



TOWN OF PAONIA
TUESDAY, AUGUST 30, 2022
VIRTUAL MEETING AGENDA
5:00 PM

VIRTUAL MEETING
(MEETING WILL NOT BE HELD AT THE TOWN HALL)

TELEPHONE:

DIAL (FOR HIGHER QUALITY, DIAL A NUMBER BASED ON YOUR CURRENT LOCATION):

**US: +1 253 215 8782 OR +1 346 248 7799 OR +1 669 900 9128 OR +1 301 715 8592 OR +1 312 626 6799 OR
+1 646 558 8656**

MEETING ID: 886 2611 5559

MEETING LINK: [HTTPS://US02WEB.ZOOM.US/J/88626115559](https://us02web.zoom.us/j/88626115559)

EXPLANATION OF PUBLIC ATTENDANCE & PARTICIPATION

*Interviews of the municipal attorney candidates will be held in a breakout room with the Board of Trustees.
Public attendance will not be permitted.*

Roll Call

Regular Business

Municipal Attorney Interviews

Opportunity for Board discussion and deliberations

How Did We Do?

Adjournment

AS ADOPTED BY:
TOWN OF PAONIA, COLORADO
RESOLUTION NO. 2017-10 – Amended May 22, 2018

I. RULES OF PROCEDURE

Section 1. Schedule of Meetings. Regular Board of Trustees meetings shall be held on the second and fourth Tuesdays of each month, except on legal holidays, or as re-scheduled or amended and posted on the agenda prior to the scheduled meeting.

Section 2. Officiating Officer. The meetings of the Board of Trustees shall be conducted by the Mayor or, in the Mayor's absence, the Mayor Pro-Tem. The Town Clerk or a designee of the Board shall record the minutes of the meetings.

Section 3. Time of Meetings. Regular meetings of the Board of Trustees shall begin at 6:30 p.m. or as scheduled and posted on the agenda. Board Members shall be called to order by the Mayor. The meetings shall open with the presiding officer leading the Board in the Pledge of Allegiance. The Town Clerk shall then proceed to call the roll, note the absences and announce whether a quorum is present. Regular Meetings are scheduled for three hours, and shall be adjourned at 9:30 p.m., unless a majority of the Board votes in the affirmative to extend the meeting, by a specific amount of time.

Section 4. Schedule of Business. If a quorum is present, the Board of Trustees shall proceed with the business before it, which shall be conducted in the following manner. Note that all provided times are estimated:

- (a) Roll Call - (5 minutes)
- (b) Approval of Agenda - (5 minutes)
- (c) Announcements (5 minutes)
- (d) Recognition of Visitors and Guests (10 minutes)
- (e) Consent Agenda including Approval of Prior Meeting Minutes (10 minutes)
- (f) Mayor's Report (10 minutes)
- (g) Staff Reports: (15 minutes)
 - (1) Town Administrator's Report
 - (2) Public Works Reports
 - (3) Police Report
 - (4) Treasurer Report
- (h) Unfinished Business (45 minutes)
- (i) New Business (45 minutes)
- (j) Disbursements (15 minutes)
- (k) Committee Reports (15 minutes)
- (l) Adjournment

* This schedule of business is subject to change and amendment.

Section 5. Priority and Order of Business. Questions relative to the priority of business and order shall be decided by the Mayor without debate, subject in all cases to an appeal to the Board of Trustees.

Section 6. Conduct of Board Members. Town Board Members shall treat other Board Members and the public in a civil and polite manner and shall comply with the Standards of Conduct for Elected Officials of the Town. Board Members shall address Town Staff and the Mayor by his/her title, other Board Members by the title of Trustee or the appropriate honorific (i.e.: Mr., Mrs. or Ms.), and members of the public by the appropriate honorific. Subject to the Mayor's discretion, Board Members shall be limited to speaking two times when debating an item on the agenda. Making a motion, asking a question or making a suggestion are not counted as speaking in a debate.

Section 7. Presentations to the Board. Items on the agenda presented by individuals, businesses or other organizations shall be given up to 5 minutes to make a presentation. On certain issues, presenters may be given more time, as determined by the Mayor and Town Staff. After the presentation, Trustees shall be given the opportunity to ask questions.

Section 8. Public Comment. After discussion of an agenda item by the Board of Trustees has concluded, the Mayor shall open the floor for comment from members of the public, who shall be allowed the opportunity to comment or ask questions on the agenda item. Each member of the public wishing to address the Town Board shall be recognized by the presiding officer before speaking. Members of the public shall speak from the podium, stating their name, the address of their residence and any group they are representing prior to making comment or asking a question. Comments shall be directed to the Mayor or presiding officer, not to an individual Trustee or Town employee. Comments or questions should be confined to the agenda item or issue(s) under discussion. The speaker should offer factual information and refrain from obscene language and personal attacks.

Section 9. Unacceptable Behavior. Disruptive behavior shall result in expulsion from the meeting.

Section 10. Posting of Rules of Procedure for Paonia Board of Trustees Meetings. These rules of procedure shall be provided in the Town Hall meeting room for each Board of Trustees meeting so that all attendees know how the meeting will be conducted.

II. CONSENT AGENDA

Section 1. Use of Consent Agenda. The Mayor, working with Town Staff, shall place items on the Consent Agenda. By using a Consent Agenda, the Board has consented to the consideration of certain items as a group under one motion. Should a Consent Agenda be used at a meeting, an appropriate amount of discussion time will be allowed to review any item upon request.

Section 2. General Guidelines. Items for consent are those which usually do not require discussion or explanation prior to action by the Board, are non-controversial and/or similar in content, or are those items which have already been discussed or explained and do not require further discussion or explanation. Such agenda items may include ministerial tasks such as, but not limited to, approval of previous meeting minutes, approval of staff reports, addressing routine correspondence, approval of liquor licenses renewals and approval or extension of other Town licenses. Minor changes in the minutes such as non-material Scribner errors may be made without removing the minutes from the Consent Agenda. Should any Trustee feel there is a material error in the minutes, they should request the minutes be removed from the Consent Agenda for Board discussion.

