



MEMORANDUM

ATTORNEY OPINION

Date: January 4, 2017

To: Mayor Travis Lee

From: Thomas P. Guarino, City Attorney *TG*

Re: Finance Committee and Council Workshops

Issue

Review the meeting notice requirements and function of the Finance Committee and Council Workshops.

Short Answer

The Finance Committee is not a properly formed or legally authorized committee. The actions of the committee in meeting and developing a budget violates both State Law and local ordinances. Noticing of workshops does not appear to comply with State Law and local ordinances. The City Council is prohibited from considering anything done at these meetings.

Discussion

On October 11, 2016, the City Council by motion took an action to create a "Finance Committee" to meet once a week to approve bills. The Mayor was to appoint 3 Council Members and 2 Citizens.¹ You have advised that you have taken no formal action to make such appointments.

While it is possible to create committees for short term matters they must comply with both state law and local ordinances. This would also include the Arkansas Freedom of information Act [FOIA].² I am unaware of any statute or local ordinance allowing the vesting of authority in unelected citizens as envisioned by the proposed committee.

¹ Attachment 1 Minutes of October 11, 2016.

² A.C.A §§ 25-19-101 et seq.

The Finance Committee purportedly created appears to not only not to have been formed; it also appears to be an illegal delegation of purchasing authority and an illegal delegation of the ability to take action on matters to less than a quorum of the City Council. The authority of the Mayor to make purchases is "exclusive".³ The proposed purpose of the committee would violate this exclusive authority to make purchases vested in the Mayor by state law. Furthermore, the purported budget making activities you report taking place would not be within the activities for which the attempted committee was to be formed.

You have also provided an e-mail of what purports to be notice of a "Finance Committee" meeting. This notice is legally deficient and insufficient to satisfy both state law and local ordinances for the calling of meeting.⁴

State Law requires that for a special meeting of the City Council to be called the Mayor or any 3 aldermen must make the request and notice be given as provided by ordinance.⁵ FOIA also requires that notice be given to any meeting called by a city councilman or the Mayor. It does not matter if the meeting is less than a quorum of the City Council.⁶ The notice requirements apply to any type of meeting, special, workshop or committee. If unnoticed such meetings would fall into the category of informal meetings, which, as the Arkansas Supreme Court has explained are prohibited by FOIA.

The rationale for requiring such notice has been explained by the Arkansas Supreme Court:

In discussing informal meetings, the Court in Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, 263 Cal.App.2d 41, 69 Cal.Rptr. 480 (1968) stated:

' . . . An informal conference or caucus permits crystallization of secret decisions to a point just short of ceremonial acceptance. There is rarely any purpose to a

³ A.C.A. § 14-58-303.

⁴ The Cave Springs Municipal Code contains a provision allowing 2 members of the Council to call a hearing, meeting or workshop, however A.C.A. § 14-43-502 (b)(2)(B), requires 3. If this provision is to be used further review should be undertaken before it is utilized.

⁵ A.C.A. § 14-43-502 (b)(2)(B)

⁶ *El Dorado Mayor v. El Dorado Broad. Co.*, 260 Ark. 821, 544 S.W.2d 206 (1976) (affirming trial court's order that the FOIA applies to any group meeting called by the mayor or any member of the city council at which members of the city council, less in number than a quorum, meet for the purpose of discussing or taking action on any matter on which foreseeable action will be taken by the city council)

nonpublic pre-meeting conference except to conduct some part of the decisional process behind closed doors. . . .'

In the Gazette case,[...], we pointed out:

' . . . When the General Assembly used the expression 'to learn and to report fully (Our emphasis) the activities of their public officials', it meant not only the action taken on particular matters, but likewise the reasons for taking that action. . . .'⁷

Based upon the information provided, that is just what is happening with the apparently self-appointed "Finance Committee" and the budget workshops. A minority of the Council is apparently coming to a decision to be presented to the rest of the council for formal approval without the reasons and rational for the decision being available to the public. This certainly violates the purpose of the FOIA. Significantly, the meetings exclude three new members of the Council who will be seated in January and the public. Recently, a member of the informal group has indicated they have a budget ready for approval based on several meetings, none of which, based on what I have been able to locate for notices comply with FOIA or the Cave Springs Municipal Code.⁸

The ordinances of the City of Cave Springs at Chapter 2.08 contain the specific provisions for giving notice. These provisions require the following to call a meeting such as one envisioned by the "Finance Committee"⁹:

-
- A. *That it be called by the Mayor or a majority of the City Council* ¹⁰;
 - B. *That a member of the majority notifies the Mayor in writing;*
 - C. *That the notice contains the name of each Councilmember of the majority making the request;*
 - D. *That the notice contains the date, time and location of the meeting;*
 - E. *That only business included in the notice may be discussed;*
 - F. *That at least 24 hours' notice be given;*
 - G. *All work sessions require a published agenda.*¹¹

