

TAB 4

Point Paper
May 5, 2008 Workshop
Commission and City Attorney Lines of Communication

Problem:

The process and procedures regarding research requests and assignments between the Commission and City attorney needs to be clarified.

Background:

There has been much discussion between the Commission, Mayor and Staff regarding the process to assign or request legal research by the City Attorney. Historically, items that need to be researched by the City Attorney are discussed as part of a Commission meeting and a decision is made as to whether or not the City attorney should proceed with a particular research request. Generally speaking, if an item is discussed and none of the Commissioners object, the research is performed and the results are given to Commission. More recently, the City Attorney has received requests from individual Commissioners via one-on-one conversation. In some cases, the individual request from each Commissioner has been about the same topic. In other cases, only one Commissioner has had a concern about a particular issue that is important to them. In order to ensure proper utilization and prioritization of the City Attorney's time, additional clarification is needed regarding the process to request and assign legal work.

The City Charter states in Section 15: "The executive power [of the mayor] shall extend to management of the day-to-day operations of the City." In Section 16 of the Charter it states: "The Mayor shall have direct supervision over all appointed officials of the City..." The City Code, Chapter 2, Administration, §2-2, Appointed Officers, lists the City Attorney as one of four appointed officers. So, from a management standpoint, it is clear that the City Attorney, as one of the four appointed officers, takes direction from the Mayor. Accordingly, it would be improper for individual commissioners to direct the actions of the City Attorney. Nevertheless, the right of the commission to be informed suggests that individual commissioners should be able to communicate directly with the City Attorney and obtain information. In a situation wherein the City Attorney receives a telephonic, email or verbal request from three or more commissioners to undertake a study or render a legal opinion on a particular subject, it would be essentially the same as if they were in a commission meeting and by consensus asked for such support. This appears to be consistent with the intention of the Charter and City Ordinances.

Alternatives:

1. Acknowledge and adopt the above guidelines as standard procedures for obtaining legal research requests
2. Do nothing

Recommendation:

- Alternative #1

Budget Impact: None