

**AUBURN AREA RECREATION AND PARK DISTRICT MEETING OF THE
PROGRAM, PERSONNEL, POLICY, FEE & LEGAL REVIEW COMMITTEE AGENDA**

WEDNESDAY, JANUARY 20, 2021, 1:00 PM

**CANYON VIEW COMMUNITY CENTER, FOOTHILL ROOM
AUBURN, CA 95603**

Materials related to an item on this Agenda submitted to the District after distribution of the agenda packet are available for public inspection by contacting the District Administrator at kmuscott@auburnrec.com or by calling (530) 537-2186 (M-F).

Due to the current COVID-19 crisis, the public will not be allowed to physically attend the meeting. The public may participate in the meeting through Zoom. The link for this meeting is <https://zoom.us/j/97061463767>. The public can use this link and/or call **1 669 900 6833** Webinar ID: 970 6146 3767 to participate.

People using the Zoom website will be able to see and hear the Committee, and the Committee will be able to hear the public. The Committee will not receive any visual/video from the public. This is done to avoid inappropriate visual content at the meeting.

Questions and comments can be sent via email to the District Administrator no later than one hour before the meeting. These emails will be read aloud at the meeting and responded to accordingly. Emails can be sent during the meeting, and staff will work to ensure that all are read, however the best way to have your comment heard is through the Zoom meeting or the associated phone number.

If you are a person with a disability and need an accommodation to participate in the District's programs, services, activities and meetings, contact Kahl Muscott at (530) 537-2186 or kmuscott@auburnrec.com at least 48 hours in advance to request an auxiliary aid or accommodation.

1.0 CALL TO ORDER

Holbrook _____ Ainsleigh _____

2.0 ANNOUNCEMENTS, AGENDA REVIEW, CHANGES AND APPROVAL

3.0 PUBLIC COMMENT – This is the time wherein any person may comment on any item not on the agenda within the subject matter jurisdiction of the Committee
Chairperson, please state your name and address for the record (optional). There is a time limitation of three minutes.

4.0 BUSINESS

- 4.1 Approval of Minutes from the December 09, 2020 Program, Personnel, Policy, Fee & Legal Review Committee Meeting (Pages 3 – 4)**

Recommendation: Review and approve minutes.

4.2 Resolution Number 2021-01: Supporting Auburn Endurance Events as the Official State 100 Mile Endurance Events (Pages 5 – 7)

Shall the Auburn Area Recreation and Park District (ARD) adopt Resolution Number 2021-01, a resolution supporting the declaration of the State of California that Auburn Endurance Events be acknowledged as the official state 100 Mile Endurance Events?

4.3 District Policy Proposed Amendment – Purchasing Limits (Pages 8 – 9)

Shall the Auburn Area Recreation and Park District (ARD) change its policy regarding purchasing limits for supervisors and coordinators?

4.4 ARD Legal Counsel, 2021 (Pages 10 – 17)

Shall the Auburn Area Recreation and Park District (ARD) re-address the performance of its current legal counsel?

4.5 Approval of Legal Bills

Recommendation: Review and approval of legal bills.

4.6 Discussion items: None.

5.0 ITEMS TO BE CONSIDERED AT FUTURE PROGRAM, PERSONNEL, POLICY & FEE COMMITTEE MEETINGS

None.

5.1 PENDING ITEMS REQUIRING MORE DETAILED RESEARCH

None.

ADJOURNMENT

AUBURN AREA RECREATION AND PARK DISTRICT
This agenda is hereby certified to have been posted as follows:

1-15-21
Date

1:50 pm
Time

P. Larson
Secretary to the Board

**Auburn Area Recreation and Park District
Minutes
of the Program, Personnel, Policy, Fee & Legal Review Committee Meeting
Wednesday, December 09, 2020 at 1:00 PM
Canyon View Community Center
471 Maidu Drive
Auburn, CA 95603**

1.0 CALL TO ORDER

The meeting of the Program, Personnel, Policy, Fee & Legal Review Committee was called to order at 1:03 p.m.