⁷ *El Dorado Mayor v. El Dorado Broad. Co.*, 260 Ark. 821, 544 S.W.2d 206 (1976), citing : *Arkansas Gazette Co. v. Pickens*, 258 Ark. 69, 522 S.W.2d 350 (1975)

⁸ Attachment 3

⁹ A committee or subcommittee of a governing has too meet the requirements of the FOIA. Arkansas Attorney General Opinion No. 98-169, citing *Ark. Gazette Co. v. Pickens*, 258 Ark. 69, 522 S. W.2d 350 (1975); See also Opinion Nos. 2006-059 and 2003-170.

¹⁰ Cave Springs Municipal Code § 2.08.02

¹¹ Once a meeting is called by the Mayor or a majority of the Council the Recorder and Mayor have additional notice duties depending on who calls the meeting. Cave Springs Municipal Code § 2.08.02 (H)(2),(3)

The notice provided does not meet either the content or timing requirements required by law.¹²

The Cave Springs Municipal Code requires that the City Council not recognize any conclusions or votes taken at meetings such as those envisioned by the proposed Finance Committee.¹³ The Arkansas Supreme Court has also determined that actions taken in violation of FOIA are voidable.¹⁴¹⁵

Conclusion

Based on the information provided, the workshops, meetings, committee meetings or however they have been described to conduct finance or budget activities, have not been called as provided by law and the City Council is not permitted to recognize the result of those activities.

To be included in City Council Agenda Packet for January 10, 2017 meeting.
Attachments

¹² Attachment 2

¹³ Cave Springs Municipal Code § 2.08.02
(H)(1).

¹⁴ *Rehab Hospital Services Corp. v. Delta-Hills Health Systems Agency, Inc.*, 285 Ark. 397. 687 S.W.2d 840 (1985). "in order to effectuate the laudable public purposes of the act, hold that some actions taken in violation of the requirements of the act may be voidable."

¹⁵ Both State Law and The Cave Springs Municipal Code provide criminal penalties for violations. A.C.A. §25-19-104 Class C Misdemeanor. Cave Springs Municipal Code § 1.32.01.

Alderman Fletcher made a motion to create a Finance Committee. The Mayor will appoint 3 council members and 2 citizens. The Finance Committee will meet once a week, and approve bills. Alderman Moore seconded the motion. Passed 4-2

Mary Ann Winters	NO
Jay Finch	NO
Joan White	YES
Larry Fletcher	YES
Brett Moore	YES
Marc Williams	YES

Department Reports:

Fire Report:
No questions were asked of the Council.

Police Report:
Police Dept. solved a burglary at the Dollar General Store in Cave Springs.

Water & Sewer Committee:
No questions were asked of the Council.

Mayor's Report:

1. Alderman Williams - Couple of residents are upset regarding the millage increase. When it was voted on it caught some of us by surprise. It was approved 5-0 Alderman Williams was the only council member who did not approve of this. What Alderman Williams wants to do is roll back the millage at the November council meeting, and put it back on the agenda and vote in regards of lowering the millage.
2. Judge Bunch would like to recommend a deputy court clerk. Due to the City being in a hiring freeze no changes will be made and will use an existing employee.
 - a. Grace Fielding: The reason the Judge wants an employee as a court clerk is because of the court disbursements. The court clerk needs to be a part time employee instead of a contract employee, and needs to be on the court bank account by law.
 - b. The annual salary amount \$18,200 a year.

Alderman Fletcher made a motion to appoint Grace Fielding as the City of Cave Springs court clerk. Alderman White seconded the motion. Passed 5-1

Mary Ann Winters	NO
Jay Finch	YES
Joan White	YES
Larry Fletcher	YES
Brett Moore	YES
Marc Williams	YES

Alderman Fletcher made a motion to add Grace Fielding to the court bank account as a bank signer, Alderman Finch seconded the motion. Passed 5-0

Mary Ann Winters	YES
Jay Finch	YES
Joan White	YES
Larry Fletcher	YES
Brett Moore	YES
Marc Williams	YES

Judge Bunch's recommendations will be that Grace Fielding will pay all of the disbursements, and disburse the General Funds to the City Treasurer at the end of the month.

Alderman Winters, pulled the job duties from 6 weeks ago for the City Treasurer / Recorder. She is giving them to every council member to work these up and discuss in a work session. This is an informational use only.

Mayor Lee: Employee discussion (Executive session) We will not be voting on anything, just a discussion.

Alderman Winters: Joe Powell filed with his attorney to request an appeal and Alderman Winters spoke with Mark Hayes and per his request we needed to vote to hear his appeal. We are only voting to hear the appeal. Alderman Fletcher asked if we are required to hear the appeal, and Mark Hayes advised the City of Cave Springs to hear the appeal. Further discussion will be in the Executive Session.

