



MEMORANDUM

Office of the City Attorney

Date: June 4, 2015

To: City Attorney Subcommittee;
Mayor Esteves and Members of the City Council

From: Michael Ogaz, City Attorney *M.O.*

Subject: City Attorney's Office 2015-2016 Budget

At the City Attorney Subcommittee meeting on May 29, 2015, there were questions asked and additional information requested on (i) the work duties of the City Attorney's Office; (ii) comparable hourly rates of outside legal services to the City Attorney's Office; and (iii) the proposed hiring of a Deputy City Attorney. The purpose of this memorandum is to provide additional information and clarification to the City Attorney Subcommittee and City Council on these issues. Additionally, the City Attorney became aware at the May 29th Subcommittee meeting that documents and information were provided by the City Manager's Office to the City Attorney Subcommittee. These documents and information were never posted online, made available to the public, nor disclosed to the City Attorney's Office. As of the time of issuance of this memorandum, the City Attorney's Office still has not received all of the requested documents and information provided by the City Manager's Office to the City Attorney Subcommittee and therefore, is unable to fully engage, respond, and provide relevant information to the City Attorney Subcommittee and City Council.

What does the City Attorney's Office do?

The City of Milpitas, like many other general law cities, is governed by a myriad of complicated federal, State and local laws. Almost all operations of the City are governed by one law or another. The City Attorney's Office protects the interests of the Milpitas residents, businesses, and community by ensuring that the City, in its day-to-day operation at every level of City government, is in compliance with all applicable laws, regulations, and policies. There is significant legal exposure, both civil and criminal, for violating certain laws.

The day-to-day work of the City Attorney's Office generally includes (i) reviewing all staff reports going to the City Council for compliance with the Brown Act, CEQA, and other applicable City, State and federal laws; (ii) reviewing and drafting resolutions, ordinances and contracts; (iii) responding to countless legal questions from City staff; (iv) researching legal issues associated with City operations; (v) attending meetings to discuss the best legal approach on various municipal issues; (vi) preparing documents for and responding to administrative complaints, hearings, and litigation; and (vii) reviewing and advising on Public Records Act requests and subpoenas. For example of the volume of such matters in 2014, the City Attorney's Office reviewed over 240 staff reports for compliance with the Brown Act, CEQA, and other laws, reviewed or prepared over 100 resolutions, agreements or amendments and ordinances, responded to over 1500 legal questions from City staff, attended over 100 internal and public meetings (over 500 hours), and spent over 400 hours assisting on documents production in responses to Public Records Act request and subpoenas.

Attachment A includes lists of duties for each position in our Office.

What is the comparable cost of outside legal services?

The City Attorney's Office provides cost-effective legal services for the Milpitas community at an annual cost of approximately \$1 million for three (3) full-time employees. Although this may sound like a high number, in comparison to outside legal services, it is a fraction of the cost. With three (3) full-time employees consisting of City Attorney Mike Ogaz, Assistant City Attorney Johnny Phan, and Executive Secretary/Paralegal Susan Barrett, the City is receiving more than 120 hours per week (40 hours per week x 3 employees) in legal services, or, more than 6,240 hours a year (2,080 hours per year x 3 employees).

In reviewing the hourly rates for outside legal services, the conservative estimate for the average rate for a Partner in a law firm is approximately \$350.00 per hour. If you contracted for a full-time Partner, the equivalent of a full-time City Attorney, it would cost the City approximately \$728,000 per year (\$350.00 per hour x 2080 hours), while the total compensation cost for the City Attorney is only \$326,664 per year. Similarly, the numbers are comparable for the Assistant City Attorney, Deputy City Attorney and Paralegal. See tables below.

	City Attorney	Partner
Hourly Rate	\$157.05	\$350.00
Annual Cost	\$326,664 per year	\$728,000 per year
Overtime (40+ Hours)	None	\$350.00 per hour

	Assistant City Attorney	Senior Associate
Hourly Rate	\$115.55	\$275.00
Annual Cost	\$240,358 per year	\$572,000 per year
Overtime (40+ Hours)	None	\$275.00 per hour

	Deputy City Attorney	Associate
Hourly Rate	\$93.04	\$225.00
Annual Cost	\$193,540 per year	\$468,000 per year
Overtime (40+ Hours)	None	\$225.00 per hour

	Exec. Secretary/Paralegal	Paralegal
Hourly Rate	\$75.10	\$135.00
Annual Cost	\$156,218 per year	\$280,800 per year

	City Attorney's Budget	Outside Legal Services Cost
Total Annual Cost	\$916,780	\$2,048,800

What the numbers reveal is simple. The cost of comparable outside legal services is drastically higher than having in-house services. Therefore, other comparable size cities with the same complexity as Milpitas, such as Mountain View and Palo Alto, have a well-funded City Attorney's Office whose budgets far exceed the Milpitas City Attorney's Office budget.

Conclusion

In conclusion, the City Attorney's Office can continue to operate in the same capacity with three (3) full-time employees consisting of a City Attorney, Assistant City Attorney and Executive Secretary/Paralegal. However, with a Deputy City Attorney, the Office would be able to handle more litigation in-house, saving Milpitas taxpayers a significant amount of money and assist in the day-to-day operation of the City, thereby providing greater service. More importantly, there is no fiscal reason to outsource the City Attorney's Office. The City of Milpitas has gone down this road in the past several times throughout its history and, each time, the taxpayers of Milpitas ended up paying more for legal services with outside counsel while receiving less service.

ATTACHMENT A

City Attorney Task/Duty List

- Advise the City Council regarding daily legal questions that arise and particularly on items that come before them on Council Meeting Agendas.
- Advise Human Resources staff regarding all personnel matters, including grievances, labor negotiations, workplace investigations and disciplinary matters.
- Advise the Fire Department on contracts and transactional matters.
- Advise the Police Department on contracts and transactional matters.
- Defend Police Officer Personnel files on Pitchess motions in Court including preparation of all pleadings necessary.
- File and appear on Weapons Petitions filed in Superior Court on behalf of the Police Department.
- Review and assign all lawsuits filed against the City; forward to ABAG those suits that might fall under that insurance pooling coverage.
- After assignment, supervise either in-house attorney or outside counsel on case handling and direction, including communicating with employee defendants regarding their rights and concerns.
- Advise the City Clerk's Office with regard to elections matters, agenda matters and FPPC filings and compliance.
- Advise the City Manager and his staff regarding all legal matters of the City.
- Work with the Mayor and Council, City staff, particularly in the Utilities section, regarding the odor problem and the City response.
- Work with citizens groups regarding the odor problem, attending their meetings periodically and communicating by telephone and email to keep them informed and involved.
- Work with three separate attorney firms regarding litigation initiated by the City to combat the odor problem.
- Initiated a comprehensive RFP process to seek expert outside counsel to advise the City and create a game plan regarding the odor problem at Newby Island.
- Supervise the Office of the City Attorney, including its budget and expenses, review and sign all invoices and purchase requisitions; review and sign time cards and otherwise oversee administrative tasks of the Department.
- Assist the Departments with Public Records Act requests, providing advice and also preparing the response required by law in a variety of cases.
- Respond to telephone inquiries from the public and the press regarding legal matters pertaining to City activities.
- Meet with citizens regarding legal issues at the request of the Mayor and Council. Examples are taxi ordinance and innovative manufacturing proposal.
- Attend weekly agenda meetings of the Department as well as the department-wide agenda meeting and the weekly Department Head meeting and other meetings requested by staff and the Mayor.
- Prepare a yearly budget for the Department based on the expected needs and expenses projected for the upcoming fiscal year; meet with City Manager and Finance Director regarding the proposal and adjust as necessary.
- Supervise City Attorney staff on a daily basis, approve leave time and otherwise manage the personnel matters of the City Attorney's Office.

Assistant City Attorney Task/Duty List

- Assist the City Attorney in the planning, organizing and direction of activities of the City Attorney's Office.
- As assigned, attend meetings of the City Council and provide such legal advice and assistance as may be required to the City Council.
- Attend all Planning Commission meetings and advise the Planning Division and Planning Commission on use permits, site development permits, rezoning, general and specific plan compliance, impact fees, regulatory takings, conditions of approval, development agreements and other development permits, processes and issues.
- Review staff reports to the City Council, Planning Commission and other boards and commissions for legal compliance with the Brown Act, CEQA, constitutional requirements, and applicable State and federal laws.
- Review and draft resolutions and ordinances for consideration by the Planning Commission and City Council.
- Attend day-to-day internal meetings with City staff from Finance, Police, Fire, Human Resources, Planning, Building, Public Works, Information Services, and Recreation Services to discuss the best legal approach for contracts, resolutions, ordinances, and general City operations.
- Respond to day-to-day legal questions from City staff from Finance, Police, Fire, Human Resources, Planning, Building, Public Works, Information Services, and Recreation Services.
- Assist City staff and the public in the interpretation of Municipal Code provisions, State and federal laws.
- Conduct legal research, prepares cases and represents the City in judicial and administrative proceedings.
- Provide assistance in and/or handles civil litigation, prepares pleadings, including complaints, answers, demurrers, motions to strike, and motions for summary judgment. Conduct discovery, including written discovery, takes and defends depositions, issues subpoenas, and retains experts. Attend and argue at hearings.
- Advise City Council, members of City commissions, boards and committees and City staff on the legal impact or consequences of proposed actions, programs, policies, regulations and activities.
- Perform legal work pertaining to property acquisition, property disposal, public improvements, and matters relating to public utilities.
- Prepare, reviews, and examine complex contracts, agreements, briefs, bid protests, change orders, delay claims, ordinances and other legal documents for City departments; represent the City's interest in contract negotiations and carry out goals of such contracts.
- Prepare and present verbal and written reports on work activities.
- Alternate Board Member of ABAG and reviews and provides advice on claims filed against City including sewer back-up claims, City vehicle accidents, street tree intrusion, damages to City and private buildings and facilities, personal injury and similar tort and property related damages claims.
- Monitor, assist in, and/or coordinate the work of outside counsel handling tort and other claims against the City.
- Provide specific advice to all departments on requests for public records and ensuring compliance with subpoenas and City's Open Government Ordinance.