Section 3. Removal of Item from Consent Agenda. One or more items may be removed from the Consent Agenda by a timely request of any Trustee. A request is timely if made prior to the vote on the Consent Agenda. The request does not require a second or a vote by the Board. An item removed from the Consent Agenda will then be discussed and acted on separately either immediately following the consideration of the Consent Agenda or placed later on the agenda, at the discretion of the Board.

III. EXECUTIVE SESSION

Section 1. An executive session may only be called at a regular or special Board meeting where official action may be taken by the Board, not at a work session of the Board. To convene an executive session, the Board shall announce to the public in the open meeting the topic to be discussed in the executive session, including specific citation to the statute authorizing the Board to meet in an executive session and identifying the particular matter to be discussed "in as much detail as possible without compromising the purpose for which the executive session is authorized." In the event the Board plans to discuss more than one of the authorized topics in the executive session, each should be announced, cited and described. Following the announcement of the intent to convene an executive session, a motion must then be made and seconded. In order to go into executive session, there must be the affirmative vote of two thirds (2/3) of Members of the Board.

Section 2. During executive session, minutes or notes of the deliberations should not be taken. Since meeting minutes are subject to inspection under the Colorado Open Records Act, the keeping of minutes would defeat the private nature of executive session. In addition, the deliberations carried out during executive session should not be discussed outside of that session or with individuals not participating in the session. The contents of an executive session are to remain confidential unless a majority of the Trustees vote to disclose the contents of the executive session.

Section 3. Once the deliberations have taken place in executive session, the Board should reconvene in regular session to take any formal action decided upon during the executive session. If you have questions regarding the wording of the motion or whether any other information should be disclosed on the record, it is essential for you to consult with the Town Attorney on these matters.

IV. SUBJECT TO AMENDMENT

Section 1. Deviations. The Board may deviate from the procedures set forth in this Resolution, if, in its sole discretion, such deviation is necessary under the circumstances.

Section 2. Amendment. The Board may amend these Rules of Procedures Policy from time to time.

File Attachments for Item:

. Roll Call

AGENDA SUMMARY FORM

	Roll Call
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Summary:

Notes:

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

Vote:	Mayor Bachran	Trustee Knutson	Trustee Valentine
Trustee Stelter	Trustee Smith	Trustee Markle	Trustee Weber

File Attachments for Item:

2. Municipal Attorney Interviews

AGENDA SUMMARY FORM

	Municipal Attorney Interviews
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Summary:

Notes:

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

Vote:	Mayor Bachran	Trustee Knutson	Trustee Markle
Trustee Smith	Trustee Stelter	Trustee Valentine	Trustee Weber



Office: 970-527- 4101 / 214 Grand Avenue / P.O Box 460, Paonia, CO 81428-0460
townofpaonia.colorado.gov

REOUEST FOR PROPOSAL – TOWN ATTORNEY

The Town of Paonia is currently seeking the contracted services of a municipal attorney to serve as it’s Town Attorney. It is intended that the successful candidate would perform the services listed in this proposal.

COMMUNITY BACKGROUND

The Town of Paonia was incorporated in 1902. The Town has a population of approximately 1,497 residents. The community consists of approximately 800 households. Paonia is a Title 31 statutory town in Delta County, situated on the North Fork of the Gunnison River. Paonia is home to the noted western newspaper *High Country News*, and KVNF community public radio station.

The Town provides a full range of public services, including a Police Department, Municipal Utilities (water, wastewater, and trash), Infrastructure (drainage, streets, public buildings, and sidewalks), and Recreational programs (parks and recreation activities).

The community is zoned for and developed with different zones for commercial, residential, industrial, and developing resources.

Listed below are amenities located within Town limits:

- Parks: Apple Valley Park, Town Park, Poulos Park, Paonia River Park, and Lee’s Park.
- Paonia Public Library
- Delta County Fire Protection District #2
- Town Hall, which includes town administration, police, public works, parks, and municipal court;
- Schools: Paonia Public K – 8, North Fork School of Integrated Studies (PreK – 6).

The Town of Paonia has a Mayor-Town Board form of government with a contract Town Administrator. There are six (6) Board of Trustee representatives, and each representative is elected to the Board for staggered four (4) year terms. The Mayor is elected for a four (4) year term. Every two (2) years, the Mayor (possibly) and three (3) Trustee representatives are up for election. The Mayor and all Trustees are elected “at-large.”

The Town employs Department Heads and a staff of approximately 18 full time and no part-time employees to manage the Town’s day-to-day business. Town departments include administration, public works, and police. In addition to the Board of Trustees and the Mayor, there are currently four (4) volunteer boards: Planning Commission, Advisory Water Committee, Tree Board, and the combined Zoning Board of Adjustments/Board of Appeals. Six Board of Trustees’ Committees were formed in 2022 consisting of Finance, Personnel, Water/Sewer/Trash, Parks, Streets and Public Safety. Two Trustees serve on each Committee.



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SCOPE OF SERVICES

CRS 31-4-304 provides for the appointment of a Town Attorney. “The board of trustees shall appoint a town attorney, as it deems necessary for the good government of the corporation [Town].”