New Businesses:
NONE

Public Comments:

1. Jeff & Tracy Hensley - 456 S. Rainbow Rd. Cave Springs
 - a. Heard about it thru his neighbor. Does not approve of the bike trail for the following reasons.
 1. Privacy
 2. Liability / Insurance
 3. Property Value
 4. Family / Safety of his family
 5. Handed out 5 separate local instances of issues on local city bike trails.
2. Jim & Cindy Weir - 116 S. Rainbow Rd. Cave Springs
 - a. Dr. Weir has 40 acres on Rainbow Road, that backs up to Ridgewood Subdivision. He heard about the trail from a neighbor. Bike trail is approx 30 feet of barn. It will wreck the Ridgewood Subdivision's back yards.
 - b. The new proposed trail is on the Northside now.
 - c. I encourage everyone to look up Cave Springs Karst study. 18 of the 40 acres is totally out of his control due to Karst Study.
 - d. I have been told 3 times if I did not want this on my property it would not go on my property.
3. Scott Chambliss - 500 S. Rainbow Rd. Cave Springs
 - a. Does not approve of the bike trail
4. Scott Stubbs - 1512 Parkridge Way Cave Springs
 - a. Does not approve of the bike trail
 - b. Paid a lot of money for peace, serenity and will wreck our property value.
5. Chuck Steiger - 1610 Parkridge Way Cave Springs
 - a. Does not approve of the bike trail
 1. Mayor was all for moving it to Shores Dr. at the last meeting, now we have the grant and it is going to be on Parkridge Way.
 2. This should not cost me a dime, now I will have to put in a fence.

10-11-2016

Checked

From: Nicole Ferguson
Sent: Thursday, December 15, 2016 12:03 PM
To: Tom Guarino
Subject: FW: Cave Springs Finance Committee Meeting

From: Nicole Ferguson
Sent: Wednesday, December 14, 2016 9:17 AM
To: News@4029TV.com; news@kfsn.com; news@nwaonline.com; news@nwadg.com; 'Hicham Raache' <hraache@nwadg.com>; 'mjones (mjones@nwaonline.com)' <mjones@nwaonline.com>; news@knwa.com
Cc: Larry Fletcher <Larry.Fletcher@cavespringsar.gov>; Charlie Holyfield <charlie.holyfield@cavespringsar.gov>; Larry Fletcher <fletcher27@cox.net>; Travis Lee <travis.lee@cavespringsar.gov>
Subject: Cave Springs Finance Committee Meeting

This message is to inform you that the Cave Springs Finance Committee (having more than one council member serving) is meeting at 6:45pm Wednesday December 14th, 2016 at the American Legion Building located at 168 W. Glenwood Ave. Cave Springs, AR 72718.

Get Outlook for Windows

Attachment 2

From: Travis Lee
Sent: Wednesday, December 28, 2016 11:15 AM
To: Tom Guarino
Subject: Fwd: Proposed 2017 budget

Travis Lee
Mayor Cave Springs

Begin forwarded message:

From: <fletcher27@cox.net>
Date: December 28, 2016 at 11:03:59 AM CST
To: Travis Lee <travis.lee@cavespringsar.gov>
Subject: Proposed 2017 budget

I am forwarding a working copy of the budget that will be presented by committee to the full council a the work session at 630 pm Wednesday January 4, 2017. I look forward to discussing this at the work session. In the mean time I am on the road again. See you after the first of the year. Happy New Year!

Attachment 3 1 of 2

6 People

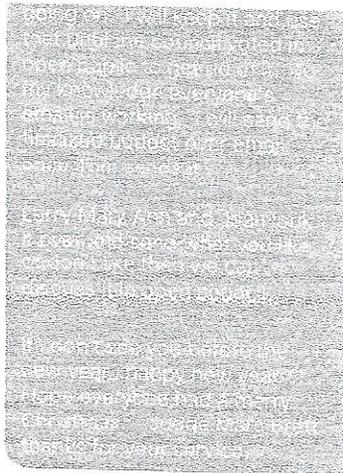
Mary and Winners

My email doesn't work. I have no idea why you think the FBI talked to me about public corruption. I thought they talked to you and the city attorney. lol.

Remember, I wanted the wording changed to something similar to previous resolutions and Tom the Attorney couldn't do it.

I think there is some misunderstanding about the budget process and how it's proceeding. The committee has met several times and gone over the budget that you submitted. We discussed and made changes to it. It's our intent to present a copy to the full council at a work session on Wednesday the 4th of

6 People



Mary and Winners

My email doesn't work. I have no idea why you think the FBI talked to me about public corruption. I thought they talked to you and the city attorney. lol.



