

## **Section D**

# **Questions Regarding Engineering Firms Utilized For Ordinance Development**

## Louise MacLellan-Ruf

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**From:** Louise MacLellan-Ruf [mailto:louisemaclellanruf@gmail.com]

**Sent:** Wednesday, April 20, 2016 11:02

**To:** Larry Pritchett

**Cc:** Jim Chaousis; P vanVuuren; Nathan Davis; John Root; Kevin Beal; Carol Maines; Deborah Sealey; Erik; Knickelbein Abbie; Warren Bodine; Brooks Winner; mchonko@smrtinc.com; dkelley@woodardcurran.com; William Clayton; Valli Geiger; Audra Bell; Stuart Sylvester

**Subject:** RE: OA #10 and #11- Power Generation Facility Regulations- Special City Council Meeting

Hi Larry,

To be clear no one has questioned the talents, experience or knowledge of the consultants.

I am fielding questions as to the process of selection and specifics about their contracts.

This appears to be a straightforward procedural question about roles and responsibilities.

Thank you.

Paix,  
Louise

**From:** Larry Pritchett [mailto:larrypritchett.council@gmail.com]

**Sent:** Tuesday, April 19, 2016 22:10

**To:** 'Louise MacLellan-Ruf'; 'Jim Chaousis'

**Cc:** 'P vanVuuren'; 'Nathan Davis'; 'John Root'; 'Kevin Beal'; 'Carol Maines'; 'Deborah Sealey'; 'Erik'; 'Knickelbein Abbie'; 'Warren Bodine'; 'Brooks Winner'; mchonko@smrtinc.com; dkelley@woodardcurran.com; 'William Clayton'; 'Valli Geiger'; 'Audra Bell'; 'Stuart Sylvester'

**Subject:** RE: OA #10 and #11- Power Generation Facility Regulations- Special City Council Meeting

Hi Louise (all),

Just to follow up on this, attached is a memorandum from back on February 24th that summarizes the process by which the technical resources to support development of the power generation ordinance were selected. Please pass this along to anyone who may have questions.

To the best of my knowledge Planning Board members were very satisfied with the technical support provided by Mike Chonko and Dan Kelley. I may have forgotten something, but to the best of my memory neither the Energy Committee nor the Planning Board has received questions about the work performed by Dan or Mike.

The only questions I can recall the Energy Committee hearing were related to the decision by the Planning Board to utilize the City Attorney for this project and not supplement his work with outside legal/policy support. This question was articulated by Ron Huber at the last Council meeting and at a Planning Board meeting.

Best,  
Larry  
594-8806

**From:** Larry Pritchett [mailto:larrypritchett.council@gmail.com]

**Sent:** Thursday, April 14, 2016 16:05

**To:** 'Louise MacLellan-Ruf'; 'Jim Chaousis'

**Cc:** 'P vanVuuren'; 'Nathan Davis'; 'John Root'; 'Kevin Beal'; 'Carol Maines'; 'Deborah Sealey'; 'Erik'; 'Knickelbein Abbie'; 'Warren Bodine'; 'Brooks Winner'; mchonko@smrtinc.com; dkelley@woodardcurran.com; 'William Clayton'; 'Valli Geiger'; 'Audra Bell'; 'Stuart Sylvester'

**Subject:** RE: OA #10 and #11- Power Generation Facility Regulations- Special City Council Meeting

Hi Louise,

The Moratorium directed the Energy Committee to provide a list of firms to the Planning Board that could provide technical support as requested by the Planning Board. As drafted the Planning Board could choose among those firms based upon the types of outside support the Board felt it needed to accomplish the task.

The Energy Committee initially recommended six firms and organizations with different combinations of expertise related to the questions raised by power generation facilities (technical, legal, environmental/energy policy, site plan review, etc.) to the Planning Board.

The Planning Board chose to request through the Manager that the City Attorney be used for ordinance drafting and legal work. The Planning Board at the same time requested that the Energy Committee select the engineering firm(s) to utilize.

The Energy Committee did not feel that any one firm had the range of skills to fully address the variety of questions raised. The Committee chose SMRT (who had participated in the forum last summer) as well as Woodard and Curran (which has a broad range of environmental, engineering and energy experience).

