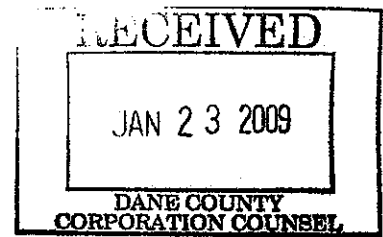


January 22, 2009



Marcia MacKenzie
Dane County Corporation Council
210 Martin Luther King Jr. Blvd, Room 419
Madison, WI 53703-3345

Dear Ms. MacKenzie:

We are writing to obtain additional information regarding the lawsuit recently filed in Circuit Court by the parents and fiancé of Brittany Zimmermann. As you know, this lawsuit names the County of Dane, County Executive Kathleen Falk, Dane County 911 employee Rita Gahagan and an un-named insurance company as defendants in this action.

The suit cites a 2004 consultant's report, which identified a number of deficiencies and problems with the Dane County 911 Center, "including but not limited to, outdated equipment, understaffing, inadequate training, inadequate supervision, and among others, lack of equipment and computer programs." The report concludes County Executive Falk "deliberately saw to it that Dane County did not correct these deficiencies . . . and denied funding to the 911 Call Center."

Numerous members of the Dane County Board of Supervisors have received inquiries from constituents regarding many different aspects of this lawsuit and its possible outcomes. In order to expedite the posing of these questions and the dissemination of responses, we have brought all concerns expressed thus far together in this letter.

We, the undersigned, are asking that the appropriate parties provide answers to these questions before the February 5th County Board meeting. We feel that the answers to these questions are within the right of public officials to demand and we do not believe that providing answers to these questions would bear on the material aspects of the case or the allegations contained within the lawsuit.

Our questions are these:

1. The lawsuit names as defendants the County of Dane, County Executive Kathleen Falk, Dane County 911 employee Rita Gahagan and an un-named insurance company as defendants. We presume that Dane County Corporation Counsel will be representing the County of Dane in this litigation. Who will be providing legal representation for County Executive Falk and 911 employee Rita Gahagan?
2. Is it correct to assume that there is an inherent conflict of interest having Dane County Corporation Counsel representing all of the defendants in this lawsuit? If you disagree, could you please explain why it would not be a conflict of interest?

3. Is there any expectation on the part of County Executive Kathleen Falk or 911 employee Rita Gahagan that the taxpayers of Dane County will be paying their legal fees in this litigation? Has either of these parties requested taxpayer-funded legal assistance? Or has either party been told they can expect to receive taxpayer-funded legal assistance?
4. On page 9 of the complaint, the plaintiff correctly points out there is a state law on the books that places a \$50,000 limit on municipal liability in cases where gross negligence can be proven. However, the plaintiffs are asking that the courts declare this limit unconstitutional and have asked for \$50 million in damages. What is the potential financial exposure to county taxpayers if the plaintiffs should prevail in this litigation? And, if the plaintiffs prevail, who will be required to pay damages? Will it be the county's insurer or the taxpayers of Dane County? If the county were to settle these claims short of trial, who pays the settlement costs? Is it possible county taxpayers could be required to pay the plaintiffs attorney fees in the event of a negotiated settlement?
5. What effect would an adverse judgment have on the county's ability to obtain liability insurance in the future?
6. What is the estimated cost of having Corporation Counsel defend Dane County in this litigation (assuming it goes all the way to trial)? Will that cost be borne by county taxpayers or by our insurer? In short, who pays the county's legal bills if the county loses this case? If the county loses, who pays any judgment that might be awarded by the court?
7. We recall that when the leaders of the State Assembly and State Senate were charged with crimes related to their public duties in 2002, then Attorney General James Doyle was opposed to the idea of allowing state taxpayers to pay for the legal defense of the Assembly Speaker and the Majority Leader of the State Senate. Consequently, those individuals had to pay for their own legal defense through the use of campaign funds or personal funds. Are there legal parallels between those cases and the complaint filed by the family and fiancé of Brittany Zimmermann against the County Executive?
8. What would be the rationale for extending taxpayer-funded legal assistance to County Executive Kathleen Falk or to 911 employee Rita Gahagan in this case?

As we have said, these questions have come from constituents and we believe these constituents have a right to know the answers. We further believe that providing the answers to these questions in no way damages the right of the named defendants to defend themselves against the allegations. Nor do these questions pertain to any of the specifics of the allegations contained within the complaint. These questions touch on matters of public policy and relate to what type of financial liability county taxpayers could see rise out of this litigation.

We would appreciate your response to these questions before the February 5th County Board meeting.

Sincerely,

[Handwritten signatures]
Jack DiMatteo
Dorey Ryan
Robert S. Shaw
Mitchell
Eileen Bruskewitz
Gabe
David L. Wigonowski

Cc: County Executive Kathleen Falk
County Board Chairman Scott McDonell