

AGENDA

SPECIAL MEETING

November 15, 2019

Noon

UPSTAIRS CONFERENCE ROOM

313 COURT STREET

THE DALLES, OREGON

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. APPROVAL OF AGENDA
4. DISCUSSION
 - A. Legal Services Options
5. ADJOURN

This meeting conducted in a handicap accessible room.

Prepared by/
Izetta Grossman, CMC
City Clerk



AGENDA STAFF REPORT

Special Meeting

MEETING DATE: November 15, 2019

TO: Honorable Mayor and City Council

FROM: Daniel Hunter, Human Resources Director

ISSUE: City Legal Service Options

BACKGROUND: In January the current City Attorney, Gene Parker, notified Council of his intent to retire effective February 2020. Starting in July the City began its recruitment process for impending City Attorney vacancy. The result of that recruitment was three candidates to interview. One candidate withdrew before interviews started and the preferred candidate withdrew following initial offer.

BUDGET IMPLICATIONS: The budget implications for a contracted firm will depend heavily on the fee charged for billable hours, the number of billable hours in any one year and any associate costs for travel if needed. Information provided by other Cities indicates a contracted legal service firm would be less expensive than an employee. Each Department's portion of the overall costs of legal services will need to be evaluated based on who has access to the firm and their projected annual billable hours.

No change in budget is anticipated with a City Attorney employee.

COMPAIRING OPTIONS:

Contract for Service

If Council decided to issue a Request for Proposals (RFP) from legal firms, the following pros and cons have been identified.

Pro

The City would likely have legal assistance far more rapidly than recruiting to fill an employee position.

It is possible that the City would receive interest from multiple firms.

It is likely that our Worker's Compensation Premium we be reduced slightly due to few employee hours.

Total annual costs for contracted legal services may see a modest decrease. Additionally, outside Counsel may eliminate the need for other legal personnel on staff at the City, thus reducing operating costs further.

Con

There is likely to be more limited attorney access for Council and staff.

There is a greater potential for conflicts of interest between the firm and elected officials, as well as the firm and others whom the City may be in a legal dispute with.

There is a potential for a lack of consistency from one attorney to another and who is working on which issues and who is ultimately providing the legal recommendation. This also highlights a lack of control over legal personnel who are working with the City and for the firm.

Contracted legal services may necessitate a reorganization of the City Legal Department and the elimination of current legal staff positions.

There would need to be a revision of existing policies and creation of new policies dealing with who could access the attorney and when. These policies would need to take into account rights and responsibilities with regard to "whistle blower" protection.

City Attorney Employee

If Council decided to re-advertise to fill the employee position for City Attorney, the following pros and cons have been identified.

Pro

There would be no change in City operations or budget.

There would likely be greater access for City Council and staff vs a contract firm.

No immediate need for reorganization of City Legal Department responsibilities or staffing.

Con

The recruitment process for an employee is likely to be longer than that of an RFP process.

Due to the special qualifications for Attorneys in general and the lower number of people in the labor pool due to "baby boomer" retirements, the available qualified candidate pool is low.

Although it depends on a number of factors that have yet to be determined, an

employee is likely to cost the City more annually than a legal firm on contract.

RFP OPTIONS:

If the Council decides the City should issue an RFP for legal services, the City could look only at local firms or look state wide. Ultimately hiring a firm outside the local area would likely eliminate any conflict of interest issues that may occur with a local firm. Doing so is likely to increase the costs of those services due to travel and accommodations. If the Council decided to issue an RFP it is unlikely the City and Firm select would have an agreement in place by the end of December.

EMPLOYEE RECRUITMENT OPTIONS:

If the Council decides to advertise for a City Attorney employee, the Council could choose to modify the minimum qualifications to capture a large recruiting pool. In that event, I do not recommend going below three-years of experience in Criminal or Administrative Law. This will help mitigate the labor pool issues identified above. The recruitment could also be abbreviated from the previous process by tightening up the schedule, recruitment length and desired start date. In doing so, it is still not likely the City could complete the process by the end of December.

OTHER OPTIONS:

While the Council could choose to concurrently recruit for an employee and issue a RFP, it is not recommended. Doing so is likely to create confusion and lead to unrealized expectations on the part of applicants and RFP responders.

The City Council could hire a full time City Attorney Pro Tem. Doing so would allow staff more time to recruit for an employee.