

Memorandum

Date: March 2, 2012

To: John Kovash, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager 

Subject: March 5 Work Session

The City Council is scheduled to meet in a work session at 6:00 on Monday, March 5. The agenda includes:

Planning Priorities. The City Council was briefed by Planning Director John Sonnen on the work plan and priorities of his department and the Planning Commission in early February. The Council used this information as part of the context for its goal setting retreat. We are looking for Council guidance including if the Council believes certain projects should be expedited, or if certain projects should not be pursued at this time.

Police Station Update. Project manager Bob Galante will be at the work session to provide a brief update on the project.

Utility Advisory Board (UAB) Recommendation. Attached is the recommendation from the utility advisory Board regarding a strategy for increasing revenues to support the maintenance of the City's water system. This memorandum was provided to the Council at the goal setting retreat. UAB Chair Ray Kindley will provide the Council with the UAB's perspective on this issue.

As part of its discussion at goal setting, the Council discussed the possibility of appointing (or having the City Manager appoint) a task force with the primary focus of conducting community outreach and surveying on the issue of funding water system maintenance. This task force would meet with citizens, work with staff on the development of a community survey, and report to the Council this summer with a recommendation on how to proceed. Given the limited time to complete this process, it would be beneficial to receive Council guidance at this work session on how the Council wishes to proceed with this task force.

Review of the March 12 Agenda. The Council will note that this agenda is very brief. We plan to hold a work session at the end that will focus on the City's current street maintenance status. This would be the same presentation that was provided recently to the Transportation Advisory Board.

One item that has not been placed on the Council's March 12 agenda is the amendments to the tree code that was tabled at the February 27 meeting. According to the Council Rules a tabled matter "may be taken from the table only by adding it to the agenda of the next regular Council meeting at which

time discussion will continue.” At the March 5 work session, the Council will need to ask that this item be placed on the March 12 agenda if the Council wishes to continue the discussion.

Please let me know if you have any questions.

Attachment



CITY OF
West Linn

TO: Mayor John Kovash and City Councilors

Cc: Chris Jordan, City Manager
Ken Worcester, Interim Public Works Director
Richard Seals, Chief Financial Officer
Jim Whynot, Water Operations Supervisor
Utility Advisory Board Members

FROM: Utility Advisory Board

SUBJECT: RECOMMENDATIONS REGARDING WATER SYSTEM PROJECTS

The Utility Advisory Board (UAB) of the City of West Linn reviewed the capital needs of the City's water system and studied various funding mechanisms. Therefore, at the UAB meeting of February 7, 2012, the board members voted in favor of the following recommendations to the Mayor and City Councilors:

Bolton Reservoir

The Utility Advisory Board recommends the City Council consider the Bolton Water Reservoir as the #1 Public Works Project the City faces for health and safety of the West Linn Citizens.

Line Replacement

Since there is a recent shortfall in water revenues, and at the same time more maintenance is required on the City's aging water system, the Utility Advisory Board recommends a rate increase that would exceed the maximum allowable increase of five percent without approval by West Linn voters. The additional revenues from the rate increase would allow the City to bring its maintenance and repair of water lines into compliance with recommendations set forth in the City's Water Master Plan and Six Year Capital Improvement Plan. The Financial and Engineer Departments can identify the actual rate increase needed and present that to the Utility Advisory Board for its consideration.

Funding Options

The UAB voted on the best means to fund the replacement of the Bolton Reservoir and replacement of water lines in West Linn's water system. The members of the UAB could not reach consensus at this time on a common financing strategy for the replacement of the Bolton Reservoir.

Three members of the UAB voted to recommend that the replacement of the Bolton reservoir should be financed with long-term general obligation bonds in an amount of approximately \$8 million to \$9 million and the replacement of water lines should be financed with revenue bonds. The city council and staff should determine the amount and timing of the financing for the revenue bonds.

Another three members of the UAB voted to recommend that the replacement of the Bolton reservoir and water lines should be financed with revenue bonds. The City should structure voter approval of the financing of the two projects with two separate bond measures. Two separate measures would enable the voters who support one project but not the other to make that distinction. The amount of financing for the replacement of the Bolton Reservoir should be approximately \$8 million to \$9 million. The amount of financing of the water line replacement projects should be determined by staff.

Two of the members who had voted for financing both projects with revenue bonds also voted for financing the two projects with one revenue bond measure, which would allow voters only a single vote to approve or disapprove the financing of both projects. These UAB members favored a single revenue bond measure make the vote simpler and, hopefully, to reduce voter confusion about the bond measure.

