in the taxpayers' best interest to hire another person. Because any one of us or us as a body feeling that we're putting someone in an uncomfortable situation, they have taken their oath as an attorney, this is their job.

Council President Allen 02:27

That's your that's your opinion. And you're welcome to it. We, I knew exactly that you say that. So sorry. Anyone else?

Councilmember Gerber 02:34

I guess I need a little bit more clarification here. I'm a little confused.

Human Resources Director Marquardt 02:37

I don't understand at all.

Councilmember Gerber 02:39

We retain, I know we retain von Briesen and Roper for employment issues, union contracts, things like that. So are what you are saying is they can't answer questions in regards if the council would have one on the city manager?

Council President Allen 02:57

We need separate representation when doing John's performance evaluation.

Human Resources Director Marquardt 03:03

Again, please...

Councilmember Gerber 03:05

I guess my question is why? I guess I just want to know, I mean, is there a confidential issue? Are they required to relay this to city manager? Is this just a comfort thing? I'm just think I'm assuming Jon, Jonathan kind of answered last time or Jim, you answered for Jonathan last time that you weren't going to do employment related issues. Is that correct? Like you wouldn't handle questions on...

City McDonell 03:30

Right.

Councilmember Gerber 03:31

I think he kind of spoke for you. So I'm just trying to figure out why we're not using von Briesen.

Councilmember Stone 03:37

I received, I specifically asked if they represent the council, represent the city manager, representing the entity. I guess I didn't bring the email with me, but I could try to have that.

Councilmember Gerber 03:46

You asked von Briesen?

Councilmember Stone 03:48

The, Kyle... Gulya, specifically, and no, he doesn't represent the council. He represents the entity. The firm does work with the insurance company that the city's a part of, but it doesn't represent the council. So if the council wanted an attorney to advise it on city manager-related issues we need to have our own attorney would be my take away from that. So this is why I put that motion out there and now it's up to the rest of the council to decide if that's of use. It certainly would be a once in a while type of thing, where it's not like your, get cost estimates and see for different firms how much it would cost and without knowing for like a per hour type of basis. It's my, wouldn't be be a lot of live hours. So

Councilmember Gerber 04:44

So you're looking for prices. This isn't a motion to go forward, it's a motion to gather quotes.

Councilmember Stone 04:50

Get quotes and come back with that and possibly designate somebody maybe the council president or someone to get quotes, and then he would come back with firm's represent the council, employees the council oversees, which is,

again, the only one I know of is the city manager and then see what those firms offer.

City Manager Weidl 05:15

Sara, I believe that's why you included the procurement policy. So there's there's guidelines for procuring policy services such as this.

Councilmember Hicks 05:26

Is there typically a fee for retaining?

Human Resources Director Marquardt 05:29

Yeah.

Councilmember Hicks 05:30

So we, if we go get quotes, we pick one, we're going to pay the fee to retain them?

Council President Allen 05:36

We would give either their hourly rate or not to exceed.

Councilmember Hicks 05:40

But, I mean, is there a yearly or monthly? How do you retain them? Well, so we pick one

Council President Allen 05:48

Only as needed

Councilmember Hicks 05:49

Only as needed, right? So we're not paying monthly to hold the services of somebody who

Council President Allen 05:52

No. We don't have a use for it right now, I don't believe.

City Manager Weidl 05:58

And with all respect, then why you guys hiring an attorney? We don't have a lot of money. And we don't have a lot of discretionary money, either. No offense. I'm glad we're all just trying, Sara and I really trying to understand and understand as staff. What's this direction?

Council President Allen 06:10

It's just discretion.

Councilmember Gerber 06:12

I think we're not hiring an attorney. I think he's asking to get quotes.

City Manager Weidl 06:16

Could you read back in the motion, Karri?

City Clerk Anderberg 06:19

He made a motion to represent common council on personnel matters.

City Manager Weidl 06:25

Yeah, the motion is to hire an attorney to represent counsel

City Clerk Anderberg 06:27

Not get quotes. That's why I think

Councilmember Gerber 06:30

That's why I'm confused with the motion that sounded like we were hiring, versus

Councilmember Stone 06:35

I guess, at this point that my motion was to move to authorize the council to retain a separate attorney for common council use with regard to personnel matters for employees to the council oversees. So I guess that would be to retain an attorney, but we need to find one to talk to them and get quotes before we decide on that so. So it would be to retain but ultimately that council decided based on cost

Councilmember Gerber 07:09

My concern is if it goes over the procurement policy, then it's not, then it has to go back.

