The Legal Committee met on May 16, 2019 at approximately 1:30 p.m. in the Northern Administrative Complex, 359 Hiatt Drive, Palm Beach Gardens, Florida.

1. **ROLL CALL**

The full membership of the Committee, comprised of Board Supervisors Adrian M. Salee and John P. Cohen, was present.

Also present were Deputy Director Dan Beatty; Finance Director Katie Roundtree; Executive Assistant Susan Scheff and General Counsel Kenneth W. Edwards of Caldwell Pacetti, et al.

2. **ESTABLISH A QUORUM**

Mr. Salee announced that a quorum was present and that it was in order to consider any business to come before the Committee.

3. **ADDITIONS OR DELETIONS TO THE AGENDA**

Mr. Edwards reported that there were no additions or deletions to the agenda.

4. **COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA**

There were no comments from the public for items not on the agenda.

5. **REGULAR AGENDA**

- **Discuss Litigation Counsel Interview Scheduling and Protocols**

  Mr. Edwards explained that at the last Committee meeting, the Committee asked him to prepare a list of questions that could be used during an interview with the three firms that he had recommended for consideration as general litigation counsel. He prepared a draft list of questions
that were provided to the Committee at the meeting. He suggested that the Committee read through
the questions and use them as they wish, noting that he can also make modifications to the list, if
desired. Since Mr. Joslyn has announced his retirement, Mr. Edwards inquired as to whether the
Committee wished to proceed with the engagement of new general litigation counsel. If they do, he
could contact the two firms previously discussed about setting up interviews. He also recommended
that Northern continue to retain Ciklin Lubitz as its construction litigation counsel.

Mr. Edwards briefly reviewed the background of the two local attorneys/firms being
noted that the firm in Fort Lauderdale also has governmental experience which is why they were
listed, and suggested the Committee select the firm that they are most comfortable with.

Mr. Cohen reviewed the list of potential firms for consideration and asked Mr. Edwards who
he has worked with most often. Mr. Edwards advised that he personally has the most experience
working with Tom Baird, but stated that others at his firm have had experience with Lyman
Reynolds.

Mr. Cohen stated that he does believe an interview is useful, but after an informal poll among
some people he knows in the legal community and judiciary about the three firms, Jones, Foster is
the one that is highlighted. He noted that he has had no contact with any of the firms but, in his
opinion, personal recommendations do hold some value.

A general discussion followed with regard to the qualities of all of the firms and the value in
meeting with more than one firm, noting the focus should be on a firm’s comfort in dealing with
governmental clients. The discussion continued regarding the Committee’s previous consensus to
meet with the two local firms. Mr. Edwards explained that whether the interviews are held at
Northern or at the law firms being considered, proper meeting noticing will need to take place.

Mr. Salee asked about the possibility of making a decision now, since all of the firms have been recommended as reputable and highly qualified.

Mr. Edwards advised that if the Committee is leaning towards a particular firm at this time, he would not want to waste the other firm’s time. He suggested that based on Mr. Cohen’s information, the Committee interview Mr. Baird to determine its comfort level with him and his firm.

Mr. Salee discussed not wanting to drag the process out if all of these firms are recommended.

Mr. Cohen suggested the Committee interview Jones, Foster first, and if the Committee is comfortable with the firm and its fee structure, he would prefer not to waste anyone else’s time. He stated that if the Committee has any concerns, then they would move forward and schedule an interview with Roberts, Reynolds. He also suggested holding Mr. Baird’s interview at Northern.

A motion was made by Mr. Cohen, seconded by Mr. Salee and unanimously passed authorizing Mr. Edwards and Staff to arrange an interview with Jones, Foster, et al. and should they meet the Committee’s requirements, consider making a recommendation to the Board.

A discussion followed with regard to the interview process and potential scheduling options. Pending Mr. Baird’s availability, the next Legal Committee meeting will be scheduled following adjournment of the Board Meeting on June 26, 2019.