Town Attorney-Functions and Duties:

1. The Attorney shall act as legal advisor to, and be attorney and counsel for, the Board of Trustees and the Mayor. They shall advise any officer or department head of the Town in matters relating to their official duties when so requested and shall file with the Clerk a copy of all written opinions given by them.
2. The Attorney shall prepare or review all ordinances, contracts, bonds, and other written instruments, which are submitted to him by the Board or by the mayor and shall promptly give their opinion as to the legal consequences thereof.
3. The Attorney shall prosecute ordinance violations and they shall conduct for the Town such cases in court and before other legally constituted tribunals. They shall file with the Clerk copies of such records and files relating thereto as the Board may direct.
4. The Attorney shall call to the attention of the Board all matters of law, and changes or developments therein, affecting the Town.
5. The Attorney shall act as parliamentarian for the Board of Trustees and inform accordingly.
6. The Attorney shall perform such other duties as may be prescribed for them by the Board of Trustees, including municipal court prosecution.

The Town Attorney is usually requested to attend all or selected portions of two (2) Board of Trustee meetings a month and may be requested to attend Board of Adjustment and Appeals, Planning & Zoning Commission, weekly staff meetings with the Department Heads, and other meetings, as necessary. Meetings may be attended in-person or remotely. The Board of Trustees meets the second and fourth Thursday of every month with meetings beginning at 6:30 and has full capability for interactive remote attendance by the Town Attorney via Zoom software.



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PROPOSAL REQUIREMENTS

The following items should be addressed as part of the proposal:

1. Describe your experience with municipal law generally and specifically speak to your experience regarding municipal elections, municipal land use regulations, real property matters, zoning law, constitutional issues (state and federal) affecting municipalities, municipal finance, complex litigation, appellate practice and any other areas you believe are relevant to the Town’s decision.
2. Provide a list of other municipal clients with whom you have worked in the past five years.
3. Describe any knowledge or experience that makes you particularly qualified for the position.
4. The Town is soliciting talent and expertise first and foremost. While cost to the Town is important, the selection will not be based solely on cost. Please detail and explain your required fees to perform the requested services.
5. Provide your Martindale-Hubbell rating and a biography.
6. Please provide a list of all attorneys in the firm who might provide services under this proposal and list any disciplinary proceedings against them.
7. Please disclose any potential conflicts of interest.
8. Please provide a minimum of three client references.
9. If you propose to bill for services at an hourly rate or a monthly fee, provide the current hourly/monthly rate for each lawyer and for each employee of your firm who may work on Town matters. State specifically whether you will work on a fixed fee basis and, if so, how you propose that such a fee be determined. State specifically that if you are the successful candidate and if your fee will be based on hourly rates that you will not increase for Town matters before January 1, 2024.
10. Please provide the name of your professional liability insurance carrier and the limits of your professional liability insurance.
11. Describe the support services you would receive from your firm if selected.
12. Specify availability and preferences for in person or remote attendance.



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GENERAL TERMS AND CONDITIONS

1. The Town reserves the right to undertake its own investigation to evaluate a candidate. The Town shall have the sole discretion to accept or reject a proposal.
2. All proposals become the property of the Town upon receipt and will not be returned to the candidate. Selection or rejection of the proposal will not affect this right.
3. The Town operates under public disclosure laws, as part of normal procedures. Proprietary information must be identified and will be protected as far as possible.
4. Cost of developing the proposal, attendance at the remotely held oral interview or any other such costs are entirely the responsibility of the candidate and shall not be reimbursed in any manner by the Town.
5. Failure to conform to proposal rules, including failure to respond to each item in the Proposal section of this RFP or to follow the proposal format requested in the RFP may lead to the rejection of a proposal. The submittals should contain all information necessary to evaluate the proposals.
6. The successful candidate shall not at any time permit any individual employed by the Town to benefit because of a financial interest in the candidate’s firm, any affiliate of the successful candidate, or any subcontractor.
7. The final selection will be based on the written proposal, oral and written responses of client references and on the interview with the candidate.

SELECTION PROCESS

The following is the timeline for the selection process:

- Send out Request for Proposals: July 15, 2022
- Deadline for submission of proposals: August 17, 2022 (4:30 p.m.)
- Hold Special Zoom Meeting to choose candidates for interviewing (August 22, 2022)
- Schedule interviews: August 23, 2022
- Conduct interviews: week of August 29, 2022
- Appointment of Town Attorney at Board Meeting: September 8, 2022

Questions concerning the information contained herein should be directed to the following person: Corinne Ferguson, Town Administrator 970/527-4101 telephone 970/527-4102 fax.



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townofpaonia.colorado.gov

Written proposals will be received at the Town of Paonia, PO Box 460, 214 Grand Avenue, Paonia, CO 81428, or via e-mail at: corinne@townofpaonia.com, until 4:30 p.m. on Wednesday, August 17, 2022.

The Town reserves the right to accept or reject any and all proposals and to waive any informalities or irregularities in said proposals. The Request for Proposal does not bind the Town to accept a proposal when, in the Town’s sole discretion, the Town determines not to do so. Additionally, the Town reserves the right to modify the schedule as necessary and will notify those participating in the RFP of the change in writing. The Town of Paonia is an equal opportunity employer.



Nicolas D. Cotton-Baez
(315) 276-9312 tel
(303) 298-1627 fax
nick@kellypc.com

August 17, 2022

Corinne Ferguson, Town Administrator
Town of Paonia
Attn: Town Clerk’s Office
214 Grand Avenue
PO Box 460
Paonia, CO 81428

Re: Proposal for Town Attorney Services

Dear Ms. Ferguson:

Thank you for the opportunity to submit our firm’s proposal to provide Town Attorney services to the Town of Paonia. The enclosed proposal provides detailed information about our firm and proposes hourly rates for attorney services.

By way of summary, our proposal is that Nick Cotton-Baez serve as the attorney responsible for coordinating all legal services pursuant to the engagement. Melinda Culley would assist and serve as substitute in case of Mr. Cotton-Baez’s absence. Kathleen Kelly would assist with matters as needed.

Mr. Cotton-Baez has experience representing municipalities located in the mountains. He has represented the Town of Dillon, in Summit County, since 2018. Additionally, Mr. Cotton-Baez serves as prosecutor for the Town of Kremmling. Mr. Cotton-Baez would tailor his representation of the Town of Paonia to the Town’s specific needs.