MEMORANDUM

ATTORNEY OPINION

Date: January 4, 2017

To: Mayor Travis Lee

From: Thomas P. Guarino, City Attorney *TPG*

Re: NWA Regional Bicycle & Pedestrian Trail

Issue

You have requested an opinion regarding your authority with respect to the bicycle and pedestrian trail considering the City Councils' failure to act on a resolution regarding the trails at its last meeting.

Short Answer

The failure to act by the City Council is of no effect. All existing authority to act on the project remains as more fully discussed below.

Discussion

In March of 2015 by a 4-0 vote Resolution 2015-05 was passed by the City Council acting to accept Federal funds to move forward with the Cave Springs walking Trail Project. In this action the City Council directed and authorized the Mayor of the City of Cave Springs as follows:

"Mayor Travis Lee of the City of Cave Springs is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of the above stated project".

The Council further pledged the full support of the City.

That same month the City Council by a 6-0 vote approved Resolution 2015-06 endorsing the Regional Bicycle and Pedestrian Trail Master Plan and adopted the Plan for the City of Cave Springs.

In August of 2015 Resolution 2015-14 was adopted by a unanimous vote. The resolution stated:

"The City of Cave Springs Mayor is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of the above stated project".

The City further pledged its full support for the project.

On May 10th of 2016 the Council by a unanimous 4-0 vote approved Resolution 2016-11 authorizing a grant application for funding for the Razorback Greenway Trail. The resolution further stated:

"...that the Mayor or the Recorder/Treasurer of Cave Springs is authorized to administer the grant funds for the same project".

On May 10th of 2016 the Council also by a unanimous 4-0 vote approved Resolution 2016-12 which authorizes the Mayor to make application to obtain a 50/50 matching grant from the Arkansas Department of Parks and Tourism. The resolution acknowledges the requirement that the City follow the Land and Water Conservation Fund Grants Manual.

Also on May 10th 2016 the Council, by a unanimous 4-0 vote passed Resolution 2016-14 regarding Federal-aid Transportation Alternative Funds. This resolution also pledged the "full support" of the City for the project and authorized cooperation with the Arkansas Transportation Department to implement the project. With respect to the Mayor the resolution states:

"Mayor of City of Cave Springs is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of the above stated project".

This is a broad and unequivocal statement by the Council of its desire you act to move the project forward. It specifically authorizes the execution of necessary contracts and agreements.

Conclusion

Until formal action is taken to repeal the existing authorizations you are required and directed by prior official Council actions to move forward with the project.

Recommendation

Repeal of the project authorizations will have immediate impacts on the legal obligations of the City to repay grant funds. Currently, it is my understanding this amounts to somewhere in the range of \$150,000-\$200,000 that would be repayable. If action is proposed to terminate the project this information should be provided to the Council at that time.

Cc: City Council with Agenda Packet for 1-10-2017 Meeting.

RESOLUTION NO. 2017-___

CITY OF CAVE SPRINGS, BENTON COUNTY, ARKANSAS

A RESOLUTION TO ADOPT AND APPROVE A BUDGET FOR THE CITY OF CAVE SPRINGS, ARKANSAS, FOR THE TWELVE (12) MONTHS BEGINNING JANUARY 1, 2017 AND ENDING DECEMBER 31, 2017.

WHEREAS, the City Council is required to adopt an annual budget;

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Cave Springs, as follows:

The year 2017 Budget, attached hereto as Exhibit "A" and incorporated herein by reference; and all such all receipts and revenues and disbursements and expenditures as reflected in the attached Exhibit "A" are duly approved, ratified and confirmed.

PASSED AND APPROVED this 10th day of January, 2017.

APPROVED:

(SEAL)

ATTEST:

Travis Lee, Mayor

Kimberly Hutcheson, Recorder-Treasurer



M E M O R A N D U M

Date: January 4, 2017

To: City Council

From: Thomas P. Guarino, City Attorney 

Re: Annual Report

Pursuant to A.C.A. § 14-42-112 a duty of the City Attorney is to file an annual report.

As my tenure in office has been relatively short there is not much to report. I have authored and provided the following opinions, resolutions and ordinances:

11-15-2016 Opinion re; Zoning Official
11-17-2016 Opinion re: Authorized Personnel
12-2-2016 Opinion re: Personnel Records
12-6-2016 Opinion re: Betts Law Firm
12-6-2016 Opinion re: City of Cave Springs v Sewell
12-6-2016 Opinion and resolution re: Holidays
12-6-2016 Opinion and resolution re: Daily Cash Procedures
12-6-2016 Opinion and Ordinance re: City Treasurer Duties

As promised in my hiring comments I have had meetings with available department heads.

