

CITY OF WARREN
FOIA APPEALS COMMITTEE MEETING
May 9, 2013

A meeting of the Warren FOIA Appeals Committee was called for Thursday, May 9, 2013 at 4:30 p.m. in the Warren Community Center, Conference Room B, 5460 Arden, Warren, Michigan 48092.

Members of the Committee present:

Scott Stevens, Council Secretary, Mayor Pro Tem
Patrick Green, Council Vice President
Robert Boccomino, Councilman

Also present:

Annette Gattari-Ross, Assistant City Attorney

1. CALL TO ORDER

Committee Member Green called the meeting to order at 4:30 p.m.

2. ROLL CALL

All Committee Members were present.

3. ADOPTION OF THE AGENDA

Motion:

Mr. Stevens made a motion to adopt the agenda, supported by Mr. Boccomino. A voice vote was taken. The motion carried unanimously.

4. APPROVAL OF THE MINUTES – December 20, 2012

Motion:

Mr. Stevens made a motion to approve the minutes, supported by Mr. Boccomino. A voice vote was taken. The motion carried unanimously.

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5. Mr. Joseph Hunt – Freedom of Information Act Appeals.

Mr. Green explained to Mr. Hunt the format of the meeting and invited Mr. Hunt to add any points to the documentation already presented to the Board.

Mr. Hunt stated he had emailed the reasons for his appeal and that the City had cited Attorney Client Privilege regarding the Quarterly Litigation Report. He specifically asked for a time frame of November 2007 through the time the FOIA was filed on February 22, 2013. If the Attorney Client Privileged is going to be invoked then he would assume Council is receiving the reports and copies would be stored in the Council Office whether marked Attorney Client Privilege or not, he is uncertain. The Michigan Freedom of Information Act addresses Attorney Client Privilege and states it is up to the public body to justify a denial, if this is not a privileged communication. The reason he is asking for this report is because The City Charter states the Treasurer shall not distribute any funds without Council involvement, the budget shows expenses from the Risk Management and Council List of Bills has a loss fund payment to Broadspire Crawford and believes these losses are tied to the Quarterly Litigation Report and should not be shielded from the public. The denial does not meet all four factors as laid out by the Michigan Freedom of Information Act.

Assistant City Attorney Annette Gattari-Ross stated, for the record, the reports started in June, 2009 at the request of Council. Part of that request was that they be marked subject to the Attorney Client Privilege and this was voted on unanimously by Council. Mr. Hunt requested settlement agreements and those have been provided because they are clearly subject to FOIA. The pending litigation report does not tell what public funds are being expended because it is pending. The Open Meetings Act only allows for closed session if the case is pending, not if it has been resolved. This report is a pending litigation report and we have taken this position based on City Council.

Mr. Stevens asked what information Mr. Hunt could have obtained from the Quarterly Litigation that he couldn't get from the settlement agreement.

Assistant City Attorney Annette Gattari-Ross replied the settlement focuses on the amount, and the language that all matters are resolved rather than what the suit was about, it is the resolution closing it out.

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Mr. Stevens then stated the litigation report states who filed the charges and why and gives some type of opinion.

Mr. Boccomino stated by disclosing the litigation report as he understood it they could be exposing the City's strategy in handling specific cases.

Mr. Stevens asked Ms. Gattari-Ross if she had the minutes from when Council had approved this and asked if she knew what Mr. Liss had said on the item.

Ms. Gattari-Ross stated the resolution came over to the City Attorney's Office requesting the report be made and Mr. Liss and Ms. Vogt made the motion and support.

Mr. Stevens asked Mr. Hunt what information he was specifically looking for.

Mr. Hunt replied he was specifically looking for the Schroder lawsuit and he was looking to see who was working with the Administration and the insurance companies, where was the contract, who are these law firms to settle away \$75,000.00 of tax payer money, and who gave them the authority to do so? Many questions about how insurance claims are being handled.

Mr. Stevens asked what information Mr. Hunt believes was in the Quarterly Reports that he could not get from the Settlement Agreements.

Mr. Hunt stated he has never seen a Quarterly Report so he cannot say for certain. Technically, the suits he has questioned have all been settled and should no longer have Attorney Client Privilege.

Motion:

Mr. Boccomino made a motion to affirm the denial of the FOIA Coordinator, supported by Mr. Stevens.

Roll Call:

A roll call was taken on the motion to affirm, all voted in favor. The motion carried unanimously.

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6. Mr. Edmond A. Arrey – Freedom of Information Act Appeals.

Mr. Edmond Arrey was not present.

Annette Gattari-Ross Assistant City Attorney stated at the time of Mr. Arrey's request for a booking video, the video could not be located. Since that time the video has been located, but it would still be denied. The City does not release the internal working of the jail for security reasons.

Motion:

Mr. Stevens made a motion to affirm the denial of the FOIA Coordinator, supported by Mr. Boccomino.

Roll Call:

A roll call was taken on the motion to affirm, all voted in favor. The motion carried unanimously.

7. AUDIENCE

Mr. Hunt appeared before the Board and stated his issue is about whether or not Council has control over the various funds put in place by the administration, and how risk management is being communicated to Council.

Ms. Karen Spranger appeared before the Board and asked that the reports be broken down more. There is also the possibility of different reports that could be created to help in providing information rather than making it secret. The expenditure has to be accounted for.

8. ADJOURNMENT

Motion:

Mr. Stevens made a motion to adjourn. Mr. Boccomino supported the motion.

Roll Call:

A roll call was taken on the motion to adjourn, all voted in favor. The motion carried unanimously.

The meeting adjourned at 4:49 p.m.