Since the submission of our firm’s proposal dated December 7, 2021, Mr. Cotton-Baez has begun assisting a client municipality in negotiations regarding the proposed development of a 390.013-acre tract of land. The proposed development involves multiple land uses, public and private components, the expansion of the client’s off-site wastewater treatment plant, land and water rights dedications, complexities regarding water and sewer connections and associated fees, and public improvement financing through a metropolitan district.

Regarding the firm more generally, for the past 30 years our practice has been devoted to local government law. We are currently City or Town Attorney for Louisville, Bennett, Dacono, Dillon, Haxtun, Jamestown, Keenesburg, Kremmling, Sedgwick, Ward and Wiggins.

As noted in the enclosed proposal, fees billed to the Town would be \$213 per hour for all attorney work. We understand the budgetary concerns of public entities, and we are committed to providing the highest quality legal services at a reasonable cost. Our firm's experience with municipal issues allows our attorneys to provide advice without spending much time on legal research. Our goal in providing day-to-day advice is to avoid litigation and big disputes that would cost the Town. We are also committed to avoiding attorney-driven approaches that would cause our clients to incur large bills.

While our firm is located in Denver, our attorneys have the capability to attend meetings by telephone or video conference. Mr. Cotton-Baez has attended several client board and council meetings remotely since the onset of the COVID-19 pandemic. The firm and our clients have found Mr. Cotton-Baez's remote attendance at meetings to work well. Mr. Cotton-Baez is also willing to attend meetings in-person when needed.

Again, thank you for your consideration of our proposal. If you have any questions, please contact us.

Sincerely,

KELLY PC

By: /s/ Nick Cotton-Baez
Nick Cotton-Baez

PROPOSAL FOR TOWN ATTORNEY LEGAL SERVICES

TO

THE TOWN OF PAONIA

August 17, 2022

Submitted by

Kelly PC

Kathleen M. Kelly

Melinda A. Culley

Nicolas D. Cotton-Baez

999 18th Street, Suite 1450, Denver, CO

Tel. (303) 298-1601

Fax (303) 298-1627

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A. GENERAL INFORMATION:

The following provides a brief summary of the information contained in this Proposal regarding our firm. Other sections of this Proposal provide additional details concerning our background, experience, and qualifications.

1. Principals’ names, firm, address, and telephone and facsimile numbers:

Kathleen M. Kelly
Melinda A. Culley
Kelly PC
999 18th Street, Suite 1450, Denver, CO
Tel. (303) 298-1601
Fax (303) 298-1627

2. Services and Methods of Approach. We are a full-service municipal law firm. We have a unique combination of experience to appreciate the legal issues affecting municipalities in the context of decisions and challenges facing municipalities.

It is our proposal that Nick Cotton-Baez serve as the attorney responsible for coordinating all legal services pursuant to the engagement. Melinda Culley would assist and serve as substitute in case of Mr. Cotton-Baez’s absence. Ms. Kelly would assist with matters as needed.

In the event that a member of the attorney team is unable to perform legal services for the Town, we will replace the person with someone of similar qualifications, and will provide you with the attorney’s qualifications. We understand that replacement will be subject to approval by the Town after any investigation deemed appropriate.

We are qualified and able to provide the full range of services required by the Town of Paonia, including representation of the Town Board, boards and commissions, department heads and employees.

3. Attorneys’ lengths of time practicing law in Colorado, date of admission to the Colorado bar and continuing education training:

- Nicolas D. Cotton-Baez: Partner with 6 years practicing law in Colorado, admitted to Colorado bar in 2016
- Melinda A. Culley: Partner with 16 years practicing law in Colorado, admitted to Colorado bar in 2006
- Kathleen M. Kelly: Partner with 25 years practicing law in Colorado, admitted to Colorado bar in 1997

Resumes for Mr. Cotton-Baez, Ms. Culley, and Ms. Kelly are attached in Section F of this

Proposal. All of the attorneys in the firm are licensed and in good standing in the state of Colorado. There are no disciplinary proceedings against any attorneys of our firm.

In the past year, all attorneys have attended practice-relevant continuing legal education programs, including but not limited to land use and municipal law seminars. Further, attorneys in the firm are frequent presenters in the area of municipal law and able to provide appropriate and cost-effective training to Town officials and staff on municipal law. Further continuing legal education information is available if desired.

Our firm and its attorneys have not pursued a Martindale Hubbell rating.

4. **Professional Liability Insurance.** Our firm carries professional liability insurance through QBE Corporation, with limits of \$2,000,000 per claim and \$2,000,000 policy aggregate and a \$10,000 deductible. The firm has never had any claims made against it.

5. **Potential conflicts of interest.** We do not have any business relationships with any elected Town official, members of any boards or commissions, or staff members. We do not represent developers, businesses, citizens, or other private entities; our practice is exclusively limited to representing municipalities and other public entities. Therefore, we do not have any conflicts of interest that would hamper our representation of the Town of Paonia and do not foresee any such conflicts. Of course, in the event any conflict arose, we would act in accordance with the Rules of Professional Conduct governing lawyers.

In Section B, we have noted the municipal clients with whom we have an ongoing relationship, or for which we have performed work in the last five years. We do not foresee any conflicts of interest in the future between our current clients and the Town of Paonia.

6. **Existing Workload and Schedule.** As a full-service municipal law firm, we do not foresee any difficulties in adding Paonia as a client and adding any legal work for Paonia to our current workload. With three attorneys available, we will be able to balance our workload to best meet the needs of all of our clients. Should the need arise, the firm would hire a qualified associate to assist with added workload.

Nick Cotton-Baez is available to attend regular meetings of the Town Board on the second and fourth Thursdays of each month. Mr. Cotton-Baez also has availability to attend meetings with the Board of Adjustment and Appeals, Planning Zoning Commission, Department Heads, and other meetings as necessary.

