

Regular Workshop – March 23, 2015
Agenda Item 19

Agenda Item: Request for Re-Engagement of Special Environmental Counsel Deborah Getzhoff

Presenter: Town Manager and Town Attorney

Summary: The Town Commission will consider re-engagement of Special Environmental Counsel Deborah Getzhoff to continue her efforts in permitting assistance and addressing environmental issues on an as needed basis.

Attachments: 3-17-15 Engagement Letter, Getzhoff to Bullock;
Deborah A. Getzhoff Bio

Recommended Action: Pending discussion, provide direction to Manager.



Reply To: Bradenton

March 17, 2015

Via Electronic Mail

**CONFIDENTIAL
ATTORNEY/CLIENT
PRIVILEGED**

Town of Longboat Key
Dave Bullock, Town Manager
501 Bay Isles Road
Longboat Key, FL 34228
c/o Maggie D. Mooney-Portale, Esq., Town Attorney
6853 Energy Court
Lakewood Ranch, FL 34240-8523

RE: Special Counsel Representation of Town of Longboat Key – General Environmental Advice and Representation

Dear Ms. Mooney-Portale and Mr. Bullock:

On behalf of the law firm of Lewis, Longman & Walker, P.A., I thank you sincerely for the opportunity to work with the Town of Longboat Key on the above referenced matter. The following represents the terms and conditions of representation by the Firm on this matter:

1. Services. Lewis, Longman & Walker, P.A. will serve as special counsel on an as-needed basis to provide general environmental law advice and representation for matters including but not limited to state and federal environmental permitting for the Town of Longboat Key. I will be the attorney in charge of this representation and will be primarily responsible for providing and supervising the legal services required. I will be responsible for ensuring that each matter is staffed in a manner adequate and appropriate to the requirements of the representation. We will use our best judgment to determine the amount of time, who is to perform specific tasks and work, and the nature of the services to be performed in your best interests.

2. Professional Fees. I will be the primary attorney working on your matter and my government rate is \$285.00. In addition to me, I may assign work to other attorneys or paralegals within the office, depending upon who can best do the work in the most efficient manner. The hourly rate for attorneys ranges from \$180.00 to \$285.00 per hour. The hourly rate for paralegals/law clerks ranges from \$120.00 to \$175.00 per hour. These rates will be in effect

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through December 2015 and will be modified annually thereafter in January of each subsequent year. We will provide you with our new rates along with the Firm's statement of services rendered in January of each year.

3. Costs and Expenses. The firm may charge costs and expenses for actual costs incurred during the course of the firm's representation for items such as extensive copying costs, delivery costs, overnight mailing, court reporters' fees, transcripts ordered, copies of transcripts, or filings associated with the representation. All out-of-town travel (defined as travel outside of Sarasota and Manatee Counties) shall be reimbursed in compliance with Florida Statutes 112.061. The firm may advance costs and seek reimbursement in our billings or may at the firm's discretion require the Town of Longboat Key to deposit these costs with us before the costs are incurred.

4. Retainer. We will not require a retainer for services for this matter.

5. Billing and Payment. We will bill the Town of Longboat Key on a monthly basis for professional services rendered and expenses incurred in connection with this matter, less any retainer amounts applied against these services and expenses. A billing invoice shall be directed to Dave Bullock, Town Manager at 501 Bay Isles Road, Longboat Key, FL 34228, and sent via email to Maggie D. Mooney-Portale via email at mmooney@swflgovlaw.com. The Town of Longboat Key agrees to pay the amount of each statement in full within thirty (30) days of the billing date. Should the Town of Longboat Key question or dispute any items or any statements, the Town of Longboat Key will agree to notify the firm in writing of any such question or dispute within fifteen (15) days of the billing date. Any amounts remaining unpaid for more than thirty (30) days from the date of billing shall bear interest at the rate of twelve (12%) percent per annum, compounded daily, until paid.

6. Default. In the event any suit or action is brought to enforce the provisions of this Agreement in any administrative or judicial proceeding, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs incurred in such proceedings, including appeals.