- Assist Human Resources in conducting work place investigations and prepare reports on work place complaints/investigations.
- Provide guidance and/or supervision to volunteer attorneys, legal interns, and support staff.
- Establish positive working relationships with representatives of community organizations, State/local agencies and associations, City management and staff, and the public.
- Respond to citizen inquiries regarding all types of legal issues, including those concerning City business.
- Attend and participate in professional group meetings; stays abreast of new trends and innovations in the field of law.

Executive Secretary/Paralegal Task/Duty List

- Serve as Budget Liaison, develop draft departmental budget; monitor and track departmental budget expenditures and purchase orders.
- Prepare, monitor, track and administer outside counsel contracts.
- Coordinate agenda preparation for the department, including tracking, and monitoring agenda items; edit and correct all department staff reports and agenda items, documents, provide titles for closed session items pursuant to law; prepare certain staff reports and agenda documents.
- Review, proofread and edit all resolutions and ordinances for City Council agendas.
- Prepare reports for annual Finance litigation audits and litigation status reports.
- Investigate and research background facts re: EEOC/ DFEH claims, collect relevant documents from departments and prepare draft responses.
- Research and prepare draft responses to personnel grievances.
- Research weapons confiscations case facts and prepare draft weapons petition pleadings.
- Research Pitchess motions case facts and prepares draft responsive pleadings for final attorney additions and edits.
- Research and update Subpoena Procedures guide as needed.
- Researched background of City Council Handbook, compiled data and records re: same, and track changes to be made in future Handbook update.
- Serve as liaison with Fire and Police for legal assistance requests to ensure prompt responses, and with other internal departments, external organizations and individuals in general.
- Provide administrative support to the attorneys, including calendaring and tracking of legal deadlines, court appearances, meetings, and task deadlines; composing correspondence and legal pleadings; filing of all legal documents with various courts; screening mail and phone calls; scheduling appointments; ensuring that proper department records are maintained; providing oral and written responses to inquiries; making referrals to other appropriate sources of information; using tact and judgment; and applying knowledge of diverse legal procedures.
- Research legal information, cases, procedures and local and State court rules; analyze and present information and make recommendations.
- Coordinate gathering of information from various departments and other sources in the preparation of contracts and other legal documents; reviews contracts from other departments to ensure necessary provisions and documentation are included.
- Assist in drafting resolutions, ordinances, contracts, deeds, settlement agreements, and other legal documents and instruments; proofread and edit for grammar, accuracy, proper legal format, terminology, and procedures.
- Indexed, processed and maintains over 300 boxes of legal files; maintains database of electronic files.
- Analyze needs for and develop procedural forms and processes to improve departmental operation and coordination with other departments on various matters, including weapons confiscations, claims against the City, incidents on City property, liability release waiver issues, and subpoena handling.
- Serve as initial contact person for inquiries and complaints, Public Records Act requests and subpoenas; coordinate with departments to gather and organize records for PRA responses and subpoena responses.

- Serve as department representative member of Risk Management and Safety Committee, provide input on risk management and safety issues, and report back to the City Attorney staff.
- Interview, select, train and supervise multiple Paralegal and Administrative Interns and temporary administrative employees.
- Attend public meetings and perform related duties, including recording secretary duties, and follow-up responsibilities as required.

MEMORANDUM

Office of the City Manager



To: Councilmember Debbie Indihar Giordano
Councilmember Marsha Grilli

From: Tom Williams, City Manager

Subject: **City Attorney Subcommittee Requested Information**

Date: May 28, 2015

In response to Councilmember Indihar Giordano's email of May 20, 2015, the information requested is as follows:

- 1) How many times have we gone outside for legal services, to defend City on legal cases...I have the \$\$ cost per year, since 2007- present, but it does not portray the extent to which we have relied on outside counsel...I am looking for lack of expertise in legal areas by our "in house" counsel?

The City relies on outside legal counsel extensively. Over the past eight years, there are only three occasions where in-house legal counsel was used exclusively. These include, a Rob Means sign case, VTA street closure case, and the recent Citation development fee case. Reliance on outside legal counsel is indicative of the high cost per in-house attorney as reflected in the Attachment A.

Attachment B shows the legal service costs expended by the City per year since FY 2008.

- 2) Need to review what other cities/ particularly our size spend on their legal budget....2000-2016, note which cities have outside legal counsel, and which rely on "in house" counsel....if they have "in house" counsel, I would like to see of their total budget, the % of the budget that is for "in house" services, and % of that budget for outside legal services...revise our chart/table for historical city attorney dept funding, to reflect that percentage also in the graph.

This information is provided in Attachment A. As reflected in the table, the current budget for the City Attorney office appears to be average when compared to cities of similar size as does the percentage allocation of total budget. However, the budget for each City that contracts out legal services exclusively is less than the City of Milpitas or any other city providing in-house legal department. For example, Campbell, Gilroy, South San Francisco, Dublin, San Leandro and Union City all contract out legal services exclusively. Each of these cities have a legal budget significantly less than the City of Milpitas as Attachment A indicates.

- 3) Do we have standard/policy in place that would determine if outside legal services are required or needed?

There is no such policy. However, the decision to reorganize legal into an in-house department in Fiscal Year 07-08 was made with the clear objective that the City would not need to contract out any legal services. Significant budget savings were projected as a result. Unfortunately, this objective has not been realized as the City now contracts out most of its legal work to third party consultants. An increase in legal expenses has been realized each year and the cost per employee is significantly more than most cities especially those that exclusively contract out legal services (see Attachment A).

- 4) Of those cities surveyed, what does their "in house" legal department, look like? # of employees? function?

Data collected from all cities surveyed who provide in-house legal counsel that the only services they contract out are litigation services. The size of the legal team varies from city to city. For example, Palo Alto has a staff of 11 while the City of Cupertino has 3 staff. The complexities of each City and the array of services provided is an indicator of the size of the legal team. Cities with more in house attorneys hire personnel with a expertise in specific disciplines such as land use, personnel, finance and tax etc... Most medium to smaller populated cities that have complex issues, provide a full array of services such as land use, utilities and public safety tend to contract out legal services rather than have a small limited in house legal team. Contracting out to a firm specializing in public sector legal services provide a wide range of highly qualified legal specialists. These attorneys are brought in on a case by case basis only when the need arises. As such, these cities are not paying for services they do not need or for a specialty or generalist lawyer that does not fit their needs in a cost effective or efficient way.

Attachment A

Cost Comparison with other Cities of similar Size							
City	Population	Total Operating & CIP Budget	Total City Attorney Budget	# of Staff	Cost Per Staff	In-House / Contract Out	% CAO Budget to Total City Budget
Santa Clara County Cities with Population Between 40,000 to 87,000							
Campbell	41,993	\$ 60,527,838	\$ 353,179		n/a	Contract	0.58%
Cupertino	59,946	\$ 119,476,120	\$ 1,447,280	3	\$ 482,427	In-house	1.21%
Gilroy	52,413	\$ 122,412,270	\$ 535,000		n/a	Contract	0.44%
Mountain View	75,787	\$ 256,030,551	\$ 1,662,001	8	\$ 207,750	In-house	0.65%
Palo Alto	63,000	\$ 470,341,367	\$ 2,450,229	11	\$ 222,748	In-house	0.52%
Milpitas	70,000	\$ 136,928,456	\$ 969,654	3	\$ 323,218	In-house	0.71%
Santa Mateo County Cities with Population Between 40,000 to 87,000							
Redwood City	80,768	\$ 184,683,470	\$ 1,349,121	4.5	\$ 299,805	In-house	0.73%
South San Francisco	65,710	\$ 111,153,045	\$ 764,998		n/a	Contract	0.69%
Alameda County Cities with Population Between 40,000 to 87,000							
Alameda	75,988	\$ 164,000,000	\$ 1,017,000	4	\$ 254,250	In-house	0.62%
Dublin	53,462	\$ 102,673,164	\$ 807,360		n/a	Contract	0.79%
Pleasanton	73,067	\$ 166,913,483	\$ 1,486,883	4	\$ 371,721	In-house	0.89%
San Leandro	87,691	\$ 131,398,777	\$ 688,676		n/a	Contract	0.52%
Union City	72,155	\$ 101,935,185	\$ 450,000		n/a	Contract	0.44%
Average City Attorney Budget							
Cities with in-house attorney services		\$ 214,053,350	\$ 1,483,167		\$ 308,845		0.69%
Cities with contracted attorney services		\$ 105,016,713	\$ 599,869		n/a		0.57%
Note:							
Information obtained from each respective city's FY 14-15 Adopted Budget							

Attachment B

Outside Attorney Service Costs

	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY 2015 Year-to-date	Total
Patricia Elliot	11,539						8,813	125	20,477
Roy C. Abrams	56,745	1,485							58,230
Hopkins & Carley	28,513	20,713	29,660	113	3,000	64,811	240,501		387,311
Murphy & Associates PC		10,841	40,439	21,256	84,225				156,760
Renne Sloan Holtzman Sakai			13,689	13,575	49,502	35,835	89,406	7,370	209,377
Davidovitz & Bennett LLP				2,232					2,232
Meyers, Nave, Riback, Silver	248,737	2,423			68				251,228
Jarvis Fay Doporfo & Gibson			5,458	2,125	11,963	68,972	111,179	54,078	253,775
Goldfarb & Lipman LLP					18,338	78,595	70,046	5,533	172,512
Kronick, Moskovitz, Tiedemann		12,000	7,105		49,802	175	11,947		31,227
Burke, Williams & Sorensen LLP						47,351	64,136	76,908	238,197
Kelli Pon							2,036		2,036
The Smith Firm					34,097			19,809	19,809
The Sutton Firm									34,097
Stubbs & Leone					3,549	11,426	19,055		19,055
City of Morgan Hill				33,046	24,018	61,902	145,215	53,078	15,938
Legal defense costs through ABAG	164,202	175,035	57,492						713,988
	509,736	222,497	153,842	72,346	278,561	369,067	763,298	216,901	2,586,248

MEMORANDUM
Office of the City Attorney



Date: May 29, 2015
To: City Attorney Subcommittee;
Mayor Esteves and Members of the City Council
From: Michael Ogaz, City Attorney *M.O.*
Subject: City Attorney's Office 2015-2016 Budget

At the City Council meeting on May 19, 2015, there were questions raised about the proposed hiring of a Deputy City Attorney and the increased City Attorney's Office budget over time from Fiscal Year 2000-2001 to Fiscal Year 2015-2016. The purpose of this memorandum is to provide additional information and clarification to the City Attorney Subcommittee and City Council on the City Attorney's Office budget.