Because our firm is located in Denver, Mr. Cotton-Baez's preference would be to attend meetings remotely, with occasional attendance in person.

B. BACKGROUND AND QUALIFICATIONS OF THE FIRM:

The firm began as Griffiths & Tanoue, P.C. in 1987, founded by former CML General Counsel Susan Griffiths and CML Staff Attorney Tami Tanoue. From the beginning, the focus of the firm’s practice has been on municipal, county and special district law, and governmental liability and insurance law. The firm represents primarily the following: individual local governments, including cities and towns (both statutory and home rule), counties, and special districts; local government officials; and associations of local governments.

Sample clients of the firm have included or do include (entities in bold-face indicate ongoing relationships or work within the last five years):

- Archuleta County
- City of Arvada
- City of Aurora
- Town of Avon
- Town of Bennett**
- City and County of Broomfield**
- Town of Castle Rock**
- Colorado Intergovernmental Risk Sharing Agency (CIRSA)**
- Colorado Municipal League**
- City of Colorado Springs
- County Workers’ Compensation Pool**
- County Health Pool**
- County Special Districts Property and Liability Pool**
- County Technical Services**
- City of Dacono**
- Town of Deer Trail**
- City and County of Denver
- Denver Regional Council of Governments (DRCOG)**
- City of Edgewater
- Town of Estes Park**
- City of Federal Heights
- Town of Firestone**
- Town of Fleming
- City of Fort Collins
- City of Fort Morgan
- City of Glendale
- Town of Grand Lake
- Town of Haxtun**
- Town of Jamestown**
- Town of Keenesburg**
- Town of Kremmling**
- City of Lakewood
- City of Louisville**
- City of Loveland
- City of Manitou Springs**
- Town of Milliken
- Town of Monument
- Northern Colorado School Districts Self-Insurance Pools
- City of Northglenn
- City of Westminster**
- Town of Otis
- Town of Parker**
- Town of Sedgwick**
- Special Districts Association**
- Town of Telluride
- City of Thornton
- Town of Ward**
- Town of Wiggins**
- City of Wray

C. LOCAL GOVERNMENT EXPERIENCE:

Our firm has substantial experience in representing local governments, individually and collectively. We have experience and expertise in numerous local government issues, including elections, land use, personnel, recall, open meetings, public records, investment, budget, liability, sales, use, and other taxes, air and water quality, transportation, public construction and financing, liquor and beer licensing, special districts, the Fair Labor Standards Act, and the Americans with Disabilities Act.

We are sensitive to the budgetary concerns of public entities and work with them to provide high quality legal services in a cost-effective manner. The firm’s work includes representing:

- **Municipalities and other local governments.** We provide general and special counsel services to municipalities and other local governments, their governing bodies and staffs, and have provided special counsel services to the State of Colorado. We are currently City or Town Attorney for Bennett, Dacono, Dillon, Haxtun, Jamestown, Keenesburg, Kremmling, Louisville, Sedgwick, Ward and Wiggins.
- **Intergovernmental entities.** We form and represent entities established by intergovernmental agreement and provide services similar to those described above for non-profit associations. We currently serve as legal counsel to the following intergovernmental entities: County Health Pool, County Workers’ Compensation Pool, Colorado Counties Casualty and Property Pool, and Denver Regional Council of Governments (DRCOG).

Some examples of specific substantive work and experience include:

- **Problem solving:** Have substantial experience in working with diverse government officials and private and other public interests to resolve, in a positive manner, issues of mutual concern.
- **Ordinance and resolution drafting:** Draft ordinances and resolutions on numerous issues including animal control, excavation permits, utility shutoff, traffic regulations, liens for unpaid bills, petty offenses and misdemeanors, sales and use taxes, conflicts of interest, land use matters including rezonings, various licensing regulations, including amusements, liquor and medical and retail marijuana, and weeds, rubbish and trash.
- **Personnel:** Provide advice on methods of avoiding wrongful discharge claims; assist defense counsel in employment litigation in federal and state courts; draft and revise local government personnel manuals and various personnel documents and procedures; advise clients on avoiding discrimination and sexual harassment claims; review contracts for required compliance language; provide advice on validation of employee testing procedures.
- **Elections:** Assist municipal clerks and governing bodies in their responsibilities in recall, initiative and referendum, TABOR, and other special and regular elections; act as hearing

officer or advisor to hearing officer in quasi-judicial matters in relation to petition protests and other election-related contests.

- **Real property, condemnation, franchises, easements and rights-of-way:** Negotiate and complete real estate purchases and sales; draft, negotiate, and obtain permanent and temporary easements and rights-of-way; negotiate franchise fees and right-of-way issues in connection with utility franchise agreements; review deeds and related documents in connection with various local government actions (subdivisions, annexations, property transfers). We are familiar with eminent domain law and are able to represent the client in such proceedings or work with selected special counsel.
- **Litigation:** Coordinate our work as general counsel with insurance defense counsel or other litigation counsel (on non-insured matters), with respect to pending or threatened litigation. We occasionally represent clients in uncovered litigation matters such as C.R.C.P. 106(a)(4) and declaratory judgment actions; however, our primary work is coordinating with outside counsel on defense of litigation. Mr. Cotton-Baez recently successfully represented a municipal client in complex litigation before the Colorado Public Utilities Commission.
- **Land use:** Provide advice and representation in zoning, rezoning, and subdivision matters; prepare and negotiate subdivision agreements; draft zoning ordinances and zoning amendments; draft intergovernmental land use agreements; provide advice on building code issues.
- **Construction contracts:** Review or draft bid and contract documents for compliance with applicable laws; draft contractor indemnification clauses; provide advice on street, sidewalk, building, and other construction contracts.
- **Special districts:** Provide representation in special district exclusion, inclusion, and dissolution proceedings; review proposed service plans and advise local government elected officials in connection with the formation of new special districts.
- **Finance:** Provide advice on taxing powers; serve as hearing officer in sales and use tax and other excise tax appeals; draft tax ordinances; draft legal explanation in publication regarding taxes available to Colorado municipalities; provide advice on budget and audit requirements; draft revisions to home rule charters on tax, finance and investment matters; and provide advice on statutory investment limitations.
- **Police and fire:** Negotiate, review, and comment on proposed intergovernmental agreements with other jurisdictional authorities; provide advice to police departments on matters of concern.
- **Property taxes:** Provide advice on property tax exemption, abatement and refund issues; advise and draft enactments relating to imposition of property taxes.
- **Prosecution:** Prosecute ordinance and model traffic code violations.

