



# City of Buellton

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June 23, 2006

The Honorable Judge Rodney Melville  
Santa Barbara County Superior Court  
312-M East Cook Street  
Santa Maria, CA 93455-5165

Re: Response to Grand Jury Report – “Legal Services in Santa Barbara, Very High Prices for Comprehensive Representation”

Dear Judge Melville:

In response to the Grand Jury Report entitled “Legal Services in Santa Barbara, Very High Prices for Comprehensive Representation,” the City Council of the City of Buellton provides the following comments:

## **Finding 1**

Legal services for municipalities and districts are a vital necessity that provides advice, guidance, counsel and defense. Municipalities and districts fulfill their legal service requirements by various methods suitable to each municipality or district's unique needs and circumstances. Budgeting procedures for legal services often underestimate actual expenses, especially when the municipality or district is involved in litigation. Often budgeting seems to be a mere guess or a deliberate understatement of anticipated or known foreseeable costs.

## **Response to Finding 1**

The City Council agrees with the Finding with the exception of the last sentence. The City of Buellton has never budgeted for legal services by a mere guess nor has the City ever deliberately understated anticipated or known foreseeable costs.

## **Finding 2**

Legal services are very costly. Litigation is even more costly. Litigation is often an open checkbook for the municipality or district, which has little or no ability to control the costs' thrusts.

**Response to Finding 2**

The City Council generally agrees with Finding 2. On occasion the City must spend more than that budgeted for legal services in order to protect the general public.

**Finding 3**

Although confidential information contained in legal bills could be deleted or redacted, some municipalities and districts chose to submit bills with all information about services provided by attorneys omitted making it difficult to determine what services were provided to the government agency.

**Response to Finding 3**

The City Council has no knowledge of what other municipalities and districts submitted regarding legal bills. The City Council agrees that deleted or redacted information makes it difficult to determine what services were provided to the government agency.

**Finding 4**

The requirements of informed consent appear to be informally satisfied.

**Response to Finding 4**

The City Council generally agrees that the requirements of informed consent appear to be informally satisfied.

**Finding 5**

Retainers are often short, simple, summary agreements containing little detail defining the nature of the services, the purpose of the retainer or scope of services to be provided in sufficient detail to assure adequate accountability.

**Response to Finding 5**

The City Council is unaware of the content of retainers utilized by other municipalities. The City Council agrees that the scope of services should be provided in sufficient detail to assure adequate accountability.

**Finding 6**

Retainers contain provisions that are unique to each municipality or district. Hours, rates, travel time and travel costs, disbursements, office costs, staff costs, research costs, professional liability insurance, costs and expenses on termination, ownership of documents and renewals are some of the issues relative to retainers that must be carefully negotiated.

**Response to Finding 6**

The City Council agrees that retainers contain provisions that are unique to each municipality or district. The City Council agrees that there are various issues relative to retainers that must be carefully negotiated.

**Finding 7**

Budgets or caps are rarely used to control legal expenses.

**Response to Finding 7**

The City Council generally agrees as it is unrealistic to believe budgets or caps can totally control legal expenses.

**Finding 8**

Counsels are selected on the basis of various objective criteria such as qualifications, competence, ability and expertise and on subjective criteria such as politics, confidence and trust.

**Response to Finding 8**

The City Council agrees that counsels are selected on the basis of various objective and subjective criteria.

**Finding 9**

Hiring is distinctly a function of the governing board and requests for proposals do not seem to be generally used. The lowest cost should not necessarily be the sole objective of legal services but routine repetitive work may justify a more cost conscious manner of obtaining legal services.

**Response to Finding 9**

The City Council agrees that hiring is distinctly a function of the governing board and requests for proposals do not seem to be generally used. The City Council agrees that the lowest cost should not necessarily be the sole objective of legal services and that a more cost conscious manner of obtaining legal services may be justified for routine repetitive work.

**Finding 10**

Special services are required in connection with complex, difficult, time consuming and specialized areas of the law. The cost of special counsel may add substantially to

the annual cost of legal services. Often the cost of outside counsel is not included in the annual general fund budget.

### **Response to Finding 10**

The City Council agrees that special services are sometimes required and that the cost of special counsel may add substantially to the annual cost. The City Council agrees that the cost of outside counsel is not always included in the annual budget as unforeseen litigation and other legal actions did not exist at the time of the budget preparation and approval.

### **Finding 11**

The level of audit and review of legal service bills varies. Some municipalities or districts closely review bills and services provided. Others rarely question the need, cost or amount of such bills.

### **Response to Finding 11**

The City Council is unaware of the level of audit and review of other municipalities. In the City of Buellton, the City Manager and Finance Director review all legal service bills. In the case of costs of other counsel, the City Attorney also reviews the legal service bills.

### **Recommendation 1**

Municipalities and districts should review and define the level of their legal service needs and seek counsel at a level to satisfy those needs. The level of needed legal services should be developed objectively with an understanding of the anticipated actual costs and include a realistic amount in the annual budget.