- Discuss ADA Website Requirements

Ms. Roundtree reported that the federal Americans with Disabilities Act (ADA) was passed in 1990 to assist people with disabilities with a means to carry out everyday types of activities, such
as being able to walk on sidewalks in a safe manner to simply reading or listening to a website. She explained that the issue of website compliance has intensified as people have started to specifically target governmental agencies with lawsuits, if they believe an agency’s website is non-ADA compliant. She further explained that people who are sight impaired may have the need to use a screen reader to view websites and she briefly described how they work.

Ms. Roundtree stated that based on various ADA interpretations, Northern’s website could be found to not be fully compliant, but efforts are being made to work towards such compliance. For example, a Notice of Accessibility has been added to the website which states that Northern knows that it may not be fully compliant, but Staff is working toward making it so, and in the meantime, anyone can contact Northern if a particular document is wanted and Staff will provide it. Ms. Roundtree stated that Northern has also engaged its website designer, Q New Media at a cost of approximately $750, to make the basic structure and look of the website ADA compliant.

Ms. Roundtree explained that the biggest part of this endeavor has to do with PDF documents, which by their nature are not ADA compliant. She further explained that most of the information on Northern’s website is in PDF format and she listed some of the major categories, noting that these documents fall into two categories: legacy documents and current/on-going documents. Ms. Roundtree stated that Northern is statutorily required to keep two years of budget documents and one year of Board documents on the website. She reviewed the statutory requirements and explained the current Budget documentation can be reduced to a three page document, noting that many other governmental agencies are similarly stripping down their websites’ content to the bare minimum.
Ms. Roundtree then reviewed several of Northern’s options with the first one being removal of many of the PDF documents, an action which is highly recommended in order to avoid an ADA lawsuit. A notice could be posted informing the public that while Northern is working on website compliance issues, they may request a particular document and Staff will provide it. She noted that Northern could also hire a firm to convert the PDF documents, but it is cost prohibitive.

Mr. Cohen asked what format PDFs would be converted to and Ms. Roundtree briefly explained that she currently uses an Adobe accessibility tool, but it takes time to do the conversion for each document. She stated that Staff has considered purchasing software called Onix at a cost of $4,000 per year, noting that it allows you to upload a PDF document which is then automatically converted to a format similar to an HTML document. Mr. Cohen expressed a concern regarding documents being converted into a form which can be manipulated.

A general discussion followed with regard to maintaining a record copy separately while posting an ADA accessible version on the website. The discussion continued with regard to viewing a photo while using a document reader, ADA compliance requirements, and Northern’s typical process when preparing Board packages, etc. Ms. Roundtree noted that the current Adobe conversion option she is using takes about an hour to run through in order to make the Board package more compliant, but it still is not completely compliant according to some.

Mr. Edwards noted that while it seems counterintuitive to remove information from government websites, he explained how these ADA-related lawsuits have affected local governments throughout Florida. He stated that the Committee may want to recommend to the Board that Staff strip the website of all unnecessary information while Staff works on compliance. Mr. Edwards also noted that there was a hope that the Legislature would provide some assistance
during the recent Legislative Session, but a proposed bill on the topic died in Session. A discussion then followed with regard to what items are viewed most often on Northern’s website and what Staff might be able to remove without violating the statutory requirements.

The meeting was then recessed at 2:15 p.m. and reconvened at 2:24 p.m.

Ms. Roundtree reported that she has four recommendations for the Committee to consider recommending to the Board:

- Assess the website and remove any older/non-pertinent information and replace some information with links, if available. For example, place links to FEMA and NPDES sites rather than publish their brochures on our website.
- Remove links to PDF documents on all of Northern’s pages and list the documents that are available upon request until conversion is completed.
- Purchase conversion software from Onix in order to convert PDF documents going forward and then, as time allows, convert prior documents.
- Coordinate with the high schools to see if any students wish to assist in the conversion of legacy documents in order to receive community service hours.

There was a general discussion with regard to the Notice of Accessibility and Northern’s intention to achieve compliance within a reasonable timeframe.

A motion was made by Mr. Cohen, seconded by Mr. Salee recommending that the Committee submit the above-referenced recommendations for Board consideration.

6. RECEIVE AND FILE

The meeting notice was presented for filing.
7. COMMENTS FROM THE COMMITTEE MEMBERS

There were no comments from the Committee.

8. ADJOURN

There being no further business to come before the Legal Committee, the meeting was adjourned.