Although the UAB members differ on the means for the City to finance the replacement of Bolton reservoir at this time, they all agree that the financing of the replacement of the water lines should be done with revenue bonds. Additionally, they all agree that replacement of the Bolton reservoir should be given the highest priority for the City Council to protect the health, safety, and welfare of West Linn residents. The UAB members will continue to try during the next few months to reach consensus on a common recommendation for the financing of the Bolton Reservoir replacement.

Memorandum

Date: March 2, 2012

To: John Kovash, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager *CJ*

Subject: Report on Attorney Options

During the Council retreat, the consensus of the Council was that the City would benefit from employing legal assistance in the agency. The City Council asked that staff prepare a cost comparison for two different options: an in-house City Attorney and an in-house attorney with an outside contracted City Attorney.

Current Situation: Contracted City Attorney

Costs have fluctuated tremendously over the years for the contracted City Attorney from a low of approximately \$100,000 in 2008 (the year that the City employed an in-house attorney), to a high of over \$230,000 in 2005 and 2009. The average is approximately \$200,000 annually based on the current fee structure of \$165/hour.

Option 1: In-house City Attorney

As previously presented, moving the City Attorney functions in-house would require an experienced attorney, a part-time paralegal or administrative assistant, and some contracted attorney assistance for specific projects or meeting coverage, such as the Planning Commission. Overall cost estimate is:

Salary and benefits:	\$240,000
Materials and Services:	\$ 30,000
Total	\$270,000

Option 2: In-house Attorney with Contracted City Attorney

We have compiled information regarding the compensation for an in-house attorney based on comparisons with other public agencies in the region. These comparisons are attached. For this estimate, we are using a salary of \$95,000 and the City's benefit package for the estimated salary and benefits. We are also using the figure of \$100,000 for contracted City Attorney costs based on the 2008 figure mentioned above. We have also included an additional \$10,000 for materials and services for office supplies, technology, and training for the in-house attorney.

Salary and Benefits:	\$140,000
Materials and Services:	\$110,000
Total:	\$250,000

Conclusion

The information provided above is staff's best effort to estimate costs associated with the Council's direction. We also believe there are at least two issues that will require Council consideration prior to making a decision:

- 1) Management and coordination of responsibilities. Under Option 2, there would need to be clear direction regarding the management and coordination of responsibilities between the in-house attorney and contracted City Attorney.
- 2) Added value. Under which scenario provides the most added value to the City?

This memorandum has been shared with the City Attorney prior to distributing to the City Council. City Attorney Tim Ramis has provided the attached memorandum providing his perspective on this issue.

Attachment

Deputy Attorney Compensation Comparison

		<u>Low</u>	<u>Mid</u>	<u>High</u>
Portland	Deputy City Attorney	86,840	102,274	117,686
Lake Oswego	Deputy City Attorney II	80,891	89,169	98,363
Wilsonville	Assistant City Attorney	78,305	95,085	111,865
Beaverton	Assistant City Attorney 3	83,892	98,160	112,428
	Assistant City Attorney 2	67,104	78,516	89,940
Gresham	Sr Assistant City Attorney	80,052	92,052	104,040
	Assistant City Attorney	72,276	83,112	93,936
Salem	Assistant City Attorney 2	74,208	84,336	94,476
Clack County	Legal Counsel 1	61,784	72,597	83,409
	Legal Counsel 2	78,855	92,654	106,454
Washington Co	Assistant County Counsel II	79,812	88,392	96,972
	Average	76,729	88,759	100,870

JORDAN RAMIS PC
ATTORNEYS AT LAW

Two Centerpointe Dr 6th Fl
Lake Oswego OR 97035
www.jordanramis.com

Phone: (503) 598-7070
Toll Free: (888) 598-7070
Fax: (503) 598-7373

LEGAL MEMORANDUM

TO: West Linn City Council

FROM: Timothy Ramis

DATE: February 29, 2012

RE: **City Attorney Service Options**
File No. 50015-36842

Thank you for the opportunity to provide input into your discussion of alternative possibilities for delivery of legal services. We are submitting two additional options for your consideration. If the Council's goal is to provide more on site legal service at City Hall, we can provide that.

I. Additional Options

In addition to the current arrangement, and the two options described in the City Manager memo, we are providing two other models which employ our firm's resources to provide on site attorney presence.

Option 3: Dedicated Jordan Ramis Attorney

Under this option, the firm would assign a lawyer to serve at City Hall on a schedule determined by agreement with the City. Depending on the perceived need, the schedule could be every day for part of the day, all day for two or three days, or some other arrangement. The dedicated attorney would be present at the City for substantial periods of time and would perform tasks there which would otherwise be completed at the law firm's office.

Informal access to counsel would be increased but costs should not significantly rise because the amount of work would remain the same. It would be efficiently performed by an experienced and supervised attorney, within the management and accountability structure of our firm. Normal rate increases, needed to retain quality lawyers, would cause reasonable cost increases over time, but volume of work is likely to remain the same whether performed at the City or at our office. We would therefore not anticipate a significant cost increase from this option.