I have responded to numerous questions that have come to me on almost a daily basis. I have attempted to maintain an effort to respond the same day when possible or within 1 business day unless the matter requires research. I have attended City Council meetings as requested and required as well as planning commission meetings.

Issues upon which I have given advices have included review of city organizational issues, personnel issues, FOIA inquiries, records issues, budget issues, Razorback Trail issues, payment issues and FOIA meeting issues.



MEMORANDUM

ATTORNEY OPINION

Date: January 4, 2017

To: City Council

From: Thomas P. Guarino, City Attorney

Re: Pending Matters *TPL*

This memorandum is intended to update the City Council regarding pending matters for which services have been requested. Although not part of the annual report I thought this would be of assistance to the incoming members of the Council.

City of Cave Springs v Sewell Family Development, LLC & City of Bentonville

In August of this year the City of Cave Springs filed a petition in Benton County Circuit Court challenging the annexation of certain real property owned by the Sewell Defendants. The Sewell's sought and obtained annexation of the property by the City of Bentonville. The ordinance adopted by the City of Bentonville annexing the property contained a finding that the City of Cave Springs failed to make sufficient commitments to provide certain municipal services to the Sewell's. The action by the City of Cave Springs challenges this finding and other issues. Counsel was retained by the City Council to pursue this matter and continues to do so.

Preferred Office Products

A copy of a letter was received from Mr. Hays at the Municipal league dated 10-20-2016. This letter was from an attorney for Preferred Office Products. Apparently, the company is seeking \$9,124.86 for services pursuant to a contract(s). I have requested information from the Treasurer and Mayor.

STEP Ordinance

Review proposed ordinance regarding access to backyards of residents for maintenance. Revision pending receipt of ordinances from City.

Meter Ordinance

Request for revision of language to clarify enforcement issues. Revision pending receipt of ordinances from City.

Annexation

Information regarding annexation of two properties previously set to be annexed. This Annexation will need to go to a vote. A prior action was taken but did not move forward. Matter pending City Council direction to move forward with a vote. Costs for a special election remain to be determined.

Cave Springs Ward Redistricting

Information regarding a redistricting due to a new census has been provided. Census information will need to be obtained by City staff. Once Planning and NWA Regional Planning complete their work an ordinance can be prepared by the City Attorney.

Herren Annexation

Ramey and Doris Herren are seeking annexation of their property into Cave Springs. There was some confusion as to whether it had been annexed in the past. It does not appear, from the information provided that it was, although this has not been verified. This matter is pending City Council direction on annexation.

Internet/E-Mail Policy

Draft policy provided. This policy needs to be reviewed by the Mayor and IT department to see if it will meet their needs and technical capabilities. Then legal review will be appropriate. After this is done a resolution can be prepared for City Council review and approval if they choose to do so.

Waste Management Amendments

I have received a copy of the existing water services agreement. It appears to be a draft as it has blanks and is unsigned and undated. I have been told there are problems with the existing contract but have not received any specific proposed revisions or what exactly the City desires revised.

Golf Cart Ordinance

This matter was brought up at the City Council meeting in November. The matter should be placed on a City Council agenda. If the Council wishes to proceed planning should determine where it best fits in the planning ordinances and Counsel can then prepare an ordinance with the revision.

Other Pending Issues

3 EEOC Complaints

Ordinance review (pending receipt of ordinance copies from Treasurer)

Treasurer Ordinance (pending Council review of proposed ordinance)

Various contracts/agreements/document review Trails Project

Cc:

TPG/tpg

Attachments



MEMORANDUM

ATTORNEY OPINION

Date: January 3, 2017

To: Councilwoman Winters

From: Thomas P. Guarino, City Attorney *TPG*

Re: November-December Report

This memorandum is in response to your e-mail inquiries of December 30th and 31st of 2016.

Attached please find a log of Novembers services. As I mentioned this required I reconstruct a record based on what was still available. Pursuant to paragraph six (6) of the contract for services with the City no statements are required unless I am charging for hours over the Flat Fee agreed amount. All such statements are provided to the Treasurer and she should have Decembers shortly. It may be obtained as a public record from her as well. Please kindly remember that we discussed this when we went over the contract, section by section, with the Mayor at the coffee shop a few days prior to the presentation of the contract to the City Council at its November 8th, 2016 meeting.

You mention in your e-mail that "I was sure I stated that you worked for the Council". I do not understand what this means in the context of you e-mail. While it is true that the City Attorney provides legal services for City Council matters, the City Attorney in Cave Springs is an appointed office on equal footing with the Mayor and City Council. (see attached page 8 from Municipal League Guidebook).

The duties of a City Attorney are set by state law or local ordinance. I have attached a copy of A.C.A. § 14-42-112. It requires that I "Advise with all city or town officials...". I have also attached a copy of the "Scope of Services" which included specific items you and I discussed. Please note item (1). The scope of services also contains other specific items we discussed.

