

MEMO

Legal Department

To: Mayor Campbell and Members of the Ames City Council

From: Judy K. Parks, City Attorney

Date: August 19, 2016

Subject: Update on Legal Department staffing and Request to divide funds approved for retained counsel

As you likely recall, the Legal Department has been short on staff since January. The initial loss was an attorney who was hired away by the City of Des Moines. However, before we could get the attorney position filled, another of the support staff employees left to take a job in another part of the state in order to be closer to family. The loss of specific skills which that support person had left a big gap our clerical and litigation support functions. We had to re-order the filling of those vacancies at that point, which meant the decision was made to give priority to filling the support position.

Meanwhile, other departments were continuing to fill their vacancies, increasing the work coming to this department, with Legal having less staff than normal to meet that demand. It was for that reason I initially sought approval to hire outside counsel to assist, and the assistance was to be limited to one function, which was prosecutions.

I approached Megan Flynn of the Coppola law firm to see if she had interest in doing this, as she had filled the same role for the City of Ames in the past. I also knew her availability after July was uncertain, since she was due to have a baby at that point, but I fully expected that the duration of need for her services would be short term and we would have a new attorney hired before her due date.

Unfortunately, my expectation of the time it would take to fill either position was too optimistic. We are likely to post the vacancy for the support position within the next couple weeks, but realistically, the attorney position will likely remain vacant for most of this year.

At the last council meeting I received your approval to execute an agreement to retain the Hopkins and Huebner firm as outside counsel. The plan to retain them had been authorized earlier, anticipating that their services would be needed to replace those being provided by Ms. Flynn as soon as she had delivered her baby. Transitioning this work to yet another prosecutor was not ideal, but it seemed like the only realistic option

since there is no ability to control the timing of the court's scheduling of that category of work.

At the point when the agreement with Hopkins and Huebner was approved, the original \$50,000 to fund Ms. Flynn's prosecution work still had approximately \$13,000 unspent, but with the bill for her July work still coming. We anticipated that when it arrived, that would take about 2/3's of the remaining balance.

Given the situation, I sought an additional \$50,000, to be used once the initial \$50,000 was completely spent. It was planned that Brent Hinders, with Hopkins, would be the attorney who would replace Ms. Flynn's prosecution assistance.

What has happened since that approval leads to the second point of this memo, which is my request to split the additional funds you've approved. It has turned out Ms. Flynn does not need to be replaced. Her recovery has been nothing short of amazing, and she is willing and able to continue the prosecution work with virtually no interruption. I would like to request approval to divide the funds approved and split their use between these 2 firms. I would continue to have the prosecutions funded with \$25,000 of these funds and Ms. Flynn would continue to do those. The other \$25,000 of the funds could allow select time sensitive matters to be transferred to the Hopkins firm for completion, rather than having to delay them until such time as staff exists in house to complete them.

While we will continue to press to get the legal vacancies filled with the highest priority, so that there is not an ongoing need to have outside counsel, allowing this split of funding will allow the department to make best use of the outside resources available.