The City Attorney's Office expenditure in Fiscal Year 2000-2001 was \$675,154 for part-time outside legal services. The City Attorney's Office budget for Fiscal Year 2015-2016 is \$1,019,040 for full-time, in-house legal services. Councilmember Giordano raised concerns about the increased budget over the fifteen (15) year period.

First, according to the United States Department of Labor, Bureau of Labor Statistics, the total annual inflation for the Bay Area from 2000 to 2015 is **41.5%**. The City Attorney's Office budget has increased during the same time period, along with all City departments, consistent with annual inflation increases in the Bay Area. Attachment A to this memorandum is a copy of the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for San Francisco-Oakland-San Jose.

Second, according to the United States Census Bureau, the population of the City of Milpitas in 2000 was 62,846 and is now approximately 70,817. The City has grown significantly during the past fifteen (15) years with more demands on City resources and services (including legal services for resolutions, ordinances, contracts, dispute resolution, attendance and advice to various boards and commissions, and litigation, among others).

Third, in briefly reviewing other City department budgets from Fiscal Year 2000-2001 to Fiscal Year 2015-2016, their budgets have also similarly increased over the same time period.

Departments	Fiscal Year 2000-2001	Fiscal Year 2015-2016
Finance	\$2,362,499	\$3,564,287
Building	\$2,257,362	\$3,548,011
Planning	\$1,913,943	\$3,391,879
City Manager	\$517,542	\$1,268,324

Fourth, other similar sized cities in Santa Clara County, such as Mountain View and Palo Alto, have City Attorney's Office budgets of \$1,662,001 (FY 14-15) and \$2,450,229 respectively. The City of Mountain View has a population of approximately 77,846, with a City Attorney's Office budget of \$1,662,001 and eight (8) full-time employees including four (4) attorneys. The City of Palo Alto has a population of approximately 66,642, with a City Attorney's Office budget of \$2,450,229 and twelve (12) full-time positions, including eight (8) attorneys. In contrast, Milpitas has a population of approximately 70,817 with a budget of \$1,019,040 and three (3) positions, including only two (2) attorneys. Attachment B is a copy of a review of comparable cities.

Fifth, the City Attorney's Office has saved the City of Milpitas a significant amount of money by initiating programs that recruit and utilize the talents of volunteer attorneys, law students and paralegal student interns. The Office has had numerous volunteer attorneys and law student interns since 2009. Similarly, paralegal student interns have volunteered since early 2011. Attorneys and law student interns have volunteered over 5,000 hours to the City since 2009, and paralegal and student interns have volunteered over 1700 hours since 2011. Recruiting and engaging these volunteers has saved the City as much as \$200,000. Attachment C is a copy of the volunteer hours.

Lastly, the numbers do not truly reflect the value that the City Attorney's Office adds to the City of Milpitas. Having a well-funded City Attorney's Office with full-time employees, similar to Mountain View and Palo Alto, is in the best of interest of this growing community. We are here on a full-time basis to protect the City's interest by attending meetings, promptly answering legal questions, reviewing and drafting ordinances, resolutions, and contracts and, more importantly, to be fully accessible to the public and City staff. We are a part of the City team to keep the City moving in a positive direction. Unlike private law firms, our Office is not concerned about billable hours, but rather how much time is needed to do the job right because our attorneys do not work or get paid by the hour.

In conclusion, the addition of the Deputy City Attorney position will enhance the department's ability to achieve its goal of increasing efficiency and providing better service to the community. The City Attorney's Office, like all other City departments, is extremely cognizant of its budget and has done all it can to best protect the City's interest in the most cost-effective manner.

U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS

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SAN FRANCISCO-OAKLAND-SAN JOSE

Consumer Price Index, All Items, 1982-84=100 for All Urban Consumers (CPI-U)

SEMIANNUAL

YEAR	05/20/15	Consumer Price Index, All Items, 1982-84=100 for All Urban Consumers (CPI-U)												SEMIANNUAL		ANNUAL AVERAGE
		JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	1ST HALF	2ND HALF	
1996	152.9	153.2	152.9	153.9	155.1	155.2	155.9	155.6	156.3	156.9	156.9	156.6	156.9	156.3	156.3	155.1
1997	157.0	157.9	159.2	159.6	159.8	160.0	160.6	161.2	161.6	162.5	162.5	162.6	162.6	161.9	161.9	160.4
1998	163.2	163.2	159.2	164.6	159.8	165.5	166.6	166.6	166.6	167.2	167.2	167.4	167.4	166.9	166.5	165.5
1999	169.4	169.4	169.4	172.2	171.8	171.8	171.8	173.5	173.5	175.2	175.2	174.5	174.5	174.2	174.2	172.5
2000	176.5	176.5	176.5	178.7	179.1	179.1	179.1	181.7	181.7	183.4	183.4	184.1	184.1	182.6	182.6	180.2
2001	187.9	187.9	187.9	189.1	190.9	190.9	190.9	191.0	191.0	191.7	191.7	190.6	190.6	191.1	191.1	189.9
2002	191.3	191.3	191.3	193.0	193.2	193.2	193.2	193.5	193.5	194.3	194.3	193.2	193.2	193.7	193.0	193.0
2003	197.7	197.7	197.7	197.3	196.3	196.3	196.3	196.3	196.3	196.3	196.3	195.3	195.3	196.1	196.4	196.4
2004	198.1	198.1	198.1	198.3	199.0	199.0	199.0	198.7	198.7	200.3	200.3	199.5	199.5	199.5	198.8	198.8
2005	201.2	201.2	201.2	202.5	201.2	201.2	201.2	203.0	203.0	205.9	205.9	203.4	203.4	201.5	203.9	202.7
2006	207.1	207.1	207.1	208.9	209.1	209.1	209.1	210.7	210.7	211.0	211.0	210.4	210.4	207.9	210.6	209.2
2007	213.7	213.7	213.7	215.8	216.1	216.1	216.1	216.2	216.2	217.9	217.9	218.5	218.5	214.7	217.4	216.0
2008	219.612	219.612	219.612	222.074	225.181	225.181	225.181	225.411	225.411	225.824	225.824	218.528	218.528	221.730	223.804	222.767
2009	222.166	222.166	222.166	223.854	225.692	225.692	225.692	225.801	225.801	226.051	226.051	224.239	224.239	223.305	225.484	224.395
2010	226.145	226.145	226.145	227.697	228.110	228.110	228.110	227.954	227.954	228.107	228.107	227.658	227.658	226.994	227.944	227.469
2011	229.981	229.981	229.981	234.121	233.646	233.646	233.646	234.608	234.608	235.331	235.331	234.327	234.327	232.082	234.698	233.390
2012	236.880	236.880	236.880	238.985	239.806	239.806	239.806	241.170	241.170	242.834	242.834	239.533	239.533	238.099	241.201	239.650
2013	242.677	242.677	242.677	244.675	245.935	245.935	245.935	246.072	246.072	246.617	246.617	245.711	245.711	243.894	246.152	245.023
2014	248.615	248.615	248.615	251.495	253.317	253.317	253.317	253.354	253.354	254.503	254.503	252.273	252.273	250.507	253.463	251.985
2015	254.910	254.910	254.910	257.622												

Table of over-the-year percent increases. An entry for Feb. 2006 indicates the percentage increase from Feb. 2005 to Feb. 2006.

