




Agenda Item Summary

Meeting of: September 21, 2020

Agenda Item Title: Police Department Complaint Legal Review

Submitted by: City Manager Hanifan

Approved for submittal:


City Manager

Explanation of Agenda Item:

City Council approved a motion to hire an outside legal firm to investigate Complaint #20-3.

Attached are proposals from 3 different Legal Firms:

- 1) Keller Thoma
- 2) Rosatti, Schultz, Joppich and Amtsbuechler (RSJA)
- 3) Bruce C. Judge

Fiscal or Resource Considerations:

Does this agenda item require the expenditure of funds? X YES NO

If YES, are funds budgeted? YES X NO

Are staff or other resources required? YES X NO

City Manager Recommended Form of Motion:

Each firm is capable of completing the work. The City has worked with Keller Thoma and RSJA in the past.

Council should make a motion to hire one of the firms based on the terms of the proposal submitted.

MOTION to hire (*insert Law firm*) to conduct review of Complaint #20-3.

Names and addresses of those to be notified:

NONE

Attachments:

Keller Thoma Proposal

Rosatti, Schultz and Joppich Proposal

Bruce C. Judge Proposal

All Agenda Item Summaries and any attachments are due in the City Clerk's Office by 4:00 p.m. on the Wednesday prior to the City Council meeting. If the Wednesday prior to the City Council meeting is a holiday, then the submission deadline is 4:00 p.m. on Tuesday.

John Hanifan

From: Gregg T. Schultz <GTS@kellerthoma.com>
Sent: Monday, September 14, 2020 1:25 PM
To: John Hanifan
Subject: RE: Complaint Review

Mr. Hanifan,

Thank you for considering Keller Thoma to review this matter. I believe a review of this matter would involve interviews with the complainant and an additional 1-2 witnesses suggested by the complainant, the Chief of Police and a couple of supervisors/officers who were involved in the alleged incident, and any other witnesses recommended by the Police Department. I would also need to review any relevant documents and/or videos of the incident and prepare a report on my findings.

I think a fair estimate would be 20 hours of work at the hourly rate we currently bill the City of Chelsea of \$140 for an estimated total of \$2,800. Obviously it could be less if things go smoothly and it could be more if there is more to this than expected, but we will do whatever it takes to keep the cost down for the City.

Subject to witness cooperation and availability, I would estimate being able to complete this review in approximately three weeks.

Thank you again for considering Keller Thoma. Please let me know if you have any other questions or if you need any additional information.

Gregg Schultz



KELLER THOMA, P.C.
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Southfield, Michigan 48076
Direct Line: 313.965.8928/313.965.4480 (fax)
Mobile: 248.318.2584
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From: John Hanifan <jhanifan@city-chelsea.org>
Sent: Friday, September 11, 2020 8:50 AM
To: Gregg T. Schultz <GTS@kellerthoma.com>
Subject: Complaint Review

Mr. Schultz,

The Chelsea City Council is requesting a third party review Chelsea Police Department conduct on July 31st, 2020. Please see the attached Citizen Complaint. For your reference, I have attached the Agenda Summary from our Council Meeting on Aug 17, 2020.

Can you provide a estimated cost and timeline/schedule for the review of the alleged Police Department Conduct described in the complaint?

Thanks for your attention to this matter.

John P. Hanifan
City Manager
City of Chelsea, MI
734-475-1771 ext 201

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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

September 16, 2020

John Hanifan, City Manager
City of Chelsea
305 S. Main Street, Suite 100
Chelsea, MI 48118

RE: Independent Investigation of Citizen Complaint Regarding Police Department

Dear Mr. Hanifan:

You have requested that I supply you with an estimate of timing and cost for our office to complete an investigation into the tactics used by Chelsea Police Department and Police Chief during the ARCY march of July 31, 2020. The City's request for this investigation was sparked by a formal written Citizen Complaint submitted to City Council by Mr. William Ruddock on or about August 4, 2020. You have also asked me to supply you with a scope of the investigation.

As we understand it, upon conclusion of an investigation into this matter, the City Council is interested in receiving a report from our office as to whether the actions of the Police Department and Chief Toth violated any criminal laws, civil rights, Constitutional rights, or other laws. Based on the very preliminary materials and information supplied to us thus far, we have assembled the below description of what we believe to be an appropriate level of investigation into this matter in order to make a reasonable legal report on the subject. As part of this description, we are also supplying the amount of time we estimate to complete each task and an approximate timeline for completion of the investigation and report.

1. Personal meeting with Chief Toth regarding the dates referenced in the Citizen Complaint and to request all pertinent documents regarding matter. This meeting will primarily explore the Police Department's current policies/protocol for responding to peaceful protests, mass deployment, police presence, and use of force. Finally, we will address issues raised in Mr. Ruddock's Complaint, public posts regarding the incident, and/or any previous contact with the Police Department. Estimated: 6 hours.
2. Review all documents, videos, photos, policies, and other items from meeting with Chief Toth. Estimated: 5 hours.
3. Follow-up discussions with Chief Toth and City Manager regarding additional questions and any further information needed. Review additional information provided, if any. Estimated: 2 hours.

