

Funding for SMOC suit defense questioned

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FRAMINGHAM -

Residents this week questioned spending more money than necessary defending the federal lawsuit against a dozen town officials, saying local leaders should restart mediation or find a way to settle the case.

The comments were in relation to South Middlesex Opportunity Council's federal discrimination lawsuit, charging town stewards with engaging in "a coordinated effort" to push disabled people out of town by limiting where SMOC can open new programs.

Among the speakers at Wednesday night's Finance Committee meeting were several Town Meeting members, a member of SMOC's board of directors, former Selectman Chris Ross and selectman candidate Bob Berman.

Their questions looked at the reasons mediation failed, the high fees being paid to attorneys representing town officials and the reasons tax dollars are being used for the defense.

Town Counsel Chris Petrini attended the meeting but did not say anything. He later gave a report to the Finance Committee on the costs associated with the town's defense of the case in executive session, he said yesterday.

"The legal strategy in this case is inextricably tied to the costs," Petrini said yesterday.

During the meeting, Petrini told the committee that the law firm hired by the town to defend the SMOC lawsuit, Mintz Levin, charges \$500 to \$575 per hour and that the town's insurance company picks up 60 percent of those costs.

Petrini's firm charges \$140 per hour for its services. The town's insurance company offered to pay all legal fees in the case, but it would have retained control over the lawyer used to defend the case.

Town Meeting member Dawn Harkness wondered if the extra expense is worth it, saying she trusts Petrini's judgment but isn't as sure about Mintz Levin.

While some Finance Committee members believed it was inappropriate to talk about the case in public session, member Larry Marsh pushed for the committee to let them speak, said Chairwoman Katie Murphy.

"We just really wanted to hear what they had to say," said Murphy.

None of the speakers supported having the lawsuit run its course.

Town Meeting member George Dixon, part of a group led by Town Meeting member Diane Montgomery looking into alternatives to solving the SMOC case other than court, proposed a failed Town Meeting resolution pushing for mediation.

He asked Petrini why the sides failed to reach an accord in mediation, but Petrini said he could not answer the question.

Ross said the \$150,000 transfer by Town Meeting from the town's reserve fund in November to create a special account for the SMOC case was "ill-conceived and not very well-understood."

Ross wondered why officials didn't wait to hire an outside lawyer until after mediation had been pursued, saying many Town Meeting members may have expected to see a less aggressive approach to the defense.

"What's wrong with the insurance company's lawyer?" said Ross.

Ross said he is "counting on the Finance Committee to be the kind of fiscal conservatives the town needs," adding he "trust(s) their judgment to ask the tough questions" because none of the members are defendants in the case.

He wonders if the Finance Committee's advice will be ignored, though.

"The meter is running and we've never really been told what we're getting ourselves into and whether there are any checkpoints along the way," he said.

Selectman candidate Bob Berman wishes he and others in town had access to the same information as town officials so they could better understand their decisions and the reasons for them.

"This is going to cost us a lot of money," he said. "I would love to see a conclusion but only if it's the right solution."

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