Maidencreek Township Board of Supervisor Meeting
February 16, 2018

Present: Claude Beaver, Joseph Rudderow III, Heidi Fiedler, Diane Hollenbach – Township Manager

Guests: Vicky Solberg, Sam Cortes, Gene Orlando, Elizabeth Magovern, Christopher Hartman

Claude Beaver called the February 16, 2018 special meeting of the Maidencreek Township Board of Supervisors to order at 9:00 am in the Maidencreek Township Municipal Building. The purpose of the meeting was to interview firms for the position of Township Solicitor.

Samuel Cortes, Fox Rothschild, LLP – Mr. Cortes gave a brief overview of his firm and his qualifications. Mr. Cortes has been with Fox Rothschild since 2006 and has primarily focused his career on litigation practice. He currently has one municipal client in Berks County, Exeter Township. Fox Rothschild is a Philadelphia based firm with twenty-one offices. They are heavily concentrated in Berks County and there is an office in Reading that is staffed by two people. The firm has depth of service. Should he be hired, Mr. Cortes would be Maidencreek Township's point person and as needs arose, would assign work based on which attorney was best suited to the task. For example, Ron Williams would handle any construction or procurement contracts. In Exeter, Mr. Cortes does not attend Planning Commission meetings unless requested.

Fox Rothschild is offering a blended rate of $270 per hour for any attorney working for Maidencreek Township and $170-$190 per hour for paralegals. Mr. Cortes' non-municipal rate is $500 per hour, Ron Williams is $695. He would not charge for travel time and would charge for phone calls where legal advice was sought or phone calls related to work assigned by the Board of Supervisors. Mr. Cortes stated that there would need to be direction from the Board of Supervisors as to who could assign work.

Currently there is one client, Schlouch Inc., that Fox Rothschild has represented for a number of years and should they come before the Board, Mr. Cortes would not be able to represent the Township. Mr. Cortes stated that Penn DOT issues could be challenging and it is best to get in front of the folks at District 5 to exact concessions and not take litigation action unless it is really needed.

Mr. Cortes stated that his firm is distinguished by their breadth of service.

Eugene Orlando, Jr., Orlando Law Offices – Mr. Orlando stated that he had known Claude Beaver and Joseph Rudderow III since Mr. Orlando began representing Maidencreek Township in May of 2002. Mr. Orlando discussed litigation he had represented the Township in such as Martin Retirement Village septic malfunction and Ingot Drive sale at Tax Claim, both issues where the problem was created before he became solicitor but he resolved in favor of the Township. Mr. Orlando stated that he was hired in 2002 because of his understanding of the Second-Class Township Code and Zoning issues.

Orlando Law Office is offering a rate of $175 per hour. His non-municipal rate is $295 per hour. Travel is only charged for meetings in the middle of the day that impair his ability to serve other clients. Mr. Orlando stated he does not bill the Township for every phone call or email, only

those with questions related to Township legal work. Most of Mr. Orlando's municipal clients are Townships of the Second Class in Berks County. Mr. Orlando stated in regards to Penn DOT that the Board of Supervisors has not asked him to establish a dialog with Penn DOT counsel but when that time comes, he is sure he will be able to establish communication and accomplish something.

Mr. Orlando stated that his firm is distinguished by his service. The relationship of solicitor and township is a special business relationship that is one of trust. Mr. Orlando added that if his personality doesn't suit the Board of Supervisors, they should find someone else. It is important that the Board and its solicitor have confidence in each other and the advice given is consistent with the Township's goals. Mr. Orlando believed that Maidencreek has had very little need to litigate because the work his firm does in creating ordinances, resolutions and agreements prevents problems from happening.

Elizabeth Magovern and Christopher Hartman, Hartman, Valeriano, Magovern & Lutz P.C. – Mr. Hartman and Ms. Magovern represented the municipal department, which included five lawyers who dealt with 25 municipal clients most of which were in Berks County. Their client base is a mixture of developed and rural townships. Hartman, Valeriano, Magovern & Lutz P.C. does not have to source out work and handles for example: labor issues, collective bargaining agreements, redevelopment, bond issuance and agricultural uses. They have served as conflict counsel for Maidencreek Township and appeared before the Maidencreek Township Zoning Hearing Board many times. They do a small amount of work for developers, and Mr. Hartman felt this gave the attorneys greater insight into the process on the municipal side.

Hartman, Valeriano, Magovern & Lutz P.C. is offering a rate of $160 per hour for each attorney. Their non-municipal rate is $300 per hour. Bills are itemized and land development review is a separate invoice for charge back to the developer. Phone calls and email are billed. It is important for the Township to establish the chain of communication for who is allowed to assign work to the solicitor. They do not bill the Townships for calls from a resident. There is no charge for travel.

Mr. Hartman indicated the firm is very involved in the Center for Excellence at Albright College and believes in the benefits of municipal cooperation. Since the firm represents two out of three entities in the Northern Berks Regional Police Commission, if they were to represent Maidencreek as well and there was a conflict, Mr. Hartman felt that they would have to bow out of representing all the clients involved in the conflict. He felt conflicts were very rare. Mr. Hartman would represent Maidencreek due to the fact Ms. Magovern has an Ontelaunee Authority meeting the second Thursday of each month.