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Option 4: Tigard Model

For the City of Tigard we provide one half day of onsite services, two days per week. On one day the lead attorney attends a department head meeting and then can stay at City Hall to be available for other matters. On the other day, an associate attorney arrives at 1:00 p.m. and is available for consultation in the afternoon. Sometimes the work is performed on a “walk in” basis, but often departments schedule meetings or prepare specific projects to be addressed during this office time.

In the case of West Linn, the City Attorney is already attending weekly management meetings so it would be possible to institute this plan without increased costs.

II. Comments on comparison of options.

We offer the following comments for consideration as you review the options:

Availability

The difference between Options 1 and 2 and those we propose is the number of hours available for face to face communication with a lawyer at City Hall. If this is the most important factor to the Council, then Options 1 and 2 have that advantage. Based on the firm’s experience, the majority of our client contact is via phone and e-mail so we use technology and the advantage of a sizeable group of lawyers and paralegals to assure access to legal help for City staff.

To the extent that increasing the opportunities for face to face communication has become critical to the City, Options 3 and 4 are designed to be tailored by the City to meet that need.

Depth of Expertise

The fact that Municipal legal issues are becoming increasingly complex has driven the need for cities to have readily available expertise in a wide range of legal specialties. That has given rise to a firm designed like ours, which has more lawyers working on municipal matters than any firm in the state. Increasing complexity has also resulted in the recent decisions by two cities, Newport and Hood River, to switch from solo in house counsel to representation by outside firms with municipal specialists.

Because a single lawyer cannot alone provide the range of expertise needed today, Option 1 creates issues. Expertise and issue recognition are key to preventing problems, reducing risk and processing legal matters efficiently. Option 2 provides expert back up, but it places a person of lesser experience in the position of judging whether they need help or not. This may not be the optimum approach to quality legal service.

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Insurance Protection

While lawyers' errors that lead to City liability are rare, cities that use outside counsel are protected against this risk by insurance required by the bar association. Cities that use in house counsel are not protected because the bar association rules exempt lawyers working full time for government agencies from obtaining malpractice insurance. Such cities are self insured for this risk.

Jordan Ramis carries seven million dollars in coverage to protect the City. This level of protection is not matched by Options 1 and 2.

Historical / Institutional knowledge

Three cities in our region which have historically used one or two in house lawyers have been given notice that their long tenured city attorneys will soon retire, leaving those cities with no long term institutional legal memory. Under Options 3 and 4, as well as the current model, this problem is addressed by our firm's team approach and orderly succession planning. We have successfully transitioned lead attorneys in other cities and preserved important historical knowledge because of the way we are organized.

Conflicting Deadlines

Because Option 1 relies primarily on one all purpose attorney, it has a built in weakness in addressing an issue which is a frequent challenge for municipal attorneys: multiple projects with conflicting deadlines. These situations often arise unexpectedly due to fast moving events. Prioritization is necessary and these decisions can leave some crucial needs unmet, when a lawyer is working alone. In contrast, a sizeable outside counsel firm can focus the necessary resources to handle multiple deadlines with diligence and expertise.

Regional Contacts / Reputation

Because of the firm's activities in the region there are incidental extra benefits to the City that are gained without cost. For example, our firm's awareness of issues involving the future of the historic locks, coupled with knowledge of the County's tourism program, directly produced resources to study options to protect the locks. And, due to our reputation as effective litigation defenders of the City's interests, an aggressive billboard company decided not to challenge West Linn's sign regulations. These are intangible benefits that are difficult to value, but they are an aspect of our representation.

Availability for Additional Duties

This point may be of lesser importance, but we address it to be sure that the Council is relying on correct information. At your July 1, 2011 work session on attorney services the statement was made that in house counsel would be more expensive but would provide "extra

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time” to work on city affairs. This was based on a June 3, 2011 staff memo which made a fundamental error common to those who do not normally manage legal services. It is assumed that 1,200 hours of legal time is needed to handle City matters and that the fulltime in house attorney would have many additional hours of “extra” time available in a 2,000 hour work year. In fact, to produce 1,200-1,400 hours of legal work a lawyer will work about 2,000 hours. The demands of keeping current on the law, the inefficiencies in switching subjects and normal interruptions undermine 100% efficiency. So the assumption in the memo that a 2,000 hour per year employee will have 800 hours left over for other tasks is not supportable. In our view, an in house lawyer will likely need to devote 100% of available time to the City’s current legal demands.

We thank the Council for the opportunity to participate in this conversation and can be available at the Council’s convenience to answer questions and participate in crafting an approach which best meets the City’s needs.