To the best of my knowledge, no funds have been paid to either firm. The amount authorized for each was capped at \$7,500 to insure that expenditures stayed well within the amount authorized by Council. I can provide folk with more documentation (meeting agendas and minutes, formal recommendation memos, etc.) if desired.

Larry

**From:** Louise MacLellan-Ruf [<mailto:louisemaclellanruf@gmail.com>]

**Sent:** Thursday, April 14, 2016 15:26

**To:** Jim Chaousis

**Cc:** P vanVuuren; Nathan Davis; John Root; Kevin Beal; Carol Maines; Deborah Sealey; Erik; Knickelbein Abbie; Warren Bodine; Brooks Winner; [mchonko@smrtinc.com](mailto:mchonko@smrtinc.com); [dkelley@woodardcurran.com](mailto:dkelley@woodardcurran.com); Larry Pritchett; William Clayton; Valli Geiger; Audra Bell; Stuart Sylvester

**Subject:** Re: OA #10 and #11- Power Generation Facility Regulations- Special City Council Meeting

Hi Jim and Audra,

I have fielded a few questions about the consultant that was hired.  
People are interested in what the process was for hiring/choosing the consultant.

Also, to date, what has been paid out to said firm.

It would be helpful to have these answers for the public as this has been a sensitive issue for our community.

Thank you.

Paix,  
Louise

-----Original Message-----

From: Jim Chaousis [mailto:jchaousis@ci.rockland.me.us]

Sent: Thursday, April 14, 2016 08:38

To: 'P vanVuuren'; 'Nathan Davis'; 'John Root'; 'Kevin Beal'; 'Carol Maines'; 'Deborah Sealey'; 'Erik'; 'Knickelbein Abbie'; 'Warren Bodine'; 'Brooks Winner'; mchonko@smrtinc.com; dkelley@woodardcurran.com

Cc: Louise MacLellan-Ruf; 'Larry Pritchett'; William Clayton; 'Valli Geiger'; 'Audra Bell'; Stuart Sylvester

Subject: OA #10 and #11- Power Generation Facility Regulations- Special City Council Meeting

To all,

On Monday, the Rockland City Council passed Ordinance Amendments #10 and #11 in first reading. They expressed gratitude to the efforts of the Energy Committee and Planning Board in assembling these proposed regulations. They also expressed concern that they are only vaguely informed of the variables in proposing regulations on power generation facilities. They asked me to assemble a special meeting of the City Council in order to workshop these concepts, ask questions, and prepare the City Council for possible final acceptance on May 9th.

The City Council has a lot of work scheduled for April and May, so finding an ideal date may be difficult. I would like to propose that we set a workshop on April 25th, 2016 at 6 pm at City Hall. I would like to hear comments and concerns on availability. We need to consider posting and notice when constructing the meeting. Your immediate attention is appreciated.

Thank you for all your work to this point.

Jim C

James D Chaousis II, City Manager  
City of Rockland  
270 Pleasant Street  
Rockland, Maine 04841  
www.ci.rockland.me.us

## Larry Pritchett

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**From:** Larry Pritchett <larrypritchett.council@gmail.com>  
**Sent:** Monday, May 02, 2016 17:00  
**To:** 'Louise MacLellan-Ruf'; 'William Clayton'; Valli.citycouncil@gmail.com; kbeal@ci.rockland.me.us; 'Audra Bell'; 'James D Chaousis II'; ssylvester@ci.rockland.me.us  
**Subject:** RE: Request and Ethics Board Review

Hi Louise,

Just to be clear. We have not discussed this. You made passing mention at last week's budget meeting to having some concerns and questions regarding the technical advisors for the Planning Board.

But, the conversation was interrupted in your first or second sentence. You did not indicate what your specific concerns were nor did we discuss any of them. I have responded to two emails from you (with copies to Council and staff) on this matter.

All I, or any member of the Energy Committee, did was what the Committee was directed to do by Council, or what was requested by the Planning Board (which is what the moratorium directed the Committee to do).

The Committee has provide summary information to the Manager and offered to provide all support information as to what underpinned the Committee's recommendations to Planning Board. If there actually is a problem here it is easy resolve.

