

Agenda Report

TO:

CITY COUNCIL

DATE:

June 15, 1998

FROM:

CITY COUNCIL SUBCOMMITTEE REGARDING CITY ATTORNEY'S

OFFICE

SUBJECT:

RECOMMENDATION REGARDING PREFERABLE OPTION FOR CITY

ATTORNEY'S OFFICE

RECOMMENDATION:

IT IS RECOMMENDED THAT THE CITY COUNCIL DETERMINE THAT THE CITY ATTORNEY AND STAFF OF THE CITY ATTORNEY'S OFFICE SHOULD BE CITY EMPLOYEES AND THAT THE CITY ATTORNEY SHALL HAVE DISCRETION TO UTILIZE OUTSIDE COUNSEL TO PROVIDE SERVICES TRADITIONALLY HANDLED BY IN-HOUSE STAFF WHEN DETERMINED REASONABLE AND NECESSARY BY THE CITY ATTORNEY.

BACKGROUND:

At the May 4, 1998 meeting of the City Council, the Council directed that a subcommittee consider options available regarding governance and operation of the City Attorney's Office and return with a recommendation on a direction that the City should pursue. The Council subcommittee (Mayor Holden, Council member Villicana, and Council member Tyler), met and considered the information which was provided regarding the City Attorney's office. The options which were considered are as follows:

Option 1: In-house (City Attorney and all staff are City employees, with outside counsel handling matters in instances of conflict, greater economy, lack of expertise in-house, or overflow needs);

Option 2: Partial in-house, with the City Attorney contracted from a law firm (current situation where law firm contracts with City and City Attorney is a partner of a law firm);

Option 3: City Attorney is City employee with small in-house staff (contract out significant majority of legal services); and

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MEETING OF 6/15/98 6/29/98

AGENDA ITEM NO. _-7-A-4- 3.A.

Option 4: Contract out all legal services, with the City Attorney being a representative of a law firm appointed by the City Council.

The majority of the Council subcommittee (two members) voted to recommend that the City Council approve Option 1, as slightly modified, as the preferred option for the governance of the City Attorney's Office, with the City Attorney and all staff being City employees. The City Attorney would also have discretion to authorize the use of specialized services by outside counsel, both for matters traditionally referred to outside counsel and for matters traditionally handled by in-house lawyers when deemed to be in the best interest of the City. For instance, this could occur if the City Attorney determines that in particular instances, it would be more efficient and effective to utilize specialized contract legal services rather than fill a vacant position. It is envisioned that the vast majority of services would continue to be provided by in-house staff and that utilization of outside legal services for areas traditionally handled in-house would be in the event of attrition, if appropriate, and not used to further reduce city attorney staff.

One member of the subcommittee preferred that the City retain the current situation; namely, Option 2, where the City Attorney is a partner in a law firm and the City contracts with the firm on a retainer basis to provide City Attorney services and those not handled by in-house staff (City employees).

Should the City Council concur, it would be appropriate for the City Council to agendize discussion regarding the City Attorney appointment at a future meeting.

FISCAL IMPACT:

Option 1, recommended by the subcommittee, is expected to result in a savings to the City of approximately \$133,000 for a fiscal year, when compared to Option 2, and a greater savings when compared to Option 3 or Option 4.

Respectfully submitted,

Chris Holden, Mayor