

Conflict of Interest Committee (COI)

Meeting Minutes

January 28, 2023

DRAFT

Members Present:

Christine Duerr –Chair
Laura Flieder – Vice Chair
Michele Hooper – Secretary
Kay Galloway- Member
David Pancoast – Member

Others Present:

Brian Murray- Atkinson Fire Chief
David Holigan- Atkinson Deputy Fire Chief (Fire Prevention)

1. Call to order & attendance.

Meeting called to order at 10:03 AM. Roll called and all present
Ms. Flieder participated remotely via Zoom. A vote was taken per RSA 91-1:2, III. All in favor.
Ms. Flieder could not physically be in attendance due to her travel out of state.

2. ATK Fire Department COI Discussion

Chief Murray and Deputy Chief Holigan present to discuss Supplier selection bid for the Fire Department. It was recommended by the Board of Selectmen and the Town Attorney, that they consult with the Committee to ensure there is not a perception of a Conflict of Interest due to the selection of a supplier to provide fire suppression support in the Town of Atkinson for a new housing development being built by Lewis Builders. See Petition 2023-01 (attached) as completed by Town Administrator John Apple.

Deputy Chief Holigan summarized the issue: A Request for Proposal (RFP) was sent out in December for the Town of Atkinson to obtain services for fire protection services- not available within the Fire Department today. The RFP was sent to 5 Suppliers and 2 responses were received. The Fire Department Team reviewing the bids (Murray & Holigan) felt that only two of the companies were qualified to provide the services required. See letter from Deputy Chief Holigan to Town Administrator John Apple dated January 25, 2023 (attached) for the Fire Department's supplier selection justification.

The concern is the Vice President and Principal Engineer for the supplier SFC Engineering, is Jeff Murphy, who is also a Member of the Atkinson Fire Department as a volunteer firefighter. Mr. Murphy is also a Town Resident. Clarifying questions were asked by the Committee and are as follows:

- SFC answered all of the questions in the final round of interviews and has similar and direct experience as is requested by the Fire Department, in New Hampshire. SFC is also a supplier for the Town of Raymond, NH.
- They would be acting as an Agent for the Department.
- The final interview of the suppliers was held by Holigan and Murray. Mr. Murphy was in attendance in his capacity as a Principal in the firm.
- Mr. Murphy was not involved in the RFP process, which was managed by Holigan and mailed by the Assistant Town Administrator.
- SFC could provide entire scope in house while other provider would have to subcontract.
- Mr. Murphy is a firefighter and not part of the Fire Prevention team at the Fire Department, which selected the supplier. 98% of the Dept has nothing to do with Fire Prevention side of the Department, including Mr. Murphy.
- Mr. Murphy would not have a Supervisory role in the inspections from the Fire Department side.
- Services from SFC are fixed cost per the RFP. The RFP contents and scope will be transferred into a contract.
- SFC will be paid by the Town from an escrow account that will be funded by Lewis Builders.
- BOS gave tentative approval pending COI Recommendation(s).
- State Fire Marshall will provide advisory services above and beyond if required by the Fire Department.

Murray and Holigan, complete their presentation and leave the meeting to allow the Committee discussion time.

The Committee Considerations are of two main issues:

1. How they chose the supplier is there a Conflict of Interest? The Committee agrees that there is no COI and that the way that the supplier was chosen was fair and in the best interest of the Town.
2. The Perception of a COI in Mr. Murphy's participation in the future relationship with the supplier.

The Committee agrees that the 2nd issue of the Perception is an issue and should be mitigated. The Committee references the COI Ordinance and section **V Prohibited Conduct, Section (6)** which states: *"Otherwise than as provided by law for the proper discharge of his or her official duties, directly or indirectly request or receive any compensation from anyone other than the town in relation to any particular matter in which the town is a party or has a direct and substantial interest."* This is where the perception of a conflict may arise in that Mr. Murphy would have dual roles as a volunteer fire fighter AND Vice President of the company provided inspections for fire safety services.

Motion made by Ms. Hooper and second by Mr. Pancoast to put forth:

The Committee's Recommendation in a letter to the Board of Selectman will be:

1. Provide transparency to the Town in respect to the RFP process through a) COI Committee meeting minutes, b) The RFP documentation tracking the selection process of the supplier
2. Mitigate the perception of a COI by request that Mr. Murphy not play a part in the contract with the Town of Atkinson. The recommendation is to further, add the contract the employees of SFC who will provide direct services in the Town of Atkinson as provided in the contract and to ensure that Mr. Murphy does not provide any of those services.

Vote Taken on Motion made by Ms. Hooper. All vote yes.

Action Items:

1. Ms. Hooper to draft letter/recommendation to the BOS with Ms. Flieder
2. Convene Monday January 30, 2023 at 4:00 PM to revise letter as necessary in order to provide to the BOS and Fire Department ASAP. (note: this meeting was later changed to 12:30 PM on January 30th to accommodate a Member with a personal conflict of the previous meeting time).
3. Confirm with Deputy Chief Holigan that the separation of Mr. Murphy's duties is possible.

3. Review & Approval of Previous Meeting Minutes

Ms. Hooper provides hard copy meeting minutes for the Committee to review and approve or provide changes, etc. Members will review meeting minutes over the weekend and the vote for approval or modification will occur at the January 30th meeting. Meeting minutes provided: August 29th, 2022 Non-Public, which Ms. Hooper had to re-create due to a system issue and last version was lost to the cloud. These minutes were put in the new required format. October 19, 2022, Public and Non-Public, and January 3rd, public.

The minutes are now up-to-date on the Town website, with the exception of July 1 APPROVED meeting minutes, which the Assistant Town Administrator is missing the Approved copy. Ms. Hooper is to ensure Ms. Wesson receives those minutes. Ms. Hooper has two open questions on the non-public meeting minutes log and will research and ask the Town Hall. The intent is to ensure sealed minutes and the log will be filed in the COI file at Town Hall as soon as this is clarified. Mr. Duerr will provide the cabinet keys to Ms. Hooper for filing.

4. Support of Warrant Article at Deliberative Session in February

Upon the request of Mr. Apple, Ms. Duerr provided a statement to be read at Deliberative on behalf of the COI Committee to introduce the COI Article 15. This statement was sent to The Town Moderator who approved it. Ms. Hooper provided a printed statement for the Committee to review and requested that the committee review and create a combined statement and re-submit to the Town Moderator. The Committee agreed to create a combined statement using input from Ms. Duerr's statement and the statement submitted by Ms. Hooper to put forward to Moderator Garrity. The version will be agreed to at the January 30th meeting and forwarded to Mr. Garrity with a request that Mr. Pancoast read the statement on behalf of the Committee. Ms. Duerr, Ms.

Galloway, Mr. Pancoast and Ms. Hooper will plan to be in attendance of the Deliberative session on February 4th to ensure we can answer all questions regarding the Warrant article being presented.

Action Items:

1. Created combine statement draft for review Monday January 30, 2023.
2. Forward new statement to Town Moderator.

5. Petition 2022-01

Letter provided by BOS for signature by the Committee.

Action Items:

Ms. Hooper to print letter for next meeting for entire Committee to sign and send.

6. Next Meeting

January 30, 2023. Kimball Library. 4:00 PM. (Note: this was later changed via email to 12:30 PM, to accommodate the schedule of a Committee Member).

7. Adjournment

The meeting was adjourned at 12:42 PM.

Respectfully submitted by Michele Hooper