

**TOWN OF HOPE MILLS
CLOSED SESSION MINUTES
MONDAY, OCTOBER 23, 2017**

Mayor Warner called the Closed Session to order at 7:23 p.m.

Mayor Jackie Warner, Mayor Pro Tem Bob Gorman, Commissioners Jerry Legge, Pat Edwards and Bryan Marley were present.

Others present were Town Manager Melissa Adams, Interim Town Clerk Deborah Holland, and Town Attorney Dan Hartzog.

PURPOSE: Closed Session was called pursuant to NCGS 143-318.11 (a) (3) to discuss matters within the attorney/client privilege.

Item 1.

Town Manager Adams and Town Attorney Hartzog reported the quote from ASI came back at a much higher amount (\$93,000.00) than anticipated and Manager Adams had responded to them it was not acceptable. The options at this point were to try to find another contractor to fabricate and install the ladder in this short amount of time or to consider an option presented by Mr. Lugo to consider the liquidated damages they have against them to date (\$141,000.00). Mr. Lugo had suggested they (ASI) agree to build and install eel ladder free of charge and in return, the Town would not pursue the liquidated damages. The liquidated damages are something the Town would have to pursue through legal action and would reduce the amount of damages recovered (if able to recover) by additional attorney fees. ASI is requesting since their insurance policy is expiring on November 1, 2017, could the Town require them to not have a new policy since it will be for just a short time. After discussion by the Board, the consensus of the Board is to direct the Manager to accept the offer from ASI to build the eel ladder but with an insurance policy in place (Attorney Hartzog will investigate best way to make sure the Town will not be liable for project will under construction) and the Town will in return extend the time on the project so as to abate the liquidated damages accrued.

Item 2.

Manager Adams reported the Owner Representative, Kevin Lugo is now down to \$98.00 left in his fund as of September 2017 and has been basically working this month for free. Manager Adams recommended the Town continue using Mr. Lugo for the completion of the project or until at least Dam Safety is finished and to have him bill us on an hourly rate rather than transfer a flat sum to the account. Town Manager Adams commented that this will be substantiated by the Town as has been done throughout the project. Attorney Hartzog commented there is really a very short amount of time left in the project and the amount would not be very much to keep the continuity going.

The consensus of the Board is to direct Manager Adams to negotiate with Kevin Lugo to bill for services after the expiration of funds at hourly rate and for Manager Adams to review and substantiate the funds billed.

Town Manager Adams commented that she is not sure if they can do it, but would like to look into a claim on the surety bond for the overage costs for retaining Mr. Lugo. The Board agreed to allow Manager Adams to investigate this possibility.

Item 3.

Town Manager Adams commented on the Lake Advisory Committee meeting on October 17, 2017 and discussion pursued among the Board .

Mayor Warner closed the session at 8:06 p.m. with no action taken.

JACKIE WARNER, MAYOR

ATTEST:

Deborah Holland
Interim Town Clerk