

Carson City to pay more legal fees

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The mood in Carson City's board room rivaled that of a funeral wake Thursday when supervisors reluctantly agreed to pay a total of \$460,600 to put an end to two separate legal battles, both with the potential to drag the city deeper into debt.

Supervisors voted 3-2 to pay construction company American General Development \$397,600 for attorney fees arising from litigation over construction of the city's aquatic center.

They also unanimously voted to pay former Carson City Sheriff canine officer Paula Leever \$63,000 to settle her claim for overtime pay for off-duty care of her drug-sniffing dog "Scout."

The room was dead silent, Supervisor Shelly Aldean stared daggers and Mayor Ray Masayko shook his head as the board waited for someone to make a motion to pay up in the AGD case.

After several beats, Supervisor Pete Livermore finally did.

"I reluctantly second the motion with great consternation," said Supervisor Richard Staub. Aldean and Masayko cast the no votes.

The amount is 26 percent less than AGD attorney Michael Hoy claims the company is actually owed - \$536,864 - for costs associated with attorney travel expenses and consulting.

"My client's taking a pretty deep discount because we want to avoid more of the steep costs in this case," he said.

Aldean said she would have liked to negotiate further with the company.

"I felt there might have been further room for negotiating the sum and I wanted an opportunity to reduce the amount that was ultimately agreed to," she said.

Hoy said the company would not accept any counter offer the city may have made.

Masayko wanted to take the case back to court.

"It is my disposition that a judge is going to have to tell Carson City we're wrong," he said. "I'm not interested in settling today."

Staub didn't share Masayko's indignation.

"We need to look out for the public's best interest, lick our wounds and go on," he said. "I'm going to have to disagree with the mayor. I'm prepared to bite the bullet."

By state law, the city is liable to pay the attorney's fees because it rejected a lower, pre-trial offer. American General offered to settle for \$228,500 in October 2003 after an attempted court mediation.

The city hired AGD in 1998 to build its aquatic center, a project riddled with design delays, project changes and difficulties. The city terminated its contract in July 2000 and withheld \$328,000 in payments.

The company sued the city for payment plus \$7,500 in extra work, and the city counter-sued for \$95,000 after

hiring another company to make repairs.

After a three-week trial in July, Carson City was ordered by a jury to pay AGD \$335,000, plus \$32,005 in interest.

The board's decision to settle with Leever for \$63,000 depleted the city's insurance fund, and the board will have to use other funds to pay AGD.

Leever sued the city for overtime after she resigned in 1999, going against her union's agreement with the city to pay a flat rate of \$60 for two weeks of after-hours canine care by any officers assigned a police dog, instead of overtime.

The case was dismissed in federal district court, but the 9th U.S. Circuit Court of Appeals ruled in Leever's favor in March.

None of the supervisors objected to paying Leever's settlement. Carson City district attorney Mark Forsberg said the city's chances of winning another court battle with Leever were slim.

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