YEAR	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1997	2.7	3.1	4.1	3.7	3.0	3.1	3.0	3.6	3.6	3.6
1998	3.4	3.4	3.1	3.7	3.4	3.4	3.3	3.6	3.6	3.6
1999	3.8	3.8	4.6	4.1	3.8	4.1	4.8	4.8	4.8	4.8
2000	4.2	4.2	3.8	4.2	4.2	4.7	4.7	4.7	4.7	4.7
2001	6.5	6.5	5.8	5.8	6.6	6.6	4.5	4.5	4.5	4.5
2002	1.8	1.8	2.1	2.1	1.2	1.4	1.4	1.4	1.4	1.4
2003	3.3	3.3	2.2	2.2	1.6	1.4	1.0	1.1	1.1	1.1
2004	0.2	0.2	0.5	0.5	1.4	1.2	2.0	2.2	2.2	2.2
2005	1.6	1.6	2.1	2.1	1.1	2.2	2.8	2.8	2.8	2.8
2006	2.9	2.9	3.2	3.2	3.9	3.8	2.5	2.5	2.5	2.5
2007	3.2	3.2	3.3	3.3	3.4	3.4	3.3	3.3	3.3	3.3
2008	2.8	2.8	2.9	2.9	4.2	4.2	3.6	3.6	3.6	3.6
2009	1.2	1.2	0.8	0.8	0.2	0.2	0.1	0.1	0.1	0.1
2010	1.8	1.8	1.7	1.7	1.1	1.0	0.9	0.9	0.9	0.9
2011	1.7	1.7	2.8	2.8	2.4	2.9	3.2	3.2	3.2	3.2
2012	3.0	3.0	2.1	2.1	2.6	2.8	2.2	2.2	2.2	2.2
2013	2.4	2.4	2.4	2.4	2.6	2.6	1.6	1.6	1.6	1.6
2014	2.4	2.4	2.8	2.8	2.6	3.0	2.7	2.7	2.7	2.7
2015	2.5	2.5	2.4	2.4	2.8	3.0	3.2	3.2	3.2	3.2

City Attorney Office

REVIEW OF COMPARABLE CITIES

<u>City</u>	<u>Population</u>	<u>Positions</u>	<u>Budget</u>
MOUNTAIN VIEW	77,846	8 (4 attys)	\$1,662,001 (FY15)
PALO ALTO	66,642	12 (8 attys)	\$2,450,229 (FY16)
MILPITAS	69,783	3 (2 attys)	\$1,019,040 (FY16)

LEGAL INTERN VOLUNTEER HOURS

YEAR	NAME	TYPE	HOURS
2009-2010	Asa Pittman	Law Student/Volunteer Attorney	592
2011	Micah Miller	Law Student	270
2012	Nasir Mohammed	Volunteer Attorney	516
2013	Josephine Park	Volunteer Attorney	24
	Kelli Pon	Volunteer Attorney	700
	Adam Brutocao	Law Student	70
	Eugenia Buzogly	Law Student	30
2014	Claire Lai	Volunteer Attorney	1084
	Amandeep Chatha	Volunteer Attorney	27
	Brice Hamack	Volunteer Attorney	6.5
	Coleman Peng	Volunteer Attorney	32
	Phong Banh	Volunteer Attorney	339
	Joni Puzon	Law Student	378
	Sanna Asabi	Law Student	205
	Chris Bianchi	Law Student	176
	Analiase Danner	Law Student	91.5
Kevin Armanio	Law Student	279.5	
2015	Claire Lai	Volunteer Attorney	500
	Chris Bianchi	Law Student	149
TOTAL VOLUNTEER ATTORNEY HOURS:			3320.5
If hired at City's current lowest rate for Deputy City Attorney of \$49.29/hr:			\$163,534.62*
TOTAL LAW STUDENT HOURS:			2149
If hired at City's current highest rate for paid student interns of \$17.68/hr:			\$37,994.32*

YEAR	NAME	TYPE	HOURS
2011	Delrae Johnson	Paralegal Student	110
	John Chow	University Student	110
	Linda Santellano	Paralegal Student	220
2012	Jenny Lee	Paralegal Student	110
	Lan Sheng	Paralegal Student	110
	Mayra Perez	Paralegal Student	110
2013	Felianne Mendoza	Paralegal Student	220
	Eugenia Yee	University Student	200
	Adi Raikadroka	Paralegal Student	110
2014	Jessica Pulido	Paralegal Student	110
	Kasie Harmon	Paralegal Student	110
	Royall Walters	Paralegal Student	110
2015	Royall Walters	Paralegal Student	32
	Joan McFarland	Paralegal Student	110
TOTAL HOURS:			1772
If hired at City's current lowest rate for paid student interns of \$9.18/hour:			\$16,266.96*
If hired at City's current lowest rate for Office Assistant I: \$21.85/hour:			\$38,718.20*

*These figures do not include other personnel related costs, such as PERS, health insurance, workers compensation insurance, etc.

MEMORANDUM

5



Department of Human Resources

To: Honorable Mayor and City Council
Through: Thomas C. Williams, City Manager
From: Carmen Valdez, Human Resources Director
Subject: **Analysis and Comparison of an Internal Attorney Group versus Contract
City Attorney Services**
Date: March 27, 2007

Please see attached reports for the analysis of internal City Attorney versus contract services.

1. Memo from City Attorney dated December 2, 2005
2. Analysis for full year salary and benefits for internal attorney staff
3. City's record summary of hours and costs for FY 03-04, 04-05, 05-06 and 06-07
4. Memo from City Attorney dated March 21, 2007

Thank you.

MEMORANDUM

Department of the City Attorney



To: City Council Finance Subcommittee

From: Emma Karlen, Director of Finance
Steven T. Mattas, City Attorney
Richard D. Pio Roda, Assistant City Attorney

Subject: Request for Information: City Attorney's Office Staffing Requirements

Date: December 2, 2005

This memo concerns information requested by the City Council Finance Subcommittee regarding the estimated in-house costs, including salary and all benefits, for staffing a City Attorney's Office composed of (1) a City Attorney, an Assistant City Attorney (minimum of 6 years experience), a Paralegal and a Secretary, and (2) a City Attorney, an Assistant City Attorney (minimum of 6 years experience), a Deputy City Attorney (minimum of 4 years experience) and a Secretary.

When the City previously had in-house counsel, there were three attorneys and one secretary. The City Attorney believes the City could operate with one City Attorney, one senior assistant city attorney, one experienced paralegal and one secretary. This staffing level would not include any coverage of any substantive litigation or arbitration other than general management of the litigation. Thus, those costs would be in addition to the costs listed below.

Our office conducted a survey of the salaries for each position mentioned above from local cities of comparable size. The cities surveyed included those listed below. All benefits were then calculated and loaded at current Milpitas rates, expressed as a percentage, for "Miscellaneous employee - management." The overhead rate included in the cost estimates below is 28 percent, which the Finance Director believes is a conservative estimate.

The Assistant City Attorney salaries were calculated based upon 6 years experience, which was approximately the average, and the Secretary's rates were calculated based upon an Executive Assistant classification. The Subcommittee should be aware that the averages shown below are a conservative estimate of costs. Milpitas does not normally compensate its employees at the average of comparison cities. Instead, Milpitas employees have, in recent history, tended to be paid near or at the top of comparison cities.

MEMORANDUM

Department of the City Attorney



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From: Emma Karlen, Director of Finance
Steven T. Mattas, City Attorney
Richard D. Pio Roda, Assistant City Attorney

Subject: Request for Information: City Attorney's Office Staffing Requirements

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MEMORANDUM

5



Department of Human Resources

To: Honorable Mayor and City Council
Through: Thomas C. Williams, City Manager
From: Carmen Valdez, Human Resources Director
Subject: **Analysis and Comparison of an Internal Attorney Group versus Contract City Attorney Services**
Date: March 27, 2007

Please see attached reports for the analysis of internal City Attorney versus contract services.

1. Memo from City Attorney dated December 2, 2005
2. Analysis for full year salary and benefits for internal attorney staff
3. City's record summary of hours and costs for FY 03-04, 04-05, 05-06 and 06-07
4. Memo from City Attorney dated March 21, 2007

Thank you.

Example Number 1: City Attorney, Senior Assistant City Attorney, Paralegal and Executive Assistant.

<u>City</u>	<u>City Attorney</u>	<u>Assistant City Attorney</u>	<u>Paralegal</u>	<u>Secretary</u>
Cupertino	\$179,640	\$97,776		\$70,176
Palo Alto	\$186,160	\$142,771	\$68,578	\$86,133
Mountain View	\$183,725	\$120,373		\$64,927
Redwood City	\$162,228	\$96,576	\$57,761	\$51,864
San Mateo	\$159,390	\$122,886		\$60,008
Santa Clara	\$174,960	\$148,860		\$82,512
Sunnyvale	\$178,000	\$141,259	\$78,170	\$70,264
Fremont	\$215,941	\$168,477	\$71,999	\$72,342

Based on the above, the average City Attorney's salary would be \$180,005, the average Assistant City Attorney's salary would be \$129,872, the average Paralegal's salary would be \$69,127, and the average Secretary/Executive Assistant would be \$69,778, for a total salary calculation of \$448,782. The Director of Finance estimates that the total overhead for these positions expressed as a percentage would be 28%. Thus, the total costs -- salary and benefits included -- would be \$574,441 per year. This does not include normal additional costs such as training and seminars.

Example No. 2: City Attorney, Senior Assistant City Attorney, Deputy City Attorney and Executive Assistant

The amounts would be different if the paralegal position were substituted for a Deputy City Attorney with a minimum of 4 years experience. The average salary for a Deputy City Attorney with a minimum of 4 years experience is \$118,615, which would increase the total salary numbers for this type of City Attorney's Office to \$498,270. Total costs including the 28% overhead factor would be \$637,786 per year. This does not include normal additional costs such as training and seminars.

Memo to City Council Finance SubCommittee
Re: City Attorney's Office staffing requirements
December 2, 2005
Page 3

<u>City</u>	<u>City Attorney</u>	<u>Asst. City Atty.</u>	<u>Dep. City Atty.</u>	<u>Secretary</u>
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In comparison, the amount allocated for general city attorney services for the prior three fiscal years was \$596,000, 2005-2006, \$563,000, 2004-2005, and \$553,550 2003-2004. This amount does not include litigation costs, labor negotiation costs and labor arbitration costs incurred during those years. While a small percentage of that work may have been able to be done by in-house counsel, the majority probably could not have been done with in-house counsel.

Please contact our office if you have any further questions.