7. Court Awarded Fees. In litigation matters, the court will sometimes order your adversary to pay part or all of the Town of Longboat Key's fees and out-of-pocket costs expended on the Town of Longboat Key's behalf in the matter at the trial and/or appellate level. Because fees and costs awards are totally unpredictable, court orders must be considered to be merely "on account" and the Town of Longboat Key remains liable for payment of the total fees and costs. Amounts received pursuant to a court order will be credited to the Town of Longboat Key's account. Any court award of fees or costs does not set or limit our fees, nor the Town of Longboat Key's liability to the Firm for fees and costs in any way.

8. Client Documents. During the course of representation on a particular matter, you may be required to provide to us documents such as tax records, expense records, bank records, deeds, etc. We will hold these records, in our office, during the pendency of your action and for five months thereafter. At the conclusion of your matter, we will contact you and make arrangements for the return of the records you provided. It is your responsibility to secure the return of your records. We will retain the balance of your file for an appropriate time period. If arrangements are not made for the return of your records within six (6) years following the conclusion of your matter, they will be destroyed according to the guidelines set out in our Records Retention Policy.

9. Conflict of Interest. During the term of this engagement, Deborah A. Getzoff and the members of the firm shall observe the requirements regarding conflicts of interest as set forth in Rule 4-1 of the Florida Bar's Rules of Professional Conduct. Unless agreed to in writing by the Town Commission, during this engagement neither Ms. Getzoff nor the firm shall undertake representation of any other clients directly adverse to the Town of Longboat Key.

10. Public records. Pursuant to applicable Florida law, the firm's records associated with this engagement may be subject to Florida's public records laws, Florida Statutes 119.01, et seq., as amended from time to time. The firm shall comply with all public records obligations set for in such laws, including those obligations to keep, maintain, provide access to, and maintain any applicable exemptions to public records, and transfer all such public records to the Town of Longboat Key at the conclusion of this engagement, as provided for in Florida Statutes 119.0701 (2013). Notwithstanding the foregoing, the firm shall maintain and preserve all applicable exemptions and privileges associated with representation of the Town of Longboat Key in adversarial administrative litigation, until such a time that such exemption(s) and privilege(s) are no longer applicable.

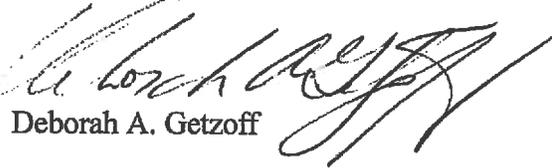
11. Authority to Bind. The retention of the firm to serve as the Town of Longboat Key's special counsel for the above referenced representation is subject to the consent and approval of the Town Commission at a publicly noticed meeting. The parties anticipate that the firm's retention shall be considered by the Town Commission at the Meeting noticed for April 6, 2015.

We sincerely thank you for choosing our firm to assist you as special counsel. All parties to this Engagement Letter consent and agree that the engagement is subject to the advise and consent of the Commission of the Town of Longboat Key at its upcoming public town meeting. If you agree with the foregoing terms and conditions, please sign in the space provided at the bottom of the letter, return the original to me in the enclosed self-addressed, stamped envelope and retain a copy for your records. On behalf of the Firm, I look forward to assisting you in this representation.

Dave Bullock, Town Manager
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Sincerely,

LEWIS, LONGMAN & WALKER, P.A.



Deborah A. Getzoff

DAG/cej

ACCEPTED BY:

Dave Bullock, Town Manager

Town of Longboat Key

Maggie D. Mooney-Portale, Esq.

As Its: Town Attorney

Date:



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Deborah A. Getzoff

Of Counsel
Tampa Bay
(941) 708-4040
dgetzoff@llw-law.com

Areas of Practice

Environmental, Water Resources, Water Utilities, Marine and Coastal Construction, Natural Resources, Mining, and Ports, Airports & Infrastructure

- More than thirty years of experience in environmental law, administrative law, and policy in both the private and public sectors.
- Extensive experience negotiating issuance of state and federal permits for large-scale developments involving impacts to wetlands, water quality, and endangered and threatened species.
- Represented public and private interests in the successful permitting of beach nourishment and coastal construction projects including large-scale condominium projects and marinas; representation of clients before the Governor and Cabinet.
- Managed regional state agency regulatory review of groundwater and surface water treatment, discharge and reuse facilities and innovative water supply facilities including desalination and reservoir projects.
- Managed regional state agency regulatory review of interstate pipeline projects, solid waste facilities and contaminated properties.
- Extensive experience in agency policy and practice in Florida.

