

June 27, 2006

Honorable Rodney S. Melville
Santa Barbara Superior Court
312-C East Cook Street
Santa Maria, CA 93456-5369

Grand Jury Foreperson
1100 Anacapa Street
Santa Barbara, California 93101

Dear Honorable Judge Melville and Grand Jury Foreperson Ted Stern:

The City Council, at their regular meeting held June 26, 2006, reviewed the 2005-2006 County Civil Grand Jury report entitled "Legal Services in Santa Barbara, Very High Prices for Comprehensive Representation" specifically as it relates to the City of Carpinteria and approved the following responses to each of the specific findings and recommendations of the Report:

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 disagrees with some of this finding as it relates to Carpinteria. The City's annual expenditure for legal services is typically close to budget projections. On the contrary to the suggestion that some cities budget projections are "a mere guess or a deliberate understatement" of costs, the City monitors trends in legal services spending, anticipates the ongoing costs related to certain matters such as litigation, and ties that spending to outputs in its performance based budget.

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' thrust.

Response to Finding 2: The City disagrees with this finding as it relates to Carpinteria. Litigation is inarguably expensive; however, the City controls these costs through legal strategies developed with counsel and related decisions about how to proceed with litigation.

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 disagrees with this finding as it relates to Carpinteria. The City has provided the Grand Jury with information sufficient to determine the kind of work undertaken by outside counsel and other attorneys working for the City as requested. The questionnaire did not request copies of "legal bills".

Finding 4

The requirements of informed consent appear to be informally satisfied.

Response to Finding 4: The City of Carpinteria disagrees with this comment as it relates to Carpinteria, to the extent it implies that no formal process exists for addressing potential conflicts of interest. The City Attorney's Office follows a formal process for anticipating potential conflicts of interest, and consults with the City Manager to resolve issues.

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 disagrees with this finding as it relates to Carpinteria. The City's agreement for retainer legal services includes sufficient details to describe the services provided under the retainer and those that are excluded. The broad scope of services provided for under the retainer and described in the contract is understood and distinct from those management techniques used by the City to review the work and invoicing of the city attorney.

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 of Carpinteria agrees with this comment

Finding 7

Budgets or caps are rarely used to control legal expenses.

Response to Finding 7: The City disagrees with this finding as it relates to Carpinteria. The City's budget for legal services is the basis for spending and cannot be exceeded without review and approval of the City Council.

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 of Carpinteria agrees with this comment with the exception of the use of the term "politics" because it suggests that the City attorney in Carpinteria could be selected for reasons other than merit, and further suggests that the City of Carpinteria has changed city attorney as the make-up of its City Council has changed. Neither of these suggestions is true in Carpinteria. The City's hiring and contracting practices are designed to ensure that the public is best served. Employees and contractors are not hired based on their allegiance to any particular political party or member(s) of the City Council, appointees of the City Council or city staff. The City of Carpinteria contract for City Attorney services has been maintained through the law firm of Hatch & Parent since 1985, over this time period there have been many elections and many different council members.

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 of Carpinteria agrees with this comment.

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 of Carpinteria disagrees with this finding as it relates to the City of Carpinteria. The City contracts with the law firm of Hatch & Parent which provides a wide variety of legal services and expertise. As such, the City has not experienced substantial unanticipated costs for outside special counsel. Also, the estimated cost for outside counsel is always a part of the City's annual budget and projections are based on experience and any anticipated special counsel costs.

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 agrees with this finding to the extent that the City reviews bills and services provided closely. The City of Carpinteria City Manager reviews all invoices from the City Attorney, directs project specific invoices to Department Heads for review and comment, maintains a list of ongoing work and monitors work through weekly teleconferencing.

The City of Carpinteria thanks the Grand Jury for its work.

Should you need any additional information please contact me at (805) 684-5405 extension 400.

Sincerely,

J. Bradley Stein
Mayor