RDP

CC: Charles Lawson, Interim City Manager
Emma Karlen, Director of Finance

Memo to City Council Finance Subcommittee
Re: City Attorney's Office staffing requirements
December 2, 2005
Page 3

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Emma Karlen, Director of Finance

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Full Year
In-House City Attorney
Effective Date: January 2007

Hourly

(12 months)

4111	Full Salary- Position	184,299	88.61
4131	PERS	27,018	
4131	PERS	26	
4132	Group Insurance	12,610	
4133	Medicare	2,672	
4135	Workers' Comp	921	
4138	Deferred Comp	900	
Salary & Benefit Total		228,446	

Assistant Attorney
Effective Date: January 2007
(12 months)

4111	Full Salary- Position	137,256	65.99
4131	PERS	20,122	
4131	PERS	26	
4132	Group Insurance	12,610	
4133	Medicare	1,990	
4135	Workers' Comp	686	
4138	Deferred Comp	900	
Salary & Benefit Total		173,590	

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Effective Date: January 2007
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4135	Workers' Comp	686	
4138	Deferred Comp	900	
Salary & Benefit Total		173,590	

Secretary
Effective Date: January 2007
(12 months)

4111	Full Salary- Position	84,192	40.48
4131	PERS	12,343	
4131	PERS	26	
4132	Group Insurance	12,610	
4133	Medicare	1,221	
4135	Workers' Comp	421	
4138	Deferred Comp	900	
Salary & Benefit Total		111,712	

	Total	687,338	65.26	Hourly Average
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Legal Services

	FY 03-04			FY 04-05			FY 05-06		
	<u>Average</u> <u>Rate</u>	<u>Hours</u>	<u>Expense</u>	<u>Average</u> <u>Rate</u>	<u>Hours</u>	<u>Expense</u>	<u>Average</u> <u>Rate</u>	<u>Hours</u>	<u>Expense</u>
General City Attorney Services (includes contract review, legal opinion, ordinance compliance issues and employment contracts.)	\$ 158	2,652	\$ 419,085	\$ 158	3,567	\$ 563,569	\$ 165	2,924	\$ 482,524
Developers agreements				\$ 195	210	\$ 40,854	\$ 207	286	\$ 59,104
Labor Negotiation/Arbitration/Grievance Services (includes MOU negotiation with the unions - MPOA, IAFF, MSA, MEA, ProTech, LIUNA-MMC and personnel grievances)	\$ 201	364	\$ 73,147	\$ 201	606	\$ 121,905	\$ 214	126	\$ 26,945
Legal Services - Public Works construction claims (includes Turner, RRM Design & Aztec, Albert V Witt Jr and Pacific Bell.)	\$ 201	2,595	\$ 521,670	\$ 201	3,943	\$ 792,587	\$ 210	3,760	\$ 789,677
Total		5,612	\$1,013,903		8,326	\$1,518,915		7,096	\$1,358,250

Full Year
In-House City Attorney
 Effective Date: January 2007

Hourly

(12 months)

4111	Full Salary- Position	184,299	88.61
4131	PERS	27,018	
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Total	<u>687,338</u>	65.26	Hourly Average
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Legal Services

FY 06-07

	<u>Average Rate</u>	<u>Hours</u>	<u>Expense (7 months)</u>
General City Attorney Services (includes contract review, legal opinion, ordinance compliance issues and employment contracts.)	\$ 169	1,702	\$ 287,689 *
Developers agreements	\$ 211	413	\$ 87,200 *
Labor Negotiation/Arbitration/Grievance Services (includes MOU negotiation with the unions - MPOA, IAFF, MSA, MEA, ProTech, LIUNA-MMC and personnel grievances)	\$ 214	182	\$ 39,012 *
Legal Services - Public Works construction claims (includes Turner, RRM Design & Aztec, Albert V Witt Jr and Pacific Bell.)	\$ 214	3,145	\$ 672,972 **
Total		5,443	\$ 1,086,873

Note

* Amounts reflect invoices through January 2007
** Amounts reflect invoices through December 2006

MEMORANDUM

Department of the City Attorney



To: Thomas C. Williams, City Manager
Carmen Valdez, Human Resources Director

From: Steven T. Mattas, City Attorney and
Richard D. Pio Roda, Assistant City Attorney

Subject: Transmittal Memo: Comparison of Santa Clara County Cities' Legal Budgets

Date: March 21, 2007

At recent City Council and in prior City Attorney Subcommittee meetings, the City Council and Subcommittee reviewed issues associated with comparing in-house versus contract city attorney services. The Subcommittee did not make a recommendation, but did want to have the City Council consider information gathered to date by our office and City staff. This memo serves to convey additional information that we request be included in the packet to the City Council for consideration at the April 3, 2007 meeting. It will assist the City Council to compare what the City spends for legal services per capita versus the other cities in the County with populations over 30,000¹.

To recap, the City Manager, Directors of Human Resources and Finance in consultation with the Subcommittee, created documents showing cost estimates to staff an in-house City Attorneys office and the City's record summary of hours and costs. The City Attorney's office also submitted a memo addressed originally to the Finance Subcommittee describing in-house v. contract city attorney services and a summary of hours billed between December 2005 and November 2006.

The attached spreadsheet presents a comparison of the other Santa Clara County cities' populations versus those cities' approved legal budgets over the last two years. Our office generated separate columns to present a cost breakdown of legal dollars per capita. Milpitas' numbers are presented in bold below the chart for ease of reference.

Please contact me or Steve if you have any questions.

500.001/950954v1

¹ Population figures in the chart are from California Department of Finance estimates as of January 1, 2006.

MEMORANDUM

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Legal Services

FY 06-07

	<u>Average Rate</u>	<u>Hours</u>	<u>Expense (7 months)</u>
General City Attorney Services (includes contract review, legal opinion, ordinance compliance issues and employment contracts.)	\$ 169	1,702	\$ 287,689 *
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Note

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** Amounts reflect invoices through December 2006

Legal Budgets of County Cities with Populations over 30,000

City	Population*	2005-2006 Approved Budget	2005-2006 Legal Dollars per capita	2006-2007 Approved Budget	2006-2007 Legal Dollars per capita
Campbell	38,408	\$203,951.00	\$5.31	\$206,151.00	\$5.37
Cupertino	53,840	\$513,440.00	\$9.54	\$524,309.00	\$9.74
Gilroy	48,527	\$520,500.00	\$10.73	\$510,500.00	\$10.52
Morgan Hill	37,091	\$844,690.00	\$22.77	\$667,697.00	\$18.00
Mountain View	71,995	\$1,233,731.00	\$17.14	\$1,356,852.00	\$18.85
Palo Alto	62,148	\$2,143,767.00	\$34.49	\$1,715,911.00	\$27.61
San Jose	953,679	\$13,549,857.00	\$14.21	\$14,735,023.00	\$15.45
Santa Clara	110,771	\$1,122,955.00	\$10.14	\$1,067,050.00	\$9.63
Saratoga	30,835	\$396,800.00	\$12.87	\$421,400.00	\$13.67
Sunnyvale	133,544	\$1,356,189.00	\$10.16	\$2,756,489.00	\$20.64
			\$14.73		\$14.95

* Population figures are from CA Department of Finance estimates as of January 1, 2006

Milpitas	65,276	\$771,000	\$11.81	\$788,460	\$12.09
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**DRAFT CITY ATTORNEY SUBCOMMITTEE MEETING MINUTES
CITY OF MILPITAS**

Minutes of:	City Attorney Subcommittee Meeting
Date:	Friday, October 31, 2008
Time:	12:30 p.m.
Location:	First Floor Committee Room, Milpitas City Hall 455 E. Calaveras Boulevard, Milpitas, California
Submitted by:	City Attorney Michael Ogaz

Roll Call: 1. The meeting was called to order at 12:30 p.m. as scheduled. Present were Committee Members Althea Polanski and Debbie Giordano, and staff member City Attorney Michael Ogaz.

Agenda Approval: 2. Call for approval of the Agenda was made by Chairperson Polanski. A motion to approve the Agenda was made by Committee Member Giordano and concurred by Chairperson Polanski.

Closed Session: 3. The Subcommittee adjourned to closed session to discuss the employee performance evaluation of City Attorney Michael Ogaz. City Manager Tom Williams joined the closed session.

The Subcommittee returned from closed session with no report out, except to have the employee evaluation results summarized and brought back to the full Council in closed session at the second City Council meeting in November.

Public Forum: 4. Chairperson Polanski called the Public Forum agenda item and, noting that there were no members of the public present, moved to the next item.

City Attorney Contract Issues:

5. Chairperson Polanski called item number 5, City Attorney Contract Issues. City Attorney Ogaz indicated that the only contract change he was seeking was to be included in the City Council Appointee group entitled to have the employee PERS portion paid for by the City, now that he has served for one year.

Committee members voted to take the City Attorney's proposal with a favorable recommendation to the Council for approval at the second meeting in November.

Subcommittee Future Dates and Topics:

6. Chairperson Polanski called item number 6, Subcommittee Future Dates and Topics. City Attorney Ogaz asked whether there was a desire to meet on a quarterly or other regular basis. Chairperson Polanski said that meetings should be called on an "as needed" basis as they have been previously. Subcommittee Member Giordano concurred.

Attorney Ogaz asked whether the Subcommittee desired regular litigation updates or the like. The Subcommittee unanimously indicated that this was not necessary and that any such updates should be made to the entire City Council when needed.

Adjournment:

7. Nothing further being discussed, the meeting was adjourned at approximately 1:00 p.m.

Subcommittee Future Dates and Topics:

6. Chairperson Polanski called item number 6, Subcommittee Future Dates and Topics. City Attorney Ogaz asked whether there was a desire to meet on a quarterly or other regular basis. Chairperson Polanski said that meetings should be called on an "as needed" basis as they have been previously. Subcommittee Member Giordano concurred.

Attorney Ogaz asked whether the Subcommittee desired regular litigation updates or the like. The Subcommittee unanimously indicated that this was not necessary and that any such updates should be made to the entire City Council when needed.