Prior Professional Experience

- Director of The Florida Department of Environmental Protection's Southwest District Office implementing permitting, compliance, enforcement and outreach activities for Air, Water, Waste and Environmental Resource programs in a twelve-county area (1999-2011).
- Shareholder with Fowler, White, Boggs, P.A. in the firm's Tallahassee and Tampa offices representing private and public clients in environmental and administrative law at the state and federal levels, including extensive representation before the Governor and Cabinet. Obtained permits for land development, coastal projects, beach nourishment, marinas and landfills; represented bidders for major state agency contracts in bid dispute litigation (1988-1999).

- Deputy General Counsel, Florida Department of Environmental Regulation (now FDEP), Chief Counsel for Permitting (1985-1987); Water Program Attorney (1984-1985).
- Assistant General Counsel, Florida Department of Natural Resources (now FDEP) focused on coastal and mining regulation (1981-1984).
- Assistant General Counsel, Florida Department of Insurance (1979-1981).
- Assistant General Counsel, University of South Florida, rule promulgation and administrative law on a part time basis (1978-1979).
- Partner, McEwen and Getzoff, P.A. (1978-1979).

Professional, Civic and Community Involvement

- The Florida Bar, Member since 1977.
- Admitted to practice in the Middle District of the United States District Court.
- Chairperson of the Tampa Bay and Sarasota Bay Estuary Program Boards from 1999 until 2011, including state adoption of voluntary nutrient standards and discharge limits for Tampa Bay and the establishment of the Sarasota Program as an independent agency.
- Member and Chairperson of the City of Tallahassee-Leon County Board of Adjustment and Appeals (1991-1994).

Publications and Presentations

- Presented environmental topics at the Florida Chamber Environmental Short Courses, including Federal Wetlands Permitting, Coastal Construction Permitting, FDEP Updates and Rulemaking (1985-2005).
- Chair and presenter at Florida Bar Seminars regarding Coastal Construction, State Wetlands Permitting, and agency updates (1984-1997).
- Chair and presenter at CLE International environmental law seminars, including Florida Wetlands Permitting and Water Law (1988-1999).
- Speaker on FDEP updates at the Tampa Bay chapter of the Air and Waste Management Association.

Education

- J.D., University of Florida, 1977.
- B.A., Indiana University, 1973.



Deborah A. Getzoff, Esq. Supplemental Biographical Information

In addition to the career information shown on Ms. Getzoff's resume, the following may be relevant information for consideration by the Town of Longboat Key.

- In her work for the Florida Department of Environmental Protection (formerly the Department of Natural Resources) from 1981 through 1984, Ms. Getzoff was the attorney assigned to the state's program for Beaches and Coastal Systems, performing all litigation and rule making proceedings for that program.
- Subsequently, while at the Department of Environmental Protection from 1984 to 1987, she was the lead attorney for Permitting, supervising, hiring and training the permitting attorney staff in administrative hearings and processes.
- While a shareholder at Fowler White Boggs, P.A. from 1988 until 1999, she represented the Town of Longboat Key in the permitting of the Town's beach nourishment project in the early 1990's. During that period, she also represented and obtained beach nourishment permits for Collier County on Marco Island. Additionally, she represented permit applicants for shore protection structures in New Pass on Longboat Key and on Sand Key in Pinellas County. Other representation included coastal construction permitting for residential structures in Naples, Hallandale, Sonesta Beach, and on Longboat Key.
- During her ten years as the District Director for the Florida Department of Environmental Protection in the Southwest District Office, she served as the chairperson for the Policy Boards of the Sarasota Bay and the Tampa Bay Estuary Programs, working with local governments and the programs in the enhancement of the water quality and habitat values of the Bays.

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End of Agenda Item