- **Architectural/engineering contracts:** Review and comment on engineering contracts for street, water treatment, drainage, and other public improvements; review and comment on hold harmless and indemnification provisions of various engineering contracts.
- **Hearings:** Advise decision makers in employee hearings; advise clerks on recall, initiative, and referendum petition hearings; prosecute or provide advice to local boards and commissions on liquor and marijuana licensing, rezoning, subdivision and other land use matters, and special assessment hearings; represent planning commissions and boards of adjustment; serve as hearing officer in sales, use and other excise tax appeals; appear before state agencies during state administrative hearings; serve as hearing officer in sales, use and other excise tax appeals, personnel issues, and election issues.
- **Liquor licensing:** Provide representation on liquor license issues, including grants and denials of licenses, suspensions, revocations, and renewals.
- **Medical and retail marijuana licensing and cultivation:** Provide representation on licensing issues for medical and retail marijuana establishments, including grants and denials of licenses, suspensions, revocations, and renewals. We have also prepared ordinances prohibiting such businesses and ordinances regulating the personal cultivation of marijuana in residential settings.
- **Open Records/Meetings Act:** Provide advice on state and federal open records and meetings issues. Provide advice to or serve as parliamentarian in governing board and commission meetings.
- **Bankruptcy:** Prepare documents for bankruptcy court to protect local government financial interests; review contracts and procedures for means to avoid problems created by bankruptcy.
- **Water law:** Provide various water-related services including enforcement of water service regulations and rates; termination of water services; drafting of water service ordinances and related documents; and advice in construction of water facilities. We have a general knowledge of water law, and can knowledgeably oversee the work of water lawyers.
- **Urban Renewal:** We are familiar with the Colorado Urban Renewal Law and Mr. Cotton-Baez serves as counsel to two urban renewal authorities. While Paonia does not have an Urban Renewal Authority, Mr. Cotton-Baez’s experience representing such authorities adds to his value in representing municipalities on issues related to economic development and vitality.

D. SELECTED FIRM PUBLIC ENTITY CLIENT REFERENCES:

You are, of course, welcome to contact any of our present or former clients for comments concerning the quality of our work. You may particularly wish to contact the references listed below. Each of the references is a current client of the firm, except Sam Light. Sam Light is a former Partner of the firm, and supervised Nick Cotton-Baez’s work until his departure to serve as General Counsel for CIRSA.

Colorado Intergovernmental Risk Sharing Agency

Sam Light, General Counsel
3665 Cherry Creek Drive North
Denver, CO 80209
saml@cirsa.org
(720) 605-8002

Town of Dillon

Nathan Johnson, Town Manager
725 Lake Dillon Drive
P.O. Box 8
Dillon, CO 80435
(970) 262-3402
njohnson@townofdillon.com

City of Dacono

AJ Euckert, City Manager
512 Cherry Street, Box 186
Dacono, CO 80514
(303) 833-5562 x 134
aeuckert@cityofdacono.com

City of Louisville

Megan Davis, Acting City Manager
749 Main Street
Louisville, CO 80027
(303) 335-4539
mdavis@louisvilleco.gov

E. SCHEDULE OF FEES AND CHARGES:

It is our proposal that Nick Cotton-Baez serve as the attorney responsible for coordinating all legal services pursuant to the engagement. Melinda Culley would assist and serve as substitute in case of Mr. Cotton-Baez’s absence. Melinda Culley and Kathleen Kelly would assist with matters as needed. The proposed principal attorney pursuant to this engagement will not be changed without prior approval by the Paonia Town Board.

We propose to bill for legal services at the rate of \$213 per hour for all attorney work. We will commit to, and will not raise, the foregoing rate before January 1, 2024. Our firm does not employ legal assistants or other support staff, and we will not charge Paonia for non-attorney services. We would be happy to discuss other fee options upon request.

We understand the budgetary concerns of municipal governments, and we are committed to providing the highest quality legal services at a reasonable cost. Our firm’s experience with municipal issues allows our attorneys to provide advice without spending much time on legal research. Our goal in providing day-to-day advice is to avoid litigation and big disputes that would cost the Town. We are also committed to avoiding attorney-driven approaches that would cause our clients to incur large bills.

The following expenses would be billed separately: mileage (at current IRS rate) for both ways of travel; and attorney travel time is billed at regular hourly rates for one-way only. We have the capability to attend meetings by telephone or video conference in order to assist in reducing costs. Mr. Cotton-Baez has attended several client board and council meetings remotely since the onset of the COVID-19 pandemic. The firm and its clients have found Mr. Cotton-Baez’s remote attendance at meetings to work well.

Bills are provided monthly, detailing the time and services performed. We can accommodate special billing formats upon request, including billing formats that the Town may desire for purposes of reimbursement of legal costs from third parties.

We understand the need to work within a budget and cooperate closely with our clients to manage legal work and maintain control of legal costs, which may include periodic reviews of bills and services, identifying and limiting those who may request legal services, and other mutually agreeable management procedures and practices.