Larry  
594-8806

**From:** Louise MacLellan-Ruf [<mailto:louisemaclellanruf@gmail.com>]  
**Sent:** Monday, May 02, 2016 16:06  
**To:** William Clayton; [Valli.citycouncil@gmail.com](mailto:Valli.citycouncil@gmail.com); Larry Pritchett; [kbeal@ci.rockland.me.us](mailto:kbeal@ci.rockland.me.us); Audra Bell; James D Chaousis II; [ssylvester@ci.rockland.me.us](mailto:ssylvester@ci.rockland.me.us)  
**Subject:** Request and Ethics Board Review

Good afternoon,

As you know one of my goals for this year is to clarify roles and responsibilities. We have had inconsistent leadership over the past many years which may have led to some confusion. Attached is an Ethic Board Review Request. I did speak with Larry about this last week. As noted this is for Council to weigh in on as to its merit. I have received many memos and emails regarding this topic. None support the actions that are noted.

I have included the Charter reference for your convenience.

Thank you,  
Paix,  
Louise

May 1, 2016  
Memo to City Council

Dear Councilors Clayton, Geiger and Pritchett,

I am requesting a Board of Ethics, Sec. 2-208(11) review be convened to discuss what appears to be a breach of the Charter. As all of you know one of my goals for the year is to clarify roles and responsibilities. I had received questions from the community about consultants procured for work on Ordinance Amendment #10 and #11. On April 14, 2016, I emailed the City Manager requesting the fees paid to date to said consultants and to see their contracts. In part, this is the City Manager's emailed response.

April 14, 2016

*"I explained to Councilor Pritchett on March 29<sup>th</sup>, 2016 that I hadn't received contracts, terms and conditions, and procurement information for consultants. The process for acquiring service and products for the city are in the Charter and Rockland City Code Chapter 2. Since the city hasn't received any concrete product or paid any bills, I don't see that the city has any conflict with those laws, but we will."*

*"Although the Moratorium Ordinance gives direction to the Energy Committee and Planning Board, it does not alleviate the procurement process, contract administration, or payment processes."*

*"Councilor Pritchett is correct when he states that I authorized the Planning Board's use of the City Attorney for drafting and legal review. I did authorize this work but no further expenses on this project."*

It is important to note that 17 days had passed and the City Manager still had not received any contracts from Councilor Pritchett. Yet, the work had been performed. I asked the City Manager when he had asked Councilor Pritchett for the contracts. The City Manager reports he been asking Councilor Pritchett about these contracts dating back to February 2016.

It is clear the City Manager advised Councilor Pritchett that his conduct was in disagreement with the Charter. Yet Councilor Pritchett continued to violate the Charter by not bringing the City Manager into the process of retaining the engineers. Councilor Pritchett did supply me with numerous memos and documentation. None of which indicates or supports authorization from the City, City Manager or City Council to enter into contractual agreements.

Under the moratorium ordinance, the Energy Committee was "directed to provide options for technical experts from which the Planning Board can select to advise the Board as needed in this process."

Under Order 2016-04, "the **City Manager is hereby authorized to expend** up to \$20,000 from the City's Undesignated Fund Balance Account to cover the cost of professional services for the development of Site Plan standards related to the moratorium on grid-scale power generation facilities."

I reached out to the City Attorney about the potential legal ramifications for the city. Below is City Attorney Beal's emailed response:

*"Any agreement –whether oral or written - by a body or individual other than the City Manager to*

*retain the engineers is, arguably, ultra vires (outside their authority) and unenforceable against the City. On the other hand, the unpaid consultants could bring a claim of quantum meruit – a claim in equity for securing payment for services rendered without a contract where the client accepted the services and arguably understood the services would have to be paid for.”*

Councilor Pritchett and I discussed my ethics concern. He reported he had turned in a “draft contract” to the City Manager. The City Manager reports receiving contracts from Councilor Pritchett April 25, 2016. Twenty eight days after the request from the City Manager. The undated draft is written on city stationary and appears to be a document created by the City Manager. Upon further discussion with the City Manager it is revealed the draft is written by Councilor Pritchett. As of today, May 2, 2016 the contracts are not signed.

I respectfully request that the Council consider convening an Ethics Board. As this appears to be more than a procedural misunderstanding by a senior Councilor. The amount of time that has elapsed and the lack of a timely response suggests a direct disregard of the Charter. Council as a whole will ultimately decide if my concerns have merit.

