



Legislation Details (With Text)

File #: 22-0388 **Version:** 1 **Name:**
Type: Action Item **Status:** General Agenda
File created: 1/4/2023 **In control:** Town Commission
On agenda: 1/17/2023 **Final action:** 1/17/2023
Title: Ratification of authorization of Stuart Kaufman, Esq. to file request for informal hearing with Department of Management Services

Sponsors:

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Attachments:

Date	Ver.	Action By	Action	Result
1/17/2023	1	Town Commission	adopted	Pass

Summary

To: Town Commission

From: Jay Daigneault, Town Attorney

Date: 12/29/2022

Subject:

Ratification of authorization of Stuart Kaufman, Esq. to file request for informal hearing with Department of Management Services.

Summary:

On December 12, 2022, the Town received via certified mail a letter from Florida's Department of Management Services, Division of Retirement (the "Division") directed to Mayor Wilkinson. The letter informed that the Division was required to and did intend to withhold \$59,878.07 in premium tax moneys for the Town's Police Officer's Pension Plan as the result of the Plan's noncompliance with Chapter 185, Fla. Stat. The Plan was noncompliant because a copy of the Town's audited financial statement had not been timely provided to the Division. The letter from the Division provided that the Town had twenty-one days from the date of the letter to challenge the Division's withholding of the premium tax moneys. Longtime counsel to the Town's Plan's Board of Trustees, Stuart Kaufman, Esq. of Klausner Kaufman Jensen & Levinson in Plantation, FL, recommended that a request for informal hearing be filed with the Division so that the circumstances of the Town's late audit could be explained, and the premium tax moneys preserved pending the State's review and acceptance of the late-filed audit. He requested permission from the Town to file the request for informal hearing on behalf of both the Board and the Town because the moneys are, in fact, sent to the Town for appropriate distribution and allocation. Thus, his opinion was and is that the Town is a necessary party to the request for informal hearing. But, as the retained counsel only for the Board of Trustees, he required authority to represent the Town, and sought that authority from the Town Manager. Because only the Commission has the ability to retain counsel on the Town's behalf, and because the request for informal hearing needed to be filed prior to the next Town Commission meeting, I advised the Town Manager that she could authorize Attorney Kaufman to represent the Town in this matter subject to ratification by the Commission at its next meeting. Having spoken to the Town Manager and

Attorney Kaufman several times by phone on December 28, I did convey to Attorney Kaufman the Town Manager's authorization to file the request for informal hearing on the Town's behalf. This item is brought to you to ratify that authorization.

Previous Commission Action: N/A

Recommendation: The Town Manager and Town Attorney recommend ratification of Attorney Stuart Kaufman's retention for the purpose of filing a request for informal hearing with the Division of Retirement.

Proposed Motion: I move that the retention of Attorney Stuart Kaufman for the purpose of filing a request for informal hearing with the Division of Retirement, authorized by the Town Manager on December 28, 2022, be ratified and approved.