I hope this assists your review of this matter.

CC: City Council Copy to Agenda Packet 1-10-2017

Attachments

From: Mary Ann Winters
Sent: Saturday, December 31, 2016 12:00 AM
To: Tom Guarino
Subject: Re: November-December Report

I was sure I stated that you worked for the Council and that we included it in your contract. The aldermen have been asking me, and since we have not talked, other than speaking at our meetings, I could not answer them. The new aldermen are taking their duties seriously.

Happy New Year!

From: Tom Guarino
Sent: Friday, December 30, 2016 11:57:09 AM
To: Mary Ann Winters
Subject: RE: November-December Report

Ok. As soon as Decembers statement is done I will provide it. I will have to see what I have for November and provide both at the same time. Under my contract I do not prepare a formal statement for months in which I do not have fee charges over the flat fee amount. I know I spent over 80 hours in November but only took the flat fee.

I was unaware of the Council requesting this at the last meeting Meeting.

Sent from [Mail](#) for Windows 10

From: [Mary Ann Winters](#)
Sent: Thursday, December 29, 2016 12:10 PM
To: [Tom Guarino](#)
Subject: November-December Report

Tom, the Council requests your November-December Report of your hours. We need to know the number of billable hours per month, who they were performed for, and end product produced, if applicable.

Thank you,
Mary Ann Winters
jmawin@cox.net

Cave Springs Legal Services

(Draft Log) November 2016

11/3 -11/7/2016	Review Various issues about City and Matters Requested by Councilwoman Winters RE: Mayor and Treasurer (12.5)	0.0
11/8/2016	RT Travel/Attend City Council Meeting (1.0)	2.50
11/9/2016	Review Organizational Issues	2.50
	Set Meetings Mayor and Treasurer	.25
	RT Travel Meeting Mayor and Treasurer	3.5
	Review Outside Counsel Issue	.75
26 miles		
11/10/2016	Review Ordinance and other issues re: organization (2.0)	2.75
	RT Travel Treasure RE: Codes	1.75
	TCAT Mr. Rhoads Office Re: Sewell	.25
	TCAT Kendall Re: Simpson	.25
	TCAT Brown re: District Court	.25
	TCAT Mr. Hayes office Re: Simpson Hold Harmless	.25
	Review Multiple E-mails/Code re: Planner Contract	.75
	EM Re: Employee Payment	.25
	EM Re: Vendor IT Issue	.25
26 miles		
011/11/2016	TCAT Betts re: payment /representation issues	.25
	TCAT Rhoads re: Sewell	.25
	Research re: Personnel rules/issues	1.75
	Research re: Purchasing issues	2.50
	Review re: Treasurer/Recorder Duties	2.75
11/14/2016	TT and MTG with Mayor	5.0
	TC Councilman Fletcher re: Budget Workshop	.25
26 Miles		

11/15/2016	EM RE: Budget Meeting	.25
	EM RE: Treasure Vendor Issue	.25
	EM RE: Treasure record Storage Issue	.25
	Research/Memo RE: Zoning Official	2.5
	Follow up/EM Betts Issue	.50
11/16/2016	Meeting Mayor/Treasurer RT Travel	2.0
	Meeting Planner/Vice Mayor (2.5)	0.0
	Review Simpson release multiple EM's	1.0
26 miles		
11/16/2015	Review Budget Issues	3.50
	RT Travel Mtg Mayor/Budget Workshop	3.75
52 Miles Two Trips		
11/17/2016	RT Travel Meeting Mayor Treasurer Ordinance/Budget	3.75
	TC Mr. Noblett re: Simpson and Planning issues	.50
	Various EM Simpson Rev. Revised Draft	.75
26 Miles		
11/18/2016	EM's/TCAT Rhoads/Research re: annexation action	1.50
	Memo to Treasurer re: Workshop	.50
	Memo to CC re: Positions/Review Docs	3.5
	Review Treasurer Duties	1.0
	Review final Simpson docs and EM's	.50
11/21/2016	TC Mayor re: Meeting	.25
11/22/2016	Rev and Resp EM Simpson	.25
	Rev and Resp EM Mr. Holyfield re: Sewer connection	.25
	Rev Rogers Letter from Mr. Rhoads	.25
	RT Travel Meeting Mayor RE: workshop	3.5
	Rev. Budget Issues	1.5

	RT Travel Budget Workshop/Prep	4.5
52 miles		
11/23/2016	RT Travel Meeting Mayor Personnel Issues/Budget	3.5
73 copies		
11/29/2016	Simpson Rev EM and Draft Agreement	.75
	Review and Resp Planning re Golf Ord	.25
	TC Mayor re: IT issue	.25
20 copies		
11/30/2016	Res Rev and RESP EM Mayor re: Policies	.50

