

**Personnel Action Committees
Minutes for 4/4/2019 meeting**

Starting Time – 6:15PM at City Hall



Members of Personnel Action Committee – William Onyski (present), Brent Bean (present), Cindy Harris, chair (present)

The Law Dept. has requested at every meeting we ask if anyone present is audio or video taping, or live streaming this meeting, and if so – please state your name - None.

Mayor Sullivan has sent in requests for reappointment for all 3 attorneys. None of the Committee members have solicited the following remarks. They were initiated by the authors and conveyed to the Chair.

Director of Public Works Dave Billips, who states he cannot be present because he is in Washington, D.C. trying to obtain money for the City's water situation, requested I convey that he totally supports all 3 Attorney's reappointments – that he deals with each of them in different scenarios and they are professional and valued.

A strongly-worded letter of support for all 3 Attorneys' reappointments from Director of Purchasing Tammy Tefft will be attached to the minutes of this meeting. I will read parts now. It can also be viewed when this meeting adjourns.

Fire Commissioner Lee Bennett, who states she has a commitment out of town or else she would attend tonight, says she is in total support of the Law Department's reappointments. They are all professional and are very well respected in their field – they provide facts, not opinion and are not afraid to ask for input. Attorney Krok's knowledge is very evident in her work with him and the entire department is top notch.

City Clerk Fanion states she totally supports all 3 reappointments. Her office is constant contact with the Law Department and that they are extremely responsive, professional and well-respected.

Information Technology Manager Lenore Bernashe states she supports the reappointments of all Attorneys. They have been instrumental in helping the Technology Center with the navigation of several crucial IT Contracts and labor concerns. For the past several years she has had the opportunity to work with each of them and have found them all to be professional, intelligent and articulate. They have been invaluable resources in guiding her and the Public Safety Communications Commissions through the nuances of contract law – highly recommends their reappointments.

Casey Berube, Deputy Superintendent, Department of Public Works states the staff in our Law Department are always professional, responsive and supportive of all other City Departments. We rely on their valued services on a daily basis. Their collective understanding of our laws, rules and regulations cannot be discounted. Enough good cannot be said about Sue Phillips and her team in the Law Department. He asked us to relay "Our appreciation and gratitude of their appointments, as they exist (3 years – not one year) to all the Council."

Also attached to the minutes will be an email from Councilor Emmershy to the Chair regarding the Fire Department and case information. The response letter to that email from the Law Department is also attached.

All councilors were given resumes on these 3 attorneys and all Councilors have had 2 weeks to meet with the Department Head City Solicitor Phillips to discuss any of their concerns or answer their questions.

Before we address the summaries on each Attorney, would anyone like to make a concise statement, short in nature on the Attorneys' reappointments – I'll add that immediately following each summary the Committee members will vote as all information contained in those summaries has already been given to each Councilor.

Comments?? From anyone?

The following voiced their comments...

Ramon Diaz, School Committee – Law Department is professional and helps with contract negotiations that all sides can agree on. Totally supports the reappointments.

Mayor Sullivan – I put forth the names because I believe in them. The number of people and department managers in the room is the biggest testament to their support (refers to rm. 201 filled to capacity with people)

Paula Ceglowski, Personnel for School Department – Strongly supports all reappointments.

Bill Carrelas, Chair of Planning Board- These lawyers are invaluable to the Planning Board. They provide opinions that are in the best interest of the City.

Agenda Item #1

Submitting the reappointment of Attorney Jeffrey R. Krok, 195 Falmouth Road, West Springfield as City Labor Counsel for a term of three years.

Voted 3-0 to recommend that reappointment.

Discussion:

Attorney Krok earned a Law Degree in May 2010 from Western New England College in which he received Academic Merit Scholarships and Mediation Certification. He is a Visiting Lecturer at Westfield State University teaching Law, Courts and Politics and Municipal Law for many semesters, including the current Spring 2019 Session. He has also taught Children's Law.

Since March 2013, he has worked in our City's Law Department as Labor Counsel. He serves as lead negotiator with 10 City Unions and 7 School Unions in Collective Bargaining. Another part of this position includes Training and Counsel for managers and employees on employment and labor topics. He is responsible for researching legal issues and best practices in administering state and federal working conditions laws, the Massachusetts Open Meeting Law and Public Records Law, and other pertinent statutes related to public administration governance. In addition, he advises and represents the Mayor, Superintendent, Department Heads (specifically Westfield Public School HR and City

Personnel) on contract drafting and interpretation, discipline, discharge, unfair labor practices, collective bargaining, negotiations, arbitration, mediations, grievances, administrative hearings, court motions and trial strategy.

