

Meeting Minutes
Legal Services Selection Committee
Triumph Gulf Coast, Inc.
Destin City Hall Annex
1402 Indian Bayou Trail
Destin, Florida
August 15, 2017
10:00 a.m. CT

Don Gaetz
Bob Bonezzi
Allan Bense

Senator Don Gaetz called the meeting to order at 10:05 a.m.

Senator Gaetz welcomed members of the public and thanked Destin Mayor Scott Fischer for the use of the Destin Council Meeting Room. He recognized Representative Mel Ponder. Mayor Fischer and Representative Ponder made brief welcome comments and thanked Triumph Gulf Coast, Inc. for the work it is beginning to do for the region.

Senator Gaetz told the group that ten law firms from across the region were asked to participate in the selection process. Several firms declined to participate due to work they may have in relation to Triumph Gulf Coast, Inc., and several firms chose not to respond. The firms that were invited to participate were:

Keefe, Anchors and Gordon
Moore, Hill and Westmoreland, P.A.
Emmanuel, Sheppard and Condon
Clark Partington Law Firm
Anchors, Smith, Grimsley
Chesser and Barr, P.A.
Burke, Blue, Hutchison, Walters and Smith, P.A.
Harrison, Rivard, Duncan and Buzzett
Theriaque and Spain
Gray Robinson

Clark Partington, and Gray Robinson indicated they were interested in participating. Keefe, Anchors and Gordon indicated that they would be interested in participating only as "conflict counsel."

Senator Gaetz and Mr. Bonezzi each spoke separately with representatives of Clark Partington and Gray Robinson in interviews prior to today's meeting.

Senator Gaetz indicated that he envisioned three types of legal services that will be needed by Triumph Gulf Coast, Inc. He said that he thought there would be a need for General Legal Services, Specialized Legal Services, and Conflict

Counsel. He said that General Legal Services would include daily activities of the organization, Specialized Legal Services would include work on complicated and large project contracts, and Conflict Counsel would only arise if the primary law firm has a conflict with a client in working on Triumph Gulf Coast, Inc. related business.

Senator Gaetz and Mr. Bonezzi both noted that each of the firms that they interviewed are outstanding law firms. Senator Gaetz spoke about the fine reputation of Gray Robinson and that it is a very well established statewide firm. He said that the Clark Partington firm is a strong regional firm with offices in six of the eight disproportionately affected counties within the purview of Triumph Gulf Coast, Inc. He noted that the closest office of Gray Robinson is in Tallahassee, while the regional headquarters for Clark Partington is in Pensacola. He said that he would be concerned about either firm billing rates for drive time across the region. He said he has worked with both firms and been pleased with both, but due to proximity issues, he would recommend going with Clark Partington.

Board Chair Allan Bense indicated that he had done some research on the firm, and that he would like to hear from a representative of the firm to ask some questions prior to making a recommendation.

Mr. Doug Bates, representing Clark Partington, appeared before the committee. He noted that the firm is made up of just over 40 attorneys, several of them AV rated by Martindale-Hubbell. He said that Clark Partington is proposing a flat annual fee of \$120,000, payable monthly, or an hourly fee of \$140, understanding the restrictions placed on contracts by the Florida Statutes. He indicated that hourly fees for partners, associates and paralegals would be different commiserate with experience. Upon questioning, he indicated that the firm has represented local governments, such as the City of Pensacola (not a current client) and non-profit corporations. Chair Bense asked if there would be a point of contact assigned, and Mr. Bates indicated that while work might be assigned by task based on expertise, the firm would appoint a point of contact, probably Mr. Scott Remington. Mr. Bense noted that the proposal anticipated a three-year contract, and he asked if the firm would be willing to work on an annual contract. He reminded the group that Triumph Gulf Coast, Inc. is under extreme scrutiny and needs to be very careful going forward, and he asked if the firm was situated to work with the Auditor General and others in Tallahassee to be sure everything is always in order. Mr. Bates indicated that the firm is well prepared and would assure that everything will be in order.

Chair Bense then raised the concern that it is almost certain that there will be legal challenges to how Triumph Gulf Coast, Inc., operates. He asked Mr. Bates about how such challenges would be handled. Mr. Bates replied that once a fair process is put in place, if the process is followed properly, he would expect that the process would prevail if challenged.

Mr. Bonezzi asked Mr. Bates if the proposed \$120,000 per year is a retainer or a fee for actual services. He said that with the many attorneys he has employed he requires a monthly services report, and balances that amount against the retainer. He asked Mr. Bates if this would be acceptable. Mr. Bates indicated that he thought it would be the way it would be done. Mr. Bonezzi reiterated the importance of having a point of contact attorney specifically assigned to Triumph Gulf Coast, Inc.

Senator Gaetz said that if this firm is chosen, he suggests having a conversation with the firm about the structure of fees for services, how different fees are charged (General Services versus Specialized Services.)

Chair Bense recommended approval of the firm, but told the committee members and the firm that they needed to be “on the clock” getting an agreement in place because Triumph Gulf Coast, Inc., has ongoing legal questions that need answers. He said he would like to see engagement agreements negotiated as early as Friday and no later than next week.

Senator Gaetz asked if the recommendation was to split the general and specialized services into two separate agreements. Mr. Bonezzi said that was necessary, and that there may be situations where the firm would have to bring in outside counsel if an issue was so complicated or specialized that only certain attorneys are qualified to address it.

Senator Gaetz raised the issue of Conflict Counsel and noted that because there are so many members of the Triumph Gulf Coast, Inc., board involved in various businesses, there may be a need for such counsel if Clark Partington is involved in a related case. He recommended naming a firm to be on standby for such cases. Mr. Bonezzi said he thought it would be prudent for the board to appoint a Legal Committee to deal with any such issues as they arise. He said he preferred to leave future conflict issues to such a committee. Senator Gaetz and Chair Bense agreed.

Senator Gaetz announced that he has a separate, unrelated client relationship with Clark Partington dealing with a construction defect case that has no conflict with his work with Triumph Gulf Coast, Inc., but in an abundance of caution, he is going to recuse himself from voting on the recommended actions.

Mr. Bonezzi recommended to ask the Triumph Gulf Coast, Inc., Board to authorize engagement of Clark Partington to provide General Legal Services, and in a separate agreement, to provide Specialized Legal Services, as needed. In addition, he recommended asking the board to appoint a Legal Committee to provide needed guidance to the board on related legal issues such as conflict counsel situations. Mr. Bonezzi and Chair Bense voted in favor of the recommendation. Senator Gaetz abstained from voting.

In a related issue, Mr. Bonezzi noted that it was important for the board to be careful in the design of the application process to minimize exposure to appeals of the process. Senator Gaetz agreed. Chair Bense said he agreed, and that he did not anticipate Triumph Gulf Coast, Inc., being exposed to a formal appeals process other than judicial challenges.

There being no further business to come before the committee, the meeting was adjourned at 10:50 a.m.