



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

THROUGH: David N. Carmany, City Manager

FROM: Leland C. Dolley, Interim City Attorney

DATE: April 19, 2011

SUBJECT: Discussion of City Attorney Services: Contract Versus In-House

RECOMMENDATION:

Staff recommends that the City Council discuss and provide direction.

DISCUSSION:

The City Attorney is a critical component of the City organization. The City Attorney's job is to provide legal advice to minimize the city's liability and promote compliance with the law. An effective attorney develops and maintains a working relationship with the City Council, the staff and the community to assist the City in advancing its public policy objectives and meeting its legal obligations. A City Attorney should be knowledgeable in the wide range of laws governing City business and must be able to communicate effectively with the City Council, staff and community. While the purpose of this report is to consider the different models of providing City Attorney services, the fact is that the most important consideration is who the City Council appoints to that function, rather than whether the attorney is in-house or contract.

Manhattan Beach is a general law city and the City Council directly appoints the City Attorney. Section 2.08.160 of the Municipal Code provides as follows:

The City Council may appoint a City Attorney who shall serve as legal counsel to the City and advise City officials in all legal matters pertaining to City business. The City Attorney shall not be a member of the classified service and shall report to and serve at the pleasure of the City Council. The City Attorney shall also serve as City Prosecutor.

There are two models for providing city attorney services: an in-house employee and a contract services with a law firm. Manhattan Beach has experience with both of these models. From 1996 until recently, the City had an in-house attorney. Prior to that, the City contracted with a law firm for City Attorney services. The current vacancy in the City Attorney position creates an opportunity for the City Council to consider whether it wishes to maintain the in-house position or switch to a contract City Attorney.

Regardless of which model the City Council selects, the role is the same. The City Attorney's "client" is the City itself and the City Council functions as the governing body of the City. Both the City Attorney and the elected City Councilmembers have a fiduciary duty to the City. Government lawyers are governed by the highest ethical standards of the legal profession. In California, these standards are contained in the Rules of Professional Conduct of the State Bar of California. Whether in-house, or by contract, the City can expect the professional loyalty of its City Attorney.

As mentioned at the outset, the single most important factor is selecting the right person to serve as City Attorney. The relationship between the City Council and the City Attorney will determine the degree to which the City Attorney is effective in performing the functions of the job. Whether an employee or a contract position, the City Council always retains the ability to appoint and remove the City Attorney as may be in the best interest of the City.

Interim City Attorney, Leland Dolley will provide comments and answer questions.