




DATE: August 18, 2025

TO: Honorable Mayor and Members of the City Commission

FROM: Jennifer Merino, City Attorney 

SUBJECT: City Attorney Annual Evaluation 2024-25

As you know, I have been directed by contract to place my annual evaluation on the agenda every August. In accordance with feedback I received in the past, I am providing this memorandum and will be available to any member of the commission that wishes to meet to have a personal discussion to discuss the below in more detail. Per your prior instructions, I've placed my evaluation on the consent agenda and no action is required. Any commissioner may pull the item to discuss at the meeting if desired.

It has been a very busy year. In the past 12 months my office has received 481 internal service requests from other departments, up from 430 requests in the prior year. These are requests for review and preparation of agenda items, drafting and review of contracts, contract execution, legal questions, and departmental special projects.

I review each and every one of these requests, read every cover memo and consistently go beyond to help administration achieve their goals. For example, the commission recently approved the Remediation Settlement agreement regarding the water meters purchased by the City prior to my tenure. During my review of the initially proposed agreement I found that there was a major disconnect between what staff wanted to achieve and the agreement that was proposed. The agreement being proposed would have cost the City more money than the Vendor, waived the City's legal rights and left us in a warranty limbo that would have prevented the City from truly moving on from the past issues. I personally took the lead to negotiate the final agreement (of course, with the incredible assistance of the Public Works and Finance teams). Although due to the complexity of the deal it took us nearly a year to get the vendor to agree, the change in the business terms that we were able to negotiate resulted in an additional value to the City of approximately \$200,000 from the agreement staff had initially submitted to me. It also resulted in a more efficient conclusion to allow the City to truly move on from the past deal and better legal protections.

The increase in year-over-year requests reflects how busy administration has been, and all of the work of the 15+ departments/divisions/offices, filters through us. Admittedly, the increase

in requests has resulted in longer turn-around times than those I would consider ideal. Our system does not provide a way to measure turn-around times relative to request complexity (some take an hour of work, some take hundreds of hours), but I can personally see that the pending to-do list has remained at a higher level than we have historically managed. Historically the pending list has hovered at 40-60, while currently it is hovering from 55-75. However, we continue to successfully manage items by triaging in order of importance relative to consequences. For example, if an item needs to be turned around in one day because it will result in grant money loss, we will bump that up immediately, even on a weekend. On the other hand, an item involving a legal question for an infrequently occurring issue, or an issue that will not arise until a certain set time, will be considered lowest importance.

I can proudly say that this approach has kept us agile and responsive to the needs of the City and has absolutely helped the City avoid significant legal issues in the past 8 years.

Of course, the number of service requests tracked by our database reflects only approximately 50% of our office's workload. It does not reflect any of the work that goes into litigation, employment grievance cases, pension board issues, collective bargaining, legislative tracking, commissioner items and requests, municipal prosecutions, risk protection orders and special projects initiated by our office. Managing this workload to the level of thoroughness I expect from myself and my team requires dedication and diligence from all of us.

We have had a very busy but successful year as it relates to litigation. On our personal injury matters, we continue to resolve these matters at far lower rates than that of our internal risk assessment estimates. For example, we settled a matter as a co-defendant last year for \$25,000, and found out this year that the jury returned a verdict of \$1.2 million against the co-defendant based on the same facts. Settlement is a reality of litigation practice, but I proudly never recommend a settlement that is not beneficial to the taxpayers. Each recommendation requires me to study the facts of the case and to determine what the realistic potential outcome of a trial would cost the City. But we must always be willing to try cases that are brought in bad faith or negotiated in bad faith. To this end we have taken several cases to trial during my tenure. In each case the City has been successful in winning the matter or returning a judgment lower than those proposed for settlement (and rejected by the other party). This year was no different. As an example, we took a matter to trial wherein the Plaintiff refused settlement for less than \$200,000. During the course of the trial, wherein the City certainly had some liability, the Plaintiff agreed to settle the matter for \$20,000. I am proud of these real-world results that amount to significant taxpayer savings.

We've also had significant success in non-personal injury cases this year. The City prevailed in two cases on appeal this year and successfully fended off Supreme Court review. In the first case, you are all aware of the very successful results of Chris Sterns in the Rosemond matter. On the second matter, I personally represented the City on appeal and in arguing against jurisdiction of the Supreme Court in a case involving our marina. As I've discussed before, in an effort to provide high quality representation at a significant savings to the City, I have taken a more proactive approach to handling litigation within my areas of expertise. In the past three years I've handled six litigation cases personally (not counting miscellaneous litigation actions such as return of property proceedings) from start to conclusion, including appeals. We substantively prevailed in each matter. Last year I estimated that based on the hourly rates we have with outside counsel, I had saved the City well over \$100,000 in the year

by handling cases in-house. A review of my time on these cases this year reveals an additional approximate savings of over \$50,000 for the current year.

We have also seen a significant uptick litigation on our Municipal violations and Risk Protection proceedings (RPOs). We've handled 9 risk protection proceedings in the past year. These proceedings can come at any time and are highly time-sensitive and time-consuming. Nonetheless, it is essential that our office conduct them effectively for the protection of our community. In other jurisdictions, failure of the agency to pursue RPO has led to loss of life. Thankfully, although we lost our former Assistant City Attorney in January of this year, I was able to personally handle the RPOs while I conducted a quick and successful recruiting process to bring on a new Assistant City Attorney. In the meantime I also created standardized forms and checklists to make the process efficient for all members of our team. Our new ACA has since received training on our Risk Protection proceedings and has been through a trial by fire this July when we had a record month of orders.

We have also been working diligently on improving the legal aspect of the Code Enforcement process and the ability to foreclose on liens. This project has had a lot of setbacks due to factors beyond the control of our office. Old systems, lack of records, and staffing changes have caused far slower progress than I would have liked us to achieve in this area. But with the assistance of the administration, we continue to grind on and are preparing training materials and process forms to help us tackle this challenge.

Generally speaking, I continue to take pride in my responsiveness. Staff and commissioners can reach me whenever needed, nights and weekends included. I also take great pride in the fact that I maintain positive and productive working relationships with all the members of Team HB. The work we do is not easy, but a positive working atmosphere has a direct correlation to productivity. Which leads me to my final source of great personal pride: my CAO team. They are the backbone of the work that I do and the foundation that keeps me steady. It is only because of them that I am able to produce as much as I do for the City. And, most importantly, they are great humans that genuinely support and reinforce one another.

Finally, I thank the City Commission, City Administration, and City Clerk for their continuing support. Together we keep moving forward and improving the legal position of the City, one grueling step at a time.

Please let me know if you have any questions or would like to further discuss.