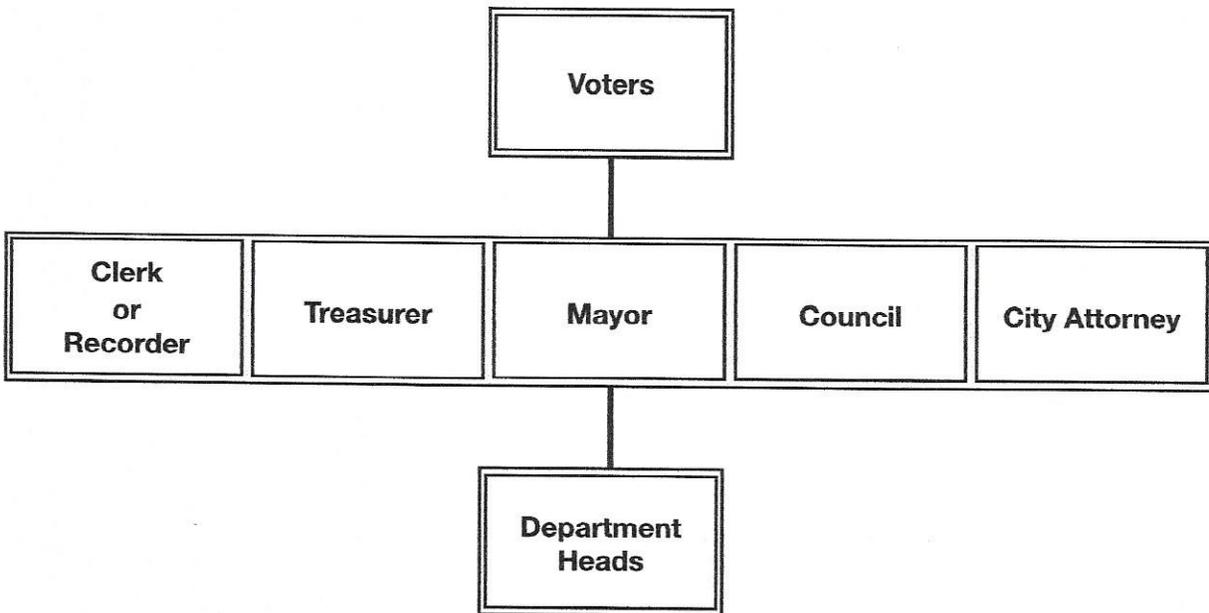
Sub Total 70.25 (only charged Flat Fee even though over 10.25 hours (\$1025.00).

No Charge Hours 17.5 (\$1750.00)

Total 87.75

- May override the mayor's veto by a two-thirds vote (ACA § 14-43-504; § 14-44-107; § 14-45-105).
- Calls for a special election in cities of the first class to fill the vacancy of the unexpired mayor's term of office, if the unexpired term is for more than one (1) year. (ACA § 14-43-401(b)).
- May fill, by appointment in cities of the first class, the vacancy to the office of mayor if the expired term is less than one (1) year (ACA § 14-43-401(b)(1)).
- In a city of the second class or an incorporated town the city council shall fill a vacancy in the mayor's office for the unexpired term by either a majority vote of the aldermen or a special election (ACA § 14-44-106); (ACA § 14-45-103).
- Sets the salaries of the mayor, council and other municipal officials. Salaries of officials may be increased, but not decreased, during the term of office, except that the official receiving the salary may request a decrease. (ACA § 14-42-113).
- Either establishes a city fire department or, by ordinance, enters into a contract or interlocal agreement for city fire protection with an existing fire department certified by the Arkansas Fire Protection Services Board. The council may promulgate rules to govern a city fire department. (ACA § 14-53-101).
- Establishes a city police department and organizes it under the general superintendence of the mayor. (ACA § 14-52-101). Directs by ordinance the number of subordinate number of officers to be appointed. (ACA § 14-52-201).
- Sets the rates for city utilities and establishes fees for city services.
- Enacts ordinances establishing sales taxes and referring same to the voters.
- Takes actions leading to annexation of territory to the city.
- Establishes and certifies to the county clerk the amount of property taxes to be levied within the city or town prior to the regular meeting of the quorum court in November of each year. (ACA § 26-73-202; 14-14-904).
- May establish (and abolish) various commissions to manage and operate such services as parks, utilities, an airport, advertising and promotion, planning and others, as provided by state law.

Mayor/Council Diagram



14-42-112. Municipal attorneys for cities of the second class or incorporated towns.

(a) (1) All cities of the second class and incorporated towns within the State of Arkansas may elect a municipal attorney at the time of the election of other officers of these cities of the second class and incorporated towns, if it is not established by ordinance that the office of the city attorney will be appointed.