Thank you for your time.

Mayor Louise d. MacLellan-Ruf

#### Sec. 2-208(11) – Board of Ethics.

There is hereby created and established a Board of Ethics which coincides and consists of the members of the City Council.

A. Procedures and Records. The Board, upon its formation, shall establish such rules as may be necessary to govern its procedures. However, such rules shall not become effective until approved by majority vote of the City Council. In addition, the Board shall at all times maintain in the office of the City Clerk appropriate records of its opinions and proceedings.

B. Duties. The board shall render advisory opinions to the City Council when there is doubt as to the applicability of any provisions of this Code to any particular situation. In the performance of its duties, the Board shall limit its review only to those matters and facts previously referred to it by majority vote of the City Council; it being the intent of the Council that the Board not function in an investigatory manner.

C. Initiation of Procedure. Any City Councilor seeking advice as to whether a particular situation constitutes a violation of this Code shall first submit a written statement describing the nature of the matter to the City Council. If the Council, in its sole discretion, feels that an advisory opinion is necessary, it shall then refer the matter to the Board. If the Board finds any matter referred to it to have been based upon allegations it determines to have been frivolous, unfounded or with malice, it shall so

advise the Council. It is the purpose and intent of this Code to provide a mechanism by which all such matters may be handled in an orderly and impartial fashion in such a manner as to protect the best interests of the citizens of the City of Rockland and the personal and private interests of its City Councilors. The Board shall also perform such other duties as may be prescribed from time to time by the City Council.

12. Penalties. In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted by the City Council. A majority of the Rockland City Council shall conduct such proceedings.



## Larry Pritchett

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**From:** Larry Pritchett <larrypritchett.council@gmail.com>  
**Sent:** Tuesday, May 03, 2016 09:50  
**To:** 'Stephen Betts'  
**Subject:** RE: Question

Hi Steve,

To the best of my knowledge neither the Planning Board nor the Energy Committee received any questions about how Woodard & Curran as well as SMRT came to be utilized until after the Ordinances were approved by Council in first reading.

The only question raised about technical support during the ordinance development process was a request from Ron Huber to include the Conservation Law Foundation in the ordinance development/review process.

The first time I was aware of any questions about the process of identifying technical advisors was an email from the Mayor on April 14th. I thought the information provided at that time answered her questions. It was not until the middle of last week that I was aware she still had objections.

After the recommendation from the Energy Committee, Dan Kelley and Mike Chonko were largely working to address questions and issues identified in the Planning Board Meetings and to provide information to the City Attorney as requested by the Planning Board.

I assumed that the Manager would have some limited administrative role in this. That is why the Energy Committee's recommendation memo is addressed to both the Manager and the Planning Board. That is why I asked the Manager what level of documentation he thought was needed for that part of the process.

And, that is why the Manager was given a draft scope of services for review and to decide if that was the appropriate vehicle for this type of limited project. If there was a mistake, it was not being crystal clear who was to handle the Administrative side of this.

Was it the Manager? Given the ordinance language of the moratorium should it be someone else (City Attorney, Finance Director, or both the Manager and the Chair of the Planning Board, or some other combination??)? Had I had any indication this would be an issue I would have promptly brought the question back to Council.

The City's committee's mostly work for Council (and advise the Council and the Manager). As I stated in the email to the Mayor last week, Manager involvement in some cases (and especially if it is not about the day to day operation of the City) is at the discretion of Council.

For example, I am not aware there was any Manager (or staff) involvement in the retention of Bernstein Shur. I am not objecting to that process. I am just using that as an example of a process that did not include the Manager. And the Manager indicated to me that the Council can always move on this without the Manager.

As just noted, my one regret is not being sure this question was clearly resolved earlier. As to your last question, I tend not to speculate on motives. I will acknowledge that whether this is politically motivated is the most common question I am getting.

Larry

**From:** Stephen Betts [<mailto:sbetts@bangordailynews.com>]

**Sent:** Tuesday, May 03, 2016 06:59

**To:** Larry R. Pritchett

**Subject:** Question

Larry,

In hindsight, do you think you should have gone through the city manager to enter into a contract with the two energy consultants?

Do you think this is a political attack by the mayor because the two of you are up for election in November?