Mr. Hartman stated that he was involved in the Richmond Township Round About Maintenance Agreement. Penn DOT was unmovable, but he did manage to get some changes made on behalf of the Township.

Mr. Hartman stated that his firm is distinguished by their municipal law experience, long standing client relationships, leadership in the bar association and Center for Excellence in Local

Government and quality of work. Ms. Magovern added that they are always available to their clients.

Discussion

Heidi Fiedler felt Fox Rothschild had top notch people. She spoke with Lisa VanderLaan of Exeter Township who highly recommended Sam Cortes and Fox Rothschild as did the Boyertown School District.

Joseph Rudderow III stated that each law firm brings their own skill set and any one of them could serve in the role of Township Solicitor. Based on the issues that have come before the Township in the past, Mr. Rudderow III felt Fox Rothschild was too big for Maidencreek and more expensive. He was concerned with the number of municipalities Hartman, Valeriano, Magovern and Lutz represent, and the same legal team would represent all three municipalities in the Northern Berks Regional Police Commission. Mr. Rudderow III felt Mr. Orlando had represented us well in the past and he would be best suited to continue representing us.

Claude Beaver's concern is having the same solicitor as the other municipalities in the Police Commission although he thinks Hartman, Valeriano, Magovern and Lutz does a good job for Ontelaunee and Richmond Townships. Heidi Fiedler's concern was with the Penn DOT issue. Ms. Fiedler stated that her experience with attorneys as a supervisor and in business is that having the best attorneys represent you, it costs you less because they have the answers; don't have to research, and their advice is very good. With a good reputation, a judge will respect that attorney more knowing they're honest, straightforward, experienced and they know the law. Her concern is with the Penn DOT Round About Agreement. Ms. Fiedler talked to an official familiar with Penn DOT practices. He said if we don't sign the maintenance agreement, Penn DOT won't maintain the roundabout and would be highly unlikely to build it. She wants someone to firmly represent the Board that Penn DOT doesn't have the statutory authority to force Maidencreek Township to maintain the roundabout.

Claude Beaver stated that his experience with Mr. Orlando is that he's always had an answer for the Board or been able to get us an answer quickly. Mr. Beaver added he was happy with Mr. Orlando's service. He's never gotten the Township in trouble and saved us a few times. Mr. Beaver was comfortable with Gene Orlando and felt the Township should stay with Orlando Law Offices.

Joseph Rudderow III stated that we need to continue to interface with Penn DOT. They aren't going away. He didn't believe we have gotten to the point where the Township solicitor needs to be involved, but we may be getting to that point where the solicitor needs to take an active role. The Board will have to discuss and decide if we want to allocate resources toward that. Diane Hollenbach reminded the Board that they had only spent $11,300 on legal last year and perhaps when the Penn DOT issue became an active concern, the Board could discuss special counsel.

Heidi Fiedler stated that Exeter Township said Sam Cortes did an excellent job negotiating an agreement with Norfolk Southern and they are a lot like Penn DOT. For the little bit more that Fox Rothschild charges, you can spend a whole lot less money with an experienced attorney

because someone who is good, is busy and they don't need to run up a bill. Someone well known and respected, they know how to approach things.

Claude Beaver and Joseph Rudderow III were both comfortable with Gene Orlando and his work. Heidi Fiedler asked if the Board wanted to make a special counsel appointment. Claude Beaver stated if the time comes, it could be considered. Ms. Fiedler asked if Penn DOT were to agree to the changes to the Roundabout Maintenance Agreement the Board made at the last meeting, is that what the Board would agree to sign. Mr. Beaver stated that the center island needed to be discussed and the lights so the agreement isn't ready to be sent back to Penn DOT. Mr. Rudderow III said he won't commit to signing anything until he sees the final product. He added we should participate in the process and see where it leads us. We need to be cautious when it comes to lighting. The roundabout is in the transportation plan and we need to be realistic and make it the best that we can for our residents. Heidi Fiedler asked what the schedule was for construction of the roundabouts. Diane Hollenbach replied the let date is April 2019.

A motion was made by Joseph Rudderow III to retain Orlando Law Office as Township Solicitor of Maidencreek Township in 2018. Claude Beaver seconded the motion. The Chairman asked for questions and hearing none, Joseph Rudderow III and Claude Beaver voted, "Aye." Heidi Fiedler voted, "Nay." Ms. Fiedler asked that the record reflect she feels we need to hire Fox Rothschild to handle the Penn DOT roundabout issue. This is no reflection on Gene Orlando specifically but we need someone of that caliber to deal with this serious issue to the Township.

Public Comment

Vicky Solberg, 317 Sofia Blvd, Blandon stated she found the process interesting and the Board did a good job. She added there were good people here today and she understood it was hard to change.

A motion was made by Joseph Rudderow III, seconded by Heidi Fiedler, to adjourn the February 16, 2018 meeting of the Maidencreek Township Board of Supervisors. Hearing no questions on the motion, all members voted "Aye". Motion carried. Meeting adjourned at 11:02 a.m.

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Township Secretary,