(2) (A) All municipal attorneys elected under the provisions of this section shall be regularly licensed attorneys of this state.

(B) When no attorney resides within the limits of the city or town or when no resident attorney has been elected as municipal attorney, the mayor and city or town council may appoint any regularly licensed attorney of this state to serve as the municipal attorney.

(b) Any municipal attorney elected or appointed under the provisions of this section shall subscribe to the oath of office as all other officers of these cities or towns.

(c) All municipal attorneys are authorized to file information for the arrest of any person for the violation of any ordinance of the city or town or of the laws of this state which are violated within the limits of the city or town.

(d) (1) The duties of the municipal attorney shall be to represent the city or town in all actions, both civil and criminal.

(2) (A) It shall be the duty of the municipal attorney to:

(i) Advise with all city or town officials at any time needed;

(ii) Prepare all legal papers, blank forms, etc.;

(iii) File a complete report of his or her work with the city or town council at the end of each year; and

(iv) If requested to do so, furnish all information in his or her possession to the state courts for the prosecution of cases in the state courts.

(B) Nothing in this section shall prohibit the city or town council from prescribing other duties, and they are authorized to prescribe such other duties as they desire which shall be done by proper ordinance by the council.

(e) The term of office for an elected municipal attorney shall be four (4) years.

Acts 1923, No. 153, §§ 1-5; Pope's Dig., §§ 9752-9756; Acts 1975, No. 161, §§ 1, 2; A.S.A. 1947, §§ 19-911 -- 19-915; Acts 1993, No. 1306, § 8; 1995, No. 1256, § 20; 1995 (1st Ex. Sess.), No. 13, § 4; 1997, No. 645, § 1; 2005, No. 133, § 1.

EXHIBIT A
SCOPE OF SERVICES

This exhibit to the Agreement to provide City Attorney Services to the City of Cave Springs is intended to address the scope of the appointment and certain initial matters that need review as well as to address certain issues as to the intent of the Parties. It is intended to present transparency and clarity as to expectations.

1. It is intended that Attorney shall have the full scope of authority of a City Attorney for The City of Cave Springs allowed by Arkansas Law and shall occupy such office to the fullest extent allowed by law.
2. It is understood that Attorney is generally required to attend all regularly scheduled City Council and/or Planning Meetings and attend Sewer and Water Committee meetings as Attorney deems needed or requested as by Client. However, from time to time it is understood a meeting may be missed due to vacation, illness or personnel emergency. Attorney shall provide notice to the extent practical. Attorney agrees that he the City of Cave Springs shall have priority for its meetings should Attorney represent any other City. Attorney represents he does not represent any other City at this time and will make Client aware of any such representation in the future that may cause a conflict with this paragraph.
3. It is understood that there is an existing agreement for the provision of criminal, code enforcement and other matters monthly in Cave Springs District Court. It is not intended that this agreement will include provision of such services at this time, although it is understood that such agreements may be reviewed from time to time. It is understood that Attorney, to the extent required to do so will take actions necessary to keep this agreement in place in the Short Term. It is not the current intention of either party the seek to change the agreement and this paragraph should not be interpreted in any manner other than that the status of the existing agreement is unknown, except that the Court has indicated it is working at this point.
4. It is understood that there may be other attorneys currently representing the City of Cave Springs that may or may not have been authorized. Client requires that all litigation services provided to the City of Cave Springs shall be under the exclusive supervision of the City Attorney and that Attorney is requested at the earliest opportunity to ascertain and review such litigation/representation and report as appropriate to the Client.
5. It is currently Client's concern that there is a lack of clarity in the ordinances of the City of Cave Springs including but not limited to zoning and other related areas. It is Client's request that in the to the extent practical Attorney will review such ordinances and report to the Client within the Short Term of this agreement. Client agrees to supply Attorney with a complete copy of all ordinances as well as a copy of the ordinance book within 5 days of the approval of this agreement, to facilitate such review.

6. It is Client's desire that all contracts, ordinances and resolutions receive Attorney's review before execution or presentation to the City Council. It is important that Attorney receive such document in a sufficient time to facilitate a meaningful review and accordingly Attorney shall be provided a minimum of 5 working days to review such agreements.
7. The services to be provided do not include long term or extensive litigation services, except that Attorney will take interim short term steps to protect the rights of the City of Cave Springs, including retaining the assistance of additional Counsel to assist in matters for which he does not have the expertise or resources under this agreement. Such matters shall be placed on the next City Council Agenda or Special Meeting Agenda for City Council review or approval as necessary. Attorney fees and Costs for such matters shall not exceed \$5000.00. Minor litigation matters may be handled by Attorney from time to time if in Attorney's sole discretion they are within the capacity of available resources provided and available. This paragraph is not intended to limit Attorneys responsibility and authority under paragraph 1.