Thank you

Steve

**aobrien@freepressonline.com**

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**From:** aobrienfreepress@gmail.com on behalf of Andy O'Brien  
<aobrien@freepressonline.com>  
**Sent:** Tuesday, May 03, 2016 17:53  
**To:** Larry Pritchett  
**Subject:** Question

Hi Larry,

Mike Grondin and Sandra Schramm raised questions of whether the ethics probe is politically motivated. Grondin said he was set up by the mayor to raise the procurement process question to the council. Do you have a response to that?

- Andy

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Free Press  
8 North Main Street, Suite 101  
Rockland, ME 04841  
(O) 207 596-0055  
(C) 207-542-4728

## Larry Pritchett

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**From:** Larry Pritchett <larrypritchett.council@gmail.com>  
**Sent:** Tuesday, May 03, 2016 23:07  
**To:** 'Andy O'Brien'  
**Subject:** RE: Follow-up  
**Attachments:** 2016\_02.24  
\_Rockland\_SMRT\_Power\_Generation\_Ordinance\_Tech\_Support\_Scope\_Ver2.pdf;  
2016\_02.24  
\_Rockland\_Woodard\_Curran\_Power\_Generation\_Ordinance\_Tech\_Support\_Scope\_Ver2.pdf

Hi Andy,

I don't have a date at my fingertips, but a draft scope of work as well as term and conditions were submitted to the Manager for consideration/revisions/review some while ago (copies attached).

I mean NO criticism of the Manager when I say that. There has been a lot going on. These were draft documents developed based on the issues identified at public forums. These were meant to be a point to start a discussion as to what type of formal agreement was appropriate for this project..

The Energy Committee and the Planning Board were focused on, and working hard to develop, an ordinance that captured the potential benefits of renewal energy while addressing community concerns about local power generation.

Larry

**From:** [aobrienfreepress@gmail.com](mailto:aobrienfreepress@gmail.com) [<mailto:aobrienfreepress@gmail.com>] **On Behalf Of** Andy O'Brien  
**Sent:** Tuesday, May 03, 2016 20:46  
**To:** Larry Pritchett  
**Subject:** Follow-up

Also, do you know what the status of the contracts are? If they're going to be submitted to the City Manager soon?

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Free Press  
8 North Main Street, Suite 101  
Rockland, ME 04841  
(O) 207 596-0055  
(C) 207-542-4728

## Valli Geiger

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**From:** Valli Geiger <Valli@midcoast.com>  
**Sent:** Tuesday, May 03, 2016 16:26  
**To:** Larry Pritchett  
**Subject:** Re: Tonight

Larry I will review those materials and send you an email this evening.

Valli

Sent from my iPhone

On May 3, 2016, at 3:35 PM, Larry Pritchett <[larrypritchett.council@gmail.com](mailto:larrypritchett.council@gmail.com)> wrote:

Hi Valli,

I would ask that you also review the materials I sent to Louse and Will and you last Thursday on this topic (4/28 at 8:26 in the morning) in response to questions last Wednesday. As you may recall, I was very reluctant back in January on this amendment (see attached).

You requested the amendment in response to questions/concerns from several residents about the level of involvement of the Manager. On the one hand, Audra and Jim had received a lot of criticism on the power plant question. On the other hand some felt they had been unfairly criticized.

After some thought, I decided to concur with your request since putting some distance between the Manager's office and this project would mean there was no opportunity for either of them to be perceived as "putting a finger on the scale" (if that is someone's concern) or be unfairly criticized (if that was one's perspective).

I think the moratorium ordinance is clear that the identification of technical resources and selection of technical resources was a charge from Council to the Energy Committee and the Planning Board (and given the way the amendment came about, the intent was to - in Jim's words - "to keep the Manager at arm's length").

When I talked with Jim in February I was unaware he had any concerns about the process the Energy Committee was using to identify possible technical resources. All that I remember him asking was that the process be documented and provided to him (which the Committee did).

The initial meeting between the Planning Board and the two firms needed to happen be certain the Board was satisfied with the firms and to see what the scope of work would likely entail.

At that initial meeting I was concerned about costs (i.e., that the Planning Board's request could exceed the allocated funding). But that seemed not to be an issue. After the initial meeting, I (or Eric? Or Kevin? or ??) arguably should have pushed to be very clear about how the back end/administrative side of this was going to be handled.

