



STAFF REPORT

DATE: April 4, 2017

REGULAR

ITEM #: 13

AGENDA ITEM: Appoint City Attorney for Prosecution Services

SUBMITTED BY: Kristina Handt, City Administrator

BACKGROUND:

At the January 3rd Council meeting, Council directed staff to issue a Request for Proposals (RFP) for prosecution services. The RFP was issued January 17th and due February 14th. Also at the meeting, Eckberg Lammers was appointed the Interim City Attorney for Prosecution.

At the March 7th meeting, council was split 2-2 on who to appoint as prosecuting attorney. Council asked for additional information to be provided at the next meeting. Given there wasn't a full council at the March 21st meeting, this item was tabled until the April 4th meeting.

ISSUE BEFORE COUNCIL:

Who should the Council appoint as City Attorney for prosecution services?

PROPOSAL:

Council asked if the four bulleted items in the Johnson and Turner proposal offered at no extra charge was similar to the Eckberg Lammers proposal. The one item noted to be charged extra per the Eckberg Lammers contract is appellate work. Staff reviewed monthly bills for the last two years and found no appellate work by the city's prosecuting attorney. Mr. Weidner references appellate work in his communications below, but the City did not receive an extra charge. The only charges beyond the monthly retainer for criminal services were out of pocket expenses such as postage, photocopies or summons service fees. Eckberg Lammers has met with staff multiple times to provide training and guidance on code enforcement issues. The building official and planner were part of that training and have worked well with the firm.

Council also asked for more details on an email statement regarding the backlog of cases and vehicle forfeitures. Tom Weidner, Eckberg Lammers, provided these additional details:

On January 6, 2016 we received 117 criminal prosecution cases electronically. Our office had to open each file and review the content of each all of those cases to determine the work that needed to be completed, if any. Of those 117 criminal cases received, 24 cases required additional work. The necessary work required on those files included work ranging from drafting complaints, requesting reports and evidence for trial, preparing and providing discovery requested by opposing counsel, sending victim notification letters, to some appellate work.

In addition to the transferred criminal cases, we worked with the Washington County Sheriff's Department to clear up six outstanding vehicle forfeitures cases; four files from 2014, one 2013 file and one 2012 file.

The backlog of cases occurred due to the immediacy of us taking over all of the cases the day following the Council's decision. All the transferred cases needed to be added to our system manually, reviewed for conflicts, calendared, reviewed for content and completeness (some required additional work) at the same time that all new cases needed to be opened and handled. Once the backlog was resolved we could efficiently

handle the opening of files electronically through our case management system and more accurately determine the amount of work required for the City of Lake Elmo prosecution files.

In addition, in the second half of 2016, Washington County Court Administration started calendaring all the City of Lake Elmo's arraignment hearings and pretrial hearings on Tuesday's (a day we already have a prosecutor in court) instead of Wednesdays, which allowed us to experience additional efficiencies. We do not expect any significant court scheduling changes for 2017.

Staff's recommendation remains to appoint Eckberg Lammers as City Attorney for prosecution services.

FISCAL IMPACT:

The rate reduction from Eckberg Lammers will reduce the City's cost for prosecution services over the next four years by \$13,500.

OPTIONS:

- 1) Appoint Eckberg Lammers as City Attorney for Prosecution
- 2) Appoint Johnson and Turner as City Attorney for Prosecution
- 3) Appoint another firm as City Attorney for Prosecution
- 4) Table decision until applicants are interviewed by Council

RECOMMENDATION:

"Move to appoint Eckberg Lammers as City Attorney for prosecution services"

If Council wants to appoint a new firm, staff would suggest the following language as an example:

"Motion to appoint Johnson and Turner as City Attorney for prosecution services effective May 1, 2017."

ATTACHMENTS:

None