4. Identify and meet with the individual officers referenced during our meeting with Chief Toth or referenced in documents reviewed. The proposed interviews will focus on whether the officers who responded to the incident at issue were on the same page as to Chief Toth's directives. It is important to know if a communication breakdown is present as to directives and implementation. It is also important that we keep in mind the police union and any aspects of a collective bargaining agreement that may play in to these officer interviews. Accordingly, we may also need to engage in discussions or meetings with the officers' union should they have concerns. The proposed time is assuming 8-10 interviews at minimum at 1 hour apiece. Estimated: 10 hours.
5. Research pertinent precedent based on findings. Estimated: 4 hours.
6. Social media search and background check of the Complainant, William Ruddock, and his organization ARCY. Estimated: 3 hours.
7. Possible discussion with Complainant regarding issues raised in his Citizen Complaint. Estimated: 2 hours.
8. Preparation of the final report, summarizing and containing our legal findings, opinions, and possibly recommendations. Estimated: 10 hours.

Based on the above scope of the investigation, we estimate it would take roughly 42 hours to complete the above tasks. We would keep our hourly rate for special counsel services at \$200/hour, which is the same as it was back in 2017 when we last assisted the City with a different matter. It should be noted that the above time estimates are our best guesses at how much time we anticipate these items would take. For instance, task #5 in particular is subject to change since it is very difficult to determine how many people we will have to meet and how long those discussions will take. Similarly, task #7 may not occur at all, if our findings indicate it would not be worthwhile. We will, however, commit to keeping you posted if the investigation and report appear to require substantially more time than we are estimating above.

As to the timeline, assuming we can start next week, we will endeavor to meet with Chief Toth (tasks #1) the week of Sept 21st-25th, and then review the material Chief Toth provides and follow-up with him and you (tasks #2 and #3) during the week of September 28th-October 2nd. We would attempt to schedule and conduct interviews (task #4) October 5th-9th and complete steps #6-8 by October 16th. This timeline, of course, is also tenuous due to difficulties usually encountered in trying to schedule interviews of numerous busy people, plus the added challenges imposed by the current pandemic situation.

As we discussed the other day, our office has conducted many internal investigations of public agencies over the years and I identified Attorney Carlito Young and Holly Battersby as two attorneys in our firm who do a significant amount of work relating to police matters. As you know, I was originally planning to have Mr. Young handle this matter alone, but upon further discussion

City Manager Hanifan
Re: Police Dept. Investigation
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internally here, we believe we can accomplish these tasks more efficiently and save some time by having Mr. Young and Ms. Battersby divide the work and then join in preparation of the final report to City Council. As requested, I have enclosed their professional resumes.

Thank you again for contacting us. It would be an honor to assist the City Council with another matter of great importance to the community.

Sincerely,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

Steven P. Joppich

Steven P. Joppich, Esq.
Cell: (248)797-0870

cc: Carlito Young, Esq.
Holly Battersby, Esq.

John Hanifan

From: Bruce Judge <bruce@thomasdurrell.com>
Sent: Friday, September 18, 2020 10:44 AM
To: John Hanifan
Subject: Proposal for legal work - City of Chelsea

Dear Mr. Hanifan,

It was very good making your acquaintance by telephone yesterday afternoon.

As requested, please accept this email as our proposal for an independent investigation in response to the citizen complaint against the Chelsea Police Department and Chief Toth relating to events which occurred on Friday, July 31, 2020.

Based on our discussions, I anticipate that the investigation will involve interviews of the complainant, approximately 3-5 citizens who attended or witnessed the events, and approximately 5 members of the Chelsea Police Department including Chief Toth. I expect that most or all of those interviews can and will be conducted via video link or telephone call; however I will be available to travel to Chelsea to meet with individual witnesses as requested.

At the conclusion of the investigation I will provide a written report of findings with respect to the incident, the police response, and the initial handling of the citizen complaint. If requested, I can and will provide limited recommendations to address concerns raised in the complaint over actual or perceived interference with the right to conduct peaceful public assembly. If requested, I will also appear before the Chelsea City Council to give a presentation on my written report.

I recommend that the following issues be addressed and resolved at the outset of this project:

- This is a non-criminal investigation. The final report is being prepared for the Chelsea City Council for use conducting regular city business including regular oversight of the Chelsea Police Department and related matters.
- While cooperation is anticipated and expected, participation in interviews will be voluntary and not compulsory.
- Witnesses will not have the right to review or edit the written summary of their interviews, however each witness will be informed of the right to submit a written statement to be included in the report.
- Witnesses/interviewees will be advised of the option to provide information anonymously.
- The final report will not be edited or amended prior to being presented to the Chelsea City Council.

For the purposes of this proposal and based on information provided to date, I and my firm estimate that the cost of this work will be \$4,000.00. The final cost may vary from that amount depending on the actual scope of work, the number and the availability of witnesses, and other factors which are currently unknown.

I will personally conduct all of the interviews and I will draft the final report. I may use one of our paralegals for limited assistance in preparing summaries of interviews and in editing and assembling the final report. Because the client is a public/government entity, and given the sensitive nature of the matter, we agree to reduce our and my standard billing rates and propose using the adjusted rate of \$350 per hour. Invoices for services will be presented on a bi-weekly basis and shall be payable on receipt.

In the event we are selected for this work I anticipate providing a separate written Engagement Agreement. We typically require an initial retainer the amount of which can be addressed in future discussions.

Thank you once again for the opportunity to present this proposal. Please let me know if you require any additional information or materials or if it would be helpful to discuss any of these matters in greater detail.

Very truly yours,

Bruce C. Judge | Member
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