### **Response to Recommendation 1**

The City Council agrees that municipalities and districts should review and define the level of their legal service needs and seek counsel at an objectively developed level to satisfy those needs.

### **Recommendation 2**

Municipalities and districts should review, audit and control the number of hours for which services are claimed for billing purposes. Management personnel must be given authority to review and audit claims for legal services in the same manner as they review and audit other services provided to the municipality and district.

**Response to Recommendation 2**

The City Council agrees that municipalities and districts should review, audit, and to the extent possible control the number of hours for which services are claimed for billing purposes. The City Council generally agrees that designated management personnel should be given authority to review and audit claims for legal services in the same manner as other services to the municipality are reviewed and audited.

**Recommendation 3**

Municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

**Response to Recommendation 3**

The City Council agrees that municipalities and districts should review the basic fees structure and give consideration to flat rate charges for routine or monthly services and define with precision additional services and the methods of authorizing additional services.

**Recommendation 4**

Municipalities and districts should use caps and budgets or other limitations to control costs in litigation where the municipality or district is named as a party.

**Response to Recommendation 4**

The City Council disagrees that monetary limitations should be used to control costs in litigation involving the municipality or district. A cap could leave the City at a disadvantage if its adversary could ascertain the extent of the City's commitment to the litigation.

**Recommendation 5**

Municipalities and districts should review the necessity for attendance by counsel at advisory board meetings.

**Response to Recommendation 5**

The City Council agrees that municipalities and districts should review the necessity for attendance at advisory board meetings.

**Recommendation 6**

Municipalities and districts should consider billing practices, minimum charges, minimum hours, carryover of unused monthly hours, multiple billing for in-office conferences and the services to be included in monthly minimum fees.

**Response to Recommendation 6**

The City Council agrees that municipalities and districts should consider billing practices and procedures in the determination of appropriate legal fees.

**Recommendation 7**

Municipalities and districts should review disbursements such as electronic research, postage, shipping, telephone, travel time and travel expenses, expert witness costs, extraordinary discovery procedures, staff overtime costs, outdated charges such as word processing charges, prior approval provisions related to extraordinary costs and costs assumed by a municipality or district in the event of a dispute.

**Response to Recommendation 7**

The City Council agrees that municipalities and districts should review disbursements for such operational costs.

**Recommendation 8**

Municipalities and districts should require proof of an agreed level of professional liability insurance.

**Response to Recommendation 8**

The City Council agrees that municipalities and districts should require proof of an agreed level of professional liability insurance.

**Recommendation 9**

Municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained who may have potential conflicts with the municipality or district. Municipalities and districts should give consideration to limitations on its law firm's representation of other clients whose interests could foreseeably result in a conflict requiring disqualification of the municipality or district's law firm and provide a procedure to deal with the issue if it should arise.

**Response to Recommendation 9**

The City Council agrees that municipalities and districts should require disclosure of the names of current clients represented by the firm to be retained and should give consideration to limitations on its law firm's representation of other clients.

**Recommendation 10**

Retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services. In no event should the period within which pay is required to be made be less than the normal meeting cycle plus processing time of the governing board.

**Response to Recommendation 10**

The City Council agrees that retainers should provide for payment within a period longer than 30 days without penalty to permit full audit of services.

**Recommendation 11**

Municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

**Response to Recommendation 11**

The City Council generally agrees that municipalities and districts should require renewal retainers to be upon the complete agreement rather than the change of a rate sheet.

**Recommendation 12**

Municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

**Response to Recommendation 12**

The City Council agrees that municipalities and districts should use requests for proposals for retaining counsel to handle routine, repetitive matters.

**Recommendation 13**

Where legal service costs exceed 1% of the budget of the municipality or district, legal service costs should be monitored and evaluated to determine need and appropriateness.

**Response to Recommendation 13**

The City Council disagrees that a percentage of the budget should be used to determine when legal service costs should be monitored and evaluated as to need and appropriateness. The City Council feels that legal services should always be monitored and evaluated to determine need and appropriateness regardless of the percentage of the budget that is for legal service costs.

**Recommendation 14**

In situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be fully set forth in the minutes of the governing body.

**Response to Recommendation 14**

The City Council generally agrees that in situations where informed consent is required, the rules related to informed consent should be strictly enforced and the basis upon which informed consent is given should be recorded in the governing body meeting minutes.

**Recommendation 15**

Bills and other records of charges made for legal services after deleting confidential information should be deemed to be public records open to public disclosure.

**Response to Recommendation 15**

The City Council generally agrees that bills and other records of charges made for legal services should be deemed to be public records open to public disclosure after deleting confidential information.

The City Council appreciates the opportunity to respond to this Grand Jury Report.

Sincerely,



Victoria Pointer  
Mayor  
City of Buellton

c: Santa Barbara County Civil Grand Jury Foreman  
Buellton City Council