ROLL CALL

Directors Holbrook and Ainsleigh were present.

2.0 ANNOUNCEMENTS, AGENDA REVIEW, CHANGES AND APPROVAL

The agenda was approved by the Committee.

3.0 PUBLIC COMMENT- This is the time wherein any person may comment on Any item not on the agenda within the subject matter jurisdiction of the Committee. After you are recognized by the Committee Chairperson, please state your name and address for the record (optional). There is a time limit of three minutes.

None.

4.0 BUSINESS

4.1 Approval of Minutes from the November 9, 2020 Program, Personnel, Policy, Fee & Legal Review Committee Meeting

The minutes from the November 9, 2020 Program, Personnel, Policy, Fee & Legal Review Committee meeting were reviewed and approved by the Committee.

4.2 Increase in Minimum Wage

Directors Holbrook and Ainsleigh reviewed this item and forwarded it to the Board of Directors for review and approval.

4.3 Resolution Number 2020-34 Approving a Debt Management Policy, Per Government Code Section 8855

Directors Holbrook and Ainsleigh reviewed and approved Resolution Number 2020-34 Approving a Debt Management Policy Per Government Code Section 8855 and forwarded it to the Board of Directors for review and adoption.

4.4 Approval of Legal Bills – There were no legal bills this month.

4.5 Discussion Item: A review of ARD policies regarding volunteers. This item was reviewed by the Policy Committee.

5.0 ITEMS TO BE CONSIDERED AT FUTURE PROGRAM, PERSONNEL, POLICY, FEE & LEGAL REVIEW COMMITTEE MEETINGS

None.

5.1 PENDING ITEMS REQUIRING MORE DETAILED RESEARCH

None.

ADJOURNED

As there was no further business, the meeting was adjourned at 1:50 p.m.

Board Secretary

Date

Item 4.2 Cover sheet – Resolution #2021-01: Supporting Auburn Endurance Events as the Official State 100 Mile Endurance Events

Auburn Area Recreation and Park District Policy Committee meeting January, 2021

The Issue

Shall the Auburn Area Recreation and Park District (ARD) adopt Resolution #2021-01, a resolution supporting the declaration of the State of California that Auburn Endurance Events be acknowledged as the official state 100 Mile Endurance Events?

Background

Auburn is the home of the Western States 100 Mile in One Day Trail Ride (the Tevis Cup) and the Western States Endurance Run. Auburn resident Mike Holmes is spearheading an effort to have the California Legislature and the Governor declare these endurance events the official 100 Mile Events for the State of California.

The Auburn City Council passed a similar resolution on November 23, 2020.

Recommendation for the Policy Committee

Review and send a positive recommendation to the Board to adopt Resolution #2021-01, a resolution supporting the declaration of the State of California that Auburn Endurance Events be acknowledged as the official state 100 Mile Endurance Events.

Fiscal Impact

N/A

Attachments

Resolution #2021-01

RESOLUTION NUMBER 2021-01

A RESOLUTION OF THE GOVERNING BOARD OF DIRECTORS OF THE
AUBURN AREA RECREATION AND PARK DISTRICT SUPPORTING THE
DECLARATION OF THE STATE OF CALIFORNIA THAT AUBURN ENDURANCE
EVENTS BE ACKNOWLEDGED AS THE OFFICIAL STATE 100 MILE
ENDURANCE EVENTS

WHEREAS, The Western States Trail extended from Salt Lake, across the Great Basin, and over the Sierra Nevada mountains to Sacramento during the westward expansion of the United States, and

WHEREAS, in 1931 a group led by Wendell Robie and Robert Montgomery Watson started to explore the route across the Sierra Nevada's from Auburn to Lake Tahoe and determined the distance was 100 miles, and

WHEREAS, the modern-day, Western States 100 Miles One Day Trail Ride was first held in 1955. Four of the five riders successfully completed the trek on horseback. The current ride averages between 150 and 200 horse and rider combinations. Since 1955 the Ride has grown to over 10,500 starters and 5,700 finishers, and