We understand that the Town reserves the right to obtain legal services from other attorneys when the Town in its sole discretion believes the use of another law firm would be in the best interests of the Town. As we serve as general counsel for a number of municipalities, we are experienced in both managing and coordinating our services with other counsel, such as water attorneys or insurance defense attorneys, to provide the best services to our clients.

F. BIOGRAPHICAL SUMMARIES: The following are the biographical summaries for the partners and associates of the firm:

NICOLAS D. COTTON-BAEZ

Education

2016 J.D., Indiana University Maurer School of Law
Sherman Minton Moot Court Competition

2013 B.A., State University of New York at Potsdam
Summa Cum Laude, with honors

Bar Admissions

2016 Colorado

Legal Employment

2017 to Present **Kelly PC.** Emphasis on all aspects of local government representation, including Open Records and Open Meetings Law, TABOR, the Colorado Governmental Immunity Act, land use and zoning, and election law.

2016 to 2017 **Legal Fellow, Denver City Attorney’s Office.** Emphasis on all aspects of local government representation, including land use and zoning, tax, and litigation.

Summer 2015 **Legal Intern, Office of the Indiana Attorney General – Civil Litigation Department.** Drafted legal memoranda on issues of constitutional law; drafted various court documents in defense of state officials.

Professional Organizations

Colorado and Denver Bar Associations

Presentations

“Law School for Clerks,” 41st Annual Municipal Clerks Institute (July 11, 2018)

“Colorado Open Meetings Law for Elected Officials,” Colorado Municipal League Annual Conference (June 18, 2019)

Publications

“Intergovernmental Agreements,” *Colorado Municipalities*, a Colorado Municipal League Publication (2017)

MELINDA A. CULLEY

Education

2006 J.D., University of Colorado School of Law
 Gorsuch Kirgis Law Scholarship, 2003
 Colorado Journal for International Environmental Law and Policy

2002 B.A., Environmental Science, University of Kansas
 Graduation with Highest Distinction
 Phi Beta Kappa Honor Society, 2002.

Bar Admissions

2006 Colorado

Legal Employment

2008 to present **Kelly PC.** Emphasis on all aspects of local government representation.

2006 to 2008 **Associate, Faber Bantz P.C.** Represented clients in business development, international mergers and acquisitions, strategic tax planning, and estate planning.

2005 to 2006 **Legal Intern, Scott Krob, Attorney at Law.** Researched and drafted legal memoranda on issues of municipal law, including the Colorado Governmental Immunity Act, election law and contract law.

Summer 2005 **Legal Intern, U.S. Environmental Protection Agency – Region VII.** Drafted compliance orders, complaints and settlement agreements; researched issues related to the Clean Water Act, Superfund liability and environmental crimes.

Summer 2004 **Legal Intern, City of Wichita Department of Law.** Provided legal research and writing on aspects of local government law.

Professional Organizations

Colorado and Denver Bar Associations, Metro City Attorney Association

Presentations

First Amendment Issues for Municipalities, presented at Colorado Municipal League Annual Conference, June 20, 2014.

KATHLEEN M. KELLY

Education

1997 J.D., University of Denver College of Law
 Law Scholarship, 1993-97
 Tenth Circuit Survey Editor, Denver University Law Review, 1996-97
 Research and Technical Editor, Denver University Law Review, 1995-96

1993 B.S.B.A., University of Phoenix

Bar Admissions

1997 Colorado

Legal Employment

1998 to present **Kelly PC.** Emphasis on all aspects of local government, including municipal court prosecution.

1994 to 1996 **Colorado Municipal League.** Provided legal research and writing to the Executive Director, General Counsel, Staff Attorney and lobbyists on all aspects of local government law. Worked as the direct liaison between member municipal officials and the League for legal research inquiries on all aspects of local government law. Authored, edited and updated CML publications.

Professional Organizations

American, Colorado and Denver Bar Associations; Metro City Attorneys Association

Publications

“Municipal Law and Practice,” 1A Krendl, Colorado Methods of Practice (1998 to present).

CIRSA Public Officials Liability Handbook (1999 and 2007).

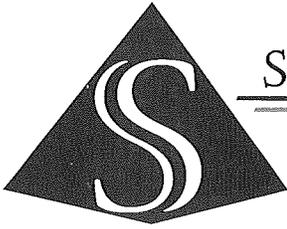
Liquor and Beer Licensing Law and Practice (1998).

CML Open Meetings, Open Records: Colorado’s Sunshine Laws and Municipal Government (1998).

Note from the Editor, Twenty-Third Annual Tenth Circuit Survey, 74 Denv. U. L. Rev. 335 (1997).

Twenty-Second Annual Tenth Circuit Survey: Immigration Law, 73 Denv. U. L. Rev. 787 (1996).

CML Municipal Sales and Use Taxes (1996).



SAMSON
LAW FIRM^{PC}

Telephone: (303) 776-1160 28

Fax: (303) 776-5444

samsonlongmontlaw.com
info@samsonlongmontlaw.com

August 17, 2022

Via Email: corinne@townofpaonia.com

Town of Paonia
P.O. Box 460
Paonia, CO 81428-0460

RE: Proposal for Town Attorney Position

Dear Corinne:

Attached please find my responses to your proposal requirements for the position of Town Attorney. Included with my responses is a copy of my resume. Please let me know if anything else is required.

Very truly yours,

Richard E. Samson

RES/cc
Encl

RICHARD E. SAMSON

717 Fifth Avenue, Longmont, CO 80501 • (303) 588.7503

rick@samsonlongmontlaw.com

www.samsonlongmontlaw.com

MUNICIPAL ATTORNEY

EXECUTIVE PROFILE

Accomplished attorney admitted to practice of law in the State of Colorado, the State of Kansas, the U.S. District Court of Colorado, the U.S. District Court of Kansas, and the 10th Circuit Court of Appeals, a member of the Colorado Bar Association, the Weld County Bar Association, the Boulder County Bar Association, the Boulder County Bar Foundation, the Kansas Bar Association, the Legal Aid Foundation and the Colorado Municipal League, who has expertise in all aspects of land use and development, contract negotiations and possesses a deep and clear understanding of government relations and public affairs strategic development.