Councilmember Stone 07:14

I think then we wouldn't do it. We see the how much it costs.

Councilmember Gerber 07:18

What is the procure? Can you refresh me on their procurement policy on what, for this particular item?

City Manager Weidl 07:23

And Dave do you have to have the language of the motion? Karri, I'm not trying to press you, I'd just like to know what the language you have written down is.

City Clerk Anderberg 07:34

I have it is motion to retain an attorney or the common council on personnel matters. If that is wrong, please let me know.

Councilmember Stone 07:44

I move to authorize the council to retain a separate attorney for common council use with regard to personnel matters for employee the council

oversees If it passes I'll just give this to you. [Inaudible] got it written down.

Human Resources Director Marquardt 08:04

I'm not even sure which one it falls under to be perfectly honest. We have

Councilmember Gerber 08:08

Under the professional services is that part of I think there was professional services on there the procurement policy. I don't have it in front of me or I would

Human Resources Director Marquardt 08:22

See we have all legal planning and engineering services require common council approval prior to retaining. The city attorney upon approval of the city manager may return, retain outside legal counsel to serve as, in an advisory role to the city attorney amount not to exceed 5000. For all other services identified in the approved budget, the department head and or city manager is delegated the authority to retain the professional is

Councilmember Stone 09:02

I think it would be very worthwhile for the council to have this tool as a possibility to to use when when council wants.

Councilmember Hicks 09:12

Would you be open have open to amendment?

Councilmember Stone 09:16

What?

Councilmember Hicks 09:17

Would you be open to an amendment?

Councilmember Stone 09:19

What's the amendment?

Councilmember Hicks 09:19

Just simply amend to ask the city to get pricing and return to the council with it?

Councilmember Stone 09:26

I think that we would we would have to get pricing, one of us, them to go out and get pricing that's something that can be delegated, like to the council president or we wanted to delegate it to me I could go out and get pricing. But since it's really the council attorney, I think it's would be our work, but if you delegated that to me, say, and wanted me to try to do that in the motion, I could come back.

Councilmember Dawsey Smith 09:52

I would be interested in whether or not state statute even allows for that framework because the execution of things is articulated I as not the council.

Councilmember Stone 10:01

Well, I looked at the statute and I found and I don't have it in front of me. You could ask the city attorney to do that as well, that it is allowed for counsel to hire outside firms on specific issues as the council sees

City Manager Weidl 10:17

Did you enter any of that into the public record? Documents to be discussed by the council need to be entered into the public record. So if you do have that information, it should be turned into the clerk so she can add it to the public record.

Councilmember Stone 10:27

Okay, I just don't have it in front of me right now.

City Manager Weidl 10:31

I understand. It's just a pretty big decision to be making with information we don't have in front of us right now.

Councilmember Stone 10:36

That's, that's my question.

Councilmember Brown 10:38

Well, I'm concerned why this is even coming up because you're not explaining why we would want to retain one in the first place. And I'm starting to get concerned that there has been a violation of open meetings that people have been talking together in some way because it seems like there are, I feel like there's been a separate conversation happening that why would we need an attorney in the first place? There's no reason why we need an attorney. Why would we want to retain one? Nobody so far has explained to me why we would want one and that's what concerns me if it's not coming up why would want one? Then that means there have been conversations happening that should have been happening in a more transparent and open way at a meeting.

Councilmember Stone 11:20

So this is this is an agenda item that I requested.

Councilmember Brown 11:23

I know but I don't understand why. I have no, you're not explaining why we would need

City Manager Weidl 11:27

Brienne, could speak in the microphone please so the newspaper and stuff doesn't lose your sound?

Councilmember Brown 11:31

We, it has not been explained why we need this . This is an expense and there's been nothing explained to me as to why we would even come up with this kind of an expense.

Councilmember Stone 11:43

Are you gonna make a motion about that or an amendment to the motion?

Councilmember Hicks 11:49

No.

Council President Allen 11:56

Call the roll please.

City Clerk Anderberg 11:59

Stone

Councilmember Stone 12:00

Aye.

City Clerk Anderberg 12:01

Gerber

Councilmember Gerber 12:08

Aye.

City Clerk Anderberg 12:10

Hicks.

Councilmember Hicks 12:15

No.

City Clerk Anderberg 12:15

Councilmember Brown 12:15

No..

City Clerk Anderberg 12:20

Dawsey Smith.

Councilmember Dawsey Smith 12:21

No.

City Clerk Anderberg 12:24
Allen.

Council President Allen 12:25
No.

City Clerk Anderberg 12:27
It's

Council President Allen 12:28
Thank you.