WHEREAS, Dr. Gordon Ainsleigh completed the first foot race over the same 100 miles of trail. This unique accomplishment became the basis for the now-famous Western States Endurance Run, the world's premier ultra-runner trail event, and

WHEREAS, in December, 2018, when the runs' annual lottery for entry was held, 5,862 pre-qualified ultra-runners from throughout the United States and overseas vied for one of only 369 spots in 2019's race. The unique number is set in cooperation with US Forest Service in consideration of the impact on the Tahoe National Forest, and

WHEREAS, the City of Auburn, California has been declared "The Endurance Capital of the World" in view of the Western States 100-Miles One Day Trail Ride and the Western States Endurance Run, and other events in the region.

NOW, Therefore, the Auburn Area Recreation and Park District requests that the California Legislature and Governor declare these endurance events the official 100-mile endurance events for the State of California.

DATED: _____

H. Gordon Ainsleigh, Chairman of the
Governing Board of The Auburn Area
Recreation and Park District

ATTEST:

Patricia B. Larson, Clerk of the Governing Board

I, Patricia B. Larson, Clerk of the Governing Board of The Auburn Area Recreation and Park District, hereby certify that the foregoing resolution was duly passed at a regular meeting of the Auburn Area Recreation and Park District's Board of Directors held on the 28th Day of January, 2021 by the following vote on roll call:

Ayes:

Noes:

Absent:

Abstain:

Patricia B. Larson, Clerk of the
Governing Board

Item 4.3 Cover sheet – District Policy proposed amendment – Purchasing limits

Auburn Recreation District Policy Committee meeting January, 2021

The Issue

Shall the Auburn Area Recreation and Park District (ARD) change its policy regarding purchasing limits for supervisors and coordinators?

Background

ARD has a policy that limits the purchasing of certain employees. After discussions amongst management, it was determined that ARD should explore upping the limits for supervisors, and adding coordinators to that category. Under the existing policy, managers often have to take on the task of purchasing for their department as their supervisors and coordinators quickly hit their limit. This inability to delegate could be mitigated with adjustments to ARD policy.

The following is from the ARD District Policy and Procedure Manual, with proposed changes highlighted:

II. Purchasing

- A. Purchasing Agent(s). The District Administrator or a designated manager shall serve as the purchasing agent for the District, and will be vested with the authority to purchase supplies, materials, services and equipment within annual budgetary authority limits as follows:

Purchasing Agent:

District Administrator: \$25,000/purchase

Primary Designee:

Administrative Services Manager: \$25,000/purchase

Secondary Designee (s):

Facilities & Grounds Manger: \$15,000 maximum monthly limit
Up to \$ 5,000 per purchase limit

Other Department Managers: Up to \$10,000 maximum monthly limit
Up to \$ 5,000 per purchase limit

Supervisors/Coordinators: Up to ~~\$1,000~~ \$7,000 maximum monthly limit

(or other designated employees): Up to \$500 per purchase limit

All positions from Supervisor and above shall have a credit limit of 50% of the stated amounts when newly hired and for a period of 12 months thereafter.

Recommendation for the Policy Committee

Staff recommends reviewing the proposed policy change and forwarding to the Board of Directors with a positive recommendation.

Alternatives Available to the Policy Committee

1. Do not make the change to District Policy
2. Recommend an different amount for the maximum monthly limit
3. Send the policy back to the staff for further review

Fiscal Impact

N/A

Attachments

None

Item 4.4 Cover sheet – ARD Legal Counsel, 2021

Auburn Area Recreation and Park District Policy, Program and Fee Committee Meeting January, 2021

The Issue

Shall the Auburn Area Recreation and Park District (ARD) re-address the performance of its current legal counsel?

Background

District Policy, Section VI, Policy on Authorization for Legal Services, states the following:

- D. **Policy to Re-Address Performance of Legal Counsel.** The District will re-address performance of the contracted Legal Counsel every two years. If services and fees are not found to be in accordance with the Legal Services Agreement as signed by the District Administrator and Legal Counsel, the District may seek new counsel.