After that initial meeting the Planning Board had made its decision on technical resources and the question at that point was what terms and conditions or scope of services or letter of

agreement was needed, or desirable, between the parties.

As you may recall that was the same timeframe as the Manager's Annual Evaluation and the timeframe I was traveling out of state on weekends due to a death in my family. In hindsight it was a time when it was probably too easy to miss that something that should be moving promptly was instead moving slowly.

If I had been aware of any reservations or questions at the time I would have attempted either to have them addressed (at the staff or committee level which ever was the appropriate venue). Or promptly brought the question before Council at the time if the question was about what process Council intended in the moratorium.

I have friends in town today and tomorrow and was planning to go out to dinner with them. Would welcome an opportunity to chat. Barring surprises, I should be able to talk during your "drive time" from Togus.

Larry

-----Original Message-----

From: Valli Geiger [<mailto:Valli@midcoast.com>]

Sent: Monday, May 02, 2016 19:19

To: Larry Pritchett

Subject: Tonight

Larry, I will be happy to have a conversation with you before next Monday, but I need time to digest the letter so do not wish to do so this evening.

Valli

Sent from my iPhone

<2015\_12.04\_City\_Atty\_Moratorium\_Grid\_Scale\_Power\_Generation\_Jillson\_Final\_Expts\_Amnd.pdf>

## Larry Pritchett

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**From:** Larry Pritchett <larrypritchett.council@gmail.com>  
**Sent:** Wednesday, May 04, 2016 08:33  
**To:** 'Kevin Beal'; 'Louise MacLellan-Ruf'; 'Valli Geiger - City Council'; 'Will Clayton'  
**Cc:** 'Stuart Sylvester'; 'Audra Bell'  
**Subject:** RE: Ethics Review

Dear All,

I am writing simply to note my perspective on the memo drafted by the City Attorney as it relates to the letter submitted by the Mayor. I would call all of our attention to the seven areas of conduct covered by the "Code of Ethics" and the Ethics Board.

Six of the seven are clearly not related in any way to the question posed by the Mayor (i.e., disclosing confidential information, using city property for personal purposes, and so forth.). And the seventh, the one related to procurement and contracts, is about financial conflicts of interest.

The Mayor's letter makes no claim that I (or anyone else on the Energy Committee or Planning Board) in any way had a financial connection or special connection (i.e., family member employed by a firm, etc.) to any of the firms or organizations discussed.

I cannot think of any connection on my part, no matter how distant, to any of the companies or organizations that could be considered a personal financial interest, or special interest, as defined in Chapter 2 of the City's Ordinances.

Thus, since the Mayor makes no claim of a conflict of interest as described (and none exists), I respectfully submit that no question governed by the code of ethics or that would be subject to review by an "Ethics Board" exists here.

Larry  
594-8806

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**From:** Kevin Beal [<mailto:kbeal@ci.rockland.me.us>]  
**Sent:** Tuesday, May 03, 2016 15:56  
**To:** 'Larry Pritchett - City Business'; 'Louise MacLellan-Ruf'; Valli Geiger - City Council; Will Clayton  
**Cc:** 'Stuart Sylvester'; Audra Bell  
**Subject:** Ethics Review

Councilors:

Please see attached memo summarizing the ethics review process.

Kevin

# *CITY OF ROCKLAND, MAINE*



*270 Pleasant Street  
Rockland, Maine 04841*

**CITY CLERK'S OFFICE**

May 3, 2016

*YOU ARE HEREBY NOTIFIED THAT A SPECIAL MEETING OF THE  
ROCKLAND CITY COUNCIL WILL BE HELD IN CITY COUNCIL CHAMBERS  
AT ROCKLAND CITY HALL, 270 PLEASANT STREET, ROCKLAND, MAINE  
ON WEDNESDAY, MAY 4, 2016 AT 7:00 P.M. FOR THE FOLLOWING  
PURPOSE(S):*

*[Please Note Starting Time and Date]*

**DISCUSSION: POSSIBLE ETHICS VIOLATION**

*YOUR PUNCTUAL ATTENDANCE IS REQUESTED  
PER ORDER OF THE MAYOR OF THE CITY OF ROCKLAND*

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*STUART H. SYLVESTER  
CITY CLERK*



May 1, 2016  
Memo to City Council

Dear Councilors Clayton, Geiger and Pritchett,

I am requesting a Board of Ethics, Sec. 2-208(11) review be convened to discuss what appears to be a breach of the Charter. As all of you know one of my goals for the year is to clarify roles and responsibilities. I had received questions from the community about consultants procured for work on Ordinance Amendment #10 and #11. On April 14, 2016, I emailed the City Manager requesting the fees paid to date to said consultants and to see their contracts. In part, this is the City Manager's emailed response.