Adjournment:

7. Nothing further being discussed, the meeting was adjourned at approximately 1:00 p.m.

**DRAFT CITY ATTORNEY SUBCOMMITTEE MEETING MINUTES
CITY OF MILPITAS**

Minutes of: City Attorney Subcommittee Meeting
Date: Friday, October 31, 2008
Time: 12:30 p.m.
Location: First Floor Committee Room, Milpitas City Hall
455 E. Calaveras Boulevard, Milpitas, California
Submitted by: City Attorney Michael Ogaz

Roll Call: 1. The meeting was called to order at 12:30 p.m. as scheduled. Present were Committee Members Althea Polanski and Debbie Giordano, and staff member City Attorney Michael Ogaz.

Agenda Approval: 2. Call for approval of the Agenda was made by Chairperson Polanski. A motion to approve the Agenda was made by Committee Member Giordano and concurred by Chairperson Polanski.

Closed Session: 3. The Subcommittee adjourned to closed session to discuss the employee performance evaluation of City Attorney Michael Ogaz. City Manager Tom Williams joined the closed session.

The Subcommittee returned from closed session with no report out, except to have the employee evaluation results summarized and brought back to the full Council in closed session at the second City Council meeting in November.

Public Forum: 4. Chairperson Polanski called the Public Forum agenda item and, noting that there were no members of the public present, moved to the next item.

City Attorney Contract Issues:

5. Chairperson Polanski called item number 5, City Attorney Contract Issues. City Attorney Ogaz indicated that the only contract change he was seeking was to be included in the City Council Appointee group entitled to have the employee PERS portion paid for by the City, now that he has served for one year.

Committee members voted to take the City Attorney's proposal with a favorable recommendation to the Council for approval at the second meeting in November.

CITY ATTORNEY SUBCOMMITTEE MEETING MINUTES
CITY OF MILPITAS

Minutes of: City Attorney Subcommittee Meeting Minutes
Date: Thursday, April 12, 2007
Time: 5:00 PM
Location: 1st Floor Committee Room
Milpitas City Hall
455 E. Calaveras Blvd.

- Roll Call:
1. The meeting was called to order at 5:05 p.m. with Councilmember Polanski present. Staff present were Steve Mattas, Tom Williams and Carmen Valdez. Councilmember Giordano arrived at approximately 5:10 p.m.
 2. There were no changes to the Agenda
 3. There were no public comments during Public Forum
 4. Staff handed out a "Draft" City Attorney job announcement. There was discussion on what to include and not include on the announcement. The subcommittee agreed to the recommended changes to the announcement. There was discussion on the salary. The subcommittee had agreement on the recommended salary of \$184,299. This was the salary that was presented at the City Council Meeting of April 3, 2007.
 5. The timeline and the process was also discussed. The anticipated start date of a new City Attorney is September 2007. The approved timeline is:

First Week of June 4 – Resumes Due
Week of June 11 – Screening of Resumes
Week of June 25 – Initial Interviews with Subcommittee and Attorney Panel
August 8-10 – City Council Final Interviews
August 21 – Selection Made
Week of Sept 4 – Desired Start Date

At this time Isaac Hughes, resident requested copies of all notes and handouts from the meeting. Staff will prepare a packet for him. He also went into discussion on a background check on the applicant and how the City will be looking into any kind of reprimands and or discipline that the potential candidate might have been involved in. He made comments on the salary and benefits.

Staff reported that a complete background check will be part of the recruitment process.

The next subcommittee meeting will be to discuss retaining counsel services for specialized items until the replacement of the new City Attorney. A date was not determined at this meeting.

Adjournment: The meeting adjourned at 5:40 pm

Staff reported that a complete background check will be part of the recruitment process.

The next subcommittee meeting will be to discuss retaining counsel services for specialized items until the replacement of the new City Attorney. A date was not determined at this meeting.

Adjournment: The meeting adjourned at 5:40 pm

CITY ATTORNEY SUBCOMMITTEE MEETING MINUTES
CITY OF MILPITAS

Minutes of: City Attorney Subcommittee Meeting Minutes
Date: Thursday, April 12, 2007
Time: 5:00 PM
Location: 1st Floor Committee Room
Milpitas City Hall
455 E. Calaveras Blvd.

- Roll Call:
1. The meeting was called to order at 5:05 p.m. with Councilmember Polanski present. Staff present were Steve Mattas, Tom Williams and Carmen Valdez. Councilmember Giordano arrived at approximately 5:10 p.m.
 2. There were no changes to the Agenda
 3. There were no public comments during Public Forum
 4. Staff handed out a "Draft" City Attorney job announcement. There was discussion on what to include and not include on the announcement. The subcommittee agreed to the recommended changes to the announcement. There was discussion on the salary. The sub committee had agreement on the recommended salary of \$184,299. This was the salary that was presented at the City Council Meeting of April 3, 2007.
 5. The timeline and the process was also discussed. The anticipated start date of a new City Attorney is September 2007. The approved timeline is:

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At this time Isaac Hughes, resident requested copies of all notes and handouts from the meeting. Staff will prepare a packet for him. He also went into discussion on a background check on the applicant and how the City will be looking into any kind of reprimands and or discipline that the potential candidate might have been involved in. He made comments on the salary and benefits.

**CITY ATTORNEY SUBCOMMITTEE MEETING MINUTES
CITY OF MILPITAS**

Minutes of: City Attorney Subcommittee Meeting Minutes
Date: Tuesday, December 12, 2006
Time: 4:30 PM (4th Floor Conference Room)
Location: 4th Floor Conference Room
Milpitas City Hall
455 East Calaveras Blvd.

ROLL CALL

The meeting was called to order at 4:30 p.m. with Councilmembers Polanski and Giordano present. The staff present initially included Steve Mattas. There were no public comments provided

1. With regards to the agenda items the Subcommittee considered agenda items 4, 5, & 6 but did not consider agenda item no. 7.
2. With regards to agenda item no. 4 titled "Consideration of City Manager Contract Terms", the Subcommittee received a report from City Attorney Steve Mattas regarding the draft contract and amendments recommended by Mr. Williams. Specifically those amended terms dealt with the term of the agreement, the severance provision and the possible addition of a provision relating to the City providing a vehicle for City use by Mr. Williams. The Subcommittee provided direction on these issues to the City Attorney and also provided direction regarding a proposed compensation amount payable to Mr. Williams.
3. With regards to item no. 6, items from subcommittee, the City Attorney advised the Subcommittee of an agenda item on the 12/19/06 City Council Agenda requesting additional funds for public works litigation related to the City Hall litigation. The Subcommittee received the information and understood that it was being presented to the City Council for its consideration.
4. With regards to item no. 5, the City Attorney exited the meeting and the City Manager, Director of Finance and Human Resources Director met with the Subcommittee to present their report on the review of in-house versus outside counsel costs comparisons. The Subcommittee has requested additional data from the Finance Director and City Attorney relative to attorney costs and hours.

The next City Attorney Subcommittee meeting will be scheduled within 30 days. The Subcommittee adjourned the meeting at 5:15 pm.

**CITY ATTORNEY SUBCOMMITTEE MEETING MINUTES
CITY OF MILPITAS**

Minutes of: City Attorney Subcommittee Meeting Minutes
Date: Tuesday, May 9, 2006
Time: 5:00 PM (City Manager's Conference Room)
Location: City Manager's Conference Room
Milpitas City Hall
455 East Calaveras Blvd.

ROLL CALL

The meeting was called to order at 5:00 p.m. with Councilmember Polanski, Steve Mattas and Charles Lawson present. Councilmember Giordano joined the meeting at 5:03.

1. Steve Mattas provided an update on the status of expenses for fiscal year 2005-2006. Steve indicated that the City Attorney's office would maintain expenditures within the 95% budget target established by the City Council and City Manager. He further indicated that to meet the target the City would have to monitor closely legal expenses for the remainder for the fiscal year. Steve also mentioned that the two litigation matters involving *Milpitas v. San Jose* (CEQA challenge) and *Nelson v. Milpitas* (challenge to the fire inspection fee amount) were funded through the general legal services allocation as opposed to separate litigation funding. Finally, Steve mentioned that the year to date costs for arbitration/grievances/PERB hearings was approximately \$18,000 out of a \$100,000 budget for the fiscal year.

2. Steve advised the subcommittee of an outstanding invoice for labor negotiation services provided in fiscal year 2004-2005. The specific negotiations involved the LIUNA contract. The original amount for the services was \$36,000 on a fixed fee basis. The actual costs incurred were approximately \$25,000. Given the delay in submission of the invoice, Steve requested that the subcommittee authorize settlement of the invoice for a total amount of \$18,000. The Subcommittee approved the request. There is existing purchase order authority to pay the invoice.

CLOSED SESSION:

3. The subcommittee then entered into closed session to discuss the following items:
- a. Public Employee Appointment and Performance Evaluation;
 - b. Conference with Legal Counsel – Existing Litigation (*Preston Pipeline v. City of Milpitas*);
 - c. Conference with Legal Counsel – Existing Litigation (*Sowards v. City of Milpitas, Milpitas Police Department, et al.*).

The Subcommittee came out of the closed session at 5:40 pm. The Subcommittee, in concurrence with the recommendation of the City Attorney, requested that the City Attorney's evaluation be scheduled. The Subcommittee also requested that the City Manager distribute an evaluation form related to City Attorney services to all department heads and that a summary of the results be presented to the Subcommittee and then ultimately to the City Council. There were no additional closed session announcements.

**CITY ATTORNEY SUBCOMMITTEE MEETING MINUTES
CITY OF MILPITAS**

Minutes of: City Attorney Subcommittee Meeting Minutes
Date: Tuesday, May 9, 2006
Time: 5:00 PM (City Manager's Conference Room)
Location: City Manager's Conference Room
Milpitas City Hall
455 East Calaveras Blvd.

ROLL CALL

The meeting was called to order at 5:00 p.m. with Councilmember Polanski, Steve Mattas and Charles Lawson present. Councilmember Giordano joined the meeting at 5:03.