Attorney Krok has successfully initiated and negotiated permanent incremental increases in employee health insurance contribution rate with the Public Employee Commission, a panel of representatives from all unionized and retirees. He has effectuated long-term, multi-year incremental process to reduce OPEB liability, resulting in concerted elimination of severance benefits and sick time reduction from collective bargaining agreements. He successfully negotiated successor agreements of varying durations for each City/School unit whether union leadership was static, adjustments made to union executive board membership or union affiliation changed. Attorney Krok created, revised or enacted policies on progressive discipline processes for City employees. He also streamlined interdepartmental processing of public citizen complaints. Furthermore, he participated with UMass Collins Center to create data tracking computer programs for citizen calls related to public works projects. Attorney Krok assisted in overhauling and creating a coding process for City-wide cash handling policy and protocols.

Prior to 2013, Attorney Krok was the Assistant Director/ Acting Director of the Westfield City Personnel Office with responsibility for ensuring compliance with legal obligations and collective bargaining agreement rights in hiring, discipline, transfers grievance and termination of employees in municipal departments and oversaw health insurance and benefits, worker's compensation and unemployment claims. He also was an Attorney for the City of Springfield in Labor Relations

Lastly, Attorney Krok has attended Labor Relations Institute Labor Law and Arbitration in 2013, 2015, 2016 and 2017, is a member of the Mass Municipal Attorney's Association, has MCPPO Public Contracting Overview Course Certification and has supervised about 8 student internships within our Law Department.

Attorney Krok was last reappointed in 2016 with all the City Council voting yes. City Solicitor Phillips states that he continues to exceed expectations in handling the many labor matters facing the City as well as the School Department and that he has been innovative in dealing with the complicated realm of Collective Bargaining as well as representing the City before the many State agencies that have authority over Municipal Labor matters.

Agenda Item #2

Submitting the reappointment of Attorney Meghan Bristol, 5 Marcel Street, South Hadley as Assistant City Solicitor for a term of three years.

Voted 3-0 to recommend that reappointment.

Discussion:

Atty. Bristol received her Law Degree from American University Washington College of Law, in Washington D.C. graduating Cum Laude.

With all the City Council voting yes, she was appointed Asst. City Solicitor in 2016. Her position involves providing legal opinions and advice to various City Boards, Commissions and Departments. She handles tax title foreclosures and auction of foreclosed properties which includes title research and payment agreement negotiation with delinquent taxpayers through handling real estate closings of auctioned parcels. Atty. Bristol also handles appeals to the Massachusetts Appellate Tax Board resulting from Board of Assessors abatement denials.

The Airport is another area of importance as she assists the Airport Dept. and Airport commission in various endeavors including drafting and negotiation of new and renewal leases, FAA compliance matters, tenant compliance matters, policy considerations as they relate to legal framework, land release and transfers and noise mitigation property considerations.

Atty. Bristol has been involved in all aspects of water litigation. She assists the Dept. of Public Works Water Division in various endeavors including water system agreement negotiations, Mass DEP compliance issues, title research relative to ongoing projects and provides project permitting requirement assistance.

Other area of responsibilities as Asst. City Solicitor is the representation of city Departments before the Mass. Commission against Discrimination and the representation of the City Treasurer/Collector before the Mass. Bankruptcy Court to ensure proper payment of outstanding tax and municipal charge obligations by delinquent debtors and preservation of City's secured and/or priority status, and providing advice to City Treasurer in Chapter 13 Bankruptcy cases.

In addition Atty. Bristol drafts and negotiates PILOT agreements and Inter-municipal agreements.

Before joining our City's Law Dept. Atty. Bristol was employed by Berliner Law in Springfield as an Associate Attorney working for 9 years in drafting court pleadings, motions and briefs for oral arguments, drafting appellate briefs for appeals brought to the U.S. District Court and U.S. Court of Appeals, representing defendants in Mass. Superior Court civil proceedings and had full involvement in consumer bankruptcy law.

She also worked for the Honorable Peter Velis, a most admired and well respected judge. Since 2014 she has been involved with the South Hadley Family Center, a nonprofit, grant funded organization, which provides a safe, nurturing and inclusive learning environment for children from infants to age 5.