April 14, 2016

*"I explained to Councilor Pritchett on March 29<sup>th</sup>, 2016 that I hadn't received contracts, terms and conditions, and procurement information for consultants. The process for acquiring service and products for the city are in the Charter and Rockland City Code Chapter 2. Since the city hasn't received any concrete product or paid any bills, I don't see that the city has any conflict with those laws, but we will."*

*"Although the Moratorium Ordinance gives direction to the Energy Committee and Planning Board, it does not alleviate the procurement process, contract administration, or payment processes."*

*"Councilor Pritchett is correct when he states that I authorized the Planning Board's use of the City Attorney for drafting and legal review. I did authorize this work but no further expenses on this project."*

It is important to note that 17 days had passed and the City Manager still had not received any contracts from Councilor Pritchett. Yet, the work had been performed. I asked the City Manager when he had asked Councilor Pritchett for the contracts. The City Manager reports he been asking Councilor Pritchett about these contracts dating back to February 2016.

It is clear the City Manager advised Councilor Pritchett that his conduct was in disagreement with the Charter. Yet Councilor Pritchett continued to violate the Charter by not bringing the City Manager into the process of retaining the engineers. Councilor Pritchett did supply me with numerous memos and documentation. None of which indicates or supports authorization from the City, City Manager or City Council to enter into contractual agreements.

Under the moratorium ordinance, the Energy Committee was "directed to provide options for technical experts from which the Planning Board can select to advise the Board as needed in this process."

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*retain the engineers is, arguably, ultra vires (outside their authority) and unenforceable against the City. On the other hand, the unpaid consultants could bring a claim of quantum meruit – a claim in equity for securing payment for services rendered without a contract where the client accepted the services and arguably understood the services would have to be paid for.”*

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Thank you for your time.

Mayor Louise d. MacLellan-Ruf

## **Sec. 2-208(11) – Board of Ethics.**

11. Board of Ethics. There is hereby created and established a Board of Ethics which coincides and consists of the members of the City Council.

A. Procedures and Records. The Board, upon its formation, shall establish such rules as may be necessary to govern its procedures. However, such rules shall not become effective until approved by majority vote of the City Council. In addition, the Board shall at all times maintain in the office of the City Clerk appropriate records of its opinions and proceedings.

B. Duties. The board shall render advisory opinions to the City Council when there is doubt as to the applicability of any provisions of this Code to any particular situation. In the performance of its duties, the Board shall limit its review only to those matters and facts previously referred to it by majority vote of the City Council; it being the intent of the Council that the Board not function in an investigatory manner.

C. Initiation of Procedure. Any City Councilor seeking advice as to whether a particular situation constitutes a violation of this Code shall first submit a written statement describing the nature of the matter to the City Council. If the Council, in its sole discretion, feels that an advisory opinion is necessary, it shall then refer the matter to the Board. If the Board finds any matter referred to it to have been based upon allegations it determines to have been frivolous, unfounded or with malice, it shall so advise the Council. It is the purpose and intent of this Code to provide a mechanism by which all such matters may be handled in an orderly and impartial fashion in such a manner as to protect the best interests of the citizens of the City of Rockland and the personal and private interests of its City Councilors. The Board shall also perform such other duties as may be prescribed from time to time by the City Council.

12. Penalties. In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted by the City Council. A majority of the Rockland City Council shall conduct such proceedings.

## Larry Pritchett

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**From:** Larry Pritchett <larrypritchett.council@gmail.com>  
**Sent:** Wednesday, May 04, 2016 16:07  
**To:** Will Clayton  
**Subject:** FW: Questions  
**Attachments:** 2016\_05.04\_Council\_LP\_Power\_Generation\_Meeting\_Outline.pdf

I don't have time to create a time line of everything. Does the attached help at all?