ARD's current legal counsel is Cole Huber. Cole Huber has been with ARD since August of 2016. ARD's main contact at Cole Huber, Ron Scholar, has worked with the District since 2006.

ARD staff sent out a Request For Proposal (RFP) for new legal counsel in 2016. After review, the District decided to switch from Kronick, Moskovitz, Tiedemann and Girard (KMTG) to Cole Huber.

The ARD Board of Directors readdressed the performance of KMTG in July, 2012 and June, 2014, May, 2016 and January, 2019. The ARD Board considered whether or not to go out to RFP in March of 2021, however that motion did not pass.

Recommendation for the Policy Committee

Review and provide direction.

Staff is using CAPRI free attorney Patti Eyres much more frequently now, and recommends staying with Cota Cole as ARD's attorney of record. As of 11/30/20, ARD had only spent \$1,340 in legal expenses (2/3 of the Fiscal Year).

More information, next page

Fiscal Impact

There is no projected fiscal impact to perform this review.

The following is a chart of ARD's legal costs for the past 11 Fiscal Years:

FY 06/07	FY 07/08	FY 08/09 *	FY 09/10	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15	FY 15/16
\$30,652	\$24,824	\$1,363	\$20,131	\$13,475	\$7,710	\$6,648	\$8,421	\$15,301	\$6,693

FY 16/17	FY 17/18	FY 18/19	FY 19/20
\$4,533	\$12,552	\$8,634	\$14,908

*Note: ARD moved its Fiscal Year Calendar in 2009/2010, resulting in a 9-month Fiscal Year.

Attachments

Contract with Cota Cole

Ronald J. Scholar
rscholar@cotalawfirm.com

REPLY TO:
 ROSEVILLE MONTEREY
 ONTARIO

August 3, 2016

Kahl Muscott, Director
Auburn Area Recreation and Park District
471 Maidu Drive, Suite 200
Auburn, California 95603

Re: General Counsel Legal Services

Dear Mr. Muscott:

ABOUT OUR REPRESENTATION

Cota Cole LLP is pleased to have been selected to provide general legal counsel services to the Auburn Area Recreation and Park District. This letter constitutes our agreement setting forth the terms of our representation consistent with the previously submitted Proposal for Legal Services.

CONFIDENTIALITY AND ABSENCE OF CONFLICTS

An attorney-client relationship requires mutual trust between the client and the attorney. It is understood that communications exclusively between counsel and the client are confidential and protected by the attorney-client privilege.

To also assure mutuality of trust, we have maintained a conflict of interest index. The California Rules of Professional Conduct defines whether a past or present relationship with any party prevents us from representing you. Similarly, your names will be included in our list of clients to ensure we comply with the Rules of Professional Conduct.

We have checked the following names against our client index: Auburn Area Recreation and Park District. Based on that check, we can represent your interests in the above-described transaction. Please review the list to see if any other persons or entities should be included. If you do not tell us to the contrary, we will assume that this list is complete and accurate. We request that you update this list for us if there are any changes in the future.

{RJS/00045616.}



YOUR OBLIGATIONS ABOUT FEES AND BILLINGS

My current billing rate, and that of the partners of the firm, is \$240.00 per hour, associate attorneys are billed at \$210.00 and paralegals at \$140.00. We will bill you monthly for all services provided.

The memorandum attached to this letter describes the other aspects of our firm's billing policies. You should consider this memorandum part of this agreement as it binds both of us. For that reason, you should read it carefully.

FIRM STATUS

Cota Cole LLP is a partnership. Dennis M. Cota is the Managing Partner, and Derek P. Cole, Scott E. Huber, Daniel S. Roberts, Carolyn J. Frank, Daniel A. King, Karen A. Feld, Barbara A. Keough, Sean D. De Burgh, and Ronald J. Scholar are Partners. William R. Galstan, Kathryn L. Patterson, David G. Ritchie, Samantha L. Chen, Elizabeth M. Perez, and Ross W. Tucker are employees of the firm.