City Solicitor Phillips states Atty. Bristol has become an important member of the Law Department managing the water situation and that her problem solving skills continue to be an asset to the department. In addition she states as an Assistant City Solicitor, Attorney Bristol has brought her expertise to manage many pieces of complex litigation, and is responsible for tax foreclosures with the Mass. Land Court.

Councilor Onyski stated his support.

Councilor Allie stated his support especially for her work on the Fire Pit ordinance situation, which was lengthy.

Agenda Item #3

Submitting the reappointment of Attorney Shanna Reed, 44 Miller Avenue, Southampton as First Assistant City Solicitor for a term of three years.

Voted 3-0 to recommend that reappointment.

Discussion:

Attorney Reed earned a Law Degree from Boston University School of Law and a B.S. in Criminal Justice from Elmira College, NY graduating Magna Cum Laude.

She has been with the Westfield Law Dept. since 2010. Her responsibilities include performing the City Solicitors duties in her absence. The following responsibilities are also included in the position are:

- 1) Procurement/Contracts/Leases-She reviews all city and school contracts for goods and services for compliance with the Law including special education and transportation. She negotiates and drafts leases or purchase and sale agreements for property disposition including Bullens Field and Moseley School.
- 2) Litigation-She handles eminent domain, zoning and open meeting law complaints.
- 3) She prepares documents for the city council for Eminent Domain takings for roadway projects including title work and review of encumbrances.
- 4) She researches and drafts ordinances for the City Council including the recent Marijuana Legislation review and the updated Sidewalk Café ordinance. She drafted the Clothing Drop Box ordinance and assisted in amendments to various traffic ordinances. Also, she worked with Animal Control to revise the Animal Control ordinances, preparing all for the City Council.
- 5) Atty. Reed advises Dept. Heads and Board/Commission Chairs as well as writes legal opinions for various matters.
- 6) She is responsible for Code Enforcement and Zoning and works with the Building, health and Fire Depts. On Code Enforcement issues including hoarding, special permit compliance and receiverships. Regarding Zoning, she works with the Building Superintendent, Planning, Fire and Health Departments on any zoning or code concerns including banner removal, compliance with special permit and stormwater concerns being corrected. She worked on receivership petitions for fire damaged and vacant homes. In addition, her expertise in regards to the

Springfield Road order of takings and appropriations for traffic lights and associated title work is to be noted.

Atty. Reed works on the continue process of litigation cases especially in eminent domain and site plan domains. All city Councilors were given a list of specific cases that Att. Reed has or currently is working on including Procurement/Contracts/Leases/Property Disposition/Litigation/Legislation/Code Enforcement/Zoning/Land Use.

Prior to 2010 Atty. Reed worked for Atty's Parker and O'Grady as an Associate Attorney for 2 years negotiating purchase and sale agreements, researched titles and all functions associated with real estate closings. Since 2015 she has been on the Zoning Board of Appeals for Southampton, MA, hearing and deciding on Special Permit requests and variance requests.

When appointed to First Assistant City Solicitor April 28, 2016 Atty. Reed Received 100% 'Yes' votes from the City Council.

City Solicitor Phillips states Atty. Reed's work is exceptional and considers her a valuable member of the Law Dept. In addition, Atty. Reed has taken on numerous administrative functions along with the many legal matters that she directly oversees.

Councilor Onyski, L & O Chair, stated he has worked extensively with her and she is extremely important to that committee.

The minutes for 4/4/2019 were approved on 4/4/2019 on a 3-0 Vote.

Meeting adjourned at 6:53PM

Submitted by Cindy Harris, Chair
4/5/2019



CITY OF WESTFIELD, MASSACHUSETTS
PURCHASING DEPARTMENT
59 COURT STREET, WESTFIELD, MA 01085
PHONE: 413-572-6254
FAX: 413-572-1708

To: Councilor Cindy Harris, Chair of PAC

From: Tammy Tefft, Director of Purchasing

Date: April 2, 2019

Subject: Letter of Support

I wanted to reach out to you about my support for the reappointment of Attorney's Reed, Bristol and Krok. I have been fortunate to be in the unique position of being able to work with each of the above Attorney's weekly if not daily sometimes. There have been many times when their support has assisted me in successfully negotiating contracts and securing positive outcomes for the City through their guidance.