1. Steve Mattas provided an update on the status of expenses for fiscal year 2005-2006. Steve indicated that the City Attorney's office would maintain expenditures within the 95% budget target established by the City Council and City Manager. He further indicated that to meet the target the City would have to monitor closely legal expenses for the remainder for the fiscal year. Steve also mentioned that the two litigation matters involving *Milpitas v. San Jose* (CEQA challenge) and *Nelson v. Milpitas* (challenge to the fire inspection fee amount) were funded through the general legal services allocation as opposed to separate litigation funding. Finally, Steve mentioned that the year to date costs for arbitration/grievances/PERB hearings was approximately \$18,000 out of a \$100,000 budget for the fiscal year.
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**CITY ATTORNEY SUBCOMMITTEE MEETING MINUTES
CITY OF MILPITAS**

Minutes of: City Attorney Subcommittee Meeting Minutes
Date: Tuesday, December 12, 2006
Time: 4:30 PM (4th Floor Conference Room)
Location: 4th Floor Conference Room
Milpitas City Hall
455 East Calaveras Blvd.

ROLL CALL

The meeting was called to order at 4:30 p.m. with Councilmembers Polanski and Giordano present. The staff present initially included Steve Mattas. There were no public comments provided

1. With regards to the agenda items the Subcommittee considered agenda items 4, 5, & 6 but did not consider agenda item no. 7.
2. With regards to agenda item no. 4 titled "Consideration of City Manager Contract Terms", the Subcommittee received a report from City Attorney Steve Mattas regarding the draft contract and amendments recommended by Mr. Williams. Specifically those amended terms dealt with the term of the agreement, the severance provision and the possible addition of a provision relating to the City providing a vehicle for City use by Mr. Williams. The Subcommittee provided direction on these issues to the City Attorney and also provided direction regarding a proposed compensation amount payable to Mr. Williams.
3. With regards to item no. 6, items from subcommittee, the City Attorney advised the Subcommittee of an agenda item on the 12/19/06 City Council Agenda requesting additional funds for public works litigation related to the City Hall litigation. The Subcommittee received the information and understood that it was being presented to the City Council for its consideration.
4. With regards to item no. 5, the City Attorney exited the meeting and the City Manager, Director of Finance and Human Resources Director met with the Subcommittee to present their report on the review of in-house versus outside counsel costs comparisons. The Subcommittee has requested additional data from the Finance Director and City Attorney relative to attorney costs and hours.

The next City Attorney Subcommittee meeting will be scheduled within 30 days. The Subcommittee adjourned the meeting at 5:15 pm.

File
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City of Milpitas

Minutes

City Council/City Attorney Subcommittee Meeting
July 22, 2005

The meeting convened at 11:05 a.m. with Steve Mattas, Althea Polanski, and Debbie Giardano present. Charles Lawson joined the meeting at 11:30 a.m.

1. The first item on the agenda involved the City Attorney contract amendment. Mattas summarized prior contract proposal. Giardano expressed satisfaction with the work that the City Attorney's office had done and thought that the suggested increases were merited. However, she also thought that given the City's economic condition it might be appropriate to hold off on the amendment until the next fiscal year. Mattas responded that based on the fact that there had been no amendment to the general services contract for four years, and no amendment for cost recovery for two years, he felt that it was appropriate to proceed with some level of adjustment during this fiscal year. Polanski noted that Mattas and the City Attorney's office had previously come to the City Council and held back on contract adjustments to be able to deal with some of the economic issues that were facing the city. After further discussion, the two City Attorney subcommittee members agreed to a process whereby the rates would be increased 4% as of January 1, 2006, and then 2% additional as of July 1, 2006 and 2% additional as of January 1, 2007.

2. The subcommittee then went into closed session regarding *City of Milpitas v. Centerpoint Associates*. At the conclusion of the closed session there were no announcements made. The meeting adjourned at 11:35 a.m.

Submitted by City Attorney
Steve Mattas
7/28/05



MILPITAS CITY COUNCIL MEETING AGENDA
NOVEMBER 18, 2008

6:30 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD

EXCERPT

XVIII. RESOLUTIONS

- * 8. Adopt a Resolution Deleting Time-in-Grade Benefit Exception Applicable to City Attorney
(Staff Contact: Michael Ogaz, 586-3041)

Background: Currently the benefit group consisting of the City Council and its directly appointed personnel, i.e., the City Manager and City Attorney, are entitled to have their PERS employee contribution paid by the City. It was determined, however, that the City Attorney should not receive that benefit until he had received his first yearly review, if appropriate. At this time, the City Attorney has had his one year review before the City Council in closed session and the City Attorney Subcommittee has considered in its open session meeting of October 31, 2008, City Attorney compensation issues. With successful completion of his first year as City Attorney, the Subcommittee recommends eliminating the restriction and providing the City Attorney with the PERS benefit allowed to other direct Council appointees.

Fiscal Impact: None. Cost differential will be absorbed within the existing City Attorney Department budget.

The City Attorney Subcommittee makes the following recommendation:

Recommendation: Adopt a Resolution deleting the time-in-grade benefit exception applicable to the City Attorney.

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, December 11, 2007
Time: 6:30 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

13. Resolution Amending City of Milpitas Classification Plans for the City Attorney's Office

Adopted Resolution No. 7724 amending the City of Milpitas Classification Plan to add four new job classifications with the salary ranges noted below for the City Attorney's Office staff.

<u>Title</u>	<u>Proposed Salary Range:</u>
Assistant City Attorney	\$129,993.00 - \$158,007.00
Deputy City Attorney	\$102,527.00 - \$124,622.00
Paralegal	\$63,069.00 - \$76,661.00
Legal Assistant	\$62,604.00 - \$76,095.00

The foregoing minutes were approved by the Milpitas City Council as submitted on January 15, 2008.

Mary Lavelle
City Clerk



MILPITAS CITY COUNCIL MEETING AGENDA
DECEMBER 11, 2007

6:30 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD

EXCERPT

- * 13. **Adopt Resolution Amending City of Milpitas Classification Plans for the City Attorney's Office (Staff Contact: Mike Ogaz, 586-3040)**

Background: Periodically, amendments to the Classification Plan are required to account for organizational changes, equity adjustments to salary ranges, and the development of new classifications. The following proposed changes are the result of organizational changes/additions within the City Attorney's Office. On April 3, 2007, the City Council directed staff to move forward with in-house legal services versus contract services.

The City Attorney commenced in-house legal service on October 15, 2007 and now recommends creation of the following classifications in order to establish a full service City Attorney's Office. The current plan is to hire two persons this fiscal year, and then a third next fiscal year with full staffing to occur before the end of October 2008. While this plan contemplates adding only a total of three positions, four classifications are recommended for addition to allow for flexibility in implementation. The outline of this staffing plan was brought before the City Attorney Subcommittee for discussion in November.

The recommended classifications are:

<u>Title</u>	<u>Proposed Salary Range</u>
Assistant City Attorney	\$129,993.00 - \$158,007.00
Deputy City Attorney	\$102,527.00 - \$124,622.00
Paralegal	\$63,069.00 - \$76,661.00
Legal Assistant	\$62,604.00 - \$76,095.00

Included in the Council packet are the newly created job specifications and the salary ranges for each for City Council review.

Fiscal Impact: Annual fiscal impact including salaries and benefits is approximately \$561,089. Funding necessary for staffing for Fiscal Year 2007-08 is available in the City Attorney's budget.

Recommendation: Adopt a resolution amending the City of Milpitas Classification Plan to add the new classifications with the proposed recommended salary ranges listed for the City Attorney's Office staff.



MILPITAS CITY COUNCIL MEETING AGENDA
DECEMBER 11, 2007

6:30 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD

EXCERPT

- * 13. **Adopt Resolution Amending City of Milpitas Classification Plans for the City Attorney's Office (Staff Contact: Mike Ogaz, 586-3040)**

Background: Periodically, amendments to the Classification Plan are required to account for organizational changes, equity adjustments to salary ranges, and the development of new classifications. The following proposed changes are the result of organizational changes/additions within the City Attorney's Office. On April 3, 2007, the City Council directed staff to move forward with in-house legal services versus contract services.

The City Attorney commenced in-house legal service on October 15, 2007 and now recommends creation of the following classifications in order to establish a full service City Attorney's Office. The current plan is to hire two persons this fiscal year, and then a third next fiscal year with full staffing to occur before the end of October 2008. While this plan contemplates adding only a total of three positions, four classifications are recommended for addition to allow for flexibility in implementation. The outline of this staffing plan was brought before the City Attorney Subcommittee for discussion in November.

The recommended classifications are:

<u>Title</u>	<u>Proposed Salary Range</u>
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Paralegal	\$63,069.00 - \$76,661.00
Legal Assistant	\$62,604.00 - \$76,095.00

Included in the Council packet are the newly created job specifications and the salary ranges for each for City Council review.

Fiscal Impact: Annual fiscal impact including salaries and benefits is approximately \$561,089. Funding necessary for staffing for Fiscal Year 2007-08 is available in the City Attorney's budget.

Recommendation: Adopt a resolution amending the City of Milpitas Classification Plan to add the new classifications with the proposed recommended salary ranges listed for the City Attorney's Office staff.



MILPITAS CITY COUNCIL MEETING AGENDA
OCTOBER 2, 2007

6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD

EXCERPT

11. **Consideration of Appointment of City Attorney (including announcement from Closed Session), and Terms and Contract for City Attorney (Staff Contact: Steve Mattas, 586-3040)**

Background: Under the City's Open Government Ordinance, consideration of contract terms related to compensation for the City Manager and City Attorney's contracts must be discussed and decided upon by the City Council in open session. This agenda item relates to the contract for the new in-house City Attorney.

Recommendation: It is recommended that the City Council review and consider the proposed City Attorney's contract terms and direct staff to make changes, if any.

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, October 2, 2007
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

BIDS AND CONTRACTS

11. Contract for City Attorney Appointment

This item was heard early during the meeting (just after Consent Calendar).

