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August 10, 2017

**VIA EMAIL**

Kendra L. Carberry, Esq.  
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Re: Town of Winter Park, Case No. 170497 re: Harley Heck and Matthew Wells

Dear Ms. Carberry:

On July 31, 2017, at 6:40 a.m., Winter Park Police Chief Glen Trainor issued a Summons and Complaint in the above-referenced case to Matthew Wells and at 7:45 a.m. on the same date issued an identical Summons and Complaint in the same case to Harley Heck. Although not necessarily relevant to the balance of this correspondence, it is unclear how Mr. Wells and Mr. Heck can be prosecuted together, under the same case number, based upon Summons and Complaints that were issued over one hour apart.

The charges in both of the Summons and Complaints issued to Messrs. Wells and Heck assert violations of Sections 5-2-1 and 5-2-6 of the Winter Park Town Code. Section 5-2-1 prohibits construction within Town streets or rights-of-way without a permit. Section 5-2-6 requires that any connections made to streets owned or under the jurisdiction of the Town cannot be made without the prior approval of Town counsel. Neither Mr. Wells nor Mr. Heck were performing construction activities within Winter Park streets or rights-of-way or making any connection to any Winter Park street.

Both Mr. Wells and Mr. Heck are employees of Ames Construction, a contractor working for West Mountain Metropolitan District and Cornerstone Winter Park Holdings, LLC on the Union Pacific Railroad Grand Park Drive underpass. That project is not being constructed within Winter Park streets or rights-of-way and there is no connection being made to any Winter Park street or right-of-way. Clark Lipscomb had a conversation with Police Chief Trainor after his issuance of the Summons and Complaints referenced above. Police Chief Trainor was unable to provide any information concerning observations he made that justified the issuance of the Summons and Complaints and was unable to describe any construction that was occurring within Winter Park Town streets or rights-of-way or any connection that was being made to Winter Park streets or rights-of-way by Messrs. Wells or Heck. Police Chief Trainor informed Mr. Lipscomb that any questions concerning the propriety of the Summons and Complaints should be directed to either you, as the Town Attorney, or Drew Nelson, Winter Park Town Manager.

The initial purpose of this letter is to request that you, as Winter Park Town Attorney, provide an explanation of the legal basis for and the evidence supporting the issuance of the Summons and Complaints to Mr. Wells and Mr. Heck. So there is no issue concerning the request for the same, the undersigned is counsel for Messrs. Wells and Heck and will be representing them through the course of these proceedings should they continue. In addition to providing the factual basis for issuance of the Summons and Complaints, please provide (or advise when and where they are available for inspection and copying) any books, papers, documents, photographs, or tangible objects, and any witness statements in the Town's possession relating to the charges, pursuant to the Municipal Court Rules of Procedure. Also, please provide any police report prepared by Police Chief Trainor with respect to these Summons and Complaints.

Respectfully, we do not believe that Police Chief Trainor made any observations of any construction within Town rights-of-way or any connections being made to Town rights-of-way on the morning of July 31, 2017, or at any other time that supported in any way the issuance of the Summons and Complaints to Messrs. Wells and Heck. As such, the Summons and Complaints should be voluntarily dismissed by the Town immediately. We respectfully request that confirmation of dismissal of the Summons and Complaints be provided to the undersigned within a reasonable time after your receipt and review of this correspondence, absent being advised of the specific evidence and observations supporting the same.

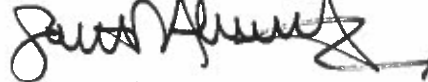
If the Summons and Complaints are not dismissed, as requested, please be advised that they will be vigorously defended and if, as expected, the defense is successful, consideration will be given to filing appropriate actions against the Town for malicious prosecution and civil rights violations. A similar response by West Mountain Metro District and Cornerstone, their contractors, and employees of their contractors may be anticipated by the Town if there is similar further unwarranted police interference and harassment.

Ms. Kendra L. Carberry  
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I am happy to discuss any of the foregoing in the event you desire to do so. A response to this correspondence is respectfully requested and will be expected by August 21, 2017. Thank you for your understanding and attention.

Sincerely yours,

HOLLEY, ALBERTSON & POLK, P.C.

A handwritten signature in black ink, appearing to read "Scott Albertson", with a stylized flourish at the end.

Scott D. Albertson

SDA/dp  
Cc: Clark Lipscomb