Without their guidance and support the City would lose time and money on various projects. It is mind boggling that there is a clear lack of appreciation for what they do for the City and that their names and reputations are put in such a negative light. These three lawyers work day in and day out in the background often times cleaning up messes that no one knows about. On multiple occasions Attorney Reed has stopped what she is working on to grab hold of the daily problem to assist in closing or mitigating it. For such an example Attorney Reed was able to secure, after months of diligent work, money owed to the City from a vendor who fraudulently signed a contract. If I had to have procured legal services outside of the City to assist we would have spent anywhere from \$180 to \$400 an hour and would have probably lost money in the process or not even gone after the vendor. But by having Attorney Reed in house all money received back (plus damages) was deposited directly into the general fund. Again if we had to hire an attorney every time the City needed guidance the City would be spending three times as much and would not get the dedication that we do from these attorney's.

Furthermore it has been in the public that the City did not do enough to recoup moneys owed for the Balustrades at Half Mile Falls Park. That could not be further from the truth. Attorney Bristol worked diligently to gain expert knowledge into the project including what lead up to the project and what followed after. She went through numerous boxes of records both at the City and at MASS DOT to gain the knowledge needed to fight against the State and the Contractor to win back owed compensation without going to court. As in the case above if we had used an outside legal firm we would have paid thousands of dollars. How is this negative?

As the Labor Attorney, Attorney Krok always appears in a negative light, when in fact he is well respected and often times deals with situations that no one else wants to tackle. He has assisted my office in multiple areas so that the City does not trip up employment laws, or labor contracts with the bids that we are doing. Every time I have gone to him with a possible issue he has assisted my office in making sure that we get what we need but within the confines of the law. He has been a sounding board time and time again when erroneous information is passed along as it relates to labor contracts. My office has worked with Attorney Krok in the past on procurements that affect the labor force, such as privatization of food service, janitorial services and the landfill.

In addition to the above both Attorney Reed and Attorney Bristol have assisted me in developing our construction bid documents to be more stringent with higher levels of protection for the City to prevent some of the past failings. These documents are now shared throughout Western Mass with Cities and Towns that do not have strong legal counsel. We should be celebrating what we have instead of tearing it down.

The Law Department is one of those behind the scenes departments that do not get the recognition they deserve. Without this team the City would not be as strong as we are and I am reminded of that every time I talk to my counter parts in the State. Most Procurement Officials do not have a legal department to go to, or if they do those legal folks do not specialize in municipal law and are sometimes given wrong information as it relates to municipal laws.

I count myself very fortunate that I work with a group of individuals as dedicated as these three. They go above and beyond daily to support the City of Westfield and we should support them.

Thank you for allowing me to speak on this as I feel really strongly that the City is making a mistake if we allow this type of behavior toward the City employees to continue. Good people's reputations are being destroyed for no good reason which makes it hard to gain and keep good employees.

Thank you again. Please let me know if I can be of further assistance to you.



Subject: PAC

To: "Cindy Harris" <C.Harris@cityofwestfield.org>

From: "Matt Emmershay (Matt.Emmershy@cityofwestfield.org)" <Matt.Emmershy@cityofwestfield.org>

Date: 03/27/2019 03:43 PM

CC: "Brent Bean" <b.bean@cityofwestfield.org>, "John Beltrandi" <John.Beltrandi@cityofwestfield.org>

Hi Cindy,

For the upcoming meeting discussing those from the law dept, there are a few things I hope could be answered at that meeting.

- 1) Individually what their role has been in any Fire Dept litigation resuming from the anonymous letter sent to HR early last year.
- 2) In the last 3 years how many case and/or claims have been filed for or against the City and what the resolution rates are.
- 3) How many current cases and/or claims are there that are unresolved.

This would be helpful for discussion before a vote is taken.

Thanks,
Matt



Memorandum

City of Westfield, Massachusetts
Office of the City Solicitor

TO: Cindy Harris, Chair, Personnel Action Committee

FROM: Susan C. Phillips, City Solicitor *SCP*

DATE: April 1, 2019

SUBJECT: Committee scope

C: Ralph Figy, President, Westfield City Council

You have asked for my opinion regarding the scope of inquiry for the Personnel Action Committee as it relates to reviewing appointments made by the Mayor that are sent to the City Council for confirmation. Specifically, you reference an email received for a councilor asking three specific questions regarding the City Law Department.

As City Solicitor and department head, these types of questions are properly directed to me and not the assistants. Should the City Council wish to have me present information relating to the matters handled by my office over the past three years, I will be happy to attend a scheduled public meeting and make a presentation. I am however precluded for discussing pending matters outside of an executive session. The matter referenced in the email cannot be discussed with Council in an executive session as it is a matter under the direction of the Fire Commission and therefore no exemption to the law allows for a private discussion on this topic with the City Council.

Please contact me with any questions you may have.