Mayor Esteves first announced from the Closed Session, that the City Council on a 5-0 unanimous vote, voted to appoint the City Attorney candidate, subject to the discussion at this point in Open Session.

City Manager Tom Williams stated that the Human Resources Director and the current City Attorney were ready to answer questions from the Council. Councilmember Polanski spoke on behalf of the City Attorney Subcommittee which met about the contract terms and were unanimous in the offer of contract terms. She asked that staff go over the terms of the contract.

Mr. Mattas explained it was a contract with Michael Ogaz, similar to the current contract arranged for hire of the City Manager. He would start work on October 15, with benefits that the senior management group received and a provision for professional training. Mr. Ogaz was present in the audience, he noted.

Ms. Polanski read aloud from the contract that the annual salary would be \$180,000, receive 2.7% at age 55 PERS retirement, a City pool car would be made available for City business, the City Council would review his performance annually, vacation and leave package equivalent to the executive management staff, long term disability insurance provided, and he would serve as an at-will employee reporting to the City Council, with terms for severance if terminated.

Councilmember Giordano reported that the City had spent many months on this. It started with an extensive recruitment handled very well by HR Director Carmen Valdez. Then, a pre-screening and interview process was completed, assisted by the Fire Chief and two City Attorneys, followed by a long interview process of the finalists. She was very happy with the person who was selected and hoped the Council would support the contract and award it to Mr. Ogaz.

Vice Mayor Livengood stated his satisfaction with the process used, and with the choice made for the City. He complimented Carmen Valdez and the City Attorney Subcommittee members for their work in bringing the finalist to the Council.

(1) Motion: to approve the contract for City Attorney, and to adopt Resolution No. 7706 Approving the Agreement for the Employment of City Attorney and General Counsel of the Redevelopment Agency between the City of Milpitas and Michael J. Ogaz

Motion/second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of:

AYES: 5

NOES: 0



MILPITAS CITY COUNCIL MEETING AGENDA
OCTOBER 2, 2007

6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD

EXCERPT

11. Consideration of Appointment of City Attorney (including announcement from Closed Session), and Terms and Contract for City Attorney (Staff Contact: Steve Mattas, 586-3040)

Background: Under the City's Open Government Ordinance, consideration of contract terms related to compensation for the City Manager and City Attorney's contracts must be discussed and decided upon by the City Council in open session. This agenda item relates to the contract for the new in-house City Attorney.

Recommendation: It is recommended that the City Council review and consider the proposed City Attorney's contract terms and direct staff to make changes, if any.



MILPITAS CITY COUNCIL MEETING AGENDA
MAY 1, 2007

6:30 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD

EXCERPT

* 11. Update on City Attorney Recruitment (Staff Contact: Carmen Valdez, 586-3086)

Background: On April 12, 2007 the City Attorney subcommittee met to discuss the recruitment of the City Attorney. Staff presented to the subcommittee a “draft” announcement which included the timeline and the process. The approved timeline is:

- Week of June 4 – Resumes Due
- Week of June 11 – Screening of Resumes
- Week of June 25 – Initial interviews with City Attorney Subcommittee and attorney panel
- August 8-10 – City Council Final Interviews
- August 21 – Selection Made
- Week of September 4 - Desired Start Date

Staff is working on the brochure and will advertise in *Western City* magazine along with various other agencies.

Recommendation: Receive staff report on the recruitment process to date.

**MEETING MINUTES (EXCERPT)
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, May 1, 2007
Time: 6:30 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

* 11. City Attorney Recruitment Received staff report on the recruitment process to date.

The foregoing minutes were approved by the Milpitas City Council as submitted on May 17, 2007.

Mary Lavelle
City Clerk

**MEETING MINUTES (EXCERPT)
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, May 1, 2007
Time: 6:30 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

* 11. City Attorney Recruitment Received staff report on the recruitment process to date.

The foregoing minutes were approved by the Milpitas City Council as submitted on May 17, 2007.

Mary Lavelle
City Clerk



MILPITAS CITY COUNCIL MEETING AGENDA
MAY 1, 2007

6:30 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD

EXCERPT

* 11. Update on City Attorney Recruitment (Staff Contact: Carmen Valdez, 586-3086)

Background: On April 12, 2007 the City Attorney subcommittee met to discuss the recruitment of the City Attorney. Staff presented to the subcommittee a “draft” announcement which included the timeline and the process. The approved timeline is:

- Week of June 4 – Resumes Due
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- August 8-10 – City Council Final Interviews
- August 21 – Selection Made
- Week of September 4 - Desired Start Date

Staff is working on the brochure and will advertise in *Western City* magazine along with various other agencies.

Recommendation: Receive staff report on the recruitment process to date.

**MEETING MINUTES (EXCERPT)
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, April 3, 2007
Time: 7:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

NEW BUSINESS

5. Analysis/Comparison of City Attorney Services

Human Resources Director Carmen Valdez reviewed the staff report to Council. She provided a salary comparison for City Attorneys from eight local cities of comparable size (while 102 cities were surveyed by staff, in total).

Councilmember Giordano reviewed this topic previously in two subcommittee meetings. Last year, the Finance Subcommittee point of view was how the City could save money on costs for legal services. It was not clear that there were cost savings. The key was the average dollar/hour of \$200/hour for contract services versus the \$65.26 average hourly rate for (in-house) one City Attorney, two Assistant City Attorneys, and one secretary. Ms. Giordano was clear that the City's current contract legal firm of Meyers, Nave received excellent top ratings on its service in past employee evaluations.

Councilmember Polanski commented that upon review, the City Council must look philosophically at the question of the expertise of a contract law firm versus the services of one in-house, less expensive, attorney. Her view was that the City did not have any reason to change at this time.

Mayor Esteves expressed that he had not heard the real reason why this matter was coming forward or what initiated it.

Councilmember Giordano responded to him that the Finance Subcommittee reviewed the costs, and the City Attorney Subcommittee discussed service delivery. The Mayor then asked what was the expected action at the meeting. Councilmember Giordano was asking for guidance and direction from the City Council, as there was a split on the issue at the Subcommittee level.

Councilmember Gomez clarified that this topic was triggered at budget discussion time last year, when the Finance Subcommittee was looking at cost saving measures.

Mayor Esteves believed that an in-house attorney would not be as experienced as a contracted law firm. Without large litigation costs in the past year, the base budget was \$413,000 and the actual was compared to the previous year's costs, plus special litigation expenses. The Mayor did not see any economic advantage and felt the level of service was very good from the current City Attorney.

Councilmember Polanski was favorable to the variety of expertise available from a contracted firm, such as Meyers, Nave and did not want to offer any motion to initiate a change in City Attorney services.

The Mayor invited audience members to address the City Council.

Speakers:

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**MILPITAS CITY COUNCIL MEETING AGENDA
APRIL 3, 2007**

**6:30 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

EXCERPT

XVII. NEW BUSINESS

5. Analysis and Comparison of an Internal Attorney Group Versus Contract City Attorney Services (Staff Contact: Tom Williams, 586-3050, and Carmen Valdez, 586-3086)

Background: The City Council requested that staff prepare an analysis comparing the costs, including benefits, of in-house City Attorney staff versus contracting for City Attorney services. The City Attorney Subcommittee has met and discussed these alternatives along with their associated costs and benefits on several occasions but has not made a recommendation.

Staff obtained information from other agencies and the law firm Meyers Nave, then created a report comparing the total estimated costs of an internal staff for the City Attorney's office versus contracting out those services. Included in the City Council agenda packet are the reports detailing the results of the analysis along with the report created by Meyers Nave.

The projected cost to staff the City's attorney's office with internal staff is approximately \$687,338. This includes:

<u>Classification</u>	<u>Salary & Benefits</u>
1 FTE - City Attorney	\$228,446
2 FTE - Assistant City Attorney (\$173,590 x 2)	\$347,180
1 FTE - Secretary	<u>\$111,712</u>
Total	\$687,338

The current contract attorney base budget for FY 06-07 is \$616,420. The base budget includes expenses for general City Attorney and Redevelopment Agency legal services including contract reviews, legal opinions, ordinance and resolution preparation, and review, development cost recovery, code compliance issues, and general legal assistance to the City Council, Commissions and staff. In addition, the City Attorney's department approved 2006-2007 budget includes \$100,000 for labor arbitration and grievance hearings and \$70,000 for labor negotiation services, resulting in a total department base budget of \$788,460 excluding unexpected litigation costs and construction claims.

The following table provides a summary of the cost incurred through January 2007.

<u>Legal Services</u>	<u>FY 06-07</u>		
	<u>Average</u>	<u>Hours</u>	<u>Expense</u>
	<u>Rate</u>		(7 Months)
General City Attorney Services	\$169	1,702	\$287,689 *
(includes contract review, legal opinion, ordinance compliance issues and employment contracts)			

Developers agreements (cost recoverable by applicant)	\$211	413	\$87,200	*
Labor Negotiation/Arbitration/Grievance Services (includes MOU negotiation with the unions, MPOA, IAFF, MSA, MEA, ProTech, LIUNA, MMC and personnel grievances)	\$214	182	\$39,012	*
(Base Budget=\$788,460) Subtotal			\$413,901	
Legal Services – Public Works construction claims (includes Turner, RRM Design & Aztec, Albert V Witt Jr. and Pacific Bell)	\$214	3,145	\$672,972	**
Grand Total		5,443	\$1,086,873	

* Amounts reflect invoices through January 2007

** Amounts reflect invoices through December 2006

The City Attorney Subcommittee is requesting that the City Council consider the information gathered by staff as well as the data prepared by the staff from Meyers Nave and provide additional direction to staff.

Recommendation: Discuss the information provided by City staff and by Meyers Nave; then, provide direction to staff on the matter of City Attorney services.

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