INSURANCE

We understand that you are not now insured or have any insurance that may cover potential liability or attorneys' fees in this case. If you think you may have such insurance, please notify me immediately.

We are also pleased to let you know that Cota Cole LLP carries errors and omissions insurance with Lloyds of London. After a standard deductible, this insurance provides coverage beyond what is required by the State of California.

CIVILITY IN LITIGATION

In litigation, courtesy is customarily honored with opposing counsel, such as extensions to file pleadings or responses to other deadlines. In our experience, the reciprocal extension of such courtesies saves our clients time and money. By signing this letter, you will be confirming your approval of this practice in your case.

HOW THIS AGREEMENT MAY BE TERMINATED

You, of course, have the right to end our services at any time. If you do so, you will be responsible for the payment of fees and costs accrued but not yet paid, plus reasonable fees and costs in transferring the case to you or your new counsel. By the same token, we reserve the right to terminate our services to you upon written notice, order of the court, or in accordance with our attached memorandum. This could happen if you fail to pay our fees and costs as agreed, fail to cooperate with us in this matter, or if we determine we cannot continue to represent you for ethical or practical concerns.

Kahl Muscott, Director
Auburn Area Recreation and Park District
August 3, 2016
Page 3

CLIENT FILE

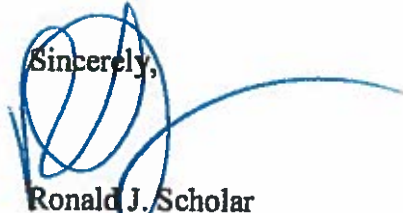
If you do not request the return of your file, we will retain your file for five years. After five years, we may have your file destroyed. If you would like your file maintained for more than five years or returned, you must make separate arrangements with us.

THANK YOU

We are pleased that you have selected Cota Cole LLP to represent the District and appreciate the opportunity serve as legal counsel to the District. If you have any questions at any time about our services or billings, please do not hesitate to contact me.

This letter supersedes the engagement letter between ARD and Cota Cole dated June 13, 2016 and becomes effective as of the date of your signature. Therefore, if this letter meets with your approval, please sign and date it, and return the original to us. We have enclosed a separate signed copy of this letter for your records.

Sincerely,



Ronald J. Scholar
COTA COLE LLP

RJS: mj
Enclosures

AGREED AND ACCEPTED:

By: Kahl S. Muscott

Dated: 8/4/16

COTA COLE LLP – BILLING POLICIES

Our two decades of experience has shown that the attorney-client relationship works best when there is mutual understanding about fees, expenses, billing, and payment terms. Therefore, this statement is intended to explain our billing policies and procedures. Clients are encouraged to discuss with us any questions they have about these policies and procedures. Clients may direct specific questions about a bill to the attorney with whom the client works. Any specific billing arrangements different from those set forth below will be confirmed in a separate written agreement between the client and the firm.

Limited Liability Partnership

Cota Cole LLP is a Limited Liability Partnership. Dennis M. Cota is the Managing Partner, Derek P. Cole, Scott E. Huber, Daniel S. Roberts, Carolyn J. Frank, Karen A. Feld, Barbara A. Keough, Sean D. De Burgh, and Ronald J. Scholar are Partners. William R. Galstan, Kathryn L. Patterson, David G. Ritchie, Samantha L. Chen, Elizabeth M. Perez, and Ross W. Tucker are attorneys employed by the firm.

Fees for Professional Services

Unless a flat fee is set forth in our engagement letter with a client, our fees for the legal work we will undertake will be based, in substantial part, on time spent by personnel in our office on that client's behalf. In special circumstances which will be discussed with the client and agreed upon in writing, fees will be based upon the novelty or difficulty of the matter or the time or other special limitations imposed by the client.

Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on the client's behalf. Time is accrued on an incremental basis for such matters as telephone calls (minimum .3 hour) and letters (minimum .5 hour), and on an actual basis for all other work. Our rates for services are set forth in the retainer letter that accompanies these policies, but are customarily billed at rates from \$250 to \$400 per hour, and our administrative assistants, research assistants, paralegals and law clerks are billed at the rate of \$150 per hour. These hourly rates are reviewed annually to accommodate rising firm costs and to reflect changes in attorney status as lawyers attain new levels of legal experience. Any increases resulting from such reviews will be instituted automatically and will apply to each affected client, after advance notice.

Fees for Other Services, Costs and Expenses

We attempt to serve all our clients with the most effective support systems available. Therefore, in addition to fees for professional legal services, we also charge separately for some other services and expenses to the extent of their use by individual clients. These charges include, but are not limited to, mileage at the current IRS approved rate per mile, extraordinary telephone and document delivery charges, copying

charges, computerized research, court filing fees and other court-related expenditures including court reporter and transcription fees. No separate charge is made for secretarial or word processing services; those costs are included within the above hourly rates.

We may need to advance costs and incur expenses on your behalf on an ongoing basis. These items are separate and apart from attorneys' fees and, as they are out-of-pocket charges, we need to have sufficient funds on hand from you to pay them when due. We will advise the client from time to time when we expect items of significant cost to be incurred, and it is required that the client send us advances to cover those costs before they are due.

Advance Deposit Toward Fees and Costs

Because new client matters involve both a substantial undertaking by our firm and the establishment of client credit with our accounting office, we require an advance payment from clients. The amount of this advance deposit is determined on a case-by-case basis discussed first with the client and is specified in our engagement letter.

Upon receipt, the advance deposit will be deposited into the firm's client trust account. Our monthly billings will reflect such applications of the advance deposit to costs and not to attorneys' fees. At the end of engagement, we will apply any remaining balance first to costs and then to fees. We also reserve the right to require increases or renewals of these advanced deposits.

By signing the initial engagement letter, each client is agreeing that the trust account balances may be withdrawn and applied to costs as they are incurred and to our billings, after presentation to the client. If we succeed in resolving your matter before the amounts deposited are used, any balance will be promptly refunded.

Monthly Invoices and Payment

Cota Cole LLP provides our clients with monthly invoices for legal services performed and expenses incurred. Invoices are due and payable upon receipt.

Each monthly invoice reflects both professional and other fees for services rendered through the end of the prior month, as well as expenses incurred on the client's behalf that have been processed by the end of the prior month. Processing of some expenses is delayed until the next month and billed thereafter.

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten days of presentation unless the full amount is covered by the balance of an advance held in our trust account. If a bill is not paid within 30 days, a late charge of one and a half percent per month on the unpaid invoice shall be added to the balance owed, commencing with the next statement and continuing until paid.

It is our policy to treat every question about a bill promptly and fairly. It is also our policy that if a client does not pay an invoice within 60 days of mailing, we assume the client is, for whatever reason, refusing to pay. We will then advise the client by letter that the client may pay the invoice within 14 days or the firm will take appropriate steps to withdraw as attorney of record. If the delay is caused by a problem in the invoice, we must rely upon the client to raise that with us during the 14-day period. This same policy applies to fee arrangements which require the client to replenish fee deposits or make deposits for anticipated costs.

From time to time clients have questions about the format of the bill or description of work performed. If you have any such questions, please ask them when you receive the bill so we may address them on a current basis.

Changes in Fee Arrangements and Budgets

It may be necessary under certain circumstances for a client to increase the size of required advances for fees after the commencement of our engagement and depending upon the scope of the work. For example, prior to a protracted trial or hearing, the firm may require a further advance payment to the firm's trust account sufficient to cover expected fees. Any such changes in fee arrangements will be discussed with the client and mutually agreed upon in writing.

Because of the uncertainties involved, any estimates of anticipated fees that we provide at the request of a client for budgeting purposes, or otherwise, can only be an approximation of potential fees.