SKILLS HIGHLIGHTS

- Expert knowledge of Municipal laws and practices
- Excellent verbal and written communication skills
- Contract negotiation
- Land Use, including annexations and subdivisions
- Economic Development
- Ability to adapt style to the audience
- Commitment to Integrity and Excellence

CURRENT PRINCIPAL PRACTICE AREAS

- Municipal Law
- Business Law
- Real Estate Law
- Probate
- Estate Planning

MUNICIPAL REPRESENTATIONS

- Town of Frederick
- Town of Lyons
- Town of Mead
- Town of Timnath
- Town of Wellington
- Town of Lochbuie
- City of Loveland – Employment Matter Special Council

EDUCATION

J.D. – Washburn University School of Law, Topeka, Kansas
B.A. – Bethany College, Lindsborg, Kansas

ELECTED OFFICE

Stevens County Attorney, Stevens County, Kansas (Two terms)
St. Vrain Valley Board of Education, (Colorado) (Two terms)

REPORTED CASES

Gale Reese vs. Gas Engineering and Construction and Home Insurance Company,
548 P.2nd, 746 (KS Sup.Ct.);
Town of Lyons vs. Bashor, 867 P.2nd, 159 (Colo. App.);
Colorado Manufactured Housing Association, et al vs. The Town of Frederick, et al,
977 F.Supp. 1080, d. Colo;
Minch vs. Town of Mead, 957, P.2d 1054 (Colo. App.);
Town of Frederick vs. North American Resource Company, 60 P.3rd, 578 (Colo. App.);
Town of Erie vs. Town of Frederick, 251 P.3d 500 (Colo.App.Div. 1).

AWARDS

Boulder County Bar Association
 Ron Porter Community Service Award
Partners of Boulder County, Inc.
 Lee Shepard Memorial Volunteer of the Year Award
Longmont Twin Peaks Rotary Club
 Larry Nelson Community Service Award
 4 Way Test Award

CURRENT CIVIC INVOLVEMENT

Member, Board of Directors, Front Range Community College Foundation
Member, Board of Directors, Longmont Twin Peaks Rotary Club

PAST CIVIC INVOLVEMENT

Member, Board of Directors, Bethany College, Lindsborg, KS
Elected member of the St. Vrain Valley Board of Education
Board Member and Vice-President of Partners, Inc. (national organization)
Board Member, Assistant Secretary and Counsel to the Longmont Foundation
Chairman of Boulder County Republican Party
Chairman, Republican Second Congressional District
Partners of Boulder County, Inc. Past President

RICHARD E. SAMSON

717 Fifth Avenue, Longmont, CO 80501 • (303) 588.7503
rick@samsonlongmontlaw.com
www.samsonlongmontlaw.com

MUNICIPAL ATTORNEY

Longmont Area Chamber of Commerce, Past Chair
Longmont Twin Peaks Rotary Club, Past President
Habitat for Humanity of the St. Vrain Valley Community Development Committee

MILITARY SERVICE

Captain – U.S. Army

RESPONSES TO PROPOSAL REQUIREMENTS – RICHARD E. SAMSON, ESQ.

1. In 30 years of representing statutory municipalities, I have dealt with almost every aspect of municipal law but have relied on specialists in the area of special districts and municipal finance.
2. City of Creede
The Town of Frederick
The Town of Mead
3. There are not many issues that I have not dealt with in my 30-year career including recalls, censures and removal of elected officials which are not normal for most communities. In attending many town board meetings, I have not been reluctant to appropriately call issues to the attention of the mayor and trustees as things develop during the meeting.
4. I have worked with some communities on an hourly rate and with others on a monthly retainer. Since I am unfamiliar with the workload in Paonia I would want to be on an hourly rate initially.
5. I have a Distinguished rating from Martindale Hubbell and my peer reviews are 4.5/5.0 and 5.0/5.0 in municipal law. I have attached a copy of my resume.
6. I would be the only attorney providing legal services from my firm and I have never been involved in any disciplinary proceedings.
7. I am not aware of any potential conflicts of interest.
8. Geoff Wilson, former CML General Counsel
Helen Migchelbrink, Mead Town Manager
Louis Fienberg, Creede City Manager
9. I would propose to bill on an hourly rate of \$300 an hour and on occasion I might need to rely on some of my staff members who are both paralegals with billing rates of \$150 an hour. These figures have not increased for a number of years and will not increase prior to January 1, 2024 as regards to the Town of Paonia.
10. I am insured by Berkeley Insurance Company and have been continuously insured since 1986. The limits of liability on my policy are \$1 million/\$2 million.
11. My office staff consists of myself and two paralegals. One of my paralegals has a Masters degree in Public Administration and has previously served as a city/town manager for over 20 years.
12. Based on my location on the front range, it would be necessary for me to attend all meetings remotely. This arrangement has worked quite well for the City of Creede.

File Attachments for Item:

3. Opportunity for Board discussion and deliberations

AGENDA SUMMARY FORM

	<p>Opportunity for Board discussion and deliberations</p>
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Summary:

Notes:

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

Vote:	Mayor Bachran	Trustee Knutson	Trustee Markle
Trustee Smith	Trustee Stelter	Trustee Valentine	Trustee Weber

File Attachments for Item:

4. Adjournment

AGENDA SUMMARY FORM

	Adjournment
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Summary:

Notes:

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

Vote:	Mayor Bachran	Trustee Knutson	Trustee Valentine
Trustee Stelter	Trustee Smith	Trustee Markle	Trustee Weber