LP

**From:** William Clayton [<mailto:williamclayton79@gmail.com>]  
**Sent:** Wednesday, May 04, 2016 09:30  
**To:** Larry R. Pritchett  
**Subject:** RE: Questions

I saw the watermark. I think the concern is when Jim saw it. The email had a date after the consultants work was initiated. Unless there is an email chain that I'm unaware of. Bring whatever you have tonight as it will be good to see everything.  
Will

On May 4, 2016 9:03 AM, "Larry Pritchett" <[larrypritchett.council@gmail.com](mailto:larrypritchett.council@gmail.com)> wrote:

If you look at the document, it is clearly watermarked "DRAFT."

I did not sign anything (or at any point even remotely contemplate signing anything).

The document was simply prepared to capture the issues/tasks identified in the Moratorium ordinance.

It was intended as a starting point for discussion (is a scope of services the best vehicle, is an letter of agreement adequate, what should be included, etc.)

The Manager could revise as deemed appropriate, use a totally different format, etc.

LP

**From:** William Clayton [<mailto:williamclayton79@gmail.com>]  
**Sent:** Wednesday, May 04, 2016 08:37  
**To:** Larry R. Pritchett  
**Subject:** Questions

Larry,  
I'm on the boat right now. I just saw an email come across from you and will read it momentarily. In the meantime a quick question.

I saw the email with a contract with city logo and Jim's name as drafter. The concern brought forward was that it was drafted by you and possibly signed by you but had Jims name on it. Any validity? Additionally did Jim see contract before consultants received it?

Will

| Council | Energy | Planning Brd | Comps  | Notes   |
|---------|--------|--------------|--------|---|
| 11-Jan  |        |              |        | Council Enacts Grid Scale Power Generation Moratorium In Second Reading   |
|         | 14-Jan |              |        | Energy Committee begins discussions of Recommendations To Planning Board  |
|         | 21-Jan |              |        | Refined Issues Recommendations/Discussed Technical Support                |
|         | 25-Jan |              |        | Report From Energy To Planning Board On Questions To Considered Approved  |
|         | 03-Feb |              |        | Refined Possible Technical Support Recommendations                        |
|         | 10-Feb |              |        | Initial Recommendations To PB for Options Technical Support Approved      |
|         |        | 16-Feb       |        | Initial Meeting Of Planning Board w/Energy Committee Members              |
|         |        | 23-Feb       |        | Initial PB Meeting With City Attorney To Discuss Concept Ordinance        |
|         | 24-Feb |              |        | Responded To Planning Board's Additional Request On Technical Support     |
|         |        | 01-Mar       |        | First PB Meeting With Woodard & Curran as well as SMRT                    |
|         | 10-Mar | 10-Mar       |        | (Note Energy Meeting On This Date Was Not On Power Generation)            |
|         | 24-Mar |              |        | Public Forum On Concept Draft (PB & EC Members Present)                   |
|         | 28-Mar |              |        | Energy Meeting to discuss comments from Public Forum                      |
|         |        | 29-Mar       |        | PB Revises & Votes Out Ordinance Recommendations To Council               |
| 11-Apr  |        |              |        | Council Adopts Power Generation Ordinance In First Reading                |
|         |        |              | 14-Apr | Comps Reviews Power Generation Ordinance/Recommends Adoption w/Amendments |
| 25-Apr  |        |              |        | Council Work Session On Power Generation Ordinance                        |

## Kathryn Fogg

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**From:** Kathryn Fogg <iringa67@yahoo.com>  
**Sent:** Wednesday, May 04, 2016 19:52  
**To:** Larry Pritchett; Louse MaclellanRuf; Valli Geiger; Will Clayton; Audra Caler Bell; Kevin Beal  
**Subject:** CONTRACTS

After the contact firms were decided upon by the energy committee and the planning board, and after the City Manager was notified as to what firms had been selected, should it not have been the City Manager's duty to contact the City Attorney to set up contracts. It was not Pritchart's duty to write a contract although I see not problem with him having drafted something for the Manager since he was the one who had been sitting in the meetings.

Kathryn Fogg Hill  
84 Grace St  
Rockland, Maine  
596-0117