

June 26, 2012 – Closed Session General Account

Police Department Evidence Room Audit Report

City Attorney Oast said that a complaint has been filed, but not served, to compel the release of the Police Department evidence room audit report. The City was named a defendant along with the Buncombe County District Attorney's Office. He said that the City does not have a copy of the report and that the District Attorney has control over it, which DA Ron Moore says that the audit is a criminal investigative record. How much of the audit report gets released is up to DA Moore. He will be talking with DA Ron Moore to coordinate a defense.

At Mayor Bellamy's suggestion, it was the consensus of Council to have a segment on our government channel about how we will use best practices going forward in our evidence room.

Councilman Bothwell said that the Public Safety Committee received a report from Chief Anderson about the many new practices in the evidence room, as a result of the audit.

To restore the creditability of the Asheville Police Department to the public, at Mayor Bellamy suggestion, it was the consensus of Council that a report be provided to City Council from the auditors similar to the report given to the Public Safety Committee, including a summary of the changes the auditor recommended the Asheville Police Department put in place. City Attorney Oast said that he would advise District Attorney Moore of Council's desire because we have worked hard to have a good relationship with that Office.

August 14, 2012 – Closed Session General Account

Police Department Evidence Room Audit Report

City Attorney Oast said that District Attorney Ron Moore has not completed his review of the Blueline report, and considers the entire report to be a criminal investigative file at this point. City Attorney Oast said that criminal charges may come out of this, and that the report could be an investigative record in that respect. The contract with Blueline says they have to provide us with a copy of the final report; however, he was not sure it's final yet. He advised Council that we are coordinating our defense with the attorney representing the District Attorney's Office.

August 28, 2012 – Closed Session General Account

Police Evidence Room Update

City Attorney Oast said our answer to the lawsuit was due today and it has been served and will be filed tomorrow. There is a hearing scheduled for Sept. 4 on the Plaintiff's Motion to Compel Disclosure. The District Attorney, through his attorney Ron Payne, has filed a Motion to Dismiss because the lawsuit was brought against the District Attorney's Office and there is no such entity in North Carolina. Most such lawsuits against public officials name the individual in their individual capacity or official capacity. When officials, such as police officers, are sued, that is how it is done. While the City is a legal entity, capable of being sued, individual offices in the City are not.

We anticipate having affidavits from Ron Moore asserting that the entire audit report is a criminal investigative record, which we thought would be the case. Secondly, an affidavit from Mike Wright of Blue Line Services explains that he is willing to work with Ron Moore whenever Mr. Moore determines that part of the report is not a criminal investigative record, and will produce a redacted portion of the record. The City does not have the report, and does not have access to it. Under the contract, Blue Line is to provide us a copy of the report, unless the DA determines that parts of it are a criminal investigative record. At this time, we are advised that the DA considers the entire report to be a criminal investigative record, and will provide an affidavit to that effect.

City Attorney Oast will report to Council the results of the hearing scheduled for next week.